

CHAPTER III

THE FORMATION OF THE TRUST

On the 14th of June 1830 it was reported to a meeting of the Council that Mr. David Napier (who had been involved in shipping on the Clyde since 1812 when he had constructed the boiler for Henry Bell's Comet) had refused to pay harbour dues in respect of the steamboats Superb, James Ewing and Loch Eck. The dispute started in the summer of 1829 when Napier asked for Extracts to be produced to him that he might glean from them what he was legally entitled to pay at Rothesay for steamboats calling there. The Town Clerk duly furnished Napier with an Extract of the Harbour Regulations, but this did not satisfy Napier who then asked for an Extract from whatever Charter or Document the Council derived their authority for making the regulations. The Council responded by warning Napier in a letter dated 3rd June 1830 that unless he paid the harbour dues for the three steamboats by 7th June the boats would not be permitted to enter the harbour or touch at the pier. This brought a letter by return of post from Napier's solicitors in which it was stated that the arrears of dues would be paid upon the Masters of the boats being satisfied of the legality of the Council's claim. The solicitors' letter continued: "Should any attempt be made by you after this notice to prevent the entry of these boats into the Harbour, or of their leaving it, or to prejudice them in any manner of way, the same will be at your highest peril." The Council was determined to be master in its own house and accordingly from 7th June 1830 Napier's boats were denied the use of the pier and harbour.

Napier stood his ground and within a matter of days, according to the Council Minutes, had obtained an Interdict against the Magistrates and their servants from refusing to allow him to use the pier and harbour. The Minutes state that the Interdict was obtained by Napier in the Bill Chamber of the Court of Session, but mysteriously there is no record of the action in either the Books of the Court of Session or the Books of Rothesay Sheriff Court. The Town Council forthwith directed a Memorial as to the Anchorage and Harbour dues to

be prepared and submitted to Counsel. On 8th September 1830 it was reported to the Town Council that Counsel's Opinion was unfavourable to the Town Council's case. Unfortunately neither the Memorial nor the Opinion was engrossed into the Town Council's Minute book. In consequence of the unfavourable view which Counsel entertained of the whole case the Town Council accepted his advice to effect a compromise with Napier rather than enter into a Law Suit. The compromise included the painful exaction by Napier from the Town Council of his whole legal expenses in connection with the dispute.

It was now indisputably necessary for effective steps to be taken by the Town Council to protect and recover the Harbour dues on vessels using the harbour, and as Counsel strongly recommended an application to Parliament to effect this object the Town Council decided unanimously to take his advice.

It is a most unfortunate coincidence that neither a record of Napier's action nor a copy of Counsel's Opinion exists, for without one or other the reason for having to obtain statutory powers cannot be explained with any degree of certainty. One possibility is that the Town Council only had power to levy harbour dues from ships which were carrying goods into Rothesay Fair. The original Charter of Erection of the Burgh of 12th January 1400 does not contain any specific reference to a Harbour, but the Charter of Confirmation and Novodamus of 19th February 1584 granted to the town a free port with free entrance and exit for ships with power, for the support of the port, to levy dues from goods and from "ships and boats carrying and transporting into the market of the same."

Whatever the correct explanation the situation was remedied for the future by the acquisition of Statutory powers.

The Town Council decided at that September meeting to take advantage of the proposed Harbour Bill to obtain powers for enlarging and improving the existing Jail of Rothesay and so the Bill became a Harbour and Gaol Bill.

On 7th December 1830 the Council received a report from Baillie John Muir and Councillor Alexander Irvine on the measures which had been taken towards the promotion of the Harbour and Gaol Bill, and on 3rd February 1831 the Petition which required to be presented to Parliament for leave to

bring in the Bill was approved of and executed by the Council.

A plan of the harbour, showing improvements which it was intended would also be sanctioned by the Act, was laid before the Council eight days later. This disclosed that some ground belonging to the community of the Burgh would be required for carrying these improvements into effect. As far as can be ascertained this ground was approximately opposite the foot of Bishop Terrace Brae. The Council decided it should be taken for harbour purposes.

A dissolution of Parliament necessitated the presentation of a second Petition which the Council executed on 9th June 1831. This Petition passed through Parliament, the Bill receiving the Royal Assent and becoming law on the 2nd of August.

The Act (1 and 2 George IV Cap. XXXIV) by section XV repealed the existing rates and duties payable for use of the harbour and authorised the levying of rates and duties on a specific scale on all vessels, goods and passengers using or taking benefit of the harbour. Compounding of dues was permitted. Naval and other Government vessels were exempted from paying dues by section XIX.

Section IX of the Act conferred power for the erection of a breakwater at the eastern entry to the outer harbour, the erection of a wharf at the south side of the outer harbour, the increase in breadth of the west pier to correspond with the breadth of its eastward extension, the erection of a drawbridge to unite east and west piers, the deepening of the harbours, the erection of cranes and sheds and the erection in, or contiguous to, the harbours, on ground belonging to the Burgh, of such other piers, quays, jetties, breasts, graving and repairing slips or other works as might be judged expedient.

Charged with the execution and carrying into effect of the powers granted by the Act were, in terms of section I, the members of Rothesay Town Council and four owners of ships or vessels trading to and from Rothesay *qua* Trustees.

This somewhat cumbersome machinery was presumably to allow persons who used the harbour, but who were not Town Councillors, a say in its running. Such persons could not have sat on the Town Council except as elected councillors. Although the formation of a Harbour Trust was no doubt well intended the severance of the affairs of the harbour from the

affairs of the Burgh caused future Trustees great difficulty in obtaining funds with which to improve the harbour. The harbour's future revenue and assets were nowhere like sufficient to encourage the lending of money to the Trustees who had to rely almost entirely on the Town Council either to provide the funds or to act as cautioners.

Section XXXIX of the Act gave the Trustees extensive powers to enact Bye-Laws for the management of the Harbour, the navigation of ships, the conduct of persons using the harbour, the regulating of wages for Porters, Carters and Hackney Coachmen, the times of sailing of Passenger Steamships and sundry other matters.

During the course of the passage through Parliament of the first Harbour Bill Petition the Government of the day decided in its infinite wisdom that a tax should be "laid on all passengers travelling by steamboats." The Council, realising full well the result which such a tax would have on the advancement of Rothesay's trade, presented a Petition to the Commons against the tax. The Petition was executed by the Council on 21st February 1831 and placed in the hands of the Provost, the Marquess of Bute, for onward transmission to the appropriate recipient.

This Petition, like that presented to the Commissioners for the Herring Fishery in 1824, is of little significance in the harbour's history. It does, however, give some indication of the impact which the invention of the steamboat had on island life.

The Petition narrated:—

"That the recent introduction of navigation by the power of steam on the Clyde . . . has conferred a great benefit on the natives by affording a ready, expeditious and cheap conveyance from one place to another not equalled by any other mode. It has enabled persons who were formerly cut off by sea from the mainland . . . to be expeditiously and safely transported to and from thence; it has opened up and improved remote and formerly . . . inaccessible portions of the Kingdom and has led to the improvement both of the people and the soil . . . ; it has encouraged the building of houses, villas and cottages on the sea shore in many parts formerly waste . . .

and still more, it has led to the erection and improvement of various piers and harbours.

That the Burgh of Rothesay, possessing a population of upwards of 5000, is situated in the Island of Bute and with a view principally to accommodate the steamboats and their passengers coming there from Glasgow, Greenock and many other places on the Clyde as well as the Highlands of Scotland and to afford them proper conveniency, the Petitioners were induced a few years ago to improve, extend and enlarge the piers and harbours of Rothesay . . . The improvement and extension . . . have been found of much benefit in affording the necessary accommodation and protection to steamboats and others . . . and it has led to the increase and improvement of the Town and neighbourhood.

That . . . if the steamboats discontinue plying the inhabitants and other persons who have occasion to come to or go from the Island must be carried either by sailing decked vessels or open boats often dangerous in their navigation . . . and at other times tedious and uncertain in their movements.

That before the introduction of the steamboats the mails to and from Rothesay were conveyed by a sailing wherry or small boat to Largs . . . but this mode of conveyance having been found tedious, uncertain and the mails often interrupted and sometimes not arriving for several successive days at a time it was given up, and the mails to and from Rothesay carried by the steam vessels since which . . . much benefit has arisen to the inhabitants and others by the expedition and regularity of the conveyance of the mails.

That the steam navigation since its introduction has been progressively improved and if not discouraged may continue to be further improved and extended. The Petitioners know, however, that it is carried on particularly by the smaller class of boats which resort to Rothesay not much to the benefit of any and often to the loss of many who have embarked their property.

That . . . the charge by the steamboats for a cabin passenger from Rothesay to Glasgow is sometimes one shilling and less, but of late never more than two shillings.

That it being lately proposed to lay a tax on passengers

by steamboats . . . the Petitioners . . . view this measure with much fear and alarm."

Even the much improved Greenock/Rothesay mail service apparently did not satisfy the requirements of the inhabitants, for on 9th March 1831 the Council were the recipients of a Petition from a group of local men outlining their ideas for improving the service on account of "serious loss and great inconvenience from the irregular arrival of the mail."