

the Commission granted your *locus standi*. It is not a general *locus standi* to go into the question whether the scheme is a good one or a feasible one, or suited to the requirements of the neighbourhood, and such points; it is a narrow point whether a railway under those circumstances has a *locus standi* at all, and we decided on the question of your being injured by the competition of this tramway that you have a *locus standi* to that extent. If it had not been for the fact that you are likely to be influenced adversely by the competition we should have decided that you had no *locus standi*, in which case we should have to be content with our knowledge of whether it is a good scheme for the neighbourhood, and for general purposes or not, and therefore we consider that under those circumstances you have not a *locus standi* as to whether it is a workable scheme or not. Your contention is that it is a scheme which will injuriously affect you, and therefore questions as to whether it is likely to be a good scheme or not ought not to be allowed."

The Commissioners ultimately held the preamble of the Order proved.

Counsel for the Promoters — Dundas, K.C.—Dove Wilson. Agents — Morice & Wilson, Advocates, Aberdeen.

Counsel for the Objectors, Campbell, K.C. — Ferguson. Agent — James Ross, Aberdeen.

Tuesday, April 29, 1902.

#### ABERDEEN SUBURBAN TRAMWAYS PROVISIONAL ORDER.

*Private Legislation Procedure — Locus of Sitting of Commission — Questions and Replies in House of Commons.*

In the House of Commons on Tuesday, April 28, 1902, Mr PIRIE (Aberdeen N.) asked the Lord Advocate, as representing the Secretary for Scotland, whether he was aware that the Chairman of Commissioners recently appointed under the Private Legislative Procedure (Scotland) Act 1899, to hold the inquiry in the case of the Aberdeen Tramways Provisional Order, had stated that the decision to hold the inquiry in Edinburgh was come to by the Scottish Office and not by the Commissioners, and that in his opinion the inquiry should have been held in the locality concerned, and whether before the place of inquiry was decided upon any opportunity had been afforded to the promoters and opponents of the Provisional Order of being heard on the convenience of the place for holding the inquiry.

The LORD ADVOCATE replied—The promoters and opponents were not formally heard as to the place of inquiry. No such hearing was asked for, but due consideration was given to communications made to the Scottish Office and its representatives in the matter.

Mr BRYCE (Aberdeen S.) asked whether it was not a fact that by the Act the decision as to where the inquiry was to be held was left with the Commissioners?

The LORD ADVOCATE—Yes, sir. I have already stated that the Act simply says that the Commissioners shall hold the inquiry where they please.

Mr PIRIE also asked the Lord Advocate, as representing the Secretary for Scotland, whether, in the cases of the Aberdeen Tramways Provisional Order Bill and the Buckie Harbour Provisional Order Bill the Commissioners appointed to hear the same under the Private Legislation Procedure (Scotland) Act 1899, had, of their own motion, with due regard to the subject-matter of the proposed Orders, and to the locality to which their provisions relate, and without any reference to or instructions or suggestions from the Secretary for Scotland, determined to hold the inquiry in Edinburgh instead of at Aberdeen; if so, whether, in so deciding, the Commissioners had before them and under their consideration the nature of the inquiry and the extra expenses which would be entailed upon those promoting and upon those opposing the said Orders owing to the inquiry being held in Edinburgh instead of in Aberdeen.

The LORD ADVOCATE—It is very desirable not to delay the announcement of the place and date of an inquiry under the Private Legislation Procedure Act to allow of the necessary arrangements being made by parties. It has therefore been the practice for the Secretary for Scotland as soon as possible to consult with the Chairman of Commissioners, and on obtaining his concurrence to announce the place and date immediately after the Commissioners have been appointed. Under these circumstances no preliminary meeting of the Commissioners has been usual for the purpose of determining the place and date of inquiry, and so far as the Secretary for Scotland is aware no such meeting was held in the cases referred to.

Tuesday, April 29, and Wednesday,  
April 30, 1902.

#### ABERDEEN SUBURBAN TRAMWAYS PROVISIONAL ORDER.

*Private Legislation Procedure — Locus of Meeting of Commission—Fixing Locus—Discussion in House of Commons on Motion for Adjournment—Statement by the Chairman of the Commissioners.*

##### DISCUSSION IN HOUSE OF COMMONS ON MOTION FOR ADJOURNMENT.

Mr PIRIE (Aberdeen N.) asked leave to move the adjournment of the House in order to call attention to a definite matter of urgent public importance—namely, the act of the Secretary for Scotland in interfering with the action of the Commissioners to hold an inquiry under the Private Bill

Procedure (Scotland) Act in the case of the Aberdeen Tramways Provisional Order and by taking upon himself to appoint the place of meeting, which is by statute within the discretion of the said Commissioners only. This was not a question of mere local interest. He had no desire to waste the time of the House, but a great principle was at stake, and he maintained that the course taken by the Secretary for Scotland in appointing Edinburgh as the place of meeting was contrary to the intention of the Act. It was most inconvenient to the parties and it would not save expense, as the witnesses would have to be taken from Aberdeen to Edinburgh, which would more than counterbalance any saving on the fees of counsel by the inquiry taking place in Edinburgh.

Mr CALDWELL (Lanarkshire, Mid.) seconded the motion. A very important question of principle, he said, was involved here. The whole object of the Private Bill Procedure Act was to secure local inquiry, and the fixing of the place where the inquiry should be held was vested not in the hands of the Secretary for Scotland, but in the hands of the Commissioners themselves. There was no necessity either for the Commissioners to journey to Edinburgh in order to fix the meeting-place. They might have settled that in London. If ever there was a local question, that of the Aberdeen Tramways was such, but instead of the inquiry being held on the spot, those immediately interested were compelled to hold the proceedings at Edinburgh, a hundred miles away.

The SPEAKER, interposing, said he should not have allowed the motion now before the House to be introduced if he had thought the case was to be argued on the merits of the question whether the inquiry was to be held in Edinburgh or in Aberdeen. He only allowed the motion on the ground that the Secretary for Scotland was alleged to be introducing a new practice contrary to the tenour of the statute.

Mr CALDWELL held that the appointment of the place of inquiry by the Secretary for Scotland without the Commissioners being called together was an unwarrantable interference with the intention of Parliament in a matter of this kind.

The LORD ADVOCATE said the statement that Lord Clifford had never been consulted was based on a newspaper interview, as to which his Lordship had not yet had time to make acknowledgment or denial. He could assure hon. members that the last thing in the world that the Secretary for Scotland wished was to interfere in any way with the undoubted province of the Commissioners in fixing the inquiry. Indeed, no such thing was done. It was very easy to say, as had been said by the member for Mid-Lanark (Mr Caldwell), that the Commissioners ought to have met in London. In some cases they might do so, but in other cases they might not be able. They could not possibly send Commissioners down to Scotland with the intimation that the day after they arrived they would have an inquiry at such and such a place. They

must, of course, give ample notice to the promoters and opponents of the Bill as to when and where the inquiry was to take place, and the sooner that was done the better. The names of the Commissioners were published on the 20th March, and that was the first intimation that either the Scottish Office or anyone else had. On the 21st March Lord Clifford, who was nominated as chairman, called at the Scottish Office, and was told of the group of bills that it had been arranged to take by means of this Commission, and he (the Lord Advocate) might mention, in passing, that a group of bills did not refer to bills to be inquired into at one place, but to bills to be dealt with on appointment of Commissioners. His Lordship was also put in possession of the information that the Scottish Office had as to what the promoters and opponents of the measure considered would be the most convenient place at which to hold inquiry. All the parties, he believed, wanted the whole group of bills tried in Edinburgh, with the exception of the Aberdeen Tramways Bill. There was no doubt whatever that the information of the Scottish Office was that the promoters in the Buckie case wished it tried in Edinburgh, because there was a letter from one of the permanent counsel to the Commissioners stating that the agents had called and made a representation to that effect. The Secretary for Scotland discussed the matter with the Chairman, and said that, on the whole, he thought Edinburgh would be the most convenient place. In that view the Chairman acquiesced. That was on the 21st March. Either on that day or on the very next day the noble Chairman went abroad—they could not stop him—and he did not come back until four days before the inquiry opened, so that it was perfectly impossible to get a meeting of the Commissioners during that time. No doubt an intimation had been made on behalf of the Aberdeen Tramway people that they would sooner have the case considered in Aberdeen, but the Secretary for Scotland was put in this difficulty—that he could only do his best without the Commissioners. He said the matter had been mentioned to the Chairman and fixed for Edinburgh, and he could not give any particular hopes that that determination would be changed. More than that he did not and could not say. Then came the Easter recess. Lord Clifford came back on 18th April, and called at the Scottish Office, and the inquiry had been settled to open on the 22nd. He was told when he called that this representation had been made, and there the matter ended. Accordingly the Edinburgh inquiry was opened. The Buckie inquiry began upon the 22nd April and lasted until the 27th. Nothing more, of course, could have been done about the Buckie case, because that was the first Order on the paper, but he would like to point out that if the Aberdeen Tramway people had still kept to their view that it was very expedient that the Commission should shift to Aberdeen, there was no reason whatever why they

should not have made application to the Commission, and asked them to go to Aberdeen, and there was certainly no reason at all why the request should not have been acceded to. If this thing was to be worked at all, they must make provisional arrangements, so to speak, at the Scottish Office. If they communicated those to the Commissioners, although it was perfectly true that the Commissioners should themselves determine the question, he did not see that there was any absolute necessity of a formal meeting, and so far as the Aberdeen case was concerned there was still time to make the application. If that was not made, he could not help thinking that the promoters ought to be held to acquiesce in the general arrangement, and the provisional arrangement became permanent. There was absolutely no view or anxiety at the Scottish Office to use the Private Bill Legislation Act for the purpose of making a centralised tribunal in Edinburgh, nor had counsel anything to do with the fixing of the place of meeting. Their fees would be precisely the same in Edinburgh and in Aberdeen, and they were really the last people who were ever considered at the Scottish Office. It was absolutely necessary, with a view to the convenience of parties, that the Scottish Office should practically make provisional arrangements for the dates of forthcoming inquiries. In this case they were made with the concurrence of the Chairman. Although there was no formal meeting, the Chairman and his Commissioners practically adopted those arrangements, and so far as Aberdeen was concerned there was nothing in the world on the first day of the sitting in Edinburgh to prevent Aberdeen from making the application.

Mr BRYCE (Aberdeen S.) said the matter was simple. The statute said that the Commissioners should hold their inquiry at such place in Scotland as they might determine, with due regard to the subject-matter and locality to which the provisional order related. In this case that had not been observed. The Commissioners had not been consulted. The Chairman might have been consulted, but he was not the Commission, and all the Commissioners should have had a voice in the settlement of the place of meeting. The Lord Advocate said why did not Aberdonians remonstrate when they found that the inquiry was not to be in Aberdeen, but they did. They said they wished it to be held there, and the only reason why they did not continue their remonstrance was that they thought it was of no use. But he was glad to accept the assurance that the Scottish Office had no view that these inquiries should necessarily be held in Edinburgh, and he looked to beneficial effects being produced all over Scotland by the hearing of these cases in the places affected. He was glad that the Lord Advocate repudiated the idea that the Scottish Office had any other intention. The present case was a mistake, and steps were to be taken to prevent such a mistake in future; but the discussion had been useful, as it had disclosed the real intent of the Act in these matters.

Mr CROMBIE (Kincardineshire) thought that in this matter a breach of the law had been committed. Steps should be taken by which in future the Commissioners should meet and determine where their inquiries should be held.

Dr FARQUHARSON (Aberdeenshire W.) considered the Secretary for Scotland had broken the law in this matter. The law was that the trial should be held in the locality concerned.

Mr WEIR (Ross and Cromarty) said that the Scottish Office had no right to interfere with Commissioners in fixing the place of meeting. He was afraid there was a clique in Edinburgh whom the Scottish Office desired to provide for in the shape of fees to advocates, experts, engineers, and others, and the suspicion was that the Scottish Office desired to put money into the hands of these Edinburgh gentlemen rather than those of Aberdeen. If witnesses had to be taken to Edinburgh from, say Stornoway or Lerwick, what a cost it would mean. The inquiries should be made on the spot, and that was the intention of the Act.

Mr PRIE said that, as he understood, it was admitted that a mistake had been made in this case, which was not to be allowed to occur again. He would ask leave to withdraw his motion.

The motion was thereupon by leave withdrawn.

#### STATEMENT BY THE CHAIRMAN OF THE COMMISSIONERS.

At the close of the sitting of the Commissioners in Edinburgh on Wednesday, April 30, 1902, the Chairman of the Commissioners (Lord CLIFFORD of Chudleigh) made the following statement:—"Before we rise I want to say a few words upon a question which has appeared in the press and in Parliament as to the extent to which the Commission was concerned in fixing the place in which it sat, and I wish to say that the speech of the Lord Advocate in the House of Commons on Tuesday night (April 29, 1902) exactly represents what took place—that I did leave the decision as to the place entirely in the hands of the Scottish Office, for reasons that I need not state, and that the place was, as he says, settled by them with my personal concurrence. The remaining members of the Commission were not, I believe, consulted. I wish to emphasise the fact that there is no discrepancy, whatever may have appeared in the papers, between the account given of it by the Lord Advocate and anything I have to say on the subject."