

R E P O R T

FROM

SELECT COM

ON

MASTER AND SERVANT;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX, AND INDEX.

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*Ordered, by The House of Commons, to be Printed,*  
*30 July 1866.*

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Thursday, 22d March 1866.

Ordered, THAT a Select Committee be appointed to inquire into the State of the Law as regards Contracts of Service between Masters and Servants, and as to the Expediency of amending the same.

Tuesday, 8th May 1866.

Committee nominated of:—

- |   |                       |
|---|-----------------------|
| Sir James Fergusson.                    | Mr. Gathorne Hardy.   |
| Colonel Wilson Patten.                  | Mr. Dalglish.         |
| Mr. Jackson.                            | Mr. Algernon Egerton. |
| Mr. Alderman Salomous.                  | Mr. George Clive.     |
| Mr. M'Lagan.                            | Mr. Fawcett.          |
| Earl Grosvenor.                         | Mr. Edmund Potter.    |
| Mr. George.                             | Lord Elcho.           |
| Mr. Solicitor General (Sir R. Collier). |                       |

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.

Ordered, THAT Five be the Quorum of the Committee.

Ordered, THAT the Minutes of Evidence taken before the Select Committee appointed in the last Session of Parliament on the State of the Law as regards Contracts of Service between Masters and Servants, be referred to the said Select Committee.

Thursday, 7th June 1866.

Ordered, THAT the Petition of J. M. Stroud to be heard before the Select Committee on Master and Servant on the Subject of Contracts for hiring by Brickmasters, be referred to the Select Committee on Master and Servant.

Monday, 30th July 1866.

Ordered, THAT the Committee have power to report their Opinion, together with the Minutes of Evidence taken before them, to The House.

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## R E P O R T.

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THE SELECT COMMITTEE appointed "to inquire into the State of the Law as regards CONTRACTS of SERVICE, between MASTER and SERVANT, and as to the expediency of amending the same";—HAVE considered the Matters to them referred, and have come to the following RESOLUTIONS, which they have agreed to Report to The House :

1. THAT the LAW, relating to Master and Servant, as it now exists, is objectionable.

2. That all cases arising under the Law of Master and Servant, should be publicly tried, in England and Ireland before two or more magistrates, or a stipendiary magistrate, and in Scotland, before two or more magistrates or the sheriff.

3. That procedure should be by summons in England and Ireland, and by warrant to cite in Scotland, and failing the appearance of defendant in answer to summons or citation, the court should have power to grant warrant to apprehend.

4. That punishment should be by fine, and, failing payment, by distress or imprisonment.

5. That the Court should have power, where such a course is deemed advisable, to order the defendant to fulfil contract, and also if necessary to compel him to find security that he will duly do so.

6. That in aggravated cases of breach of contract, causing injury to person or property, the magistrates, or sheriff, should have the power of awarding punishment by imprisonment instead of fine.

7. That the arrest of wages in Scotland in payment of fines should be abolished.

8. That a suggestion having been made to the Committee, viz. That in all cases of breach of contract between master and servant, it should be competent to examine the parties to the action as in civil cases, although the offence be punishable on summary conviction, the Committee are not prepared themselves to recommend the adoption of such a principle, involving as it does departure from the law of evidence in such cases, as now settled.

30 July 1866.

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PROCEEDINGS OF THE COMMITTEE.

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*Friday, 11th May 1866.*

MEMBERS PRESENT:

Lord Elcho.  
Lord Grosvenor.  
Mr. Jackson.  
Mr. George Clive.

Mr. M'Lagan.  
Mr. Fawcett.  
Mr. Dalglish.  
Mr. Edmund Potter.

Lord ELCHO was called to the Chair.

The Committee deliberated.

[Adjourned to Thursday next, at Twelve o'clock.]

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*Thursday, 17th May 1866.*

MEMBERS PRESENT:

Lord ELCHO in the Chair.

Mr. Edmund Potter.  
Mr. George Clive.  
Mr. M'Lagan.  
Mr. Jackson.  
Mr. Gathorne Hardy.  
Earl Grosvenor.  
Mr. Fawcett.

Sir James Fergusson.  
Mr. George.  
Mr. Solicitor General.  
Mr. Alderman Salomons.  
Mr. Algernon Egerton.  
Mr. Dalglish.

Mr. *George Newton* and Mr. *Alexander Campbell*, were severally examined.

[Adjourned to Tuesday, 29th May, at Twelve o'clock.]

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*Tuesday, 29th May 1866.*

MEMBERS PRESENT:

Lord ELCHO in the Chair:

Mr. Gathorne Hardy.  
Mr. Edmund Potter.  
Mr. George Clive.  
Sir James Fergusson.  
Mr. M'Lagan.

Mr. Jackson.  
Mr. Algernon Egerton.  
Mr. Dalglish.  
Mr. George.

The Committee examined Mr. *Alexander McDonald*, Mr. *Colin Steele*, and Mr. *William Dronfield*.

[Adjourned to Friday, at Twelve o'clock.]

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*Friday, 1st June 1866.*

MEMBERS PRESENT :

Lord ELCHO in the Chair.

Mr. George Clive.	Mr. Alderman Salomons.
Mr. M'Lagan.	Mr. Jackson
Mr. Algernon Egerton.	Mr. Gathorne Hardy.
Sir James Fergusson.	Mr. G
Mr. Edmund Potter.	

Mr. *John Normansell*, Mr. *Charles Williams*, and Mr. *George Odger*, were severally examined.

[Adjourned to Tuesday next, at Twelve o'clock.]

*Tuesday, 5th June 1866.*

MEMBERS PRESENT :

Lord ELCHO in the Chair.

Mr. Gathorne Hardy.	Mr. M'Lagan.
Mr. Jackson.	Mr. Fawcett.
Mr. Edmund Potter.	Mr. Alderman Salomons.

Mr. *Archibald Hood* and Mr. *William Evans*, examined.

Motion made and question, "That the Chairman be directed to report to the House, that *George Odger*, who had been summoned to attend the meeting of the Committee, had not obeyed the said summons"—(Mr. *Gathorne Hardy*)—put, and *agreed to*.

[Adjourned to Friday next, at Twelve o'clock.]

*Friday, 8th June 1866.*

MEMBERS PRESENT :

Mr. George Clive.	Mr. M'Lagan.
Mr. Edmund Potter.	Mr. Algernon Egerton.

[Adjourned to Tuesday next, at Twelve o'clock.]

*Tuesday, 12th June 1866.*

MEMBERS PRESENT :

Lord ELCHO in the Chair.

Mr. Edmund Potter.	Mr. George.
Mr. Jackson.	Mr. Algernon Egerton.
Mr. M'Lagan.	Mr. Alderman Salomons.
Mr. Fawcett.	Mr. Dalglish.

Mr. *John Lancaster*, Mr. *Thomas Emerson Forster*, Mr. *William Prowting Roberts*, and Mr. *George Odger*, were severally examined.

[Adjourned to Friday next, at Twelve o'clock.]

*Friday, 15th June 1866.*

MEMBERS PRESENT:

Lord ELCHO in the Chair.

Mr. Edmund Potter.  
Mr. M<sup>r</sup>.  
Mr. Fa  
Mr. G

Mr. Alderman Salomons.  
Mr. Dalglish.  
Mr. Algernon Egerton.

Mr. Odger furt

Mr. John Wat

and Mr. Joseph Dickinson, were severally examined.

[Adjourned to Tuesday next, at Twelve o'clock.]

*Tuesday, 19th June 1866.*

MEMBERS PRESENT:

Lord ELCHO in the Chair.

Mr. Edmund Potter.  
Mr. Dalglish.  
Mr. Jackson.  
Mr. Alderman Salomons.

Mr. M'Lagan.  
Mr. Gathorne Hardy.  
Mr. Algernon Egerton.  
Mr. George.

Mr. William Prowling Roberts, further examined.

Mr. William Burns, and Mr. Thomas Part, were severally examined.

[Adjourned to Tuesday next, at Twelve o'clock.]

*Tuesday, 26th June 1866.*

MEMBERS PRESENT:

Lord Elcho.  
Mr. Gathorne Hardy.

Mr. M'Lagan.

[Adjourned to Friday next, at Twelve o'clock.]

*Friday, 29th June 1866.*

MEMBERS PRESENT:

Lord ELCHO in the Chair.

Earl Grosvenor.  
Mr. M'Lagan.  
Mr. Edmund Potter.  
Mr. Algernon Egerton.

Mr. Fawcett.  
Mr. Alderman Salomons.  
Mr. George Clive.

Mr. William Mathews and Mr. A. Mault, were severally examined.

[Adjourned to Friday, 27th July, at Twelve o'clock.]

Friday, 27th July 1866.

## MEMBERS PRESENT :

Mr. George Clive. | Mr. Edmund Potter.

[Adjourned to Monday at One o'clock.]

Monday, 30th July 1866.

## MEMBERS PRESENT :

Lord ELCHO in the Chair.

Mr. George Clive. | Mr. Edmund Potter.  
Mr. Algernon Egerton. | Mr. George.

Motion made, and Question, "1. That the law relating to master and servant, as it now exists, is objectionable"—(Lord *Elcho*)—put, and *agreed to*.

Motion made, and Question, "2. That all cases arising under the law of master and servant should be publicly tried, in England and Ireland before two or more magistrates, or a stipendiary magistrate, and in Scotland before two or more magistrates, or the sheriff"—(Lord *Elcho*)—put, and *agreed to*.

Motion made, and Question, "3. That procedure should be by summons in England and Ireland, and by warrant to cite in Scotland, and failing the appearance of defendant in answer to summons or citation, the court should have power to grant warrant to apprehend"—(Lord *Elcho*)—put, and *agreed to*.

Motion made, and Question, "4. That punishment should be by fine, and, failing payment, by distress or imprisonment"—(Lord *Elcho*)—put, and *agreed to*.

Motion made, and Question, "5. That the court should have power, where such a course is deemed advisable, to order the defendant to fulfil contract, and also, if necessary, to compel him to find security that he will duly do so"—(Lord *Elcho*)—put, and *agreed to*.

Motion made, and Question, "6. That in aggravated cases of breach of contract, causing injury to person or property, the magistrates or sheriff should have the power of awarding punishment by imprisonment instead of fine"—(Lord *Elcho*)—put, and *agreed to*.

Motion made, and Question, "7. That the arrest of wages in Scotland in payment of fines should be abolished"—(Lord *Elcho*)—put, and *agreed to*.

Motion made, and Question, "8. That a suggestion having been made to the Committee, viz., That in all cases of breach of contract between master and servant, it should be competent to examine the parties to the action as in civil cases, although the offence be punishable on summary conviction, the Committee are not prepared themselves to recommend the adoption of such a principle, involving, as it does, departure from the law of evidence in such cases as now settled"—(Lord *Elcho*)—put, and *agreed to*.

*Resolved*, That these Resolutions be reported to the House, together with the Minutes of Evidence.

## EXPENSES OF WITNESSES.

Name of Witness.	Profession.	From whence Summoned.	Number of Days Absent from Home, under Orders of Committee.	Expenses of	Allowance	TOTAL
				Journey to London and back.	during Absence from Home.	Expenses allowed to Witness.
				£. s. d.	£. s. d.	£. s. d.
George Newton - -	- - -	Glasgow - -	3	5 19 -	2 5 -	8 4 -
Alexander Campbell -	Editor "Glasgow Sentinel."	Glasgow - -	3	5 19 -	2 5 -	8 4 -
William Dronfield -	Manager, Messrs. Loxley, Printers, &c. Sheffield.	Sheffield - -	3	2 18 -	1 10 -	3 18 -
Colin Steele - -	Moulder - -	Glasgow - -	3	5 19 -	1 10 -	7 9 -
John Normansell -	Secretary to Miners' Association, South Yorkshire.	Barnsley - -	3	2 12 -	3 3 -	5 15 -
Charles Williams -	Secretary to United Trades' Committee.	Liverpool - -	3	2 16 4	3 3 -	5 19 -
Alexander Macdonald -	Agent for Miners, Scotland.	Glasgow - -	3	7 4 -	3 - -	10 4 -
William Evans - -	Editor of the "Potteries Examiner."	Hanley Potteries	3	2 2 -	3 3 -	5 4 -
Archibald Hood - -	Colliery owner -	Mid Lothian, Staffordshire.	2	3 15 -	2 2 -	5 17 -
Joseph Dickinson -	Inspector of mines -	Pendleton, Manchester.	3	5 - -	3 3 -	8 3 -
Wm. Prowting Roberts	Solicitor - -	Manchester (three times).	9	12 - -	18 18 -	30 18 -
Alfred Mault - -	Secretary to the General Builders' Association.	Birmingham -	2	1 5 -	2 2 -	3 7 -
J. E. Davis - -	Stipendiary magistrate.	Stoke-upon-Trent	3	3 3 -	- - -	3 3 -
John Lancaster - -	Chairman of Wigan Coal and Iron Company.	Wigan - -	6	4 - -	6 6 -	10 6 -
William Burns - -	Solicitor - -	Glasgow - -	3	7 15 -	6 6 -	14 1 -
John Watson Ormiston	Manager Shotts Iron Company.	Motherwell -	3	7 10 -	3 3 -	10 13 -
Thomas Emerson Forster	Mining engineer -	Newcastle - -	6	10 13 -	6 6 -	16 19 -
				TOTAL - - -	£.	158 4 -



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MINUTES OF EVIDENCE.

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# A P P E N D I X.

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LETTER from Mr. J. E. Davis, Stipendiary Magistrate, to the Chairman of the Committee.

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Appendix.

Stoke-upon-Trent,  
28 June 1866.

Dear Lord Elcho,

I AVAIL myself of your permission to write to you on the master and servant question, instead of attending before the Committee.

I will endeavour to deal with the points to which my attention has been called, with as much brevity as possible.

In the first place, as regards the nature of the tribunal for adjudicating on claims between employers and employed for breaches of contract, I think no substitute can be found for the jurisdiction of magistrates, stipendiary or otherwise.

The county court does not sit sufficiently often for this purpose. It is held in this district once a month at every principal town, except in September, when (under a power recently given) no court is held. So that, to say nothing of frequent adjournments of cases from one month to another, persons would be without the means of having their cases heard for many weeks together, instead of having the magistrate's court to resort to five days in every week throughout the year.

I may observe that no inference can or ought to be drawn that the Legislature treats cases of this kind as of a criminal nature, from the mere fact of giving magistrates cognizance over them. Questions as to rates and local taxation generally, disputes among registered societies of various kinds, breaches of bye-laws, and a great variety of matters of a civil nature, comprise a large part of the duties of a justice of the peace at the present day; so much so that I often wish some broad dividing line could be drawn between the civil and criminal branches of magisterial jurisdiction.

I now proceed to the important questions of the defects in the existing law.

I must be permitted, at the risk of repetition, to state concisely the present law in England in reference to the jurisdiction of magistrates.

Servants (except domestic) may summons their masters for wages (not exceeding 10 *l.* in case of servants in husbandry, and 5 *l.* in other cases), and the justices may order payment of the amount due, with or without costs. In case of non-payment, the amount may be levied by distress, and in case of no available distress, the master may be imprisoned for a period not exceeding three months. Where the master resides at a distance and employs agents, foremen or managers, the latter may be proceeded against instead of the master.

Servants may be summoned by their masters for absenting themselves from service, or for any other misconduct or misdemeanor in the execution of the contract of service, or otherwise respecting it.

In the case also of a servant having entered into a written signed contract, and not entering

into service in accordance with its terms, he may be summoned.

If the offence be proved, the magistrate may adopt one of three courses. The servant may be committed to the house of correction for a reasonable time, not exceeding three months (and the wages, if any, to abate during imprisonment); or the whole or any part of his wages may be abated; or the magistrate may discharge the servant from his contract.

In order, however, to constitute the offence, it is not only necessary for the master to prove that the absenting was wrongful (*i. e.*, that the servant had no right to leave), but it must also appear that the act was a wilful or guilty act on the part of the servant. If, therefore, the servant acted *bonâ fide* under a fair and reasonable belief in his mind that he had a right to go away, he cannot be convicted, although that belief may have been unfounded in point of law, and the master has no remedy, except by action in a civil court, to recover damages, which is practically no remedy at all.

It is to be observed, that where a master complains against his servant, the magistrate has power to issue a warrant instead of a summons, upon a statement of the facts on oath, but I believe warrants are not generally issued, except where the defendant has absconded, or is likely to abscond, or where he does not appear to a summons.

It is a popular notion that the law in its present state is very unequal in giving magistrates the power to inflict imprisonment as a punishment in the case of servants, when there is no direct power to imprison masters; and it is further urged that, independently of the inequality, the law has made the mere breach of a contract the subject of proceedings which are in their nature criminal.

In reference, if not in answer to the first objection on the ground of inequality, it must be borne in mind that the servant has a right to an order for his wages, if due, although the master may have refused payment, honestly believing that he had a right to withhold them,—and in almost all cases of claims for wages, there is a *bonâ fide* dispute between the parties. Very few cases come before a magistrate where the master is knowingly and wilfully withholding the amount. As it would be manifestly unjust to give even the power to send a man, whether master or servant, to prison, in the case of a *bonâ fide* dispute, the law merely provides for enforcing payment of the amount adjudged to be due from a master to his servant, in the first instance by distress; and then, in default of distress, imprisonment may be awarded under the general powers of Jervis's Act, 11 & 12 Vict. c. 43.

In actual practice, therefore, servants have an advantage over their masters, in being able to get a magistrate's

a magistrate's order for payment of whatever may be due to them, no matter on what ground it has been withheld, while the master has no relief, unless the absence is wilful.

As to the other objection, that imprisonment should not be awarded for the breach of a contract, there are two modes of dealing with it, either of which takes away from the objectors all ground for speaking of the law in the strong terms sometimes made use of. In the first place there is a breach of contract, but there is something more when a workman wilfully leaves his work unfinished; there is something of a public wrong, considering how many persons, often fellow workmen in the same class of life, suffer from the sudden neglect of work. In the second place, imprisonment may be viewed as a mode of compelling the performance of contracts. The law of this country in a variety of cases allows imprisonment as the mode of compelling the performance of contracts and duties, quite apart from imprisonment for debt. In many instances the law no doubt considers the payment of damages as an equivalent for performance, but in other cases, where damages are not an equivalent, absolute performance is enforced. An agreement to sell an estate is a familiar illustration, where the laws of this country will require actual performance, and not allow the owner to keep it, and pay damages for the breach; and although in general, compensation may be substituted for the performance of personal engagements, there are cases where the doing of definite work will be enforced by the Court of Chancery on the pain of imprisonment. In some cases, damages might recompense a master for the breach of a contract by his servant, but the latter is seldom in a condition to pay damages, and therefore, in the absence of any other remedy, he might set his employer at defiance. Has not the master a just right to say, "Satisfy me either in damages, or by performance of your engagement. The former you cannot do, therefore the latter you must do, even on the pain of imprisonment for refusal"?

This branch of argument is however open to the observation, that in the instances referred to of enforcing performance of contracts by imprisonment, it is only in the shape of attachment for disobedience to the order of a court that imprisonment is inflicted, whereas in the case of neglect by a workman, imprisonment may now follow without an opportunity given to him to comply with the decision of the magistrate.

Whatever may be the view taken of the power of imprisonment, the present state of the law seems to be objectionable in some important respects. In a claim for wages, the master as well as the servant can be examined upon oath as to the facts, but on a complaint for neglect of work, the servant is not a competent witness. The distinction arises in consequence of proceedings to compel payment of wages being by way of "order," whereas the determination of the magistrate against a servant, is termed a "conviction," and by the existing general law of the country a defendant is a competent witness in the case of proceedings for an "order," but he is not a competent witness in the case of proceedings for a "conviction."

Another objection is the inability of the magistrate to deal with cases of complaints by masters against servants, by the infliction of a fine. At present it has been seen direct imprisonment, or abatement of wages, or discharge, are the three modes of dealing with these cases. Discharge,

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although at first sight a desirable course, is impracticable as a punishment (and, therefore, as a remedy) owing to the demand for labour in many branches of manufacture and the ability of men to get work elsewhere. In fact the neglect of work frequently arises from the desire to be discharged. Direct imprisonment is obviously undesirable until other methods have failed.

Abatement of wages works, in some branches of manufacture at least, better than might be expected, but in many cases it is not a desirable remedy. In the first place, it is open to the observation that as the effect of the order is to allow the master to stop wages, it is putting so much money in the master's pocket. It is only fair to state that in the Staffordshire Potteries the masters appropriate the sum abated, if it exceeds the fees of the court, to some public charity.

A second objection to the abatement of wages, makes the punishment depend on the return to work, and therefore holds out an inducement to the servant not to return but to go and work elsewhere, where his wages will not be subject to deduction or abatement.

The alterations I venture to suggest are as follows:

With respect to claims by masters against men, it seems desirable to get rid of the existing distinction between a mere wrongful breach and a wilful or guilty act. The distinction is seldom understood by masters or men, and not always by magistrates. As a necessary consequence of getting rid of this distinction, the power of direct imprisonment must cease for a first offence. The adjudication on a first complaint, if proved, should be either an order to return to work, with or without a fine, to a limited amount, and with or without costs. The fine or costs, or both, if ordered, to be enforced by imprisonment on failure to pay within a given time.

The disobedience of the order to return to work, or a second breach under the same contract, to be punishable by increased fine or by direct imprisonment for a limited time, in the discretion of the magistrate.

There is another mode of enforcing the performance of contracts which I should like to see introduced, as I am confident it would work well. I would give power to the magistrates, in cases where the defendant had not returned to his work at the time of the hearing of the summons, to call upon him to enter into a recognizance, with or without sureties, in a limited amount, for the future performance of the contract, and I would confer the same power in all cases of a second complaint or for disobeying an order of the court. The recognizance in any case to be either in addition to or in substitution for a fine.

I think I should even go so far as to provide that on finding a surety for the performance of a contract, any direct imprisonment should cease, just as in the case of parties imprisoned for want of sureties to keep the peace or to be of good behaviour.

For want of a power of this kind I have on many occasions availed myself of the power of adjourning cases for a fortnight or a month, on the defendant entering into a recognizance with a surety for his appearance, with the understanding that if he returned and continued his work nothing more would be heard of the case, and I have found this course to be attended with beneficial results. A direct power of the kind I have indicated would be, I am convinced, of the greatest advantage to all parties.

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With

Appendix.

With reference to minor points, I may add that wages should not accrue due during any imprisonment under the order of the magistrates, but any order not to affect the continuance of the contract.

The process for a first offence should be a summons; for a second offence, a summons or warrant, at the discretion of the magistrates.

An order or dismissal to be in lieu to any proceedings in another court.

The servant in all cases to be a competent witness.

In order to avoid numerous disputes that would otherwise be multiplied in consequence of the increased scope of the inquiry, it may be desirable, at least, in the case of some trades, to confine the jurisdiction of the magistrates, so far as relates to complaints by masters, to cases where there is a written contract or printed rules, and where the defendant has had a copy given to him either at the time of entering into it, or before the breach complained of.

This would not interfere with the right of persons to make verbal agreements, but in those cases

the masters would be left to their civil remedy for damages in the county court.

The present jurisdiction in claims for wages by servants against masters, may be returned, abolishing, however, any distinction between the amount of wages over which jurisdiction is given. A general limit of 10 *l.* might be imposed, and a power, perhaps, given to impose a fine on the masters, in addition to the wages, if the magistrates thought in any case the wages were withheld without any fair or reasonable ground of dispute. Such fines to be applied as other fines, and not to go to the complainant. Costs to be as at present, in the discretion of the magistrates, and the amounts enforceable by imprisonment.

In order to prevent dissatisfaction on the part of men as to the tribunal, rather than to guard against any real ground for that dissatisfaction, it may be desirable to make the employment by a magistrate of workmen in similar branches of manufacture, a disqualification for hearing disputes.

I have, &c.  
(signed) *J. E. Davis,*  
Stipendiary Magistrate.

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## I N D E X.

[*N.B.*—In this Index the Figures following the Names of the Witnesses refer to the Questions in the Evidence; those following *App.* to the Pages in the Appendix; and the Numerals following *Rep.* to the Pages in the Report.]

## A.

**ABATEMENT OF WAGES.** Discretionary power in the magistrate, under the law of master and servant, either to abate the wages, in the event of breach of contract, or to couple imprisonment with abatement of wages, *Newton* 65—Approval of the penalty being defined in money in lieu of the penalty by abatement of wages, with or without imprisonment, *ib.* 167, 168.

**Adjournment of Trials.** Suggestion that workmen, when summoned for breach of contract, be allowed a postponement for a week, in order to prepare their defence, *Roberts* 2265.

**Annual Contracts.** Probable advantage if all long contracts, such as annual contracts, were determinable by some short notice, *Roberts* 1772, 1773.

On further consideration, witness objects to a mutual right in employers and employed to terminate a long engagement by a short notice, *Roberts* 2209-2217—Hardship in the case of superior workmen engaged for long terms, or under annual contracts, if they could be discharged at a month's notice, *ib.* 2209-2215—Mode of dealing with agricultural servants for not abiding by their annual engagements; approval of a power in the county court judge to cancel the service, *ib.* 2218-2226.

**Appeal.** Objection to there being no facilities of appeal from the decisions of the justices in matters of breach of contract; an appeal not being, however, required if the sheriff or county court judge were the tribunal to adjudicate, *Newton* 113. 209-214. 259-263—Necessity of an appellate jurisdiction, in order that justice may be evenly done; suggestions on this subject, *Roberts* 1713-1719—Great evil in there being no satisfactory appeal from the decision of the magistrate; suggestion hereon for an appeal to the county court judges, *ib.* 2241-2252.

Approval of the proposed appeal in Scotland to the Court of Session and the Justiciary Court, *Burns* 2292-2297—Checks necessary in order to prevent a power of appeal being abused, *ib.* 2294-2298—Approval of an appeal to the quarter sessions, *Part* 2400, 2401.

**Apprentices.** Reference to the power of imprisoning an apprentice as being extremely oppressive, *Roberts* 1790-1792.

**Arrest on Warrants.** See *Procedure.*

**ARRESTMENT OF WAGES:**

1. *Evidence in Approval of Arrestment of Wages in connection with Breach of Contract.*
2. *Evidence to a contrary purport; recommended Abolition of the Practice in Scotland.*

1. *Evidence in Approval of Arrestment of Wages in connection with Breach of Contract:*

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Belief as to its not being optional in the magistrate to inflict a fine for breach of contract; practice in Liverpool always to imprison, *Williams* 1143-1150—Evidence in approval of an option in the tribunal to inflict a fine in lieu of imprisonment, *Hood* 1260-1264, 1312, 1328-1331, 1340-1342; *Lancaster* 1429-1435, 1450; *Forster* 1537-1544, 1604-1608; *Odger* 1914, 1915; *Dickinson* 2132-2142, 2146, 2156-2158, 2185; *Burns* 2279-2284, 2379-2381, 2388; *Part* 2399; *Mathews* 2423-2428, 2454, 2458.

Suggestion that the magistrates should have the option of imposing fines from 1s. up to 5l.; *Lancaster* 1491-1495—Advantage if workmen were allowed to pay the fine by instalments, *Odger* 1928, 1941, 1988—Adequacy of fines as a punishment for workmen; very exceptional instances of their not being in a position to pay fines in full, *ib.* 1938-1943.

Suggested large discretion in the magistrate as to the amount of fine for breach of contract, *Burns* 2339—The maximum fine might be 10l., *ib.*—Objection to the proposal that the fine be payable by instalments, *ib.* 2346.

Objection to the fine being placed at a higher maximum than 5l., *Part* 2413-2417—Contemplated discretion in the magistrates as to the infliction of light or heavy fines, and as to the mode of disposal of the fines, *Mathews* 2477-2491.

Resolution of the Committee that punishment should be by fine, and, failing payment, by distress or imprisonment, *Rep.* iii.

See also *Arrestment of Wages.*      *Building Trade.*      *Civil Offence.*      *Distress*  
*Warrants.*      *Imprisonment.*      *Mines and Miners.*      *Procedure.*

*Foreign Countries.* Belief that in no other country would so unjust a law be allowed as that of master and servant under the Act 4 Geo. 4, *Roberts* 1664, 1704-1710.

*Forster, Thomas Emerson.* (Analysis of his Evidence.)—Is president of the North of England Institute of Mining Engineers, and is viewer and manager of several collieries, 1509, 1510—Instances of prosecution for breach of contract at Seaton Delaval and other collieries, under witness; practice in these cases first to issue a summons, and only to have recourse to a warrant in the event of non-appearance on the summons, 1511-1534—Explanation as to the form of contract in witness's mines, 1517-1521—Necessity of imprisonment if the men did not pay the fines inflicted for breach of contract, 1535, 1536, 1562—Approval of its being optional in the magistrate to fine or to imprison; beneficial effect, however, of the fear of imprisonment upon the men, 1537-1544, 1604-1608.

Insufficiency of the regulations under the Mines Inspection Act for the protection of the employers, 1545—Impression that the miners in England would object to minute contracts; security to them under the present system of notices, 1546-1554, 1577-1580—Approval of summonses being, as a rule, issued in the first instance for breach of contract; exceptional cases in which warrants should still be resorted to, 1555-1560, 1583-1603.

Objection to an arrestment of wages in lieu of imprisonment, 1563-1567, 1581, 1582—Approval of the jurisdiction as exercised by the justices, 1568-1573—Expense and delay in bringing cases before the county court, 1574—Advantage if a stipendiary magistrate always sat with the justices, 1575, 1576.

## G.

*Glasgow Executive Committee.* Witness, who is a manufacturing potter at Glasgow, represents the executive committee appointed at a conference of the trades in London, associated for the purpose of obtaining an amendment of the law relating to masters and servants, *Newton* 1-10, 194-196—Main object of those represented by witness, that there should be the same law for the workman as for the master, and that under no circumstances should the workman be prosecuted criminally for a breach of contract, *ib.* 8-10, 130, 197-200—Various trades represented by the executive committee at Glasgow, by which witness has been deputed to give evidence, *ib.* 238-243.

The present movement for amending the law of master and servant was originated by witness, and he is now chairman or convener of the Glasgow Executive Committee appointed by the working classes of the country generally for carrying on the movement, *Campbell* 289-295.

Authority given to the Glasgow Executive Committee by delegates from the trades generally to take action for an amendment of master and servant, *Williams* 1053-1061—Doubt as to the sudden stoppage of any workmen in the glass trade having any or much injury on the manufacture or on the workmen generally, *Newton* 76, 122-129—Illustrations, in the case of workmen in the flint glass trade and bottle glass trade, of the harsh and unequal operation of the law of master and servant, *Campbell* 300-303, 410-

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*Glasgow Executive Committee*—continued.

416—Information relative to the rules in glass works, and their stringent character, with reference to the necessity of continuous service on the part of the workmen; objection to these rules, *Campbell* 410-422. 424-429—The disputes between the employer and the employed in the glass trade are not so numerous as formerly, *Roberts* 1733.

*Gray, Alexander.* Great hardship in the recent case of a factory worker in Glasgow named Alexander Gray, who was sent to prison in anticipation that he would absent himself from his work, *Campbell* 303. 390-334.

## H.

*Hood, Archibald.* (Analysis of his Evidence.)—Is lessee of two collieries in Scotland; has also some brick works and tile works, 1221-1225—System of daily contract in operation in witness's collieries, and in most of the collieries in Mid-Lothian and Lanarkshire; beneficial operation of the system, though at first much objected to by the men, 1226-1246. 1303, 1304—Single instance, over a period of ten years, of witness having prosecuted a miner under the Master and Servant Act, 1246-1250—Doubt as to certain cases of serious misconduct or neglect in mines being sufficiently dealt with under the rules drawn up under the Mines Inspection Act; the special rules might, however, be made sufficiently stringent to serve all purposes, 1251-1258. 1321-1329.

Few instances of prosecutions in Scotch mines not yet under daily contracts, 1259—Approval of its being rendered optional in the judge to award either fine or imprisonment for breach of contract, 1260-1264. 1312. 1328-1331. 1340-1342—Grounds for objecting to arrest of wages either by creditors or in respect of breach of contract; refusal of witness to continue to employ any men whose wages continue under arrest, 1265-1276. 1335, 1336. 1346—System of daily contract in witness's brick and tile works, he having had no cases of breach of contract, 1281-1286. 1308-1311. 1313-1320.

Statement in defence of the magistrates as the tribunal to adjudicate in cases of breach of contract: objection to the sheriff's court, 1287-1295. 1332-1334. 1347-1350—Arrangement as to the workmen at one of witness's collieries paying rent to witness for their cottages: difficulty in summarily ejecting them without due notice and legal proceedings, 1296-1302—Expediency of criminal punishment of miners in certain cases, at the option of the judge; argument that otherwise there is not the same means of redress as there is by penalty, in the case of masters, 1321-1331. 1337-1345.

## I.

## IMPRISONMENT:

Illustrations of the great hardship and injustice of the imprisonment of workmen under charges of breach of contract, *Newton* 17-19; *Campbell* 296-311; *Roberts* 1661-1672—Approval of the retention of criminal procedure and imprisonment in exceptional or aggravated cases, *Newton* 67, 68. 72-76. 82-86. 175-193; *Dronfield* 811-829; *Williams* 1062. 1074. 1093-1095; *Winters* 1195-1206. 1215-1220; *Lancaster* 1436-1440. 1444-1447; *Forster* 1555-1560; *Mathews* 2454-2459—Approval, in certain extreme cases, of imprisonment, without hard labour, in the event of non-payment of fines inflicted by a competent tribunal, and in the event of failure to procure a bond of caution, *Newton* 95-104. 205-208—Strong feeling among workmen against the degradation of imprisonment for breach of contract, *ib.* 141-144. 234.

Objection in any case to imprisonment for breach of contract, even though the workmen had not wherewithal to pay the fine inflicted; dissent from Mr. Newton on this point, *Campbell* 333-363. 437-448—Very bad effect produced upon workmen by imprisonment, *M Donald* 467.

Concurrence in the view as to the necessity of imprisonment in the event of non-payment of fines; that is, under the common law of imprisonment for debt, *M Donald* 527-529. 565, 566. 592-595; *Steele* 728, 729; *Dronfield* 799, 800; *Normansell* 948-952. 1006; *Williams* 1106. 1152; *Forster* 1535, 1536. 1562; *Odger* 1987; *Mault* 2639-2641—Objection to imprisonment of miners for breach of contract, except in the shape of imprisonment for debt or non-payment of fine, *Normansell* 892 *et seq.*; 1041-1048—Difficulty as to the course to be pursued in the event of there being no effects to meet a fine levied upon a workman; probable necessity of imprisonment in such case, *Winters* 1162. 1184-1191. 1196-1206.

Approval of its being rendered optional in the judge to award either fine or imprisonment for breach of contract, *Hood* 1260-1264. 1312. 1328-1331. 1340-1342; *Odger* 1914, 1915; *Part* 2399; *Mathews* 2454. 2458—Witness considers that the Master and Servant Act operates harshly through the magistrates not having the option to fine instead of to imprison; willingness of employers of labour generally to concur in an alteration of the law giving this option, *Lancaster* 1429-1435. 1450—Approval of its being optional in the magistrate to fine or to imprison; beneficial effect however of the fear of imprisonment upon the men, *Forster* 1537-1544. 1604-1608.

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Disapproval of imprisonment in exceptional cases, *Roberts* 1649-1651. 1695-1703—Objection to an option in the tribunal to fine or to imprison; the latter should only follow as the result of non-payment of fine, *ib.* 1675-1703—Expediency of masters being liable to imprisonment if retained as a punishment for the men; dissatisfaction otherwise, unless an entirely civil procedure be applied equally to both parties, *Odger* 1930-1938. 2008-2019.

Option given to the magistrates to fine or to imprison in cases under the Mines Inspection Act; advantage if there were a similar option in cases of breach of contract, *Dickinson* 2132-2142. 2146. 2156-2158. 2185—Suggestion that if possible the cases be limited and deferred by Act for which imprisonment should be inflicted, it being undesirable to imprison at all save in aggravated cases, *ib.* 2143-2155. 2185. 2190-2193. 2204-2207—Advantage of similar rules being prepared under the law of master and servant, as under the Mines Inspection Act, specifying the cases in which imprisonment might be imposed, *ib.* 2190-2193—Witness has known a magistrate send a man to prison after he has been fined under the rules, *Roberts* 2234. 2268, 2269.

Resolution adopted by the Mining Association of Great Britain in favour of an option being given to the justices, in case of breach of contract, to impose a fine or imprisonment, *Burns* 2279-2284; *Mathews* 2423-2428—Witness never heard of men, under charge of breach of contract, being imprisoned before they were convicted, *Burns* 2330, 2331—Approval of the master as well as the workman being liable to imprisonment for non-payment of fine, *Burns* 2352, 2359. 2370, 2371; *Mathews* 2519.

Great difficulty of classifying by Act the cases to be treated by fine and by imprisonment respectively; advantage rather in leaving this to the discretion of the magistrate, *Burns* 2379-2381—Concurrence of employers generally in Scotland in the proposition for rendering it optional in the magistrate to fine or to imprison, *ib.* 2388—Necessity of retaining the power of summary committal in exceptional cases in the interests of the employed as well as of the employers, *Mathews* 2454-2459—Absence of any such wilful neglect or aggravated breach of contract on the part of a master as to cause an amount of injury or loss calling for a power of imprisonment, or for exceptional legislation, *ib.* 2502-2513. 2523-2527.

Resolution of the Committee, that failing payment of fine, punishment should be by distress or imprisonment, *Rep.* iii—In aggravated cases of breach of contract, causing injury to person or property, the magistrates or sheriff should have the power of awarding punishment by imprisonment instead of by fine, *ib.*

See also *Building Trade. Criminal Offence. Fines. Glass Trade. Gray, Alexander. Inequality and Hardship. Mines and Miners. Pottery Trade. Procedure. Re-imprisonment.*

*Inequality and Hardship.* Primary object of the present movement to remove the existing inequality, and to put the employer and the employed before the law in the same condition, *Newton* 8-10. 130. 197-203; *Campbell* 314—Inequality in workmen being liable to criminal punishment, whilst masters are only liable to civil punishment, for breach of contract, *Newton* 11-16—Particular cases cited as showing the hardship and injustice to workmen under the existing unequal law; illustration in witness's own case, *ib.* 17-39.

Witness cites sundry cases in proof of the harsh, unequal, and unjust operation of the Act 4 Geo. 4, c. 34, as regards breach of contract of service on the part of workmen; these cases occur in almost all trades, *Campbell* 296-311—Concurrence of witness in the evidence generally of Mr. Newton as to the inequality of the present system, and the amendments required, *ib.* 312-315.

Evidence as to the inequality of the law in the case of miners, *McDonald* 467 *et seq.*—Very disadvantageous position of the miners as compared with their employers under the present law of master and servant, *Normansell* 1003, 1004—Objection to the Act 4 Geo. 4, on account of its unequal and harsh operation in regard to workmen as compared with masters, *Williams* 1062-1065.

Information relative to the present state of the law as regards the relation of the master to his servant, and the power of the latter to proceed against and punish him, *Roberts* 1619-1635—Great inequality as regards breaches of contract in the servant being liable to imprisonment, whilst for analogous acts the master is not so liable, *ib.* 1636-1648—Circumstance of the laws relating to master and servant being all derived from times when the position of workmen in this country was very different from what it now is, *ib.* 1651-1654—Strong feeling on the part of working men against the inequality of the law, *ib.* 1658, 1659—Contrast between the slight redress, by means of a small fine, against the master, whilst the latter may visit the workman with three months' imprisonment and hard labour, *ib.* 1774-1785. 2238.

Explanation as to witness having cited only two cases in illustration of the oppressive character of the present law, and as to his not being prepared with any case since 1850, *Odger* 1818-1827. 1862-1872. 1935-1937—Strong objection to the criminal procedure and



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*Inequality and Hardship*—continued.

and the power of imprisonment as regards workmen, whilst the masters can only be dealt with for a civil offence, *Odger* 1834. 1840, 1841—Bad feeling created in the workmen by the knowledge that they can be treated in an unequal and oppressive manner, *ib.* 1840. 1856–1861. 1951, 1952—Gain to masters, as well as to men, if the former would declare against the inequality of the Act, *ib.* 1854. 1944—Opinion that the present law is too harsh and unequal, *Dickinson* 2151.

Argument opposed to the view that there is great inequality under the present system of punishment, *Hood* 1321–1331 1337–1345; *Burns* 2346–2350. 2379, 2380. 2386—Belief that servants generally are quite aware of the state of the law, and that no bad feeling arises in consequence of the law, towards their employers, *Burns* 2353–2355—Occurrence of some cases of hardship, so that the masters are only too willing to see a modification of the more stringent provisions of the Act, *ib.* 2356.

See also *Criminal Offence (Breach of Contract)*. *Cutlery Trade*. *Fines*. *Glass Trade*. *Gray, Alexander*. *Imprisonment*. *Mines and Miners*. *Pottery Trade*. *Procedure*. *Ship-building Trade*. *Shoemakers*. *Tinplate-workers*.

*Intimidation of Workmen*. Opinion as to the offence of intimidation coming under the law of master and servant, *Burns* 2335, 2336.

*Iron-moulders*. Instance of hardship in 1862, under the Act 4 Geo. 4, in the case of a moulder at the Hyde Park Works, Glasgow, who was arrested and prosecuted for breach of contract, *Steele* 693–701—Very general adoption of minute warnings in the iron-moulders trade in Glasgow and throughout Scotland, so that prosecutions for breach of contract do not arise, *ib.* 701–712—System of weekly and fortnightly warnings formerly, the masters having voluntarily adopted the minute system, *ib.* 702. 713, 714—Very beneficial operation of the practice of minute contracts in witness's trade, *ib.* 715, 716. 720, 721. 726—Exceptional occasions on which, by moulders suddenly discontinuing work, they may injure their employers and stop the employment of their fellow-workmen; approval of such exceptional cases being dealt with criminally, *ib.* 716–721. 728. 744–760.

*Iron Trade*. Many cases under the Act 4 Geo. 4 arise between master and servant in the iron trade, *Roberts* 1733.

## J.

*Jervis's Act*. Power under Jervis's Act to imprison the master, as an ultimate result, in the event of non-payment of wages, *Roberts* 1625–1629. 1635.

*Justices of the Peace*. See *Tribunal*.

## L.

*Lanarkshire*. Very objectionable administration of the law by justices of the peace in Lanarkshire; reference more especially to mining cases, *M'Donald* 538–543. 550–559.

Evidence in defence of the administration of the law by the Lanarkshire magistrates; leniency rather than harshness of their decisions as regards the employed, *Burns* 2299–2301. 2304. 2356.

See also *Merry & Cunningham, Messrs*. *Mines and Miners*. *Minute or Day Contracts*.

*Lancashire*. Strong feeling in Lancashire in favour of a change in the law of master and servant; witness does not however speak for the cotton trade, *Williams* 1158–1164.

*Lancaster, John*. (Analysis of his Evidence.)—Is vice-president of the Mining Association of Great Britain, and is owner of collieries employing upwards of 9,000 hands, 1426–1428—Considers that the Master and Servant Act operates harshly through the magistrates not having the option to fine instead of to imprison; willingness of employers of labour generally to concur in an alteration of the law giving this option, 1429–1435. 1450—Approval of the present practice of proceeding in the first instance by summons, the right of proceeding by warrant being however required for exceptional cases, 1436–1440. 1444–1447—Statistics showing the very few prosecutions for breach of contract in connection with mines, 1441–1449.

Statement as to the inadequacy of the rules and regulations under the Mines Inspection Act for meeting serious cases of misconduct or breach of contract on the part of miners where daily contracts prevail, 1451–1457. 1504–1508—Disapproval of the system of minute or day contracts as in Scotch mines; advantage to the men as well as to the masters in having fortnightly notices, 1451–1465—Strong objection to the power of arresting wages, 1466.

Insufficiency of the civil law for the punishment of an inferior class of men who work in connection with mines, but are not under the master and servant law, 1467, 1468—Approval of the jurisdiction of the justices in cases of breach of contract; absence of  
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*Lancaster, John.* (Analysis of his Evidence)—continued.

partiality on their part in witness's district, 1469-1485—Suggestion that the men might have power to try the question of breach of contract by the masters without giving a fortnight's notice before a summons can be obtained, 1469-1471.

Frequent instances of men breaking their contract without the masters thinking it worth while to prosecute them, 1486-1488—Effect of the present law in preventing men from suddenly leaving their employment, 1489—Absence of any strong feeling among the workmen in witness's district against the criminal procedure under the Act, 1490—Suggestion that the magistrates should have the option of imposing fines from 1s. up to 5*l.*, 1491-1495.

*Liverpool.* Frequency of prosecutions under the Act 4 Geo. 4 in the various trades in Liverpool, *Williams* 1075-1080. 1091, 1092.

*London Trades.* Witness explains the action taken by the trades of London with reference to the present inquiry, and to the authority given to the Glasgow Executive Committee, *Odger* 1793-1808—Enumeration of the trades represented by witness, *ib.* 1806-1808—Circumstance of witness not being prepared with any case from the reports of the general London trades of a more recent date than 1850; explanation on this point, *ib.* 1818-1827. 1862-1872. 1935-1937. 2001, 2002.

## M.

*McDonald, Alexander.* (Analysis of his Evidence.)—Is acting agent for the miners of Scotland, and is president of the Miners' Association of England, one of the objects of which is to procure an alteration in the law of master and servant, 454-456—Witness was formerly a working miner in Lanarkshire, 457-461—He has had considerable opportunities of observing the working of the law of master and servant in the case of mines, 462-466.

Inequality of the law in the miner being liable to imprisonment for breach of contract whilst the master is only liable to civil action, 467, 468—Very bad effect produced upon workmen by imprisonment, 467—Limited enforcement of the Act as regards Scotch mines in recent years, the mining works being for the most part conducted without any contract of service, 469—Particulars relative to the gradual adoption of minute or day contracts in the great majority of the collieries of Lanarkshire and other counties; very salutary operation of this system, the adoption of which in Scotland is likely to become universal, 469 *et seq.*

Practice formerly of having twelve months' contracts in the Scotch mines, whilst the wages were paid every three months under the truck system; movement on the part of the men which led to the adoption of fortnightly or monthly contracts in lieu of yearly contracts, 474-496—Great progress of education among miners in Scotland, so that they have become more alive to their own interests, 484. 494-496. 505—Origination by the masters rather than by the men of the system of day contracts, 505-507.

Limited extent to which trades unions or strikes have been used in enforcing the system of day contracts, 506, 507. 623-629—Pressure now being exercised upon the proprietors of the Rose Hall Colliery, in Lanarkshire, for the adoption of day contracts, this colliery being surrounded by others all upon the latter system, 507-514—Special rules in force in coal and iron mines for dealing with any dereliction of duty by the miners, so that the Act 4 Geo. 4 is unnecessary for the protection of the master, 516-524. 590, 591.

Expediency of civil redress only for breach of contract by miners, 525, 526. 562-566—Non-objection to imprisonment for non-payment of fines, 527-529, 565, 566. 592-595—Decided objection to the power of arrestment of wages, as by common law in Scotland, though witness does not object to such power in the special case of a master having a claim against a workman, 530-537. 560, 561. 596-603—Evidence as to the unfitness of justices of the peace, more especially in Lanarkshire, as the tribunal to decide between masters and men; strong feeling of miners on this matter, 538-543. 550-559—Improvement if all cases between master and men were committed to the sheriff or sheriff-substitute of the district; slight delay likely to arise, 544-549.

Further statement in approval of the system of having no contracts, or minute contracts; reference hereon to the very limited adoption of this system in mines in England, 562-580.

Advantage to all classes of workmen in mines under the system of minute contracts, rather than when a fortnight's notice is required, 581-589—Belief that strikes have not increased through notices being dispensed with, 589.

Information relative to the evasion of the Truck Act at mining works in Scotland; great grievance of the workmen on this score, 604-622. 630 *et seq.*—Comment upon the practice of Messrs. Merry & Cunningham in carrying on the truck system at their extensive works; calculation that they make a profit of 18,000 *l.* or 20,000 *l.* a year on their

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*M'Donald, Alexander.* (Analysis of his Evidence)—continued.

their truck shops, 606-612. 652-661—Effect of minute contracts in leading to a reduction of the truck system rather than in encouraging it, 610-615. 620-622.

Explanation as to the part taken by witness, and by the Miners' Association, with a view to an amendment of the law, so as to effectually put down the system of truck in Scotland, 619. 662-682.

*Magistrates.* Evidence in disapproval of the present tribunal, the magistrates being of the same class as the employers, and being otherwise an objectionable court of adjudication, *Newton* 13. 54-58. 87-91. 145-155. 264-268; *Campbell* 315-322; *M'Donald* 538-543. 550-559; *Steele* 734-741; *Dronfield* 829-834. 847-854. 860-864; *Normansell* 978-985; *Williams* 1165-1174; *Roberts* 1661-1688. 1691-1703. 1711; *Odger* 1889-1897. 1921-1929. 1945-1950. 1974-1981. 1996-2000.

Evidence in defence of the justices of the peace as the tribunal of adjudication in cases of breach of contract, *Hood* 1287-1295. 1332-1334. 1347-1350; *Lancaster* 1469-1485; *Forster* 1568-1573; *Ormiston* 2101, 2102; *Burns* 2299-2301. 2304. 2356; *Part* 2402, 2403. 2410; *Mathews* 2429-2446. 2499-2501.

Resolution of the Committee in favour of the cases being tried before two or more magistrates, *Rep.* iii.

See also *Tribunal.*

*Mathews, William.* (Analysis of his Evidence.)—Is president of the Mining Association of Great Britain; has had great experience as an employer of mining labour in Staffordshire, and as a magistrate, of the law of master and servant, 2418-2422—Great complaint on the part of workmen in the midland districts as to the criminal punishment under the law of master and servant, 2423—Feeling also of stipendiary magistrates that it is hardly right to visit a civil offence with a criminal punishment, *ib.*—Resolution, in February last, of the Mining Association in favour of giving the magistrates the option either of fine or imprisonment, 2423-2428.

Failure of justice through the fines being constantly paid by the unions to which the men belong, 2423. 2486-2491—Frequent failure of justice also when men are released on bail and the prosecution is not followed up, 2423—Statement in favour of retaining the present tribunal, without any prohibition upon magistrates hearing a case in which the prosecutor is in the same trade as themselves, 2429-2446—Practice of the magistrates in the midland districts almost invariably to issue a summons in the first instance, 2430. 2460—Custom in Staffordshire for magistrates not to sit on cases in which they are directly or indirectly interested, 2432-2437.

Strong objection to cases being decided in magistrates' own houses, or otherwise than in open court, 2447-2453—Expediency of leaving it to the magistrate to decide whether a case is of so aggravated a nature as to call for imprisonment, 2454. 2458—Necessity of retaining the power of summary committal in exceptional cases in the interests of the employed as well as of the employers, 2454-2459—Objection to an imperative rule that a summons be issued in all cases; defeat of justice in some cases if a warrant cannot be had, 2460-2476. 2502. 2518.

Contemplated discretion in the magistrates as to the infliction of a light or heavy fine, and as to the mode of disposal of the fines, 2477-2491—Approval of its being permitted to examine workmen when charged with breach of contract, 2492-2494—Suggested alteration in the law as regards re-imprisonment for the same breach of contract, 2495. 2529-2533—Custom to have fortnightly contracts in the coal and iron mines in Staffordshire; approval thereof as compared with minute or day contracts, 2496-2498. 2514-2517.

Efficiency of the present tribunal for deciding cases of breach of contract; impartiality of the decisions, 2499-2501—Absence of any such wilful neglect or aggravated breach of contract on the part of a master as to cause an amount of injury or loss calling for a power of imprisonment, or for exceptional legislation, 2502-2513. 2523-2527—Approval of imprisonment of both master and man for non-payment of fines, 2519—Objection to a power of arrestment of wages as a means of recovery of fines, 2520-2522. 2528.

*Mault, Alfred.* (Analysis of his Evidence.)—Is secretary to the General Builders' Association, and explains the origin, extent, and objects of the association, 2534-2546—Statement as to the association not having had its attention directed to the present inquiry until a very recent period, so that no action has yet been taken in the matter, 2547-2553—Representation as to the uselessness of a merely civil process in the event of breach of contract by men in the building trade, 2554—Importance of as summary a process as possible, 2554. 2604-2607—Objection to an option in the magistrate to fine as altogether unsuitable in the case of operatives in the building trade, 2554. 2577-2580. 2606. 2631-2638.

Inadequacy of a summons and of civil redress against operative builders, so that the right of proceeding by warrant should still be retained; illustration on this point, 2554-0.71.

*Mault, Alfred.* (Analysis of his Evidence)—continued.

2556. 2567-2575. 2577—More lengthened contracts adopted of late in the building trade, the number of prosecutions for breach of contract having much increased, 2557-2567. 2570-2573—General approval by builders of the present law, a more summary process being, however, desirable than by means of summons, 2576. 2607, 2608.

Very unsatisfactory state of the building trade, owing very much to the trades unions and the combined action against the masters upon the labour question; question hereon whether this should form any argument against a modification of the general law of breach of contract, 2581-2603. 2612-2618—Large numbers of men employed in the building trade, as compared with other trades, affected by the law of master and servant, 2592-2600.

Approval of the jurisdiction of the magistrates as being the readiest tribunal, 2604—Suggestion whether trade assessors, acting in conjunction with the magistrates, might not be the means of improving the relations between master and man, 2609-2611. 2619. 2628-2630—Advantage of stipendiary magistrates, rather than of the justices, as the tribunal to decide cases of breach of contract, 2620-2624—Objection to the county court as the tribunal as not sitting frequently enough, 2625-2627.

Admission that a fine may in many trades be an adequate redress for ordinary breaches of contract, though in the building trade imprisonment is required, 2631-2638—Necessity of imprisonment where fines are inflicted and not paid, 2639-2641—Contemplated power in the magistrate to issue a warrant in the first instance, 2642, 2643.

*Merry & Cunningham, Messrs. (Lanark).* Comment upon the practice of Messrs. Merry & Cunningham in carrying out the truck system at their extensive mining works; calculation that they make a profit of 18,000 l. or 20,000 l. a year on their truck shops, *M' Donald* 606-612. 652-661.

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1. *System of Contract in Scotch Mines.*
2. *System of Contract in Mines in England.*
3. *Number of Prosecutions of Miners for Breach of Contract.*
4. *Mines Inspection Act; operation of the Special Rules under the Act.*
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3. *Number of Prosecutions of Miners for Breach of Contract :*

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instances of prosecutions in Scotch mines not yet under daily contracts, *Hood* 1259—Different parts of England in which proceedings against colliers chiefly arise under the law relating to breach of contract, *Roberts* 1720. 1722-1728.

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*4. Mines Inspection Act: Operation of the Special Rules under the Act.*

Special rules in force in coal and iron mines for dealing with any dereliction of duty by the miners, so that the Act 4 Geo. 4 is unnecessary for the protection of the masters, *McDonald* 516-524. 590, 521—Evidence to the effect that under the rules drawn up under the Mines Regulation and Inspection Act, there is adequate power of punishing miners criminally for neglect of duty, endangering life and property, and that in such cases the law of master and servant should not be applied, *Normansell* 953-960. 967-977. 1007-1029—Dissatisfaction of the miners in South Yorkshire in regard to the special rules under the Mines Inspection Act, these being framed by the masters, and sometimes infringing upon the general rules prescribed by the Act, *ib.* 975. 986-989—Non-objection to the power of imprisonment under the Mines Regulation Act, for certain offences, *ib.* 1007-1015. 1037-1040—Information relative to the mode of procedure under this Act, *ib.* 1016-1029.

Doubt as to certain cases of serious misconduct or neglect in mines being sufficiently dealt with under the rules drawn up under the Mines and Inspection Act; the special rules might, however, be made sufficiently stringent to serve all purposes, *Hood* 1251-1258. 1321-1329—Statement as to the inadequacy of the rules and regulations under the Mines Inspection Act, for meeting serious cases of misconduct or breach of contract on the part of miners, where daily contracts prevail, *Lancaster* 1451-1457. 1504-1508—Concurrence in the view as to insufficiency of the regulations under the Mines Inspection Act for the protection of the employers, *Forster* 1545.

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*Newton, George.* (Analysis of his Evidence.)—Is a manufacturing potter at Glasgow: represents the executive committee appointed at a conference of the trades in London associated for the purpose of obtaining an amendment of the law relating to masters and servants, 1-10. 194-196—Chief object of the movement to place the workman on the equality with his employer as regards breaches of contract of service, 8-10—Inequality under the Act 4 Geo. 4, c. 34, inasmuch as a breach of contract on the part of a workman renders him liable to a criminal prosecution, whilst a breach of contract on the part of a master renders him liable only to a civil action for damages, 11-16.

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*Normansell, John.* (Analysis of his Evidence.)—Is Secretary to the South Yorkshire Miners' Association, 890, 891—Strong objection of the miners of South Yorkshire to the Act 4 Geo. 4, as treating them criminally for breach of contract, 892-895—Several instances of imprisonment and harsh treatment of miners in South Yorkshire for leaving work without notice, or otherwise breaking their contract of service, 895-914. 943-946—Diminution of late in the prosecutions under the Act, 914, 915—System of monthly and fortnightly contracts in the South Yorkshire collieries, there being no minute or hourly contracts, 915-922—Grounds for preferring fortnightly contracts to minute contracts in South Yorkshire, 923-942. 994-1002.

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Practice in South Yorkshire as to the payment of the miners according to the quantity of coal produced, the rates being fixed by the masters, 961-966. 990-993—Dissatisfaction of the miners in regard to the special rules under the Mines Inspection Act, these being framed by the masters, and sometimes infringing upon the general rules prescribed by the Act, 975. 986-989—Objection to the Justices of the Peace as the tribunal to decide between masters and men, on account of their sympathies being with the former, 978-985—Improvement if disputes were dealt with by the County Court Judge, or stipendiary magistrate, 978. 984, 985.

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through notices being very generally dispensed with, *Steele* 693 *et seq.*—Approval of day contracts and of short notices; advantage of a fortnight's notice over a month's notice, *Dronfield* 804-806. 809, 810—Approval of the system of dispensing with fortnightly or monthly notices in some of the larger collieries in the Manchester district, *Dickenson* 2113-2128.

Importance attached to the system of mutual notice before a master or his servant can terminate a contract; approval of fortnightly notices, *Lancaster* 1451-1465; *Forster* 1546-1554. 1577-1580; *Muthews* 2496-2498. 2514-2517.

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*Number of Prosecutions.* Increasing number of prosecutions under the Acts relating to masters and servants, *Roberts* 1613-1617.

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*Odger, George.* (Analysis of his Evidence.)—Is secretary to the London trades; explains the action taken by the trades of London with reference to the present inquiry, and to the authority given to the Glasgow Executive Committee, 1793-1808—Witness is by trade a shoemaker, 1795—Opinion that the penal clauses of the Act relating to breach of contract should be entirely swept away, 1805—Enumeration of the trades represented by witness, 1806-1808—Information relative to the system of piecework in witness's trade; absence of prosecutions in London for breach of contract, 1809-1814—Undue power of the masters in the trade in the event of breach of contract by the men; illustration of this in the case of witness, 1810-1813.

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*Open Courts.* Suggestion that the cases should be tried openly by the magistrates in the ordinary courts, instead of which they are sometimes tried at public-houses and in magistrates' homes, *Roberts* 2258—Advantage of the cases being, if possible, always tried in the open courts, it being undesirable, however, to make an absolute rule on this point, *Burns* 2358. 2382-2386—Importance of trial in open court, *Part* 2407, 2408—Strong objection to cases being decided in magistrates' own houses, or otherwise than in open court, *Mathews* 2447-2453.

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*Ormiston, John Watson.* (Analysis of his Evidence).—Is manager of the Shotts Iron Company, having extensive coal and iron works in Lanarkshire, &c., 2026-2030—Introduction by witness of the system of minute or day contracts into the Shotts Iron works, from his former experience of it at the works of Messrs. Merry & Cunningham; satisfactory operation of the system, 2031-2037. 2049-2053. 2060—Adoption of minute contracts by Messrs. Merry & Cunningham about twelve years ago, in consequence of a strike; satisfaction given eventually by the change to the men, though at first they disliked it, 2037-2048—Several cases formerly of prosecution of workmen for aggravated breaches of contract at Messrs. Merry & Cunningham's works, 2053-2059.

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*Purt, Thomas.* (Analysis of his Evidence).—Has had considerable experience as clerk to the borough and county magistrates of Wigan, and as clerk and registrar to two courts of request, 2389, 2390—Comparatively few prosecutions for breach of contract in the district about Wigan, 2391, 2392—Approval of a retention of the present tribunal for trying cases of breach of contract, it still remaining open to workmen to bring their masters before the county court instead of the magistrates, 2393-2395—Objection to the masters bringing their servants before the county court, 2396—Expediency of the procedure against the servant being by summons, unless there is a declaration on oath in order to justify the issue of a warrant, 2398. 2404.

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*Payment of Wages.* Great evil arising from monthly or long payments, *Roberts* 1733. 1735. 1757-1760—Suggested compulsory adoption of weekly payments in the case of colliers *ib.* 1733, *et seq.*—Numerous instances of colliers being paid only once a month, though fortnightly payments may be the general rule, *ib.* 1740-1749. 1771.

*Plasterers.* Instances in the plasterers' trade of the harsh operation of the power of imprisonment under the Act, *Williams* 1066-1073—Probable number of cases in the plasterers'

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plasterers' trade; increase since the agitation of the men on the subject, *Williams* 1081-1090—Different terms of contract in the plasterers' trade; system of hourly or day contracts in London, *ib.* 1096-1103.

*Pottery Trade.* Different practice in the pottery trade in England and in Scotland as to the length of the contract and the term of notice, *Newton* 77, 78—Instance of great hardship in the pottery trade in Glasgow, through the provision of the law as to imprisonment for breach of contract, and through their not being a competent legal tribunal, *ib.* 90-93. 114. 131-135. 222-227—Further reference to the punishment by imprisonment in the case of the potter at Glasgow, before alluded to; comment upon the action of the magistrate in this case, *ib.* 222-227. 271-277.

Long-continued strike and serious distress in the Potteries district in Staffordshire, in 1836 and 1837, on account of the badness of the written contracts, and the system called "good from oven," *Evans* 1357-1368—Particulars relative to the system of "good from oven," and its harsh operation upon the working potters, *ib.* 1358-1366—Frequent instances of prosecution of potters under the Acts 6 Geo. 3, and 4 Geo. 4; details of some of these cases, showing the great hardship of the present law, *ib.* 1367 *et seq.*—Unsatisfactory working of the system of annual agreements or contracts in the pottery trade; advantage if the contracts were monthly, *ib.* 1369-1377. 1382, 1383. 1404-1410—Increasing number of prosecutions for breach of contract, *ib.* 1374—Trial of the cases before the ordinary justices, a stipendary magistrate sitting with them, *ib.* 1387-1395.

*Printed Rules.* Practice frequently of prescribing by printed rules the terms of contract, whereas the masters are not content to abide by the penalties under such rules, *Newton* 131. 169-174.

**PROCEDURE:**

1. *As to the present Procedure by Summons and by Warrant respectively.*
2. *As to the Amendments required, more especially as regards the issue of Warrants.*

1. *As to the present Procedure by Summons and by Warrant respectively:*

Objectionable procedure which may be adopted in bringing forward the prosecution against a workman, that is, by arrest on warrant on the mere oath of the informant, without any evidence being necessary, *Newton* 13. 40-43—Degraded state in which workmen may be brought into court on a charge of breach of contract; instances of their being manacled, *ib.* 13. 176. 244—Cases, within witness's knowledge, of men being manacled on arrest, *Campbell* 332.

Hardship in men being arrested by warrant in the dead of night, and taken off to prison, *Normansell* 895. 944—Great hardship of the practice of arrest on warrant, *Roberts* 1662. 1665. 1711—Constant use of handcuffs, whilst the time generally selected for arrest is when the men are in their beds, *ib.* 1665. 2238.

Usual practice in witness's district first to issue a summons against the men, and only to have recourse to a warrant when they do not appear to the summons, *Forster* 1523-1526. 1583-1589—Inaccuracy, as regards Scotland, of the statement that it has been the practice to handcuff men on arrest, *Burns* 2331—Invariable practice of witness, as clerk to the Wigan magistrates, always to issue a summons in the first instance, *Part* 2398—Practice of witness, in issuing a summons, always to set forth the nature of the charge, *ib.* 2405. 2411. 2412—Practice of the magistrates in the Midland districts almost invariably to issue a summons in the first instance, *Mutheys* 2430. 2460.

2. *As to the Amendments required, more especially as regards the issue of Warrants:*

Suggestion that the procedure be by summons instead of by arrest on warrant, *Newton* 44, 45—Non-objection to the issue of a warrant if the defendant did not appear in answer to a summons, *ib.* 164, 165. 235-237—Non-objection to a warrant being issued against a workman instead of a summons in exceptional cases, where breach of contract was a criminal act, *Dronfield* 811-329.

Approval of the present practice of proceeding in the first instance by summons, the right of proceeding by warrant being, however, required for exceptional cases, *Lancaster* 1436-1440. 1444-1447—Suggestion that the men might have power to try the question of breach of contract by the masters without giving a fortnight's notice before a summons can be obtained, *ib.* 1469-1471—Approval of summonses being as a rule issued in the first instance for breach of contract; exceptional cases in which warrants should still be resorted to, *Forster* 1555-1560. 1583-1603—The warrant should be abolished in favour of a summons, *Odger* 1916-1920.

Expediency of proceeding in the first instance by summons instead of by warrant; practice hereon under the Mines' Inspection Act, *Dickinson* 2159-2169. 2194-2200—Necessity of a warrant if there is no appearance on the summons, *ib.* 2197-2200.

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## 2. As to the Amendments required, &amp;c.—continued.

Suggestion that the servant should in all cases have full notice of the charge made against him, and that the names of the witnesses be forwarded, *Roberts* 2253, 2254, 2265—Opinion that the procedure should be by summons, save under certain special circumstances, *ib.* 2255-2257. 2265.

Feeling of the Mine Owners' Association of Scotland in favour of some modification of the mode of procedure by warrant, *Burns* 2285-2288—Suggestion that the procedure be by summons, except the master is prepared to state on oath that the party complained against was expected to abscond, in which case a warrant should be issued, *ib.* 2288-2291—Expediency of the summons, or citation, containing a statement of the charge; this is the usual practice in Scotland, *ib.* 2306—The summons should be returnable within two or three days, *ib.* 2307, 2308—Case in illustration of the necessity of still retaining the power of issuing a warrant, *ib.* 2288, 2289.

Further statement in approval of a warrant being only resorted to on special occasions; this might apply to masters as well as to men, *Burnes* 2360-2362. 2381—Expediency of the procedure against the servant being by summons, unless there is a declaration on oath in order to justify the issue of a warrant, *Park* 2398. 2404—Objection to any undue limit of the time for which the summons shall continue in force, *ib.* 2406—Sufficiency of one magistrate for the issue of the summons or warrant, *ib.* 2409.

Objection to an imperative rule that a summons be issued in all cases; defeat of justice in some cases if a warrant cannot be had, *Mathews* 2460-2476. 2502. 2518—Contemplated power in the magistrate to issue a warrant in the first instance, *Mault* 2642, 2643.

Resolution of the Committee, that procedure should be by summons in England and Ireland, and by warrant to cite in Scotland, and, failing the appearance of defendant in answer to summons or citation, the court should have power to grant warrant to apprehend, *Rep.* iii.

See also *Building Trade. Inequality and Hardship.*      *Civil Offence. Mines and Miners.*      *Criminal Offence. Summary Procedure Act.*      *Improvement.*

## R.

*Recovery of Wages.* Power of the servant to summon the master before the magistrate for recovery of wages, up to a certain limit, *Roberts* 1619-1624.

*Re-imprisonment.* Statement that a commitment for breach of contract does not dissolve the contract, and that a workman be re-imprisoned for refusal to complete the contract, *Newton* 31, 32; *Campbell* 330. 435—Instances of re-imprisonment of men who, after first imprisonment, had refused to complete their contract, *Campbell* 330, 331—Comment on the state of the law as to re-imprisonment, *Roberts* 1667-1672. 1774-1788—Suggested alteration in the law as regards imprisonment for the same breach of contract, *Mathews* 2495. 2529-2533.

*Release on Bail.* Frequent failure of justice in cases of contract, where men are released on bail and the prosecution is not followed up, *Mathews* 2423.

*Roberts, William Prowting.* (Analysis of his Evidence.)—Solicitor, at Manchester; has had considerable experience of the working of the Acts relating to masters and servants, 1609-1614. 1618—Increasing number of prosecutions under the Acts relating to masters and servants, 1613-1617—Information relative to the present state of the law as regards the relation of the master to his servant, and the power of the latter to proceed against and punish him, 1619-1635—Power of the servant to summon the master before the magistrate for recovery of wages up to a certain limit, 1619-1624—Power under Jervis's Act to imprison the master, as an ultimate result, in the event of non-payment of wages, 1625-1629. 1635.

Great irregularity as regards breaches of contract in the servant being liable to imprisonment, whilst for analogous acts the master is not so liable, 1636-1648—Amendment required by treating breach of contract by a servant as a civil proceeding, 1647, 1648. 1655-1660. 1674—Decided objection to treating exceptionally and criminally any case of breach of contract, though attended with peculiarly serious effects, and being dangerous to life and property, 1649-1651. 1695-1703—Circumstance of the laws relating to master and servant being all derived from times when the position of workmen in this country was very different from what it now is, 1651-1654.

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Necessary change in the tribunal if breach of contract by workmen were not treated as a criminal proceeding, 1660—Great failure of justice, owing to the present jurisdiction; instances of this, and of the great hardship of the criminal procedure, 1661-1672. 1774-1776.

Statement as to the unfitness of justices of the peace to decide cases of breach of contract; objection, moreover, to such cases going before the magistrates at all, as giving them a criminal character, 1662. 1688. 1691-1703. 1711—Great hardship of the practice of arrest on warrant, 1662. 1665. 1711—Belief that in no other country would so unjust a law be allowed, 1664. 1704-1710—Comment on the state of the law as to re-imprisonment, 1667-1672. 1774-1788—Objection to an option in the tribunal to fine or to imprisonment; the latter should only follow as the result of non-payment of fine, 1675-1703.

Decided advantage of stipendiary magistrates over justices of the peace, as the tribunal to adjudicate, 1685-1687. 1712—Particulars of a case at Messrs. Levick's colliery in South Wales, of some colliers having been charged with breach of contract, and arrested on warrant; great hardship involved in the proceedings in this case, 1711, 1712—Comment upon the evasion of the Truck Act by magistrates in South Wales and Monmouth, who are themselves colliery owners, 1711, 1712—Necessity of an appellate jurisdiction, in order that justice may be evenly done; suggestions on this subject, 1713-1719.

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Probable advantage if all long contracts, such as annual contracts, were determinable by some short notice, 1772, 1773—Statement as to the amount of redress open to the workmen by means of fine, as compared with the redress open to the master by imprisonment and re-imprisonment, 1774-1785—Redress, by means of a fine, open to the master if the workmen were dealt with by the county court; doubt as to the power of the court also to imprison, 1785-1789—Reference to the power of imprisoning an apprentice as being extremely oppressive, 1790-1792.

[Second Examination.]—Further statement that the main remedy required is to make the contract a civil matter, and attended only with civil consequences, 2208—Hardship in the case of superior workmen engaged for long terms, or under annual contracts, if they could be discharged at a month's notice, 2209-2215—On further consideration, witness objects to a mutual right in employers and employed to terminate a long engagement by a short notice, 2209-2217—Mode of dealing with agricultural servants for not abiding by their annual engagements; approval of a power in the county court judge to cancel the service, 2218-2226.

Witness repeats that contracts between master and servant should be enforced in just the same way as any other contracts, 2218-2232—Statement as to its being in the power of the workman to stipulate that he shall not be brought by his contract under the Master and Servant Act, 2233-2236—Suggestion as regards the rules hung up in factories and mines, that they be read to the men, and that the men be furnished with a copy on entering upon their employment, 2234. 2237. 2257, 2258. 2266, 2267.

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Great evil in there being no satisfactory appeal from the decision of the magistrate; suggestion hereon for an appeal to the county court judges, 2241-2252—Recent instance at Dronsfild in Cheshire, of a very improper decision by a magistrate, witness having subsequently appealed to the Home Office, but without effect, 2252—Suggestion that the servant should in all cases have full notice of the charge made against him, and that the names of the witnesses be furnished, 2253, 2254. 2265—Opinion that the procedure should be by summons, save under certain special circumstances, 2255-2257. 2265.

*Roberts, William Prowting.*—(Analysis of his Evidence.)—continued.

Suggestion that the cases should be tried openly by the magistrates in the ordinary courts, instead of which they are sometimes tried at public houses and in the magistrates' homes, 2258—Advantage if it were required that three magistrates should always be present; difficulty in some districts, 2259-2262—Expediency where the work of miners is tested, of their having the benefit of the weights and measures in ordinary use; illustration of the grievance to the men under the practice of measuring the work in some collieries, 2263, 2264. 2270-2275—Suggestion that the men when summoned, be allowed a postponement for a week in order to prepare their defence, 2265.

*Rose Hall Colliery (Lanark).* Pressure now being exercised upon the proprietors of the Rose Hall colliery, in Lanarkshire, for the adoption of day contracts, this colliery being surrounded by others all upon the latter system, *M Donald* 507-514.

*Rules (Mines and Factories).* Suggestion as regards the rules hung up in factories and mines that they be read to the men, and that the men be furnished with a copy on entering upon their employment, *Roberts* 2234. 2237, 2257, 2258, 2266, 2267—Instances of collieries in which the rules are read over to the men once a month, *ib.* 2257, 2258. 2266, 2267.

Practice of hanging up the rules in Scotch mines, it not being usual to read them over to the men, who are, however, quite cognisant of them, *Burns* 2365-2369.

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### S.

*Security (Fulfilment of Contract).* Resolution of the Committee that the court should have power, where such a course is deemed advisable, to order the defendant to fulfil contract, and also if necessary to compel him to find security that he will do so, *Rep.* iii.

*Sheffield.* Feeling of trades unions in Sheffield, as well as of non-unionists, that the Act 4 Geo. 4, is unjust in treating workmen as criminals for a civil offence or breach of contract, *Dronfield* 771-774. 796, 797—Frequent instances of hardship under the law of master and servant in Sheffield, *ib.* 774-779. 797. 819-828. 839-843—System of fortnightly or monthly contracts in Sheffield, minute contracts being exceptional; improvement if the latter were the rule, *ib.* 780-795. 804-808. 880-884—Frequent inducement held out to men to leave one master for another; suggestions for the prevention of this practice, *ib.* 864-879.

See also *Cutlery Trade.* *Trades Unions.*

*Sheriffs Court (Scotland).* See *Tribunal.*

*Ship-building Trade.* Particulars of a case in the ship-building trade at Glasgow, as illustrating the exceedingly harsh and unequal operation of the law, *Campbell* 298-300. 403, 404—Illustration, in a ship-building case at Stockton, of the undue hold of the masters upon their men for fulfilment of contract, even after a strike by the former, *Roberts* 2238-2241.

*Shoemakers.* Information relative to the system of piece-work in witness's trade: absence of prosecutions in London for breach of contract, *Odger* 1809-1814—Undue power of the masters in the trade in the event of breach of contract by the men; illustration of this in the case of witness, *ib.* 1810. 1813—Strong feeling amongst the men against the Act, *ib.* 1813.

Explanation that prosecutions for breach of contract in the shoemaking trade frequently occur in Northampton, Bristol, and other places, as there are none in London; difficulty of accounting for this, *Odger* 1815, 1816—Reference to a case in the shoemaking trade in Bristol, in 1857, as illustrating the undue power of the masters in regard to punishment, *ib.* 1816, 1817—Frequent breach of contract on the part of masters in the shoemaking trade without proceedings being taken by the men, *ib.* 1861. 1874, 1875. 1906.

*Steele, Colin.* (Analysis of his Evidence.)—Is secretary to the Moulders' Association; was formerly a working moulder, 689-692—Instance of hardship, in 1862, under the Act 4 Geo. 4, in the case of a moulder at the Hyde Park Works, Glasgow, who was arrested and prosecuted for breach of contract, 693-701—Very general adoption of minute warnings in the iron-moulders' trade in Glasgow and throughout Scotland, so that prosecutions for breach of contract do not arise, 701-712—System of weekly and fortnightly warnings formerly, the masters having voluntarily adopted the minute system, 702. 713, 714.

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*Steele, Colin.*—(Analysis of his Evidence)—*continued.*

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*Stipendiary Magistrates.* Feeling of stipendiary magistrates in the midland districts that it  
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*Strikes.* Belief that strikes have not increased on the part of Scotch miners through notices  
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*Summary Procedure Act (Scotland).* Practice in Scotland, under the Summary Procedure  
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*Tinplate Workers.* Particulars relative to the case of a tinplate worker prosecuted at  
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*Odger* 1818-1839.

*Trade Assessors.* Suggestion whether trade assessors, acting in conjunction with the  
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*Trades Unions.* Limited extent to which trades unions or strikes have been used in  
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## TRIBUNAL:

1. *Evidence opposed to the Justices of the Peace as the Tribunal of Adjudication in Cases of Breach of Contract.*
2. *Evidence in Defence of the Jurisdiction of the Magistrates.*
3. *Suggestions for an Improvement of the existing Tribunal, or for Adjudication by a New Court.*
4. *Resolution of the Committee as to the Amendment required.*

1. *Evidence opposed to the Justices of the Peace as the Tribunal of Adjudication in Cases of Breach of Contract:*

Objection to the proceedings being carried before justices of the peace, as these are of  
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## 1. Evidence opposed to the Justices of the Peace, &amp;c.—continued.

Great failure of justice owing to the present jurisdiction; instances of this, and of the great hardship of the criminal procedure, *Roberts* 1661-1672. 1774-1776—Statement as to the unfitness of justices of the peace to decide cases of breach of contract; objection, moreover, to such cases going before the magistrates at all, as giving men a criminal character, *ib.* 1662-1688. 1691-1703. 1711—Sympathy of the magistrates with the employers, *ib.* 1680. 1683. 1685. 1711.

Objection in any case to the justices or magistrates as the tribunal to decide between employer and employed, more especially because of their sympathy with the former, *Odger* 1889-1897. 1921-1929. 1945-1950. 1974-1981. 1996-2000—Recent instance at Dronfield, in Cheshire, of a very improper decision by a magistrate, witness having subsequently appealed to the Home Office, but without effect, *Roberts* 2252.

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Statement in defence of the magistrates as the tribunal to adjudicate in cases of breach of contract; objection to the sheriff's court, *Hood* 1287-1295. 1332-1334. 1347-1350—Approval of the jurisdiction of the justices in cases of breach of contract; absence of partiality on their part in witness's district, *Lancaster* 1469-1485—Approval of the jurisdiction as exercised by the justices in witness's district, *Forster* 1568-1573—Witness has never heard objection made to the jurisdiction of the justices in Scotland, *Ormiston* 2101, 2102.

Statement as to the very efficient administration of the law by the justices in Lanarkshire; leniency rather than harshness in their decisions of cases against workmen, *Burns* 2299-2301. 2304. 2356—Approval of a retention of the present tribunal for trying cases of breach of contract in the case of miners, it still remaining open to workmen to bring their masters before the county court instead of the magistrates, *Part* 2393-2395—Efficiency of magistrates as the tribunal to decide cases of breach of contract, *ib.* 2402, 2403. 2410.

Statement in favour of retaining the present tribunal, without any prohibition upon magistrates hearing a case in which the prosecutor is in the same trade as themselves, *Mathews* 2429-2446—Custom in Staffordshire for magistrates not to sit on cases in which they are directly or indirectly interested, *ib.* 2432-2437—Efficiency of the present tribunal for deciding cases of breach of contract; impartiality of the decisions, *ib.* 2499-2501—Approval of the jurisdiction of the magistrates as being the readiest tribunal, *Mault* 2604.

## 3. Suggestions for an Improvement of the existing Tribunal, or for Adjudication by a New Court:

Proposal that questions of breach of contract be tried before a competent legal tribunal such as the sheriff's court in Scotland, and before the county court judges in England, *Newton* 54-61. 66. 87-94—Approval of the decision of the sheriff being final, without any appeal, *ib.* 113. 209-214—Probable inconvenience in some cases through the proposed court of the sheriff or sheriff substitute not being a constantly sitting court, *ib.* 157-163—Doubt as to any cases in Scotland being taken before the sheriff, *ib.* 253, 254.

Improvement if the sheriff, or sheriff substitute in Scotland, and the county court judge in England, were substituted for the present tribunal; doubt as to much inconvenience from delay, *Campbell* 315. 323-329—Advantage if all cases between master and men were committed to the sheriff, or sheriff substitute of the district; slight delay likely to arise, *M'Donald*, 544-549—The law would be much more impartially administered by the sheriff, *Steele* 736.

Improvement at Sheffield if the county court judge dealt with these cases, or if there were a stipendiary magistrate at Sheffield who could undertake them, *Dronfield* 829. 835-846. 862—Objection to the county court as the tribunal, as not sitting frequently enough, *Forster* 1574; *Mault* 2635-2627—Advantage if a stipendiary magistrate always sat with the justices, *Forster* 1575, 1576.

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Approval to some extent of an amended system comprising procedure by summons, and the trial of cases by two or more magistrates not employers of labour in the particular trade in question, *Odger* 1921-1923. 1945-1950—Facility of extending the jurisdiction of the local magistrates if civil process only were to be resorted to, *ib.* 2020-2022.

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3. *Suggestions for an Improvement of the existing Tribunal, &c.*—continued.

2170-2179. 2201-2203—Approval of a similar tribunal to the foregoing in cases of breach of contract, *Dickinson* 2174-2179, 2186, 2187. 2201-2203—Advantage if it were required that three magistrates should always be present; difficulty in some districts, *Roberts* 2259-2262.

General objection to the jurisdiction of unpaid magistrates, so that the jurisdiction of the stipendiary magistrate, or sheriff, would, if practicable, be preferable, *Burns* 2300. 2302-2304—Difficulty in many districts of obtaining a tribunal of three magistrates, *ib.* 2357, 2358—Advantage if the cases were tried by not less than two magistrates and in open court, *Part* 2407, 2408—Advantage of stipendiary magistrates rather than of the justices, as the tribunal to decide cases of breach of contract, *Mault* 2620-2624.

4. *Resolution of the Committee as to the Amendment required:*

Resolution of the Committee that all cases arising under the law of master and servant should be publicly tried, in England and Ireland, before two or more magistrates, or a stipendiary magistrate, and in Scotland before two or more magistrates, or the sheriff, *Rep.* iii.

See also *Appeal.*      *Fines.*      *Imprisonment.*      *Open Courts.*

*Truck System.* Information relative to the evasion of the Truck Act at mining works in Scotland; great grievance of the workmen on this score, *M'Donald* 604-622. 630 *et seq.*—Effect of minute contracts in leading to a reduction of the truck system, rather than in encouraging it, 610-615. 620-622—Explanation as to the part taken by witness and by the Miners Association, with a view to an amendment of the law, so as to effectually put down the system of truck in Scotland, *ib.* 619. 662-682.

Comment upon the evasion of the Truck Act by magistrates in South Wales and Monmouth, who are themselves colliery owners, *Roberts* 1711, 1712—Great support given to the truck system by the practice of monthly or still longer payments, *ib.* 1773.

See also *Merry & Cunningham, Messrs.*

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*Warrants.* See *Procedure.*

*Weekly Payments.* Evidence as to the great importance of weekly payments; in the case of colliers witness would in fact make such payments compulsory by law, *Roberts* 1733-1771—Reasons for not leaving it to the colliers themselves to demand weekly payments, *ib.* 1745-1752—Practice of weekly payments by most houses in the cotton trade, *ib.* 1762-1768.

*Williams, Charles.* (Analysis of his Evidence.)—Is secretary to the United Trades Protection Association of Liverpool, also the National Association of Operative Plasterers, 1049-1052. 1162-1164—Authority given to the Glasgow Executive Committee by delegates from the trades generally to take action for an amendment of the law of master and servant, 1053-1061—Objection to the Act 4 Geo. 4, on account of its unequal and harsh operation in regard to workmen as compared with masters, 1062-1065—instances in the plasterers' trade of the harsh operation of the power of imprisonment under the Act, 1066-1073—Expediency of abolishing the criminal procedure under the Act, or of applying it to masters as well as to men, 1074. 1093, 1094. 1115. 1121. 1141.

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*Winters, Thomas.* (Analysis of his Evidence).—Is manager of a Working Man's Benefit Society, and has paid considerable attention to the subject of the relations between masters and workmen, 1175—Considerable amendment required in the form of contract between masters and men, it being desirable that all contracts should be in writing, and in duplicate, and that they should be made mutual, 1177-1180. 1194—Difficulty in some trades in assessing the amount of damage done through a workman suddenly quitting his employment in breach of his contract; suggestion that an assessor be called in to assess the damage, 1181. 1187.

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*Written Contracts.* Considerable amendment required in the form of contract between masters and men, it being desirable that all contracts should be in writing and in duplicate, and that they should be made mutual, *Winters* 1177-1180. 1194—Expediency of written contracts for all, save very short terms; that is, for anything over a week, *ib.* 1207-1213.

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