

nection would require to have been made. This the Commissioners *refused*.

The Royal Burgh of Irvine and its Harbour Trust opposed the Order on the ground that its harbour was in a precarious position financially, that the Glasgow and South-Western Railway Company's obligation to assist it had been recognised in its having previously given help but that such help had been elusory, that the present proposal was to strengthen and develop its rival Ayr, that that should not be allowed unless steps were at the same time taken to strengthen and develop Irvine. The promoters made no offer in that direction.

The Commissioners found the preamble proved and clauses were adjusted.

Counsel for the Promoters the Glasgow and South-Western Railway Company—Sandeman, K.C.—Macmillan, K.C.—C. H. Brown. Agents—Maclay, Murray, & Spens, Solicitors, Glasgow.

Counsel for the Royal Burgh of Irvine and for the Lanarkshire and Ayrshire Railway Company, *Objecting*—Constable, K.C. Agents—David Gillies, Town-Clerk, Irvine, for that Burgh—Keyden, Strang, & Company, Solicitors, Glasgow, for the Railway Company.

Counsel for the Royal Burgh of Ayr—Gentles. Agent—P. A. Thomson, Town-Clerk, Ayr.

D. B. Murray, Solicitor, instructed by Keyden, Strang, & Company, watched on behalf of the Ardrrossan Harbour Company; William Johnstone, instructed by Wright, Johnston, & Company, Solicitors, Glasgow, on behalf of Ayr Harbour Trustees; and D. L. Forgan, Solicitor, Glasgow, on behalf of the Caledonian Railway Company.

6th to 9th May.

GLASGOW CORPORATION.

(Before Lord Oranmore and Browne (*Chairman*), Earl of Malmesbury, J. D. Hope, M.P., and J. L. Sturrock, M.P.—at Glasgow.)

Provisional Order—Locus—Appearance Belated—Failure to Realise Scope of Proposals.

One of the provisions of this Order was to release the Corporation from any obligation to provide accommodation for the carrying on of the Clothes Market, an ancient market of Glasgow. On the morning of the opening of the inquiry counsel for the promoters was given a typewritten petition against this provision, which had so far been unopposed, presented on behalf of the tenants of the market. Objection was taken to the *locus standi* of these petitioners on the ground that they had not observed the prescribed manner for objecting and the prescribed time within which to object—Private Legislation (Scotland) Procedure Act 1899 (62 and 63 Vict. cap. 47), section 6 (2). An agent was heard on behalf of the petitioners as to there being any special grounds on which a *locus* should be allowed. From his state-

ment it appeared that the site of the market had recently been changed, and the tenants had till too late failed to realise that the Order proposed, not to deprive them of the old market-place only, but also of the substituted or any accommodation. He submitted that, looking to the negotiations which had taken place between the parties and the whole circumstances, a *locus* ought to be allowed. The *locus* was *refused*.

Provisional Order—Burgh—Private Legislation—General Legislation—Alteration of General Legislation by Private Legislation—Public Health—Burial-Grounds' Exemption from Rating.

The Order proposed to increase the power of assessment of the Corporation with regard to three rates—the police rate, an occupiers' rate, by 1s. in the case of occupiers of £10 and over, and by 6d. in the case of occupiers of under £10; the public health rate, an owners and occupiers' rate, by 3d.; the sewage rate, an owners and occupiers' rate, 1d. The police and sewage rates were assessed under Glasgow's private legislation; the public health rate under the Public Health (Scotland) Act 1897, which had fixed the maximum rate at 1s. Unopposed proposals were to alter the classification of property as given above to that of over £10 and £10 and under, and to withdraw the exemption of property used for religious and charitable purposes so far as regarded an owner who had let property for such purposes. It was, however, also proposed to abolish the exemption from rating enjoyed under the Rating Exemption (Scotland) Act 1874 by cemetery companies having their burial-grounds within the city. The Clyde Navigation Trustees opposed the police assessment provisions on the question of what abatement should be allowed them. Property owners opposed those regarding the public health and sewage assessments, and the cemetery companies the proposal to withdraw the exemption of burial-grounds.

The Commissioners, on the ground of the inexpediency of proceeding by private bill to overrule what is the public law of the land, found the preamble so far as regarded the public health rate and the burial-ground exemption not proved, and they allowed the Clyde Navigation Trustees an increase in the abatement they enjoyed as from certain dates.

Provisional Order—Burgh—Improvement Scheme—Sinking Fund—Owners and Occupiers—Creation at a Later Date of Sinking Fund for an Old Improvement Scheme.

In 1866 an improvement scheme had been authorised which contemplated the property acquired being sold after improvement, and the debt incurred for the scheme being repaid with the proceeds of the sales. The scheme included a power of assessment on occupiers only. This power was by a subsequent Act in 1880 made available for defraying any deficit on the completion and winding up of the scheme. Very little of the properties had been sold, and the debt still stood at over a million. In some years the rental had been sufficient and no assess-

ment had been required. It was now proposed to form a sinking fund, the properties in the absence of favourable opportunity being retained, and for that purpose, viz. to pay interest and instalments of debt in sixty years, a power to assess on owners and occupiers was sought. This proposal was opposed by the property owners, who desired the original scheme to be worked out, *i.e.*, the properties realised and the deficit met by the assessment on occupiers.

The Commissioners found the preamble proved, but subject to the conditions that the creation of a sinking fund should be obligatory, and that the assessment for interest should be on occupiers only, and the assessment on owners and occupiers restricted to the payment of the instalments of debt.

The Order contained certain other provisions for the administration of the city, notably an increase of £1,000,000 to the existing power to borrow on bills and promissory-notes, making that power £2,000,000.

Clauses were adjusted.

Counsel for the Glasgow Corporation (*Promoting*)—Macmillan, K.C.—Gentles. Agent—Sir John Lindsay, Town-Clerk, Glasgow.

Counsel for the Clyde Navigation Trustees (*Objecting*)—Wilson, K.C.—Black. Agents Wright, Johnston, & Mackenzie, Solicitors, Glasgow.

Counsel for Property Owners (*Objecting*)—C. H. Brown, K.C.—W. H. Stevenson. Agents—Pirie & Stewart, Solicitors, Glasgow.

Counsel for the Craigton Cemetery Company and Others (*Objecting*)—Constable, K.C. Agents—Hill & Hoggan, Solicitors, Glasgow.

For the Tenants of the City Clothes Market (*Objecting*)—E. Rosslyn Mitchel, Solicitor, Glasgow.

D. L. Forgan, Solicitor, Glasgow, for the Caledonian and North British Railway Companies; James Wilson, Solicitor, Glasgow, for the Glasgow and South-Western Railway Company; J. McCallum, Solicitor, Glasgow, for the Merchants House of Glasgow watched.

24th and 25th June.

CLYDE NAVIGATION PROVISIONAL ORDER.

25th June 1919.

GREENOCK PORT AND HARBOUR PROVISIONAL ORDER.

25th June 1919.

ARDROSSAN HARBOUR PROVISIONAL ORDER.

(Before Sir Henry Craik, M.P. (*Chairman*), the Marquis of Dufferin and Ava, the Earl of Onslow, and (in the Ardrossan Harbour Order) Mr Walter Neilson—at Glasgow.)

Provisional Order—Harbour—Dues, Rates, and Charges—Increase of Power to Charge—Provision in the Event of Undertaking being Acquired otherwise than by Agreement by Any Public Body—Sterilisation Clause.

These three Orders were brought by the various promoters for the purpose of increasing the powers to charge conferred by their respective Acts of Parliament. A general question arose in connection with all three whether there should be inserted or not what was known as a sterilisation clause, *i.e.*, a clause to the effect that in the event of the undertaking being acquired after the Order came into effect otherwise than by agreement by any public body no claim was to be open to the undertakers in respect of the powers conferred by the Order. This question had been much considered in applications of a similar character in England, of which there had been a very large number.

The Clyde Navigation Trustees sought power to increase their maximum rates by 80 per cent., and that for a period of ten years. The Board of Trade had in June 1917 granted a temporary increase of 33½ per cent., and had increased the amount in March 1918 to 50 per cent. and in September 1918 to 66½ per cent. Opposition came from the ship-repairers, who sought to have the charge for the use of graving docks differentiated from the other charges of the Trustees on the ground that these were already higher than at other ports, and the increase allowed on them reduced, alternatively that the ten years should be much reduced. Opposition also came from coastal traders, who sought to be favoured because of the very frequent use made of the harbour by their ships and the present subsidised position of railway competition. It was suggested that the Trustees should have power after a ship had paid dues to a certain amount to allow it the remaining voyages of that year free of dues.

The Commissioners thought the Trustees had already power to differentiate the rates for traffic and they found the preamble proved, intimating that they felt bound by English authorities to insert a sterilisation clause, but if such clause went in the time limit would come out.

Clauses were adjusted.

The Greenock Harbour Authorities promoted their Order to obtain power to increase their rates and charges. Two temporary increases had been allowed by the Board of Trade giving together a 35 per cent. increase. They did not seek a percentage increase, but a general power to increase at the sight of the Board of Trade, and the duration of the power was limited to five years. Greenock Harbour was in a very peculiar position, having originally been a public trust, but having now become very much of the nature of a commercial undertaking, the B deferred debenture stockholders being entitled to the surplus earnings, if any. The Board had consented to perform the duty sought to be imposed upon it, and at the end of the inquiry the chair-