

had been appointed trustees and executors under the settlement of the person requiring the curator, had "learned that attempts have recently been made to induce him to transfer a large portion of his means to persons exercising undue influence over him, and they fear that he may be liable to be subjected to further undue influence and interference, whereby his estate may be squandered."

There was no precedent cited for such an interim appointment, but Lord Mure, in the circumstances, nominated the party suggested by the petitioners, *ad interim*, and appointed intimation and service of the petition.

Monday, Feb. 5.

## LANDS VALUATION COURT.

(Before Lords Kinloch and Ormidale.)

The following cases have been decided by Lords Kinloch and Ormidale as Appeal Judges, under section 2 of the Valuation of Lands Amendment (Scotland) Act, 20 and 21 Vict., c. 58, which provides that when any person shall declare himself dissatisfied with the determination of the Commissioners of Supply in counties or the magistrates of burghs in regard to the valuation of his lands, he may require the said commissioners or magistrates to state specially, and to sign, the Case upon which the question arose, together with the determination thereon, to the end that the same may be submitted to the senior Lord Ordinary and the Lord Ordinary officiating in Exchequer cases in the Court of Session for their opinion thereon; and such Judges to whom such case may be submitted shall, with all convenient speed, give and subscribe their opinion thereon; and according to such opinion the valuation or assessment which shall have been the cause of the appeal shall be altered or confirmed.

### SUTHERLAND *v.* GORDON OF CLUNY.

*Valuation of Lands Act—Lands and Heritages.* Held (per Lords Kinloch and Ormidale) that a person deriving rent from a tenant for a right to gather seaweed and manufacture kelp on the seashore should be placed on the valuation roll as an owner of lands and heritages.

Counsel for the Respondents—Mr Millar.

This was an appeal by the assessor of the county of Inverness against a decision of the Commissioners of Supply for that county, finding that the kelp shores of South Uist, the property of Mr Gordon, which had been entered by the assessor in the valuation roll for the year 1865-66 as of an estimated yearly value of £1000, were not subject to assessment.

Mr MILLAR appeared to support the judgment of the Commissioners on the grounds—(1) that the manufacture of kelp afforded no profit in itself, and was carried on solely as a means of employing tenants on the estate, who otherwise would be without occupation, and unable to maintain themselves and their families, or to pay rent for their possession; (2) that the ware from which kelp is manufactured does not grow upon the rocks, but is drifted from the ocean by spring tides, and is a moveable, changeable subject; (3) that the preparation of kelp being a manufacture, the profits yearly derived from it by Mr Gordon were not returns from lands or heritages in the sense of the statute, or in any sense; (4) that if any return on account of kelp could consistently with the provisions of the statutes, be entered in the valuation roll, the value of the ware or raw material, being that which remained after the wants of the estate for manure and other purposes were satisfied, was all that could reasonably be stated; and (5) that no such entry having been made in previous years in the valuation roll, and there being no new circumstances to justify the proposed change, the past practice ought to be adhered to, and the proposed entry in the valuation roll omitted.

In the adjusted case prepared for the opinion of their Lordships, it was stated on behalf of the assessor that his attention had been directed to Colonel Gordon's estate of South Uist, and by an advertisement of its sale, from which it appeared that, in addition to the land rent, the free annual return received by Colonel Gordon from kelp, on an average of the last five years, had been £1353. That sum was accordingly included in the gross rental of the estate before making the usual deduction of public burdens; and he added that, having surveyed the ground and made inquiry on the spot, he believed £1000 was a fair and just estimate of the subjects in question. He further submitted that the subjects formed pertinents of the estate of South Uist, and were capable of actual occupation; that although kelp shores are not specified in the interpretation clause of the Act, yet that the seaweed which grew upon the shores and rocks in South Uist was part of Colonel Gordon's immoveable estate, and must therefore be held to fall under the term "heritage" in the Act.

The Commissioners having sustained the objections on behalf of Colonel Gordon to the assessor's entry, their Lordships to-day pronounced an interlocutor reversing the commissioners' decision, finding that the subjects should be valued at such sum of yearly rent as may be reasonably expected to be paid, year by year, by a tenant, to whom might be let the right of gathering and appropriating the ware growing and cast on the shore in question, together with the use of the shore for manufacturing kelp from the said ware, and remitting to the commissioners to proceed accordingly.

### SUTHERLAND *v.* THE BRITISH SEAWEED CO.

*Valuation of Lands Act—Lands and Heritages.* Held (per Lords Kinloch and Ormidale) that persons having a right to gather ware from the seashore should be placed on the valuation roll as occupiers of lands and heritages.

Counsel for the Respondents—Mr J. B. Balfour.

The assessor of the county of Inverness having entered the respondents in the valuation roll for that county as lessees of the kelp shores in the parish of North Uist, the property of Sir John P. Orde, Bart., at a yearly rent of £800, and the Commissioners of Supply having found that the Valuation Acts did not embrace the kind of subjects of which the British Seaweed Company were the lessees, the assessor now appeals against that decision. In the adjusted case prepared for the opinion of their Lordships, it was stated on behalf of the appellant that the valuation complained of was made by him in terms of a return made by Sir John Orde, the proprietor of the subjects in question, which bore that the British Seaweed Company were tenants or occupiers of the kelp shores at a rent of £800, for a term of years, on a formal lease; that the subjects appealed against formed pendicles or pertinents of the estate of North Uist, and as such were capable of actual occupation; that although the British Seaweed Company have not an exclusive right to gather seaweed, they were precisely in the same position as the other tenants on the estate, who shared with them the right of gathering seaweed for manure, and whose gross rents were included in the valuation roll; that although kelp shores are not enumerated in the interpretation clause of the Act 17 and 18 Vict., cap. 91, sec. 42, yet that the seaweed which grew upon the shores and rocks in North Uist was part of the proprietor's immoveable estate, and must therefore be deemed "heritage," and of such a nature as would make its exclusion from the roll repugnant to a fair and just interpretation of the context of the Act, as set forth in the 42d section.

It was further observed that the shores of these islands, and the margins of the numerous interior salt lakes, produce in great abundance three kinds of seaweed—*ladyware*, which grows between the spring and neap and high tides; *bellware*, between low and