

Tuesday, March 22.

(Before Lord Herries, *Chairman*, Lord Muncaster, Mr J. Dennistoun Mitchell, and Mr Edward Wilson—at Edinburgh.)

LEITH BURGH PROVISIONAL ORDER.

*Provisional Order—Private Legislation Procedure—Proposed Clause Disposing of Pecuniary Dispute between Burghs—Competency—Locus Standi—*

Into this Provisional Order, which dealt, *inter alia*, with the suppression of betting, bookmaking, and wagering in public places, the promoters, the Corporation of Leith, proposed to introduce a section dealing with a pecuniary dispute between themselves and Edinburgh. The Burgh of Leith being like other burghs in Scotland entitled to redeem its land tax made certain payments with that object. These payments however accidentally were set down as contributed by Edinburgh, and under the Agricultural Rates Act 1896 Edinburgh obtained from the Treasury certain repayments in respect of these payments. The Corporation of Leith claimed that they were entitled to the sums repaid. The promotion of the Order proposed to introduce into the Bill a section leaving the whole matter for the Secretary of Scotland to adjust.

The CHAIRMAN—I do not think we are a Court of Arbitration between two burghs in a question of this sort. I think you must leave other parties to decide as to that. . . . I quite see that this is a dispute between two burghs as to the money. I do not see that a dispute of that sort should be brought into a burgh Bill of this kind. It is entirely without our powers. We certainly prefer not to take it up. . . . I think it is a *locus standi* case whether this is a subject which should be brought into the Bill at all.

Counsel for the Promoters—Wilson, K.C.—Constable. Agents—T. B. Laing, Town Clerk, Leith—John Kennedy W.S., Parliamentary Agent, London.

Counsel for the Lord Provost, Magistrates, and Council of the City of Edinburgh—Clyde, K.C.—Cooper—Wallace. Agent—Thomas Hunter, W.S., Town Clerk.

Counsel for the Leith Dock Commission—J. H. Millar. Agent—Victor A. Noel Paton, W.S.

Wednesday, March 23, and Thursday,  
March 24.

(Before Lord Herries, *Chairman*, Lord Muncaster, Mr J. Dennistoun Mitchell, and Mr Edward Wilson—at Edinburgh.)

GRANGEMOUTH BURGH EXTENSION PROVISIONAL ORDER.

*Provisional Order—Extension of Boundaries of Burgh—Opposition by County Council—Application to Sheriff under Burgh Police (Scotland) Act 1892, secs. 11, 12, 13; 1903, sec. 96—Water Rights—Assessment.*

The Burgh of Grangemouth, which was about to construct new docks, desired an extension of its boundaries so as to include the area which would be occupied by the docks and the houses necessary for the workmen employed. This was the object of the present Provisional Order.

The existing area of the burgh contained some 651 acres or thereby of which about 100 acres were unbuilt on, and the total area proposed to be added under the Provisional Order consisted of three separate portions, amounting in all to 1223 acres. The population of the burgh as existing was 8500, that of the portions proposed to be added 72. The Caledonian Railway Company, Limited, supported, the County Council of Stirlingshire and the Eastern District Committee of Stirlingshire objected to the Provisional Order.

The promoters maintained that it was expedient and desirable that these areas should be added to the burgh before they were built upon, in order that the burgh might from the outset exercise a supervision over the erection of houses and streets, and that for this a Provisional Order was necessary, the powers conferred on the Sheriff of the County by various Acts of Parliament being applicable only to the case where a burgh found the population on its borders growing in number and where consequently it desired further extension and control. The objectors maintained, *firstly*, that a Provisional Order was unnecessary, provision having been made by public general statutes for extending the boundaries of burghs by application to the Sheriff with appeal to Court of Session, the Burgh Police (Scotland) Act 1892, secs. 11, 12, 13, and the Burgh Police (Scotland) Act 1903, sec. 96. Further, the present was not a case for extension, as the areas in question were not urban or suburban in character, and required neither municipal government nor legislation. Such matters as police protection, drainage, and lighting had been provided for by the objectors, and no advantage would be derived by the inhabitants of the areas from the proposed change. *Secondly*, that the objectors had in the year 1900 promoted and procured an Act by which a special Water Supply District had been created, including the areas proposed to be annexed to the burgh, and water-works had been

constructed by them. They would by the proposed change be deprived of a source of revenue upon which they had counted, viz.—charges for water supplied to the new Grangemouth Docks and certain other docks to be constructed by the Caledonian Railway within the proposed areas. *Thirdly*, the county establishments had been formed and the county administration organised and obligations undertaken on the footing that the lands and heritages in the district proposed to be annexed would remain under the objectors' jurisdiction. The Provisional Order proposed to abolish their powers of assessment within these districts, and no provision was to be made for compensation for the pecuniary loss which would be entailed thereby.

The promoters led evidence.

The Commissioners, after calling for the evidence of the objectors relating to one only of the three areas, found the preamble not proved.

Counsel for the Promoters—The Solicitor-General, K.C.—Munro—Mackay. Agents—J. P. Mackenzie, Town Clerk, Grangemouth—A. & W. Beveridge, Parliamentary Agents, London.

Counsel for the County of Stirlingshire and the Eastern District Committee of Stirlingshire—Salvesen, K.C.—M'Clure. Agent—Patrick Welsh, Solicitor, Stirling.

Counsel for the Caledonian Railway Company—Clyde, K.C.—Cooper. Agent—H. B. Neave, Solicitor, Glasgow.

*Friday, March 25, and Monday, March 28.*

(Before Lord Herries, *Chairman*, Lord Muncaster, Mr J. Dennistoun Mitchell, and Mr Edward Wilson—at Edinburgh.)

#### DUNFERMLINE DISTRICT WATER PROVISIONAL ORDER,

*Provisional Order—Private Legislation Procedure—Water Supply—Compensation Water—Amount—Present Manufacturing Interest Small but Capable of Expansion—One-fourth Offered by Promoters—One-third Given by Commissioners—Sundays.*

This Provisional Order was promoted by the Dunfermline district of the county of Fife, its object being to obtain an adequate supply of water for the district, which included the site of the new naval base to be established at Rosyth. The promoters proposed to obtain their water from the Glenquay Burn, one of the upper tributaries of the Devon. The amount of water which they proposed to abstract was 2,000,000 gallons per day, and of this 500,000 gallons per day, or a quarter of the whole, was to be given to the lower proprietors as compensation water. The drainage area affected by the scheme amounted to 1377 acres.

Mr William James Haig, of Dollarfield,

Lord Abercromby, The Distillers Company, Limited, and the County Council of the county of Clackmannan, appeared, *inter alios*, as objectors. They did not oppose the scheme as a whole, but maintained that the amount of compensation water proposed was inadequate and should be a third instead of a fourth.

Mr Haig was proprietor of a paper mill, a saw mill, and a bleach work on the Devon, the nearest of which was distant  $11\frac{1}{2}$  miles below the point at which the promoters proposed to abstract the water. Lord Abercromby was the owner of a flour mill and a corn mill driven by water power,  $25\frac{1}{2}$  miles below the point of abstraction. The Distillers Company works were  $24\frac{1}{2}$  miles below the point of abstraction, and they used the water of the Devon not only for the purpose of driving machinery but for certain processes in connection with their manufacturing, and in particular for cooling. The amount of water required by any of these undertakings was, when compared to other manufacturing centres, a small one, and generally speaking the area affected by the promoters' scheme was of an agricultural and pastoral rather than an industrial character.

The position of the County Council of the county of Clackmannan was set forth in the petition as follows: "The valley of the river Devon, of which the Glenquay Burn is a tributary, is a populous district, containing a number of industrial communities . . . situated within the district of your petitioners . . . As the river Devon forms the natural outlet for the drainage of these communities and works, there is a great deal of polluting matter which finds its way into the stream, and unless its normal flow is maintained the public health of the district will be injuriously affected . . . Your petitioners therefore submit that the Order should not be passed without provision being made for a supply on reasonable terms to them for use in the county of Clackmannan prior to the supply of the Dunfermline district.

The promoters argued that looking to the nature of the district and the fact that it was agricultural and pastoral rather than industrial the amount of compensation water proposed was ample. The amount of water used by the objectors was trifling, and under the proposed scheme they would be better off than before, inasmuch as during the summer months they would obtain a regular supply of five times the present minimum flow. Further, the proposed scheme only remotely affected the objectors. The drainage area which the new scheme impounded was 1377 acres, whereas the drainage area on which Mr Haig's mills drew was 28,350 acres; that on which Lord Abercromby and the Distillers Company depended was 48,850 acres; so that in the former case only some 3, in the latter some 5 per cent. of the available water supply was actually affected.

The objectors argued that they were entitled to a third, which was the amount granted in almost every instance. They