

Tuesday, March 18.

FIRST DIVISION.

(SINGLE BILLS.)

BERGIUS, PETITIONER.

Parent and Child—Process—Petition for Custody of Children—Lord Ordinary on the Bills in Vacation—Authority to Pronounce Necessary Interim Orders during Vacation—Nobile Officium.

In a petition presented two days before the end of the session by a father for custody of his children the Court ordered answers within eight days, and "authorised the Lord Ordinary officiating on the Bills to pronounce an interim order that might be necessary on the petition and any answers that might be lodged during the ensuing vacation."

On 15th March 1924 a petition was presented by Walter M'Donald Bergius, engineer, Eriskay, Kilmacolm, for custody of his children.

The petition set forth—"1. That the petitioner on or about 9th May 1911 married Miss Isabella M'Kinnon, daughter of William Grindly Mackinnon, grain merchant, 21 Hope Street, Glasgow. Mrs Bergius is presently residing at Redcliffe, Kilmacolm, the house of her father. . . . 2. After the marriage the petitioner and his wife resided together happily for about seven years, and then without any good reason she refused to continue in conjugal relationship with the petitioner, and the relationship of the parties became strained, so that it is impossible for the petitioner and his said wife to live together at board and bed. 3. There are two children of the marriage, aged respectively eleven years and eight months and eight years and three months, viz.—Helen Mary Bergius, born on 10th July 1912, and Margaret Nancy Bergius, born on 5th December 1915. . . . 4. On 9th March 1924 the petitioner wrote to his wife formally requesting her to leave his house, and to do so before the 11th of March 1924, and stating that arrangements would be made with her or her lawyer for her maintenance elsewhere than in the house of the petitioner. 5. The petitioner's wife has left the petitioner's house and gone to her father's house in Kilmacolm, taking the children with her. She removed the said children from the petitioner's custody against his wishes and refuses to return them into his custody. 6. The petitioner is well able to bring up his children. He is desirous of having them restored to his care and custody, and it is in their interests that they should be so restored. The petitioner is willing that his wife should have all reasonable access to the children."

On March 18, 1924, in the Single Bills of the First Division, counsel for the petitioner, after moving for intimation and service on the petitioner's wife, stated that the petitioner was apprehensive that his wife would remove the children outwith the jurisdiction of the Court, and he therefore moved the Court to authorise the Lord Ordinary

on the Bills to pronounce during the ensuing vacation such interim orders as might be necessary. He cited the following authorities:—*Muir v. Milligan*, 6 Macph. 1125; *Earl of Buchan v. Lady Cardross*, 4 D. 1268.

The Court (the LORD PRESIDENT, LORD SKERRINGTON, LORD CULLEN, and LORD SANDS), without delivering opinions, authorised the Lord Ordinary on the Bills to pronounce any interim orders that might be necessary on the petition and any answers that might be lodged during the ensuing vacation.

[The petition was taken out of Court by joint-minute on 8th April 1924. A subsequent petition was presented on 17th April 1924 at the husband's instance, with which, however, this report is not concerned.]

Counsel for Petitioner—Gillies. Agents—Smith & Watt, W.S.

VALUATION APPEAL COURT.

Saturday, February 9.

(Before Lord Hunter, Lord Sands, and Lord Ashmore.)

G. & J. WEIR, LIMITED, AND OTHERS
v. ASSESSOR FOR GLASGOW.

ASSESSOR FOR GLASGOW v. G. & J.
WEIR, LIMITED, AND OTHERS.

Valuation—Value—Contractor's Principle—Engineering and Shipbuilding Works—Conditions of Industry—Over-all Abatement in view of Prolonged Trade Depression.

Certain engineering and shipbuilding firms on the Clyde appealed against the assessor's valuation of their works, determined upon the contractor's principle, on the ground of the depression of trade and the declining condition of the industries, which they alleged to be of a quasi-permanent character. It was maintained that the circumstances were analogous to those of the steel and iron industries, in which a percentage reduction in the valuations had been sanctioned. The Valuation Committee authorised upon this ground an overhead reduction of 12½ per cent. on the valuation. *Held* on appeal that no evidence had been led proving the existence of special conditions affecting the engineering and shipbuilding industries differentiating them from other industries suffering from the existing general trade depression, and that accordingly the overhead reduction which the Valuation Committee had sanctioned ought not to be sustained.

Colville & Sons, Limited v. Assessor for Lanarkshire, 1922 S.C. 460, 59 S.L.R. 348, and *Merry & Cuninghame, Limited v. Assessor for Lanarkshire*, 1923 S.C. 687, 60 S.L.R. 305, commented on.