

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-

man intimated that it did not insist on the insertion of a sterilisation clause.

The Commissioners intimated considerable difficulty, but looking to the peculiar circumstances and the very limited duration of the power sought, found the preamble proved.

Clauses were adjusted.

Ardrossan Harbour Company sought an increase of 50 per cent. on their maximum rates, limited to fifteen years' duration. The schedule of rates here was recent, 1909, and it had not been found necessary to apply to the Board of Trade for any increase during the war owing to a large extent to the advent due to the war of exceptional traffic which had now disappeared. The harbour was purely a commercial undertaking. Opposition came from shipowners using the harbour based on the ground that the existing maximum dues on ships, as distinguished from the other rates and charges, had not been reached, and the company was able to pay a fair dividend. It was suggested the dues on ships should be excluded, or alternatively that the increase granted should be much smaller and for a much shorter duration. Something was also said as to differential treatment of coasting steamers, but it was admitted that the company had power to compound, provided always similar terms were given to all in a similar position, had been in the habit of exercising such power by agreements, and was likely to do so again in the future.

The Commissioners intimated that, following the precedent of the Manchester Ship Canal case in England, no sterilisation clause would be inserted here in dealing with a trading company. They found the preamble proved but limited the increase to 33½ per cent.

Clauses were adjusted.

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

Counsel for the Ship-Repairers and Others (*Objecting*)—Gentles, K.C. Agents—Biggart, Lumsden, & Company, Solicitors, Glasgow.

Counsel for the Greenock Harbour Authorities (*Promoting*)—Sandeman, K.C.—Harold Beveridge. Agents—Neill, Clark, & Murray, Solicitors, Greenock—Beveridge & Company, Westminster.

Counsel for the Greenock Harbour Bondholders (*Objecting*)—Constable, K.C. Agent—Thomas Macquaker, Solicitor, Glasgow.

Counsel for the Ardrossan Harbour Company (*Promoting*)—Constable, K.C.—Black. Agents—Keyden, Strang, & Company, Solicitors, Glasgow.

Counsel for Shipowners (*Objecting*)—Gentles. Agents—Wright, Johnston, & Mackenzie, Solicitors, Glasgow.

5th, 6th, and 7th August 1919.

### FRASERBURGH HARBOUR (NEW WORKS) PROVISIONAL ORDER.

(Before Lord Forteviot (*Chairman*), the Marquis of Linlithgow, Mr William Graham, M.P., and Mr J. L. Sturrock, M.P.—at Edinburgh.)

*Provisional Order—Harbour—Erosion of Coast—Feared Damage to Owner of Adjoining Property and Foreshore—Protection Clause.*

The Fraserburgh Harbour Authority promoted this Order for power to carry out certain new works at their undertaking, the most important of which was the lengthening to a small extent of two breakwaters so as to contract the entrance, and prevent heavy seas penetrating into the basin of the harbour. Lord Saltoun opposed. He was the owner of the coast property to the south of the harbour, and fearing damage from a possible diversion of the force of the waves on to his shore, where his property behind was protected by a narrow line of sandy dunes, he had sought a protection clause referring to arbitration any claim he might hereafter have for damage caused through the new works, and that joint plans should be prepared showing the existing position of matters. The promoters, however, had refused such a clause, preferring that the matter should be left to the common law.

The Commissioners refused a protection clause and found the preamble proved.

Clauses were adjusted.

Counsel for the Fraserburgh Harbour Authority (*Promoting*)—Sandeman, K.C.—Morrice Mackay. Agents—J. W. Tarras, Solicitor, Fraserburgh—Alexander Morison & Company, W.S., Edinburgh.

Counsel for Lord Saltoun (*Objecting*)—Constable, K.C.—Graham Robertson. Agents—W. & J. Cook, W.S., Edinburgh.

8th, 9th, 11th, and 12th August 1919.

### GREENOCK IMPROVEMENT PROVISIONAL ORDER.

(Before Lord Forteviot (*Chairman*), the Marquis of Linlithgow, Mr William Graham, M.P., and Mr J. L. Sturrock, M.P.—at Glasgow.)

*Provisional Order—Burgh—Improvement Scheme—Acquisition of Property—Church and Burial-Ground—Property not Required for the Burgh Improvement but for Shipbuilders with whom Scheme to be Carried Out.*

Greenock Corporation and Greenock Harbour Trust promoted this Provisional Order for power to carry out a large improvement scheme, whereby a considerable amount of slum property was to be cleared away. The scheme had originated, and been shaped, with a large shipbuilding firm, who desired to