

Of the remaining sixteen applications, ten of the Orders were either unopposed, or had the opposition thereto withdrawn before inquiry, viz. :—

- Aberdeen Market Company.
- Allan Glen School.
- Arbroath Corporation Gas.
- Dunbar Water.
- Dundee Harbour and Tay Ferries.
- Falkirk and District Tramways.
- Glasgow and South-Western Railway.
- Prestonpans Combination Water Trust (Finance).
- Lanarkshire County Council.
- Scottish Insurance Companies (Superannuation Fund).

Inquiry was held in the case of six Orders noticed below, viz. :—

- I. Caledonian Railway.
- II. Clyde Lighthouses.
- III. Clyde Valley Electrical Power.
- IV. Glasgow Corporation.
- V. Kirkcaldy District Water.
- VI. Falkirk Burgh Extension and Drainage.

I. CALEDONIAN RAILWAY ORDER.

7th and 8th May 1912.

(Before the Earl of Mansfield, the Earl of Strathmore and Kinghorne (*Chairman*), Mr J. D. Hope, M.P., Sir James Low—at Edinburgh.)

Provisional Order—Railway—Power to Dispose of Superfluous Lands—Locus Standi—Owners of Adjacent Property—Objection to Establishment of Offensive Industry on Superfluous Lands—Locus Allowed.

This Order was promoted by the Caledonian Railway Company in order to obtain certain additional parliamentary powers in connection with their undertaking. The Order was unopposed except in regard to clause 19, which provided—“And whereas lands have from time to time been purchased or acquired by the Callander and Oban Railway Company (in this section called ‘the Oban Company’) adjoining or near to railways or stations belonging to that company, which may not be required for the purposes of the undertaking of the Oban Company, and it is expedient that further powers should be conferred upon that company with respect to such lands: Therefore, notwithstanding anything contained in the Lands Clauses Consolidation (Scotland) Act 1845 or in any Act or Order relating to the Oban Company with which that Act is incorporated, the Oban Company shall not be required to sell or dispose of any such lands which may not be immediately required for such purposes, but may retain, hold, or use, or may lease, feu, or otherwise dispose of the same on

such terms as the Oban Company may think fit.”

This power was objected to by certain residents in the town of Oban, on the ground that it included and was intended, *inter alia*, to apply to a piece of ground adjacent to the goods depot at Oban Station, where it was proposed to establish a herring kippering factory, and on which a building designed for that purpose had already been erected.

The objectors who occupied houses in the vicinity represented that, owing to the smell and smoke which would necessarily be caused by the kippering process the neighbourhood would be ruined for residential purposes, and that their property would be seriously depreciated in value. They stated that their lands were held under the restriction that they should only be used for residential purposes, and complained of the hardship which would be imposed upon them if the kippering factory were erected as proposed.

Counsel for the promoters objected to the *locus standi* of the objectors, and argued—The grounds of objection were irrelevant and did not entitle the objectors to be heard. The promoters were not asking power to conduct a kippering business, but merely for a general clause to enable them to deal with any superfluous lands. This power was commonly granted to railway companies. Any power given by the clause in question in no way freed the promoters from their ordinary obligations in the use of their property. If they made an objectionable use of it or permitted a nuisance there, it was open to the neighbouring residents to take their ordinary legal remedies. This was an attempt to get the Commissioners to consider a question which fell appropriately to be determined by action at law, and that in a previous case they had refused to do—*Corporation of Edinburgh*, 1904, 4 Private Legislation (Scotland) Reports, p. 32.

Argued for the objectors—Generally objectors were entitled to a *locus* wherever it appeared from their averments that an Order was going to do them substantial injury. Here the proposed industry was one which was peculiarly offensive to a neighbourhood. In the analogous cases of gas and sewage works it was specially recognised by General Orders that owners of surrounding property within 300 yards were entitled to a *locus*, and in certain cases where damage was going to be serious a *locus* had been given to owners beyond the 300 yards—*Rural Council of Walton-on-Thames*, 1896, 1 Saunders & Austin, 116. Counsel also referred to *London and North-Western Railway*, 1899, 1 Saunders & Austin, 330; *Dorchester Order*, May 29, 1902, 2 Saunders & Austin, 117. Further, the objectors were entitled to be heard, because the proposed clause might affect their rights as adjoining proprietors of resuming superfluous land under the Lands Clauses Act, and also because the powers asked were outside the general powers of

a railway company which enabled them to take land for a strictly limited purpose.

The CHAIRMAN intimated that the objectors were entitled to a *locus*.

After evidence had been led the Commissioners found the preamble proved, subject to the adjustment of a provision prohibiting the use of the Railway Company's lands at Oban for the purpose of a kippering factory or any such work as would be objectionable to the inhabitants of Oban.

Counsel for the Promoters—Morison, K.C.—Wark. Agent—H. R. Buchanan, S.S.C.

Counsel for Mr D. M. Mackinnon and Others (*Objecting*)—Constable, K.C.—Gentles. Agents—Miller, Thomson, & Company, W.S.

II. CLYDE LIGHTHOUSES ORDER.

29th and 30th March, and 1st April, 1912.

(Before the Earl of Cathcart, Lord Saye and Sele, Sir John Dewar, Bart., M.P. (*Chairman*), and Sir William Robertson—at Glasgow.)

Provisional Order—Locus Standi—River Improvement—Power to Deepen, and Regulate Traffic on, Lower Reach of a River—Locus Granted to River Authority having Control of Upper Reach, and to Authority already Vested with Power to Regulate Traffic on the River.

This Order was promoted by the Clyde Lighthouses Trustees, who are a statutory body entrusted with the conservancy of the lower reaches of the Clyde.

The principal purpose of the Order was to provide for the improvement of the channel of the river Clyde below Newark Castle. The Order also proposed certain amendments on the Acts relating to the Clyde lighthouses, and empowered the Trustees to make bye-laws for the regulation of traffic on the river, with regard to (1) the speed of vessels, (2) lighting and removal of wreckage, (3) launching of vessels from adjacent shipyards, and (4) anchorage of vessels.

The Order was opposed by the Clyde Navigation Trustees and by the Clyde Pilot Board. The former demanded a protective clause which would enable them to have a voice as to the extent and manner of carrying out the proposed improvement of the channel, and both bodies objected to the power to make bye-laws, on the ground that the Pilot Board were already vested by statute with like powers, and that it was inexpedient that two bodies should have concurrent right to make regulations as to the same matters within the same area.

Counsel for the promoters objected to the *locus standi* of both the objectors.

Argued for the objectors—The bulk of the traffic on the river was being carried either to or from the reaches under the control of the Clyde Navigation Trustees,

to which their channel formed the only access. They therefore had a clear interest in the maintenance of the whole channel and in the traffic regulations which might be made with regard to it. The Pilot Board had a right to a *locus* on the ground that the power to make bye-laws with regard to the area in question was already vested in themselves.

The Commissioners granted the *locus* craved.

After hearing evidence the Commissioners held the preamble proved, subject to the adjustment of a clause for the protection of the Clyde Pilot Board in relation to the making of bye-laws by the promoters.

Counsel for the Promoters—Cooper, K.C.—Macmillan. Agents—Anderson & Pattison, Solicitors, Glasgow.

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

Counsel for the Corporation of Glasgow—The Solicitor-General (Anderson, K.C.)—Russell. Agent—J. Lindsay, Town Clerk.

Counsel for Trustees of the Port and Harbour of Greenock—Macmillan. Agents—Neill, Clark, & Murray, Solicitors, Greenock—Beveridge, Greig, & Company, Solicitors, Westminster.

III. CLYDE VALLEY ELECTRICAL POWER ORDER.

2nd April, 1912.

(Before the Earl of Cathcart, Lord Saye and Sele, Sir John Dewar, Bart., M.P. (*Chairman*), and Sir William Robertson—At Glasgow.)

Provisional Order—Competency—Confirmation of Agreement between Local Authority and Electrical Company for Supply of Electricity—Private Legislation Procedure (Scotland) Act 1899 (62 and 63 Vict. cap. 47), sec. 16 (2).

This Order was promoted by the Clyde Valley Electrical Power Company. Its main purposes were (1) to confer power on the company to make some new arrangements with regard to its capital, and (2) to confirm an agreement entered into with the County Council of Lanarkshire, whereby the company undertook to supply electricity in certain special districts, and to carry out the County Council's obligations under certain Provisional Orders previously obtained by them from the Board of Trade for the supply of electrical power in these districts.

So far as this agreement related to the district of Shettleston and Tollcross, the Order was opposed by the Corporation of Glasgow, on the ground that a proposal was at the moment pending before Parliament for the inclusion of that district within the city, and that in the event of success the Corporation would themselves