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 seaware 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 seaware, 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 seaware—*ladyware*, which grows between the spring and neap and high tides; *bellware*, between low and

high neap tides; *blackware*, at low water, spring, and neap tides—and that the manufacture of sea-weed had recently been revived among the islanders, and formed a source of very considerable profit to the proprietor.

The respondents argued that although they were entitled to the right of gathering and cutting sea-weed from the shores and rocks above and below high-water mark in the parish of North Uist, which they manufactured into kelp, iodine, and other substances, they had no exclusive right to do so, and had no formal lease of *any lands or kelp shores in North Uist;* that they had merely to pay an annual rent or lordship of £800 for the right to gather and remove the seaweed in common with the tenants on these islands, and that they had merely the privilege of going on the lands for the purpose of collecting the seaweed—the said lands being let for agricultural and other purposes to other tenants, who paid rent therefor.

They further referred to the interpretation clause of the Act 17 and 18 Vict. cap. 91, as showing that the right to gather kelp or seaweed is not comprehended under the words "lands and heritages" in the Act, and contended that the assessor had no right to include in his valuation roll any pertinent or accessory of land not specially mentioned in said clause, and that in practice no such right has heretofore been valued or assessed.

Their Lordships reversed the decision of the Commissioners.

CLYDE NAVIGATION TRUSTEES *v.* ASSESSOR FOR THE COUNTY OF LANARK.

Valuation of Lands Act. Question as to the valuation of quay belonging to the Clyde Trustees.

Counsel for Trustees—Mr Gifford.

This was an appeal by the Clyde Navigation Trustees against an entry in the valuation roll of the county of Lanark of £4061 as the value of Mavisbank Quay, being a portion of the harbour of Glasgow, situated in the parish of Govan, and beyond the boundary of the city, and of which they are entered as proprietors and occupiers. In this appeal the question was raised for the first time as to the principle on which the quays and wharves on the river Clyde are to be valued. It appeared that the valuation included the buildings and erections on the quay in question, and that it had been arrived at and determined by the assessor on the basis of the revenue of the trust as follows :—

Revenue for year ended 30th June 1864—					
Dues on vessels				£23,656	8 10
,, goods				76,473	0 11
				£100,129	9 9
One-half assumed as applicable to quays				£50,064	0 0
Add crane dues—net	£1,357	0	0		
,, Transit sheds	84	0	0		
,, Water ,,	50	0	0		
				1,491	0 0
				£51,555	0 0
Deductions—					
Harbour-Master's department	£1,551	4	6		
Lamps	1,582	13	9		
Police	3,123	15	6		
	£6,257	13	9		
Proportion of general expense	4,325	0	0		
				10,582	0 0
				£40,973	0 0
Tenants' profits—20 per cent on net revenue				8,194	0 0
Carry forward,				£32,779	0 0
Brought forward,				£32,779	0 0
Deduct annual value of offices in Robertson Street				360	0 0

Which leaves the sum of ..... £32,419 0 0 applicable for distribution amongst the different parishes in which the harbour is situated, according to the length of quay in each.

The total length of the quays, wharves, &c., is 4359 lineal yards; and as Mavisbank Quay is 546 yards in length, the proportion of the total sum of £32,419 applicable to it is £4061.

It also appeared that that portion of the river Clyde lying below Stockwell Bridge, and under the management of the trustees, is, for the levying of dues on goods and vessels, divided by their Acts of Parliament into three stages—the first or lowest stage extending from Newark Castle to the mouth of the Dalmuir Burn, a distance of about ten miles; the second from Dalmuir Burn to the old ferry of Renfrew, a distance of about $3\frac{1}{8}$ miles; and the highest, from a point opposite Elderslie House to the Hutchesontown Bridge, a space of about $5\frac{3}{8}$ miles in length. According as ships passed one or other of these stages, a different proportion of rates was exigible. For each of the first two of these stages the proportion of dues leviable was one-sixth of the whole; whilst for the third stage it was two-thirds of the whole. (Clyde Navigation Consolidation Act, 21 and 22 Vict., c. 149, sec. 99.) The whole dues, both on goods and vessels, are exigible although the vessels do not enter the harbour. The total length of the harbour and river is $18\frac{1}{2}$ miles; and the lowest and middle stages are situated in the counties of Renfrew and Dumbarton.

Mr GIFFORD, for the appellants, contended that the valuation put upon Mavisbank Quay was excessive, and greatly beyond the sum at which the subjects might in their actual state be reasonably expected to let from year to year, and that the subjects ought not in any view to be entered at more than £2480.

In support of this view it was argued :—

1. That in terms of the decision of the Court of Session in the case of Adamson *v.* Clyde Trustees, 26th June 1863, M'Ph. 974, resulting from the oldest case of the same name, 22 D, 606, the assessor is not entitled to take into account, in valuing the quays, the revenue payable in respect of the waterway of either the river or harbour, but only "such dues, rates, and duties *as can be shown* to be payable in whole or in part in return for the use of, and the accommodation afforded by, the quay." That he has not so limited his estimate, but has taken into account the whole dues and rates leviable by the trustees on the total length of the river and harbour under their management and jurisdiction, extending to $18\frac{1}{2}$ miles, and passing into three different counties, and also the burgh of Glasgow, and that although the two-sixths of these dues payable for the lower stages are for pure waterway, and are not earned in Lanarkshire. Besides, the dues levied are not a proper criterion for ascertaining the value of the quays, and the assessor has not shown to what extent such dues are levied as a return for the use of the quays.

2. That while the assessor assumes one-half of the revenue to be a fair deduction for waterway, the result of his process of valuation is really to allow only one-fourth on this account, inasmuch as, paying no regard to the statutory division of the dues, he takes the two-sixths payable for the lower stages, and includes them in the gross sum before giving any deduction; thus :—

The gross revenue from dues on the 18 miles of river is as nearly as may be	£100,000
Of this there is earned in the highest stage	£66,666
And in the two lower stages—one-sixth each	33,334

By including this latter sum, and then taking it off again with only one-sixth in addition (or £16,664) from the earnings of the upper stage, he leaves