

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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 MINUTES OF EVIDENCE.
 

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Thursday, 17th May 1866.

## MEMBERS PRESENT:

Mr. Clive.  
Mr. Dalglish.  
Mr. Algernon Egerton.  
Lord Elcho.  
Mr. Fawcett.  
Sir James Fergusson.  
Mr. George.

Earl Grosvenor.  
Mr. Gathorne Hardy.  
Mr. Jackson.  
Mr. M'Lagan.  
Mr. Edmund Potter.  
Mr. Alderman Salomons.  
Mr. Solicitor General.

LORD ELCHO, IN THE CHAIR.

Mr. GEORGE NEWTON, called in; and Examined.

1. *Chairman.*] WHAT is your profession, trade, or business?—A Potter.

2. Are you a working potter, or a master potter?—I am a manufacturing potter, on a small scale.

3. In Scotland?—Yes, in Glasgow.

4. In what capacity do you appear before this Committee?—I appear before this Committee as the secretary of a committee, composed of working men and representatives of trades, that was appointed to procure an amendment of the law relating to contracts of service between masters and servants, and the consequences of a breach thereof.

5. How and where was that committee appointed?—The committee was originally appointed in Glasgow, consisting of delegates from the trades. Then a conference of trustees was called in Edinburgh, and subsequently in London, and at the conference of the trades in London the Glasgow committee were appointed the executive committee of the movement, and authorised to take steps on behalf of the working men of the United Kingdom to bring about an amendment of the law.

6. So that the committee, of which you are secretary, was appointed at a general convened meeting of the delegates of the United Kingdom, and the conduct of this business was entrusted to that committee?—Yes.

7. The associated trades of London have no power, as the trades of London, to regulate your proceedings?—There was no such stipulation; the resolution is simply to the effect, that the Glasgow committee shall be the committee having the charge of the arrangements.

8. Will you shortly state to the Committee the objects of the association?—The objects of the association are to obtain such an amendment of the law as shall put the workman on an equality with the employer, as they are not at present placed in the eye of the law.

0.71.

9. By the law you mean the law regulating the relations of masters and servants?—Yes; that is the general object of the committee, with power, of course, to take such steps as seem to them best calculated to bring about such an arrangement.

10. There are several Acts bearing upon the relations of masters and servants; I presume that you come here to speak more as to the principle of those Acts than as to the bearing of the statute law or the common law upon this question?—More as to the manner in which those Acts operate upon the working classes.

11. The Act which chiefly bears upon this point is the 4 Geo. 4, c. 34, s. 3, is it not?—Yes.

12. Any prosecutions that take place are chiefly under that Act?—Yes, so far as I know.

13. You said that the object of the association is to effect an equality as regards the law between master and servant; that implies that at present there is an inequality. In what does the inequality between master and servant at present exist?—The inequality consists in this, that a breach of contract of service on the part of a workman renders him liable to a criminal prosecution, while a breach of contract on the part of the employer only renders him liable to a civil action for damages; the process also by which the one is brought before the court is very different indeed to that by which the other is brought before the court; while the servant may be dragged as a criminal to the bar, and not unfrequently is dragged there in that way; while he may be taken there manacled, the employer is taken into court as a gentleman; he is simply summoned there and treated with the respect which is due to mankind generally. Then again, the justices of the peace are of the master class. In that respect I think it is not hard to see that the parties are placed in very different positions.

14. You say that while the one party may be brought

Mr.  
G. Newton.  
—  
17 May  
1866.

Mr.  
G. Newton.  
—  
17 May  
1866.

brought manacled, the other is treated as a gentleman; if the law were equal, and if a gentleman committed any breach of the law which required that he should be dealt with and manacled, he would be manacled and treated like any other person?—Yes.

15. But you say the law is unequal, and you wish to see the two parties put on the same footing?—Yes; not that we wish the employer to be put on the same footing as the workmen now are, but that the odious position in which the workman is placed should be improved, and as nearly as possible approximated to the position of the masters before the courts.

16. The objection of your association as representing the class of servants is, that whereas in the case of the master, he is treated by civil process, in the case of the servant he is treated by criminal process, and he may be arrested and seized at any moment?—That is the objection to the existing law.

17. Do you believe that cases of great hardship arise under that state of the law now?—Yes; I believe that cases of great hardship arise under the existing state of the law, and it is almost impossible that they should not arise.

18. Hardship and injustice to the servant?—Yes, in my view of the case.

19. Have you had much experience yourself of the working of the law?—I have some slight personal experience of it, having been arrested myself for a breach of contract service, and having cognizance of some other cases. Last year I had the advantage of becoming acquainted with the circumstances of a case from the committal of the offence so called, until it was argued out before the High Court of Justiciary in Edinburgh; so that the law in many of its bearings was clearly set before me in that case.

20. When did your own case, to which you have just referred, occur?—I could not give the precise date, but I think it must have been about 15 years ago.

21. Was it as a workman or as an apprentice that you were so prosecuted?—The charge was never read over to me, so that I could not say whether I was set down in the charge as an apprentice or as a workman; but I was working at apprentice rates to the employer I was then serving, but subject only to the general rules of the factory. The system of working in potteries I may explain to the Committee is this: that those who are apprentices or working at apprentice rates get perhaps half the journeyman's wages at first, and a little further on, during the course of the period of apprenticeship, they get two-thirds of the journeyman's wages; so that for every shilling that the journeyman earns, at the outset of the apprenticeship, the apprentice gets 6 *d.*; and for every shilling that the journeyman earns during the latter portion of the time, the apprentice gets 8 *d.* He is always called an apprentice, though, in the eye of the law, he cannot be an apprentice, not having been indentured; but he works on the same principle as though he were indentured. He works piece-work, and the system of calculating the wages is that the whole is set down at journeyman's rates, and the third or a half struck off, the apprentice getting the balance.

22. Do you consider your own case as a good illustration of the working of the law?—It would not be an illustration of the working of the law,

inasmuch as I was not tried at all, though I was arrested.

23. Will you state what happened in your own case?—The circumstances of the case were these: it happened, immediately after the new year's holidays, that the employer conceived that it was no use paying wages at the usual time—

24. Were you serving under a written contract?—No.

25. A verbal engagement?—Yes; he conceived the idea that it was of no use paying the wages, because they were not very much after the workers had been off during the holidays: but the workers conceived, after having perhaps somewhat exhausted their available funds during the holidays, there was more need for what was coming to them than in ordinary circumstances; and a dispute arose, and it was resolved by the workmen generally, that if the wages were not paid on the day on which they were due, they would cease to work; and they intimated this to the employers, or, at least, made very strong representations. The wages were not paid, and some of us ceased to work. A day or two after ceasing work two were arrested. I would have been arrested at the same time, but I happened to be from amongst them, getting dinner at the time, and I was not arrested until the next morning. One of the men arrested upon that occasion was a man who bore an irreproachable character as a decent honest man, a man very attentive to his employment, against whom there was no objection at all; and when the foreman remonstrated with the master for putting that man into prison, it was answered, that it was to make him an example for the rest of the men that he was taken. The trial came on the next day, and I was in attendance, having endeavoured to procure the assistance of an agent to see that we got as much justice as was possible, under the circumstances, to get; and while attending at the court doors I was arrested and locked up during the trial.

26. Without any previous notice?—No more than the notice I had received the day before, from my fellow workmen, that I was "wanted" too.

27. There was no warrant, or anything of that kind?—No.

28. What was the length of your contract?—A fortnight.

29. Will you proceed with your statement of what happened?—I was not tried; the trial of the others proceeded while I was locked up, and at the close of the day's proceedings the court was adjourned until that day week. The agent who was employed became bail for the three who were arrested. Before that day week came round the matter was compromised, and the prosecution withdrawn.

30. How long were you in prison?—Four or five hours.

31. Is it the case that a commitment under the Act does not dissolve a contract?—Yes, that is the case; it does not dissolve a contract.

32. So that a man can be imprisoned for a period not exceeding three months, and then may be let out, and if he refuses to complete his contract, he may be re-imprisoned until he does so?—Yes, that is the state of the law.

33. In your own trade do cases of masters proceeding against their workmen frequently occur?—They occur in some works frequently; in others they are never heard of.

34. You

W. Burns,  
Esq.  
—  
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1866.

2362. You would put them upon an equal footing?—I would put them upon an equal footing as regards that, because, if you take such cases out of the statute, abolishing imprisonment for small debts, with regard to the liabilities of masters to servants, they become subject to the common law of Scotland, under which parties may be apprehended if they are going to fly.

2363. I think you stated that you were of opinion that if the Bill which is now in Parliament for the Amendment of the Summary Procedure Act, 1864, were passed into a law, litigation would be very much increased in Scotland?—I do not exactly give that as my individual opinion. I give it as a prevailing impression, both in and out of the legal profession.

2364. Are you aware of the fact that since the passing of the Summary Procedure Act in England, litigation has decreased rather, that there have been fewer cases of appeal than before the enactment of that statute?—I am not aware of the circumstance, but the question implies that there was a right of appeal in England before the passing of that Summary Procedure Act, whereas in Scotland there exists at present no right of appeal.

2365. Are you aware of any collieries in Scotland where the rules are read over to the men periodically?—No, I never heard of its being done. I think that the hanging up of the rules is all that is done generally; and when I speak of the rules I do not mean the Statutory Special Rules for Mines. The rules, in a printed form, are hung up so that they may be read by all the workmen who can read, and I can scarcely suppose that rules can be so hung up and exposed to view without their terms being communicated from one workman to another; and indeed I have found in the case of a complaint, under 4 Geo. 4, that the magistrates refused to convict unless a knowledge of those rules was brought home to the parties. So that it is not sufficient for a master to say "There are rules hanging up in my establishment."

2366. Are you aware that those rules are read over to the men when they enter on the service?—No.

2367. You do not know whether the men sign a copy of the rules when they enter?—I am aware that there are cases in which the men do sign the rules; those cases arise under what is termed the Truck Act, 5 & 6 Vict. c. 99; the Truck Act prohibits the giving of goods for wages, and enforces the payment in moneys, but there are certain exceptions made in the Act itself, where the articles are allowed to be supplied by the master to the men, the payment for them being retained from their wages; but that is only effectual if it be made the subject of a written contract. Now it sometimes happens that the rules which are applicable generally to the work, embody this matter of contract, for the retention of the price of those excepted articles in the Truck Act, and the parties are then required to sign them.

2368. In the large works in Glasgow that practice of having the rules hung up in the workshops is quite common, is it not?—Quite common, I believe.

2369. And the men consider them binding upon them?—That is my impression, when they are brought to their knowledge in any way.

2370. Supposing that the criminal part of the Act were retained in the case of the servant, you have no objection to its being extended to the

master also?—I see no objection to placing the parties *in pari casu* with each other. If a summons is issued against a master, and he attends, and there is a conviction, and he refuses to pay, then I think he ought to be sent to prison the same as a servant.

2371. Mr. George.] That is to say, imprisoned till he pays?—Yes; I may explain, in reference to my remark about the defective character of the special rules, and to the carrying of them out, that it appears to me where a penalty is inflicted, and the man is imprisoned only for non-payment, he should be liberated the moment he pays. The way it is put in some of the Acts is, that if he does not pay he is sent to prison as an equivalent, whereas I suggest that he need not remain a day longer in prison if he pays the penalty.

2372. Mr. M'Lagan.] You have stated that you would prefer pouncing a man's furniture to following his wages?—That is my own opinion.

2373. Is not it exceedingly difficult to follow a man's wages, and to exercise the right of arrestment when he has left your service?—It is exceedingly difficult; he goes to a distance and you may not discover where he is for a long time, unless you take a great deal of trouble.

2374. You cannot arrest his wages prospectively?—No.

2375. And hence, is not the law of arrestment often evaded by paying the man's wages every day?—Yes; and so annoying is the operation of the law to the master, that it is no unusual thing to see advertisements in the newspaper intimating that they pay such a man's wages every morning.

2376. Hence you would consider this law of arrestment as a means of recovering a man's wages for a debt due to his master of very little use?—I would.

2377. Mr. George.] Do you yourself see much difficulty in preparing a general Act on the law of masters and servants analogous to the Mines Inspection Act?—I see no difficulty in it; I have been trying my hand, altering the terms of the Act of 4 Geo. 4, embodying the modifications which I have been endeavouring to explain to the Committee.

2378. Chairman.] Perhaps you would be good enough to furnish the Committee with those suggested alterations?—I shall be most happy to do so.

2379. Mr. George.] Would it in your opinion be possible in an Act of that kind to classify such matters as should be treated as matters of contract, and therefore compensated by a certain sum of money; and matters that savoured of a criminal nature, and which ought to be considered in the nature of misdemeanors, and punishable by fine?—According to my experience, it is always exceedingly difficult to frame such minute classifications. I was trying my hand at that also, in consequence of knowing what had been submitted to this Committee, and I found it very difficult to work it out. I have to remind the Committee that the thing sought to be recovered under this *quasi* criminal proceeding is the penalty, apart from the loss which the master sustains. The master might bring a suit, if the man had the means of paying, altogether independent of his being punished.

2380. The money recoverable is 40 s., that would bear no kind of proportion to the injury that the master might sustain by a breach of contract on the part of a workman?—It might be so.

Following

Following up your question, my impression would be, that it should be left to the court to deal with the distinction between minor and major offences, a maximum being indicated, beyond which the magistrate should not go.

2381. Would you leave it to the magistrate to decide whether it was a mere breach of contract, or in the nature of a criminal offence, letting him deal with it according as he should be of opinion that it was one or the other?—I think that the difficulty of classifying all the various offences that might arise would lead to such confusion that it would be far better in choosing, the alternative between the two difficulties, to leave it in the discretion of the magistrates. I think it should depend upon the statement by the master, whether a summons or a warrant should be issued, and that no warrant should be issued *de plano*, unless such facts and circumstances were shown as *prima facie* led to the belief that a summons would be inoperative; and the master should be required to support that statement by his oath, as he has to do at present; should he make upon oath a statement of the facts and circumstances upon which he alleges that it is necessary to issue a warrant.

2382. Do not you think if those proceedings were taken in sessions, in a public court, to which the public would have access, instead of being heard before the magistrates in their own houses, power might be given to even a single magistrate to hear the case, leaving the court open to as many as thought fit to attend?—As regards the operation of these and similar summary proceedings, it is a mistake to speak of the courts sitting at periodical times, at all events with us in Scotland. A case of this kind occurs on an emergency, and there are no sessions sitting; you have to go and attend a justice who will take up the case.

2383. Do not you think it would be very desirable, and that it would do away with a great deal of the objection which men feel to being brought before a magistrate at his private residence, and without any one but the clerk, probably no witnesses being present, if there were public courts where the magistrates might meet once a week. In Ireland the magistrates meet once a fortnight or once a week, in what are called Petty Sessions, which are open to the public, and which is a court of record; and we know that there are a great variety of acts which, provided they are done in sessions, one magistrate may do on the failure of a second to attend; do you not think that it would give a great deal of sanction to those proceedings, and probably make them less objectionable to the work-people, if those proceedings were taken in sessions, in the way I have indicated, instead of being taken before a magistrate at his own private house?—In answer to the Chairman I said, that I was certainly in favour of all judicial procedure, and more especially criminal or *quasi* criminal procedure being in open court; and therefore, where it was at all practicable, I would have the justices, under any statute regulating the law of master and servant, sit in the ordinary open court.

2384. Perhaps you are not aware that in Ireland matters referring to the wages of agricul-

tural labourers, and of domestic servants, and indeed every matter between master and servant, are brought before the magistrates in Petty Sessions, as many magistrates attending as may find it convenient to do so; but, in the event of only one magistrate attending, power is given to that one in Petty Sessions to make an order; do you think that anything of that kind would obviate the difficulty?—That is taking me into English or Irish legal ground, and I do not like to speak of things beyond the Border.

2385-6. Does not it seem to you that a good deal of the objection which has been raised to a single magistrate hearing a case in his own private chambers, and without any witness, instead of in the public court, would be obviated if the court was held publicly, to which one or more magistrates would have access?—One difficulty would be obviated, but another would be created, which is, that these cases between master and servant will not stand even for a week. They require to be decided directly; that is the difficulty which I see in laying down any absolute rule about where the cases are to be conducted. In such places as Glasgow the proceedings are invariably in the open courts. As illustrative of my observation about the punitive character of these laws, perhaps you will allow me to suggest the case of a ship's crew. Why should the crew of a ship be subject to such stringent regulations for discipline? They are merely in the position of servants to a master, and under a contract. I merely throw that out as illustrating what I have been saying.

2387. When you were proposing to re-model and alter the Act 4 of Geo. 4, did you think it advisable to alter that expression which pervades the whole of that Act, namely, "misdemeanour and misconduct"; that every breach of contract under the Act is to be treated as "a misdemeanour and misconduct"?—"Misdemeanour" is a legal technicality in the South, the precise meaning of which we in the North do not quite understand; but I should think the term "misconduct" would cover all that is really meant.

2388. *Chairman.*] Is there any other point which you wish to bring before the Committee?—I should like to mention to the Committee that, after the resolution brought before them by Mr. Lancaster was passed by the Associated Mine-owners at the meeting in London, it was suggested by Sir George Grey that the feeling of employers in the different districts should be ascertained, and members of committee were requested to go down to their various districts and ascertain what was the feeling or impression among other employers of labour, besides the mine-owners, in those different districts. I believe Mr. Lancaster stated what the result was in England; I may say that, on going down to Scotland, I put myself in communication with such gentlemen as ship-builders, engineers, bottle-makers, glass-makers, potters, and others, and, either verbally or in writing, I think that I am warranted in saying there was a universal acquiescence in the view which was indicated in that resolution of the mine-owners.

W. Burns,  
Esq.

19 June  
1866.

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 MINUTES OF EVIDENCE.
 

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Thursday, 17th May 1866.

## MEMBERS PRESENT:

Mr. Clive.  
Mr. Dalglish.  
Mr. Algernon Egerton.  
Lord Elcho.  
Mr. Fawcett.  
Sir James Fergusson.  
Mr. George.

Earl Grosvenor.  
Mr. Gathorne Hardy.  
Mr. Jackson.  
Mr. McLagan.  
Mr. Edmund Potter.  
Mr. Alderman Salomons.  
Mr. Solicitor General.

LORD ELCHO, IN THE CHAIR.

Mr. GEORGE NEWTON, called in; and Examined.

1. *Chairman.*] WHAT is your profession, trade, or business?—A Potter.

2. Are you a working potter, or a master potter?—I am a manufacturing potter, on a small scale.

3. In Scotland?—Yes, in Glasgow.

4. In what capacity do you appear before this Committee?—I appear before this Committee as the secretary of a committee, composed of working men and representatives of trades, that was appointed to procure an amendment of the law relating to contracts of service between masters and servants, and the consequences of a breach thereof.

5. How and where was that committee appointed?—The committee was originally appointed in Glasgow, consisting of delegates from the trades. Then a conference of trustees was called in Edinburgh, and subsequently in London, and at the conference of the trades in London the Glasgow committee were appointed the executive committee of the movement, and authorised to take steps on behalf of the working men of the United Kingdom to bring about an amendment of the law.

6. So that the committee, of which you are secretary, was appointed at a general convened meeting of the delegates of the United Kingdom, and the conduct of this business was entrusted to that committee?—Yes.

7. The associated trades of London have no power, as the trades of London, to regulate your proceedings?—There was no such stipulation; the resolution is simply to the effect, that the Glasgow committee shall be the committee having the charge of the arrangements.

8. Will you shortly state to the Committee the objects of the association?—The objects of the association are to obtain such an amendment of the law as shall put the workman on an equality with the employer, as they are not at present placed in the eye of the law.

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9. By the law you mean the law regulating the relations of masters and servants?—Yes; that is the general object of the committee, with power, of course, to take such steps as seem to them best calculated to bring about such an arrangement.

10. There are several Acts bearing upon the relations of masters and servants; I presume that you come here to speak more as to the principle of those Acts than as to the bearing of the statute law or the common law upon this question?—More as to the manner in which those Acts operate upon the working classes.

11. The Act which chiefly bears upon this point is the 4 Geo. 4, c. 34, s. 3, is it not?—Yes.

12. Any prosecutions that take place are chiefly under that Act?—Yes, so far as I know.

13. You said that the object of the association is to effect an equality as regards the law between master and servant; that implies that at present there is an inequality. In what does the inequality between master and servant at present exist?—The inequality consists in this, that a breach of contract of service on the part of a workman renders him liable to a criminal prosecution, while a breach of contract on the part of the employer only renders him liable to a civil action for damages; the process also by which the one is brought before the court is very different indeed to that by which the other is brought before the court; while the servant may be dragged as a criminal to the bar, and not unfrequently is dragged there in that way; while he may be taken there manacled, the employer is taken into court as a gentleman; he is simply summoned there and treated with the respect which is due to mankind generally. Then again, the justices of the peace are of the master class. In that respect I think it is not hard to see that the parties are placed in very different positions.

14. You say that while the one party may be brought

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stead of being brought before the justices as at present, should be brought before the sheriffs in Scotland, or before the county court judges in England?—Yes; we want the jurisdiction in such cases transferred from the one court to the other.

62. Do you mean that it should go before the county court judge, whether a servant who had broken his contract should be criminally prosecuted, or whether it should be merely an action of damages which the county court judge should decide instead of the justices?—In the first instance it should be raised as an action of damages.

63. You wish the law to be altered?—Yes.

64. At present, as the law now stands, the justice can only deal with it as a criminal offence?—Just so.

65. He has no discretionary power?—He has no discretionary power, except to this extent, that he may punish by abatement wages. There are three things that the justice can do, he can send the offender to prison with hard labour and abate the wages, or he may abate the wages alone as a punishment, or he may dissolve the contract. We want the law so altered that a judge shall have the power of discriminating what is a civil offence, and what is a criminal one. The law precludes his judgment at present; he has no liberty of judging at all, because it is defined by the law; if he finds the offence proved at all, the law makes it a crime.

66. You want two things altered, you want the law altered as regards what constitutes a crime, and you likewise want the jurisdiction to be altered, and that it should be transferred from the justices to some legal tribunal authority, such as the sheriff in Scotland or a county court judge in England?—Yes.

67. *Solicitor General.*] I understood you to say, that you thought the judge should decide whether the offence was a criminal one or a civil one, and then I subsequently understood you to say that you thought that in no case should it be treated as a criminal, but as a civil question; how do you reconcile those two views?—There may be cases in which a neglect of duty in discharge of service may involve consequences which amount to a crime.

68. In some cases you admit that a mere breach of duty on the part of a servant might amount to, and ought to be considered as a criminal offence?—There might be cases of that kind, but they would be extreme ones.

69. *Chairman.*] I put a question to you with regard to the equality which you wished to see established between master and servant, and I asked you whether, in the event of the law being altered so as to make the process civil in both cases, you consider that they would be on an equality, upon which you said that you still considered that they would be on an inequality on account of the procedure being before a justice, instead of being before the sheriff or a county court judge. But what I wanted to bring out was this: whether you considered that, practically, the two would be on an equality, supposing the only resource of the master was a civil process, the master being a person who has effects, and the servant, probably, having none?—I think that, in ordinary cases, the workmen will be found to have effects; the great bulk of our workmen are married men with families, with household effects, and if the aim of the law is to punish for a breach of contract, of course there can be as

much punishment inflicted, comparatively, upon the workman as there can be upon the master; that is to say, so far as it will affect their circumstances, one can be liable to as much damages as the other. A man with 1,000 £, if that is his all, is no more punished if that 1,000 £ is taken from him than a man who has only a shilling, and that is his all, and is taken from him; it will bear as hard upon the one as upon the other; we can never expect that a workman should be able to pay damages to the extent of hundreds of pounds; but he might be made amenable to damages to such an extent as to teach him a lesson that he would not forget in a hurry.

70. Supposing damages were awarded, which he was unable to pay, and his effects, when sold, did not produce the amount required, should you consider, in such a case, that recourse might be had to imprisonment?—No. I consider, if you sold a man out, it is as much as you can expect from him.

71. Have you ever considered whether it would be desirable, in any change of the law, to give the power of arresting wages and following wages?—I would not interfere with the process of law for the recovery of debt or damages, whatever that might be. I have no wish to make an exceptional law for the workmen.

72. Might not cases occur in which a breach of contract by an individual, in a work of any description, might affect all those employed in that work?—There may be extreme cases.

73. Take your own trade, for instance; are there cases in your own trade where a man is in so responsible and important a position that a breach of contract, on his part, would not only affect the interests of the master very seriously, but might very injuriously affect all his fellow-workmen, and in fact practically, for a time, stop the works?—That might occur, but the same thing might occur by a person giving notice to leave, and leaving at the expiry of that time; if there were not a person found to fill the situation, the workmen, or the employer, would be just as injuriously affected as in the case of a party going away without giving notice.

74. Though you admit that such cases might occur, you do not think it necessary to legislate exceptionally for such cases, or with a view to the prevention of men breaking contracts, under those circumstances, to have greater powers than you have suggested?—No; I would not be an advocate for legislation for exceptional cases.

75. In your own trade what are the cases in which such consequences might arise from a breach of contract?—Those consequences might arise in various branches of our trade. We depend, to a considerable extent, one upon the other; the process, from beginning to end, being subdivided into branches, and there are some departments where one man has a considerable weight of responsibility attaching to him; but those are at present undergoing such a transmutation, in consequence of the introduction of machinery and various appliances, that in a short time those responsibilities will be almost at an end. There is one branch in which the workman is called the thrower; he produces the ware in a rough state, his work being the oldest form of getting up ware known in the trade; he makes the ware in an unfinished state, and a person follows him who is called a turner. The thrower can, in some cases, keep two



two men going: that is to say he can make as much ware as two turners will turn, and if the thrower neglects his duty it would be to the injury of those two men. That is an illustration where the responsibility would be great if the man discontinued his work. In the branch to which I belong myself, where the workman is called a jiggerman, whose work is an advance upon the system to which I have referred, because the ware is all moulded, and the man makes the ware complete, there is no responsibility resting upon him, whether he absents himself or no, as affecting other persons; and generally the same remark would apply throughout our trade. The thrower's is the case where the greatest burden of responsibility would rest upon the workman, in cases where throwers are employed in potteries.

76. I presume, in the glass trade, brickmaking, and in all trades more or less, there are cases where a breach of contract on the part of an individual workman might not only seriously affect the interests of the master, but would likewise affect those of his fellow-workmen?—It would not be so much the case in the glass trade. I cannot call to mind any trades where it would be the case. I have an intimate knowledge of glass making, and I am intimately acquainted with glassmakers, and I know that they can work on, supposing one of a squad to absent himself.

77. In your trade, what is generally the length of the contract?—In England it is a remarkable style of contract altogether; they are engaged every Martinmas by a verbal agreement in some cases, that they shall serve the employer from that time until Martinmas next year. The master may discharge the men upon a month's notice, but the workman has no power to leave on a month's notice, and workmen have been sent to prison for giving a month's notice, and leaving at the expiry of that time.

78. That is a private matter between master and servant irrespective of the Act?—Yes; that is the nature of the contract which they voluntarily enter into. In Scotland, in rare cases, they engage for a whole year; generally they work on a week's notice, some a month, and some a fortnight. I may state that there is one pottery in Glasgow which has changed from a week's notice to no notice, and from no notice to a week's notice, backwards and forwards several times. That shows that the employer in that case does not attach very much importance to the working of the notice. The system in Scotland generally is to work on a notice not exceeding a month. There are two potters at Glasgow who ask for a month's notice; there is one very large work where they ask for a fortnight's notice; the other to which I have referred asks for a week; so that there is a variety.

79. In some trades there are what are called minute contracts, are there not?—Yes; I understand that is the rule with the carpenters and joiners of Glasgow.

80. There is no such thing in your own trade that you are aware of?—Not at present; there have been such cases.

81. Have you any evidence that you can bring forward as to the operation of those minute engagements in other trades?—We can bring forward evidence of a negative sort; that is, that, so far as can be seen, no injury has accrued to employers through working upon that system.

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82. You do not anticipate that any evil would arise to either master or servant from such a change in the law as you contemplate?—I do not think that any evil would arise, but on the contrary, much good.

83. Suppose the case of a man who is in a responsible position, who is not a married man, who has no effects, and who chooses to break his contract and walk quietly off, the master is injured thereby, and his fellow-workmen are thrown out of employment for a time; do you think there ought not to be some other means of meeting such a case as that than what you have suggested?—There can be no doubt that it would be necessary to protect both masters and men from open and wilful violation of contract on the part of persons, knowing that they would injure their employers and fellow-workmen. At the same time, I think it would not be very difficult to make it a matter of degree as to the nature of the offence.

84. Have you any suggestions to offer to the Committee as to the mode of treating such cases as a matter of degree?—I have not considered the matter very fully, but I would admit that, in cases where, with the consequences clearly before his eyes, a workman wilfully violated his contract of service, and where his wilful violation brought suffering upon others, a case might be made out for his being punished severely; but that would be an exceptional case.

85. You have not considered in what way such exceptions should be made?—I have not drawn the line precisely as to where that sort of liability should begin.

86. I gather generally from your evidence that you think there ought to be a change in the present law; that, instead of a breach of contract on the part of the servant being made a criminal offence, as it now is, it should be made a civil offence; and that the jurisdiction should, in your opinion (supposing a change in the law made), be transferred from the justices to the sheriff or sheriff substitute in Scotland, or to the county court judge in England; but you consider that there may be cases with which it may be necessary to deal specially and exceptionally, such as those to which you have just referred; although you are not prepared to state in what way those cases should be more severely punished, and how they should be exceptionally treated. That is the substance of your evidence, is not it?—Yes.

87. Mr. Clive.] You stated, in the early part of your examination, that the justices were of the master class; you think that they are not the proper class to have the hearing of these cases?—I do not think they are.

88. You want professional lawyers to decide them?—Yes.

89. You mentioned that in your own case you were arrested and imprisoned for five hours while the trial of the other men was being proceeded with; in that instance you complain only of the arrest and the mode in which the law was about to be put in force?—Yes.

90. Can you give us any instance of hardship in your trade from imprisonment?—I can give a case of hardship that very recently occurred; I have a document in reference to it. It was the case of a journeyman potter, in the employment of a firm in Glasgow, who, having wrought at a description of work which was moderately remunerative, was ordered suddenly to go to another class of work which

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which had been usually given to apprentice boys. The effect of this change in his status was to lower his wages considerably, and he considered himself justified in refusing to do that work; he had some doubts whether he was legally bound to do it, and he consulted an agent or lawyer, with a view to getting advice as to his exact legal position; the agent took the matter into consideration, and advised him that he was not legally bound to manufacture that class of work. Some correspondence passed between the one and the other, and the result was that the employer, through his foreman, lodged an information upon oath in the usual way, in the procurator fiscal's back room, there being nobody to hear it, I presume, but himself, and the man was apprehended within the works upon an information which set forth that he had absented himself from work; he came there day by day, and offered his services in the capacity in which he had previously served, and he was always met with the reply, that unless he did this special class of work, which he thought he was not legally bound to perform, there was nothing else for him; he was arrested within the works and taken away by the sheriff's officer to trial. His agent attended to defend him; the case was adjourned from that day to that day eight days, when it was heard for a short time, and then adjourned again to another eight days; he was let out, in the interim, on a bail of 5*l*. The trial was a long one, occupying six or seven hours, from the evidence brought forward to show that it was the custom of the trade for apprentices to work at this class of work, and that it was a degradation of the man, so to speak, to put him to that class of work, and that the man was not guilty of an offence within the statute. The plea in law was set up, that the master had no right, at a moment's notice, to reduce the earnings of the workmen to about half, which it was calculated this would do. The plea in law were not admitted by the court, and the justice, having seen that it was a *bond file* dispute between them as to liability, said that he would convict, but would order the man to go back to his work, and work the month's notice, which was the time required, and thus implement his contract. The employer authorised the procurator fiscal, who was his agent on that occasion, to say that he refused to take the man back, and he demanded that the man should be punished. The justice, or the assessor in his stead, urged that it would not be fair to send so respectable a journeyman to prison, and was very indignant at the matter being insisted upon, but the procurator fiscal said that he had a painful duty to discharge, under the circumstances, and insisted that the man should be sent to prison, and the man was accordingly sent to prison for seven days. Of course the justice had power to send him for three months if he chose.

91. Mr. *M'Lagan*.] With hard labour?—Yes; if hard labour did not accompany the sentence it was liable to be quashed on that ground.

92. Mr. *Clive*.] That you think a case that ought to have been decided before a proper legal tribunal?—Yes.

93. With or without a jury?—Without a jury.

94. You would be satisfied that a competent legal authority, such as the sheriff in Scotland or the county court judge in England, should try such a case without a jury?—Yes.

95. You have been asked with respect to breaches of contract by single men (having no

effects) involving consequences to the property of persons; you think that such breaches might be considered criminal?—In certain extreme cases; I would have no objection to such cases being dealt with in the way in which cases are sometimes dealt with under the common law at present, that failing to procure a bond of caution, or paying the same that was decreed as due in consequence of the breach of contract, the man should be in some cases committed to prison till he found a bond of caution; he should be required to pay what the judge thought proper as a punishment, or find a bond of caution to implement his contract.

96. In the case of a single man who had no property to distrain upon, would you object to imprisonment in the event of his failing to execute his contract?—Yes, I would object to his being imprisoned.

97. Supposing the county court judge or the sheriff found 40*s.* or 20*s.* damages for the master, would you object to imprisonment in the event of non-payment?—I would not object to the same course being followed as is followed in England when a man is ordered by a county court judge to pay a certain sum per week; I understand that, failing to obey the order of the Court, he is liable to be imprisoned.

98. He is only liable to be imprisoned under certain circumstances; he is not liable to imprisonment for non-payment; should you object to imprisonment for non-payment of damages found by the county court judge or the sheriff?—I would not object to it.

99. Provided it were not accompanied with hard labour, and provided the case were not treated as a criminal matter?—Just so.

100. Mr. *Fawcett*.] Of course, there are very often cases of masters breaking contracts with the men?—Such cases occur very frequently.

101. You have been asked whether, in certain extreme cases, a man breaking a contract may not injure his fellow workmen; of course, you can conceive an extreme case, in which the master, breaking a contract with one man, may also injure the other workmen by that act?—Yes.

102. You have said that, in the extreme case of one man breaking a contract wilfully, and injuring others, you would not object to that breach being treated criminally; I presume, in the same extreme case, on the part of a master, you would wish the same justice to be meted to him, and that his act should be treated criminally?—I think I stated that; I object to workmen being treated as criminals at all; I would not object to imprisonment for failing to pay a debt.

103. I understood you to say that in an extreme case where the act of the workman injured others, you would not object to imprisonment?—I wish to be very guarded upon that point; unless the act amounted to almost an offence that is already held to be a crime in the eye of the law, I would not admit of its being punished criminally.

104. Do masters often break their contract, from the fact of trade being bad, discharging their men before the term of the contract has expired?—I am not prepared to say that they do; though I have seen many cases where the workmen were dismissed at once; there are so many grounds upon which it is legal for an employer to discharge his workmen, that it is very difficult to tell when an employer breaks his contract, unless it is actually reduced to writing.

105. Sir

105. Sir James Fergusson.] You put the question of criminality very much upon the ground of injury to others, do you not?—Pretty much so.

106. Take a case in which from the heaters in rolling mills declining to work, the whole of the mills are thrown out of employment; by the present law, those men would be liable to imprisonment, and the masters therefore would have the power of compelling them to resume work against their will?—Yes.

107. But if the men were merely liable to civil process and to a fine after civil procedure, such fine might be borne by the men of their trade, and there would not therefore be the same power in the master to compel them to resume work?—No; if men were organised to defeat the ends of the law in such a way as you suggest, it would not press with very great severity upon them, but with respect to the case you put of stopping the whole of the employment in the mills by the heaters leaving off work, the same thing would occur if the men even wrought the legal term of notice; there would be the same hardship put upon the rollers if the heaters gave the due notice to give up working; the rollers would find themselves in the same hardship at the termination of the notice, as they would by an abrupt termination of the work, such as you suggest.

108. It would be possible, would it not, for the masters to supply their places if they went at the termination of their notice?—It would be scarcely possible.

109. Would not the rest of the workmen, as well as the employers, be deprived of a remedy which they have at present if, in a widely extended strike, such as that which occurred in Glasgow about a year ago, where the heaters struck work, the criminal procedure was put out of the reach of the aggrieved persons?—They certainly would not have such power to punish.

110. There would not be the same power to rescue the other workmen as well as the employer from the consequences of those acts?—But the associations at present are able to diminish that power to a considerable extent; they can put upon employers a great deal of trouble by appealing cases to the superior courts; they can bring their united funds to bear upon the case, and they may put the master to a great deal of trouble and expense at present.

111. Take the case of a large work in which the men, at an indispensable stage of the work, refuse to work; by putting the law in force, and subjecting some of them to imprisonment, the whole of them are at present compelled to resume work; but supposing civil process to be substituted, the employer and the fellow-workmen would not be able to obtain the same remedy?—Clearly, if the putting of the law in force as at present induced the workmen to resume work; but the law, as now put in force, is almost defeated by the workmen; in a great many cases it has not the effect of frightening the rest into obedience to the master's demands.

112. Have there not been cases in Glasgow, within your recollection, where the men engaged in an important branch of a particular trade have been compelled to resume work which they have left, by criminal proceedings being taken against some of them?—They may have been led in some cases to reconsider the position in which they were placed and resume work, but in the case I gave to the Committee of my own personal experience it had not that effect, for not one of us

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resumed work until the prosecution was withdrawn, and we who were brought to trial were only three out of 16.

113. Do you wish that the sheriff should have the final decision, and that there should be no appeal from him to the Court of Session; I would not object to the sheriff having the final decision, having confidence in his knowledge of the law, and in his administration of it.

114. Mr. M'Lagan.] In the case which you mentioned of the journeyman potter being apprehended and imprisoned, I understood you to say that the justice of the peace was disinclined to imprison such a respectable man; was it by the advice of the procurator fiscal that he was imprisoned?—The procurator fiscal, acting as the agent of the employer, insisted that he should be imprisoned, he was not there in his official capacity.

115. Did I understand you rightly to say that you disapprove of notices?—No, I do not disapprove of them; those are matters which we do not propose to interfere with, as they are contracts between employers and employed.

116. Are you aware that in certain trades the employers give the workmen houses to live in while they are in their service?—It depends upon their circumstances; if they are out in country districts it is almost indispensable that they should build houses for the workmen.

117. Is not it the case that very often those houses are half furnished by the employers?—I am not aware that they are.

118. Do not you know that they have beds in them very often?—The common way of arranging the bed is to introduce it between two brick partitions, one erected at six feet distance from the wall at the side of the house; a board being put across to bear up the mattress.

119. Is not it the case that very often there is very little furniture for the master to seize upon in the event of the workman not implementing his bargain?—Yes; you can scarcely call that furniture at all; those beds are usually in what is called the kitchen. Perhaps you are aware that in Scotland generally the workmen do not have more than two apartments.

120. And very often only one?—Yes; but any journeyman worth having almost always has a pretty neatly furnished room, the furniture of which would be of considerable value; he would have a chest of drawers, representing, perhaps, from 4*l.* to 6*l.*, or 9*l.*; a bed which may be valued at 2*l.* to 3*l.*; half a dozen or more of hair-bottomed chairs, which would represent 10*s.* or 12*s.* each; a carpet; and, if inclined for literature, there would be a book-case, and a number of books; representing altogether, in many cases, upwards of 20*l.*, and not unfrequently 30*l.*

121. I am referring principally to colliers; they have not so much as that generally speaking, have they?—I have not visited colliers' houses much; I have seen an immense display of "loudly" decorated pottery generally, but whether they go in for furniture I am not prepared to say; I know there has been a great improvement in that respect of late years.

122. You said that you knew a great deal about the glass trade; do any of those workmen whom you represent belong to the glass trade, as well as the pottery trade?—We have a representative amongst us, who represents the glass trade, but he is not a practical glassmaker. The difficulty in getting glassmakers to attend is that they have no night in the week except

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Friday and Saturday; they work six hours on, and six hours off, from Monday morning to Thursday evening, or early on Friday morning, so that it is not possible for those workmen to attend the meetings except on Friday and Saturday, and the meetings are generally held in the beginning or middle of the week.

123. Is it not the fact that workmen in the glass trade are very much dependent upon one another?—The most important workman in the glass trade is he who finishes the work, and he, having passed through all the grades of the manufacture, can do it all himself, from top to bottom.

124. Take the black bottle trade?—I do not see that there is any particular difficulty about that; it is not such an artistic occupation but that any person who can blow a bottle can finish it.

125. Is not it the case in the black bottle trade that the one branch is so dependent upon the other that, if one man were to leave, the whole work must stand still?—If the teaser who keeps the furnace were to run away, the whole would stand still, but anyone could put coals into a furnace.

126. Is there not a great deal more in the teaser's work than putting coals in the furnace?—Yes.

127. Supposing the teaser to leave two or three hours before the metal was required, and the men came on, say, at six in the morning, to blow the bottles, and they found no metal ready for them, would not those men be thrown out of work for two or three days?—I do not know that they would be thrown out of work for two or three days, but they would be put to disadvantage; but the glass bottle workmen are very irregular in their work, and it would be merely postponing doing the work for an hour or two, a thing that occurs ordinarily in the regular process of manufacture; it would just be the inconvenience of an hour or two. I cannot conceive any greater misfortune occurring.

128. Are you not aware that the metal is required to be kept at a regular temperature, and that a skilled man is required at the furnace in order to do that?—I am aware that the metal requires to be kept at a given temperature, but I never saw a teaser that I would call a skilled workman at all, and I have seen a great number; the men who I have seen at that occupation have been put to it principally because they had great strength, and could endure the fatigue, the teaser not requiring much previous instruction. There is no branch of manufacture in which the workman does not require to know something that a stranger does not know.

129. The teaser requires a little teaching to know the proper temperature to keep up?—Of course.

130. Mr. Alderman *Salomons*.] Your object is, that there should be the same law for the master as for the workman, and that, under no circumstances, should the workman be punished criminally for any breach of contract?—That is what we want.

131. With respect to the case of the journeyman potter who was taken up and imprisoned, what was the nature of his contract?—Simply the rules of the work; there was no contract at all but the rules of the work; and that is one of the objections we have, that the master can make a contract like that, and prescribe in the contract

the penalties which a breach of it will incur, and yet, not content with the stipulations of his own contract, he can rush into court and send a man to prison for a breach of contract, the penalties for the breach of which he prescribes in his own contract.

132. We are to presume that the workman is a free agent, the same as the master; did the master in that case attempt to do anything but enforce the contract, which he and the master had come to?—There was no contract except the rules which were hung up. Some of the judges have held that it is sufficient, if you walk past the rules, no matter whether you read them or not, if you take off your coat and begin to work under them, you are just as liable as if you had read them.

133. Was it proved, in that case, that the master had work of a proper kind to give the man, and that he wilfully gave him inferior work?—It was not attempted to be proved that he had other work.

134. Assuming the master had not that proper work to give him, what, in your opinion, should the master have done?—From all I could see there was no necessity for changing the work at all.

135. Supposing there were not sufficient of that work to go on with, what should the master have done. I presume the man was engaged by piece-work. You say, he ought not to have had the inferior work given him to do; supposing the master had not sufficient of that better kind of work to go on with, what should he have done?—He should have kept the man working at the class of work to which he was entitled, and have given him notice to quit if he had not that class of work to continue him at.

136. And pay him a compensation in wages, you mean?—No; he would be under no obligation to pay the man more wages than he had wrought for.

137. You suggest, that the remedy of the master against the servant should be by civil process. Suppose the master brought a civil action against the man, and the man had not any property, what then?—The master would have the man's wages to fall back upon; he would work somewhere.

138. Do you mean that you would mortgage the man's future wages?—Yes.

139. Would not the effect of that be to make the man almost a slave; would you, supposing a workman got into trouble and then went into the service of another employer, impound that man's wages?—At present the sheriff has the power to arrest a man's wages; a man must work, and it would be a very extreme case to suppose that a man would run up and down the country for the purpose of evading any such arrestment of his wages.

140. Supposing a man should make preparation to go to France or Australia, would you suggest that the law should interfere to prevent his going away and cheating his employer out of his damages?—I do not know how the law stands in England as to that, but we have a law in Scotland under which persons who meditate fugitation can be prevented from going away.

141. Mechanics have a great objection to being sent to prison, have they not?—Yes.

142. It affects their character?—Yes.

143. Is not there an indisposition among the workmen to work with a man who has been sent to

to prison?—Not where a man has been sent to prison for a breach of contract; the only feeling in such a case is commiseration for the person who has been punished under an unjust law, and he is looked upon more in the light of a martyr than in the light of a person who was a criminal.

144. It irritates his fellow workmen, but they would have no objection to work with a man who had suffered such a punishment?—No, not the slightest.

145. Mr. George.] These proceedings by master against servant are taken under the 4th of Geo. IV., c. 34, are they not?—As far as I know.

146. They may be taken before a single justice?—Yes.

147. Are they ever, in practice, taken before more than one justice?—It depends on how the bench is constituted; sometimes two or three tumble in by chance.

148. There may be one, or there may be more?—Yes.

149. Those justices, you say, are occasionally masters?—Yes; I say that in the manufacturing districts they are almost invariably masters; they are always of the class which is predominant in the district of country in which they reside.

150. I do not understand you to say or to complain that any master, being a justice, ever attempts to adjudicate in his own case?—No.

151. But you object to any justice who is a master adjudicating?—Yes.

152. Would you object to those cases being heard before a justice of the peace, an ordinary country gentleman who was not a master?—I would; because I do not think, as a rule, justices of the peace are sufficiently versed in law to administer it in these cases, with the requisite precision.

153. Is not there jurisdiction in the country magistrates to consider all cases of dispute in respect to agricultural and other wages, the dealing with which is not supposed to require any very great knowledge of law?—I am aware that country gentlemen are competent to sit as judges in matters affecting agricultural service, and I presume that they are not required to have much knowledge of law. That is one of the things we object to.

154. Do you consider the adjudication of these cases between masters and servants, under these statutes, to require more knowledge of law than the adjudication of cases of disputes about wages in agricultural matters?—Yes, I think they require a greater knowledge of the law.

155. Is it on that account that you suggest that they should be heard in Scotland before the sheriff, or the sheriff substitute, and in England before the county court judge?—It is not exclusively on the ground of want of legal knowledge, on the part of country magistrates, that we object to their adjudication upon the cases; we object upon the ground that, whether they are adjudicating cases between agricultural servants and their employers, or between other workmen and their employers, they are appointed out of the class of persons who bring the complaints before the justice; and it is not impossible that the party complained against may suffer in consequence of his having no representative upon the bench, there being no chance of a workman being a justice of the peace.

156. Do you find from your experience in 0.71.

other transactions of life, that because magistrates are of a superior class they are incapable of adjudicating fairly between a man of their own class and a man, not inferior in reality, but inferior in rank?—I do not feel at liberty to make such an accusation as that.

157. However, you would prefer that the sheriff or the sheriff substitute in Scotland should be the tribunal that should have jurisdiction in these cases; is the court of the sheriff a constantly sitting court?—The sheriff or his substitute has stated times of sitting; the court sits constantly, so to speak, in one or the other part of the district. In Glasgow, for instance, the sheriff can be had recourse to on any day.

158. But in a country district, or a place distant from a town, how often, generally speaking, does the sheriff substitute hold his court?—I am not prepared to speak as to that.

159. Every week?—More frequently than that.

160. Assuming that a man was summoned for a breach of contract as between him and his master, might it not be very inconvenient not to have an easy tribunal available, so as at once to settle the dispute between the master and the servant?—I can conceive that inconvenience might arise from delay in bringing about such an arrangement as would cause the party complained against to resume his work and fulfil his obligations; but I can conceive that, under the present system, the master may be as much injured as in the case you suppose. If the object of the master is to get the man to resume his work, sending him to prison for three months would not be the way for him to gain his object.

161. You assume that the servant is to be sent to prison for three months; are there not a great number of cases tried or heard between master and servant where no imprisonment whatever takes place, but where the case is amicably settled between master and servant before the justice?—I know that there are a number of cases in which imprisonment does not follow the process. Documents which are presented annually to the House will show that the number of complaints are not the same as the number of convictions, showing that in all cases imprisonment does not follow conviction.

162. Do you not think it very desirable that there should be a permanently sitting tribunal, before which those small cases between master and servant could be promptly, possibly amicably, but, at all events, promptly, adjudicated upon?—I do not consider that any great hardship would arise from waiting the regular return of the sittings of the court in various localities. It must be borne in mind that in all, or nearly all, manufacturing districts there are large populations gathering round the seat of manufacture, and courts must necessarily be held at frequent intervals there; and when we consider that the number of cases in country districts are so very few as compared with those occurring in the manufacturing districts, I do not see that any great difficulty would arise in consequence of the court not sitting from day to day.

163. Suppose a trifling dispute arose between master and servant, upon the adjudication of which depended the resuming of the work of a number of workpeople, might not very great inconvenience occur by even three days elapsing before that trifling dispute could be adjudicated upon?

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upon?—I can conceive that inconvenience might arise.

164. You complain that masters and servants are not on the same footing, and you object to a warrant being issued in the first instance; would you object if a summons were issued in the first instance, power being given to issue a warrant in case of non-attendance upon that summons?—I would not object to that.

165. You object to the first process in every instance being in the nature of a criminal process; that is to say, a warrant for a misdemeanour?—Yes; in a case where the party did not respond to the summons, of course he could be apprehended for contempt of court.

166. Is it considered by the working classes that all the cases which are prosecuted under this Act of 4 George IV. are in the nature of misdemeanours. The words of the Act are, if they should be guilty of a breach of contract, "or of any other misconduct or misdemeanour." Is the idea among the working classes that all transactions which are adjudicated upon under this Act are in the nature of criminal offences?—Of course they are bound to consider them so, because they are brought under the criminal law, and there is no appeal but to a criminal court.

167. You have already stated, and very correctly, that there is a threefold power given to the magistrates, that he may either commit the party to the House of Correction and abate his wages, or, in lieu thereof, he may punish the offence by abating the whole or any part of his wages, or he may discharge him from his contract. Supposing, instead of that power of abating the wages from time to time, there was power given to the magistrate, if he found it to be a mere civil matter, to impose a penalty of, say, 40s., or whatever might be considered right or proper; would that meet the view you take of its being more in the nature of a civil than a criminal matter?—Yes, that is what we would propose; to have the penalty defined in money for a breach of contract.

168. I understand you, on the part of the workpeople, to say that inasmuch as there are a great number of those dealings between masters and servants that are purely of a civil nature, you think it hard that they should be all treated as misdemeanours under this statute; and that there ought to be a distinction in the summoning, in the mode of treatment, and in the punishment, between those matters that are purely breaches of contract of a civil nature, and those that would savour of misdemeanours or crimes?—Exactly, that is what we mean.

169. Mr. *Algernon Egerton*.] You say that in most cases the only contract between masters and workmen consists in the rules being posted up in the works?—Yes, when I say that I speak only of Scotland.

170. Are you aware that that is the case generally in collieries, that the contract consists merely in the rules hung up in the pay place at the colliery?—Yes, that is the case, I understand.

171. Those rules frequently specify certain money penalties, do they not?—Yes.

172. You consider that the penalties prescribed by those rules should be the only penalties to which the workmen should be liable?—I consider that if the master defines the obligation under which the workman is to serve, and if he defines that a breach of that obligation shall be met by a

penalty of a certain amount, he ought to be satisfied with that sum which he himself names.

173. Where a man cannot pay the money which he owes to his master, you have no objection that the master should be at liberty to proceed against him according to the ordinary rules of law for the payment?—As I understand, the rules of factories give power to the employer to deduct from wages in his hands.

174. They give him no further power?—There is no further power necessary than to confiscate the amount which the rules set forth.

175. Do I understand you to recommend that the law making a breach of contract a misdemeanour, should be entirely abrogated in all cases?—Yes, to the extent which I have indicated in my previous answers.

176. Mr. *Potter*.] You made use of the word "manacled;" did you ever see a workman brought up manacled?—No; I have never myself seen a workman brought up manacled.

177. Mr. *Solicitor General*.] You said just now, in answer to a question, that you would define misdemeanours to the extent to which you defined them in your previous answers; I did not quite understand your previous answers; I wish to know whether or not you adhere to what you said to me some time ago, that certain breaches of contract of an extreme character should be treated as misdemeanours?—Certain extreme cases.

178. In certain extreme cases you would treat a breach of contract as a misdemeanour?—Yes.

179. Will you give some definition of those extreme cases; you do not suggest that every breach of contract should be treated as a misdemeanour, but you say that some breaches of contract should be treated as misdemeanours; what sort of breach of contract do you suggest should be treated as a misdemeanour?—In cases where neglect to perform the duty imperilled the lives of persons; that would amount almost to a crime.

180. Would you go further or not; would you say that a neglect of duty which was calculated to imperil property to any considerable extent, should be treated as a misdemeanour?—Neglect of duty might occur, the consequence of which would be a risk of setting property on fire.

181. That is rather vague; would you call the neglecting to use the safety lamp in a mine a misdemeanour; is that what you have in your mind?—No; I do not know anything about matters underground.

182. What had you in your mind when you talked of neglect of duty being likely to cause fire?—I have no clearly defined idea as to what neglect of duty would amount to a misdemeanour; for instance, a man in charge of boilers might neglect to conduct the operations entrusted to him, the effect of which would be to imperil the lives of the workmen.

183. That would come under the head you have given before of neglect of duty calculated to imperil life; are you inclined to go any further?—No, I am not inclined to go any further.

184. However great the inconvenience caused, or however great the distress caused, by any amount of breach of duty, both to employer and labourer, you would not make it a criminal offence?—No.

185. You would only make those neglects of duty criminal which were calculated to imperil life?

life?—All civil obligations should entail civil consequences only.

186. I ask you what neglects of duty you would class as misdemeanours, and you say those calculated to imperil life; do you confine yourself to that, or do you go further, and make any other neglects of duty crimes?—I am not prepared at present to define anything further.

187. You said to the chairman that there might be cases where neglect of duty would tend to throw a great number of men out of employment and injure the master's property, and you would treat those cases exceptionally; will you explain in what sense you used the word "exceptionally"?—As an illustration of what I mean, persons may be in charge of machinery which, if neglected, would smash and throw the whole of the workmen out of work; that would be an aggravated case. It would depend upon the degree of neglect whether a person should be liable to be imprisoned or not.

188. In such a case as that which you put of neglect to attend to machinery causing the smashing of the property, would you treat such a neglect as criminal?—I am not prepared to give a decisive answer upon that subject.

189. Would not it be proper that the precise class of offences or breaches of contract which should be regarded as criminal should be defined by a statute rather than be left to be determined by the judge in each particular case?—I think that it would be best to define them by statute.

190. You used one expression which seemed to be a little vague; you said that you would not allow any breach of contract to be treated as a misdemeanour, unless it amounted almost to an offence under the ordinary law; will you explain that a little?—In Scotland a neglect of duty imperilling life amounts to what is called culpable homicide.

191. We know that carelessness leading to a loss of life may amount to manslaughter; if a man drives carelessly over you, that is manslaughter; we are not dealing with the ordinary law, but with the creation of an offence by statute; do I understand you to say, on further consideration, that you would not interfere with the ordinary law, but that only in those cases where the ordinary law would create a criminal offence, you would make a breach of contract or neglect of duty a criminal offence?—To the extent which I have indicated already; at the same time I think that the same judge who should consider the amount of damage to be awarded in case the complaint was in the nature of a civil action, should have jurisdiction in respect of criminal punishment.

192. I understand your evidence to amount to this, that you do not go beyond making a neglect of duty calculated to imperil life a criminal offence?—I do not go beyond that.

193. As to making a neglect of duty tending to injure property a criminal offence, you do not give a decided opinion?—Not a decided opinion.

194. Mr. *Gathorne Hardy*.] I understand you to say that you represent a society at Glasgow?—It is not only a society but a number of societies.

195. But you represent, first of all, a society at Glasgow, and you come here as a witness for that executive committee which was appointed at a conference of the trades?—Yes.

196. Do you represent them as to the grievances to which you have referred only, or as

to the remedies, also, that you have suggested?—I represent them as to the grievances, and as to the remedies also.

197. I take it that you have authority to state, on the part of those trades which you represent, that what you desire is that the power of laying an information for a criminal offence for a breach of contract should be done away with absolutely?—Yes; I have authority to state that that is one of the objects they have in view.

198. That the mode of proceeding should be an ordinary civil process, obtaining a summons from the county court judge in England or the sheriff in Scotland?—Yes.

199. And that it should be treated as a civil action in each case?—Yes.

200. That if the servant were injured he should bring his action, and if the master were injured by the breach of contract on the part of the servant, he should also bring his action?—Yes.

201. Supposing the case of a person in your own trade, whose absencing himself from his work would stop the work of two other persons, would you allow those two other persons to have any remedy against him?—Yes.

202. By the same process, by action?—By action for damages.

203. Supposing a master has, by one or two servants absencing themselves, lost the power of fulfilling a contract which renders him liable in damages to a considerable sum of money, in what way do you propose he shall get redress for that?—I cannot offer him any other redress than the means of the persons who have broken the contract.

204. Supposing they have no means?—Of course, all contracts such as that are entered into without consulting the workman at all as to their duration.

205. You said that in case a workman had no effects you would not object to imprisonment?—Till he should find caution to fulfil the order of court.

206. In some of the questions put to you a distinction was made between married and unmarried men; but in both cases you would require a bond of caution, relieving them from that imprisonment which you think ought to be inflicted if they did not pay what they were ordered to pay?—I would not object to that.

207. You would not exempt the unmarried man from the bond of caution if you inflicted it upon the married one?—No.

208. Do you think that it would be a beneficial thing for the workman that, instead of the present process, the master should have the power of selling him up absolutely by distress warrants for the whole damages that the county court might inflict upon him?—I think it would be very advantageous, compared with the present system.

209. Assuming that this mode of dealing with the cases which you suggest were adopted in England, you know, I suppose, that the county courts sit, probably even in large places, not continuously?—I am aware of that.

210. You would agree, I suppose, also, that promptitude in those cases is of the very greatest importance very often?—Yes.

211. Has it happened to come to your knowledge that many questions of law have arisen in those cases of breach of contract between master and servant?—It has come to my knowledge that questions of law have been raised before a justice with very little effect.

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212. In England a workman would always have the power of getting a case stated for the courts above, would he not?—Yes; that is not the case in Scotland.

213. If the case were left to the county court judge or the sheriff, would you be content that the decision should be final?—Yes.

214. Would you take the same view of the case if it were referred to a stipendiary magistrate?—I cannot speak as to the legal qualifications of the stipendiary magistrates; I have no knowledge of them.

215. In an answer you gave very recently, you spoke of getting those damages from a workman by following him to future masters; do you think that would be a practicable proceeding?—Yes, I think it practicable.

216. Is there anything to retain a workman in a particular neighbourhood, or to compel him to get employment in a particular place?—Yes; his necessities.

217. Take your own city of Glasgow: suppose a workman to have broken his contract in Glasgow, and to be ordered by the sheriff to pay so much a week of his wages to his master, what is to prevent him seeking for work in any part off England?—Nothing.

218. In what way do you propose that his wages should be followed up?—There should be a power in the statute to render the decision of the judge in Scotland as valid in England as it would be in Scotland, and *vice versa*.

219. I am looking at it, not as to the law, but as to the practice; who is to follow up a man of that sort, who is seeking work wherever he can get it?—The party who has the claim against him.

220. Do you think that that would be a practicable proceeding?—I think, in general cases, it would be perfectly practicable. In most cases it would not be necessary, because it would be only that class of individuals, vulgarly designated "roughs," in whose cases it would be necessary to do that.

221. They would be the ones most likely to break their contract?—They would be most likely to break their contract, certainly.

222. With regard to the Scotch law, in that particular case to which you referred, the procurator fiscal urged upon the magistrate that he should inflict the punishment of hard labour and imprisonment?—He urged that the man should be sent to prison, hard labour being a necessary accompaniment; he did urge that the man should be sent to prison.

223. Has the procurator fiscal any power to dictate to the magistrates what punishment they should inflict?—Not that I know of in the law; but it showed the ignorance of the justice as a legal gentleman, that he did not know it himself.

224. Sir James Fergusson.] Is not it the case that the practice in the courts of Scotland, is for the public prosecutor to press a certain portion of the charge, and to press for punishment upon the higher or the lower scale?—That is the practice; but it was not followed in this case.

225. Mr. Hardy.] Is there anything in the law of Scotland to prevent the magistrate saying, "I order you to be imprisoned for an hour"?—Nothing in the world; he might have said, "I order you to be imprisoned till the court rises."

226. In this particular instance, you consider

that the fault on the part of the magistrate was, that contrary to his own judgment, he was led by the procurator fiscal to do more than he thought just?—Yes; I consider it was in consequence of the ignorance of his own power he did that. It was with great reluctance that he did it at all.

227. Was that a single magistrate?—Yes.

228. You wish to take cases of breach of contract out of the category of criminal offences; would you object to treating actual misconduct, as, for instance, a man carelessly using machinery, as a criminal offence?—I have already stated that I am not prepared to give a decisive answer relative to carelessly using machinery, unless it amounted to imperilling human life, but I would have the entire law reconsidered, and a statute, civil in its nature, enacted, which should define the offences and the mode of dealing with them, so that it should be all within one single statute, which it is not at present, so as to have the thing easily understood.

229. In the first place you wish to put all the law relating to master and servant in one statute?—Yes.

230. Secondly, you would put masters and servants on the same footing as to bringing actions one against another for breach of contract?—Yes.

231. And thirdly, in certain extreme cases, not at present defining what they are, you would still give power to punish a workman criminally?—Yes.

232. Mr. Fawcett.] If a master imperilled life, would you have him punished criminally?—Yes.

233. Mr. Hardy.] I do not understand you to mean that the county court judges should have power to deal with the criminal part of the offence in any way; that would not be their business at all?—They might have this power given them, that they should commit to the criminal court; that is a matter for legal gentlemen to define; that is a matter of procedure.

234. Your great object is to get rid of the disgrace to the workman of being brought up as a criminal in the same way as if he had committed a theft?—Yes; that is the legal aspect of the question; and an object to be gained in a moral point of view is to keep our workmen (who, some people appear to think are bad enough already), from being made any worse by being sent to harbour with thieves and robbers in prison.

235. Chairman.] You have said that you would propose that such cases should be dealt with by summons and not by warrant, but that failing appearance on the summons a warrant should be issued; what would be the shortest period that you think should elapse between the summons and the issue of the warrant?—On his failing to appear at the time specified in the summons, a warrant should be issued.

236. What length of time would you allow for his appearance; within what time of the breach of contract would you have him summoned to appear?—As quickly as possible.

237. Immediately on non-appearance the warrant should issue?—Yes; it should be as quick as possible, because the interests of the workman might be as adversely affected by a length of time elapsing between the committing of the offence and the hearing of the complaint, as the interests of the masters, comparatively speaking.

238. What trades were represented at that trades'



trades' meeting which remitted to the Glasgow committee the taking of further steps to bring about an amendment of the law?—All the trades of Sheffield were represented by the secretary of the organised trades of the Sheffield Association. The plasterers of England were represented as a trade; the iron-moulders of England were represented as a trade; the trades' council of London, which comprises various trades, were represented by two persons; the amalgamated engineers were represented by delegate sent specially; the united trades of Glasgow, who have a trades' council too, were represented by myself and another person who will be a witness.

239. Were the miners represented?—Yes; both nationally and sectionally. The operative bakers of Scotland were represented by their secretary.

240. How many representatives altogether met?—I do not remember the precise number; I have not a copy of the report with me at present, but it may be said to have included the whole trades of the country.

241. With a view to ascertaining the views of the trades upon this question, would you advise the Committee to examine those representatives as the fittest and best exponents of the feelings of the particular trades?—I am not sure that any good purpose would be served by having them all called up and examined. I am afraid the inquiry would be a very lengthened one if they were to be all examined.

242. I meant a selection from them?—A selection from them would represent the views of the whole.

243. Were there any representatives of the factory workers there?—No.

244. You have said that you yourself have never seen any servant manacled; have you known of any such case?—Persons who have seen it have told me that they have seen it.

245. Mr. Clive.] Your evidence as to the proceedings taken by masters against servants is founded on your experience in Scotland entirely, is it not?—Not exclusively.

246. Are you aware that in England a county court need only sit once a month, and that in very many parts of England it only does sit once a month?—I was not aware of that.

247. What should you propose should be done in a case where a complaint arose in a locality where there was no stipendiary magistrate, and where perhaps it might be a month before any legal tribunal could be had recourse to?—I cannot suggest anything else but that the people must put up with the circumstances in which they are placed.

248. Would not that make a great difference in the civil remedy?—I do not see it.

249. Ought it not to be immediate?—I think, as far as practicable, it ought to be immediate.

250. But if not practicable, what then?—I do not see but what it is practicable.

251. You would make the county court sit every day?—No; but if the county court judge only sits once a month, perhaps it would be no great hardship for him to do a little more work.

252. Suppose he has 30 places to sit at?—If it is necessary to have more judges, let us have them, rather than that any person should suffer unjustly.

253. Sir James Fergusson.] Are you aware that in most parts of Scotland these cases generally come before the sheriff?—I am not

aware that they do; it is not competent for him, except as an *ex officio* justice of the peace, to hear them.

254. But still, as an *ex officio* justice of the peace, in most parts of Scotland, is not it the practice to take these cases before the sheriff?—I never knew of a case being taken before the sheriff.

255. Are you aware of the difference in the law of master and servant caused by the Summary Procedure Act for Scotland, passed two years ago?—Yes, I am slightly aware of it.

256. I mean as regards the distinction between civil and criminal procedure?—I am aware that the Summary Procedure Act goes into some definition as to the proceedings, but I have not it in my memory at present.

257. Is not it the case that a breach of contract is now only regarded as a criminal offence in respect to the injury it does to an individual?—No, that is not the case; it is not only in respect of the injury it does; it is not necessary that it should be proved that any injury has been done at all.

258. Is not it necessary, in order to constitute it a criminal offence, that it should be proved that injury has been inflicted upon an individual by the breach?—I have said it is not necessary to prove that there has been any injury inflicted.

259. You complain, do you not, of the taking away of the power of appeal on the merits, under the Summary Procedure Act?—It was not competent to appeal on the merits of the case previous to the passing of the Summary Procedure Act; but the Summary Procedure Act most effectually bars appeal under almost any circumstances.

260. You are deprived of an appeal by putting an end to the keeping of a record?—It was not necessary to keep a record in cases of this sort before; the Summary Procedure Act is so much the worse, inasmuch as, if I am correct in quoting from memory, it states that no conviction under this statute shall be quashed for want of form, or conformity to the terms of the statute libelled; previously if the magistrate or justice, or whoever tried the case, did not go about it in the precise terms dictated by the statute the proceedings were liable to be quashed, but the Summary Procedure Act shuts up this back door of escape which was formerly open to us.

261. Is not it the case that an appeal lies upon points of law, and not upon points of fact?—So far as regards these cases we have no appeal upon points of law.

262. You wish to have a record of the evidence kept, and to have an appeal open to you on all points?—Yes, if this statute were to continue in operation; but if the law were amended as we suggest we would not ask anything of that sort.

263. Supposing a change were made in the law, you would wish to have an appeal on all points?—Of course, we want an appeal from a court that can scarcely be called legal to one that is legal.

264. Mr. Hardy.] Would it make any difference in your view if, instead of giving the power of sending the case to one justice alone, it were given to two or more sitting together?—Yes; if workmen were justices.

265. Workmen are not county court judges either?—No; but the view which I take is this: if interested classes, such as the justices, are to be judges in cases arising under these statutes,

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in order that the judgment should be fair, the tribunal should be a mixed tribunal. Though the justice may be the instrument through which the judgment is supposed to be pronounced with us, it is commonly the assessor that delivers it.

266. By the assessor, you mean the legal adviser?—Yes, the legal adviser of the bench.

267. Mr. *George*.] Previously to the issuing of the warrant in Scotland, is there any information sworn as to the nature of the misconduct or misdemeanour for which the warrant is sought?—Yes.

268. Sir *James Fergusson*.] The practice which you speak of with regard to the assessor or clerk is this, is it not: the clerk takes the decision from the justice and reads it out?—I cannot speak as to the custom in any other courts than the court in Glasgow, nor can I speak as to the custom there; but I can speak to what I saw on the occasion to which I referred; the justice and the assessor retired and came in again, and I heard the assessor say, "Shall I deliver?" and the justice signified his assent by a nod, and the assessor spoke for the justice.

269. Mr. *Dalglisk*.] As I understand, the magistrate having found the case proven, is obliged under the Act to inflict a certain punishment, he has no power of reducing the punishment; the magistrate is obliged to send the party to prison for a certain number of days?—The opinion of the second highest judge in Scotland is that that is not the law of the country.

270. However, that is the practice?—They believe that to be the law and have acted upon it.

271. Mr. *George*.] Is not the express direction of the Act, that the judge may not only send the party to the house of correction, but may, in lieu thereof, punish the offender by abating the whole or any part of his wages?—Yes; I will read as a sample of how the law is propounded to the justices, an extract from the complaint in the case of the journeyman potter to which I have referred: "The said David Thomson is liable to be committed to the house of correction, there to remain and be held to hard labour for a reasonable time, not exceeding three months; and to have abated a proportionable part of his wages for such period as he shall be so confined." You will observe that the prayer of that petition sets forth that the person is liable to all the punishments provided by the statute together; there is no alternative stated; the conviction in that case was quashed on that ground that the alternatives were not stated, and that it was to the prejudice

of the party complained against, that they were not so stated.

272. Mr. *Dalglisk*.] Is not there another Act besides the one which has been referred to, under which proceedings are taken?—There are proceedings at common law.

273. Mr. *Algernon Egerton*.] There is an Act earlier than that of the 4th of George IV., but not acted upon?—I have never known a complaint in Scotland to be founded upon any other statute than that of the 4th of George IV.

274. Mr. *Hardy*.] The sentence in the case to which you have referred I see is, that he is to be imprisoned and held to hard labour for seven days, and a proportionable part of his wages is abated during that time. That is in accordance with the Statute?—Yes.

275. But the magistrate had the power, if he pleased, not to have sentenced him to prison at all, but to have abated his wages?—Yes, or to have discharged him.

276. Mr. *George*.] The magistrate has the alternative either to imprison him for a reasonable time, not to exceed three months, and to abate his wages, or in lieu of that he may punish the offender by abating the whole or any part of his wages?—I know that those are the terms of the Statute.

277. Therefore the magistrate is not in any case bound to send the offender to the house of correction for one hour?—He is not bound to do so.

278. Mr. *Dalglisk*.] You would not propose, by any new Act, to withdraw workmen from the penal consequences of wilful damage to property?—In answer to a previous question, I have said that I do not find my mind quite made up as to where the line should be drawn.

279. A man would be punishable under the common law for wilful damage to property?—Yes, of course.

280. You do not propose to withdraw the man from the operation of that law?—No.

281. Mr. *Hardy*.] Your whole evidence is addressed to breach of contract, practically?—Entirely.

282. *Chairman*.] You do not address your evidence to the Act of 17 Geo. III., chap. 56, for instance, which applies to the embezzling and pawning of materials given to the workman to be made up?—No, that is next door to stealing. I would let crime be treated as crime, but I would have civil obligations treated civilly.

Mr. ALEXANDER CAMPBELL, called in; and Examined.

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283. *Chairman*.] WHAT is your profession?—I am Editor of the "Glasgow Sentinel."

284. That newspaper represents, does it not, the views, in the main, of the working class?—It is the only paper in Scotland acknowledged by them to represent their views fairly.

285. Has it a very large circulation?—It has.

286. Have you always been engaged in literary pursuits?—No; I have been connected with the press, more or less, for 30 years, and I have been connected with the "Glasgow Sentinel" for the last eight years.

287. Previous to being connected with the press, what were your avocations?—I was brought up to the building trade. I served my apprenticeship in Glasgow as a joiner, house carpenter,

and cabinet maker. I worked as a joiner in Glasgow, and carried on business as a master builder in Glasgow.

288. So that, in your own person, before you became connected with the press, you had experience of the working of the law of master and servant in the double capacity of servant and master?—I had.

289. In which capacity do you appear before us here?—I am here to represent my own experience in connection with those cases that have come before the justices for several years past, and also as chairman or convener of the Glasgow executive committee, appointed by the working classes of this country generally, to carry on this movement, having, I believe, been the originator

nator of the movement myself, through the "Sentinel," and having brought it fully before two very large meetings in the City of Glasgow, when Mr. Dalglish and Mr. Buchanan were before their constituents, by putting questions to them in respect to the law.

290. That meeting of the representatives of the different trades to which Mr. Newton, whose evidence I believe you heard, referred, originated in a suggestion made by you in your paper?—I believe it did; at least, I have a document here showing that so far back as February 1863 an appeal was made in respect to the law, and the law was clearly defined.

291. You being in the position of president or convener of this committee, and having heard the evidence of Mr. Newton, do you agree with the views stated by him of the position which that committee occupies in relation to the trades' representatives that were assembled?—I do.

292. You consider that you are the executive of that body so assembled, that the conduct of this movement was entrusted to you as the executive, and that the trades' representatives of the whole United Kingdom are your constituents, and not the trades' delegates of London only?—Most distinctly; there is no mistake at all upon that point. The conference held in London two years ago, which was constituted of delegates from the principal branches of industry in the country, and representing the large masses of the organised societies, unanimously agreed that the Glasgow committee, who had originated the meeting, should be constituted the executive committee to carry out the movement, and that all other committees, wherever they might exist, should be subordinate to their direction, the London trades council being merely one of the committees that existed in London for that purpose.

293. You are the convener, you say, of this Glasgow executive committee. Supposing any meeting were to be summoned of the trades' representatives that appointed your committee to conduct this matter, who would summon such a meeting—would it be yourself?—Yes, certainly; and the executive committee along with me. We meet regularly every two weeks, and specially when any business comes before us. We have correspondence from all parts of the kingdom, and we reply to that correspondence, and we have the power of calling a conference in London or any other place, if we deem proper, to carry on the movement. We alone possess those powers, as vested in us by that conference.

294. And since that meeting, at which you were so appointed the executive of the whole body, you yourself have summoned no general meeting, and no general meeting has been summoned?—None whatever.

295. Nor is it your intention to summon any such as at present advised?—We have no such intention, as at present advised.

296. You can speak to the operation of these Acts, both from your experience as a workman and as a master; and I presume, also, as editor of this newspaper, you have a considerable knowledge of different cases that have occurred under these Acts?—I have.

297. The Act under which these cases mostly occur is the 4th of George 4, c. 34?—Yes.

298. On the part of those whom you represent, what would you wish to say to the Committee generally, with reference to that Act?—I would

wish to represent the hardship to the working classes that arises in the application of the Act, the manner in which they are treated, and the results of such treatment; I have three cases here which I would like to detail a few particulars about, which have come under my own knowledge. Having heard the evidence of Mr. Newton, who spoke of cases in the iron trade, the glass trade, and factories, I am prepared now to state to the Committee what I know of a case (and I can give more if necessary), in each of those branches of industry; I will first refer to the large foundry and engineering establishment of Messrs. Nelson & Co., called the Hyde Park Foundry, in Glasgow; a case occurred there about three years ago, where the bottom plate of the "Scotia" mail steamer for the Cunard line was to be cast; a certain number of men were set to the job, and the masters wanted them to continue at work night and day without any stoppage (the job requiring four or five weeks to complete), and take just snatches of rest at intervals, as they could leave the work; the men refused after they had worked their first day's work till six o'clock in the evening, the usual quitting time, to continue at that night and day job.

299. Were they serving under a written contract?—No, a verbal contract, under the rules of the work as posted up; they refused to continue to work night and day work as ordered by the foreman; they left the job at the usual quitting hour of six in the evening, and the foreman feeling disappointed in their not obeying his order, said, "Well, you need not come back any more, there is not any more work for you;" they went away.

300. Their contract being only for the ordinary 12 hours?—Yes; unless in cases of breakage or extraordinary circumstances happening, there is a rule that would require them to continue work, but not applying to such a job as that requiring five or six weeks to accomplish. They went back next morning and offered their services on the terms on which they conceived they were bound to work; they were refused to be allowed to commence work again, unless they agreed to continue to work at this night and day work. They left the work because the foreman would not allow them to be employed again, and when they went to receive their pay at the pay day for the time they had worked during the currency of the fortnight it was refused them. On the Monday morning following, the leading man of them was apprehended in bed under a warrant about five in the morning, taken under this Act, and kept a prisoner till 11 or 12 in the day, when a justice could be got, and was then taken before the justice. An agent was employed, and the case was heard under the advice of the agent on the man's behalf; after a long trial the man was set at liberty, the case of hardship being established, that it was altogether an unnatural demand for any foreman to ask the men to continue to work for so long a time as a night and day job, and he was discharged; that was a hard case; on the application of this foreman, and on making an affidavit before the justice, this man is apprehended in his bed and taken out of bed at that time in the morning and kept a prisoner under the charge of an officer; after the trial is over he is liberated; he has no compensation of any kind whatever allowed him by law. To show what difficulties this man, and his companions who were discharged, had under the law

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in making the employer fulfil his contract, I may mention that they joined issue together, and raised an action, in the Sheriff's Court of Glasgow, for the payment of the wages they had actually worked for; and the case continued for nearly two years in the court. It went first through the court of the deputy sheriff; then it was appealed to Sir Archibald Alison, whose decision was, that the men's wages were to be paid only for the days they worked, but no compensation whatever was given for the breach of contract on the part of the master sending them away without giving them the fortnight's notice. The next case I will refer to is one connected with the glass trade, which has been referred to. It is quite true, that in preparing the metal for the manufacture of glass, if a man leaves before the metal is worked out he injures the employer's interest, but it is rarely the case that such a thing occurs. This case I am going to refer to was the case of a man of the name of O'Brien, who worked with the same employer, Mr. Cochrane, of Glasgow, to whom Mr. Newton referred in the pottery case. O'Brien gave in his fortnight's notice to quit, according to the rules of the work; he left Glasgow and got a situation in Manchester; the masters believed that they had some sort of contract still binding upon the workman who had left them after he gave them a fortnight's notice—it was a dispute about wages; the workman wanted an advance, and they thought he was not entitled to it, whereupon he gave them a fortnight's notice, and left. Some weeks afterwards they made an application according to the Act, got a warrant, sent a criminal officer from Glasgow to Manchester, took him away from his work in Manchester, carried him, without any endorsement on the warrant, across all the counties between Manchester and Glasgow, and brought him to trial; the trial lasted four or five hours, for two days, and the result there was, that there was proven distinctly that there was no contract, that he had fulfilled the rules of the work by giving the two weeks' notice, and that there was no other contract at all in existence. That case was allowed to drop without any judgment upon it at all, the man having committed no offence whatever, and without his being allowed any damages for the loss he had been put to in being brought from Manchester to Glasgow.

301. Before whom was that case tried?—In the Justice of the Peace Court in Glasgow, where all these cases are tried; I was present myself at the trial, and took the notes, and reported it fully in the "Sentinel." I may state that, when these cases do occur in Glasgow, as they always do every week, I am generally sent for by the parties interested to take a note of them, and to publish it in the newspaper. The bottle-glass trade has been spoken of by several gentlemen; I was waited upon by a deputation of that trade on Monday, they having heard that I had been summoned to give evidence here, and they requested me to state one or two cases which had occurred in their trade. The bottle makers are something similar to the flint glass makers (the man I have just referred to was a flint glass maker); the bottle makers are subject, of course, to similar conditions in regard to the metal. There is a copy of the rules which the deputation put into my hands, which are the general rules of all the bottle making establishments in Scotland, and it will be found by referring to them

that the workmen for the merest trifles are fined by the employers 10s. I have here the particulars of the case of a man named Thomas Taylor, a glass bottle maker, aged between 50 and 60. A day's work is considered to be 43½ dozen of bottles; that is what is considered to be a day's work of 10 hours' labour per day, for which a certain price is given; and then they make what they call overwork, working on in the same shift in order to work up the metal, making so many more bottles, for which they are paid extra. This man, on the occasion referred to, had worked his day's work, the stipulated time and quantity, at the end of which he felt unable to continue the work any longer for that day, and he said to some of his companions connected with him in the manufacture, that he could not continue it any longer, and he went away. Another party was immediately got to fill his place, so that there was no loss to his companions. That man was fined 10s. by his employer for having absented himself.

302. That is a matter of private contract irrespective of the Act?—Yes, but he was taken up on a warrant for having deserted his service, for having broken his contract after having been fined, and sentenced to 30 days' hard labour.

303. That man was first punished in the works under the private agreement between him and his master, and subsequently before the justice, under the Act of the 4th Geo. 4?—Yes, so that he had a double punishment. In regard to factory workers it is no uncommon thing at all to find female factory workers taken up, under this Act, and sent to prison for a breach of contract; and a very strong case lately occurred in Glasgow, a case which has caused very considerable excitement among the labouring population in the eastern portions of the city of Glasgow. It was the case of a man named Alexander Gray, a power-loom tenter (the tenters take charge of the looms, and keep them in proper working order). He was a young man under indenture, and I believe his employer had given orders for him to go to some particular loom at the time he was engaged in looking after another loom, and he told him he would do so, according to the rule of the trade; that as those who had first spoken to him could get their looms attended to, he would very soon be at the other; and this caused dissatisfaction on the part of the employer. He continued to work out that week till the factory stopped; but that same Saturday night an application to the justice had been made by the manager or one of the partners of the concern, and a warrant got, and a criminal officer sent to his lodgings as late as 10 o'clock on Saturday night, he having continued to work till the factory closed that afternoon; and on the following Monday morning he was brought up and sent to prison. The result of his treatment in prison has been, in fact, matter of inquiry before Sir George Grey. I have here a very full and accurate report of all that has transpired in regard to his treatment. A deputation connected with the inquiry into this case called upon me before I came away, and put this document into my hand, in relation to that case: "Mechanics' Hall, Cannon-street, Calton, 14th May 1866. Statement of Alexander Gray, in reference to his treatment by his employers, from his return to their employment. Was sent to prison on the 8th of February; released on the 19th. Health bad. Returned as soon as health would permit.

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permit. Commenced work on the 8th March; wrought up to the 23d. No complaints made. My work in a forward state. Called into the counting-house after the mill stopped, at six o'clock; told there was no further use for me; dismissed on the spot; no reason given. Went next morning; took two men with me to ascertain the reason of my dismissal; the men refused admittance; got throttled for my pains" (they caught him by the neck, and pushed him and kicked him out of the counting-house). "My conduct can and has been tested by several witnesses examined on the case before the sheriff for my engagement.—Alexander Gray, jun., 24, Green-street, Calton." Signed before two witnesses, "James King, 9, Dunn-street, Glasgow, and Henry Carrigan, 27, Man-street, Bridgeton." That exemplifies the treatment under the Act of the respective parties, the employer and the employed. This young man, even under written engagement, is thrust into prison before he absented himself; indeed, he did not absent himself at all, he never absented himself from his work; but, in anticipation that he would absent himself, a warrant was procured, and he was sent to prison.

304. You could give, no doubt, many more similar cases from your personal experience and knowledge?—Yes.

305. But, perhaps, you can tell us in what descriptions of employment the cases most frequently arise?—A great many cases used to arise in the ship-building yards.

306. Do you think it necessary to give more instances, or would you be satisfied with those instances which you have given as a sample?—Yes, those may be taken as a type of the treatment of the men under the Act.

307. Will you mention the trades in which those cases of proceedings, being taken for breach of contract, most frequently occur?—A great many cases used to arise amongst the bottle makers and amongst the iron ship builders, and, in fact, I might say, with some exceptions, in almost all the trades. Amongst the factory workers they used repeatedly to occur.

308. Among the engineers?—Yes, there used to be many cases among the engineers; but a very considerable improvement has taken place recently; when I say recently I mean in the last two or three years, in respect to contracts of service.

309. The following trades have been given to me as among those in which those cases occur:—brickmakers, glass workers, moulders in iron, iron workers, carpenters, and miners?—There are not so many cases arising among the carpenters; there are cases constantly occurring among the miners, and there used to be a great many cases among the iron moulders, and brick-makers, and factory workers.

310. By examining some of the gentlemen who attended the conference to which reference has been made, we should get, you think, at the views of the different trades in the best way?—Yes.

311. A focus of them, as it were?—Yes. Mr. Newton mentioned the trades of Sheffield as being represented at that conference; there were also the trades of Liverpool, and several of the large centres of industry.

312. You have heard Mr. Newton's evidence; do you generally agree with the tenor of his evidence?—Generally.

313. Do you agree as to the objections which he takes as to the inequality between master and servant?—Decidedly.

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314. The apprehension by warrant instead of a summons, and the treatment of those cases by criminal instead of civil procedure; upon those points you agree with him?—Yes, the primary object of all who have moved in this matter is to put the employer and employed before the law exactly in the same condition, as far as that is possible.

315. So far you agree with Mr. Newton; do you agree with him as to the persons by whom those cases should be tried?—Yes; there are objections to those cases being tried by justices, and I would prefer their being brought before some constituted legal authority, such as the sheriff or substitute in Scotland, or the county court judge in England.

316. Why do you wish for that change; is it a theoretical objection that you have to the existing state of things, or have you seen any practical evil result from the present administration of the law by the justices?—In the first place, many justices, although they are gentlemen who, no doubt, desire to do all the justice they can, are not sufficiently acquainted with the law to be enabled to come to a decision in a critical case which might occur; they are not posted up in law.

317. Is your objection merely the want of legal knowledge as to the different bearings of law upon these questions, or do you also object to partiality in the administration of the law?—I object on the two grounds, the want of knowledge of the law, and the tendency towards partiality in the administration of it on the part of the justices sitting in such cases.

318. When you say tendency to partiality, do you say that merely from a belief in class sympathies and feeling on their part, or from actual experience of partiality on their part?—I could not quote any special case.

319. You object because you believe that they will be influenced by class interests and feeling?—I will tell you how I come to that conclusion; for instance, when a factory worker, male or female, is taken before the justices, it is no uncommon thing to find a justice presiding who is actually in the same branch of business as the worker belongs to; that is quite a common occurrence, and the same with regard to other branches of trade.

320. You think that he would have too much fellow feeling with the prosecutor?—With what are considered to be the interests of his class.

321. You cannot speak to any failure of justice from that cause?—No.

322. So that it is really a theoretical objection on your part?—Yes; more than one founded upon any particular cases.

323. You have heard, in answer to similar objections raised by Mr. Newton, counter objections as to the delays which might ensue from the shifting of the jurisdiction; you must admit, I presume, that there might be such delays?—I do not see that there would be any delays in Glasgow.

324. But we are dealing with a question affecting the whole country?—There might possibly be delays in particular localities.

325. Setting the question of delay against that which is only a theoretical objection, because you were not able to cite any practical evil or any partial administration of the law as at present existing, would you consider it necessary to take the jurisdiction from the justices?—I would.

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326. Do you see your way to such a change as would do away with the objections of delay which have been raised before the Committee?—I can scarcely apprehend that any such delay would either be necessary or injurious.

327. But in the interests of both parties it is very desirable, is it not, that such cases should be dealt with as summarily as possible?—Yes.

328. And with no delay?—Yes.

329. If it were shown that from any reason there were difficulties in the way which would cause delay and prevent such cases being dealt with summarily, your opinion as to the advisability of the change of jurisdiction might probably be modified?—It might.

330. At present a commitment under this Act does not dissolve the contract?—It does not.

331. Have you known cases of men who have been convicted and imprisoned for a particular period, and who on refusing afterwards to complete their contract, have been re-imprisoned?—I have known cases of that kind, but I could not at present name them.

332. Mr. Newton referred to cases of workmen being seized and manacled; he told us that he was not aware of any such cases from his own personal experience; can you speak to any such cases?—I can. About 18 months ago probably, I was travelling from Ayrshire to Glasgow, and in the next compartment of the carriage in which I was, there were four young men, iron moulders, who were manacled together, a criminal officer being along with them; they had been brought all the way from Newcastle to Glasgow, for having, as was alleged by their employer, broken their contract; that I saw myself. I asked them what had placed them in that uncomfortable position, and they told me what I have stated. One of them, I think, was sent to prison, and the others agreed to return and fulfil their contract. In such cases where the men agree to return to their work, and the employer is willing to take them back, the men are always required to pay the expenses; so in that case, as in all cases where expenses are incurred in sending a distance for them, they have to pay their expenses.

333. You have stated your objections to the law, and the alterations generally which you wish; and so far you have expressed an agreement with what fell from Mr. Newton. Mr. Newton said that he thought that in cases where there were breaches of contract, and the workmen had no effects, imprisonment might be had resort to; do you agree in that?—Where workmen commit a breach of contract, if it does not involve a serious danger to life or property, as Mr. Newton stated, I do not see that there ought to be anything more than the treatment of it as a civil case; and my opinion is, that such cases as were hinted at by some of the Committee, would come under the common law for punishment. Where an employer obtains a civil decret for the payment of a certain sum of money by a workman, the case is treated as an ordinary civil action of debt due by one man to another.

334. At common law in Scotland, if the debt is below the sum of 8 *l.* 6 *s.* 8 *d.* there is no imprisonment?—No.

335. The probability is, is it not, that where a workman has been condemned to pay a certain sum, the sum which he would be so condemned

to pay would be below 8 *l.* 6 *s.* 8 *d.*?—I think that it would.

336. So that in that case practically there would be no imprisonment?—No.

337. Might it not be desirable in order to meet such a case that there should be, as Sheriff Barclay last year suggested, a power given to imprison; that there should be a power to deal exceptionally in such cases?—I would not deal exceptionally in such cases; it would be unfair and unjust to the workman to put him in a worse condition in such cases than a common debtor.

338. Do not you then think that you must look in this question, not only to justice to the workman who is affected, but to justice to the master whose property may be injuriously affected by a sudden breach of contract, and that you must also look to the effect which this one man's misconduct may have upon all his fellow workmen?—I am not aware of any case which I can quote to support that idea; I can imagine that an engine man at the top of a pit might leave his duty of attending to the engine, and might do injury to his employer and also his fellow workmen, but in such a case as that he would come under the common law.

339. You would confine the exceptional dealing with this question to cases such as were described by Mr. Newton, which would come under the head of imperilling life?—Under the head of imperilling life or destruction of property.

340. Direct destruction of property?—Yes.

341. But not to such destruction of property as might arise from a man leaving the furnace, or from the contents of the furnace being lost, or anything of that kind?—No.

342. You would not think it necessary to deal exceptionally with any of those cases?—No.

343. Do you think, taking your view of the case, your object being to put master and servant on an equality, that they would be practically in such a case, on an equality; assuming a workman engaged for a certain time to perform a certain delicate duty, upon which the success of the master's business depends, suddenly takes it into his head to leave; supposing he is a man without effects, without a house perhaps, and that he leaves Glasgow and goes to the other end of the kingdom, the master's property is destroyed, and his fellow workmen are thereby thrown out of employment, what redress has the master or the fellow workmen?—Only civil redress.

344. They have, theoretically, civil redress, but what, practically, does that amount to?—The taking the party before a civil tribunal.

345. Where is the party?—He may have absconded, but such cases occur but seldom.

346. Your course would be a summons against him?—Yes.

347. Would you go the length that Mr. Newton suggested, that, in case of his not appearing in answer to that summons, a warrant should be issued for his apprehension?—I do not go so far as that; I would treat the case throughout entirely as a civil case.

348. Supposing the man does not appear in answer to the summons, what redress would the master and his fellow workman have, the one having his property destroyed and the other being thrown out of employment?—They would only have the redress which the law would, in such cases, give them, of attaching the property of the individual.

349. I am supposing the case of a man having no property?—Then, they must go quits.

350. Taking the reverse case; supposing a wealthy master has a contract with his man, and the master breaks his contract, and supposing the man summons the master, and a decree is given in favour of the workman, what happens in that case?—The master would, very likely, have means to pay.

351. He would pay, and justice would be done to the workman; would you say, in strictness, those two cases are practically on an equality?—I have known cases where men, from the bankruptcy of the master, have lost their wages, so that, as regards that, the workmen are not on an equality with the master.

352. Supposing the master to become bankrupt, and that the sum he owed was above 8 l. 6 s. 8 d., in that case he would be imprisoned?—Yes.

353. The man would have that hold upon the master who had broken his contract that, if the debt was above 8 l. 6 s. 8 d., the man could imprison him?—No, doubt, and the same would happen with the man if the sum he was liable for was above 8 l. 6 s. 8 d.

354. Mr. *Hardy*.] Are you aware that by the Bankruptcy Act, the first thing to be done is to pay the wages of workmen?—I believe that is the case; it would be a very rare instance if a single workman had a claim for so much as 8 l. 6 s. 8 d. against an employer for wages; wages are generally paid weekly or fortnightly; in some few cases monthly, but those who are paid monthly are paid subsistence money during the course of the month.

355. *Chairman*.] You do not think, in justice—we will not say to the master alone, that being only a part of the question, but in justice to the other workmen, it would be desirable that some further powers should be given than those which you contemplate?—No; I do not. I look upon the question entirely as a matter of civil contract.

356. I assume that the case is treated as a civil case, and not a criminal case; but I put to you, whether, by extending the power of imprisonment in cases of debt, or rather by repealing that part of the law which prevents imprisonment for small debts, you would not give some further power, civilly, than you propose?—No, I would not.

357. You do not think that justice to the other workmen requires anything of the kind; and, so far, you differ from Mr. Newton?—Yes. I do not think any further imprisonment than the law now gives should be inflicted.

358. Which of the two witnesses we have had before us to-day, yourself or Mr. Newton, do you think in this respect expresses the opinion of those whom you represent?—If I can judge from the discussions we have had at our meetings on that point, among many others, the feeling was decidedly in favour of my views.

359. I understand that one of the main objections to the existing state of things which you seek to redress, and which the workmen feel, perhaps, more strongly than anything else, is the criminal character of the proceeding; that they are dealt with for a civil offence criminally; but that would not be the case with imprisonment such as I suggest, which would be imprisonment under a civil process?—I do not see the justice of making such an exception in regard to the

common law of debtor and creditor, as to say to a workman, a decree has been obtained against you for 5 l., and unless you are able to pay it you must go to prison.

360. But there would be nothing criminal attached to such a breach of contract in that case as at present, and the moral disgrace which appears to weigh very strongly upon the feelings of those men would not arise. Any grievance of that kind would be removed, would it not?—Suppose a man was liable for 5 l., or any sum under the 8 l. 6 s. 8 d., to put the workman into prison for non-payment of that, is throwing an odium upon him which it is not right to put upon him, more than an ordinary debtor.

361. If, in such cases, you put the two on an equality, and if a master who owed a workman a sum less than 8 l. 6 s. 8 d. was likewise liable to be imprisoned, you would probably not object to it?—Yes, I would. I would object to send an employer to prison if he owed a sum less than 8 l. 6 s. 8 d.

362. You do not raise any objection on the ground of inequality, but you object to the principle of imprisonment for debt for any small sum?—My view of it is that the law in that respect, as it stands, should be adhered to in the case of both masters and servants, without any distinction.

363. Though, practically, from their different circumstances, there would be a very marked distinction?—If you talk of different circumstances, you must consider this; the master can now obtain by law a discharge of all his liabilities, probably for a penny in the pound, while the poor workman has no means of getting quit of his liabilities as long as he is able to work; the master can follow him from county to county and arrest his wages; he never can become bankrupt.

364. That power of the master to arrest the wages of the workman, is under the common law and not under statute?—Yes.

365. Do you object to that power?—Yes, I do; I am entirely opposed to the continued liability of the workman for past debts.

366. You object not only to the statute law, but to the common law, with regard to the arresting of wages?—Yes.

367. Mr. *Hardy*.] Suppose the court makes a decree that a man should pay by instalments, he has to go on paying till he has discharged his liability?—Yes.

368. But the master has no particular means of seizing his wages differently from any other part of his property, has he?—The common practice about Glasgow is this: if a decree is obtained against a workman for any amount, the sheriff or justice of the peace may say, You will pay this by a shilling or half-a-crown a week, and if he fails to do so, the common course is to obtain an arrestment, and put it into the hands of his employer.

369. *Chairman*.] Wherever he goes, you follow his wages?—Yes, that is the law and the practice.

370. Is it frequently done?—There are thousands of cases every year in Glasgow.

371. How is it done practically; supposing a man leaves his employment in Glasgow, and goes to work under a new employer in Edinburgh, does the master in Glasgow obtain an order which is forwarded to the master in Edinburgh, and then does the master in Edinburgh, before paying him his wages, deduct a certain sum, and pay it to his late employer?—Say that a work-

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man by a decree of the court, is ordered to pay 1*l.*, a common creditor obtains from the court where he was found liable, a power of arrestment of wages; that is put into the hands of an officer, costing a small sum of money, which is added to his former responsibility, and that arrestment is put into the hands of the master in Edinburgh under whom he is working, directing him to arrest the wages of the man.

372. The whole of his wages?—Yes, to the amount decreed. If 1*l.* is due to the man, the master says I cannot give you any wages to-night, here is an arrestment.

373. He does not pay him even a portion?—No, not without the order of the court.

374. It is at the discretion of the court to say; this is to be paid at once, or so much a week?—Yes; it is an every day occurrence in those courts, of multiplepointing that the master refuses to pay him his wages, and another creditor has a second arrestment; and the question arises then, to whom do the wages belong which are in the hands of the master for whom he is working. And in an action of multiplepointing all the parties are brought to court before the sheriff again; the case is re-heard and the master says, I had 1*l.* or 10*s.* in hand of this man's wages at the time the arrestment was made. The arrestment only affects the wages of the man up to the time it is laid in the hands of the master; anything which he earns after that, the arrestment does not cover.

375. Mr. *Hardy.*] A new one would be required to be obtained for the arrest of further wages?—Yes. The demoralizing effect of that system is melancholy, the men are hunted about from place to place, when they are unable to pay, and they actually change their names when they go to new places, so that when the arrestment comes, the employer says, There is no such man here.

376. *Chairman.*] In all these cases there must be necessarily a choice of evils; which do you consider the best of two evils, that a man with a family, with a house and furniture, and with perhaps some of the ornamental pottery which Mr. Newton spoke of as having seen in the houses of colliers, should be sold up completely, and rendered houseless without furniture; or that that man, instead of being so sold up, should be allowed to go elsewhere and re-engage himself, he being compelled to pay such portion of his wages, as the court or justices should discern, till the debt was paid off?—I quite concur in the advisability, in such cases, of making a man pay, to the extent of his means, what he has been proved to owe.

377. Assuming that he has to pay on one form or the other, which should you say, in the interest of the man himself, was the least severe form of making him pay, by selling him up entirely, or by arresting a certain portion of his wages and following him; take your own case, if you had the choice, which would you prefer yourself?—If the man has means to take, the master always prefers taking his effects if he knows how to get them; but there is a difficulty in getting at the man's pottery, chairs, and tables, in Scotland, which is probably not the case in England, the landlord of the house always has the right of hypothec, and unless he is secured in that right of hypothec no other creditor can come in.

378. That makes the case of the master still worse?—Of course it does.

379. The landlord comes in first?—Yes.

380. So that practically, as regards the masters, the common law of arrestment of wages is his best security for the payment of his debt and his hold over the workman?—No doubt.

381. That you would be disposed to do away with?—I would; because I hold that when the state of the law and the state of the parties is known to each other before they enter into any contract of that kind, both parties are in a condition to go into the arrangement, and no one is taken undue advantage of.

382. Upon this point the chairman and the secretary of the association are at two?—We cannot help these things, we go pretty well together.

383. With reference to minute engagements, is that system much adopted in different trades?—Yes; in the large engineering and ship building establishments in and round Glasgow, those contracts of service terminable at an hour's notice are found to work admirably.

384. Is that system in general operation?—It is in those large establishments the rule; there are exceptions, but taking them as a whole it is the rule, and no difficulty arises to the employer, because men are to be found, for every branch of the operations carried on, to fill up the situation within an hour which a man leaves.

385. Do you believe, from your knowledge of different trades, that that system would work in all trades?—Not in all. I mentioned glass making, that is a trade where the workmen are very much dependent upon the man working in one particular branch of it, so as to work out the metal. I cannot call to mind at this moment any other trade to which the same remark would apply.

386. In what trades is this system of hourly contract or minute contract in operation chiefly?—It is nearly universal in the building trades, the joiners, the house carpenters, the masons, the plasterers, and the plumbers.

387. In the ship building?—Yes.

388. Engineering?—Yes.

389. Is it in the iron building?—Yes; in that very case I referred to, the Hyde Park Foundry case, it was found after that case had been settled, which lasted between two and three years, that it would have been far better for both parties not to have any warning or notice at all, and that system has been in operation in that foundry now for 18 months.

390. In that case of the Hyde Park Foundry, which you cited as an instance of the evil effects of the operation of the Act, they have rendered recourse to the Act unnecessary since that time by adopting the system of minute contracts?—Yes.

391. Have any evil effects resulted from the adoption of that system?—No; it has worked satisfactorily to both parties.

392. Upon the whole, is that system gaining ground in trades generally?—Decidedly.

393. Mr. *Clive.*] Have you any experience of iron works?—Yes; a little.

394. Have you any experience of collieries?—Not practically, but I have had a great deal of intercourse and correspondence with colliers.

395. You would be willing that the man's present means should be resorted to for payment of what the man was held to be liable for, but you



you would not let his future means be resorted to?—Just so.

396. When once he had left the works, you would follow him no further?—I would follow him where he had means.

397. Supposing he had nothing but his labour, you would not follow his labour?—No; I would not follow his future labour.

398. Do you think that the fear of imprisonment deters a man from breaking his contract?—With some men it may, but I do not think, as a rule, that it does; men are generally inclined, I think, to fulfil their contracts, and it is not from fear that they fulfil them, but from the moral feeling that it is right to fulfil them; they say, “We have entered into a contract, and it is but right that we should complete it.”

399. Do you not think that in many cases where they have to give a fortnight’s notice the fear of being bound induces them to give notice, whereas if they were only working on minute contracts they might remain where they were at work?—I cannot speak as to that point; I do not think the fear of anything resulting from it tends very much to prevent men from breaking their contract.

400. You say you think it would be a better system to have no contract at all?—I do.

401. Do you not think that the men, if there were no contract at all, would be more quiet in their respective works?—I think it is very likely that they would.

402. The fact of being obliged to give a fortnight’s notice tends to make them unquiet?—Yes.

403. Sir *James Fergusson*.] What was the cause of the strike of those men in the Hyde Park Works, of which you spoke?—Their refusal to continue to work at the night and day job.

404. Was not it a question of wages?—No, it was not a question of wages at all.

405. Supposing men to have entered into a contract, the fulfilment of which is necessary to enable the employer to fulfil a contract which he has undertaken, and they strike for an increase of wages, putting the employer to a loss, and perhaps other workmen in other branches to a loss also, from the consequent cessation of their employment; how would the common operation of the civil law correct that?—The law would not at all interfere with the matter.

406. I am supposing a civil process to be substituted for the present law; how would that master have a remedy if, in such case, there were no criminal procedure possible; how could the men be compelled to resume work so as to enable the master to fulfil his engagement?—He would have no power but to make an application to the court in the nature of a civil action; that is, supposing the law altered, as I think it ought to be.

407. And then, supposing any damages, in which the men were cast, to be borne by their trade association, might not the master and the rest of the workmen be left in a position of loss from the law being powerless to compel the men to resume work?—They might.

408. Do you regard that as a satisfactory state of things?—That might be an unsatisfactory state of things, but the question is whether the existing state of things is not worse.

409. You look upon the present law as so unjust in principle that you would be willing to expose persons to great possible loss, rather than

that they should have their remedy by such an unjust law?—Yes; I think the losses would be much less than they are now.

410. Mr. *M’Lagan*.] With respect to the rules in the glass works to which you referred, were the workmen required to sign them?—No; they did not sign them; that sheet of rules is pasted on the wall, and the workmen are not at all bound to even read the rules, and the rules are not read to them, they are supposed to have read them.

411. They are understood to be working under those rules?—Yes.

412. They themselves understand that they are working under them?—Yes.

413. You mentioned the case of a workman in those glass works who left his work at the termination of his day’s work before the metal was quite done. I find one of the rules is, “Any workmen absent from, or leaving off work, from drunkenness or neglect, or incapacitating himself by drinking while at work, shall be fined 10 s. for each journey he may so misconduct himself.” Was it under that rule that he was fined 10 s.?—I believe it was under that rule; he had been at work for the day, and he was fined for not continuing.

414. He could not have been fined according to that rule unless for drunkenness, or neglect, or incapacitating himself by drinking, or absenting himself from work?—There was no other rule, as far as I know, under which he was fined.

415. Another rule says: “All workmen employed at these works, whether under written agreement or otherwise, shall work out the metal provided for them each journey, when required to do so by the employers or their manager”; but there is no fine attached to that rule?—At any rate, that is the statement given to me by three men from the work.

416. Is there any reason that you are aware of why such stringent rules should be put up regarding bottle works more than any other trade in the kingdom?—I cannot answer that question from practical experience, but I may tell you what the deputation said to me, on my putting a similar question to them. They said, “Our labour is so hard and so constant, and so overpowering by the heat and the hard work, that, were we not bound by the most stringent rules, we would not be inclined to continue so long.” And they gave this fact also: that, within the last 12 months, or thereabouts, the quantity of metal prepared for them, and which they are required to work out at a journey, is at least one-fourth more than before; the pots have been increased to hold so much more metal, so that the workman is either obliged to work longer or harder to work out the metal.

417. Before the pots were increased, these rules were made?—Yes; and therefore it makes it still worse upon the workmen.

418. Were the workmen steadier at their work before the pots were increased in size?—I cannot say as to that.

419. Is not one reason of the stringency of those rules, that in the bottle trade the different classes of workmen are more dependent upon one another than in almost any other trade?—They are.

420. Consequently you may say that those rules are as much for the benefit of the industrious hard working workman as they are for the masters themselves?—There is no doubt if other

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men could not be got to do the work of those who absent themselves, the men would lose as well as the master, but I put that question specially to the men, and the answer was, there is seldom or ever a case where if a man absents himself, we cannot put in his place another man to do the work; for instance, in the case I quoted, a man was immediately got to take the place of the man who was disinclined to proceed with the work. It is seldom or ever that the workmen who remain are injured, or that the masters are injured, because even if a man could not be got to take the place of the man who leaves, those who remain to carry out the journey have only to do a little extra work, or work a little longer time to work out the metal.

421. Are you sure that there are so many men in the bottle works that a man can always be got to supply the place of one who leaves?—I am assured so as a general rule; there may be exceptional cases, but as a general rule, a sufficient number of hands can be got directly.

422. That is not the fact just now, is it?—I am speaking of what is represented to me as to the works about Glasgow.

423. With respect to the arrestment of wages, it is only a very small part of a workman's wages that can be arrested, is it not?—The whole of the wages, up to the time of the arrestment, are arrested to the extent of the decree, and cannot be disposed of till an arrangement is made as to the amount; and there is a certain sum which the judge or sheriff generally allows for subsistence, probably amounting to not more than 10 s. a week, or 12 s., according to the position of the man.

424. Do you approve of such rules as these being hung up in works?—I certainly do not.

425. Do you not think that they may be for the benefit of the industrious workman?—In the case of rules being necessary for the benefit of the workmen, I think the men should be parties to the arrangement.

426. Do you know the character of the men who work in bottle works generally?—It is said that they like their beer pretty liberally. I have mixed with the bottle makers for a year or two past occasionally, and from what I have been able to observe, they are a very hard-working class of people; that they do drink a good deal is true, though there are some water drinkers among them also.

427. Do you find the water drinkers the best workers?—No, not the best workers; I do not think that drinking water constitutes a good worker.

428. Are not the bottle workers a class of men who change about very much from place to place?—I do not know that they are.

429. Have you ever heard any complaints from the respectable steady men, that they are very much inconvenienced from a certain class of men leaving the works and throwing them idle?—No, I have not heard that; an explanation of such a case as that was given to me by those men who called on me. They told me of a case where the man's friends came from England to see him; he wanted to go and spend the day with them; he was refused; he thereupon took leave, and the result was that he was taken up under the Act. He was first fined and then prosecuted.

430. Mr. George.] You mentioned a case where a man, in the presence of two witnesses, made a declaration of certain things, and that happened

to him; was that a case of which you had any personal knowledge yourself?—I am thoroughly acquainted with the case.

431. Who is Alexander Gray?—A young man, a tenter.

432. Is he alive?—Yes.

433. Do I rightly understand you to say that you do not know anything of the facts of that case, except as you had them from him as detailed in that paper which you read?—I have heard them from him and the other parties to the transaction; but I have a personal knowledge of the facts of the case from hearing the case tried. As stated in that paper, when his employer throttled him he applied to the police for a summons against the master for assault; I was present in the police court when the case was called; two witnesses spoke positively to having seen the personal attack, while some others, who were all servants of the firm, said that they had heard high words, but they did not observe the kick that was charged.

434. However, the case as I understand you, though you read it from a written statement, came before the justices' court, and was inquired into there?—Yes.

435. You stated that there was no power upon the part of the justice to discharge a workman from his contract, if he thought it right and just to do so?—The question was in regard to the law, whether a man's being sent to prison for a violation of the law, according to the justices' decree, does not liberate him from his engagement. He is bound still to fulfil his contract when he comes out of prison.

436. Are you aware that if the magistrate sees fit to discharge the man from his contract, instead of sending him to prison, he may do that?—Yes.

437. I do not quite understand the view you take of this Act of Parliament. Would your desire be that there should be no jurisdiction, as between master and servant, but a civil one, under that Act of Parliament?—Yes.

438. And that the Act should be so altered as not to apply to anything in the nature of a misdemeanor, but merely to civil contracts between them?—Entirely.

439. If a misdemeanor or a crime were committed by a workman, do I understand you that you would leave that to the operation of the ordinary law?—Entirely.

440. Supposing a man commits an assault?—Then he comes under the common law.

441. You would leave everything of a criminal nature to be dealt with under the ordinary law?—

442. Under this statutory law, you would simply settle the civil question between the workman and the master?—Entirely.

443. Would you extend it to cases where the act savours of a criminal offence, or where the consequences of a criminal offence must necessarily follow from the act done by the individual?—No; I think such cases would come under the common law for punishment.

444. Suppose the case of a man placed over the shaft of a mine neglecting his duty at the windlass and causing danger to individuals, and, perhaps, the watering of the mine, under what head would you class acts of that kind?—If from breach of contract, or inattention to duty, any result, such as you speak of, followed, then the result would bring the case under the common

mon law. If no such result followed, I hold that it should be treated in a civil point of view.

445. Supposing that it was an act that might by possibility have been followed by the destruction of every man in the pit, to say nothing of the total cessation of the work for days, would you consider that act not one which should be dealt with criminally, because no consequence happened to follow from it?—I can scarcely imagine a case such as you put.

446. Supposing such a case to happen?—We may suppose many strange things that are not likely to happen.

447. Do you consider that a thing not likely to happen; suppose, by the neglect of the man at the windlass, a number of men might have been precipitated to the bottom and killed, though they were warned in time and escaped, would you think that act of a man who had imperilled the lives of people was not deserving of punishment?—I think such a case would be deserving of punishment, but under the common law.

448. Not under a statute relating to masters and servants?—No; there are plenty of statutes to bring a party so offending before a criminal court. We have plenty of cases every session in Glasgow, of enginemen who neglect their duty, and who are punished severely.

449. Mr. *Algernon Egerton*.] You said that, in your opinion, there should be some means by which a workman, owing a sum of money to his master through having broken his contract, might be freed from that debt, and that his wages should not be attached; that is to say, as I understand

you, some process by which the workman might make himself insolvent, and free himself from debt; have you any idea what legal process that would be?—Something similar to the bankruptcy law; that he should go through the court and declare himself insolvent, so that the workman should be placed on the same footing as the employer in respect to his means and substance.

450. Mr. *Potter*.] Do you mean that he should have the power of freeing himself from a fine by becoming a bankrupt?—It would not apply to the case of a fine, that is a consequence of a criminal offence; but a liability caused by a breach of contract should go into his schedule the same as a debt would go into any tradesman's account.

451. Though he himself had assented to the contract?—Yes.

452. Mr. *Algernon Egerton*.] Would you propose that the workman should be subjected to a certain term of imprisonment before he declared himself insolvent?—No; it would not be necessary. When an employer declares himself insolvent, he merely produces a schedule, and calls a meeting of his creditors, telling them that he cannot go on, and that they must put him through the Court.

453. If a man goes through the Court, he has to undergo a term of imprisonment?—There is nothing of the kind in Scotland. We are anxious that workmen should be placed in the same position as employers before the law, in regard to breaches of contract.

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Tuesday, 29th May 1866.

MEMBERS PRESENT:

Mr. Clive.  
Mr. Dalglish.  
Mr. Algernon Egerton.  
Lord Elcho.  
Sir James Fergusson.

Mr. George.  
Mr. Gathorne Hardy.  
Mr. Jackson.  
Mr. M'Lagan.  
Mr. Edmund Potter.

LORD ELCHO, IN THE CHAIR.

Mr. ALEXANDER M'DONALD, called in; and Examined.

Mr. A.  
M'Donald.

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454. *Chairman.*] WHAT is your business or profession?—I am Acting Agent for the Miners of Scotland, and President of the Miners' Association of England.

455. Does that association embrace Scotland also?—Yes; there is a separate Scotch association, acting under its own government, but it is amalgamated with the English one for certain general purposes.

456. What are the objects of the association of which you are chairman?—To get an improvement in the ventilation of mines, to procure a reduction of the hours of labour of the young, to endeavour to procure compensation in cases of any severe accident or injury; and further, one of the objects is to get an alteration of the present law of master and servant.

457. Have you yourself been employed in mines?—Yes; from eight years of age.

458. As a working miner?—Yes.

459. In what part of the country?—In Scotland, Lanarkshire chiefly, for about 16 years.

460. Is it true that whilst you were employed as a working miner in Lanarkshire, you attended the classes at the Glasgow University?—Yes.

461. The money which you made in the summer, you spent in class education in Glasgow in the winter?—Yes, for four summers.

462. You appear before this Committee on the part of this miners' association, of which you are president, to give evidence upon the law of master and servant?—Yes.

463. Have you had much experience yourself of the operation of that law?—Yes, a good deal.

464. Have you ever suffered from the law in your own person?—No.

465. But you have personal knowledge of cases occurring in mines in which you have been employed?—Yes; and also I have acquired experience of the operation of the law, from the position I now occupy, being often consulted in cases where personal hardship has been suffered, and being in the habit of attending courts, and observing the mode of procedure.

466. Do you speak generally, as to the operation of the law upon all trades, or more especially with reference to its operation in the business with which you yourself are principally conversant, namely, mining?—In reference to mines alone.

467. With reference to mines, will you state to the Committee your opinion upon the present state of the law?—It is unequal, and I think it is not productive of good either to the employed or to the employer. In the first place, it imposes a penalty of punishment, and no alternative, upon the workman, creating in the minds of workmen very great dissatisfaction, as there is no such penalty inflicted upon the employer. In the next place, it produces a very bad effect upon a workman, to be brought up and sent to prison. While many of his fellows look upon him as a martyr, he himself is generally degraded by the punishment that is inflicted upon him. He is sent to prison and sent to hard labour, whereas the employer, supposing he breaks his contract, is simply proceeded against by an action for damages in a civil court. Although those who sympathise with the workman look upon him in the light of a martyr to a bad law, it has a degrading effect upon the workman himself.

468. Your objection to the present law is, that while as regards the workman his breach of contract is punished criminally it is not so as regards the master, and in that respect you consider that there is not an equality?—Yes.

469. Is the law very often put in force?—It is not often put in force now, not so often in connection with mines as it was a few years ago, and for this reason a very large portion, indeed, all the larger and more important districts of Scotland, carry on their works without any contract of service, and consequently no men are sent to prison for breach of contract where such is the case.

470. By contract, do you mean written or verbal?—Either, it is all the same as regards the law; in the largest firms in Scotland there is no such thing as notice or warning existing. They

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They are being carried on without any notice whatever. The workman is at his work, and the manager or employer comes round, and says, "Clear up." If any raw material is left, it has to be worked out, and when that is done the workman goes. In the same way, if the workman feels dissatisfied, he says, "I leave;" and if he does not make all right on leaving there is a stoppage from his wages to make up the deficiency. The large colliery of Messrs. Merry & Cunningham, employing over 5,000 men, is so conducted. The entire of the large coalfields of Wishaw are so conducted. I will, if desired, put in a list of works conducted on that principle. There being no warning required in those works, there are no cases brought up for breach of contract. I can produce some of the most experienced managers in Scotland to say that the working of that system has been found to be most salutary, as I believe it to have been myself. The benefit of it consists in this: on the one hand the workman, while under the continual knowledge that an act of dereliction of duty on his part might lead to his instant dismissal, is circumspect in his actions, and he will not do anything that may lead to his dismissal; while, on the other hand, the employer derives a greater benefit than by giving the man warning, because the man, while he remained working after the warning, might do him a vast amount of injury.

471. We understand from what you say, that throughout a great portion of Scotland the system of service by contract does not exist, and that persons employed in the mines are employed on what has been called the system of minute contracts?—Yes.

472. How long has that system been in force?—For 10 or 12 years.

473. Do you know where it first commenced?—I think it was in the Spital Colliery, in the Glasgow district.

474. Previous to that time the contracts had been fortnightly?—Yes; I remember when they were 12 months' contracts.

475. Were 12 months' contracts the custom or the exception at that time?—The custom.

476. How long ago was that?—Twenty-seven years ago.

477. Before you began to work in the mines?—Yes; they were in existence when I began to work in the mines.

478. So that when you began to work in the mines 29 years ago, the rule was contracts for 12 months?—That was generally the rule.

479. How were wages then paid?—In some instances every three months; where my father was working, the wages were paid every three months.

480. In full?—No, not in full, because the men were compelled to take all their goods at the store, on the truck system.

481. At that time, this Act was in operation?—Yes.

482. Were there many prosecutions then under it?—Yes, there were a great many.

483. More than at a later period, proportionately to those employed?—Yes; generally the prosecutions were in a public-house; the justices met in a public-house near the colliery.

484. You have said that there a change took place from 12 months' contracts to fortnightly contracts, a sort of intermediate station between the system of 12 months' contracts and the system 0.71.

of minute contracts. What led to that change from 12 months' contracts to fortnightly contracts; was it a change initiated by the masters, or was it introduced at the request of the men?—It was a change introduced at the request of the men. When I was a boy, I do not think one out of every twenty of the miners could read or write; it was a rare thing to see a boy that could read and write, or a man who could read or write. But when education began to spread amongst them, they began to kick against the system of 12 months' engagements, because it led to very dissolute habits. The men having large sums of money coming to them at the end of the long periods, they generally continued rioting and drinking till the money was spent; and the more intelligent of them felt ashamed of that, and became desirous that contracts should be for shorter periods; concurrently with that feeling arising among the workmen, Lord Ashley began to make inquiries into the condition of the men, and to bring forward measures in Parliament for the improvement of their condition, contributing to that change taking place.

485. There has been no change in the law since?—No, the change has been in the feeling of workmen and employers.

486. The change originated on the part of the men, who objected to bind themselves for so long a period?—Yes.

487. For what periods did they bind themselves subsequently to that?—Fourteen days.

488. A change was at once made from 12 months to 14 days?—Yes, and to a month; and I think, in one or two instances, that system still continues, but in only one or two instances.

489. The change was introduced from 12 months to a month or a fortnight?—Yes; to a month generally.

490. Were you yourself ever bound for 12 months?—No, but with my father I was.

491. But you have been bound for a month or a fortnight?—Yes.

492. With this change in the period for which service was entered into, there would, I presume, necessarily be a change in the mode of payment of wages. Were the wages paid by the month or the week, when the engagement was for a month?—The wages were paid by the month; and the wages, when the engagement came to be a fortnightly engagement, were generally paid by the fortnight also; but at the present moment a large number of works where the system of day contracts prevails, pay by the month.

493. With this change in the custom of service, I understand you to say that prosecutions instead of increasing have diminished?—Yes; taking into consideration the number of hands employed relatively to the population.

494. You say, that whereas only one miner in every 20 could read and write some 27 years ago, there has been recently a great improvement?—Yes.

495. What proportion of the miners of Scotland should you say could now read and write?—Sixteen out of every 20, if not 18 out of 20, have learned to read, or are learning to read.

496. That, I presume, is the result not so much of the change in the custom of service as of the restrictions as to the time of service of children, and the age at which children can serve, and the limitation of the hours of labour?—Yes; there has been a continual effort for the last 20 years

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years on the part of the workmen to get education.

497. You have stated that this system of minute contracts prevails in Scotland to a considerable extent; is it confined to any one district of Scotland?—Throughout Lanarkshire the system of fortnightly contracts is the exception; I could, if desired, hand in the names of the collieries working under that system; the mining population of Scotland would be about 35,000, and, so far as I can approximate, those employed under minute or day contracts would be at least 25,000, or probably 27,000; that system has been adopted in the greater portion of Mid-Lothian within the last few months.

498. You stated that the Spital Colliery in the Glasgow district was the first colliery which introduced the system of day contracts; how many years ago was that?—Fourteen years ago, I think.

499. Is that system spreading rapidly?—Yes, in Mid-Lothian, where formerly fortnightly contracts prevailed, they have, within the last few months, adopted the system of day contracts in the larger collieries.

500. So that this system introduced 14 years ago has been steadily progressing, and, as far as you know, is likely to progress?—Yes.

501. Have you ever known an instance of any mine-owner or lessee who had adopted the system of minute or day contracts, reverting to the former system of fortnightly or monthly contracts?—The men would not submit to monthly contracts now.

502. Wherever the system of day contracts has been introduced, there has been no departure from that system?—I think there is one instance where it was attempted; but I cannot call it to mind at this moment; that is the only instance I know.

503. Your impression is, that the system of minute or day contracts will become universal?—My impression is that it will become universal.

504. Why do you think it will become universal?—Because I think it is better adapted for carrying on the mines than any other system; it is better for the master, and better for the workman.

505. This change which you say has been gradually introduced, and which is spreading rapidly, originated you say on the part of the men; has it been resisted on the part of the masters?—I do not wish to be understood in saying that the change to day-warnings originated on the part of the men; it was the desire for education, and the improvement of the social condition of the men, which led them to appreciate the change; but the change originated on the part of the manager, I think, of the Spital Colliery, and I believe it is now adopted by employers generally in Lanarkshire, it not being resisted by the men, but on the contrary preferred by them to the old system.

506. We understand that this system of short contracts, which has now come to day contracts, originated with the masters, and was adopted by the men, and was not forced upon the masters by strikes or any means of that kind?—No.

507. The trades unions not endeavouring to force that system upon masters who had not hitherto adopted it?—That is so; but there is one work in Scotland not connected with any

trades union, which is now out on strike, and the object of that work is to get the system of contract reduced to day contracts.

508. That is a strike against the old system?—Yes.

509. What work is that?—The Rose Hall in Lanarkshire, the firm of Miller and Eddie.

510. Are the works adjoining carried on on the more modern system?—It is surrounded by the Summerleigh Works, the Monklands Iron and Steel Works, the Dundwan Works, and the Calder Iron Works, all of which works are conducted upon the day system; and, I think, with that solitary exception, all the works for about ten miles are conducted upon that principle.

511. You say that this system was introduced by the masters, and that it has not been forced upon them by the men; that assumes that it is a system which has been found to work beneficially to the masters; you believe that that is the case?—I feel convinced that it is the case.

512. That being so, is there anything special in the working of that particular colliery, as compared with all the other works surrounding it which are conducted on a different system?—No.

513. What has led to the masters in that particular work not adopting the system which you say has been found to be beneficial to the masters, as a whole?—There is nothing special in that particular work; it is only from the masters being wedded to the old customs and usages of the country, because in the several coal fields, where they have adopted the principle of day contracts, all the exigencies of the coal trade are met, so that what would work well in one case would work equally well in the other. The Glasgow coal field, for instance, is a sale coal field (*i.e.* where coal is sold to the public), so that every exigency in the selling of coal by contract is met there; and the Wishaw coal field again is a sale coal field, and every exigency that can come upon them in the way of contracts with the consumer is met there. In Ayrshire, also, there are sale coal fields, where coal is also sold to the public. In Lanarkshire and Ayrshire, where the large iron works are, where they are not sale coal fields, but where the coal is consumed by the owners at their furnaces, they are conducting the works on the system of day contracts. Whether as regards sale coal fields, or coal fields where the owner himself consumes the coal, the exigencies of the whole trade are met in those districts. So that there can be no difficulty arising to any other coal master that is not surmounted there.

514. Is the coal field a sale coal field in which the colliery of Messrs. Miller and Eddie, who has not adopted the system of day contracts, is situate?—Yes. In the larger coal fields of Ayrshire and Lanarkshire there are large and small collieries which are sale collieries, so that whatever exigencies would arise in a district where they have not adopted the system must have arisen in others where they have adopted it.

515. Have you known many cases arising under this system of contract by the day or minute, where men in the mines in responsible positions, have suddenly gone away and left their work without warning, entailing thereby loss upon the master and injury upon the other workmen?—I have not known a single case where the mere departure of a man from his work

work has led to any inconvenience, or at least no case has ever been brought under my notice where a mere departure from work has led to inconvenience or loss to the employer.

516. You say there has been no loss; might not cases arise where a man who was in a very responsible position in a mine might, by leaving, cause the master to suffer and his fellow workmen also?—That again is provided for by the Mines Inspection Statutes (1855 and 1860). Under those statutes, there is permission given to the owners of mines to frame what are called special rules. Those are the special rules framed under those statutes (*handing them in.*—*Vide Appendix*). Under those special rules, the duty of the miner is defined while at his work; the duty of the fireman is defined while at his work; the duty of the engine keeper is defined while at his work; and the overman's duty is defined while at his work; and under those special rules there is power given to the magistrate to send offenders for two calendar months to prison, or to inflict a penalty of 2*l.* So that those special rules are framed to meet every exigency that might arise in regard to any dereliction of duty on the part of the workmen or anybody connected with the management of the mines.

517. Are they special rules framed by each colliery, or are they general rules drawn up for the guidance of a number of different collieries?—They are framed by the inspector, with the consent of the Home Secretary, and they are virtually statute law.

518. So that any owner of a colliery draws up certain rules and regulations for the government of his own works, and before they become law they receive the sanction of the Secretary of State?—

519. After that they become statutory enactments?—Yes.

520. And under those rules any workman who does not fulfil the conditions of those rules is liable to prosecution and imprisonment?—Yes. The power given to the magistrate is different to that under the 24 George 4, as regards contracts between master and servant, where the magistrate can only inflict the punishment of imprisonment with hard labour; there is power given to the magistrate to send to prison, or to impose a fine.

521. And those special rules meet all the cases where a workman might, by suddenly leaving his work, either cause danger to life, or loss of property?—I think so; they are framed to regulate the conduct of the whole of the workmen engaged in the work; the engine-keeper, the pit-head man, the banksman or fireman, the overman, the redsman, the engine-tenter, and the miner.

522. So that your belief is, from the experience you have had of the working of the system of minute contracts in mines in Scotland, the present law is unnecessary for the protection of the master?—That is my belief, founded on an extensive experience and knowledge, and also on communications which I have had with the largest managers in the country.

523. And you think that whatever protection the master or the workmen require, either as regards life or property in the mines, can be sufficiently given under the system of minute contracts by these rules and regulations which you have put in, adopted under 18 & 19 Vict. c. 103,

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which rules and regulations receive the sanction of the Secretary of State?—Yes; that is my view.

524. These rules, as I gather from your evidence, apply whether there are contracts or not?—Yes.

525. What changes do you propose in the law of contract?—I would make it a civil contract entirely; I speak in reference to mines alone.

526. You think there is no necessity for any exception?—No; if any case arose in which it might be suggested that an exception should be made, such as the desertion of an engine-keeper causing injury either to his fellow workmen or to his employer, that would be a matter that could be dealt with at common law, and treated criminally, and I believe there are a large number of instances of such cases having been so treated.

527. Supposing in the case of a breach of contract, the change which you propose were to be adopted, and a breach of contract on the part of a servant were to be no longer treated criminally, would you allow imprisonment in the event of his being unable to pay any fine that might be imposed upon him?—Yes, if the fine amounted to such a sum as to render him liable to imprisonment according to the laws of the country.

528. It would then be civil imprisonment, and no longer imprisonment for a criminal offence?—Yes; what I object to is placing the man in the felon's cell.

529. You would have no objection, in the event of judgment being given for a breach of contract against a workman, that he should be imprisoned if unable to pay?—Certainly not.

530. It has been suggested that there should be a power of arresting wages, would you approve of that?—It exists in Scotland, by the common law.

531. Should you think it desirable, where that power does not exist by the common law, that such a statutory power should be given?—I object to the arrestment of wages altogether. I would not object to it in the special case of a claim of a master against a workman, but the law of arrestment of wages is a law which has a very pernicious effect upon the habits of the people.

532. In Scotland you say it exists at common law, is it frequently exercised?—Very frequently exercised.

533. On what ground do you object to it?—On this ground; the workman gets into debt, or his wife gets into debt for him, and before he may know it he is summoned, and not only summoned but an arrestment is taken out, and the man is hunted through life and becomes an outcast. The law of arrestment, so far as I have seen its operation, has a very pernicious effect upon the habits of the population.

534. This power of arrestment of wages in Scotland, which you say is very often exercised, is had recourse to, is it not, more frequently by the creditors of workmen than by masters for any fine for breach of contract?—I have only known of one instance of an employer taking his workman into court and exacting compensation. That employer is opposed to the principle of the law as it now exists; but he thought the workman did him an injury in his contract, and he took him into court and obtained civil damages from him to the extent of 1*l.* 2*s.* 6*d.*, and made him pay it.

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535. Did I rightly understand you to say that in the event of any change of the law you would be in favor of a statutory enactment, giving the master power where a workman was fined for breach of contract and could not pay the fine, to arrest and follow his wages?—Yes, I would continue the power of arrestment of wages in cases between master and servant.

536. You would make statutory what is the common law in Scotland, with regard to arresting wages for breach of contract?—Yes, abolishing it as between creditor and debtor; but allowing the employer that power of recovery.

537. That you think would be generally accepted by the workmen as a satisfactory solution of the difficulty?—Yes; I think so.

538. We have had in evidence before us complaints of the nature of the jurisdiction in these cases. Objection has been taken to cases of this kind being taken before the justices; what is your opinion upon that point?—My opinion is that no question between master and servant should be brought before the justices; that opinion is founded upon experience gained by attending courts frequently, and hearing the judgment of the justices.

539. Does your objection go to their judgments being partial, or to their not being sufficiently founded upon the law?—To their incompetence, from their position, to give a sound judgment.

540. Is it to the administration of the law in Lanarkshire that you specially object, or does your objection apply to its administration in other counties?—I only speak to Lanarkshire.

541. The objection you have is not to the system generally, but an objection applying to Lanarkshire only?—I cannot speak to any other district. I have very often seen the justice and the prosecutor go into the ale-house together, and sit down and hold a confabulation together for half-an-hour, and then go into court, where the individual has been brought up and tried, and then as soon as the trial has been over, I have seen them return to the inn or ale-house.

542. Though you may object to the justice and the master meeting in the ale-house and discussing the question, do you think that any injustice has been done in the trial on the evidence?—Yes; I am certain of it.

543. Then your objection is a double objection; you object to the individuals who are appointed to be justices, and you object to the way in which they administer the law, as showing partiality on their part and ignorance of the law?—Yes; so far as Lanarkshire is concerned.

544. Have you any substitute to propose?—I would commit all cases between master and workmen to the sheriff or sheriff substitute of the district.

545. That might occasion delay in some cases, might it not?—No; if it were a civil case it could be dealt with within a week. Our courts sit weekly. Then, where the party is brought up under the Mines Inspection Act, he is brought up by the fiscal, and he could be brought up in an hour or a day.

546. You say that the sheriff sits weekly; in

any change which you contemplate, there would be no power of arresting by warrant at once; you would have the man summoned to appear before the sheriff?—Yes.

547. Seeing that it would be desirable that those cases of breach of contract should be adjudicated upon at once, and that a man should be punished at once or let off at once, if the sheriff sits only once a week, as you say he does, in civil cases, there would be a needless delay in that case, would there not?—In a criminal case he sits at any time the fiscal may call upon him to sit.

548. You are assuming that what is now treated as a criminal case should be treated merely as a civil case; would it not be desirable that those cases should be summarily dealt with?—There might be a power given to the sheriff to deal with them at once.

549. You do not think the objection on account of delay sufficient to counterweigh your other objection to the jurisdiction?—No.

550. Is there any strong feeling on the part of the miners that the system as regards jurisdiction ought to be changed?—A very strong feeling, which is manifested by the fact that there are petitions from miners in almost every district of Scotland in the hands of various Members asking for a change of jurisdiction, or a diminution of the power of the justices.

551. Are those petitions with reference to this law which we are now discussing?—Not bearing upon this law particularly, but relating to the jurisdiction of the justices under the Summary Procedure Act.

552. Are those petitions in favour of the abolition of the jurisdiction of the justices altogether?—No; but asking for a limitation of their jurisdiction. There are justices who, from their conduct and from their bearing, merit the respect of the working classes; but the justices who are now administering the law in the large coal fields of Lanarkshire are looked upon with utter contempt. They are only well-to-do grocers, retired publicans, or colliery viewers of 100 men or so; and the men well know that whatever is the sentiment of the employer with regard to them will be carried out by such men. Those are the men who are administering the law, and making the entire jurisdiction of the justices contemptible.

553. Can you speak at all as to the state of feeling in the mines in England with reference to the law?—The same feeling exists among the miners of England in reference to having all those cases tried before stipendiary magistrates.

554. Do you believe that generally the views you have expressed as being held upon this question by the miners of Scotland are held by the miners in England?—Yes, but I wish it to be distinctly understood that what I have been saying in reference to the appointment of justices is applicable more especially to Lanarkshire. I do not embrace in what I said the counties of Mid-Lothian, Linlithgow, Fife, Clackmannan, or Ayrshire. I speak of Lanarkshire, which is the great coal and iron field of Scotland.

555. Then your objection is more to the individuals than to the system?—It is to the individuals in Lanarkshire,

556. So



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556. So far as you are aware, do the same complaints arise and does the same feeling of opposition to the jurisdiction of the magistrates exist in other parts of Scotland?—There is a strong feeling existing in other parts of Scotland that the justices should have nothing to do with questions between master and servant; that feeling is common to the miners of Scotland and the miners of England.

557. It is a general feeling, but you think there is less ground for it in other parts of Scotland than in Lanarkshire?—Yes, because there the justices are the managers, the publicans, the grocers, and the doctors to the works.

558. Mr. Potter.] Probably nobody else can be got in those districts to act as magistrates?—There are a large number not connected with the coal fields, but they would not march through Coventry with such a ragged regiment.

559. Chairman.] What member of your association could speak more particularly as to the state of feeling upon those questions to which you have referred amongst the miners in England?—John Normansall, of South Yorkshire, acting secretary for the miners of South Yorkshire, and also Mr. Picard of Wigan.

560. To revert to the question of arrestment of wages, in the case of a fine for breach of contract, do you think that it would be preferable, in the interests of the workman, that the master should have the power of following his wages for breach of contract, to his selling him up and rousing his furniture and his effects for the purpose of paying the fine?—As I understand the law of England now, if a man does not pay he can be proceeded against for contumacy at once; I would have what I understand to be the common law of England applied to him.

561. As a general principle should you say, in the interests of the workman himself, it would be better that the master should follow his wages than sell him out of his house and furniture?—Certainly.

562. You are in favour of the abolition of the contract system entirely, as regards miners?—Yes.

563. You believe that there is no occasion for any law to regulate contracts between master and servant; the powers given under the Mines Inspection Act being, you think, sufficient?—I think there is no other power necessary; the system of no contract works sufficiently well.

564. But where the system of contract still continues to exist, you think that it would be expedient that the law should be changed?—Yes.

565. So, that which is now a criminal offence should be made a civil offence, that is to say, that in the event of a breach of contract by a servant, and judgment being given against him, he should be fined, if needs be, and that if unable to pay the fine, he should be imprisoned, or that his wages should be arrested and followed?—Yes, that is what I should propose.

566. And you believe that such a state of the law would give, as regards mines, ample protection to the master, whether under a system of contract or not?—Yes; I feel convinced that it would give ample protection, and I speak from experience of the practice in our mines.

567. You feel confident that the system of minute contract will become universal, or nearly

so, in Scotland?—I feel perfectly confident of that.

568. Do you know if that system has taken root at all in England?—I know that in one very large colliery in Lancashire they have adopted it, and I am convinced that employers generally will see the utility of adopting it.

569. If found to work so well, and so beneficially to all concerned in Scotland, how do you account, with the intercommunication which there is between the two countries, for this system not having been adopted in England, where the same law prevails?—It is on account of the prejudices that exist on the part of the employers, who have not had before them perhaps the beneficial effects of the adoption of the system.

570. How long has this system been introduced into this colliery in England to which you refer?—I could not say.

571. One may say that, generally speaking, that system does not prevail in England which prevails and works so well in Scotland?—There may be other instances in England than the one to which I referred; but I did not make myself acquainted with the state of things in the English coal fields, knowing that witnesses would be examined specially with regard to them. In the north of England I know that 12 months' contracts are still in existence.

572. Is that system general or exceptional?—In Durham it is general.

573. So that, as regards Durham, master and servant are on the footing on which they were 27 years ago?—Yes.

574. Are you aware whether prosecutions in the county of Durham are more or less frequent than they are in other places, where the contract is for less than 12 months?—No, I am not aware of the comparative number of prosecutions.

575. Do you know how wages are paid in Durham?—Weekly, though the contract is for 12 months.

576. Are contracts in England generally monthly, or fortnightly, or weekly?—Fortnightly, and weekly, and monthly, and in the case of Durham for 12 months.

577. Is there anything peculiar in Durham that renders it necessary that there should be contracts by the year instead of by the month or week?—No; there are a number of collieries in Durham where the contract is by the fortnight. I cannot say whether there are any by the week or not; but I know there are some where the contract is fortnightly.

578. Mr. Potter.] Are there any carried on under minute contracts?—I am not aware.

579. Chairman.] You said that you only knew of one work in England carried on under the minute system, viz., one in Lancashire?—I know of one in Lancashire, but I think there are more; I can only speak to one.

580. Are there any co-operative collieries in Scotland?—None.

581. Sir James Fergusson.] The maintenance of a contract system, to a certain extent, protects the lower class of workmen, who depend upon others, does it not. Supposing miners are under contract to a master, it is, to a certain extent, a protection to the labourers who work under the miners against being thrown out of employment suddenly, is it not?—The labourers and the miners are all under the same term.

582. The labourers, I understand, depend upon the miners?—And the miners depend upon

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the labourers. The labourers and the miners are under the same terms of agreement, and the miner would be equally liable to be thrown out of employment by the labourers going away as the labourer would be by the miner going away.

583. It is much easier to supply labourers than miners, is it not?—Not at the present time.

584. You have known instances, have you not, of an extensive strike among miners, and a number of labourers being in consequence thrown into great distress?—Yes.

585. And not being members of a union, they would receive no assistance from any union?—The labourers have a union of their own, in a number of instances.

586. But not generally?—No.

587. In such a case the existence of a longer contract between the miner and the employer would be a protection to the labourer, would it not?—Only to the extent of the fortnight.

588. That fortnight might make a difference, might it not, in enabling the master to supply himself with fresh workmen?—The men prefer the short contract, and they seem to be under no disadvantage where it is adopted; it has this advantage that if a severe crisis occurs, it enables an adjustment of wages to be made at once; and, moreover, in the general carrying on of mining, to continue for a fortnight is sometimes a hardship to the workman, and also at other times a loss to the employer, in this way; a change may take place in the strata, the consequence of which may be that the workman would, if he continued to work on it for the remainder of the fortnight, not gain half the amount which he anticipated. On the other hand, a change might take place, which might lead the workman to get double the amount owing to the change in the strata, and consequently the short notice is advantageous to the workman, enabling him to throw up his contract; and the short notice is also advantageous to the employer, because he can change the contract with the workmen.

589. Do you think that the prevalence of strikes is in any way affected by the change in the system of contract?—I think not.

590. Those rules which you have put in have reference, have they not, to the mutual safety of the men employed in the mines, rather than to any contract relations between them and their employer?—Yes, they are for the mutual safety of the men.

591. Mr. M'Lagan.] Are rules similar to those which you have put in adopted in all collieries?—Similar rules are obliged to be adopted over the entire of the coal and iron fields, where they are under the Inspection Act.

592. As I understand from the evidence you have given, you wish to see master and servant put exactly in the same position, so that if the servant breaks his contract, he should be prosecuted civilly only; and I think you stated that you had no objection if he could not pay the civil damages awarded against him, that he should be imprisoned for debt?—No; I have no objection to that.

593. But you are aware that by the common law of Scotland you cannot imprison a man for a debt under 8 *l.* 6 *s.* 8 *d.*?—Yes.

594. Supposing a servant owed less than that, would you be inclined to make any change in the law for imprisonment for debt, so as to render him liable to imprisonment for a sum less than

8 *l.* 6 *s.* 8 *d.*?—I would assimilate it to the law of England, so far as contumacy of court for non-payment went.

595. You would imprison him, irrespective of the sum he might owe; if he owed less than 8 *l.* 6 *s.* 8 *d.* you would have him imprisoned?—I would so far assimilate the law of Scotland to the law of England, that I would hold it to be contumacy of court if he was unable to pay, but with this difference, that he should be treated simply as a debtor, and not as a felon.

596-8. In the case of arrestment of wages, you would allow the master to follow the servant to any part of the kingdom to which he might go?—Yes; he has that power now at common law.

599. I think you stated that, while you would allow a workman's wages to be arrested by a master for a breach of contract, you objected to his wages being arrested by a common creditor?—So long as the system of credit exists, I do not know that I would object to it; but I think the whole system of credit to working men objectionable, leading to improvidence, dissipation, crime, and poverty.

600. Then you object to the common creditor having the power of arrestment, on the ground that workmen would be induced to become more provident if that power were taken away?—Yes; the facility with which workmen can get into debt, both from common creditors and the truck shops, has led to a deterioration of the moral habits of the people.

601. You do not approve of a workman's furniture being seized and roused for breach of contract?—No.

602. The only hold which you would give the master would be the man's wages?—Yes; when a workman is left without his furniture, he is a wreck in the world.

603-17. In Scotland, the power of a master to seize his workman's furniture does not amount to much, I suppose, inasmuch as the law of hypothec gives the landlord the first claim on the furniture for the rent?—Yes.

618-22. Mr. Potter.] Are Messrs. Bairds' works under the minute system?—A number of them; some few of them may not be, but a large number of them are.

623. Chairman.] You spoke with confidence as to the extension of the minute system, and you stated at the same time that there was a strike upon that question going on at present; am I to understand from you that it is under the influence of strikes that you expect that system to be extended?—No.

624. I ask you, is it rather under the influence of trades unions, in point of fact, that you expect that extension to go on?—There is no trade union where that strike is going on.

625. There is no influence of the trade union?—Not at all.

626. It is merely the men at those particular works?—The men at the particular colliery; but we have had instances under the influence of trades unions where they have struck for that.

627. The trades unions then, in point of fact, have promoted a strike for the purpose of enforcing the minute system?—They have in one or two instances, I think; but the system was inaugurated by the employers, and the development of it has been carried on by the employers.

628. And the trades union, to a certain extent have

have endeavoured to force the system as well?—  
Yes; believing its effects to be beneficial.

629-86. Beneficial to the men, of course?—  
Yes.

687. *Chairman.*] Are you aware whether the  
system of minute, which would perhaps be more

intelligibly called hourly or day contract, pre-  
vails in other great works besides mines?—I  
have been made aware that it does.

688. In what works?—In the iron-moulders;  
Mr. Steele, who is here, will speak to that.

Mr. A.  
M<sup>r</sup>. Donald.

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Mr. COLIN STEELE, called in; and Examined.

689. *Chairman.*] WHAT is your business?—I  
am Secretary for the Scottish Iron Moulders'  
Association.

690. What is that association?—It is got up  
for the purpose of defending the rights of the  
men; a trade union.

691. And that trade union has turned its at-  
tention to this question of master and servant?—  
Yes.

692. Have you yourself been a working  
moulder?—I was a working moulder for some  
18 or 20 years.

693. Have you personally had experience of  
the working of this Act?—We had one particu-  
lar case; it occurred in the month of December  
1862.

694. What was that case?—It was the case of  
one Peter Stewart, in Hyde-park.

695. You mean the Hyde-park Works?—  
Yes.

696. They are in Glasgow, are they not?—In  
Finniston-street, Glasgow.

697. That was a case of breach of contract?  
—Just so.

698. Was the man imprisoned?—He went to  
his work on the morning, I think, of the 7th of  
December, intending to start; he had been or-  
dered at night to complete a job, and the man  
appeared to think he had wrought long enough;  
he left his work at night, and went in the morn-  
ing, and asked to commence to work, and he  
was not allowed; I think it was on the 9th of  
December, two days after that, he was taken out  
of his bed between three and four o'clock in the  
morning, and taken to the office of a Messenger-  
at-Arms, and by one o'clock he was taken to the  
Justice of Peace Court, and tried there. The  
case, however, did not go on then, in consequence  
of the society lodging 5*l.* as bail; but it came  
on the next court day, and after a hard struggle  
he was liberated.

699. Was he imprisoned?—No; he was libe-  
rated; there was then a long trial; it lasted  
about three years, for the men's wages, the ulti-  
matum of which was, that the employers had to  
pay their share of the expenses, and he had to  
pay his; at least, the men did, for there were  
other men concerned besides him; and the men  
go the wages for the time wrought previous to  
the date of their leaving.

700. Is that the only case that has come  
within your experience?—That is the only case  
with which we had any particular connection;  
a good many cases have occurred with appren-  
tices.

701. We are not dealing with apprentices  
now, but with master and servant; from your  
experience of 20 years in your own trade you  
can only specify this one case?—That is the  
only particular case in our own trade that has  
occurred; the minute's warnings now are gene-  
rally introduced, and that, of course, to some  
extent, annuls the law altogether.

0.71.

702. You say you have only had experience  
of this one particular case, and you attribute this  
absence of prosecutions to a change in the  
system of contracts; what was the system of  
contracts formerly in your trade; was it a  
contract by the year, by the month, or by the  
week?—By the fortnight; in some cases there  
is a fortnight's warning, and in others weekly  
warnings.

703. You speak of what you term the minute  
contract as having been introduced; has the  
introduction of this new system been recent?—I  
think it has been in operation in a good many of  
the shops in Glasgow as long as ever I have  
been in connection with the trade.

704. The minute contracts have been in  
operation for 18 years?—Yes.

705. Then you attribute the absence of prose-  
cutions naturally to the operation of a system  
where they could not exist?—I cannot see any  
other reason for it.

706. Is this system of minute contracts uni-  
versal in your trade, or is it confined to Glasgow,  
or still further confined to the work on which  
you are employed?—I think I am justified in  
saying it is almost universal throughout the  
whole of Scotland.

707. In iron moulding?—Yes.

708. You cannot speak as to England, but only  
as to Scotland?—Only as to Scotland; in Glas-  
gow it is almost universal; I do not know that  
there are more than two instances where it is not  
the rule.

709. You say it has been in operation for the  
last 18 years in the work in which you are em-  
ployed; has it also been so long in operation in  
other works?—I think so; I think it has been  
in operation I may say with the half of the shops in  
Glasgow, for the same length of time.

710. You mean, it is now in operation in half  
of the iron-foundries in Glasgow?—At the pre-  
sent time it is in operation, with two exceptions.

711. Then, with the exception of two, it is in  
operation in the whole of Glasgow?—In the  
whole of Glasgow.

712. And you believe generally throughout  
Scotland?—I think it is throughout Scotland,  
generally speaking, the rule.

713. Previous to the introduction of this sys-  
tem of minute contract, was the system monthly,  
or fortnightly, or weekly?—Weekly warnings  
were the general rule.

714. What led to the introduction of the  
change; did it come from the masters or from  
the men?—So far as I am aware, it came from  
the employers themselves.

715. And no evil has resulted to the em-  
ployers?—I believe it is a general good to both,  
inasmuch as if a workman is unsteady, and an  
employer requires to give him a fortnight's warn-  
ing, or a week's warning, it takes him some time  
to get quit of him, whereas, in minute's warnings  
he can be dismissed if he is doing anything that is

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improper, and the employer would be likely to get a person that would be more suitable to him.

716. Has any evil been known to arise from this system of minute contracts in this way; I suppose there are operations in your trade which have to be performed by certain individuals, and which, if those individuals were to neglect them, would result in loss to the master, and, at any rate, in temporary stoppage to the works?—I have not known any case in which it has occurred.

717. But I ask, whether there are in your trade certain positions where men, if they left their work suddenly, would throw the whole thing, as it were, out of gear?—Of course there are positions in which, if the men were to leave work suddenly, it would be detrimental to the employers, so far as the work is concerned.

718. There are such instances in mines, and evidence has been given to us that in the case of mines there is security given to the master by certain rules and regulations, which become statutory by the consent of the Home Secretary?—Just so.

719. The master in the iron-moulding trade has no such security?—No such security.

720. But, in spite of having no such security, to the best of your knowledge, the system of minute contracts has become almost universal in the trade?—Almost universal in the trades, and I am not aware of any inconvenience or loss having occurred to the employer through these minute warnings, else it would follow that they would not have been so generally adopted.

721. Of course that loss might not only fall upon the employer, but upon the fellow-workmen of the man who has left his work?—Just so; but with regard to that, the men have a character as workmen to support; if they are guilty of neglecting work or leaving it in an unfinished state, their name would be brought down a little, and their wages of course would come down as well, and it would be difficult for them to get another job.

722. Then you do not anticipate, at any rate in your own trade, that any evil would arise from a change in the law, judging from what you see of the operation of the system of minute contracts?—I think that a change of the law would be actually beneficial; when any case does occur, although it is not in connection with the workmen themselves, the other workmen feel it very strongly.

723. I suppose your objection to the law—it is an objection we have heard generally argued here—is that a contract between master and servant is a civil contract, properly speaking, and ought to be so treated, whereas it is now treated by the law criminally?—That, I believe, is the wish of every man, that the contract should be equal on the part of both.

724. And you say that at present it is not so?—It is not.

725. I infer from what you have stated, that in your trade you consider it is entirely unnecessary?—I cannot see that there is any use in it.

726. And you believe that the practical working of the minute system has so far borne this out, and that you have known of no case of loss from it to the master or to the men?—Just so.

727. What change in the law would you propose?—I would suggest that whatever warning is

given to the one should be given to the other; if a man is punished as a criminal, the employer should be punished as well; but if on the other hand, a breach of contract on the part of the employer is treated only civilly, we argue that the same course should be adopted with the men.

728. There might be cases where the sudden leaving of his work by a man in a responsible position would entail great loss upon the master, and inconvenience and loss likewise upon his fellow workmen; supposing the law to be changed, would you see any objection to deal with such a case exceptionally, as is done to a certain extent under the special general rules which regulate mines?—I would have no objection to this, that in any case of desertion of service on the part of a man that incurred any loss to the employer, it should be dealt with as an exception.

729. Where damage is thereby done to the employer, and judgment is given in favour of the employer and against the workmen, for damages in the event of the servant being unable to pay from his means, being insufficient to meet the fine or the damages, do you see any objection to his being imprisoned?—I would have no objection whatever.

730. Would you see any objection to the following of his wages, as is done by the common law now?—With regard to the arrestment of wages.

731. I mean not as regards the general arrestment of wages as between creditor and debtor, but as between master and servant, in case of the recovery of damages and fines?—I would not see any objection to the man's wages being arrested if he were not able to pay the fine.

732. In the interest of the man, would it not be preferable that there should be a power of following his wages to the master selling him up?—It would be preferable.

733. If you had done anything, the result of which was, that you had to pay damages or a fine, you would, as a workman, prefer that a certain portion of your wages should be arrested and followed, rather than that the master should sell you out of house and home?—Much more; a workman after his house is sold off generally loses caste, and it is seldom ever the case that he is reinstated again in his former position.

734. An objection has been raised here to the jurisdiction of the magistrates; do you object to the law as at present administered in that respect?—It is a serious objection amongst working men, that cases should be tried before the justices.

735. On what grounds?—Inasmuch as, in every case, the justices are employers themselves; and the general feeling as regards the dispensing of the law in justice of the peace courts is, that rather than give them the name of justice of the peace they should give them the name of *injustice of the peace*, if such a term could be applied.

736. Does that arise from a general belief that the justices have a fellow feeling with the masters, upon whose cases they are adjudicating, and that, therefore, they do not do justice from that sympathy with the master, or is it an objection that rests upon an idea that these justices are not so conversant with the law as the sheriff, or some other legally appointed authority of that kind, would be?—I believe the feeling runs both ways.

In

In the first place, there is a feeling that the law is not properly administered by them; and, in the second place, that it would be much more impartially administered by a sheriff, or a party that had some knowledge of the law.

737. But you say that this arises partly from a belief that the law is partially administered; from your own knowledge can you say that the law is partially administered?—I have seen a good many cases.

738. In what trades?—Both in the coopers and potters, and in some cases in connection with our own trade; of course I had nothing whatever to do with them; I was an onlooker.

739. There has been what you think a miscarriage of justice in several cases, through the partiality of the justice?—Of the justice.

740. Can you name those cases?—No; none of the names occur to me at present.

741. You cannot name any?—There was that case in connection with the potters; I forget the name of the party that was brought up; in our own trade, too, there was the case of Peter Stewart, which I referred to just now; it did not appear to me that there was any justice given in that case at all; and it will appear plainly to your lordships when I say that almost invariably—there may be a few exceptions—the man is unattended by any competent party to take up the case on his behalf; in most of the cases he is taken, tried, and condemned before he can have the opportunity of consulting any party as to the course he should pursue; another point of objection is, that there is no appeal from the decision of the justices.

742. Mr. George.] You say you think the law between master and servant ought to be precisely uniform, and that a breach of contract on either side should be treated as a civil matter?—I think so; I think that would satisfy the workmen.

743. That is what the workmen want?—The workmen want to be treated civilly instead of being made criminals.

744. But do you think that the circumstances of the master and the circumstances of the workmen are in all respects parallel; may not any act or any breach of contract of the master be always compensated by money, which he is perfectly able to pay, whereas in the case of the workmen their act or breach of contract may be attended with dangerous consequences that savour of criminality; do you understand the distinction?—I understand it; but it has never come under my observation that any serious consequences result to the employer from any breach of contract on the part of the men.

745. You speak of your own particular trade?—Of my own particular trade.

746. Are you acquainted with the circumstances of the mining trade?—No; I cannot speak of it at all.

747. Are there no peculiar circumstances in your own particular trade, where a breach of contract by a workman leaving his employment suddenly might tend to do irreparable damage to the master or to his fellow workmen?—I cannot say that there are, inasmuch as there are many men capable of doing the work which that man may have left.

748. Your statement is based on that ground only, that you think a man's place may be sup-

plied, and that, therefore, no great injury can ensue?—Just so.

749. But if the circumstances were different, if there were in your own trade a workman employed for a particular purpose, and, if he suddenly abandoned his work, it would risk the property of his employer, or perhaps the lives of his fellow workmen, would you not think that his act savoured of criminality, and ought to be treated as such?—In exceptional cases.

750. Am I to understand your opinion to be, that all cases of breach of contract between master and servant ought to be treated in the first instance as civil matters?—As civil.

751. But if there transpired in the course of the inquiry anything that savoured of criminality it should then be punishable as such?—Just so.

752. Would the result of that opinion be, that you would desire a summons to issue for every breach of contract between master and servant in the first instance, and not that it should be treated as a criminal matter, and the man be brought before the tribunal by warrant?—Yes, I think that would be the proper course, and that instead of a justice of the peace trying the case it should be the sheriff.

753. You object to the tribunal, but that is a different matter; I am speaking now of the nature of the offence, and whether it ought to be treated as a civil or a criminal matter; and I understand you to say that if there were exceptional cases, in the nature of criminal offences, you would not object to those being punished criminally?—Not at all.

754. Supposing the general rule were that a summons should issue in the first instance, and the master in any particular case stated facts that amounted to a criminal charge, you would not in that case, object to a warrant being issued by a proper tribunal?—I could have no objection to that.

755. Mr. Jackson.] You are a moulder?—Yes.

756. Suppose the cupola full of melted metal, and all the rest of the men except the moulder were at work, and you refused to go on, and so made your fellow-workmen lose half a day's wages, would you treat that criminally?—If it occasioned loss to the employer, I would say that it should be treated criminally.

757. Suppose the result was a loss to the man's fellow workmen of half a day's wages, in consequence of his refusing to bear his share of the work of the day, how would you treat that?—I could scarcely suppose such a case.

758. Suppose such a case to occur, and it has to my own knowledge occurred, how would you treat it?—I have already hinted that exceptional cases, such as may be suggested, should be treated criminally.

759. Would you treat the case I have mentioned as an exception?—I have never seen it in my own experience occur.

760. But how would you treat it, if it did occur?—I would call that an exceptional case, and it should be treated criminally.

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Mr. WILLIAM DRONFIELD, called in; and Examined.

Mr. W.  
Dronfield.  
—  
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761. *Chairman.*] You are from Sheffield, I believe?—I am.

762. In what capacity do you appear before the Committee?—As secretary to the organized trades of Sheffield, and representing to a large extent a number of other trades not in connection with that association.

763. What is the object of the organization; is it a trades' union generally?—It is an amalgamation of trades societies for the purpose of rendering moral and pecuniary support in cases of dispute with an employer, or otherwise.

764. It is not a friendly society?—No.

765. It is what is commonly called a 'trades' union'?—It is an amalgamation of trades' unions, but it has no funds for the purpose of strikes; it recommends cases to the trades, if it approves of the objects.

766. Have you yourself been employed?—I am employed now.

767. In what capacity?—As manager for Messrs. Loxley, printers and stationers.

768. You are in the printing business?—By trade.

769. Have you been a working printer?—I am now, as manager of the establishment.

770. The trades' association which you represent has turned its attention to the law of master and servant?—It has.

771. Has it taken any steps towards effecting a change in the law?—Yes, in conjunction with our friends in Glasgow, and other places.

772. You appear before the Committee with the view of effecting some change?—Yes.

773. Why do you wish a change in the law?—Because we think that it is unjust to the employed that he should be treated as a criminal for the breach of what we believe to be a civil offence; and I may state that this feeling is not confined to unionists, but extends to non-unionists as well. There are non-unionists in Sheffield, as well as in other towns; some of them have spoken and written on this question, and they feel, and I believe a number of the employers are of the same opinion, that the law should be altered.

774. Have you seen many cases arising under the present law in Sheffield?—Yes, a good number in the staple trades of the town, but none in my own trade.

775. In your own trade generally, are cases very rare?—Very rare.

776. Then it is mostly in the hardware trades that they occur?—Mostly in the hardware trades.

777. Of Sheffield?—Sheffield and the district.

778. In what branches of those trades do they mostly occur?—So far as my knowledge goes, in the cutlery branches; there are some in the iron trades and in the stove-grate manufactures.

779. But it is mostly in the cutlery?—Chiefly in the cutlery.

780. What is your system of contract?—The system of the town is monthly, a month's notice.

781. As applied to all trades?—As applied generally; within the last few years, you will be doubtless aware, some large ironworks have been introduced; those of Messrs. John Brown and others.

782. Iron-plate makers?—Yes; their system

is, I believe, a fortnight's notice; but where there is no special agreement to the contrary, the magistrate, or the county court judge, as the case may be, gives the custom of the town to be a month.

783. He assumes that?—That has been the decision over and over again.

784. Has the custom always been considered to be monthly, or is that a diminution from some longer period?—It has always been a month, so far as my own knowledge goes.

785. You have no recollection of yearly, or six months' or quarterly contracts?—Except in cases of hiring.

786. Ordinarily, it has been monthly?—Monthly.

787. And, in that respect, there has been no change of late years?—None.

788. You have been in this room to-day during the giving of the evidence?—Yes; the greater portion of the time.

789. You have heard the evidence given from Scotland of a system of what is called minute contracts prevailing there?—Yes.

790. You are not aware of such a system existing in Sheffield?—I believe there are some exceptional cases, but not many; they will be in the newer trades that have been imported.

791. In what trades?—In some of the larger iron trades, but generally it is the fortnight; each manufactory has special rules for its own guidance, but the custom of the trade is the fortnight.

792. You cannot speak of the operation of the minute contract system in any trade in Sheffield?—I cannot.

793. But you believe such a thing to exist?—Yes, in exceptional cases.

794. Who is there that can give any evidence upon that?—I cannot; I have seen something about it in printed rules, but I cannot remember the names of the firms that adopt it.

795. Perhaps you will let us know if there are any?—I will; I will endeavour to ascertain.

796. The change you propose, is to render civil what is now a criminal proceeding, viz., a breach of contract?—Yes.

797. Would you propose that change in the law without exceptions?—I believe that generally it would be acceptable in Sheffield, and that it would not operate injuriously either to employer or employed; we are very different to the colliers and those trades where one class of men depends so much upon another, as has been described by Mr. M'Donald; but the great hardship is a man being summoned, or rather being apprehended on warrant, and taken before the magistrates without any notice; I have cases here in which that has operated with very great hardship on the men—cases in which they have been taken some miles to be tried before a magistrate really before their friends have known where they have been.

798. Do you think that if there were a change in the law, cases might not arise in which there would be great loss to the master, and also loss to fellow-servants, but which now, perhaps, are prevented by what you would call the extreme severity of the law?—I think there would be very few indeed, so far as Sheffield is concerned; I believe the civil law would meet the case generally.

799. Would

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799. Would you be prepared, speaking on the part of the workmen, to accept such a change in the law as would provide for exceptional cases, where they could be proved?—I think it is only proper that it should be so.

800. Would you have any objection to imprisonment, in case of damages, and the non-payment of the amount of them, no matter what that amount might be?—I think there should be a limit to the amount of damages claimed by the employer. If the amount were a reasonable one, I think a workman should be compelled to pay it; and failing to pay it he should be sent to prison, as he is now in the case of a civil debt.

801. In the case of a man being unable to pay whatever damages were awarded, or whatever fine was imposed upon him, would you object to a power of arresting and following his wages?—So far as the employer is concerned that might answer; but I have a very strong objection to the arrestment of wages, as I understand it exists in Scotland; it does not exist in England; but to meet the special case, I think it would be proper that it should be introduced in any alteration that may be made.

802. The witnesses from Scotland objected to the arrestment of wages as between debtor and creditor, but they stated that they thought in such cases as breach of contract between master and servant, where damages were awarded or fines imposed, the system of arresting wages was a sound one, and that it might be well even to extend it, and make it statutory where it does not exist. Do you agree in that view?—Yes, I do, so far as these cases go, as between employer and employed.

803. But as between debtor and creditor you agree with the Scotch view, that it is not desirable?—I believe it would be very objectionable to the trades of our district, and, probably, I think, to the trades of the country at large. We have had a number of cases where parties have been imprisoned a second time for the same offence, and a great deal of attention has been directed to this in Sheffield, to try to break down the system.

804. Do you believe that if the system of minute contracts were introduced in the trades in Sheffield it would be found to answer, and be for the interest of both employer and employed?—I believe it would; I know of my own knowledge of many men, and many masters too, who would prefer being able to terminate the engagement at such a short notice.

805. Were you aware of the existence of these minute contracts in Scotland to the extent to which, from the evidence given to-day, it appears to prevail?—I was not.

806. Do you think that generally throughout the trades in England it is known that the system prevails to such an extent in Scotland?—So far as my knowledge goes, I do not think it is understood to be so extensively practised in Scotland.

807. Mr. *Algernon Egerton*.] You are secretary to an amalgamated society of trades' unions, are you not?—Yes.

808. I wish to know whether the system of contracts of which you have been speaking exists over all that part of Yorkshire with which you are connected, or whether it is usual to have a fortnight's notice?—So far as the custom in what are called the staple trades of the town goes, it is generally a month; I refer to the cutlery and

hardware trades, in which are comprised the various grinding branches of the town.

809. Judging from your own experience, would you be in favour of a month's or a fortnight's notice?—The fortnight's notice would be much preferable, I think, to the month's, and I believe it would be generally more acceptable.

810. On what grounds?—In the first place, so far as the employer is concerned, he would, in the event of the falling off of work, be able to dispense with a large staff of hands in half the time, supposing the notice were a fortnight instead of a month, and in that case it would be an advantage to him; and with respect to the men, they would be at liberty a fortnight sooner in the event of a better situation offering itself. In my own trade I know a number of instances where better situations offered, and employers generally have refused to let the men go under the month. When they have let them go, there has been a mutual breaking of the contract between the two parties; but, on the other hand, a number of cases have occurred where the employer refused to let them go, and in consequence of that the men have lost the other situation, because the employer there would not wait.

811. Mr. *George*.] Am I to understand that, you desire, on the part of the workmen, that in every case of breach of contract between master and workman, it should be in the general considered to be a breach of civil contract?—Yes; that is the feeling of the workmen of Sheffield.

812. You mean that it should be reciprocal; that the breach of contract on the part of a master and on the part of a servant should in general be considered as the breach of a civil contract?—Yes.

813. And that a summons should issue instead of a warrant as against the workman in the first instance?—Yes.

814. Do you admit that there may be a great many cases where the breach of contract by the workman, leading to irreparable damage, or to great mischief, either to his employer or to his fellow-workman, may amount to a crime?—Yes; I think there may be such cases.

815. Then, if there were cases of that kind specified in the Act of Parliament, and if a master on oath deposed that a workman had been guilty of any of these specified acts, would you think it objectionable that, in such cases, the workman having in fact been guilty of a crime, a warrant should be issued against him?—I think there should be a summons in the first place, and then a warrant afterwards.

816. Suppose the effect of the summons would be to give the workman notice to get out of the way, so that he could not be afterwards arrested upon warrant, how would you deal with that case?—The great bulk of the workmen in Sheffield are members of the trade societies, and the whole of these societies, as far as I know, endeavour to deal with justice in that respect to masters and workmen, and they would take care, in the event of a man absconding, that if he came again into the neighbourhood to work, he should be given up to the proper parties.

817. But it is a fact that these trades' unions, however proper they may be between workman and masters, are not recognised by law, so as to interfere with the ordinary administration of it?—Yes.

818. I do not speak of the moral influence that your society might have upon the workman; but

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but how would you deal, in point of law, with a case such as the one I put to you? If there was a specified case in the Act of Parliament where the workman's act, or breach of contract, might lead to irreparable damage, and the master made an affidavit, would you object that a warrant should issue from the proper tribunal to arrest the workman?—No, I would not, provided the workman had proper notice given of it; that is, that he should have a proper trial.

819. But if the man had done a criminal act, you would not give him civil notice to run away from the consequences of it?—I would not; but I would not have him fetched out of bed between 4 and 5 o'clock in the morning, and tried and convicted by 12 o'clock the same day, before his friends knew where he had gone to; I could put in a case of that sort.

820. Will you state the substance of it?—I have the substance of it, but here is the case signed by the men.

821. What was the act complained of?—It is the case of two men, Joseph Norbourn, and George Flint, stove-grate fitters of Masbro'; in 1860 they worked for Mr. Watson, of Masbro'; a dispute arose amongst them, as to wages I believe; it is not stated here.

822. Was it as to wages; because it is very essential to know whether it was merely a civil matter or not?—It says here that a dispute arose, and they gave a legal fortnight's notice; which the employer refused to take.

823. But it does not state what the dispute was about?—It does not. At the end of the first week the master refused to pay them their wages; at the commencement of the second week they consequently refused to work, but tendered their services every day until the Wednesday, when the employer took out a warrant, and they were apprehended by a policeman, and taken to the lock-up at Rotherham; the next morning they were taken to the magistrate's private residence, some four miles distant from the place; the magistrate was not at home, and they were taken then to another magistrate two miles further off, and after waiting a considerable time, the gentleman arrived, and about the same time that he arrived, their legal adviser arrived also, and put in a strong claim for an adjournment of the case, in order to give him time to get up evidence to rebut the charge brought against the men, which was one of neglect of work and intimidation.

824. And intimidation?—Yes. The magistrate refused to grant the adjournment.

825. Would you consider intimidation either of the master or of the fellow workman, by a workman, in the nature of a crime?—Not such a crime as that he should be punished in the way these men were.

826. I am just asking the question, would you consider that an exceptional case? If one workman threatened another, "You shall suffer so-and-so, if you work for your employer," would you not consider that amount of intimidation a crime?—Undoubtedly, it is a crime against the law.

827. In the particular case you are referring to, intimidation was charged?—Yes. These men were sentenced to a month's imprisonment with hard labour.

828. Does it appear in that case that intimidation was proved against them?—It does not say; but I believe it was not, because, after they had

served their month's imprisonment, their employer took one of them back again.

829. But am I to understand your evidence to be, that if an exception, such as a case of intimidation would be, were proved, you would consider that in the nature of a criminal offence, that might, and ought to be treated criminally?—Undoubtedly, I think so; but we think that the magistrates are not the proper parties to deal with these cases. We think the county court judges are the men; we do not doubt the honesty of the magistrates, but we know from the surroundings with which they are connected, their feeling generally is in favour of the employing classes, inasmuch as they themselves are, to a large extent, employers of labour.

830. Is it not the fact, that there are a great number of magistrates in Sheffield who are not masters?—There are some who are solicitors now, but the bulk of them are manufacturers; generally the mayor for the time being is a manufacturer. We have no stipendiary magistrate, and that is one of the evils under which we consider that we labour.

831. You object to these cases being adjudicated upon by magistrates, who, generally speaking, are themselves employers?—Yes.

832. But supposing that one or two magistrates could be found to adjudicate upon cases of this kind between master and workman, would you object to an ordinary unpaid magistrate adjudicating upon them, as he would upon any ordinary case of wages between a domestic master and servant?—I think it would be much better if he were unconnected with trade altogether, and hence the objection, whether it is well founded or not I am not prepared to say, that the magistrates give a wrong decision. Understand me, I do not wish to convey that impression; but the feeling is, that they do in some cases.

833. That they may do so?—That they may do so.

834. But if they were unconnected with a particular trade, or with trade altogether, would you have the same objection?—No, I should not have the same objection; but then I think it is the business of a civil court rather than of a criminal court.

835. The county court judge at Sheffield is not constantly sitting, I believe?—Almost daily; two or three days a week, certainly.

836. Cannot you conceive a great many cases where it would be all important that, whether the process were a summons or a warrant, it should be issued *instantly*, so as to have the matter decided at once; and that two or three days might not elapse previous to the sitting of the county court judge, during which irreparable damage might be done?—I cannot see it.

837. Supposing a refractory workman kept a hundred men out of their employment by his refusal to work, would you think it right to wait three days before the point was settled between him and his employer, on which the daily bread of so many people might depend?—I would rather wait three weeks than do such injustice to men as is being done by the present law.

838. But if you have a tribunal constantly sitting, would you not think it desirable the matter should at once be disposed of?—I think if there are not sufficient county court judges there should be more appointed.

839. So as to have a tribunal constantly sitting who



who could adjudicate on these matters?—Yes; but the cases are not of such constant occurrence as to require him to be constantly sitting as far as Sheffield is concerned.

840. So far as your experience goes, are the number of cases that occur between master and workman in Sheffield very frequent?—They are not so frequent there as in other parts of the country.

841. Can you make any approximation to the number of cases between master and servant that are tried by the magistrates there in the course of the year?—I am not prepared to do so.

842. Would you be able to get for the Committee, from the legal tribunal, returns of the number of these cases?—I should think I could if it were the wish of the Committee to have it.

843. As far as your own knowledge goes, are they frequent; are there many in the week?—No, not many in the week; there may be weeks that there are none reported; we have daily papers in Sheffield, and I presume they report all these cases, but there may be weeks without any occurring; already one portion of the men have to go before the county court judge instead of before the magistrate.

844. Mr. Jackson.] You recommend the county court judge because there is no stipendiary magistrate?—Yes.

845. And he is the next legal authority that you would like to go to?—Yes, and individually I think a town with 200,000 inhabitants should have a stipendiary magistrate.

846. Has the body corporate made any application for a stipendiary magistrate to be appointed?—There has been some agitation about it in the town, but the corporation, as far as my knowledge, have not done so.

847. You have county magistrates in the borough?—Borough and West Riding magistrates.

848. Do many of the county magistrates reside in Sheffield and the neighbourhood?—A good many.

849. The county magistrates sit in the borough, do they not?—Yes; they sit, I believe, twice a week, on Tuesdays and Fridays.

850. For borough cases?—They will take either; they can take county cases, which the others cannot.

851. Do they take borough as well as county cases?—Yes, they arrange the days of meeting among themselves; there is either a borough or a county magistrate in attendance daily; the mayor is the chairman of the borough magistrates when he is present.

852. The mayor, by virtue of his office, becomes a magistrate?—Yes.

853. It is customary for the mayor of a large borough to become a county magistrate on ceasing to be mayor, is that so in Sheffield?—No; he holds office as magistrate, *ex officio*, for the year following.

854. Mr. Algernon Egerton.] He holds office as a borough magistrate?—Yes, for the year following.

855. Mr. Jackson.] Have you not found these trades' unions prejudicial to the growth of trade in Sheffield?—Well, that is a question that I should answer in the negative, undoubtedly; I do not think they have been; it is alleged in some cases that they are, but I have not been convinced as yet that the fact is so.

856. Is it not true that many articles that might be produced at Sheffield cannot be produced there in consequence of the stringent laws of the trades' unions; I will take, for instance, the cheap cutlery that is manufactured in Holland and exported from Rotterdam in large quantities: hatchets, and catch-knives, and such like?—The cutlery trades are the worst paid in the town, I might almost say in the country.

857. Is it not a fact that the particular class of trade I have mentioned, is excluded from Sheffield in consequence of the rules of the trades' unions?—I cannot conceive how that can be, for they work for wages low enough certainly, when the average wages of some of the cutlery trades will not be more than 14*s.* or 15*s.* a week. They are rather better now in what is called the spring knife trade. They have been getting up the wages recently.

858. Has not the file trade felt the inconvenience of the trades' union?—The employers allege that they have.

859. But you do not agree with them?—I do not.

860. You are of opinion that the borough magistrates, being more or less connected with trade, and the county magistrates being more or less intimate with the borough magistrates, gives them a tendency to favour the masters, their feelings being naturally in favour of the masters?—That is the impression.

861. Whether true or not, that is the impression of the working men?—Understand me clearly, I do not wish to impute any motives to the magistrates.

862. I want to know the general feeling of the working classes in Sheffield; I understand you to say that at present they are not sent before a proper tribunal, and that they would rather go before a legal authority, such as a stipendiary magistrate or a county court judge, in preference to the county or the borough magistrate?—I believe that is the feeling of the workmen generally in Sheffield.

863. Mr. George.] I did not understand your evidence to be, that they would object to the magistrates, who are not masters, merely because they were intimate with magistrates that were?—I would not object to them, but the feeling of the men is that their sympathies are with the employers, and that they cannot get strict justice from them.

864. Your own feeling is that they may get strict justice, and that they do get strict justice; but the general feeling of the working classes is, that they would be better served if they were served by a legal man than by either the present borough or county magistrates?—That is so; and I will state, if you will allow me, that we have had a number of cases in the cutlery trade, where men have been hired. That I believe to be a demoralising system to both employers and employed. In some cases a second commitment has been obtained; and in a recent case, the magistrate, who was a solicitor, decided to suspend the summons, and take the opinion of the Court of Queen's Bench. It was the case of *Unwin v. Clarke*. Clarke was hired for two years for Messrs. Unwin and Rogers, and in November last he refused to work, except at the advanced price which was paid by most of the masters and employers. He was summoned for neglect of work, and committed for 21 days. On his release from

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prison, he applied for his working tools, which were his own private property. His employer refused them, and they took out a second summons, but the magistrate, doubting whether they had the power to commit a second time for the same offence (a number of cases were cited in which it had been done, and some in which the summons had been refused), suspended the summons, and granted a case for the Court of Queen's Bench, which was heard on 28th April last, before Justices Blackburn, Mellor, and Shee. The two former were of opinion that the magistrates were bound to commit the second time for the same offence; but the latter (Justice Shee) was of a contrary opinion, and expressed himself very strongly, according to the report of the trial, which I have here, but as the other judges were against him he gave way. The man was brought up before the magistrates of Sheffield the other week, and, rather than go to prison a second time, on the advice of his attorney he consented to return to work and fulfil his contract. This system of hiring is one, I say, that is demoralising to both employers and employed. An employer of labour is busy, he offers the inducement of a 5 l. or a 10 l. note to a man to get him to work for him, but often when this money is obtained, it is spent in riotous living (probably that would be the proper term for it); it is wasted often, and the man then feels his position, and begins to think that he has made a mistake in getting hired; the consequence is, that he does not work willingly for his employer. He is bound for a time, and he should fulfil his contract according to his agreement; but these cases give rise to a great number of hearings before the magistrates, and the employer, in my opinion, is culpable for offering the inducement, and the man is culpable for accepting the bribe, for it is nothing more nor less than a bribe.

865. Mr. Jackson.] Does it occur often that one master bribes another man's servant to leave?—Frequently; and I have heard a manufacturer in the same trade say that another manufacturer ought to be horsewhipped for offering the inducement, because he has taken some of his men, offering a greater premium than he would.

866. Do you know of many cases in which men who have left their employ under such circumstances have been punished?—I know of a number of such cases where men have left, but they have always been punished; the law has always been carried out against them.

867. It has been strong enough to meet that case?—It is a system that the magistrates, as well as the trades generally, set their faces against and condemn.

868. How would you treat the case of a man being bought by another to leave his employer, supposing him to be brought before the magistrate for punishment, would you treat it as a civil or as a criminal case?—Clearly a civil offence; and I will tell you why. It is just as though a friend of mine lent me a 10 l.-note for a given consideration, or for a matter of convenience; if I do not repay it, that is a civil offence; and I quite think the other should be a civil offence.

869. Would you have him punished by a penalty?—I would have him brought before a county court judge, and the money obtained from him as a common debt. I think a case of that sort is clearly a civil case, and the employer

should know that it is so, and that he has not a criminal redress for the man breaking his contract.

870. In the event of his not being able to pay the fine and costs, you would have him imprisoned?—As for an ordinary debt.

871. Chairman.] Or his prospective wages followed?—Yea.

872. Mr. Jackson.] Would you stop his wages?—I would stop his wages if he had any due to him undoubtedly.

873. But supposing a man were hired for two years, and at the end of two months he is brought before a magistrate or a county court judge, and fined 2 l. or 5 l. and costs, would you give power to the magistrate to stop that fine out of the wages that would accrue to him during the remainder of the term of his hiring that he would have to serve?—I don't think I should, and I will tell you why—

874. Chairman.] To me you said yes?—Not in those cases where a bribe is given?—I think there should be a strenuous effort to break the system down; it is so demoralising both to employer and employed.

875. Mr. Jackson.] But supposing a dishonest employer takes away an honest employer's man, and the man is brought before a magistrate and fined, would you not let the honest master have the power of stopping the wages of the man?—Yes; but as a rule the respectable employers do not do it. There are exceptions.

876. You know that such cases occur?—Yes; there was another case which I will name if the Committee will hear it; it is another branch of trade, the railway spring trade; the case of Henry Court. He was working in 1861 for Messrs. Burgin and Wells, of Sheffield; an employer in Wolverhampton, named Jenks, offered him an inducement, and he left Messrs. Burgin and Wells, and went to Wolverhampton to work; the inducement was a constant situation with increased wages. After he had been there a short time the work fell off, and he could not find him half employment; the man consequently refused to stay any longer, and left his situation and returned back to Sheffield to his old place. The employer in Wolverhampton sent him notice that if he did not return to his work he would bring him before the magistrate. He took no notice of that, and a policeman was sent from Wolverhampton to Sheffield with a warrant, and he was apprehended and taken back to Wolverhampton; he was there tried, and the magistrate dismissed the case; he thought there was no case against the man, believing that his master had not done his duty in not having kept his agreement, which was to find him full work. This man was set at liberty at Wolverhampton, and he was away 70 or 80 miles, I believe it is, from Sheffield, without any money in his pocket, and he had to remain there until his friends in Sheffield could raise something to fetch him home. This man was fetched from Sheffield to Wolverhampton, and although the case against him was dismissed, he had no redress; and that is one grievance we complain about. The case against a man may be dismissed, but he cannot get any redress, and if he is convicted, it is treated as a criminal offence.

877. Then the case having been heard before a magistrate, and having been decided in favour of a man, you would make the employer who arrested him answerable for all the expenses connected

connected with the case, and sending the man back again to the place he took him from?—I think that is only fair.

878. *Mr. George.*] Would not a civil action at the suit of the workman lie against the employer you allude to at Wolverhampton, who violated his contract with him, having promised him work which he did not give to him; and could he not recover damages for the loss to which he had been subjected?—I believe not under the statute under which this man was apprehended; I am told not.

879. But would not such an act on the part of an employer give a workman a right to a civil action against him for a gross breach of contract?—The man was advised that he had no redress, and hence he took no steps in the matter. With regard to the feeling of the trade of Sheffield, I may state that a great number of petitions to the House in favour of the Bill that was introduced by Mr. Cobbett last year have been sent up already, and a number more are ready for presentation. They have been very numerous signed; I believe all the trades in the town have signed such a petition.

880. *Mr. Jackson.*] Do such houses as Rodgers & Co. engage the men monthly?—Monthly. Theirs is one of the best houses in Sheffield; they pay the best prices, and consequently get the best workmen; their knives will sell for much more than most other people's.

881. What is the practice of Messrs. Charles Cammell & Co.?—I believe a fortnight, chiefly.

882. Is the system of all the new trade, such

as locomotive spring makers, fortnightly or monthly?—Fortnightly, I believe; in some few cases, weekly.

883. That applies to all the new trades that have gone to Sheffield?—Yes, as far as my knowledge goes, it is so.

884. What is it with regard to founder's work?—That would be monthly.

885. *Mr. Potter.*] Are the new trades under the trades union?—Generally.

886. There are some exceptions, are there not? Are Brown's and Cammell's under the trades union?—Yes, except the steel melters and armour-plate rollers; they are not.

887. They are not under the trades union?—No; and a good reason why; because the men who are what they call foremen contract to do a certain amount of work; they get it done, and they pay what they choose for it. They will make, perhaps, 10 *l.*, or it may be 20 *l.* a week in some cases, where the men will not get 1 *l.*, or more than 1 *l.*

888. Only the one possesses skill, and the other does not?—That is matter of opinion; some of these men say they could do the work as well as the man that gets the high wages; but that I am not prepared to say. Undoubtedly skill is worth a good deal, and should be paid for.

889. And you generally find it is paid for to the person who possesses it?—Certainly; but some skilled workmen do not get the same amount of remuneration as other skilled workmen.

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Friday, 1st June 1866.

MEMBERS PRESENT:

Mr. Clive.  
Mr. Algernon Egerton.  
Lord Elcho.  
Sir James Fergusson.  
Mr. George.

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

LORD ELCHO, IN THE CHAIR.

Mr. JOHN NORMANSELL, called in; and Examined.

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890. *Chairman.*] I BELIEVE you have been giving evidence before the Mines Committee?—Yes, as representing the miners of South Yorkshire.

891. In what capacity do you appear before this Committee?—I am the Secretary of the South Yorkshire Miners' Association.

892. In that capacity has your attention been drawn to the law of master and servant?—It has in some instances; I have never been a great sufferer under it myself, but I have known men who have suffered a great deal under it.

893. Has your society taken any steps with a view to obtaining an amendment of the law?—Yes; we are giving assistance to the movement.

894. You think that it is desirable that there should be some change in the law?—Yes; the miners generally of South Yorkshire do.

895. What is their objection to the present state of the law?—They think it is not right that they should be fetched out of bed by warrant, in consequence of leaving their employment without notice, or for breaking their contract.

896. You say fetched out of bed by warrants; do such instances frequently occur under the present law?—They have not occurred so often these last 12 months as before, but we have had several cases these last 12 months. We had a very striking case about two and a half years ago. There was a breakdown at a particular colliery, the work was standing for a fortnight, and when the work was ready to be resumed again, some of the men, I am not prepared to say that all, were absent when the pit was ready to resume work again after the breakdown, and one of the men was summoned, or rather there was a warrant issued against him, and he was apprehended about 12 o'clock in the day, on the very day the pit should have resumed work, taken before the magistrates at Rotherham, and committed for 31 days to the Wakefield House of Correction. He asked the magistrates for a remand, to give him time for defence, but it was refused.

897. *Mr. Clive.*] You used the word remand, do you mean sending him back to prison for a time?—He wished the hearing of the case to be put off for a few days.

898. I thought you said he was apprehended?—He was apprehended, taken, tried, and convicted; but before conviction he asked the case to be put off a few days, so that he might get up a defence. Of course it was very much spoken against, and I believe Sir George Grey was

written to about it, but I am not prepared to say what answer Sir George Grey gave to it.

899. *Chairman.*] He was confined to prison for 31 days?—Yes.

900. On coming out, did he fulfil his contract?—I am not prepared to say. If he commenced at the colliery again at all, he went to another place; I believe he did not commence at the same place again.

901. Your association embraces what number of miners?—About 5,000.

902. In those 5,000, how many cases occur in the course of the year, upon the average?—I am not prepared to say. I have not taken particular notice, but I should think we have had, perhaps, eight or ten cases by warrant these last 12 or 16 months.

903. Eight or 10 cases among 5,000 men in 12 months?—Yes, by warrant; and we have had many cases where the men have been summoned before magistrates.

904. How many cases of that kind have there been?—I have noticed, perhaps, 18 or 20 of that class.

905. In the cases of those who were brought before the magistrates under warrant, were all those men committed to prison?—Not all of them. Generally, when the men have been brought up by warrant, it has been the case the last 12 months, and I may say over 12 months, that the masters have generally agreed with the men to go back and serve a fortnight's notice and pay the costs, and the matter has been allowed to rest there. We have had more cases of that description, where the matter has been compromised under warrants, than cases where they have been sent to gaol. They have paid their costs and gone back to their employment.

906. In those cases where the men were apprehended under warrant, were they cases of men who had absconded?—No, not absconded, left their employment.

907. But had not left the country?—No, left on some dispute taking place in their work.

908. Of the eight or ten cases, how many do you suppose ended in imprisonment?—I do not think more than half of them ended in imprisonment.

909. With respect to the cases under summons, what was the issue in those cases, mostly?—Under summons, they have generally gone back to their employments, and paid the costs.

910. Did any of those cases end in imprisonment?—

ment?—No; I do not know that I have known any case where the man has been imprisoned under a summons; I am not aware of any.

911. Not on failure to pay the fine which may have been inflicted?—No; they have generally paid their fine. In some instances they have been fined 5s. in addition to the costs.

912. There is power under the law at present for the justices to do one of three things, to imprison, to abate wages, or to break the contract?—Yes.

913. In cases of breach of contract, which of those three courses is generally adopted?—I am not aware that the magistrates have ordered wages to be abated very often; I have heard tell of it, but I am not prepared to speak to it; they generally send the workmen to gaol, or the matter is compromised by the workmen being made to pay the costs upon condition that they will return to their employment.

914. Has there been an increase or diminution of those cases of late?—There has been a diminution of them of late.

915. To what do you attribute that diminution; is it owing to any change in the system of contract of service?—No; there has been no change in the system of contract of service.

916. What is the system of contract in the mines in your district?—So far as the term of hiring is concerned, it is 28 days, and 14 days.

917. Has that custom prevailed for many years?—It has.

918. Were the periods of service formerly longer than that?—I do not remember; I have been in South Yorkshire about 12 or 14 years, and I do not remember anything longer than a month or less than a fortnight.

919. In South Yorkshire, are your contracts mainly monthly or fortnightly?—There are more fortnightly contracts than monthly; we prefer fortnightly contracts to the monthly contracts.

920. Are there such things in South Yorkshire as minute contracts, as they are called, or contracts by the hour?—No, I am not aware of a single colliery in which such a contract exists.

921. Are you aware that such a system is in operation in Scotland?—I have heard it spoken of.

922. Have you heard it spoken of among the miners, or in communication with Mr. M'Donald and other Scotchmen?—I have not heard Mr. M'Donald speak of it; I have been in Scotland myself, and I have heard men in Scotland speak about it; I have also heard Scotchmen in south Yorkshire speak about it; we have had a few who have left South Yorkshire and gone to Scotland and returned, who have spoken of it.

923. From what you have heard, what is your opinion of that system?—I do not think the miners of South Yorkshire generally have given much attention to that point; as a rule, I do not think that any of us feel anxious or disposed to leave employment at so short a notice as an hour, or a day.

924. That is to say, in the interests of the workmen, you would prefer, you think, to have a fortnightly contract, with liability to those penalties which you have referred to, from breach of contract, than to have a system, such as prevails in Scotland, of contracts by the hour, enabling you to leave at a minute's notice, without incurring any liability to such penalties?—I think the miners of South Yorkshire would prefer having a short notice on both sides.

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925. Do you mean a shorter notice than a fortnightly notice?—There is not much discontent about a fortnight's notice among the miners of South Yorkshire; they seem satisfied with a fortnight's notice, but there is a little discontent at a month's hiring.

926. Practically you do not find the grievance of the present system excessive?—No, not excessive; we would rather have fortnightly contracts than monthly contracts; but I do not think the men would prefer being at liberty to leave at a moment's or an hour's notice, they would prefer a fortnight's notice; though a few, who get into bad places, would not mind leaving at a moment's notice.

927. Supposing they had a choice, the present law of master and servant remaining unchanged, between fortnightly contracts and hourly contracts, which do you think they would prefer?—I think they would prefer fortnightly contracts to hourly contracts.

928. What would be the objection to hourly contracts?—The objection to hourly contracts would be this: that, at different times, a great many men would be discharged at a moment's or a day's notice; and such a system would work disadvantageously to the miners, in connection with a practice which is in vogue, which is very objectionable, namely, the clearance system. When a man is discharged, or even when he leaves his employer, he cannot, generally speaking, get employment in collieries in South Yorkshire without taking his clearance from his last employer; and I have seen two sorts of clearances myself: one is where it states on the clearance paper, "So-and-so's services are no longer required at this colliery;" and I have seen others where it says, "So-and-so has legally left our employment." Generally he has a better chance of getting employment under that clearance which says that he has "legally left." That system being generally practised, they would be put to great difficulty if they left without a moment's notice.

929. Where the clearance paper says that he has "legally left" he gets employment?—Sooner than where it says that his "services are no longer required."

930. Is the clearance which says that his "services are no longer required," considered to imply that he had left illegally, and that he had not fulfilled his contract?—Where it says his "services are no longer required," we think it has not so good a sound with it; we have seen employers refuse employment to men bringing with them such clearance notes as I have named.

931. On the termination of a contract, is there a clearance note given as a matter of course in one or other of those forms, or are those papers exceptional?—It does not matter how the man leaves; whether a strike takes place, or whether there is a lock-out, or whether the man feels disposed to leave his employment with the regular fortnight or month's notice, he cannot, as a general rule, get employment in the district without a clearance paper from his last employer. There are a few collieries, perhaps three or four in the whole district, that would take them in without such clearance notes.

932. Men easily get employment in that district?—Yes, that has been the case these last 12 months; trade has been very good. I believe it is good at the present time.

933. In case of a strike, I assume there is no clearance

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clearance given?—In the case of a strike the man goes to another employer and asks for employment, and he tells him he must bring a clearance.

934. Which he would not have got in the case of a strike, I presume?—No.

935. A clearance is only given when a man in the ordinary course of his employment leaves his employment, either for the sake of getting better wages elsewhere, or for the sake of a change of employment?—Just so. I should add, in answer to the preceding question, that the men in some cases get their clearances in cases of strike.

936. As a rule, in cases of strike the man would not get a clearance; but you say in certain cases they do; what sort of cases are those in which they do get their clearance?—Some get clearances and some do not. Men have complained that they could not get their clearance papers; the stewards or managers in the district have said, "If you get your clearance from your last employer, we will employ you," and the clearance has been applied for and refused; and in other cases where the clearances have been given the men could not get employment with them.

937. Is the clearance given at the time of the strike, or subsequently?—Immediately after.

938. When you want employment you come for a clearance in order to get employment in another mine?—Yes, and the clearance has sometimes been refused; and I have known cases where a manager has told a man to bring a clearance and he would set him on, and when he has brought his clearance he has refused to employ him.

939. Do you imagine that, in cases of hourly contracts, there would be greater difficulty in getting those clearances?—I believe it would not answer the purpose of the men so well to have those short contracts; I believe there would be greater difficulty so long as the clearance system was in vogue; I believe it would work more disadvantageously to the men than the system of fortnightly contracts.

940. If a man conducts himself properly, if he works a certain number of days and leaves at the end of the week, not being obliged to give a fortnight's notice, why should he have a difficulty in getting a clearance?—You say, "If the man conducts himself properly," but it is very difficult for a man to conduct himself properly according to the view of the employer.

941. That would apply equally to fortnightly contracts as to weekly contracts or day contracts?—Of course it would; but I have never heard any men say that they would like either hourly contracts or day contracts; they have no objection to fortnightly or weekly contracts.

942. Are you aware whether in Scotland, where the system of hourly contract prevails, there is a corresponding system of clearance papers to that which you have in Yorkshire?—No, I have not heard of any.

943. You have mentioned some cases of hardship which have arisen under the present law; do you think the operation of the law is such as to require a change?—Yes, the miners of South Yorkshire would gladly see a change in the law.

944. Your objection to the law is rather a theoretical one than one arising from any real practical grievance, because you have told us that the cases that arise are few and that they are mostly compromised; and you have stated that you would prefer the present state of the law with fortnightly contracts to an amended state of the law with

hourly contracts; therefore, I assume the grievance of which you complain is not a very practical one; is that so?—Even when the case is compromised it is a hardship to be fetched out of bed in the dead of the night; and some of them think it a greater punishment to be compelled to go back to their employment for a month than to go to the House of Correction.

945. As the law stands, a man who has been sent to prison for breach of contract may be compelled to serve the time for which he has contracted, at the end of his term of imprisonment?—I believe so.

946. Have you ever known instances of the law being carried out with that stringency?—I am not aware of any such case in our district among the miners particularly, though I have read of such a case recently; but I have known several who, on coming out of prison, have worked out their notice for fear they might be fetched up again, and I have known others who have gone right away and the employers have not taken any notice of them at all.

947. What changes would you propose in the law?—We think that a breach of contract ought to be treated as a civil offence, that an ordinary summons should be the only machinery for proceeding against the man, and that there should be no imprisonment at all for a man breaking his contract; that it ought to be met by fine, or something of the sort.

948. You consider that the change in the law should be, instead of its being, as it is now, a criminal offence, it should be made a civil offence, and instead of a man being imprisoned for breach of contract he should be fined; in case of his inability to pay the fine how would you deal with him?—I think the common law might step in and do its work; the ordinary machinery of a county court could be put in motion.

949. You would not be averse to imprisonment if it were thought desirable, in case a man were fined for having broken his contract, and the man had no goods whereon a distress might be levied to cover the fine?—I do not think such cases would often happen; it depends a great deal upon the extent of the fine; the cases would be very rare where a man had neither goods nor chattels.

950. You think generally he would have goods enough to meet a fine?—Unless the fine were very heavy.

951. The fine would generally, you think, not be of that amount that a man would be unable to pay it, and in that case there would be no occasion to resort to imprisonment; but supposing he were unable to pay it, you would see no theoretical or other objection perhaps, as a matter of justice or feeling, to imprisonment?—If a man would not pay, after the machinery of the common law had been put in force against him, I do not know that I should have any objection to imprisonment.

952. Should you see any objection to arresting and following his wages, supposing he went into other employment?—If a change in the law were made, so that it were made a civil offence, and the law were made equal between employer and employed, I do not know that we should object to such means being taken for the purpose of compelling the man to pay the fine.

953. Might not cases arise in mines, where a man employed in a responsible position, by leaving that position suddenly without notice, and going

going straight away, would not only render the owner liable to considerable loss, but would throw his fellow workmen out of employment?—Yes; but cases like those the Mining Acts already provide for; the law has now hold of any man placed in a responsible position.

954. Have you the rules of your own colliery?—Yes (*handing them in*).

955. We have had placed before us rules applying to collieries in Scotland, drawn up under the Mines Inspection Act, which, after receiving the sanction of the Secretary of State, become statutory rules; are these which you have handed in similar rules for the guidance of the workpeople in your colliery, which is the Fence Colliery, near Rotherham?—Yes, they are.

956. Those rules you believe to meet all such cases as I have suggested?—Yes.

957. That is to say, any breach under those rules can be immediately punished criminally under the Mines Inspection Act?—Yes.

958. And therefore you think, as regards mines, ample protection is given both to the master and to the fellow workmen against any evils arising from any sudden leaving of work on the part of any workman, and in that respect the law of master and workman is superfluous?—Yes, the special rules provide for those things; I do not think anything is likely to arise that they do not provide for.

959. Are special rules of this character universally adopted throughout the mining districts of Yorkshire?—Yes, there are similar rules adopted in collieries throughout the country; I have seen several in different districts.

960. Mr. Clive.] They are posted up in every mine, are not they?—Yes, they are posted up in the mine. When the men come to work at the colliery they have the rules put into their hand, and the bye-laws, that is to say the contract laws, are printed at the end, being sewn up in the same book at the end.

961. Chairman.] Are your fortnightly contracts generally verbal or written?—We generally, on our contract, get a copy of the bye-laws made to govern the colliery; it does not matter how many workmen go into the colliery during 12 months or 12 years, the bye-laws, the contract laws, generally remain the same. Coals throughout the district are produced at so much a ton; we do not go and bargain with the employer or contract to do a certain portion of work for so much; the rules of the colliery fix the way in which all the men are paid.

962. Not in one particular colliery only, but through the district?—Yes.

963. There is a fixed rate for the district?—Yes.

964. How is that rate fixed?—It is fixed on so much a ton by the employers.

965. There is an employers' association that fixes the rate of wages for the district?—Yes, that has something to do with the prices paid at the various collieries; still the prices do vary a little in consequence of the variations of the mines.

966. Is that variation the result of a fixed standard, a variation which is established according to the varying circumstances of the different mines by this association, or is each employer at liberty to fix, and does he fix, his own standard irrespective of the association?—Each employer is at liberty to make certain changes in case the work alters: for instance, we have several disputes with respect to the price per ton paid to 0.71.

the men; and some of the employers will say, "I have been round the district and got a list of all the prices, and I find ours is so much more;" and the men will do the same. Sometimes we try to assimilate prices; but we can only assimilate prices by getting at the difficulties in the particular mine: if the difficulties of the mines and the getting of the coal are the same, we can assimilate the prices. In the Barnsley thick bed as low as 10*d.* a ton is paid to the colliers and hurriers, and as high as 1*s.* 2*d.*; the average is 1*s.* 1*d.* Barnsley prices do not vary much; the workman knows by the rules and customs of the colliery that the pay is so much a ton, and he knows that the notice is a fortnight or a month's notice, as the case may be.

967. Have you known cases frequently occur under these statutory rules where engine men or others have suddenly left their work in the cases specified in the rules, and have rendered themselves liable to punishment in consequence of so doing?—I do not remember any case of that description.

968. Cases do not often occur under those rules?—No.

969. What do you consider the most responsible positions in which men can be placed in a mine?—The engine tender's is a very responsible position; because, as soon as the men get on the pit bank, they put their lives in his hands; the hanger-on at the bottom, who gives signals, the signalman; the fire trier, who examines places to see if they are in a fit state for working; the deputies, and the stewards; those all occupy very responsible positions with reference to the safety of the employer's property and the security of the men's lives; then there are the breaksmen.

970. Those are positions in which men are placed, where, if they absent themselves, or neglect their duty, great loss might occur to the employer, and the workmen might be injured?—Yes, if they neglected their duty, that might be the result.

971. Under those statutory regulations which you say hold good in all mines, with certain variations, coupled with the powers under the Mines Inspection Act, men in those positions failing to perform their duties or deserting their posts would be liable to immediate punishment?—There is some difference between a man deserting his post and not doing his duty: for instance, in the case of the fire-trier absenting himself there would be no injury done to life and limb; there would be a loss of course to the employer, and to the men also. The fire-triers, after they have been round the workings, give a signal to the top for the men to descend; if the signal is not given the men do not descend at all, and if the signal is not given at the proper time, there is some one descends to look where the fireman is. The engine tender would give notice that such-and-such a man had not descended the shaft the previous evening, or during the night time. Then, again, if the engine tender was not there, the fire-trier could not get down the pit, and they would have to look after another engine tender or report it to the manager.

972. Supposing no other engine tender was at hand?—Our pits are so numerous in South Yorkshire that there would be no difficulty in getting another engine tender; there are generally two or three about the place that could take hold of the engine.

973. Supposing a place where there was a difficulty

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difficulty in getting an engine tender, and the engine tender had absented himself; in that case the mine must stop, the men would not be able to get up or down till another man was got?—They might be stopped for a day.

974. During that day the men would be either confined below, or they would be unable to go below, depending upon whether they were below or above when the engine tender left?—I do not remember any case in which the engine tender has run off after letting them down into the pit.

975. To the best of your belief, the special regulations which are in force under the 23 & 24 Vict., for the regulation and inspection of mines, 28th August 1860, are sufficient to give protection to the men employed in the mine, and to secure the masters against loss, as far as it is possible to do so by law, from neglect of duty on the part of any man in a responsible position, or from his absenting himself suddenly from his work?—I have already answered that; I believe that the special rules do provide punishment for anyone who is in a responsible position; but I think your question had this in it, that they were "satisfactory;" I cannot say that the special laws are satisfactory for the men; they are not.

976. The word I used was "sufficient," not "satisfactory"?—I think they are sufficient, so far as keeping the responsible men to their duty. If they neglect their duty, the punishment is sufficient as far as that is concerned.

977. So far as regards mines, you think in those respects the power of having the men imprisoned for breach of contract under the Master and Servant Act is unnecessary?—I believe so.

978. Objection has been taken before this Committee to the jurisdiction in these cases that arise under the law of master and servant; do you take any objection to the jurisdiction of the magistrates in such cases?—So far as we are concerned in South Yorkshire, we would much rather have the stipendiary magistrate, and we would rather that he tried those cases. We generally find in county court cases we are better dealt with; we think more justice is done in the county court in our neighbourhood than in the magistrates' court; most of our magistrates in Barnsley are employers of labour.

979. Can you state positively that there is a failure of justice at present in such cases?—There is great discontent about it; on several occasions we have had convictions that we have thought very severe, and more severe than was necessary; and it has generally been said that it is on account of their being employers of labour. I have seen cases go before the bench from a colliery, where the owner has been a magistrate himself, and I have seen him retire from the bench while the case has been on, leaving the other magistrates to deal with the case.

980. Were the other magistrates coalowners?—No, not in those cases I am referring to; they were linen or cotton manufacturers; one was a clergyman.

981. I first asked you whether your objection to the jurisdiction arose from a failure of justice, and you said that you thought the cases were too severely dealt with; do you attribute those cases being too severely dealt with, to ignorance of the law on the part of those who administer it, or is it your belief, and the belief of those whom you represent, that those persons so administering the law have their sympathies with the prose-

cutor and not with the defendant?—That is what we feel.

982. It is on that account you wish the law altered, and the jurisdiction in those cases referred to some stipendiary magistrate or a county court judge?—Yes, that is the opinion of the men.

983. And this sympathy that you have referred to on the part of employers on the bench, with another employer who is prosecuting, does not, if I understand you rightly, occur in cases of employers in the same description of work; that is to say, those cases which you complain of, which were mining cases, were not adjudicated by employers of mining labour?—No; but they were employers of other labour.

984. So that your objection is not to the same description of employers adjudicating in such cases, but to any employer adjudicating on any case where labour is concerned?—An independent magistrate on the bench would deal more fairly with the cases.

985. Your principle would do away with justices' justice altogether?—Yes, for those cases of breach of contract.

986. Mr. *Algernon Egerton*.] Did I rightly understand you to say that you considered the present state of the law under the Mines Regulation and Inspection Act unsatisfactory?—We require an alteration in the special rules, so far as the miners' side of the question is concerned.

987. What is that alteration?—We think we ought to have a voice, in the first place, in making the rules. Some one ought to represent the miners before the rules became law; they are framed behind the backs of the miners, and the practice is to hang them up 14 days, but there are hundreds of miners who never see them, and there are hundreds who could not read them if they did see them; they are hung up, the miners not knowing anything about them, and they are sent to the Secretary of State, and then become law. Then, in some instances, they infringe upon the general rules under the Act itself. We wish to have many of them, in fact, amended, and an equality established between the employers and ourselves.

988. Have there been any cases in which your association has represented that the rules of the pit are an infringement of the Mines Inspection Act?—The special rules are, in some instances, as we believe, an infringement of the Act.

989. Have your association taken any action upon that belief?—We have put it before the Committee on Mines, that we object to the way of framing them, and that we think they infringe upon the general rules. It is a point of law; and we think they ought to be thoroughly examined by some one who understands the Act itself, to see that they do not infringe upon the general rules.

990. As to the mode in which colliers are paid in your district; I believe in South Lancashire their pay varies according as the price of coal varies; that is to say, if the price of coal goes up the miner is paid more; is that the case in South Yorkshire?—No, it is not the case in South Yorkshire.

991. There is a fixed system of wages there?—The markets have very little to do with the rate of wages in South Yorkshire. We have only asked for one advance on the ground of the commodity being high in the market; that was about Christmas, and we got an advance of 5 per cent. That was not altogether on account of the commodity



commodity being up in the market, but on account of labour being scarce, for one thing.

992. The price of coal has some influence upon the price of labour?—Yes; but it has not regulated it so much as we should like.

993. Not so much in your case as in the case of South Lancashire?—No.

994. Mr. *M Lagan*.] Do the masters provide houses for the miners in South Yorkshire?—A great many houses are provided by the masters, and very good houses, too.

995. How do the miners pay for those houses?—The rent is stopped at the office.

996. That being so, would it not be very inconvenient to have shorter notices than a fortnight, because, if a miner were put out of his house, he would have a difficulty in getting one elsewhere?—Whether the employer gives the man notice, or the man gives the employer notice, it is generally the case, when the notice expires, that he has to leave his house; a week or a fortnight's notice gives him time to look out for another house.

997. That is a strong reason why minute or hourly contracts would not be approved of, is it not?—Hourly or daily contracts never come under our notice at all; I am not prepared to speak to them.

998. You think the miners in your district would not approve of them?—The miners of South Yorkshire think a week or a fortnight's notice most satisfactory. The mines of Scotland are quite different to English mines; I do not know how the South Yorkshire miners would take the system of minute contracts; it has never been put before them.

999. Seeing that houses are provided as part of the wages of the men, would not it be for the advantage of men to have fortnightly or monthly warnings or notices?—Where houses are provided the men would rather have a fortnight's notice than a month's notice.

1000. Because they could easily get houses elsewhere, you think?—There is no difficulty in getting houses in South Yorkshire; there are a great many houses all over the country.

1001. In a district where there was a scarcity of houses, a month's notice would be certainly better for the men, would it not?—No; there would be the same scarcity at the end of the month as there would be at the end of the fortnight.

1002. There would be more time to look about in a month, would there not?—I think a fortnightly notice is quite long enough for both sides; it would give each time to look about.

1003. I understand you to say that you do not approve of miners being prosecuted criminally under the Master and Servant Act for breach of contract?—No; we have not the same power in many instances that the employer has; he can dismiss us, according to his bye-laws, under many circumstances, at a moment's notice, and that is a great hardship; he makes out this or the other to be a disobedience of orders, which when he goes before the court is the plea which he raises in answer to the complaint that he has turned us away without notice. All the action we have been able to take in South Yorkshire has been to sue the master for a fortnight's wages in the county court; and when we have so sued him in the county court he has set up half-a-dozen excuses why he has dismissed us without notice; and he has said it was for disobedience of orders, or

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something of that sort, and that has a tendency to defeat the ends of the man recovering his wages; we want the law made equal.

1004. Is not it the case that a servant can leave without warning if the master has commanded him to do work which he has not engaged to do?—Yes, if an employer breaks a contract and that can be fairly proved, the man can leave; we have had several cases of that description where a contract has been broken by the master and the man has left, no action being taken against him.

1005. Supposing a man was prosecuted civilly for breach of contract, and he was condemned to pay a penalty for that, and he could not pay it, would you approve of the master seizing his furniture and selling it in preference to his following the man's wages at another mine?—I do not think it would be right to arrest his wages in another service.

1006. Supposing he had not sufficient furniture to pay the fine, you would not object to the master imprisoning the man for debt?—If the fine was not paid it would be a debt, and I think I have already stated that the county court machinery ought to be put in motion to enforce the payment of that debt.

1007. Supposing a man was breaking his contract by leaving his work, and by his leaving his work injury was done to his fellow workmen, he would be prosecuted under the Mines Regulation and Inspection Act, would he not?—Yes.

1008. He would be prosecuted criminally?—Yes; I believe the Act provides for that.

1009. And under the Master and Servant Act he would be prosecuted criminally also at present?—Yes.

1010. You think the Act should be altered so far that he should only be prosecuted civilly?—Yes.

1011. But supposing the Master and Servant Act was so altered that no criminal prosecution could be instituted under it, that man would still be liable to be prosecuted criminally under the Mines Inspection Act?—I think in all such cases, when a change is made, the Act should provide that if proceedings be taken they should only be taken under one Act, and not under both. I should think it a hard case if, after I had been summoned and paid a fine, I were to be proceeded against criminally under the special or general rules.

1012. You would have no objection to a master having it in his power to prosecute either under the Master and Servant Act or under the Mines Regulation and Inspection Act; if you did away with the criminal prosecution under the Master and Servant Act, would you be for making any alteration in the Mines Regulation and Inspection Act?—If the employer had the power to bring an action against the man, under the altered law of master and servant, and then had the power to proceed also against him criminally, under the Mines Regulation and Inspection Act, there would be an objection to that, I am sure.

1013. Supposing he preferred to proceed criminally under the Mines Regulation and Inspection Act, and left the other alone altogether?—I do not think we could alter the Mines Regulation and Inspection Act; that does not so much relate to contract between master and servant, it is more as to the safety of the men; it does not interfere with contracts, it only refers to absence and neglect of duty.

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1014. Take

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1014. Take a case where a breach of contract is caused by a man being absent, and the master, instead of proceeding for the breach of contract, says, "This man is absent from his service, and I prosecute him under the Mines Regulation Inspection Act," the master having the power, though the criminal procedure under the Master and Servant Act were abolished, to prosecute the man under the Mines Regulation and Inspection Act?—I should have no objection to there being a power to prosecute criminally, under the Mines Regulation and Inspection Act, people who by a neglect of duty endangered life and property; because it would be a serious matter, for instance, for a fireman to be absent from his duty; he should consider what he is putting himself under when he takes such a position.

1015. You think he should not escape a criminal prosecution, even though the Master and Servant Act were altered?—No.

1016. Mr. George.] Is there a distinction under the Mines Regulation Act between acts of a civil nature and acts of a criminal nature, as between master and servant; are there some acts under it that are treated merely as breaches of a civil contract, and other specified acts that are considered to be of a criminal nature, and dealt with accordingly?—I believe the Act makes provision for both; I believe the magistrates have power to deal with them, either criminally or civilly; many a case is brought up where a man is fined a couple of pounds, and many a case where he is sent to prison for a breach of those special or general rules.

1017. The Mining Act specifies the particular acts that the magistrate is at liberty to treat as criminal offences?—As I understand it, he can treat them either way. The Mines Inspection Act says, "fined or otherwise punished," and it is at the option of the magistrate which way the man is punished.

1018. Is there not a certain class of cases, under the Mines Regulation and Inspection Act, with which the magistrate has no power to deal criminally, but which he has to deal with as matters of civil contract only?—I do not know that there is anything in the general rules relating to wages at all, and I do not believe there is anything that is pointed at as being a criminal or a civil offence.

1019. Is the proceeding on the part of the master against the servant, under the Mines Inspection Act, at all times of a criminal nature; does it commence by warrant or by summons?—It is generally commenced by summons.

1020. Is that under the terms of the Act?—Yes, and I believe they could fetch him by a warrant if he absconded.

1021. In any of those cases specified in the Mines Inspection Act that are in the nature of a criminal offence, is it the practice to issue a warrant in the first instance?—No.

1022. Not for any of those cases specified as of a criminal nature in those rules?—I am not aware that it is. All the breaches of the general rules that I have seen committed have been proceeded against by summons.

1023. Do they ever proceed by warrant in the first instance under the Mines Inspection Act?—I do not know that they do; I have never seen any necessity for it. In the cases of men in responsible positions, the summons has been sufficient to bring the man before the magistrates, and

the magistrates, though he has been brought up by summons, have dealt with the case criminally.

1024. Does not the Mines Inspection Act specify cases of a man abandoning his work, by which irreparable damage might be done to the mine, or to the people employed in it?—Yes.

1025. In those cases, would the proceeding by the master against the servant be criminal or civil?—Either way.

1026. If a man abandoned his work at the mouth of the mine, and thereby endangered the lives of other people, or endangered property in the mine, would the master be at liberty, for that neglect of duty on the part of the man, to have a warrant issued against him?—I do not know whether the Act points out that the warrant shall be issued, but there is generally a summons issued against him.

1027. Would a man who abandoned the engine at the mouth of the mine, and thereby did great damage, be proceeded against merely by summons?—I have never known such cases to take place in our district, but I believe in such cases a warrant would be issued; all the cases I have seen have been cases of ordinary summons.

1028. Do I rightly understand your evidence to be this: that whether the acts done by the workman be in the nature of a breach of civil contract, or in the nature of a criminal offence, such as I have been describing, the practice is always to issue a summons against the workman in the first instance?—All those cases have come under an ordinary summons; I have not seen one that I remember where the man has been fetched up by warrant.

1029. The practice is to deal with the matter by summons, under the Mines Inspection and Regulation Act, but when the defendant in that summons is brought before the magistrate the magistrate decides whether it is a civil or criminal matter, and he either gives a pecuniary penalty or inflicts imprisonment if it is in the nature of a criminal offence?—Yes, just as the nature of the case may be.

1030. Mr. Potter.] What number of workmen do you represent?—Five thousand belonging to the association that I represent; there are more than 5,000 in the district; there are 10,000 in the district.

1031. Are those all adults?—Yes.

1032. What are the average wages?—It is very difficult to get at the men's wages; the nearest average we can come to is about 24 s. to 27 s. a-week.

1033. What are the average weekly rents they pay for the cottages you refer to?—At the Wombwell Main, belonging to Messrs. Bartholomew & Baxter, they charge 3 s. a-week for coal and house-rent, and they are very good houses: they have good gardens too.

1034. Chairman.] That is in a rural district?—Yes; about 2 s. 6 d. a-week generally.

1035. Mr. Potter.] Would you reckon the coal to be worth 6 d. a-week?—In some cases they pay them 6 d. or 9 d. instead of allowing them coal.

1036. We may take the house as 2 s. 6 d. and the coals at 6 d.?—Yes.

1037. Mr. Clive.] You have been giving evidence before the Mines Committee?—Yes.

1038. You have heard most of the evidence given before that Committee?—I have heard a good deal of it.

1039. Have you ever heard any objection taken

taken to this imprisonment clause in the Mines Inspection Act?—No.

1040. You do not object to it at all?—I do not.

1041. But you object to the imprisonment under the Master and Servant Act?—Yes.

1042. Do you object to the imprisonment itself, or do you object to the criminal character of the proceeding?—I object to both.

1043. You object more to its commencement by warrant; but you object to it altogether as a criminal proceeding?—Yes.

1044. Should you object to it as a criminal proceeding if the case were tried before a stipendiary magistrate?—I think that there ought not to be any imprisonment about it at all.

1045. Are you acquainted with the imprisonment that is the consequence of a refusal to pay under the County Court Act; do you know how slight it is?—I think the outside, I have heard, is 40 days.

1046. You are aware that that can only be inflicted in certain specified cases?—Only in certain cases.

1047. To that you would submit willingly?—Yes; I think it ought to take the common law course.

1048. Leaving it to the master, who had contracted with a workman who turned out to be insolvent, to take his chance like any other creditor?—Yes.

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Mr. CHARLES WILLIAMS, called in; and Examined.

1049. *Chairman.*] I BELIEVE you are Secretary to the Trades of Liverpool?—Yes, the United Trades Protection Association; and I am likewise General Secretary of the National Association of Operative Plasterers.

1050. What are you yourself by trade?—A plasterer.

1051. You have been a working plasterer yourself?—Yes, I went through all the grades.

1052. Are you now yourself an employer of labour?—No, I am now employed by the association.

1053. Have you been in communication at all with the Glasgow committee with reference to this movement, for bringing about an alteration in the law of master and servant?—Yes.

1054. Were you present, representing your association, at a meeting that was held for the purpose of taking steps with a view to procuring an alteration in this law?—I was.

1055. Where was that meeting held?—In London.

1056. That was a meeting of representatives from the United Kingdom?—Yes.

1057. It was not a meeting of the London trades only?—No.

1058. At that meeting action in the matter was intrusted to the Glasgow Executive Committee?—It was.

1059. And since then there has been no further meeting of the different representatives, has there?—No, not collectively; though we have agitated the question in various towns.

1060. Locally?—Locally.

1061. The object of that general meeting, and the appointment of that executive committee in Glasgow, was to obtain some alteration in the law, was it not?—Yes, to amend the law.

1062. Wherein do you consider the law at present to require amendment?—We object to its being a criminal proceeding; we think it unjust that the same mode of proceeding is not applied to the employer as to the operative.

1063. You think the law at present unequal, and you wish it to be made the same in the case of the servant as in the case of the master?—Yes, and we are cognisant of this, that the very same Act was sent to the Indies, and it was then countermanded; I have understood that from an Honourable Member of the House.

1064. You do not speak to that from your own knowledge?—No.

1065. You object to the law on account of its inequality; is that your only objection, or do you consider it a harsh law as well?—Yes; I object to it as a bad law that wants remedying.

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1066. Do cases of hardship very often occur under it?—Yes.

1067. Are you able to give any cases which have occurred in your own trade?—I will give you a case in point, which will, I think, show that the employers can use the law to their own advantage where the workman would have no chance whatever. Some time ago we had a dispute in Leeds with an employer, two men left their employment.

1068. In what trade was this?—In the plastering trade. Those two men left their employment, and the employer said, "Why will not you work"; they said, "Why, there is something in your employment we do not like"; this was, that a man was employed that had not been very honest to the society, and they had turned him out of the society, or he had left. The result was this, when the employer found he could not prosecute those two men under the Combination Act, he took them under the Master and Servant Act, and they were committed to prison for one month. We appealed against it, costing us a considerable amount of money, and the decision was confirmed at Quarter Sessions.

1069. Before whom was that case tried; before a justice or a stipendiary magistrate?—A justice. Another case was this; on the 26th of September a lot of employers went up into North Staffordshire, there having been a dispute in Liverpool, relative to an engagement by the hour, and they engaged 16 men and brought them to Liverpool out of Staffordshire, the employers not informing them that there was any dispute (according to the evidence that was given in the police court) existing; when the men arrived in Liverpool, and saw the state of things, and refused to implement their contract, they were taken before Mr. Raffles, the stipendiary magistrate; counsel were engaged, and, when the contract was shown, it was found that the operatives only had signed it and not the employers. Those men suffered something like about 18 hours' imprisonment.

1070. *Mr. Algernon Egerton.*] Till the case was tried?—Yes, this is the form of contract (*handing it in*).

1071. *Chairman.*] In consequence of this not having been signed by the masters the men got off?—Yes.

1072. If it had been signed by the master, should you still consider it right that the men should have got off?—If they had been punished I should consider that they would have been very unjustly punished; for this reason, the employers led them to infer that there was no dispute be-

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tween them and their operatives it was a kind of decoy.

1073. You think that they were brought there not knowing all the circumstances of the case, and that they ought to have been told before they entered into any contract?—Yes.

1074. You think that the law ought to be amended. What change would you propose in the law?—To abolish the criminal procedure.

1075. You are conversant with all the trades in Liverpool, as secretary to the General Trades Society; in what trades do those cases mostly arise?—I think they are more frequent amongst the cabinet makers. The brick makers are subject at times to them.

1076. Cases most frequently arise amongst the cabinet makers; to what do you attribute cases more frequently occurring in that trade than any other?—It has occurred through a book of prices that there has been a great deal of bother about; what they call the London book of prices; which, I am happy to say, is done away with at Liverpool, so that we shall have peace there with them for a time.

1077. It was that which led to the disputes between master and servant?—Yes.

1078. They broke their contracts and were prosecuted?—Yes.

1079. What annual average number of cases have you known under the law as at present?—There would be above 30 in the whole of the trades of Liverpool. In the iron workers, for instance, I have known as many as 16 or 18 cases nearly following one another.

1080. How many cases annually occur under this Act that you have a knowledge of in Liverpool; on the average, would there be 20?—I should say there would be over that number.

1081. In your own special trade throughout the kingdom, how many would there be?—About 30.

1082. Does that embrace Scotland?—Yes, and Wales.

1083. Not Ireland?—No.

1084. How many members are there in your association?—About 15,000.

1085. How many plasterers do you suppose there are in the United Kingdom?—I should say there would be from 25,000 to 30,000; that is an approximation.

1086. Do those 30 cases occur in the 15,000 who are members of the association, or in the whole trade?—In the aggregate.

1087. Is there a tendency to an increase or a decrease of cases under the law?—As regards my own trade they are more on the increase than the decrease, for this reason: I believe that the employers were not aware how far they could stretch the Act till the agitation came on.

1088. What agitation?—For a change in the law of master and servant.

1089. That agitation has shown the masters what the law really is, and they are straining it?—Yes.

1090. How do you prove that; by there being more cases in 1865 than in 1864?—Yes; in my own particular trade, and likewise, I may say, in the whole of the building trade.

1091. You are secretary of the trades of Liverpool; what are the trades that belong to the Liverpool Trades Association?—The building trades, shipwrights, cabinet makers, polishers, and 16 or 17 other trades.

1092. The trade in which cases most frequently

arise is that of the cabinet makers?—There is much more magisterial interference in that than in any other I know of, with the exception of the iron workers.

1093. Would you propose any substitute in the law?—I would submit that the criminal procedure should be done away with, and that the process should become civil, or that, if that could not be done, the employers should be subject to the same procedure as the operative; we look at it in that light.

1094. That is, that warrants should issue against the employer as well as against the employed?—Yes.

1095. You would like to see a change in the law, making the procedure civil instead of criminal; would you accompany that change in the law with any exceptions; are there any cases in any trades with which you are conversant where it would be necessary to make exceptions, in the cases of men in responsible positions suddenly leaving their posts, thereby entailing loss upon the employer, and injury to the fellow workmen?—I would not object to that; but I should object to the employer assessing the amount of damages incurred, because, in the largest firms that I am acquainted with, the most responsible party is very often dismissed without any notice whatever; sometimes in an hour, sometimes in a day.

1096. In your own business, what term of contracts do the men mostly enter into?—As a general rule, it is by the day.

1097. If that is the rule, there can be none of these breaches of contract, can there?—Yes; the masters take advantage of it, thus: we engage at so much per week, and if we do not fulfil the week's contract, in a great many towns they refuse to pay us.

1098. Then it is a weekly contract?—Yes, in a great many towns; in some towns it is by the hour; in London, for instance, they engage by the hour, and they are paid by the hour.

1099. In London, therefore, no cases arise under the Act, I presume?—Yes, it was ruled the other week that the payment by the hour would not be recognized; that it must be by the day.

1100. Mr. Algernon Egerton.] Where was that ruled?—I think it was in Bow-street court.

1101. Chairman.] Was that recently?—About a fortnight ago.

1102. What was the result of that trial?—The presiding magistrate gave the party applying a day; he did not recognize the hour's payment, but held that it must be by the day.

1103. Was that for breach of contract or for payment of wages?—For payment of wages; it was a breach of contract, because the employer refused to pay the man for the day's work he had contracted to perform; wet came on, and he went to do some work inside.

1104. In those other trades of Liverpool, generally speaking, what is the period of contract?—It is very nearly all weekly, with the exception of the forge workers.

1105. What is their period?—14 days; there is a case now at the Mersey Steel Works, where there is a dispute, and they are going to take the case into court to try the question; when a man is engaged at the Mersey Iron and Steel Works he is supplied with a code of rules, the notice to leave being seven or 14 days' notice. There has been a little turmoil there, and instead of Mr. Clay, the manager, giving them notice, he posts a notice

notice on the wall to say that all those who belong to unions are to leave at a certain date. The men want the same notice as he would require, and hence the application to the court.

1106. Supposing such a change in the law to be made, as you propose, that is to say, that the procedure should be civil and no longer criminal, would you, in the event of a man being fined, object to imprisonment where he had no effects?—In the event of a fine being inflicted for not implementing a contract, and there were no goods, I would suggest that the same procedure should be adopted as for all other debts.

1107. Would you see any objection to a power of arresting and following wages in lieu of selling the man up, that is to say, that there should be the alternative?—I should not object, providing a discretionary power was given, but I should object to a power being given to take the whole of a man's wages.

1108. I mean a portion; supposing a fine were inflicted upon you, which would you yourself prefer, if you had no other means of payment, and the choice lay between you having your household furniture sold, or your wages being arrested, and a certain portion being weekly deducted till the amount was paid?—I would prefer liberty.

1109. And the arrestment of wages?—Yes.

1110. To being sold up?—Yes.

1111. In each case you would be free?—Yes.

1112. You greatly would prefer freedom with your household furniture untouched?—A great deal. I think that would be the expression of feeling of the whole of the operatives.

1113. You think that they would have no objection to the arresting of their wages?—No, where the fine was inflicted justly.

1114. And where the amount arrested was not too great in proportion to the wages received?—Yes.

1115. Is there any other point which you wish to speak to?—No more than this; that we hope that we shall be successful in taking the criminal procedure away; but, if that is not abolished, we shall have the same liberty as the employers have. More particularly in the building trades we have mushroom employers, and they get hold of our money, and run away with it, and we cannot imprison them; we can only put them in the county court.

1116. That is to say, they get your labour without paying you for it?—Yes; and they get the money of their employers. All that we can do is to wait till we can see them and put them in the county court. There are instances upon instances where they run away, and the men go on working, not being cognizant of the fact of their being away, and then, when they go to look, perhaps the sheriff's officers are in, or the establishment is closed up. There are many instances of that.

1117. Alderman *Salomons*.] Did you thoroughly understand the Chairman's question, whether you would have any objection, if you went away from your employment, to your employer following you, and impounding your wages. Do you think that is better than being sold up?—Yes.

1118. As to those mushroom employers, those mushroom employers only undertake a low class of buildings, do they not?—Some of the largest buildings we have are undertaken by those sub-contractors.

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1119. What would you do with those mushroom people who went away in your debt, having taken the money of the men who employed them?—Whenever we reach them we put them into the county court.

1120. Supposing they were bankrupt?—That would be the same as the operative not implementing his contract.

1121. The operative not completing his contract, you follow his labour, and take the money his labour produces elsewhere, but he cannot go bankrupt; those men go bankrupt, and you lose all your wages; would you be satisfied with that state of things, or would you put them in prison as they would put you in prison?—Yes, I would. If the law was not amended, so that the criminal procedure was taken away, I would give to the operative, as against the employer, the same power as the employer has as against the operative.

1122. You would say to the builder you would follow his capital in the same way as he would follow your wages?—Yes.

1123. That would be the way to make it equal?—Yes.

1124. If your future labour is to be pledged for the purpose of paying your former master, should not those mushroom people who get clear by the Bankruptcy Court, have their capital pledged in the same way for you to get back your money?—When I made use of the word "mushroom," I did not mean that those gentlemen very often took the benefit of the Bankruptcy Court; there have been only about three or four instances, that I have known of, that they have done so; they go away entirely, we see no more of them, we may hear of them; but, as to following them, it would be throwing good money after that which was lost.

1125. A mechanic might go away, and do the same thing?—Yes; we want the law to be equal.

1126. By the law of England, now, you cannot follow wages?—No.

1127. But they can in Scotland?—Yes, they can impound wages in Scotland.

1128. Would you like the law of England to be assimilated to that of Scotland?—In cases of breach of contract, I would.

1129. Mr. *George*.] Is it a common practice for work to be undertaken by sub-contractors?—Yes.

1130. The complaints of work people against their employers are, I presume, much more frequent as between the workmen and those sub-contractors than between the workmen and the principal contractors?—As a rule.

1131. Are there many cases where the contract is direct between the person who undertakes the work and the workman?—Yes, a great many cases.

1132. You do not find so many complaints in proportion in cases where the work is undertaken by the head master as where the work is undertaken by sub-contractors?—No, not nearly so many.

1133. I understand your main grievance to be, that you think the proceeding as between master and servant on both sides ought to be treated as of a civil nature?—Yes, I do.

1134. The proceeding to be commenced by summons in every instance, and not as against the workman by warrant?—Yes.

1135. In the case you put of proceeding in

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the county court against those mushroom employers, do not you get the judgment of the court against them. If you process one of those sub-contractors in the county court, or in whatever court you proceed against them, do not you get the judgment of that court against them?—Yes.

1136. Cannot you follow that out either by seizing their property, if they have any, or their person, if you can get hold of them?—Yes; but we find a great evil in this respect; the operative has not cash to expend in such a procedure, and those employers may not have capital, or goods, or chattels to proceed against. We could imprison them; but what satisfaction is that to us, only the satisfaction of revenge.

1137. If a man violates his contract, and you get the judgment of a court against him, and you take all his property, and take his person if you can get hold of it, what more can you do?—See the time that must elapse. For instance, if an employer were not to pay me, and I put him in the county court, I might have to wait 14 or 21 days, as the case may be.

1138. What do you propose to do, then?—I would propose to do the same with him as he would do with me.

1139. Do you mean you would issue a warrant against him to make him pay you?—Yes.

1140. Did not you say that you would prefer that a breach of contract should be treated as a civil matter between both parties?—Yes.

1141. You would not wish a warrant to be issued against you for absenting yourself for a day, and thereby injuring the master to the amount of a day's wages?—If the law cannot be so altered as that the procedure should be made a civil procedure, I then ask for the same power for the operative as the employer has on the operative; but if the law can be so amended that it shall become a civil process against both parties, then I am quite satisfied.

1142. Then if you, as a workman, made an agreement with a sub-contractor or a master, and he violated it, and you sued him in the county court, and got a decree of that court against him, you would be satisfied to take his property, if he had any, and if he had none that you should have his person and commit him to gaol; is not that precisely the same course that is taken by the master against the workman, except as to the form of doing it, viz., by warrant instead of by the other mode?—That is the summary procedure.

1143. Under the Master and Servant Act is not there a power to inflict a civil penalty, to fine the man a certain amount, and to levy that off his goods, if he has any, and if not that he should be committed to gaol in default of payment?—I have never known either stipendiary magistrates or any local magistrates inflict a fine.

1144. What do they do?—They always commit them to prison.

1145. In every instance?—As far as my knowledge goes.

1146. Do not they fine the man a certain amount?—No, they imprison him.

1147. Under the 4th of George the 4th, is not there full power to treat the matter civilly by fining the man 40 s., and if the man pays that fine he is not imprisoned?—It depends entirely, I think, upon the prosecutor whether he will agree to the man being fined.

1148. Has not the magistrate power to say, I fine you 40 s., and if that fine is paid, does not the man go free?—I believe there is not that power.

1149. Are you of opinion that under the Master and Servant Act, the 4th of George the 4th, the magistrates must necessarily commit the workman to gaol instead of inflicting a fine?—If the pursuer requests that the man shall be sent to prison, there is no alternative, I think.

1150. Are you not aware that under the Act, the 4th of George the 4th, the magistrate has full discretion to fine him?—Yes, under that Act, but I do not know that that Act rescinds and annuls all other Acts.

1151. Mr. Clive.] You state that you are quite ready to undergo the common process of law in these cases; are you not making some little confusion between a fine and a debt; the ordinary process of law would be merely in relation to a debt; you would be sued or you would sue in the county court for the debt?—I understand that by not implementing the contract we produce a certain loss to the employer, consequently that becomes a debt.

1152. If there is a fine the alternative is imprisonment, but what you want is the common process for debt in the county court; and you are willing that there should be imprisonment if that debt is not paid under the terms of the County Court Act?—Yes, or the impounding of the wages.

1153. Ordering weekly payments?—Yes, the same as in the county court process.

1154. And without a fine at all, or any proceeding before magistrates?—Yes.

1155. Are you aware of any power that you have to imprison your master?—I do not know of any without it is by civil process.

1156. You do not know of any process by which you can take him before a magistrate?—No, not any relative to breach of contract.

1157. You never heard of a case?—No.

1158. Chairman.] Is there a very strong feeling upon the subject of the desirability of a change in the law?—Yes, there is, all through Lancashire.

1159. Was the question of a change in the law long agitated before steps were taken for the formation of an executive committee upon the subject?—Yes, for six or nine months previous to the meeting in London.

1160. Did that agitation in favour of a change in the law arise from any extreme cases that occurred at that time?—Yes, there were two or three special cases.

1161. Which called special attention to the working of the Act?—Yes; the case of Middlesbrough, and the case of Glasgow, and the case of the Mersey Steel Works, and two or three other cases.

1162. Mr. Potter.] You state that there is a very strong feeling all through Lancashire upon this subject; do you represent at all any of the cotton trades of Lancashire?—No; but the whole of the building trades.

1163. In making use of the term Lancashire, you do not allude to the cotton trades at all?—I do not represent the cotton trades at all; I only represent the United Trades Protection Association of Liverpool, and the National Association of my own trade.

1164. But not any of the unions connected with the cotton trade?—No.

1165. Mr. Clive.] Have you any objection in Liverpool to the magistrates themselves?—We have in Liverpool a few magistrates that are extensive

tensive employers; and they may be seen on the bench at times adjudicating upon questions of labour, they being most interested in it; but we have no objection whatever to the stipendiary magistrate or to the gentlemen magistrates there.

1166. Those magistrates of whom you speak, who are employers, sit with the stipendiary magistrate, do not they?—Sometimes, but not regularly; there are two courts.

1167. Do they ever adjudicate alone in those cases?—Yes.

1168. Have you ever heard an appeal made to them not to decide those cases, but to let them go before the stipendiary magistrate?—Not on breaches of contract, but in other cases I have; in other cases connected with trades.

1169. Have they tried such cases after such\* requests?—No, I am not aware that they have.

1170. Does not the stipendiary magistrate sit every day?—Yes, but there are two courts.

1171. There are two stipendiary magistrates, are there not?—No, there is only one stipendiary magistrate.

1172. There is one stipendiary magistrate court open every day?—Yes, the two courts are open, both in the same building.

1173. There is a stipendiary magistrate sitting every day, or his deputy?—Yes.

1174. Mr. Alderman *Salomons*.] You made use of the word “gentlemen” magistrates; you mean men not engaged in business?—Yes, I mean men not connected with manufactures.

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Mr. THOMAS WINTERS, called in; and Examined.

1175. *Chairman*.] You are Manager of a Working Man's Benefit Society, and you have on some occasions given evidence before Committees of this House on the relations of masters and workmen, and you have turned your attention to the law of master and servant, which we are considering here?—Yes.

1176. Have you been present during the examination of any of the witnesses who have been examined before this Committee?—I was not aware till this morning that the Committee was sitting at all, so that the only evidence I have heard has been that of the two last witnesses.

1177. The Committee would be glad to hear any suggestion you have to make with reference to the present law?—My own views upon the law of contract are that it requires some considerable amendment. In the first place, with respect to the words which appear in Section 3: “Whether such contract shall be in writing or not in writing.” When I was secretary of a very large association of working men, and connected with trades matters, we had several cases under this Act to attend to, and some of them were cases of this sort. A master in the tin-plate working trade would have three kinds of agreements; one was, “I will give you such wages as are given for making a certain description of goods.” In another agreement in the same manufactory, he says, “I will give you the same prices for making the goods as are given by Mr. So-and-So in the same town.” In others, “I will give the same wages as are given to the other workmen in my manufactory.” We always found when a case came before a magistrate that it was very difficult to comprehend what the real agreement was; and then, in the second place, it very often turned out, where there was a case pending as to a contract before the magistrates, that those contracts were very often said to be lost, and the proof of the contract depended only on parol evidence. Then came a great difficulty in ascertaining what was the nature of the contract. Upon that point my own opinion has been for some years that the law requires some amendment, and that all contracts should be in writing. In many cases the workmen lost a great deal because they were not in writing and produced in court. And I think a very advantageous amendment of the law might be made by requiring in all cases a duplicate of the contract which the master and servant have entered into. I do not object to contracts  
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myself, providing they are properly known to both parties.

1178. You think that all contracts should be in writing?—Yes. Then the next point I should like to speak to is that a great number of contracts lack mutuality; they ought to be made mutual. For instance, I will take the district of Wolverhampton, where it was the custom, in the tin-plate trade particularly, but in other trades also, and it is the custom now to enter into a contract, say, for 12 months certain, but while the contract stipulates that the master is at liberty to get rid of that contract by giving the workman a month's notice, it stipulates that the workman shall not get rid of that contract except by giving six month's notice; and although a workman may have been in service for six years upon a one year's agreement, it is held good in law until the proper notice is given and worked out. In a case before the Wolverhampton Justices, *Perry v. Haynes*, the defendant had worked eight years under a one year's agreement, but had failed to give notice, and upon his absencing himself from work he was sentenced to 21 days' imprisonment in Stafford gaol. Several of these cases were tried before the magistrates, and counsel's opinion was taken upon the validity of such contracts, and the present Mr. Justice Willes gave it as his opinion that such contracts were perfectly legal as the law now stands. The workmen complain very much upon that, and I think upon those points the law requires considerable amendment; in the first place, those contracts should have the principle of mutuality, they should be the same for the master as for the workman; and, in the next place, each party entering into the contract should always have a duplicate copy of the agreement, so that there should be no mistake, supposing the case came before the magistrates.

1179. The mutuality or non-mutuality is a matter dependent upon their own private agreement, and not upon the state of the law. If a man chooses to enter into such a contract as you have just specified, it is his own fault; the law is not to blame, is it?—It appears so; but when you come to take into account the position of the parties under which those contracts are entered into, there is some explanation to be offered, and it is this; a man goes into a shop, he is very much reduced in circumstances, he knows not what to do, he immediately enters into a written agreement, or partly printed and partly written, and filled up at the moment, or a general agree-

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ment is hung upon the wall of the workshop, which he does not stop to enquire into. He knows nothing of its purport till he is told that he has broken it, and finds a police officer at his heels, and then he says, "I did not know anything about it; it is quite unknown to me." It may be the man's own fault for not looking at it, but such is the fact. To remedy that grievance, I think each man entering into a contract should have a duplicate of it, or otherwise the contract itself should be declared void.

1180. You do not propose that the law should interfere to prevent masters and servants making any contract they choose as to mutual service, but you propose that all contracts for service should be in writing, and in duplicate, and exchanged between the parties so contracting?—Yes.

1181. With reference to the points that have been discussed here, what is your opinion as to the treatment of servants in cases of breach of contract?—Upon that point the great difficulty in my mind would be first in ascertaining the amount of damage done. Because, taking my own trade, which was the glove trade, I would make the hands, and somebody else would make the fingers; if the hander leaves, the fingerer cannot work, and the master is at a loss; and in case of a written contract he is compelled to pay the fingerer for the loss of time, and the question would be as to the amount of damages to be assessed, and who ought to be the assessor. If, instead of leaving all that to juries or to a county court judge, the magistrate was enabled to call in an assessor, supposing a dispute to arise, to assess those damages, then I think that would be the simplest remedy.

1182. Have you any objection to the present law on the grounds taken before this Committee by witnesses who have been examined, that the procedure at present is criminal for a breach of contract, the change wished for being that the procedure should be in future civil?—I think the law itself gives the magistrates three alternatives; they may either imprison with hard labour, for periods not exceeding three months, or order an abatement of wages, or order the workman back to service. But I think that the abatement of wages would apply more to servants in husbandry, than to workmen generally. I can understand that where a person has been at work for a week or a month, and his wages have not been drawn, the magistrate might abate his wages to that extent, but it would apply more to persons who were paid either by the quarter or the year, where there was some considerable amount of wages in hand. Then, as to the other portion of it, as to sending a person to gaol, I must confess it looks very bad on the one side; but I can see exactly how in the case of a single person, without any goods and chattels, it is to be remedied, except by an order of the county court judge or the magistrate. The only mode, as it seems to me, in which the master could be compensated for the breach of contract, would be by an assessment of damages against the man who has broken his contract, and then comes the question as to the recovery of the money so assessed; and that can only be obtained, I believe, as far as I can see, in the usual way of an order to pay, and by distress and sale, or by imprisonment, upon failing to pay the award. I am totally opposed to the arrestment of wages. I believe that the arrestment of wages would lead to such compli-

cations, and such heartburnings, and would lead to so many strikes, and all manner of things of that kind, that the remedy would be considerably worse than the disease.

1183. Why should it lead to those evils; witnesses who have been examined have said that they would prefer, in case of damages being given against them, having a certain portion of their wages prospectively arrested, to having their household furniture and effects sold up under the law of distress?—I have no doubt they have given their honest views in that respect, but I have always been opposed to the law of arrestment of wages, though it appears, on the face of it, in some cases, as being nothing but right; still, at the same time, one workman may have a considerable number of creditors; and in that point of view, if you give the power to arrest the wages in favour of one man over all the others, it would be very injurious to the rest, and it would lead to something as bad as the truck system; again, it would facilitate a system of credit, injurious to the welfare of families. From my knowledge of the working people of this country, I do not believe that it would be liked by one out of 100.

1184. Without that power, practically, the result would be that, though damages might be nominally given, they really could never be paid?—The amount could always be recoverable in the county court.

1185. Providing there was anything to recover from?—The difficulty would only be in those cases where there was nothing to recover from, and generally speaking, the question of contract only applies to a very few trades. In my trade it was the custom for the men to give a week or a fortnight's notice before leaving, and it was the custom, on the other hand, for the master to give a fortnight's notice if he did not want the men; that is what I call mutuality.

1186. With reference to the question of damages, take the case you yourself adduced, the case of the fingerers *versus* the handers. If the handers failed to perform their duty the fingerers were thereby injured, and not only the fingerers, but the employer?—Yes.

1187. Because he would have to pay the fingerers, and he would not have the benefit of their work, because the glove could not be finished till the hands were completed. In that case there ought to be damages, you say, assessed by some one in favour of the employer, and against the handers; suppose the handers had no effects?—The damage would be in that case against the master, because the fingerers and the handers are both employed by the master. The hander runs away, and the fingerer says to the master, at the end of the fortnight, I have had no work to do, I claim my wages; they probably might be 30s.; and then there are other losses to the other parties who are engaged in the work; it would be a difficult point to assess the real damage to the employer; that could only be done by persons who understand the business.

1188. But at any rate, you assume there would be damages to the employer; what would be the employer's position, supposing the person against whom the damages were given, that is the hander, had no effects whatever?—He would be compelled then, as a matter of course, to go to the law, that is to say, to go before a magistrate, and the magistrate would give his decision.

1189. You would have no objection to imprisoning



prisoning him?—If the man agreed to go back to his work there would be no need for it.

1190. Going back to his work would be no compensation for the damage already done?—I cannot see any road out of the difficulty, except the county court, and then it appears to me we get into the same dilemma.

1191. You get into the same dilemma, unless you accept what you at present object to, namely, the prospective arrestment of the wages of that man when he returned to his work, whether in the same employment or anywhere else?—Yes; my principal reason for objecting to arrestment of wages is, that when once you begin the system as applying only to the breaking of a man's contract, it will very soon extend itself to other questions.

1192. Mr. *Algernon Egerton*.] You object to the principle of the arrestment of wages under any circumstances?—Yes.

1193. *Chairman*.] It has been suggested before the Committee, that the arrestment of wages for ordinary debts should be done away with, but that there should be an enactment in favour of it, as it exists in the common-law of Scotland, in cases arising under the Master and Servant Act, in lieu of the present power of committing a man to prison for breach of contract; would you object to the power of arrestment of wages being given to that extent?—I should not object to allowing the parties before the magistrate to enter into an arrangement of that sort, but I should object to making that a principle in the English law.

1194. Have you any other remedy to suggest, supposing the present law to be altered, to meet those very cases which you have just said might arise in the glove trade, similar cases to which, of course, must arise in all other trades?—No doubt they do arise in other trades, and they give rise to a great number of disputes. I do not know how to get out of the difficulty; therefore, all I can say is, that I object in principle to the arrestment of wages, but I should have no objection to allowing the magistrates, or county court justices, and the parties interested in any particular case, to come to any such an arrangement between themselves. The law requires amending, as I have said, by requiring all contracts to be made in writing, and by providing that, if they lack mutuality, or if no duplicate is given to the workmen, that those contracts should be considered void. Parol evidence is evidence that cannot always be depended upon in the case of workmen, for this reason, the master calls two or three witnesses, clerks, and so on, the workman is there by himself, and, while the master has the power of producing evidence, the workman has none; therefore, I think it is very unjust in that respect; and, in many cases which I have had to conduct before magistrates, I have found very great difficulty in not being able to contest the case in the manner in which it ought to be contested, simply because the workman had not the power of producing a copy of the agreement, nor of forcing the master to find the original, if he said he could not; and, in the next place, when we came to parol evidence, we had no evidence beyond the man's own; while the other party, generally, could produce one or two witnesses.

1195. You are in favour of doing away with the criminal procedure?—If possible.

1196. You are, I presume, in favour of having the power of enforcing contracts, not only in the

interests of the masters, but of the workman himself?—Just so.

1197. Because, by a breach of contract on the part of a workman, not only may the master be injured, but his fellow-workmen also?—Yes.

1198. You say you are in favour of doing away with the present criminal procedure, if possible; do you believe, having thought this subject much over, that it is possible to do away with the present law?—Yes, I think it is possible to do away with the present law, if we could find a road out of the difficulty, and that would be in very few cases.

1199. Do you mean that it would be in very few cases that you could find a way out of the difficulty, or very few cases in which you would require this stringency of the law?—Very few cases in which such a stringency of the law would be required.

1200. In what cases do you think the stringency would be most likely to be required?—Take a shoemaker; he travels from one town to another, he engages to do certain work; when he has been some time at work a fit takes him in the head, and he goes away leaving his work unfinished; that is a man you cannot reach at all.

1201. That applies to every criminal offence where a man leaves?—Yes.

1202. That depends upon the acuteness of the police?—Yes; but take another case: a young man living with his father and mother, he has no assets at all; in that case, if you put him into the county court and get judgment against him, he may have no objection to go to prison under the county court warrant for contempt of court. The complaint is that the law is unequal; the law merely says to the master, you are ordered to pay what is due to a man for wages earned, or for wages that might have been earned, if you had employed him as you ought to have done by the contract; but suppose the master fails, or he becomes bankrupt, or he goes away, there is no law to reach that man in the shape of imprisonment as there is with the workman. If a master engages a man, and he breaks his contract, and is not in a position to fulfil his contract at the end of the agreement by paying him his wages, and he has no assets for the man to fall upon, he should be placed in the same position as the workman would under similar circumstances.

1203. Mr. *George*.] You could arrest him for debt in the county court?—I am speaking of a case where there were no assets in the one case or the other.

1204. Is not it the law in this country that if you get a decree against a master for wages, and he cannot pay the amount of the decree, you may arrest him?—Yes; and I think that should be the law as respects workmen.

1205. *Chairman*.] You look, in case of failure to pay, to imprisonment as a means of enforcing contracts?—Yes; but first of all, it should be considered a debt, and treated as such.

1206. You have no other remedy to suggest?—Not at the present moment; I came into the room unexpectedly, not having an idea that I should be called into this chair.

1207. Mr. *Alderman Salomons*.] When a man entered into an employment, would he not have placed in his hand a printed copy of the shop rules, to make him aware of the nature of the employment he had gone into?—There are shop rules of a different kind to these contracts. Con-

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tracts are written contracts agreeing to serve for a certain time, to do a certain kind of work, and to receive certain wages, and to give a certain notice. Shop rules apply more particularly, I believe, to the regulation or the conducting of the business in the shops, and they are more oppressive than those contracts, from the fines that are exacted under various pretences.

1208. You would not want a contract if a man entered into a weekly employment?—No.

1209. For what term of contract would you require the contract to be written?—In some trades a week would be ample; in others a month would not be too much, because in some cases where a man begins a piece of work, it would be three weeks probably before he would have finished it, and if he broke off the contract in the middle of that week it would not only be injurious to the men but to the master. I object to long contracts, that is, for 12 months and so on, because in that case you bind a man to work, at a particular price, for that time, no matter what may be the state of the labour market, giving him no chance of bettering his condition in common with his fellow workmen.

1210. Would not the master be in the same position?—Not altogether; if prices are on the rise he has the advantage; if he makes a contract for six months he knows what he is about; the workman makes his contract, but circumstances may alter; it is a system that is not right and proper for the interests of the man himself.

1211. Assuming, as you say, that a weekly engagement does not require a contract, what term would you say should imperatively require a contract?—Taking a builder, I should say a week would be as much as would be required in that case. Taking a smith or engineer, it might require a longer time. Taking shoemakers, they do not require so long.

1212. We assume that a weekly engagement does not require a contract; for what term should you say a contract in writing was absolutely necessary?—For anything over a week.

1213. Would you say a fortnight?—Yes.

1214. Would you see any objection in the case of a man not fulfilling his contract to the court making a decree that part of his wages should be impounded for the purpose of paying the master

the loss he had been put to by the man leaving him?—The principle of arresting a man's wages I do not like; it looks like the twin sister of the truck system. I should have no objection to seeing the matter left to the judgment of the parties themselves.

1215. Mr. *M'Lagan*.] You object to any workman being prosecuted criminally for a breach of contract?—There might be exceptional cases in which I should have no objection to his being prosecuted criminally, where a person left his employer, and, by his leaving, other workmen were thrown out of employment, and their lives endangered, because very great hardship might ensue to a man's fellow workmen as well as to the master himself.

1216. Would you be of opinion, that in those cases, the man should be prosecuted criminally, even though the life of any one was not imperilled?—As a general rule, I should object to it; I think an assessment through the county court judge would have all the effect that was desirable; but there might be cases in which it might be advisable to prosecute the man criminally.

1217. In such a case as you mentioned, where a fellow-workman was deprived of his means of subsistence, you would say that the man who deserted his service should be prosecuted criminally?—If he refuses to pay what is assessed against him.

1218. Some of the witnesses have expressed an opinion, that a man should be prosecuted criminally where there was a destruction of property?—Where there is a destruction of property, the penal law steps in now.

1219. Supposing a man deserted his service, on account of which not only the employer's property suffered, but his fellow workmen were deprived of their subsistence. Some of the witnesses have stated that, in such a case, they thought the workman should be prosecuted criminally?—I think so too.

1220. Others have expressed the opinion that the workman should only be prosecuted criminally where life was imperilled?—I do not know about that; where a man is thrown out of work, and his family wants bread through the misconduct of another, I think the law ought to have a hold upon the man who caused it.

*Tuesday, 5th June 1866.*

MEMBERS PRESENT:

<p>Lord Elcho. Mr. Fawcett. Mr. Gathorne Hardy. Mr. Jackson.</p>	••	<p>Mr. M'Lagan. Mr. Edmund Potter. Mr. Alderman Salomons.</p>
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LORD ELCHO, IN THE CHAIR.

Mr. ARCHIBALD HOOD, called in; and Examined.

1221. *Chairman.*] You come from Scotland?  
—Yes.

1222. In what capacity do you appear before the Committee, as an employer or as a superintendent of labour?—As an employer.

1223. What description of labour?—Mining chiefly; I have brick works and tile works.

1224. In what part of Scotland are those mines?—I am sole lessee of the Whitehill Colliery in Mid-Lothian, and also joint lessee of another colliery in the neighbourhood of Glasgow.

1225. Employing altogether how many hands?—Three hundred or 400 hands. I am also joint lessee of some collieries in South Wales.

1226. It has been given in evidence that in Scotland a system of minute contracts prevails; is that the system under which the men work in your employment?—It is hardly a system of minute contract; the men themselves understand it to be a daily contract.

1227. Has that system of daily contract been long in operation?—It has been in operation in the neighbourhood of Glasgow for about a dozen years, I should think.

1228. In your colliery?—Not in my colliery alone, but in the collieries in the neighbourhood.

1229. In the neighbourhood of Glasgow are most of the collieries under that system?—Yes.

1230. At Whitehill is your colliery, and also all the neighbouring collieries, under that system?—The most of the larger collieries in Mid-Lothian are under that system now. We adopted it last year.

1231. In consequence of what?—In consequence of a strike. I believe I was the first to adopt it in Mid-Lothian. I had long had the intention of adopting it, but last year my workmen struck without giving me any notice, as they usually did, and after that, on meeting some of the neighbouring colliery owners, I told them I intended to abolish the warning system entirely; and, after a few days' consideration, the owners of two of the principal collieries in the neighbourhood came to the same resolution.

1232. Up to that time, what had been your system of contract?—Fortnight warnings.

1233. And the other collieries the same?—And the other collieries the same.

1234. Contracts for longer periods did not prevail?—No.

1235. When you introduced the system, were  
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there any objections on the part of the men?—The men did not like it at all. They did not make any formal objections; but I have understood, from my communication with them, that they did not like it at all.

1236. That is in Mid-Lothian; but in Lanarkshire, you had had this system in operation before in your own works?—Yes.

1237. What led to the introduction of that system there; was it also the result of a strike?—I cannot call to recollection what it was; but I think very likely it was that. I had no interest in collieries in the neighbourhood at that time; I was employed in Ayrshire when that system was introduced.

1238. It was introduced into the colliery in Lanarkshire before you became lessee of that colliery?—Yes.

1239. Has it worked well there?—Very well.

1240. There was no complaint there on the part of the men?—No.

1241. Now you have had your experience of the working of the system of daily contracts in Mid-Lothian, you say the men objected at first; has the result of that year's experience reconciled them to the change of system?—I think it has; I think their objection to the new system was this: At Whitehill there are a great many old residents about the place, and they were afraid when I adopted it that I was going to retaliate upon them, and was going to turn the old residents from the place; when they found that I had no such intention, they became reconciled to it.

1242. Seeing that those were not your intentions, they got by degrees to be satisfied with the change?—That is so.

1243. Do you think that that system is spreading in Scotland?—Yes, during the last year it has spread to the extent of the principal collieries in Mid-Lothian adopting it.

1244. Is it spreading also in other parts of Lanarkshire, or is it already so far adopted that there is no longer room for it to spread?—There is room for it to spread in Lanarkshire. I am not aware what progress it has been making these few years back in Lanarkshire, because in my own immediate neighbourhood I think it has been the rule for a great number of years.

1245. Are you aware that 25,000 out of the 35,000 miners of Scotland work under this system of daily or hourly contract?—I can believe it.

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1246. Previous to the introduction of this system, had you in your Mid-Lothian colliery, frequent cases, or had you ever cases in which it was necessary for you to prosecute your servants under the Master and Servant Act which this Committee is considering?—Yes, I think I was on one occasion obliged to prosecute under the Master and Servant Act.

1247. In how many years is that?—Over a period of ten years.

1248. Among how many men?—Two hundred or 300 men.

1249. Do you recollect what that case arose from?—I think it arose from disobedience of the oversman's orders, and I felt called upon to make an example of the man.

1250. Was he a man in any prominent position in the mine?—No; he was simply a collier; he was brought before the justices, and I think if I had not interceded for him he might have got three months' imprisonment; but I said that was not my object at all, I merely wished to get a conviction, and on my representation they allowed him to get off with some few days' imprisonment.

1251. There are in the mines, are there not, many positions which are highly responsible positions, and where, if the men suddenly left their posts, danger to life and limb might occur to those employed in the mine, besides very serious loss to the employer?—Yes.

1252. Are such cases provided for, do you think, sufficiently as regards mining operations, by those statutory rules which are drawn up under the Mines Inspection Act, without the assistance of the powers you have under the Master and Servant Act?—No; I should not like to commit myself to that.

1253. It is the case, is it not, that in your own mine, as well as others, there are rules and regulations drawn up under the Mines Inspection Act, specifying the duties of the different men in the pit?—Yes.

1254. And any infraction of those rules renders those men liable to be prosecuted and punished?—Yes.

1255. Do you consider those special rules not sufficient for the proper conduct of the mine, for the safety of those employed, and for the interest of the proprietors?—Not knowing that I would be asked such a question, I am not quite prepared to answer it, but I would say this: those special rules might be made sufficient.

1256. Under the Act?—I should think so.

1257. You think, from your knowledge of the Act, and the power given under it, those rules might be made sufficient; but whether they are sufficient or not in your own case, you are unable to say from not having specially directed your attention to that point?—That is the case.

1258. With respect to other mines, do you believe the rules are sufficient?—They are all very much the same throughout Scotland.

1259. Do you know whether cases of prosecutions in mines which are not under this hourly contract system, are common in Scotland; I mean prosecutions under the Master and Servant Act?—No, they are not very common. We hear of them at long intervals; occasionally in very aggravated cases the masters prosecute, but as a rule, I do not think they do prosecute.

1260. Speaking as an employer, do you think the Master and Servant Act, as it at present stands, is open to objection?—No, I do not think

it is; so far as I am at this moment able to recall it.

1261. Do you think that without injury to the employer it might be altered?—I think it might.

1262. In what respects do you think it might be altered?—I think it might be left optional for the judge to award either fine or imprisonment.

1263. And in cases of fine, would you propose imprisonment in case of non-payment of the fine?—Yes.

1264. Have you any objection to the system of arrestment of wages by the master, in payment of fine that might be inflicted?—I think if there was liberty left to imprison, failing payment of fine, it would be quite sufficient.

1265. Is there much arrestment of wages among your people, by tradesmen?—In the neighbourhood of Glasgow there is a good deal; in Mid-Lothian there is very little. In Mid-Lothian, I can afford to say to the men, if you continue to have your wages arrested, you must go and find employment somewhere else; in Glasgow, we could not afford to do that.

1266. As an employer, you think the system a bad one which allows of wages being arrested by tradespeople?—Yes.

1267. From its effect on the men?—Yes; I think it tends to make them improvident; they go upon tick, and a number of them prefer taking goods on credit, to paying ready money; if they knew that they could not get any credit, it would make them much more provident.

1268. In the long run, do you think it is to the advantage or disadvantage of the creditor?—I think it is to the disadvantage of the creditor.

1269. That is to say, he gives credit where the men by getting so much into debt under this system, have not the means of paying eventually?—Yes.

1270. You say you have been able to prevent this in Mid-Lothian, but not in Lanarkshire, how is that?—The men in Mid-Lothian are more of a settled population, they have been longer resident on the ground, and they have more provident habits in Mid-Lothian than in Lanarkshire; in Lanarkshire the population is very much mixed up with all classes of workmen; there are a considerable number of Irish.

1271. You do not find that the Irish element leads to providence?—No.

1272. You say you prevent it as far as you can, by that I understand, you do not take men whose wages are arrested?—I do not know that I have actually refused to employ them, but I have threatened frequently to turn them off if they continued to have their wages arrested, it puts the master to a good deal of trouble.

1273. It has been suggested to this Committee, that arrestment of wages by creditors should be abolished; but that the power of arrestment of wages in payment of fines imposed under this Master and Servant Act should continue, and be made statutory, do you see any objection to that?—I do not think there would be any necessity for making it statutory, that arrestments should be made for fines; I think if there were power left to imprison, instead of inflicting a fine, it would serve all necessary purposes.

1274. You would imprison in case the man could not pay, and in case his effects were insufficient to meet the fine?—Yes.

1275. But when he is imprisoned, he is deprived of the power of earning anything for himself and his family, whereas in the other case he is

he is not imprisoned, his wages being arrested, he would be working off the fine, and would be in a better position than if shut up in prison?—There is no doubt of that, but it would be a severer punishment to a man to have him imprisoned, than to have his wages arrested.

1276. Would you see any harm in a discretionary power being given of arresting wages?—No, I do not know that I would have any reason to object to that.

1277. Have you established a co-operative store?—I have; at least when I say I have, our workmen have, and I have given them all the assistance I could.

1278. At both your collieries?—No, only at Whitehill.

1279. Perhaps in consequence of that, there is less arrestment of wages in Mid-Lothian than in Lanarkshire?—No, it was so before we established the co-operative store.

1280. Is that managed by the men?—It is managed by the men entirely, with this assistance: I am their treasurer, the moneys are lodged in the bank in my name; I sign all the cheques. I find that gives them a very great deal of confidence.

1281. In the first answer almost that you gave, you said that besides being an employer of labour in mines, you were an employer of labour in brick works, and tile works?—Yes.

1282. Have you large works of that kind?—Yes, pretty extensive.

1283. How many men are employed in those works?—I should say 30 or 40, or 50 hands are employed at that now.

1284. Have you had those works long?—No, two or three years.

1285. During that time have you had any cases of prosecution under the Acts in those works?—No, not one.

1286. You cannot speak as to the necessity or not, of the Act in those cases?—No.

1287. Objection has been taken here to the jurisdiction in these cases being given to the justices; have you ever heard complaints on the part of the men with respect to the jurisdiction?—No.

1288. The fact is, partly from the system in your mines in Lanarkshire being the hourly or daily contract system, and partly from other reasons, in Mid-Lothian, you really practically have had only one case of experience of the working of the Act?—Only one.

1289. And you have not heard of any complaint, directly or indirectly, on the part of workmen in the employment of others, of the jurisdiction of the justices?—No, I have not; I think the justices are better able than any one else in the majority of cases, to look into these matters, because they are very often country gentlemen, and gentlemen continually mixing with the working classes in some shape or other, and therefore better able to grapple with such cases than mere lawyers.

1290. You think that the jurisdiction is better left in the hands of the justices, than if it were transferred wholly to the sheriff?—I think so.

1291. Objections have been taken by witnesses before the Committee, to the justices' jurisdiction, on the ground that they, being employers, would be likely to sympathise with fellow employers in the prosecution of workmen; do you believe that there is any weight in that objection?—I do not think that it is the case; I do not

think that the justices are generally employers of labour, except to a very small extent: they do not generally hold collieries themselves, or brick works, or anything else.

1292. Have you yourself ever sat on any cases?—No; I am not a justice; it is an office I should not accept.

1293. Mr. *M'Jagan*.] Is not it the case that in the mining districts of Lanarkshire, most of the justices are interested in mining operations, and are employers of labour?—I am not aware of that.

1294. That is not the case in your district of Lanarkshire?—I am not sufficiently able to go into that question; I do not know who are the justices chiefly.

1295. You know some of them; you know that they are gentlemen of high character; gentlemen who could be depended upon?—Yes.

1296. Do you give your workmen houses in the collieries with which you are connected?—At Whitehill we do; but in the neighbourhood of Glasgow we have very few houses. We are situated near a village, and we do not, in that case, require to give them houses.

1297. In the neighbourhood of Glasgow, the men pay rents for themselves?—They pay rents even at Whitehill; generally, they pay rents in every place.

1298. But you deduct the rents from the weekly wages?—Yes.

1299. How does the minute system operate when houses are provided for the workmen, seeing that at a moment's notice they would be turned out of their house, and might have a difficulty, perhaps, in finding another?—That is not so. We cannot turn them out of the houses at a moment's notice. We cannot turn them out of the houses, perhaps, for weeks; we have in the first place to summons them before the Court, and get a warrant from the sheriff to eject them; after that, they get seven or ten day's notice, and even then they may interpose some obstructions to our putting them out. So that it is a very difficult matter to put a man out of his house in Scotland. Many years ago a man and his family broke forcibly into one of the houses belonging to a colliery which I managed, and I thought I had nothing else to do but to remove him summarily; but he brought me before the Court; and it was found that I had acted illegally: and he still retained possession till I got him legally ejected.

1300. But have you not a rule in your colliery that men shall not occupy your houses unless they are employed by you?—Yes.

1301. Still the law will not recognise that rule?—The law says, you cannot summarily eject your workpeople. It generally takes me about five or six weeks to eject a man. In the first place, he gets notice to leave; and he promises, perhaps, to leave in a week or 10 days. When that time has expired, he pleads for longer time again; and he goes on in that way from week to week, or day to day, till I am obliged to take stringent steps ultimately, when I find he does not intend to go out unless forced.

1302. It is not the tedious course of the law exactly that prevents your getting possession of the house so much as your forbearance?—No, it is the law that prevents it. We could not eject a man sooner than three weeks or a month; we cannot get him before the court, perhaps, for a week or ten days. Then we apply for a warrant to eject him, which has to be served upon him.

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A month would be the earliest time in which we could possibly eject a man.

1303. According to your experience, the effect upon the men of those short warnings or notices, is good?—Yes, I think it is.

1304. It makes them stay longer in their employments?—Yes, it does not make them so restless to leave, because they know they can leave at any moment.

1305. Have you any experience of farm labourers?—No.

1306. You have no knowledge of the manner in which they are engaged in your district?—I believe they are engaged from year to year in our district.

1307. Both young men and married men?—Yes, married men I know are.

1308. *Chairman.*] Are the men in your brickworks engaged by the day?—By the day.

1309. *Mr. M'Lagan.*] Do not the brickmakers work by piece work?—A number of them; there is a portion of our brickwork let by the season, but that is a small portion of our works. We let to a man or two men the making of our bricks outside for the season; that is a contract, but that man employs all his hands by the day.

1310. You have nothing to do with those men whom he employs?—No.

1311. It is the same with your tile works, I suppose?—Yes.

1312. I understand you to say that in any alteration of the law, you would leave it optional to the justices either to imprison the workman or to fine him, in case of breach of contract?—Yes.

1313. *Mr. Alderman Salomons.*] In the cases of these day labourers, they are, I presume, engaged by the week, but paid by the day?—Some are paid by the day and some by the piece.

1314. Is not the service considered weekly service?—It is considered as daily service.

1315. Can a man throw up his work at the end of the day?—Yes, by giving a day's notice.

1316. *Mr. Jackson.*] Is it the custom to give a day's notice?—Yes it is; the men all give a day's notice. I do not think I should send any man away myself on a day's notice; I should not take advantage of the power I had.

1317. Supposing a man when he left off work at night should say, "I shall not come to work in the morning," would you consider that a day's notice?—No.

1318. He would be entitled to go the next night?—Yes.

1319. Does that apply to men working in collieries on piece work?—To all the men in my employment.

1320. You have some who work day work and some who work piece work?—Yes.

1321. In the event of hewers of coal throwing up their work, and thereby putting a stop to the rest of the colliery, and injuring their fellow workmen by the loss of what they would earn, would you treat them criminally?—I should think so.

1322. Supposing the engine man at the top of the pit left his work, and left the men below, what would you do with him?—I should say that that man should be prosecuted criminally.

1323. *Chairman.*] Would that man be prosecuted now under those statutory rules and regulations, under the Mines Inspection Act, to which I referred?—If the special rules were made more stringent they might serve all the purposes; but a fine of 2*l.* would be quite inadequate for such an offence as that.

1324. *Mr. Jackson.*] You are of opinion that a fine of 2*l.* would be totally inadequate for the mischief?—Certainly.

1325. Supposing a man whose duty it was to attend to the pumping engine left it, and the pit got flooded in consequence of his neglect?—It might be a very serious matter.

1326. You do not think any civil process against him would meet the case?—No.

1327. Do you know whether, under the Mines Inspection Act, the judge has the option of fining a man 2*l.*, or imprisoning him for two months?—I think he has the power of imprisoning for three months.

1328. That being so, do you think the judge ought to have that option in such a case as I have named?—That is a serious offence, and altogether exceptional; but I think it might safely be left to the judge in such a case.

1329. If any man working in a colliery threw up his work, and by throwing up his work, 20, or 30, or 50 men were thrown out of their labour, do you think a fine of 2*l.* would be sufficient to meet such a case as that?—No.

1330. You would treat him criminally?—I do not know that I would make it compulsory upon the judge to imprison him. I think there might be some option safely left to the judge in these matters.

1331. The man charged with that might plead sickness; you would have the judge take all matters into consideration?—I think the judge might be allowed to take those matters into consideration, and award the punishment accordingly.

1332. Have you ever heard your men complain of the justices who hear their cases in your district?—No, never.

1333. Are the justices at all connected with collieries or ironworks?—Some of them are lessors of collieries, but they are not all so; a great number of them are totally unconnected with mining operations, or works of any kind.

1334. Do you think the men in your employ would be better satisfied with the sheriff or the county court judge?—I do not know that they would.

1335. You are of opinion, that if the law which allows the creditors of a workman to arrest his wages were done away with, it would induce people to be more careful; they would go less upon credit, and the tradesman, knowing that he had no such power, would be more chary of giving the workman trust?—Yes.

1336. It would be for the benefit of the man himself, not so much for the benefit of the employer, if that law were repealed?—It would be certainly to the benefit of the man himself.

1337. *Mr. Hardy.*] The men have complained that whereas the master has the power of proceeding against them criminally for breach of contract, they have only the power of going against the master civilly. Do you think that distinction should be retained?—I think it is quite right there should be that distinction.

1338. On what ground do you consider that that distinction ought to exist?—Because I think the master can always pay any penalty that may be imposed upon him; the man can always have his remedy against the master; whilst on the other hand, the master may not have any means of inflicting punishment upon the man, unless criminally.

1339. You put punishment in the one case, and

and pecuniary compensation in the other?—It is punishment in both cases.

1340. Would you, or not, give a workman in all cases, the power of making a pecuniary compensation for breach of contract; ought he to have the option?—No; I would leave the option with the judge.

1341. I am not putting to you cases where life and limb were endangered, but cases of simple breach of contract; for instance, supposing a man under a fortnightly contract left at the end of the first week, not going into the question whether by doing so he injured other people or not, in that case do you think it a reasonable proceeding in itself to issue a warrant against the man, and take him upon a criminal charge?—The men sometimes do very provoking things in that way, and I think it would be a very safe course to leave that to the judge.

1342. If you left it to the judge, you would, I presume, proceed in the first instance by summons, and not by warrant, because if you proceeded in the first instance by warrant, you would be proceeding criminally?—I would not object to proceed by summons.

1343. You put it entirely upon the ground that the master has the power to make compensation in all cases, whereas the workman probably has not?—The workman probably has not,

and there is no other mode of punishing him than by imprisonment.

1344. Supposing the master breaks his contract, and dismisses a man illegally, you think he should only be compelled to pay the damage, and not be punished at all?—That is a punishment.

1345. You think there would be no real redress for a master against a servant, unless it was through this *quasi* criminal process?—No.

1346. It has been stated in evidence here, that there would be no difficulty in following the wages of a man if he went to other places; do you think that would be a remedy?—No, I do not think it would be an adequate remedy at all; it is a thing I should never think of doing myself.

1347. How often does the Sheriff's Court in your neighbourhood meet?—Once a month.

1348. The justices are to be found, I presume, at all times?—In Edinburgh we can always go to the Edinburgh Justices of the Peace Court. I think they meet once or twice a week.

1349. There is a power under the Master and Servant Act to go to one justice. I suppose you can find a justice always?—Yes; as a rule you can always find a justice.

1350. *Chairman.*] Does your Sheriff Court meet only once a month?—It is once a month in Dalkeith.

Mr. WILLIAM EVANS, called in; and Examined.

1351. *Chairman.*] You come from the Potteries?—I do.

1352. What is your profession or business?—At present I am the editor of the "Potteries Examiner."

1353. Have you always been engaged in literary pursuits?—No.

1354. Previously to your becoming editor of the "Potteries Examiner," what was your employment?—I was for some 25 years a working gilder in Worcester and in the Pottery districts.

1355. Has your attention been directed to the Master and Servant Acts which we are now considering?—Very much.

1356. Previous to your becoming editor of the "Potteries Examiner," when you were a workman yourself?—Yes.

1357. Was your attention directed to the working of those Acts from cases that came under your own observation, or from discussions amongst the workmen?—In 1836 and 1837 there was a general turn-out and lock-out, which originated from a system entitled "good from oven." 20 weeks turn-out was the result, caused entirely by the badness of their written contracts, and this system called "good from oven."

1358. Was that system of "good from oven" connected with the contract system?—It was not mentioned in the contract, but notwithstanding that, it was and is acted upon by the justices.

1359. What was the contract system then?—The simple contract then was, that a workman bound himself for 12 months to his employer, and the employer undertook to find him work for that period; but when the workman sought to force from the employer the full amount of work, he never could obtain it, but the master could force from the workman his 12 months' employment.

1360. They worked by the piece?—They worked by the piece, but they were engaged by the year.

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1361. The system of "good from oven" was connected with that?—Yes.

1362. What is that system?—It is this: what are termed the clay branches of the trade are held responsible for the ware, not when it comes from the hand, made and completed, but after the firing of the ware; and though he may make the ware perfectly good, if an accident happens to it after it has got into the hands of the placer, or the fireman, or the warehouseman, the maker is held responsible for it. And if the manager of the works were to make a mistake in the ingredients, and spoil the body, the maker would still be held responsible. In consequence of this system, the men are not paid for that which comes bad out of the kiln, but they are made responsible for the misconduct of hands into whose possession their ware is placed, previous to the firing, and after the firing.

1363. That led to those disputes?—That was one cause.

1364. What was the ground of that arrangement?—The employers say that unless they have the power of paying according to the state of the ware as it comes from the oven or kiln, a bad workman would have the power of imposing upon the master by making bad ware and obtaining payment for it in the green state previous to firing; but the workman contends that a skilled over-looker can always tell a good piece of ware previous to firing.

1365. *Mr. Hardy.*] Does that system exist still?—Yes, I have papers with me by which I could show that in a case where a man who had made ware which was said to be bad, and which was put on one side in the warehouse as bad, the ware was not bad, for the manufacturer took that ware and sold it for the best ware, and the workman was never paid for it.

1366. Does this system of "good from oven," which you say led to the strike, still prevail?—

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Yes,

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Yes, it is generally in use, with a trifling exception; some of the leading manufacturers of the trade (but the majority do not act upon the principle) take 5 per cent. off the ware and pay the workmen accordingly; that is a modification far better than the old system; but the old system still prevails generally.

1367. *Chairman.*] The strike did not lead to a change of system?—No, to no permanent change; it led to a great amount of distress amongst the workmen; 20 weeks of distress and an expenditure of 50,000*l.* of money, and the sacrifice of their household goods, and then the men had to return to work thoroughly beaten and impoverished, the manufacturers having locked out at the time of the strike.

1368. What number of people did that extend over?—Some thousands; the aggregate now would be 15,000 to 18,000; the number would have been less in 1836 and 1837.

1369. Your experience of the working of these Acts extends over a considerable period; it commenced in 1837 with this strike; were there then cases of prosecution under the Acts?—There were; there was one case especially in which a manufacturer was charged by a workman for breach of contract; the master was under a written engagement to find work for a twelve-month, and in the course of the year he took on fresh hands, so that in taking on fresh hands, he lessened the aggregate amount of employment to the old hands, who had been previously engaged; and under the circumstances he took the opinion of the late Mr. Whateley, the barrister, which I have with me, in which he states that the manufacturer, according to law, was bound to find the workman full employment for twelve months; but if a conviction took place under the 4th of Geo. 4, there would be no appeal, and therefore he advised the conviction to be taken under that Act; and that caused a great amount of dissatisfaction among the men, because the law was made an engine against them, when justice and right were in their favour.

1370. Do cases within your own experience frequently occur of prosecutions under these Acts?—Nearly every week in the Potteries now, much to the dissatisfaction of the whole trade; but the potting trade may be a peculiar trade. I would not say that it would be advantageous that the potters should be put under the same system as the mines in Scotland; that is, a day's notice; we feel that a month's notice is indispensable for manufacturers, the various branches being dependent one upon the other.

1371. You say that cases occur every week, what number of potters are there in that district?—Somewhere about 14,000, that is in the Parliamentary borough of Stoke-upon-Trent.

1372. What number of cases occur weekly or monthly out of those 14,000 men?—I should say at least some two weekly; but they come under separate charges, one being neglect of work and the other being breach of contract; but almost invariably, neglect of work is connected with breach of contract.

1373. Are all those cases prosecuted under the Master and Servant Act?—Under the 6th of Geo. the 3d and the 4th of Geo. 4th.

1374. Are the cases on the increase, do you think?—They are on the increase. I may state that in 1857 the potters took action against the decision of the magistrates, in a case in which a man had given a legal month's notice as he believed,

and which was objected to by his employer; that was the case of Hawley v. Baker. The man Baker was imprisoned for a month, and afterwards, on leaving prison, and without resuming his work again, he was taken into custody and committed to prison a second time; the case was taken to the Court of Queen's Bench, and tried before Mr. Justice Coleridge, Mr. Justice Erle and the Lord Chief Justice, who gave a decision unanimously against the man, holding that the judgment was good. They took it then into the Court of Exchequer where it was reheard before Mr. Baron Bramwell, Mr. Baron Martin, Mr. Baron Watson, and the Lord Chief Baron, and with one exception they were of opinion that the judgment should be reversed, which has led the potting trade to believe that the present Acts of Parliament are thoroughly unequal to meeting such cases as breaches of contract with their employers.

1375. You say that those cases are increasing, to what do you attribute the increase?—I attribute the increase to the present prosperous state of trade; the manufacturers bind the men to those annual agreements, and they take every little breach of contract, or even neglect of work, before the magistrates, and punish the men for those breaches of contract.

1376. The agreements are annual still, are they?—The agreements are annual very generally, but not universally.

1377. Are they written agreements?—Yes; at least they are partly written and partly printed; this is the form (*handing it in*).

1378. *Mr. Hardy.*] Do you know how many master manufacturers there are in the district which you speak of?—No, I could not exactly say; but I should imagine in the six townships there would be at least some 220 manufacturers; there are 100,000 inhabitants.

1379. Are those complaints laid against the workman principally by very small manufacturers, or by the great manufacturers, such as Minton and Copeland?—I do not know a single instance in which Minton or Copeland ever prosecuted their workpeople.

1380. The fact is, then, that almost all those cases are prosecuted by what you may call the small manufacturers?—Yes.

1381. The small manufacturers practically living from hand to mouth themselves?—Yes.

1382. *Chairman.*] You say there are frequent cases of prosecution under these Acts, and chiefly by small employers of labour?—Yes. I will mention some cases. One man was engaged on an annual contract, and when he came to proceed with his work, he found there was a condition that was not laid down in his contract, namely, for the milling of his elay, which was charged upon him as a workman, and deducted from his wages. He objected to that, and left his employer; he was then taken before a magistrate, who was connected with the trade in the district, and he was imprisoned for a fortnight for leaving his employ; the workman believing himself to be justified in doing so, from the master having broken his contract. That has caused great dissatisfaction to the trade. Another man was prosecuted by his employer for simply being away from his work for a day or two at the outside; and he was fined by the magistrates 5*l.*, to be abated from his wages in 10 equal instalments of 10*s.* each; and the opinion of his fellow workmen is, that a master might make a man work upon such an agreement for



for the whole of the 12 months, and not pay him, by getting an abatement of wages should he miss a day or two in a week. In another case a man was charged with a breach of contract, though he had given what we conceive to be the legal month's notice. At the end of the month he left his employment, because he had been paid no wages for the work he had done. The manufacturer said, you are not entitled to wages, as the ware made had come bad from the kiln. He, with several others, left at the end of the month. He was brought before the bench, and the judgment was, that he should return to his work, and pay a penalty of 2*l.*, in four equal instalments of 10*s.* each. At the same time, not a shilling wages could he get for the ware he had made previously. He wanted to change his employer, but could not do so. The paucity of hands has increased the value of labour, and the workmen can get in many instances more advantageous terms by leaving their present employ, but those contracts prevent their leaving.

1383. Are there any other cases to which you wish to speak?—I will mention another case, where a man was taken ill. The potting trade is a very injurious trade to health; the average life of potters is 10 years' less than that of workmen in all the other trades in the country. They are constantly dying of pulmonary complaints, caused by dust which they inhale in their work; they are subject to what is called potter's asthma. This man was so ill that he could not follow his employment. He was charged with neglect of work, and he was imprisoned for two weeks for this neglect, at the same time that they had his doctor's certificate to the effect that he was not fit for work.

1384. Have you any other cases to mention?—No.

1385. Are the cases you have mentioned cases which have occurred recently?—Within the last two or three months.

1386. How has your attention been directed to them?—By the reporter, under my guidance, attending the courts and reporting them, and the reports appearing in the paper which I edit. They come under my observation every week.

1387. In what courts are those cases tried?—The Petty Sessional Courts.

1388. Before whom are those cases tried; employers in the same description of work?—With one exception; we have a stipendiary magistrate, Mr. Davis.

1389. Of those cases, what proportion are tried before him, and what before the ordinary justices?—The ordinary justices sit with him.

1390. Where is the court held?—In the six townships of the Potteries; they have six Petty Sessional Courts, and there is a day fixed for each of the local magistrates to sit with the stipendiary magistrate.

1391. He moves about to the six different courts?—Yes.

1392. Are any cases tried at which Mr. Davis is not present?—In the first case I mentioned he was not present.

1393. Where there is no stipendiary magistrate, the cases are tried before the ordinary justices. Have you heard objections taken, or do you yourself take objection to that principle of trying such cases before the ordinary justices?—I have no recollection of cases in which the stipendiary magistrate has not been present, with the exception of the one before named.

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1394. In your district?—Yes.

1395. You cannot speak as to any other?—No.

1396. Mr. Hardy.] I see that this agreement which you have handed in, provides for arbitration about wages; do you know whether that is ever put in force?—Not in my experience. I have not known it put in force; there was one instance, I believe. The complaint of the workmen is, that that is never acted upon by the manufacturers.

1397. One case which you mentioned, you say went to the Court of Queen's Bench and then to the Court of Exchequer; what was the shape in which it was taken to those courts?—In the first instance, the defendant Baker objected to the prices he received from his employer, and he tendered him a month's notice to leave his employment. At the end of the month he left his employment, upon which he was taken before the magistrates, and committed for a month to the treadmill. At the end of the month he did not return to his employment, and the master took him before the sitting magistrates, who committed him a second time; then he was taken up on Habeas Corpus to the Court of Queen's Bench.

1398. And then he was discharged by the Court of Exchequer?—Yes.

1399. Have you heard any complaints expressed by workmen of the tribunal before which those cases go, namely, the magistrates; have you heard a preference expressed for the County Court?—The men have taken some cases to the County Court, but I do not know that they would prefer the County Court wholly to the magistrates.

1400. What is the objection which the workmen in your neighbourhood take to this Master and Servant Act?—The leading objection is this: they say that while the master has the power of imprisoning the workman for a breach of contract, for a month or two, or three months, with hard labour, the master can only be proceeded against civilly, and made to pay some trifling compensation; which the workmen look upon as an inequality in the law which ought not to exist.

1401. Are there many cases in which the men take the masters before the county court?—I can recollect one case in which a master was sued in the County Court. That case has not yet been finally decided, but up to this point the workman has been disappointed in his expectations. The case was this: a man called a placer, (a kiln man) was discharged by the employer at a minute's notice, without giving him the usual month, and he took the employer into the County Court for the month's wages, and Judge Spooner, who heard the case, gave judgment against the workman. The workman complained of that, and obtained a re-hearing, which came on about a fortnight ago, but in consequence of the workman's solicitor not being present, the case was adjourned to next month. How it will be decided I cannot tell.

1402. The county court judge only sits once a month?—That is all.

1403. Mr. Hardy.] The "good from over" system is not under this contract which you have produced; that is by the same rule of the trade?—No, it is not named in the contract; that is what the workmen complain of.

1404. This agreement is practically only a month's agreement?—That one is, but others which do not contain that written clause are for

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Mr. *W. Evans.* the whole 12 months; that is what is called the Chamber of Commerce Agreement, with the addition of the workmen's stipulation at the bottom.  
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1405. Is that stipulation of a month's notice common in the manufactories now?—The annual agreement would be less acted upon than the monthly notice; the annual agreement is adopted throughout the whole trade, with the stipulation of the month's notice in addition, where the men have the power of stipulating that for themselves.

1406. As you say labour is scarce, they have more power of enforcing such a stipulation now than when it was abundant?—When the law is not exercised against them.

1407. Are there any rules put up in the work shops in addition to that agreement by which they are bound?—This is a copy of the rules which are hung up (*handing them in*).

1408. Mr. *M'Lagan.*] You said that it was the small employers generally who prosecuted those workmen; how many men do those employers generally employ?—I should say from 50 to 200 men.

1409. Does every workman, when he enters the service of the master, sign this agreement?—Yes.

1410. Do you think it is for the benefit of the workmen that the notice has been shortened to a month?—It has been the general custom of the trade to have nothing but a month's notice, but within the last two years that agreement, which has been got up by the Chamber of Commerce, has been enforced upon the workmen for a year, and seeing that trade is now in a prosperous state, that long period of agreement takes from the workman the power of raising the price of his labour; the employers make it extend from the 11th of November in one year, to the 11th of November next year.

1411. Mr. *Hardy.*] Have you, on the part of the working potters, any remedy to propose for what you consider to be the grievance of the present Act?—The only one I have heard them express in their meetings has been, that they would like the adjudication, upon breach of contract, to be civil in both instances, both with the workman and with the employer.

1412. Supposing a workman to be summoned before the County Court, and damages to be got against him by his master, how would you propose that the damages should be realised?—I could not suggest any way in which they should be realised unless the master were given the power to follow the workman's wages. There are a large number of workmen now who have their own houses, who are small freeholders.

1413. Have you heard the evidence of the witnesses before this Committee who have described the effect of the arrestment of wages in Scotland?—I have only heard the evidence given this morning by Mr. Hood.

1414. Do not you think that there is some reason in what he stated, that the system of arrestment of wages tends to make the men restless and improvident?—I do not think that the manufacturer would take the trouble to follow the workman.

1415. Mr. *Potter.*] Do you think a master

would engage a workman if he knew that his wages were to be arrested?—I could not answer that question.

1416. Mr. *M'Lagan.*] You do not know anything about the working of the law of arrestment of wages?—No, I do not; I think it is confined to Scotland, and I have no experience of Scotland. I should say that that which was referred to by the preceding witness, viz., a day's notice, which he states is acted upon, both by workman and employer in Scotland, would be the very thing that the working potters of Staffordshire would be happy to receive, under the present prosperous state of trade.

1417. Mr. *Hardy.*] They would be glad to have day contracts?—Yes, if practicable, and under the present prosperous state of trade.

1418. Mr. *M'Lagan.*] I understood you to say that the system of day contracts would not act beneficially in Staffordshire either for master or workman?—It would not be beneficial for the employer; I think the workman should give the employer a month's notice, because the branches of the manufacture depend so much on one another, that if one branch were suspended it would cause other branches to be suspended also; but a month's notice would be ample to cover such inconveniences.

1419. Mr. *Hardy.*] Supposing the system of day contracts were adopted in Staffordshire, would there be any means of testing the man's work, on his leaving at a day's notice?—The system of day contracts would be a disadvantage to the employer, but a very great advantage to the workman, under existing circumstances.

1420. Because bad work would not be found out?—No, he would have a new place as soon as he left his old one; hands are now so scarce.

1421. Mr. *M'Lagan.*] Do workmen in the pottery trade change about much from one employer to another?—I should imagine less in the pottery trade than any other.

1422. Is that on account of the engagement being by the year?—Under the month's notice, which I deem just between master and workman.

1423. The last witness told us that since the notice has been reduced from a fortnight to a day, the men have been much steadier?—He states that that is the case in the mining districts. I could not say that in the potting trade that would be the case. The probability is that such a system, placing the workman in an independent position of that kind, leaving the master to discharge him if he were a bad or inattentive, or careless workman, would work well; the best skilled and most attentive man would have the best price, and would be retained longest in his employment, but the employer would often suffer loss and inconvenience from such sudden changes.

1424. And the employer would have it in his power to part sooner with a bad servant?—Yes. In the United States there is no law to force any compensation for neglect of duty; all the redress the master has is to discharge the man if he is a careless workman.

1425. *Chairman.*] Is there any other suggestion you would wish to make to the Committee upon the subject of this inquiry?—No.

Tuesday, 12th June 1866.

## MEMBERS PRESENT:

Mr. Dalglish.  
Mr. Algernon Egerton.  
Lord Elcho.  
Mr. Fawcett.  
Mr. George.

Mr. Jackson.  
Mr. M'Lagan.  
Mr. Edmund Potter.  
Mr. Alderman Salomons.

LORD ELCHO, IN THE CHAIR.

JOHN LANCASTER, Esq., called in; and Examined.

1426. *Chairman.*] I BELIEVE you are a Justice of the Peace for the county of Lancaster, and Vice President of the Mining Association of Great Britain?—Yes.

1427. You are also Chairman of the Wigan Coal and Iron Company, are you not?—Yes.

1428. And owner of collieries in Durham and North Wales, thus employing altogether upwards of 9,000 hands?—Yes.

1429. You know the object of this Committee, namely, to enquire into the working of the Master and Servant Act?—Yes.

1430. As an employer of labour, I suppose you are thoroughly conversant with that Act?—Yes.

1431. Do you think that that Act requires amendment in any way?—Yes, I think it does.

1432. In what points do you think the Act at present is defective?—The present Act gives the magistrates no option of inflicting a fine, and I think, both as a magistrate and as an employer of labour, it is harsh in that respect; they have no alternative but to commit, and I think if an option was given them of fining it would meet the case; and, to show that the masters concur in what I propose, I may say that on the 23d of November last the Mining Association of Great Britain sent out a circular to the different districts and to the different chambers of commerce, amongst others the North of England Association of Coal and Iron Manufacturers, the Coal Association of Northumberland, the Lancashire and Cheshire Coal Association, the Birmingham Chamber of Commerce, the Huddersfield Chamber of Commerce, the Manchester Chamber of Commerce, the Liverpool Chamber of Commerce, and others. That circular asked those associations to bring the matter before the employers of labour in their district, and to send replies; and to that circular was appended the following resolution:—"At a meeting of the general committee of the Mining Association of Great Britain, held at the Craven Hotel, London, on the 22d and 23d of November last, on the question of Mr. Cobbett's select committee on the state of the law between master and servant, it was resolved, that the co-operation of other trades be asked in reference to the action to be taken by employers of labour before any committee to be appointed in the ensuing Session of Parliament, to inquire into the law of master and servant; that the various local associations be requested to bring the matter before other employers of labour in their districts,

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and make any necessary arrangements, and report to the secretary, Mr. J. W. Day, Chesterfield, on or before the 16th day of January next, that it is desirable to submit to such trades the alteration of the law which this general Committee, as they at present view the question, are inclined to recommend; viz., that, instead of the magistrates being under the necessity, according to the existing state of the law, of committing offenders to prison, an option shall be allowed of either committing to prison or imposing a penalty." In reply to that, every one of those associations concurred in that view. A deputation then waited upon Sir George Grey, to whom we submitted this proposition, as the result of the views of those different associations, and he thought it met the case very fairly. Then, at the general annual meeting of the Mining Association of Great Britain, held at the Craven Hotel, London, on 21st February 1866, on the consideration of the proposed select committee on the state of the law between masters and workmen, it was resolved, "That the Mining Association of Great Britain recommend a modification of the law of master and servant, so that the magistrates may have the option either of committing to prison or imposing a penalty."

1433. You propose to retain the criminal procedure?—Yes.

1434. But to give an option of imposing a fine instead of awarding imprisonment?—Yes.

1435. That, you think, would meet the case, as stated by the workmen?—Yes.

1436. Their complaint being that the contract is a civil proceeding and that for breach of that contract they are treated criminally?—Yes.

1437. The present proceedings are by warrant, are they not?—No, not in England; the practice is contrary to that. I believe, the practice is never to issue a warrant unless there is a fear of the person absconding. In our courts we never grant a warrant unless the person refuses to attend upon a summons.

1438. *Mr. Potter.*] The power exists?—Yes, but it is never exercised in England to my knowledge. I know it is exercised in Scotland.

1439. *Chairman.*] In that respect do you propose any change in the law. Would you suggest that the first proceedings should be always by summons?—Aggravated cases might arise, a running away case, in which it would be necessary to proceed by warrant, but you would have to wait for the contempt of court to have been committed;

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committed; you must wait a week, probably; the sessions are only held once a week; you must wait that week before you could get the warrant.

1440. Do you think that those bodies who have met and considered this subject would object to that further alteration?—Yes, I think so.

1441. In your own experience have you very often been obliged to have recourse to the law?—No, not often, and to show how few cases there are, I have some statistics from our own district. The moral effect of having the power is often sufficient, and to show how little it is exercised in the district in which I sit as magistrate, I find that the returns for 1862 and 1864, in 100,000 of population, show that there were only 29 cases for leaving work heard, and of those only seven were committed. It is the custom of the magistrates in that district always to try conciliation; they would say we will defer this case, you must try and settle this amongst yourselves; they have scarcely any other alternative except committing the man, and they very often say you must agree between yourselves, and the result is that in those 29 cases in two years only seven commitments took place.

1442. Have you, yourself, had any case this last year?—No, not a single case.

1443. Had you any the year before?—I do not recollect one the year before.

1444. Have you ever had recourse to a warrant yourself?—Yes, a great many years ago.

1445. What was that case?—It is a long time ago; it was 25 years ago.

1446. You have not had a man up, under warrant, for 25 years?—I am not aware that I have.

1447. In short, there are no cases, practically, in your collieries?—No, there are no cases I may say, in our district.

1448. Do many of these cases occur generally throughout England?—I think this represents a fair type of England.

1449. Twenty-nine cases in two years, out of a population of 100,000?—Yes, I think it is a fair average; it is taken indiscriminately from the clerks of the magistrates, for the two years; if I had had more time, no doubt I could have got it confirmed from other districts.

1450. Do you think that the law, modified as you have suggested, is essential to the proper conduct of your mining operations?—I think so.

1451. Witnesses from Scotland have informed us, that in Scotland the system of what are called daily or minute contracts prevails, under which, of course, cases of breach of contract cannot arise, and they have said further, that the cases of men in responsible positions, such as engine-men and others who might leave their posts, and thereby damage their employers, and those who worked with them, those cases would be met by the Mines Inspection Act; do you think the Mines Inspection Act, and the rules drawn up under it, would be sufficient to meet such cases?—We could not prosecute under the Mines Inspection Act cases of that sort. If we had no contract with a man, the moment he ceased work he would be no longer our servant.

1452. You have statutory regulations under the Mines Inspection Act?—Yes, but the Inspectors of mines and the Government, have set their face against importing into these rules and regulations anything interfering with the commerce of the country; they will not allow any reference to a

contract to be in the rules and regulations signed by the Secretary of State; they will not allow the 14 days' or months' notice to be imported into it; very often it is put at the bottom of the rules after the signatures, meaning it forms no part of the fixed law.

1453. I presume in those rules under the Mine Inspection Act, there are certain posts in the mine specified, such as engine men and others, the desertion of which posts by the men would render them liable to be prosecuted?—Yes, so long as they are in our service; but if we have hourly contracts, a man can leave his post, and say, "there is an end of my contract; I leave your service." We cannot prosecute him after that; and the damage arises by his absenting himself so suddenly.

1454. Mr. Potter.] He might leave the engine running?—That might be a case in which you might proceed against him, if he left the engine running, but if he left at nine in the morning, he might say, "My contract is terminated;" and we could not then prosecute him. As long as he is in your service, and does an act while legally in your service, he is responsible; but after that he is no longer responsible. Take the case of the engine driver who drives the large blowing engine for the blast furnace, leaving suddenly, and it is in an obscure country place, where there is not a supply of that class of skilled labour, and he leaves his employ at the end of the hour in the middle of the day, what remedy have you? you have thousands of pounds damage done in the course of 24 hours, and you have no remedy in a civil point of view; there is no money he can pay that would compensate you for that.

1455. Have you seen the statutory rules that regulate the mines in Scotland?—No; I know them more in theory and by report.

1456. Your impression is that the Mines Inspection Act under the system of minute contract, would not give you sufficient protection as a master?—It is certainly.

1457. You think in your own interests as well as the interests of those you employ, who might be entirely thrown out of their employment by a man leaving his work, you require the present law of master and servant?—I think so.

1458. Are you aware that in Scotland, out of 35,000 miners, 25,000 are under this system of minute contract?—I have read that in the evidence; I did not know it before.

1459. You are not aware of any case in England of miners being employed under that system?—Yes, I have known a few cases in North Staffordshire where miners have been so employed; but that has had regard merely to miners, not to those who may be comprised as agents. It was only on a very small scale.

1460. Is that system still in operation in North Staffordshire?—I do not know. I have left that district some years, but the impression left on my mind was, that it brought an inferior class of population there; that they were more floating about.

1461. What is the length of your contracts generally?—A month is the longest contract that I know of; a fortnight is the general one; the distance between pay and pay regulates the time of the contract. I think that such a period of contract is beneficial in this way; a man during the fortnight might show a little temper at some small thing, and he might say, I will leave at the end of the fortnight; but the fortnight gives him time

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time to reflect, and he very often does reflect with advantage and stays.

1462. The evidence which we have from Scotland shows that this system was introduced by the masters, and was not pressed upon them in any way by the men. Do you believe that, in England the men would object to such a system?—I think so; but I think the men on the other hand are quite able to protect themselves on any question of that sort. If they express a strong wish on any point of that kind, I think it is merely a question between the men and their employers. I have never seen many quarrels on questions of that sort.

1463. Mr. Potter.] Any reasonable demand on the part of the men would be met by the masters?—Any reasonable demand; the men would prefer to have, in our case, fortnightly contracts, rather than be dismissed at a moment's notice; I think that great hardships might arise from that on both sides.

1464. Mr. Jackson.] Would not the men under hourly contracts be more under the control of the masters?—I think so.

1465. A change to the system of hourly contracts, you think, would be rather to the detriment of the workmen, than otherwise?—It would be a change for the worse for the men, and if the men had that clearly brought before them in England, I think they would rather have a short contract, I mean a fortnight or a week as the case may be.

1466. Chairman.] Evidence has been given to the effect that in Scotland, under the common law, there is the power of arresting and following wages in cases of fine for damages. If this option, which you have referred to, were given to the magistrate, should you take any objection to that power?—Yes; I see a strong objection to that power of arresting wages; I think it would place a man with his new employer in a wrong position. In the first place the master would receive an authority to arrest so-and-so's wages; he would infer at once that he was a bad character, and was not a man worthy of employment; I think it would act morally against the man in that way. Then I think that it would be very unpopular in England following a man's wages; the men are tenacious that nothing shall be done in the way of interference with their wages.

1467. In these cases there is generally a choice of evils; if the alternative was selling a man up, which would you say, in the interest of the man himself, would be desirable to be done?—I do not think there would be much to be got in either case, judging from my own experience. We employ a class of boatmen who are contractors, and, therefore, they do not come under the law of Master and Servant; I need not say that they are a very inferior class of men, and they set us entirely at defiance; they leave the boat 20 or 30 miles away from our works; they will take it and employ it in other work, and we have no remedy against them. We have proceeded against them in the county court, and we have got judgments against them in the county court, but the difficulty is to catch hold of them, and I do not see how the civil law can operate upon men of their stamp; I say at present we have no remedy against those men.

1468. They are under no contract?—They are contractors, but they do not come under the law of Master and Servant; I should say, that if we

had to go through the county court in any case of this sort, we should abandon it entirely.

1469. Objections has been taken to the jurisdiction being with the justices; do you approve of the jurisdiction being left to the justices?—I think the tribunal is more accessible, and quicker in its operation; and rather than deprive the justices of the jurisdiction, I would entrust them with more powers; I would let them adjudicate on the contract, and let them fine a master for any breach of contract; I think that would be an improvement for the work-people. Supposing a fortnightly contract exists, and supposing the master says, it is not a contract, and the man says, it is a contract, at present the remedy is, that the man must wait to the end of the fortnight before he can get a summons; but I would have the law so framed, that the moment the master said there is not a contract, the man could try that at once before the magistrates, so relieving him, and letting him go to another part of the country, if he wished.

1470. That is a further alteration which you would suggest?—Yes.

1471. Was that point considered by those associations which you have named?—No, that is merely my own opinion.

1472. You would object to the removal of the jurisdiction from the justices, and its being transferred to the county court?—Yes.

1473. Would you object to cases going before the stipendiary magistrates only?—That is a question affecting the whole administration of justice of the country; it is too large a question for me to answer.

1474. Mr. Jackson.] You have no complaint of injustice have you?—No, I am not aware that there is any injustice complained of in our district or the surrounding districts; I think there is a fair mixture of opinions on the bench.

1475. None of the large towns, like St. Helen's, have asked for stipendiary magistrates, have they?—No; no doubt if they did, they would have them.

1476. The matter has never been agitated?—No.

1477. So far as your knowledge goes there has been no complaint against the justices of the district?—I have never heard a complaint.

1478. Neither from the men nor anyone else?—No.

1479. They have not complained that because you, for instance, are engaged in the coal trade, you were not a fit man to adjudicate cases brought before you?—I have never heard any complaint. I, with others, would take special care not to adjudicate in a case in which I was either directly or indirectly interested; that is always carried out.

1480. Chairman.] There is no difficulty in finding magistrates who are wholly disconnected with mining?—No, in our district, which is largely a mining district, 80 per cent. of the magistrates are parties not connected with mining.

1481. Those cases are not tried before magistrates who are coalowners?—No, the majority would not be coalowners; they would be clergymen, landowners and manufacturers; but the major part are landowners and clergymen.

1482. Mr. Jackson.] Men not connected with business, or manufacturers?—Yes, they are generally selected, I need not say for that reason, having time on their hands, and being intelligent men.

1483. With

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1483. With the view of preventing the preponderance of any one class on the bench?—Yes; I am sure that in the selection there is great care taken in that respect.

1484. *Chairman.*] Personally beyond that recommendation with reference to the justices having additional powers of dealing with contracts, you have no suggestion to make further than that made by the combined meeting of coal-owners?—No.

1485. And you approve of the justices' jurisdiction?—Yes.

1486. *Mr. Algernon Egerton.*] You say that there are very few cases occur in which there are prosecutions; but do many cases occur of men leaving their work, and breaking their contract, who are not prosecuted?—Yes, if a man is a useless and poor workman, and is not employed in any responsible position as an engineman, or in any post of that sort, we should scarcely follow him.

1487. You would let him go?—Yes.

1488. That is what is done generally?—There is a great deal of winking at it; as a rule we say, "Is he worth following?"

1489. Do you think that the present state of the law with reference to masters and servants prevents good workmen from leaving their work?—I think it has that effect.

1490. Have you any knowledge of the state of feeling amongst the workmen themselves, in regard to the criminal procedure in cases of breach of contract?—I have never heard much stress laid upon it in our district. I have watched to see whether there has been any feeling manifested in our district of that kind, and I have certainly not seen it. Any cases I have heard of have been too remote from the district for my own inquiry.

1491. You would give the magistrates the option of inflicting a fine; have you any idea as to what amount the fine should be?—No, but I would put a limit. It should not exceed a certain amount, say 5*l.*

1492. *Mr. Jackson.*] You would give the magistrates the power of inflicting a fine according to the position the man occupied in the colliery?—Yes.

1493. If he were an engineman you would make it more, and if he were a colliery workman you would make it less?—Yes, if an important man had left his work in a very shabby manner, no doubt the magistrates would inflict the extreme fine on a man of that sort.

1494. You would leave it with them?—Yes, to inflict 1*s.* or 5*l.*

1495. But it should not exceed 5*l.*?—No.

1496. In the event of a man decamping and not paying, and having no goods to levy on, what would you do?—That I would leave to the usual course of law.

1497. You would still have him prosecuted?—Yes.

1498. *Mr. Potter.*] You have said that you thought it desirable that the magistrates should have the power of adjudicating in cases of breach of contract, has your attention been drawn to Courts of Arbitration; have you any feeling in favour of them at all?—That is an experiment about which I am not prepared to speak.

1499. Do you think that it would be desirable to establish such Courts of Arbitration?—I have not sufficient knowledge to answer that question; it is a delicate point, and certainly they would have to be more than of a local character.

1500. *Mr. Algernon Egerton.*] Evidence has

been given that in some districts the masters give a note called a "clearance" to any man leaving their service, without which he cannot get employment. Is that system adopted in your district?—It is not the case in our district; it is not the case in any district that I am connected with.

1501. In your opinion the greater freedom there is in all matters of that kind, the better both for man and master?—Yes, I should be sorry to have to import anything of that kind into the relations between master and workmen.

1502. *Mr. Jackson.*] You would disapprove of it if put in force?—Yes.

1503. You do not know of its being the rule?—It certainly is not in any district I am acquainted with. I should wish to have great freedom in that respect.

1504. *Chairman.*] I have before me a copy of the special regulations which have been framed for the guidance of pitmen, and others in pits, in Scotland, under the 18 & 19 Vict., c. 108. I find those special rules refer to the duties of the colliers, the drawers, putters, and drivers, the bottomer or signal man, the roadmen, the brushers and reddsmen, the fireman, the pitheadman, the engineman, the furnaceman, and the underground manager or overman. The duties of each of the men employed in those different departments are laid down in very great detail and minuteness, and at the end of those rules there is this note, in italics, which I will read to you: "The violation of any of the foregoing special regulations exposes the offender to punishment, by fine of 2*l.* or imprisonment for three calendar months, on conviction under the Act 18 & 19 Vict., c. 108." Those rules and regulations the witnesses from Scotland say render, in their opinion, the present law of Master and Servant unnecessary, as regards the proper conduct of all operations below ground; and they are of opinion that those rules, framed under the 18 & 19 Vict., are sufficient, in connection with the system of minute contracts. Were you aware of the state of things which I have now called your attention to?—Generally, that there are such clauses in the special rules of collieries, I have no doubt; but they can only be put in force during the time those people are in our service; and if a man were working under a daily contract he might say at the end of the day, "I will work no longer for you"; and though he might by going away do us a great deal of harm, we could not proceed against him under those rules, because he would be no longer in our employment. Under the system of fortnightly contracts, if a man gave notice to leave we should have time to turn ourselves in, and to employ other men to do his work. But take the case of a fireman, who, instead of coming to work, in the morning, says "I left your employment last night," and supposing we had no one to take his place, the consequence might be that some great explosion might occur and cause irreparable damage.

1505. You cannot speak of your own knowledge to such cases having arisen in mines where the system of daily contracts is in operation?—We should never think of prosecuting under these rules and regulations for a breach of contract after the term of service, if it were a daily contract.

1506. *Mr. Algernon Egerton.*] Would not it depend upon how the magistrates defined the term

term "while at his work." For instance, the engineman having to attend to his engine during the night, his contract might be taken to last more than the day, might it not?—Yes, but you cannot make a distinction between different classes of contracts, the contracts must be uniform throughout the works.

1507. Mr. *M'Layan*.] If a man by leaving

his work had endangered life or property, could not you prosecute him?—Then all the damage is done.

1508. Still you could prosecute him, could you not?—No, not according to these rules, *we* can only prosecute him for misconduct during the time the contract was in existence, and while he was working for us.

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THOMAS EMERSON FORSTER, Esq., called in; and Examined.

1509. *Chairman*.] You are President of the North of England Institute of Mining Engineers?

—Yes.

1510. And viewer and manager of several collieries in different parts of the country?—Yes.

1511. You can speak to the operation of the law of master and servant in the northern districts of England?—Yes.

1512. Has your attention been much drawn to the law of master and servant, as an employer of labour and as President of that institute?—The matter has only been brought before our notice this year.

1513. I mean, have cases frequently occurred within your knowledge, of prosecutions under the Act, for breach of contract?—Occasionally.

1514. What sort of number?—I have had three myself within the last two years.

1515. Out of what number of men?—At Seaton Delaval Colliery alone, there are about a thousand men and boys, and at the other collieries altogether 7,000 or 8,000.

1516. What were those cases, were they ordinary pitmen, or engine-men?—Ordinary pitmen.

1517. Serving under contracts, for what period?—Monthly contracts; this is our form of contract (*producing it*).

1518. Are your contracts signed by the men?—Every man signs; the owners sign the schedule of prices, and the men sign their names below.

1519. I see that the men, according to this contract, bind themselves to work "according to the prices, times of working, rules and regulations mentioned in a certain schedule of terms and conditions, a copy of which said schedule is affixed in a conspicuous place in the colliery office"?—Yes, but they also get a copy of it whenever they require it.

1520. All your men are engaged by written contract, and subject to a schedule of terms, hung up in the colliery, which they see before engaging themselves, and a copy of which they can have at any time if they require it?—Yes.

1521. Are those schedules connected at all with the rules and regulations under the Mines Inspection Act?—Partly they are; but they principally refer to the prices upon which they are to be paid for their labour, and the number of hours they are bound to work.

1522. Those cases which you say you have had, were cases of simple breach of contract on the part of the pitmen; did they abscond?—Yes.

1523. Were they summoned?—I got a summons out against them, and they did not appear before the magistrates, and then I applied for a warrant, and it was some time before they could be found.

1524. You got a summons out against them before they left the country, after they had left the colliery?—Yes, and then I got a warrant

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against them as they did not appear on the summons.

1525. From your experience in other collieries do the masters generally have recourse to a summons or to a warrant?—Generally to a summons in the first instance.

1526. The warrant only being had recourse to when the men do not appear to the summons?—Yes.

1527. Were those men convicted?—One of them was; the other two were forgiven on condition that they went back and served their month out.

1528. And they did that?—Yes.

1529. Under the law, had they not done so they would have been liable to imprisonment till they had served their contract?—Yes; the other man would not agree to that, and he was sent to prison for a month.

1530. At the end of that month what happened?—He came back and is serving now.

1531. Have you ever known cases where a man having refused to serve for the remainder of his contract, has been imprisoned, and where, when he has been let out of prison, he has refused to go back to his work, and has been brought up again and re-imprisoned?—Never.

1532. The law admits of such cases?—Yes.

1533. But you have never known such cases?—No.

1534. Do the cases generally end in imprisonment, or in the men returning to their contracts without suffering the penalty?—Generally speaking, the men return to their contracts.

1535. You are aware of the objections raised on the part of the men, to the present state of the law, I presume?—I have heard a little about them; they complain that the master cannot be imprisoned.

1536. They say that the law is unequal; that they can be imprisoned and dealt with summarily and criminally, while in the case of the master, it is only a civil process?—Yes; but if the men were fined, and would not pay the fine, what would be the consequence?

1537. At the present moment it is not a case of fine, but a case of imprisonment, and imprisonment under warrant, though summons may be resorted to?—Yes.

1538. You have heard the evidence given by Mr. Lancaster, do you approve of the change he suggested?—Yes; I think it would do no harm. Though I think it would be better for the men that they should know that they would be imprisoned if they did not fulfil their contract.

1539. Why do you think it is better for them that they should be imprisoned without the alternative of a fine?—If a man is fined, the other men club up and pay the fine amongst them, and the man therefore does not suffer anything.

1540. How would it be better for the man that he should be imprisoned, if when he is fined, he

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has not even to pay the fine?—If he knew that he would be imprisoned, he would take care not to break his contract.

1541. As the law now stands, he is liable to be imprisoned under that criminal procedure in which it has been proposed by Mr. Lancaster, a change should be made by giving the magistrate the option of fining him. You say that the fine would be paid, not by him, but by his fellow workmen, and yet you say that it would be better for the man to remain under the present state of the law?—No question of it, because he knows what will be the consequence if he breaks his contract.

1542. In the one case he is imprisoned, and in the other he is fined, the fine being paid by his fellow-workmen; but still, in the interests of the man, you think he had better remain under the liability to be imprisoned?—He would not like that so well as a fine, but I mean as regards the men generally.

1543. You mean that breaches of contract are generally injurious to the workmen, and that the present severe state of the law tends to prevent breaches of contract, which this proposed change in the law, you think, would rather encourage?—Yes, I think it might, but still I would assent to the proposed change.

1544. Were you one of the gentlemen who met and passed this resolution?—No, I was not there.

1545. You heard what Mr. Lancaster said, with reference to those statutory regulations under the Mines Inspection Act, he said, that he did not consider the statutory regulations under the Mines Inspection Act, a sufficient protection for the employers; are you of the same opinion?—I am; I do not think they would be sufficient.

1546. Were you aware before you came into this room, to-day, of the existence of this system of minute contracts in Scotland?—Yes, I had heard of it.

1547. What had you heard of it before you came here?—I heard a gentleman giving evidence before this Committee that a great number of men in Scotland were working by the system of minute contracts.

1548. You were not aware before this Committee sat that such a system prevailed?—No, I was not.

1549. Do you think it probable that such a system might be introduced into England with advantage?—I do not know any district in which such a system would be liked; I do not think the men would be willing to adopt it.

1550. They would require greater security for the maintenance of their employment?—Yes.

1551. They have now the security of a month's notice?—Yes, so far as the miners are concerned; but all the other men, blacksmiths, joiners, and the men on bank only give a fortnight's notice, the rule being that at whatever period they receive their wages they give that notice; for instance, the blacksmiths and joiners receive their wages every fortnight, and they are at liberty to go by giving a fortnight's notice, but the miners are bound by the month.

1552. Have monthly contracts been in operation for any length of time?—Twenty-one years.

1553. Previously to that what were the contracts?—Yearly.

1554. Do you believe there were more cases of prosecution then under the Act for breach of contract than now?—No, I think not. In the

county of Durham the majority of the miners are under 12 months contracts.

1555. Do you believe it is essential not only in the interests of the employer but also of the employed, that you should have some stringent means of enforcing contracts?—I think so.

1556. Do you believe that the power of issuing warrants is essential?—I would try a summons first, and if the man did not appear before the magistrates on the summons, I certainly would give the power of issuing a warrant.

1557. Would you be satisfied with the issue of a warrant only in the case of a man leaving the country?—I would only have a warrant issued in that case.

1558. If he merely left his work, you would be satisfied with the issuing of a summons?—Yes.

1559. Failing appearance on the summons, and on the knowledge of his having gone, you think a warrant should issue?—Yes.

1560. That coupled with the alteration of the law suggested by the Mining Association of Great Britain, namely, that the justice or whoever tried the case, should have the power of inflicting a fine in lieu of imprisonment, you think would meet all the requirements of the case?—Yes, that he should have the option of doing either.

1561. Depending upon the nature of the offence?—Yes.

1562. In the case of non-payment of the fine, you would have recourse to imprisonment?—Yes.

1563. It has been suggested by witnesses from Scotland, that instead of imprisonment, there might be an option of following and arresting the man's wages; what is your opinion on that point?—It would be very difficult to do that in our district; the men would not like it, and the masters would not like it. I would not like to follow a man to another colliery, to take his wages from him.

1564. If you did not imprison him, you would either have to do that, or to sell the man up?—I would rather forgive him; I would neither sell his furniture, nor follow him to another colliery.

1565. You think in the case of a fine being imposed, where the man had not the means of payment, the master would let him off?—Yes, but the man would have the means of paying it, because the other men would subscribe.

1566. So that the master would certainly not lose by the change in the law, giving the option of fining the man; inasmuch as the men in the same employment would combine to pay the fines, whatever they might be?—Yes; only that is not a very satisfactory state of things.

1567. That under the existing state of things you could not prevent by law?—No.

1568. With reference to the jurisdiction, Mr. Lancaster is strongly in favour of retaining the jurisdiction in the hands of the justices: do you coincide in his view?—Entirely.

1569. Objection has been taken on the part of the men to the jurisdiction being left with the justices, as they think they have a tendency, being employers of labour, to sympathise with their fellow employers who are prosecuting servants. Do you think there is any ground for supposing that there is any failure of justice owing to that cause?—I do not believe there is any failure of justice on account of that; I think if a coal owner were on the bench when a pitman was brought up, he would take no part in the case.

1570. That



1570. That you speak to positively?—Yes.

1571. At present one justice alone can try those cases?—Yes.

1572. Do you think it would be advisable that they should be tried before more than one justice?—Yes; I would have no objection to two or three.

1573. But you are strongly in favour of leaving the jurisdiction with the justices?—Yes.

1574. Why?—Because if the case had to go to the county court, involving the bringing of a civil action, it would be very tedious and expensive, and if the men were thrown in costs the master would never get them.

1575. Where there was a stipendiary magistrate do you think it would be advisable that he should be present in all such cases?—I should not have the least objection to that.

1576. Would you think it desirable to render it necessary that he should be present?—I would prefer it myself. The odium resting on any of the bench who happened to be employers would then be taken away.

1577. Mr. *M'Lagan*.] We have had it stated in evidence that the shorter the contract the longer the men remain in their employment, is that consistent with your experience?—No, certainly not.

1578. It was stated, that in Scotland, when daily contracts were substituted for hourly contracts, the men stayed much longer?—That would not be the case in our district. I have 340 or 550 men cutting coal at Seaton Delaval; they cannot get all places alike, and if a man got balloted to a place which turned out a little worse than the next place, he would go off.

1579. Do the men prefer long or short contracts?—They like monthly contracts better than 12 months contracts.

1580. Would they prefer fortnights contracts to monthly contracts?—No; I do not think our men would.

1581. You do not approve of following the man's wages?—No.

1582. Supposing any alteration in the law to be made, so that the man could not be prosecuted criminally, the master would have no recourse against the man, if you did not allow him to follow the man's wages or sell him up?—The best way would be to get quit of such a character as that.

1583. Mr. *George*.] I understand you to say, that in most instances, a summons is issued in these mining cases in your district, against work-people for breach of contract, and not a warrant?—A summons in the first instance, and if they have not appeared before the magistrates, then a warrant has been obtained.

1584. Is that practice of summoning a man in the first instance, a matter of courtesy, or is it so provided by the Act of Parliament under which the proceedings are taken?—You can ask for a warrant immediately.

1585. Is it under the 4th of George the Fourth, that those proceedings are taken?—It is.

1586. And not under any special Act relating to mines?—No; it is under the 4th of George the Fourth.

1587. In every instance you are entitled, under that Act, to ask for a warrant against a workman for any breach of contract?—Yes.

1588. But, according to usage and courtesy between master and workman, a summons in ordinary cases issues first?—Yes.

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1589. And it is only in the case of a man absconding, or not choosing to appear to the summons, that a warrant issues?—Yes.

1590. Would you approve of that practice being made universal, that in every mere breach of contract between master and servant, a summons should issue in the first instance?—I should have no objection to that; but there are a great many trifling cases in which you would not take the trouble to get a summons, or a warrant either.

1591. How would you bring the man before the magistrates in that case?—I would not bring him before the magistrates at all; if a man misconducted himself and did not attend to the rules laid down by the colliery, I would fine him 2s. 6d. myself.

1592. I am speaking of cases where the master thinks it necessary in some shape or other to bring the workmen before the magistrates?—I should have no objection that a summons in the first instance should be got, and then if he did not appear in answer to that summons, I would issue a warrant against him.

1593. Would you apply that to all cases arising under the provisions of the 4th of George the Fourth?—I think I should.

1594. In cases that savour very much of crime; for instance, the man at the head of the shaft abandoning his employment at the moment the windlass was descending, or a case of that sort, would not you approve of an information being sworn, and a warrant being issued in the first instance, in a case of that sort where a man was guilty of an omission of that kind, which might in fact amount to a crime?—We never have such cases in our district, but if such a case did occur, I think that a little talking to the man by the master would do as much good as taking him before the magistrate.

1595. Suppose evil consequences had followed from his neglect?—Then I should get a warrant against him at once.

1596. That would be on a sworn information?—Yes.

1597. You think that there is a class of cases which may occur, though they do not appear to have occurred in your own experience, in which the simple process of issuing a summons would not be sufficient?—That might happen.

1598. In those cases you think that there ought to be a special sworn information as the ground of a warrant being issued by the magistrates?—Yes; but if an engine-man, for instance, made a little mistake, I would merely talk to that man, but would not discharge him.

1598\*. You think that in such cases as I have suggested, he ought to be taken by a warrant?—Yes, if taken at all.

1599. Do you, as master, think that that ought to satisfy the workmen, that the general rule under the Act of George the Fourth should be the suing of a summons subject to the master on his own responsibility, swearing an information, and getting a warrant in cases in which he thought he was justified in so doing?—Yes, if a very bad case.

1600. Mr. *Jackson*.] If you took a case before a magistrate and asked for a warrant, would he not before granting that warrant, inquire the grounds upon which you sought for that warrant?—Yes.

1601. And he would judge whether a summons was sufficient or not?—In my experience the

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practice has been this; if a master got a summons and served it upon a man, and he did not put in an appearance at the meeting of the magistrates he would then apply for a warrant.

1602. Supposing that he applied for a warrant first, would not the magistrate suggest that a summons would be the better step; he would judge whether it should be a summons or a warrant?—Yes.

1603. It would not rest with you, whether a warrant should be issued, but with the magistrates?—Yes.

1604. And in the event of a fine only being allowed to be inflicted, and not imprisonment, and a man was fined, say 2*l.*, and his fellow-workmen clubbed together, and each gave sixpence or a shilling, would that, in your opinion, be a sufficient punishment in all cases?—No, I do not think that it would be.

1605. You think that imprisonment would be necessary, in many cases, in order to make the

rest of the workmen feel that the law had them in their power, and that punishment would ensue on a breach of contract?—No, question of it.

1606. Is it your opinion, that if the workmen found that imprisonment was done away with, and that a fine only could be levied, it would tend to keep them in better order, or would be better for themselves?—I have very great doubts about its keeping them in better order; when they knew that they could be imprisoned, they would do their duty, but not if they knew that a fine merely were to be imposed; but in this case, the magistrates would have the power either to fine or to imprison.

1607. And in the event of the fine not being paid, they would have the power to send the man to gaol?—Yes.

1608. Do you think that a man's knowing that he could be imprisoned, would have a much better effect than knowing that a fine only could be levied?—That is my opinion.

WILLIAM PROWING ROBERTS, Esquire, called in; and Examined.

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1609. *Chairman.*] I BELIEVE you are a solicitor at Manchester?—Yes.

1610. In the course of your professional business, I presume your attention has been more or less directed to the Acts which we are considering?—The greater part of my professional business has been connected with the working classes.

1611. In connection specially with these master and servant Acts?—Yes.

1612. For how many years have you been professionally employed in these cases?—Thirty years.

1613. Do you find cases of prosecution under these Acts increasing or diminishing in number?—I do not like to answer that positively; I think they are on the increase.

1614. Is your experience confined to your own district, or are you employed generally throughout the country?—I go to most parts of England.

1615. Are you aware of the number of prosecutions under these Acts annually?—Not at all.

1616. You are not aware that in the Parliamentary Returns, headed "Judicial Statistics of England and Wales, 1864," under the heading of "Prosecutions under the Laws relating to Servants, Apprentices, and Masters," in 1862 there were 7,637 cases; in 1863, 8,504 cases; and in 1864, 10,246 cases?—I was not aware of that fact.

1617. Is that a greater or a less number of cases than you would have supposed?—No, I should have named 10,000, had I been asked.

1618. How many cases have you yourself had experience of in the last year?—My experience of these cases of breach of contract is not perhaps to be measured by the number, because the cases in which I have been engaged, are cases of very great importance, upon which large sums have been depending, and in which I have been usually employed by persons from a distance, and who generally employ the attorneys in their own district. I have had some hundreds of cases.

1619. I suppose that no person could tell us better than yourself the exact bearing of the law as regards both master and servant; will you tell us first the exact state of the law as regards the master in his relation to the servant in all matters

of contract?—The master when opposed by the servant, is exactly in the same position as when opposed by anybody else; the servant has no special remedy against the master more than any other person has except with regard to the recovery of wages.

1620. What is his position as regards the recovery of wages?—With regard to the recovery of wages, the workman has the power of summoning the master before the magistrates.

1621. Is there any limit to the amount?—There is; it is part of the injustice of the case; the limit is to 5*l.*, except when the master is away, and then I believe that a steward or an agent may be summoned for any sum not exceeding 10*l.*

1622. As regards that limit, is there any distinction between husbandry wages and other descriptions of wages?—No, not that I am aware of.

1623. It is not the case, as far as you are aware, that in cases of husbandry the summons can be up to 10*l.*, and in other cases only up to 5*l.*?—I was not aware of that; I have not been employed in husbandry cases.

1624. Has the servant any other special remedy against the master?—I am not aware of any other distinction with regard to masters when proceeded against by working men but that which I have mentioned, that the workman can sue summarily for his wages through the justices of the peace.

1625. Supposing a workman summon a master for breach of contract for non-payment of wages, and judgment is given in favour of the servant, and the master has to pay the wages, what remedy has the workman, supposing the master does not pay, or has not the means of paying?—Then the master is liable to the ordinary operations of Jervis's Act, which first of all gives the power of distress, if he is not willing to pay, though able to pay; and then, if he is neither able nor willing to pay, gives the remedy against him of sending him to prison; but he may then or afterwards pay, and so release himself.

1626. That remedy of imprisonment which a servant has, in case of non-payment by the master, is not given under what is commonly called

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called the Law of Master and Servant, viz., the 4 Geo. 4, but under the law of the land, commonly called Jervis's Act?—Yes; the 11 & 12 Vict., which is a general Act, regulating the administration of justice before magistrates throughout the kingdom.

1627. So that practically a servant has the remedy against the master of imprisonment in case of non-payment of wages?—He has the same remedy against the master that any other person would have against the master who refused to perform an act ordered by the magistrates.

1628. Practically it comes to this, that in the case of a master breaking his contract, and not paying, or not being able to pay the servant, under the general law of the land, though not under the special statutes regulating relations between master and servant, has the remedy of imprisonment, in the case of no effects, against the master?—Yes; but not always so. That remedy would be in abeyance if the master were bankrupt.

1629. When you say if he were bankrupt, do you mean if he had no effects, or if he had passed as a bankrupt?—If he were a bankrupt the law is that, up to a certain sum, the effects must pay the servant in full; after that sum is reached he shares with the other creditors; and, though I have never had a case of it, I have no doubt whatever that the remedy of imprisonment altogether ceases then, and it becomes a debt. There certainly are, as I recollect, other powers which the workman has against the master, under the Mines Acts, for instance as to the appointment of a weighman, and so on; and there are some other Acts of Parliament under which a workman has the power of bringing the employer before a magistrate.

1630. That is under the Mines Inspection Act?—Under the Mines Inspection Act, for not giving sufficient ventilation and several other things, and under some other Acts relating to miners.

1631. That only applies to miners?—That only applies to miners.

1632. Powers such as that do not apply to other employments, such as potteries or iron works?—No.

1633. Are there any such remedies in the Factory Act?—Yes, certainly; I have had very little experience of them, but there is the power of summoning a master for employing children under age, and a variety of other powers.

1634. Is there any other point which you wish to speak to as regards the position of master and workman, so far as regards the master?—No. With regard to all those there is no power of imprisoning the employer.

1635. Unless possibly under Jervis's Act?—Yes, when he would be liable just the same as for any other violation of the law.

1636. Having stated the law as regards the master, will you now state how the law stands as regards the servant?—With regard to the servant, the main distinction between the servant and the master is that some breaches of contract, classed together under the words "misconduct" and "misdemeanor," carry with them the liability to imprisonment if committed by the workman, and not if committed by the master. If analogous acts are committed by the master, he, so far as imprisonment is concerned, goes scot free.

1637. Analogous acts such as what?—I conceive, if the Act of Parliament were carried out

in its strictness, that if the workman were to use abusive language to the employer he could be sent to prison for that.

1638. Would that come under the head of misdemeanor or misconduct?—I have known magistrates who have so interpreted very small matters, the word "misconduct."

1639. Do you think that a legitimate interpretation, or a strained interpretation, of the intention of the law and of the wording?—I should consider it a strained interpretation, and a very cruel interpretation; but there are many considerations which operate on the relations of master and servant when brought before a magistrate which do not operate in any other cases whatever.

1640. Have you known cases of men who have been imprisoned for using abusive language?—I cannot call to mind one, but I will not speak positively.

1641. You cannot speak to the word "misconduct" having been construed to mean the using of abusive language?—No.

1642. Have any recent cases of that kind occurred within your knowledge?—No; certainly since this Committee has been appointed, and of late years before, there has been more attention paid to justice, in the administration of the law, than previously.

1643. To what do you attribute that change?—I attribute it very much to the publicity of news, the penny papers, and so on.

1644. To the moral influence of public opinion?—Yes.

1645. You say that there is an inequality in the position of master and servant; that is to say, that the servant can be prosecuted in similar cases to those in which the master cannot be prosecuted, are there any other inequalities?—There are many others. There is the great inequality, which is the subject of your inquiry, that breaches of contract, by employers, are not punishable by imprisonment, whereas they are if committed by the workman.

1646. That you consider to be an inequality that ought to be remedied?—Yes; I consider it to be fraught with evils of a much larger kind than are usually taken into people's consideration, far beyond the actual difference. The difference, in fact, makes the workmen a degraded class; it creates a class of persons who, for breaches of contract, are subject to imprisonment, while other classes, for breaches of contract of equal importance, are not subject to imprisonment. It confounds fraud and debt together, in the case of workmen, whereas it is distinctive to a nicety, in all other classes, with regard to fraud and debt, or civil engagements.

1647. In short, you agree with the view taken by the representatives of the servant class that have appeared before this Committee; namely, that the law ought to be amended, inasmuch as it treats a breach of contract, which is a civil matter, as a criminal proceeding?—Yes; that correctly defines my view.

1648. In that respect, you think the law requires amendment?—Decidedly.

1649. Do you think that cases might arise where, in the interests even of the employed themselves, it might be desirable that there should be stringent powers of enforcing contracts, as by breaches of those contracts the employed might lose their employment. For instance,

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stance, an engineman in a pit might leave his employment without notice, whereby the mine might become flooded and persons might be thrown out of employ, and the employer seriously damaged in his property, do you not think that cases such as those ought to be specially dealt with?—Certainly not; they are cases exceptional with regard to the work, which is generally done by the individual, but they are not exceptional, with regard to the work which is done by other classes of society; a lawyer, for instance, by refusing or failing to prepare a marriage settlement, at the time he was required to do so, might create incalculable mischief.

1650. Is there any remedy against a lawyer in such case as you have specified?—Not the slightest; you cannot send him to prison; Heaven forbid that you should have that power.

1651. Can he be fined or punished in any way?—Yes; by an action for damages. An upholsterer might create mischief by not doing the work he had undertaken to do. A man making gunpowder might set fire to a town. There was a man who was guilty of something approaching criminality in a vessel at Liverpool six or nine months ago; some paraffin oil got through; it was known that it would explode; everybody got out of the way, but a large portion of the town was fearfully shaken. There is no punishment or imprisonment for him. I think, in this matter, we forget that the position of the workman is much altered since these laws were first made. These laws are all derived from the times when the workmen were a very different class of beings to what they are now; they are all derived from the 20 Geo. 2. At that time of day colliers were sold in slavery in Scotland, and up to the beginning of the present century. That shows the different status they occupied then to what they do now. For many years after the 20 Geo. 2, and for years preceding, there was not a year passed without some Act of Parliament being passed against the liberty of the workmen, till workmen could not meet and talk in the street with safety. All those Acts (20 or 30, or 40 or 50 of them) were swept away by the Combination Act; and they were swept away on the avowed ground that the workmen had grown to be entitled to a greater degree of liberty than they were under those Acts, while existing. Since then the workman has very much altered for the better. There is a greater amount of reading, and a variety of other circumstances and considerations, which I should, perhaps, be wrong to bring forward, which make the status of the working man totally different from what it was when those Acts were passed. If the 4 Geo. 4 had been brought forward substantially by itself, it is my conviction that it would never have been passed; but it was brought forward to extend the operation of the previous Act to several trades which that Act had not comprehended.

1652. And to make the law more stringent too?—Yes; there is some little addition in that respect. Then there is the 17 Geo. 3, called the Woollen Act, which classes in a most ludicrous manner, all sorts of engagements and all sorts of thefts.

1653. That is the Jobbing Act, is it not?—They call it the Woollen Act.

1654. It applies specially to work given out on job, does it not?—Yes; but it is applied to work now done at the mills; there are no words

to limit its general operation to work done on job, though there are words specially applicable to such work; work given out on job must be commenced within eight days; when the 4 Geo. 4 passed, it was made to apply to all sorts of trades which were provided for by the 17 Geo. 3, and it bore altogether rather the appearance of a Continuation Act, than of an Act which was engendered by the necessity of the times; that is the Act which is generally had recourse to in prosecutions, though I may say there are other Acts which are also had recourse to.

1655. What alteration do you propose in the Act?—I should propose that all contracts between masters and servants should be the same as contracts between other people, and tried by the county court if within its purveu, if within 50%, or tried by a superior court if beyond that amount.

1656. You wish to put the master and servant on an equality with regard to contracts?—Yes; the fact is, that the words master and servant are being very much displaced by the words employer and employed.

1657. I use the term because it is the term of the Act?—It is a very good term, because it strongly illustrates the difference of position; those Acts were passed for the regulating of the relationship of master and servant; they do not enter so much into cases of contract though the relationship of master and servant is of course a contract; but at one time the courts were disposed to consider that the law, as to master and servant only applied where the servant was paid wages, and the employer had an unlimited control over the whole of his time; and that, I think, was the intention of the Legislature originally; latterly, with regard to colliers especially, that interpretation of the law has been very much modified, and, in fact, entirely done away with, and the collier is not in the ordinary position of a servant; having done the work which is considered a fair modicum of labour, he is then his own master, and he lives in his own house, and his position altogether is different from the notion we should entertain of a servant generally speaking.

1658. From your communication with the employed, in the course of your conducting so many cases, you must have had ample opportunities of judging of their views, do you think there is any strong feeling on the part of the employed against the present law?—Whenever you meet with an intelligent man, his intelligence is directed to that, and his objection is very strong.

1659. Do you think the objections are so strong and so general, that the present state of the law causes any bad feeling between employers and employed?—I cannot say that of itself it causes bad feeling, it adds to bad feeling; it is constantly used by masters as a taunt, and a very horrible one, "I will send you to prison for three months;" and it is most painful to hear it, especially when one knows that the man who uses the threat is an acquaintance of the magistrate before whom the case will be brought.

1660. By what you have just said, I may assume that you object to the present jurisdiction as well as to the law?—It is the law which gives the jurisdiction; these disputes would never have come before the justices of the peace but for the criminal nature of the proceedings; they would have gone in the ordinary course as contracts be-  
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fore the county court; so it is the same thing to say I object to the jurisdiction and to the law.

1661. Do you think that there is a failure of justice, owing to the jurisdiction?—Terrible; language cannot describe it.

1662. That is your experience?—Yes; but I should not like to talk in that way without being allowed to give you one or two instances of it; I will mention a case, avoiding names, which occurred at Rotherham a short time ago. A person who was employed in an ironwork, had received notice to leave, or was about to leave; on leaving, he was ordered to instruct some person who was coming in his place; he refused to do so, the instruction, being, as he considered, a part of his capital; a warrant was accordingly obtained against him; he was taken when he was in bed (although his residence was perfectly known, and there was no necessity for it), and taken to the lock-ups, which are immediately under the court, and where, I believe (but I am not certain), the court was to sit the next day. None of his friends were communicated with, and it was only by accident that the fact was known. At 8 o'clock in the morning, he was taken from the lock-ups to a magistrate's house, two or three miles out of the place, and taken into a back room, where he was tried, the only persons present being a clerk of the clerk to the magistrates, two or three policemen, and either the employer or somebody attending on the part of the employer.

1663. In what position in life was the justice before whom he was tried?—He was a gentleman of fortune, I believe.

1664. He was not an owner of an ironworks, or anything of that kind?—No. By this time the friends of the man got to know of the matter; they did not consider that there was any misdemeanor; they thought the man had done perfectly right in refusing to convey the information that was required of him, and they went to the house, and three of them asked to be admitted to give evidence, but they were refused. By this time the father had got to know that the man had been apprehended, and he came up, and, as he came to the door, the son was being conveyed for a month to prison at the Wakefield Gaol. The case created a great deal of sensation about Rotherham, and the parties came to me about it. I advised that a letter should be written at once to Mr. Roebuck, giving him a statement of the case; this was done; and I have every reason to be thankful to that gentleman for the attention which he paid to the case. I have forgotten to whom he went, but I know it ended in this, that the statement I sent up was sent to the Secretary of State, and in due time there came the ordinary lithogram, expressing great regret that nothing could be done. There was as gross a failure of justice as could be. I do not believe that such a failure of justice could have occurred in any other country than this.

1665. What was the date of that case?—It occurred within the last twelve months. There was another case which I would like to mention, which occurred at Barnard Castle. A builder who had several men in his employ applied to a magistrate for a warrant against some of the men for some very trifling matter or other, I have forgotten what. The magistrate to whom he applied was a clergyman who does not often act, but who lived very close to this builder; he applied to him for a warrant against those men, and,

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perhaps I may be allowed to say, in passing, that I think the warrant in all these cases is a very gross hardship; it does not tell the man what he is accused of; the warrant is not left with him, he is merely told, "Come along, and you will know when you get into court;" that is the common phrase. The warrant having been obtained from this magistrate, five or six or seven men were taken out of their beds to a place three miles off; they were all taken handcuffed (they almost always use handcuffs in these cases) along those three miles to Barnard Castle; they were put into a cell, no refreshment being given to them, which I mention simply because that was one of the points that was relied upon afterwards. They did see a friend or two, and they were told that the trial was to come on the next day early. The friends went to three attorneys, all of whom were engaged; one of the men supposing that one of the attorneys to whom they went was not engaged, being refused admittance by door, got in by his window, and tried to induce him, sitting in his bedroom, to come and defend the men. He said he could not go, he was engaged, and so they failed to obtain his assistance. There is a union there of working men, and the secretary of that union went at 6 o'clock the next morning to the magistrate who it was said was to sit, and asked him to put the case off for a short time, stating that the men had had no opportunity of obtaining professional advice, that they were starved, and, altogether, that the ends of justice would be much better served by a short adjournment being given to them. He refused it. Though there is a court-house at the place, the men were never brought there; they were brought into the magistrate's clerk's office. There were two or three policemen present. The person who had gone to the reverend gentleman applied to be present, and was refused, and then the case was entered into at 7 o'clock. There was no punishment inflicted upon the men (and this is one of the injurious effects of the law); but the law was applied in what I may call its torturing process. The law is not always applied as a means of punishing. Frequently the course is pursued which was pursued in this case, which was this: the master said, "I can send you to prison for three months with hard labour, will you go back to your work?" So it is, as it were, that exemption from punishment is sold to the men. Those men agreed to go back to their work. There was strong sympathy brought about in their favour, and the case came before the Queen's Bench. A criminal information was moved for against the magistrate; but inasmuch as we could not prove that he was corrupt, or that he was paid for doing this, our application failed, though the judges severely censured the whole practice; they said at the same time that what we complained of was legal, and we got no redress or any good, except what good may be supposed to be gained by its exposure.

1666. When did this case occur?—Five years ago.

1667. Have you any other instance you wish to bring before the Committee?—I think the Committee should be aware of a decision which has lately taken place, and which gives enormous power to the magistrates. I do not know the name of the case, but the case it quotes is called "Baker's Case." In Baker's case, in which I was concerned, the servant proceeded against had been committed to prison for two or three months,

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months, and on coming out of prison he had been required to go back to his work, on the ground that the contract he had entered into was not completed. He declined to go back, and thereupon he was brought again before the stipendiary magistrate for the Potteries, and re-committed for another month or two. I was then employed for Baker, and I brought the case by Habeas Corpus before the Court of Queen's Bench. The Court of Queen's Bench held that the man might be committed over and over and over again; that there was, in fact, no end to the power of commitment; that a refusal to return to his work was an unlawful absence from his work. It was contended, on the other hand, that if the master had turned him away, the master would only have been liable to one penalty. The men who employed me were very enthusiastic and very determined, and having had a very strong opinion upon the case, we took it to the Court of Exchequer, and in the Court of Exchequer we succeeded in obtaining the discharge of the man. Sir Frederick Pollock was very indignant at the power claimed by the magistrates, and gave strong and sound reasons against it, quoting other Acts of Parliament where the power of imprisonment was defined "from time to time," which is not the case with this Act, and he gave many other reasons. It was only by a bare majority, however, that I obtained the man's release.

1668. So that the law laid down by that case is, that one sentence and imprisonment puts an end to the contract?—Yes; that the man having left, and having been punished for it, is discharged.

1669. That will in future be the rule, you imagine?—No; because during the last two months there has been another case exactly similar, in which the case of Baker was referred to, and relied upon in favour of the man; but the Queen's Bench refused to be bound by it, and decided that the man was liable to a second imprisonment, and to imprisonment again as often as he refused to return to his work.

1670. So that the Queen's Bench held by its previous decision?—Yes; and the case having been brought by Habeas Corpus, there being no settled law upon the subject, it stands in the way I describe. One of the judges suggested that the next case should be taken before the Common Pleas, which has not yet had its attention drawn to the case. Mr. Justice Shee was very strongly in favour of the man and against this second trial, but as the rest of the Court were the other way, he yielded to their opinion.

1671. Mr. Alderman *Salomons*.] How were the judges divided?—They were all one way except Mr. Justice Shee.

1672. *Chairman*.] Is that case to be carried further?—I do not know; I have watched the newspapers, but have not seen anything about it. Practically, the man would be brought up again before the magistrates, and then asked to return to his work, and very possibly he would return to his work. There is no mode of ascertaining the law in these cases. The decision which I have just spoken of must not be taken as absolutely the law. It would be the law as to that man, but the decision on a writ of Habeas Corpus does not make the law; though perhaps if the Court of Exchequer were to reverse its decision and the Court of Common Pleas to hold with the Queen's Bench, then that might be taken as the law; but if the law is to stand, as laid

down by the Queen's Bench, it is a very dreadful state of things, because if the man, instead of being imprisoned, during the time he was imprisoned had absented himself (supposing he had gone away to America, for instance, and had then come back), he could only have been punished once for all that time; the justices could not, after a man's absence for a week, punish him for the Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday; and yet that would seem to follow from the decision of the Court of Queen's Bench in this late case, that as often as he refused to go back to his work so often he was liable to punishment.

1673. With regard to the question of jurisdiction, objecting as you do to the present state of the law, before what tribunal do you think these cases should be brought?—Before the county court judge; they should be treated as cases of contract.

1674. You would have no criminal element at all left in the law?—No, unless it applied equally to masters; so long as it was a contract, I would have no criminality about it.

1675. It has been suggested to the Committee that a change might be made in the law to this effect, that an option should be given to the magistrate trying the case, to fine or imprison, at his discretion, according to the nature of the case?—He has that power already.

1676. Has he now the power of fining or imprisoning at his option?—Yes.

1677. Will you state exactly what the powers of the magistrate are in dealing with these cases?—The Act provides that "It shall and may be lawful for such justices to commit every such person to the house of correction, there to remain, and be held to hard labour for a reasonable time, not exceeding three months, and to abate a proportionable part of his or her wages" (that is what I mean by fining) "for and during such period as he or she shall be confined in the house of correction, or in lieu thereof to punish the offender by abating the whole or any part of his or her wages, or to discharge such servant," &c.

1678. That hardly gives an option, does it?—No, not of fining as it may be interpreted. With respect to those words, "to abate a proportionable part of his or her wages," that shows that the Act originally referred to persons receiving wages rather by the day than by the work which they were doing.

1679. Mr. *Potter*.] Does not it refer to certain classes of work that could not be done by the day, and which never was paid for by the day?—Certainly that is an argument against that view of the Act; but at the time when the Act was passed more people were paid by wages than as they are now by the piece.

1680. *Chairman*.] Having looked at the Act, do you think that that suggestion is one which you would approve of, namely, that an option should be left with the magistrate, or the tribunal trying the case, of awarding a fine or imprisonment?—My objection is altogether to its going before a magistrate; it is not that I dislike the magistrate as a tribunal, because I think, in many cases, his judgment is the best that could be obtained; but it is from the relation in which the magistrates stand to employers of labour; in nine cases out of 10, the employer and the justices live within two or three miles of each other, and in a vast number of cases in the north, the magistrates are every one of them directly interested in the matter.

1681. The

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1681. The question I asked you was, whether, in the first place, you saw any objection to such a change of the law as that there should be an option of fining a man instead of imprisoning him (the suggestion having been made here, that warrants should not be issued except in extreme cases of men absconding and not appearing to a summons); that in all cases a summons should be first issued, and that the person trying the case should have the option of imposing a fine or imprisonment?—I can see no objection to that.

1682. But you object to such cases being tried before magistrates?—Yes.

1683. Owing to the failure of justice, from your experience, arising out of their sympathy with the employer who is prosecuting?—Yes; a natural rather than an unfair sympathy. They see the masters in an elevated position; they see the workmen in a degraded position; and human nature is human nature.

1684. Supposing the case is the case of a coalowner, does the law prohibit another coalowner adjudicating on a miner's case?—Not at all; the practice is for coalowners to adjudicate upon them in South Wales, and the groanings of the colliers under that practice (the word "complaints" would hardly express the feeling) are lamentable.

1685. Would your objection be met by such a change in the law that in all mining cases no person connected with mining should sit upon the bench and adjudicate in such cases?—No, not even that would meet my objection. Everybody in South Wales and in Durham and Northumberland is more or less connected with mining. He is dependent upon it, or his relations or friends are. A stipendiary magistrate would be the best. A stipendiary magistrate is by his previous education, and so on, more restrained.

1686. But stipendiary magistrates not being universal, that would entail the appointment of a great many more stipendiary magistrates?—Yes.

1687. And that, you think, would be a necessary part of any change in the law?—No; my view is that the matter should go to the county court, though I think a stipendiary magistrate ought to be the tribunal for offences against the Combination Act.

1688. But that there should be merely imprisonment in the other case, not as a punishment, but in case of non-payment of fine, and that these cases should only go to the county court?—Exactly so.

1689. So that, practically, you do away with the alternative of imprisonment as a punishment?—Not exactly; I do not think that thoroughly explains what I mean. I think the language is calculated to convey misapprehension. When I say that I would rather refer a matter to the county court, the county court has a power of imprisonment; but then the county court must first of all summon the man, and see whether he has any means of payment. Now, in the case of a workman, he might not have any means of payment; and if a fine was a proper punishment, imprisonment as an alternative for not doing what he could not do, could not be a proper punishment; so it seems to me.

1690. Then you qualify your former answer on the option of imprisonment to this effect, that imprisonment should only take place when there is no means of payment?—Not so; what I meant was—that which I was told had been sug-

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gested to the Committee—that there should be an additional power of imposing a fine as an alternative of imprisonment. If the man has no means of payment, I object to a fine as an alternative of punishment.

1691. Yes; to that you object?—No; I object to the tribunal altogether; if the tribunal is to exist as it does, I do not know that it would be improved by the alternative of the power to fine, or the contrary.

1692. But supposing the county court, to which you say these cases ought to be referred, can only inflict imprisonment, not criminally, but only on failure of payment, would you object to the county court, or the stipendiary magistrate, or some such body having the alternative power to which you refer, namely, the power of inflicting a fine, or awarding imprisonment, according to the gravity of the offence committed?—I should not object to the county court having the same power to deal with these contracts that it has to deal with other contracts; but I should object to its having any exceptional power; and I should object altogether to the matter going before the stipendiary magistrate, or any other magistrate, because I think that the taking of it before the magistrate is the very thing that gives the offence its criminal character. The magistrates formerly used to deal with all the cases under the Friendly Societies Acts; gradually these have been eliminated from their jurisdiction, and now the magistrates have no jurisdiction under the Friendly Societies Acts, except in case of fraud. There has been done, with regard to the Friendly Societies Acts, in fact, just what we are endeavouring to do now, that is to say, the cases are all taken into the county court.

1693. What was the position of the men formerly under the Friendly Societies Acts?—That all complaints of non-payment in sickness, and complaints of this, that, or the other; any violation of a contract which a man entered into with a friendly society, or a friendly society entered into with him, was, till comparatively lately, taken before a magistrate; now they are all taken before the county court.

1694. And had the magistrate then the power of awarding imprisonment in the case of non-payment?—Yes; as he has now in the case of fraud. The offence of fraud still goes before the magistrate, and so it would under the ordinary operation of the criminal law; and, in fact, our objection to these "contract" cases going before the magistrate is, that it gives the criminal ingredient.

1695. It gives a criminal character to it, which you think, under no circumstances, it ought to have?—Under no circumstances would I have it go before a magistrate.

1696. You cannot conceive any case, either in mines or elsewhere, where the wilful injury done to the employers and the employed is such as to justify criminal proceedings?—Not as long as wilful injury of the same sort, committed by other persons, is not liable to criminal jurisdiction.

1697. Wilful injury committed by other persons; explain yourself, please?—By work people; such, for instance, as I have illustrated. A man cutting down trees, he has a fine to pay; it is wilful damage; and by cutting down a tree he may create far more damage than money could repay; but you cannot visit him with imprisonment; at all events, not under summary jurisdiction.

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1698. Do you think that cases might arise where, in mines and elsewhere, it might be necessary to have, for the protection of the employer and employed also, more stringent powers than you propose to give by your suggested alteration of the law?—I should give no more power, in the case of persons employed in mines, than already exists with regard to other persons. Where with others it is criminal, it should be criminal; where with others it is subject to a civil remedy, it should be so with them. There are particular cases in which I should not object to it; such, for instance, as the necessity for certain rules in the case of colliers as to the use of lamps, and so forth; as to the punishment of a man who takes off the cover of his lamp, and thereby endangers the safety of others, because I conceive the same law would be applied, if ever the necessity should arise, to analogous cases.

1699. Such cases are provided for under the Miners Inspection Act?—Yes.

1700. But, as a general rule, you lay down the principle that, in all these cases of contract, master and servant should be allowed to make their own engagement, and that in no case should any criminality arise from breach of contract; it should be a civil proceeding wholly and entirely?—Certainly.

1701. And be dealt with wholly civilly?—Yes; and that not merely on the principle of avoiding any exceptional legislation against these particular workmen, but because the position of a justice of the peace, before whom these cases are brought, is not one calculated to beget confidence or to ensure justice.

1702. That is another reason; but, irrespective of the tribunal, do you object to it on principle?—Yes.

1703. Whatever the tribunal, even if the tribunal were specially created for the purpose of avoiding the evils which you say attach to the present tribunals, you would object to any criminality entering in any way into the question of contracts between masters and servants?—Certainly.

1704. You say the law in this country in such cases exists in no other country in the world; are you conversant with the state of the law as regards masters and servants in other parts of the world?—Only so far as persons of education usually are. I have had no special acquaintance with it.

1705. I mean that in defending cases here, you have never adduced the state of the law in other countries to show that it is worse here than there?—I have not.

1706. You do not know the state of the law in France, for instance?—I do not know; but I cannot believe that it is the same there as here. Will you allow me to mention a case that occurred here; your Lordship was good enough to ask me to mention a case.

1707. But we had better finish this first; you cannot speak as to the state of the law in France?—No, I cannot.

1708. But your conviction is that it cannot be such as it is here?—That is my conviction.

1709. It is only a conviction founded upon what you believe to be the injustice of the law here?—I believe that if such an administration existed in other countries, it would have been published in this country, as showing the superior liberty enjoyed by Englishmen over other countries.

1710. But whether as regards France or America, or any other country, you cannot speak as to the state of the law in any of these countries?—No, I cannot.

1711. Now, if you please, will you go on with the case which you wished further to adduce?—There was a case in South Wales; the men who were employed by a coalowner there believed, from observation, that they were not allowed for their full weight of coal, and one morning they all met together and refused to go down the pit under this impression. The employer came out while they were standing about, and required them to go down. They stated their objection, and he immediately had some tubs weighed, and found that to some extent, I do not know whether to the full extent which the men thought, but that to some extent, the men's observation was correct, and they had not been paid for the full weight which they obtained from the pit. However, he ordered them to go down, and said that it should be remedied at some time or other. The men refused; they were, as they called it, agitated, and they went home. In the course of a few hours afterwards, or the next day, I do not know which, they went to the master again, and asked him to appoint a "weigh man," as was provided for by the Act of Parliament; this he refused to do, and in the meantime the master obtained warrants against them all; when he had obtained the warrants, the men offered to return to their work, and serve their time out, thinking it would be better to serve their time, that is, to give notice, and to work their month out than to incur the penalties which might ensue if they refused to work altogether; however, nothing was done about that; the men were taken into custody very soon afterwards, and were confined together, five or six of them. It was the middle of winter; the next day before it was light they were all taken, handcuffed, over the snow to Tredegar, and there they were tried; they were tried by the magistrate who always sat with the magistrates who were prosecuting; the magistrates who prosecuted them were magistrates of the very court where they were tried; of course they did not sit in this case, but a magistrate who continually sat with them did try the men; some friends applied to me by telegraph; I was at Manchester, and was not able to come immediately, but I telegraphed to the magistrate, requesting a postponement of the case, saying that I was on my way; the magistrate refused to postpone the case; he was a clergyman, and the case proceeded. The men obtained then another advocate, Mr. Plews, who stated that called upon on a sudden as he was, and the thing being complicated, he very likely should not finish his defences until 12 o'clock at night, and on that intimation the magistrate consented to a postponement; it was only one magistrate; these cases need only be tried by one magistrate; and that is part of the hardship; the magistrate consented to a postponement, and the cases were put off for a week, and the men were let out on bail. Now, in this case there was a fair objection by the men; the weight was proved to be incorrect, that is, their objection was proved to be founded on fact, and notwithstanding that they were dragged in this way upwards of eight miles, I believe. They were taken, I believe, from Blaenau to Tredegar and that distance is upwards of eight miles, and they were afterwards tried; one, I believe, had been tried before



before I got there, and before Mr. Plews came, and had received some sentence. The case went on, and I found I could not meet the position that the men had refused to go down, although I contended that the circumstances of that refusal justified them; but I took up another point, that the masters had agreed to pay those men as part of their wages in "truck-shop" goods, and that a part of the contract being thus bad, the whole of the contract was bad. The magistrate refused to allow me to go into that defence, and said it had nothing to do with the case. There was an adjournment, and I came and saw some nobleman, who takes great interest in these matters; I have forgotten his name; the Marquis of Townshend, I think; and I went with him to Lord Westbury, and Lord Westbury, I was told, wrote to this magistrate. However, when I got back again, there was the same determination not to allow this truck portion of the case to be gone into. I brought forward case after case that had been decided by the courts to show that, where a contract is bad, especially where it is criminally bad in one part, it is altogether bad. However, the magistrate would not hold with me, and so the case went on. The men got off, after all. But that is one of the instances of the cruelty which exists where the magistrate and the employer live together, or near to each other. Here two magistrates were the prosecutor; there is no need of concealing the name; the employers were Messrs. Levick, both of them justices of the peace. The Lord Chancellor wrote to me, asking me to send him a list of the names of the magistrates who practised "truck," and I sent him a list, but nothing was done.

1712. Mr. Alderman *Salomons*.] The men were acquitted?—No, they were not acquitted; the prosecutors withdrew all but one of them, and as to that one, they sentenced him to an hour's imprisonment, or something like that, which came to the same thing as an acquittal. And now I may mention, in connection with this matter, that a case arose out of it which afterwards went to Monmouth Assizes. At the Monmouth Assizes it was contended that the truck was perfectly fair and legal. Among other evidence that was brought was the evidence of Mr. Brown, a magistrate, who swore that, as soon as the Truck Act was passed, all the magistrates had met together to devise some means of evading it; and the means of evading it were, that the workman should go round to a pay office of the master and receive his wages, and then should go round to the shop where he got his goods—they joined each other—and that the money should be thrown through a window from the one place to the other; so that one piece of money went round and round during the whole of the day. I wrote again to the Lord Chancellor, suggesting that magistrates who could meet together for the purpose of forming a code, having for its object the deprivation of this law—of the benefit it was intended to convey—ought not to be allowed to sit as magistrates. However, that came to nothing; but the magistrates in these cases are the very tribunal to whom you must apply in "truck" cases. Now, it seems utterly absurd to suppose that magistrates themselves carrying on the same system, and having entered into such an arrangement as I have stated, would ever join in convicting a brother magistrate for a similar deviation from the law. That is one of those circumstances

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which I was anxious to bring before the Committee, as showing the necessity for employing stipendiary magistrates.

1713. *Chairman*.] Are you in favour of any additional appellate jurisdiction?—There never will be justice evenly done, I think, unless there is an appellate jurisdiction; the present appellate jurisdiction is simply the Secretary of State. He sends a complaint to the magistrate, who, if he has got any knowledge at all, can of course give a sufficient answer for his conduct, such, for instance, as trying the case at his house, shutting out the witnesses, and so on; he would say that the witnesses were not shut out, or that he did not know it, or what not; but the explanation is never submitted to the person who sends the complaint. That statement of the justice never comes before the other party to it; all that comes is a letter, of which I have, I suppose, two or three scores, to the effect that the case has been considered anxiously, and so forth, but that there is no redress.

1714. Have you considered the simplest and easiest way of establishing a sufficient appellate jurisdiction?—No, I have not; I really do not know.

1715. Assuming these cases still to be tried before the magistrates, can you suggest any changes in the way in which they are tried which would obviate any objections which you trace, and which others trace, to their jurisdiction?—Well, I could suggest this, that it should be in the power of the workmen to have a shorthand writer to take an account of all the proceedings, and that he should have power to lay that statement before a judge.

1716. If his friends were dissatisfied with the verdict?—Yes. That is a rough mode of putting it; it might be to put it before three county court judges, or any other appellate jurisdiction.

1717. Perhaps you will consider these two points, viz., a system of easy appellate jurisdiction, and any changes which you think, from your experience, might be advantageously introduced into the present system of trying these cases before the ordinary justices, and either put it in writing, or give it in evidence before the Committee?—I shall be very happy indeed to do so.

1718. Mr. Alderman *Salomons*.] And as to the question whether the mode suggested would be cheaper than the present?—

1719. *Chairman*.] Any appellate jurisdiction such as you contemplate would add to the expense in such cases, would it not; at least as regards the appellate jurisdiction, not necessarily, of course, as regards the other?—An appellate jurisdiction would certainly entail further expense; I do not know anything in this country that can be done without expense.

1720. In what description of trades do cases under the Masters and Servants Acts, in your experience, chiefly arise?—Principally in the colliers and bricklayers.

1721. Bricklayers, not brickmakers?—Brickmakers and bricklayers, and bricklayers' labourers.

1722. And in what part of England do collier cases chiefly arise?—Formerly I used to be employed in all the cases in Northumberland and Durham; latterly I have not been so, but only occasionally. There are a great many in Northumberland and Durham, and in South Wales there are a great many. A great deal of good

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good has been effected lately by the appointment of inspectors of mines, so much that one can only wish there were more of them.

1723. You say, a great deal of good has resulted from the appointment of inspectors of mines; do you mean good, as regards the question we are now considering, the service contracts?—No.

1724. But with reference to these cases under the Masters and Servants Act, you say the cases arise mostly in Wales and in the north of England?—And in Sheffield and Derbyshire.

1725. Not so much in Lancashire?—Not so much in Lancashire.

1726. Mr. Jackson.] You say, in Derbyshire?—Yes, in Derbyshire.

1727. What part?—In the neighbourhood of Derby and Ecclestone.

1728. To what do you attribute the difference, that in one part of England these cases are more frequent than in the other, in the same description of work?—I think that they very probably do exist all over the country; in fact, they must with such a large number as 10,000, but we do not hear of them; I only hear of those cases which are of considerable importance. Of course the legal assistance of gentlemen can be obtained on the spot, where the dispute occurs, at an easier rate than if the parties sent to a distance.

1729. Chairman.] You have mentioned bricklayers; to what do you attribute cases arising more frequently amongst bricklayers than in any other description of trade?—I really do not know.

1730. Is there anything special in the contract, betwixt master and servant, in the bricklaying trade?—No; the employers are generally a lower description of persons than in the case of colliers; a brickmaker is very frequently a brickmaster at the same time.

1731. But you said bricklayers especially?—Yes, bricklayers; I said also brickmakers; bricklayers are generally employed by persons who are contractors under others, and there is a great deal of abusive language sometimes generated by disputes; sometimes that comes before a magistrate as a case of intimidation. I have two cases in the Queen's Bench now of intimidation, in one of which a man said to the master, "We will let you see, we shall have man for man;" the master thought that two bricklayers' labourers were enough for three bricklayers; the men thought otherwise, and said, "We will let you see; we will have man for man; we will have three bricklayers' labourers for three bricklayers;" that the magistrate considered intimidation.

1732. But that does not come under this question of contract?—No; that comes under the Combination Act, as to which there is a good deal to be said.

1733. But we do not go into that; are there many cases in the iron trade and in the glass trade?—There are many cases in the iron trade and also in the glass trade, but the glass trade has not so many now as there used to be, I think; at all events, so many do not come under my cognisance; there is one very important thing I should like to mention, which I think of far greater importance than I can express in words: it is that the workmen ought to be paid once a week instead of once a month, or instead of at a longer period. The great support of the truck system is the payment of the men by long

payments; in some cases for six months they have not a settlement. I was consulted the other day on this case, to know what the men were to do. In South Wales, at this very place which I have mentioned, Messrs. Levick's Colliery, Messrs. Levick had been in the habit of paying the men once a month, but they had also given them what is called a "draw" once a fortnight, pretty nearly approaching, we will suppose, half what their wages would be. Latterly he called them together, within the last 10 days or last fortnight, and told them that money was so dear, which it was, for it was just at the time of the failure of Messrs. Overend & Gurney, that he could not let them have the "draw" in future, and they must be paid once a month. Now there is a very strong incentive to the adoption of the truck system. He had the truck system on his own place at the time I have previously spoken of, but that had since been done away with.

1734. Mr. Fawcett.] Would you make the payment of wages once a week compulsory?—Most decidedly.

1735. Chairman.] Do you think that would obviate many evils of various kinds which you see now arising?—I almost think the evil of paying at a longer period than a week is as great as any other evil that you are dealing with—it deprives the wife—it sends to the pawnshop—it promotes the truck system—it encourages debt.

1736. Mr. Jackson.] Are you aware that by the mode in which truck wages are settled up it takes one day out of the fortnight to square all the accounts?—Yes.

1737. You would take one day, then, out of a week?—Yes, I would.

1738. You would retain from the colliery labourer one day out of six, in order that he may get less wages, by the deprivation of a day's work?—Believe me, I do not think the difference would be that, for it would beget, I believe, a better system of keeping accounts. Besides, I cannot conceive it would be the same labour to bring the accounts of a week straight, as it would be those of a fortnight.

1739. Mr. Dalglish.] You would pay a portion of the wages every week, although you squared up the accounts once a fortnight?—That would be a great deal better than once a month.

1740. Mr. Jackson.] But are you not aware, that it is the practice for all collieries of any magnitude, to pay weekly, or to give the men what they call a "sub," and to square up at the end of a fortnight?—I am aware that it is so, but I have just quoted an instance, in which, in consequence of the high price of money, it was not done.

1741. That was under special circumstances?—But the whole of the burden falls on the working man.

1742. That is the case of one colliery; you have not met with other instances?—I have heard of numbers of instances where wages are paid only once a month.

1743. Have you heard of any other instance in which, in consequence of the dear price of money, other colliers have done what Messrs. Levick have done; namely, extended their payment?—No, I have not.

1744. Mr. Fawcett.] But in some branches of industry it is the universal custom to pay once a month, and never to give any advance weekly or fortnightly; for instance, in the case of copper mining,

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mining, it is so, is it not; are you aware of that?—I am not.

1745. Are not the men powerful enough, with the assistance of the unions, if they were very anxious to get fortnightly or weekly payments of wages, to receive them without the assistance of the law?—Practically they are not powerful enough; they do not hold together for such a purpose.

1746. But they would hold together if there was a strong feeling amongst them?—There is not a strong feeling respecting it, as a continuous injury to them. They do not feel it so strongly.

1747. They do not appreciate that injury?—They do not appreciate it.

1748. But they do in some trades; the unions would be too powerful in many trades for employers to pay wages fortnightly or monthly?—Yes; and they have succeeded in enforcing a weekly payment; there have been two or three cases of unions insisting upon payments weekly, and succeeding. At St. Helen's, where I was yesterday, there was a regular paper war about a year ago, between the masters and a very clever man, whose name I have forgotten, respecting evils incidental to these payments once a month, and through that paper war the time of payment was reduced to once a fortnight; but gradually the masters have crept back again, and I was told yesterday—I felt very much interested, and I asked about it—that the masters had got it to once in three weeks, and that eventually they would get it back to once a month. I believe that nothing but legislative enactment will do.

1749. Mr. Jackson.] Where was that? Mr. Lancaster has been here giving his evidence; he employs 9,000 men in the Wigan district, and I am quite sure that what you have just now asserted about the wages going on to three weeks is not the fact. You will find that in Yorkshire and Derbyshire it never goes beyond a fortnight; there is a gentleman in this room now who says that he pays 900 men weekly?—I should like, with that contradiction, to state what I do state. I state this: I know that there was a contest between the men and the masters a year ago at St. Helen's, the object of the men being to reduce the payments from monthly payments to weekly payments; that they succeeded in reducing them to fortnightly payments; but that now, I am told, I do not vouch for it, but I was told yesterday, that the masters have now made an attempt, and have partially succeeded, the name of Bromilow was given, in getting back to three weekly payments, as a step to the monthly payments.

1750. Are you aware that in Yorkshire, over an extent of mines employing 10,000 workmen, a system of weekly payments has been introduced through the action of the men themselves?—Yes.

1751. You are aware of that?—I was told of that; it was one of the instances I alluded to, where the men are sufficiently alive to their own interests, and to the evils which I have endeavoured to glance at.

1752. Does not that rather point to these questions as to the time of payment, as well as the rate of wages, being left rather to the self-acting operation of masters and servants, than to any legislative interference?—There is certainly a good deal to be said in favour of your view. On the other hand, colliers have not the benefit of education which other classes have. Colliers

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are a very peculiar class, and their peculiarity is not taken sufficiently into consideration. They are not only withheld from the ordinary influences of society, but they are withheld to a great extent from the ordinary influences of persons labouring in other descriptions of labour. Colliers do not meet with carpenters, colliers live all together; in a row of black houses you will see them. They meet frequently from birth to death with nothing but colliers. Therefore, exceptional legislation in their favour is but fair; when, as I hope it will be, there will be a law that the children in collieries shall be educated the same as factory children—and to which I see no objection whatever—then there will be a greater reason for the observation which your Lordship first made.

1753. Then you limit your application of this interference of the law, as regards the period for payment of wages to the case of colliers?—I do not myself at the present moment perceive the necessity of extending it beyond the case of colliers, but at the same time I object to exceptional legislation, so that I would extend it to every one, to all who are paid by wages.

1754. You wish Parliament to regulate the period at which wages should be paid in all trades; does it come to that?—Perhaps, upon consideration, I should modify that.

1755. Mr. Fawcett.] Why are the masters so anxious to maintain this system of fortnightly or monthly payment of wages; what advantages do they get by it?—It gives them less labour in preparing their accounts; but I do not think that if they had to prepare their accounts weekly, there would be four times the labour of preparing them monthly; but it might be twice as much.

1756. Do you think that in their own minds they believe they get any other advantage from it; you talk about the dearness of money. Do you think the interest they get from keeping this money in their own hands, instead of paying it away, is any inducement to them?—I have no doubt whatever that it is partially an inducement. I ought to mention that I never heard of such a case before as that which I mentioned just now, a gentleman refusing to give the "draw" because of the high price of money.

1757. You think it operates very badly in every respect upon the men?—Yes, so badly as to counteract all the supposed advantages of the masters. I do not believe the masters would continue the evil if it were brought forcibly before them; the practice destroys the "Home" of the men. Almost all men desire to be clean and tidy on a Sunday. It makes one set of week days till the payment comes, and then there is a saturnalia, of what sort we may suppose.

1758. You think that by the system of receiving their wages monthly the workmen are made less efficient labourers?—I do not know that it does, except, speaking generally, that the better you make the men the better labourers they are.

1759. That is what I mean: then the system you think injures the masters as well as the men?—I do.

1760. And you think that the masters, if they were aware of that, would give up the system?—I think they would, if they looked at it fairly.

1761. Therefore, what is required is rather more the enlightenment of both masters and men, than legislation?—Yes, but I think a great deal of time is required for that.

1762. Mr. Potter.] You have resided at Manchester

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chester a great many years, and you have not referred to the cotton trade in any of the evidence you have given, as to the period of payments?—I have not.

1763. You have no knowledge of that?—I have had a great deal to do with disputes in the cotton trade, and I know that most of their payments were weekly; at least a great number of them are.

1764. Do you not think that if the colliers found it would improve the morals of the men, they would adopt the weekly payment too?—The masters, you mean.

1765. Yes, the gentlemen master colliers?—I think they would; there are a great number who adopt the weekly payments; more who adopt the fortnightly payments; and I do not think the fortnightly payment is very objectionable, although I think the monthly payment is very bad; a fortnight one may get over

1766. Do you know any instance of monthly payment in the cotton trade, either spinning or manufacturing, that exists at the present time?—No, I do not.

1767. Would you be surprised to hear that no such thing existed?—No; I believe that no such thing does exist.

1768. Would it surprise you to hear that a considerable majority of the masters pay weekly?—That would not surprise me to hear.

1769. Mr. Jackson.] You stated that one reason why the masters paid fortnightly, instead of weekly, was the extra labour that would be entailed on them in keeping the accounts?—So I understand; that is the reason they give themselves.

1770. If they pay 40 per cent. out of 50 per cent. of the money earned, on the Saturday would they not have as much trouble in keeping the account of that 40 per cent. as if they paid the whole. It would all have to go into the wages books?—I should like to contend so; but they say it is not so; they say the "sub" or draw, is a simple sum against the name, and requires no calculation, or any other trouble.

1771. It has to be recorded; but you admit that the general rule among the colliers in England, we do not say anything about South Wales, that the payment is made each fortnight?—That is the general rule.

1772. Mr. Salomons.] Do you not think that it would tend very much to diminish the disputes between masters and servants, if all long contracts, for a year, we will say, were determinable by giving a month's notice?—That is one point to which I wished to draw attention.

1773. In all long contracts there should be the means of determining them, the same as the case of a servant by a month's, or a week's, or some notice?—It might perhaps go some way towards bringing about a beneficial change.

1774. Mr. Dalglish.] You quoted "Baker's" case, what was the nature of that?—A man had been sent to prison for a breach of contract.

1775. What was the nature of the contract?—I do not know. It was a question between master and servant of some kind or other, and when the man came out he was required by his employer to return to his work.

1776. The period of contract not having expired?—Not having expired, he refused to return; he was taken before Mr. Baillie Rose, and sentenced to another term of imprisonment. I brought him up here by Habeas Corpus, was

unsuccessful before the Queen's Bench, and unsuccessful before the Court of Exchequer.

1777. I have all that written down; but let us suppose this case: a man has a contract with his master, the master being bound to pay the man a certain wage for six months; the master, without any proper reason, chooses to say to this man, "I shall not go on with that contract." You being employed as a lawyer by the man, how would you put that case?—Simply as a breach of contract by the master, and obtain what damages I could.

1778. What would be your claim?—I could only claim for what I should be able to prove. I had a case exactly similar the other day in the Manchester County Court. I had to prove the amount of damage which the man sustained by his being deprived of the contract. In my favour was the contract, against it was what the man might earn by going to another situation.

1779. Supposing a man was engaged for six months at 1*l.* a week, and was turned off at the end of three months, there being still 13 weeks to run, would you claim for 13*l.*, or what?—I should claim for 13*l.*, and the county court judge would probably give me 8*l.*

1780. You would claim 13*l.*?—I should claim 13*l.*, because that might be the sum. I should claim as much as I could.

1781. Making that claim for a man to get 8*l.*, which is equivalent to getting rather more than half your claim, what hold would the master have against the man for a similar breach of agreement?—He would have turned the man off.

1782. But I am placing it on the other side; what hold would the master have against the man, for a similar breach of agreement on the part of the man?—Only sending him to prison; having him before the magistrate. I should have to go before the county court in the case of a breach by a master; but the master would have the power of bringing the man before the magistrate, and of sending him to prison; then, when he came out of prison, sending him to prison again, and when he came out sending him again.

1783. You object to that punishment?—Most decidedly; the master would only be punished once; the man would be punished all the time; as he walked out of prison he might be told to go back again.

1784. According to your own showing, the master is not only punished, but he would be mulcted in the whole sum the man is supposed to have lost by the master's breach of agreement; you acknowledge that?—Yes.

1785. Then, take the case of the men, how does the master recover his due from the men?—Your question shows the stupidity of the present law, because if the law were altered, then the master might go into the county court, and recover damages from the men for the loss on the contract, the same as the man may now from the master. All that I say is, that the taking and sending him to prison from time to time is too oppressive, and more especially when he is sent there by a single justice.

1786. But I want you to explain to me by what means, having acknowledged in one case that you would obtain, say 8*l.* from the master, on the other hand, a breach of contract on the part of the man, which is equivalent to 8*l.*, the master would be able to recover the 8*l.*?—By going to the county court.

1787. By a common action of law?—A common

mon action, the same as the man had; if I could send the master to prison for violating the contract, my dislike of the sending of the man to prison would be very much qualified.

1788. Supposing the man cannot pay the 8 l. that may be found owing to the master; you would take him before the county court; and if he could not pay he would still be subject to imprisonment?—He must be subject to the law of the county court. I speak rather guardedly now, for I believe the power of imprisonment is just now removed from the county court, or soon will be.

1789. It is proposed to be, is it not, or has it been done away with?—I really have not looked sufficiently at the law for the last week; but it is either done away with, or will be.

1790. Then how would you treat an apprentice?—That is another point to which I desired

to call the attention of the Committee. I think the power of imprisoning an apprentice is a most horrible power; he is injured for life; the disgrace remains with him.

1791. Yes, in the abstract, I quite agree with you?—He is liable to be whipped; he is liable to that degradation.

1792. How would you treat in this case: supposing an apprentice has completed three years of his five of apprenticeship, and he then chooses to leave his master, and to go to another where he gets a much higher wage, would you propose to punish that apprentice, or rather not to punish him, but to compel him to fulfil his engagement?—I have thought of that.

The *Chairman* intimated that on a future occasion the Committee would hear the Witness on that point.

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Mr. GEORGE ODGER, called in; and Examined.

1793-4. *Chairman.*] You are Secretary, I believe, to the London Trades?—Yes.

1795-6. Your own profession is that of a shoemaker?—A shoemaker.

1797. The London trades have taken an interest in this Masters' and Servants' Committee, have they not?—Yes.

1798. This Committee originated, did it not, with a Glasgow Committee?—The last Committee, certainly, if it is the one you allude to. I should state that the London trades have taken an active interest in this matter for many years past.

1799. But the action with reference to this Committee was taken, was it not, in consequence of a general meeting of the trades from all parts of the kingdom, and at that general meeting the conduct of the business was entrusted to an executive committee from Glasgow, was it not?—Quite so.

1800. Has there been any general meeting of trades' delegates from the different parts of the kingdom since that original meeting, when the business was intrusted to the Glasgow Committee?—Not of the provincial delegates, but of the London delegates.

1801. But the appointment of the executive committee, and the entrusting of the conduct of this affair to them, was the result of the meeting of the provincial and general delegates of the united kingdom, was it not?—Quite so.

1802. And, therefore, the London delegates would have really, practically, no more voice in the matter than the delegates of Sheffield or Liverpool, or any other large town?—Not in the least.

1803. Was that meeting held last year, or the year before?—The year before last.

1804. In London?—In London.

1805. You say that, as secretary for the London trades, you have had your attention drawn to these acts: that is, you think I imagine, that some alteration is necessary in the law relating to masters and servants?—Yes, I think it is essential that the penal clauses of the Act should be entirely swept away.

1806. What trades do you represent?—As Secretary to the Council?

1807. Yes?—The amalgamated engineers, numbering 34,000; the amalgamated bricklayers, numbering 7,000; the amalgamated carpenters, numbering 7,000; the amalgamated shoemakers,

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I expect now numbering 9,000, the last return was 8,000; and a great number of trades not so large; among them would be sectional or local carpenters' societies; then there are cabinet makers, zinc workers and wire workers, and a great number of other trades; probably it is not necessary that I should repeat the whole of them.

● 1808. Did each of those trades send a representative to that meeting, and where the executive to look after this matter?—They sent myself to represent them generally, after holding a meeting on the subject of sending delegates; and the amalgamated carpenters, and engineers, and bricklayers, and ironfounders sent special delegates also.

1809. Will you turn, if you please, to the view you take of the Act which we are considering?—As it affects my own trade, and I have not heard that mentioned or referred to in the least degree, I would observe that the Act is almost inoperative.

1810. From what cause?—For this reason, I believe that breaches of contract occur more frequently on account of the conduct of masters than on account of the conduct of men; our work, as most of you are aware, is all piece-work, and frequently an employer bargains to give out work; but when we go for the work he only gives us a part of it, and we cannot go on with the work; say, for instance, he gives us the leather to make the bottoms, but he does not give us the uppers, and the man has the work by him, and cannot proceed with it; it has been ruled in a case many years since in the City, that the contract commenced by the fact of the work having been given out; but still I never knew of but one case where a workman summoned the master for a breach; but invariably they wait until the master is prepared to give out the uppers, and when they get them they go on with their work; I have known a man wait about, sometimes nine or ten days, and from that to a fortnight before he could get all the things necessary to go on with his work: well, of course, under such circumstances, if the men were to be continually summoning the masters, we should have the most abominable amount of ill feeling, and everything else that could be conceived of as bad, and men prefer to make the best of it, and wait for their uppers, and when they get them go on with the work, or go somewhere else and try to get a pair of some other

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other employer." That creates the difficulty at once, because if he should get a pair from another employer to make, then the other employer might say "I will give you some more work as you seem to be slack." Should the man under these circumstances keep the first employer's work out longer than the eight days allowed by law, he would be amenable to consequences of breach of contract.

1811. Then what is the result; frequent prosecutions on either side?—No; they seldom, if ever, occur.

1812. Mr. Salomons.] Not in your trade?—Not in our trade; I speak of our trade; perhaps you might be disposed to ask some more questions with regard to it.

1813. Chairman.] Speaking generally of the different trades you represent here, what are their views with regard to the Act?—I would state with regard to the feeling which this Act creates among our men, that it is of a very bad character indeed; because any decent man who would wish to keep within the limits of the law, when he has had work out, by him, eight days, is apt to be terrified with the thought that his employer would feel disposed to have him before a magistrate for this breach of contract, and that would be prejudicial to the man's position in society, as well as calculated to embarrass his home and family; and frequently the threat is held out when often the man is not really responsible for the delay. In other cases the man may be, but not always. I have heard the threat made; I think it would be about two months ago. I was asked to do some business for a trade society, and I went and saw my employer, because you will understand that my position on the Trades' Council, as far as pay goes, is a merely nominal one; it is half-a-crown a week for my services. They asked me to do some work which I saw would necessitate my leaving my work for some days; I went to my employer,

and I told him that I thought I should not be enabled to follow up my ordinary avocation for some days. He said, "Very well; let us know when you are going to work." I said, "I would do so." Three days after he came, and asked me if I were prepared to go to work. I said not at present, but I thought I might do so in the course of four or five days. He said, "Well, I have some work that I will leave with you, if you will promise to do it as soon as you can." I said, "Certainly I will, but I would rather you would not leave it, because when I can commence it, is extremely uncertain." It was in the street that he stopped me, and he went to the place at which I worked, and left the work for me, and on the seventh day the contract coming close, I was desirous of the work being done in order to keep within the bounds of the law. I received a note from him saying that he wanted the work. I then went to him and reminded him of the work being given to me under a promise, or at least under a condition, that I could not proceed with it at once, and could not be responsible for consequences; he said, "Yes, I quite understood that." Well I went over the time, the first time I ever did in my life; he called at my house, when I was out, and threatened that if he had not the work in a given time, he would proceed against me in the ordinary way, for breach of contract. I went home and then went to the workshop and worked nearly all night to get the work to time the next day, which embarrassed me a good deal, because I had been at work all the day before. I do not know whether he would have carried out his threat or not, but I was within his clutches if I did not make the boots.

1814. Mr. Salomons.] You do not know an instance in London, of a shoemaker being summoned for breach of contract of that kind?—I do not know of one, except that referred to.

Friday, 15th June 1866.

## MEMBERS PRESENT:

Mr. Dalglish.  
Mr. Algernon Egerton.  
Lord Elcho.  
Mr. Fawcett.

Mr. George.  
Mr. M'Lagan.  
Mr. Edmund Potter.

LORD ELCHO, IN THE CHAIR.

Mr. GEORGE ODGER, further Examined.

1815. *Chairman.*] ON the last occasion that you were before us, you were speaking as to breaches of contract under the existing law; is there any other point with reference to the existing law, on breaches of contract, to which you wish to call our attention.—Yes; in speaking of there being no cases of breach of contract in our trade, I would wish that that should be considered as applying to London only; because I find in Northampton, Bristol, and other places where there are a great number of shoes manufactured, there are cases frequently occurring, and consequently, in so far as the provinces are concerned, the law operates very differently to what it does in London.

1816. Can you give any reason for the different operation of the law in the metropolis and in the provinces, the law being the same in both?—I cannot; I have endeavoured to understand why it should be, but I am at a loss to arrive at any satisfactory conclusion upon the subject. I wish to refer to a case which occurred in Bristol: it was the case of Inman against Potbury. Potbury had had some work to do from Mr. Inman, but not sufficient to employ him regularly; in fact, not above half employment; and, of course under such circumstances, he found it absolutely necessary to get work from some other employer, or otherwise he could not have lived upon the work which he obtained from Inman. He obtained work elsewhere, the consequence of which was that he got into trouble through detaining a pair of boots that he had to make for Inman over the eight days; because, if a man goes into a shop and asks for work from an employer, the employer perhaps has a quantity he wants done; perhaps they are all for one customer, and it would not be suitable to the master to give the workman any unless he could take the whole; they can rarely divide boots for one customer among a different number of men, because the men work differently, and, perhaps, the customer would think there was a difference in the work that he would not like: besides, it is unusual for employers to give one pair of boots to one man and another to another for the same customer; one man generally makes the whole. Potbury kept Inman's boots out over the eight days, and he was arrested and taken before the magistrate. He explained the matter to the magistrate, and the magistrate advised Mr. Inman not to press the case. He told Mr. Inman if he did, he should certainly be compelled to send the man to prison,  
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though it was admitted on all sides that the man Potbury had done no wrong whatever, morally: but still, as the law existed, there was a breach of contract. After sometime and some persuasion, Mr. Inman, no doubt being operated upon to some extent by the expressions of the magistrate, took the advice of the magistrate, and Mr. Inman paid the expenses of the hearing, so far as it had gone. That shows at once, that however morally right a man might be in taking out work, under such circumstances, he is not safe.

1817. What is the date of that case?—1857.

1818. Have you any other case to mention?—There was the case of a tinsmith-worker which I will quote from the General London Trades' Report.

1819. What is the date of it?—1850.

1820. How often are those reports published?—In 1850 they were published whenever occurrences arose that called for the publication of a report, now they are published annually.

1821. Do those reports refer solely to cases of this kind?—No, they refer to all sorts of business that occurs in the trades.

1822. They are the Trades' Unions' Reports?—Yes.

1823. This was a case under the law of Master and Servant occurring in 1850?—Yes.

1824. Was the other case you referred to mentioned in the Trades' Report?—No, it appeared in the newspaper, there was no Trades' Report at that time in Bristol.

1825. How long is it since those Trades' Reports have been published?—They have been coming out, more or less, for the last 30 years, not regularly; some years ago they used to appear when circumstances arose which necessitated their being brought to notice. For instance, if any great dispute arose between employers and employed, in a case of this sort, if the hardship of it was felt by the trades, there would be a report issued by the delegates formed into a committee for that purpose.

1826. You are about to refer to a case from one of those Trades' Reports occurring in 1850?—Yes.

1827. Have you no case more recent than that one in 1850 mentioned in any of the subsequent Trade Reports?—No, in that case, a man named James Totterdale, greatly reduced from want of employment, caused by sickness, left Liverpool, leaving his family behind him, and engaged himself to Mr. E. Perry, under one of these agreements

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ments. Having been a short time in Wolverhampton, he received a letter from his wife, informing him of the dangerous illness of one of his children, and that if he desired to see it again (alive) he must instantly set off for Liverpool. He left Wolverhampton without stopping for Mr. Perry's permission, and reached his wretched home in time to witness his child in the last agonies of death, and another stricken down with the same grim enemy. An officer from Wolverhampton was in Liverpool, armed by the authority, to search for those who had absconded from Mr. Perry's service. This officer found Totterdale with a few boards he had been begging to make a coffin for his dead child. The officer had but one duty, Totterdale was brought a prisoner to Wolverhampton, leaving his child unconfined and unburied, and another child and his wife on a bed of sickness. He was taken before the magistrates, when the above facts were pleaded in his defence and corroborated by the officer, the magistrates were disposed to view the case somewhat leniently, but Mr. Perry's solicitor was instructed to press for a committal. The magistrates refused compliance with so harsh a request, and ordered the man to return to his employment, and to pay the expenses of his capture and removal (between 3*l.* and 4*l.*). It was urged by the solicitor, that the man was not in a state of health to be of much service to Mr. Perry, but that the object was to make an example for others. So that this case cost this poor man between 3*l.* and 4*l.*

1828. Who draws up those reports? — The secretary to the trades.

1829. That is a case in which the man was taken to Wolverhampton, the report of the case being drawn up by the London trades' secretary? — Yes.

1830. In that report it is stated that the policeman went to Wolverhampton, empowered to take into custody "those" who had left Mr. Perry's employment, do you know if there had been any general strike in Mr. Perry's employment? — Yes, there had been.

1831. And all Mr. Perry's men had gone? — Some of them; this man, Potbury, it should be understood, was not in the strike, or in any way connected with it; he had been engaged at Liverpool to go to Wolverhampton to work for Mr. Perry, and this illness of his child came on immediately after going there to work.

1832. How are you yourself conversant with the particulars of that case; I mean with the details not mentioned in the report? — There were some of our committee who had the care of the case on behalf of the man.

1833. Have you only heard the details of that case lately, or did you hear of them at the time? — The case appeared in the newspapers at the time.

1834. Is there any other case to which you would wish to refer? — Those are the only cases that I am desirous of referring to; I refer to them for this purpose, although there were no punishments given, they show how dangerous is our position in the event of any accident of this sort occurring, that a man can be arrested when evidently he has been guilty of nothing that, morally considered, would justify any such treatment.

1835. Did Mr. Perry at that time employ a great many men? — I do not know how many

men he employed at that time; I should think he did.

1836. Were many of them out on strike at that time? — The bulk of them.

1837. Were they all, do you suppose, under contract? — I do not know what the contract was exactly, but if I am rightly informed, it was nothing more than a verbal contract.

1838. Still a verbal contract, when a workman has once entered upon it, is as binding upon the workman, under the present law, as a written one? — If I understand the Act rightly, if a man has commenced work, it is as binding.

1839. But he can be prosecuted under a written contract, though he has never entered upon his work? — So I understand it.

1840. Have you any further objections to urge to the existing law? — I consider the Act is prejudicial to a good understanding between master and man in many respects. If a man does the least thing that would place him within the limits of the law, he then looks suspiciously upon his employer, fearing that the consequences of the law will be put into operation, the man certainly would not feel comfortable, and should it so happen that anything was to be done in the case, it would still further rouse a feeling that would be in nowise beneficial to either party.

1841. When you take those objections, you refer, I imagine, to the criminal procedure in regard to contracts? — Yes, and what is more, I think this, that when the law was made, there was a greater necessity for it than now, for this reason, no doubt our men within the last 20 years (I suppose no one will doubt it) have made great strides towards improving their condition; they have now vested interests, which they formerly had not got. We belong to various clubs, and some of us belong to as many as six or seven. You will scarcely find one workman now that does not belong to a club in which he has not a vested interest.

1842. When you say a club, do you mean a benefit society? — Yes; or a loan society, or a building society, and all the trade societies have some benefits, some of them a great number of benefits.

1843. Is a benefit society attached to every trades' union? — I do not know at this moment one that has not one; but I know many that have five or six benefits attached.

1844. A burial club, a sickness club, and an accident club? — Yes; and an out of work fund, some of them give as much as 15*s.* a week, when the men are out of work.

1845. Out of work from any cause? — In any legitimate cause, in some instances, more money is allowed, and in some less.

1846. Are those clubs certified? — A great number of them.

1847. Not all of them? — No; the bulk of the large ones are now, I think, they formerly were not, there has been a great improvement in that respect of late years.

1848. Take your own case, how many clubs do you belong to? — About four or five.

1849. With a very large capital? — Our own trade possesses, I think, about five of them, we have some capital, but not very large, because we have not had it in existence on its present large scale, above four years, but the capital is gradually increasing.

1850. What bearing has your answer with reference



reference to those clubs, upon the law we are considering?—It has this very great bearing on it, that should I break my agreement with my employer, I could not very well leave London to embarrass him, or get out of his way, or evade the law, having those clubs to look after; they hold money in which I have a vested interest, and consequently, if I ran away out of the country, I should get out of those societies perhaps.

1851. Mr. *Fawcett*.] Would they turn you out?—They would not turn me out, but it would be difficult for me to keep up the payments. • If I run away from the master, I am not earning money; and the next thing is, that when a man belongs to different societies, he is very easily found if he goes away; and consequently those things will tell a person at once that our status is very different to what it was formerly. How can a person belonging to five or six clubs evade his employer if he wanted to? There may be a few men whom the law would not catch if they broke their contract, but they are very few; they are as exceptional as it is possible to conceive; they are men who are indifferent about their position in life; they belong to no friendly society, no club or anything of the sort, and if they broke a contract with their employer, it would matter little to them; they could get away, and the master would be baffled in his attempt to punish them if he tried it.

1852. What per-centage of workmen do you suppose belong to those clubs?—I should think 75 per cent. now-a-days belong to some club or another.

1853. Throughout the kingdom?—Yes.

1854. That is one of the reasons why you think there might be a change in the law, that the workmen through those benefit societies have a sort of status which they had not when those Acts were first introduced; is there any other reason why you think the law should be changed?—I think it would be to the mutual advantage of both master and workmen. I think the master would gain by it; my firm belief is, that if the masters would at once declare against such a law, and show a little magnanimity in the matter, if they would show that they were above having one mode of procedure exclusively for themselves, and another for the men, they would very much conciliate the men. The Act mentions, with regard to apprentices, "ill-behaviour," "misconduct," and "misdemeanour," but the word "ill-behaviour" applies only to apprentices, as far as I can see; the words "misconduct" or "misdemeanour" are mentioned three times through the Act. I find the term "misconduct or misdemeanour in the execution of his duty;" and again, in the latter part of the same section, it is referred to, the words "as aforesaid" being added, so that this misconduct or misdemeanour is by no means well defined; but it stands here in the most vague way in which a thing could be put in a Statute. And if a man wished to keep within the limits of the law, and tried to comprehend this Act, or how far "misconduct" or "misdemeanour" might be applied to him, he would be in a great difficulty to make it out, I think.

1855. Mr. *George*.] You think it applies to every act done by the workman under the Act, whether under contract or not?—Yes.

1856. *Chairman*.] You say that the law tends to create a bad feeling between master and servant; do you speak to that being the case 0.71.

practically, and are you able to say that this law, in fact, produces this bad feeling?—Yes; because, of course, the workmen have no voice whatever in making the laws, and they look at a Statute of this sort wherein they are considered to be capable of manifesting "misconduct" or "misdemeanour," as the case may be, towards their employers, the Act not specifying that the employers can be capable of "misconduct" or "misdemeanour" towards the men, as one-sided and oppressive towards them.

1857. You have stated, that in your own trade cases do not occur under this law in London; and you have cited from those London trades' reports only one case in the last 16 years, the case of this tinsplate-worker; do you believe that the workmen of London generally are conversant with this Act, and its use of the words "misconduct" and "misdemeanour" to which you have just referred, and that the knowledge of the existence of this Act really causes bad feeling between the mass of workmen in London and their employers?—Yes, on account of its inequality.

1858. Do you believe that they know the bearing of this Act, and even of the existence of it, there being so few prosecutions under it?—Generally, our men know a little about its principle, but in the main, those well acquainted with the details of the Act are but few.

1859. Those who are conversant with the Act are those who take a prominent part, and think for the men in those trade societies?—Yes.

1860. Speaking on the part of those who take a prominent part in those trades' unions, you think that this law is calculated to create bad feeling between master and servant?—Yes.

1861. Though, practically, it appears that in London there are very few prosecutions under it?—Yes, in our trade; for the simple reason that the masters more often break their contract with the men than the men with the masters.

1862. In London are there frequent cases among other trades?—Yes.

1863. How does it happen that those cases are not mentioned in the Trades' Reports, if there is this strong feeling on the part of workmen against the operation of the law?—Because the general trades do not deal with them; unless a great public question is involved, the trade in which the breach takes place, is the trade that reports it.

1864. Unless it appears to be a case of great hardship, such as that of the tinsplate-worker?—If the case is one that would necessarily create great public interest, the general trades would investigate it, but if not, it would be taken up by the trade in which it occurred, and they would deal with it.

1865. The reason which you apprehend why that case occurring 16 years ago, was mentioned in the Trades' Report was, that it was one which caused general interest, and was taken up by the whole trades?—Yes.

1866. Since that time there has been no case causing general interest?—Not in London that I know of.

1867. If any particular case occurs that causes general interest, it arises necessarily in a particular trade, does it not?—Yes; just so.

1868. That being the case, and those general Trades' Reports being made up by the members of the different trades, if any case of hardship arose in any particular trade, the person repre-

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senting that trade in the general trades' council, would bring it before the council, would he not? —Not unless the question was considered to be one that of necessity should come before the general trades.

1869. What would constitute that necessity? —It would rest more upon the feelings of those who composed the council; if a member of the council thought the case to be one that should be generally considered, he would bring it forward, but it is not customary for the trades' council to take up every case that occurs in the trades, or anything like a proportion of them.

1870. If you had any reason to believe in your general council, that in any particular trade any case of hardship had occurred, would not the trades' delegates on the general council bring that case prominently forward?—It would not be brought forward by the trades generally, because the trade in which it occurred would be competent to take the case up and do it justice. Suppose there were 7,000 or 8,000 carpenters in the carpenters' society; if they had a case of this sort they would be quite capable of dealing with it.

1871. What do you imagine was so peculiar in this case that led to its being brought thus prominently forward 16 years ago?—I fancy that the details of the case were quite sufficient to call attention to it.

1872. Do you know whether any case was tried at the Assizes at Stafford, with reference to Mr. Perry's workmen?—I am not aware.

1873. You have stated your objections to the law, namely, the criminal procedure and the inequality between master and servant; what remedy would you suggest?—I would suggest the remedy of a county court process.

1874. That is, that the procedure should be no longer criminal, but a civil process before the county court?—Yes; I think the workman now, having risen to that position in which he now is, having interests to look after, and having certain funds at his back, different to what the state of things was some years ago, is certainly a more responsible individual, and more easily to be found; and it would not pay him (putting it in a pecuniary point of view) to treat his contracts with impunity. He would prefer to fulfil his contract, and keep within the limits of the law. If trials for breach of contract were to take place, for every breach that takes place in our trade, we should have the magistrates' courts full of them, and the county courts too; I do not think that some employers would have time to do their business; they would be continually in the county courts.

1875. As it is, there are frequent branches of contract which are never tried?—There are frequent cases which are never tried; in our trade they occur every day, and most of them are on the part of the employers.

1876. Do you think both as regards the employers and fellow-workmen, there would be sufficient security to both if there were such a change in the law made as you suggest?—Quite.

1877. Take your own trade; does one man make a whole shoe, or are different parts made by different men?—There is the closing of the upper, and the making of the bottom, they are distinct branches of the business.

1878. Which part of the work is done first?—

The closing is done first and the bottom afterwards.

1879. So that the man who does the bottom depends entirely upon the closer; if the closer has not done his work, the man who does the bottom would have no work to do?—The employer is supposed by the contract to have them already closed, so as to give them out already closed to the men, but it is a common thing when a man goes for work, for the master to say, "I have no uppers closed;" and the man has to walk about all day, and wait for the uppers to be closed; that is a breach of contract on the part of the employers; but we never summon a master for breach of contract for that.

1880. That breach of contract on the part of the master might arise from the man who closes the uppers not having performed his contract?—Yes.

1881. So that, practically, all the men who put on the bottoms might be thrown out of employ in any one work through the failure, on the part of their fellow-workmen, to perform their part of the contract in closing the uppers?—Quite so.

1882. Does it strike you with reference to that, in the interests of the employed, it might be necessary to give the employer some stringent power for the enforcing of contracts?—I think not. I never knew a closer to wilfully break his contract; they frequently do it, but it is very often because they are asked to do more in the time than they can possibly do.

1883. Cases might arise of wilful misconduct, of men absenting themselves, and by their absenting themselves, entailing upon their fellow-workmen very serious loss?—Yes.

1884. In cases of wilful misconduct, do you think that power might be given to deal exceptionally with them?—I think not; the number of such cases is so few as to be scarcely worth mentioning.

1885. In other trades, you could conceive the possibility of such cases occurring?—Not to any great extent; I do not think it is at all reasonable, to presume that men would wilfully break contract as a rule; I do not know of such a thing.

1886. You do not think there might be cases in mines, or glass works, or iron works, or other works, where, by men wilfully and suddenly absenting themselves from work, they might not only injure the employers, but their fellow-workmen also?—The cases would be very very few, I should say.

1887. You admit that there might be such cases?—Yes.

1888. Would you see any objection, where such cases did occur, to the power of dealing exceptionally with such cases being left to the magistrates or other persons, having jurisdiction in those cases?—Yes, I think there would be an objection to it; I think that the power if given would be open to abuse. It would be difficult to discriminate between a wilful breach and an accidental one.

1889. You say that such power of discrimination might lead to abuse; do you think that at present the powers which are vested in the magistrates by law are abused?—It has been proved in cases that they are. I have heard of such cases; I would not vouch for the power being wilfully abused.

1890. You cannot, of your own knowledge, speak

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1890. speak to wilful abuse on the part of those who administer the law?—No.

1891. Do you object at all to the present jurisdiction in cases of breach of contract?—Yes, I do; I object to it *in toto*.

1892. On what ground?—On the ground that I believe that magistrates are not exactly the persons to adjudicate in those matters.

1893. When you say that they are not the persons to adjudicate, do you take your objection on the ground of their being insufficiently informed as to the law and its bearings, or is your objection on the ground that there is a failure of justice through any sympathy on their part with the employers?—We know very well that magistrates are frequently employers; I do not say that all employers are disposed to do an injustice, but at the same time men cannot help their sympathies, and their sympathies too often go with their class. I should not desire to see a journeyman a magistrate, to adjudicate in any case where an employer and a journeyman were defendant and complainant. I should desire something different to that; I would sooner have a Board, if possible, but still I have no objection to the county court judges; our judges, as a rule, are a credit to the nation.

1894. Your objection is not derived from any knowledge of any practical grievance arising from the present jurisdiction; but you have a theoretical objection to employers adjudicating in cases where employers are prosecutors?—Truly.

1895. You think there must be a natural sympathy on their part with the employer, which might lead to a failure of justice?—Yes.

1896. Supposing a case arose in the shoe trade, and the person sitting upon such cases was wholly unconnected with that trade, would you see any objection in that case?—Yes.

1897. Simply from the fact of his being an employer?—Yes.

1898. All such cases you would have tried solely before a stipendiary magistrate or a county court judge?—Yes; I should prefer a county court judge.

1899. You would have no objection to such a case being tried before the justices, provided that there was a stipendiary magistrate on the bench?—I should prefer a county court judge.

1900. Objection has been taken to cases going before a county court judge, on the grounds that it might lead to delay, which might be detrimental to the workman as well as to the employer; what do you say to that objection?—It might be so; but if the employer has a fair ground of complaint on that head, then the journeyman has had the same ground of complaint ever since the Act has been in existence, because he has had to bring the employer to the county court; therefore if it is a grievance on the one hand, as you have suggested, how long have the men been living under that grievance? If that is urged against the proposed change, it must tell most materially against the law as it stands.

1901. You object to that as an inequality at present, that whereas the workman is proceeded against at once, and summarily, in a case where he brings an action against his master, he must wait to bring his action before the county court?—Yes, he must do so.

1902. Cannot the workman summon his master before a justice?—It has been done frequently, and the justice has referred the parties to the county court.

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1903. Under the Act of Masters and Servants the workman has the power of summoning his master at once before a justice, has he not?—Yes; but in the Lambeth Police Court frequently, where cases of that sort have been brought on, they have been sent to the county courts by the magistrates.

1904. Do you know what cases have been so referred to the county court?—I have not taken note of the cases, but it has been so done.

1905. Recently?—Yes, very recently.

1906. Are you aware that a master can be imprisoned now in the event of failure to pay?—I have heard so, but for a workman to go against his employer is a difficult thing, he would prefer not to interfere in the matter; as a rule, our men very often put up with a breach of contract committed by the master, because the man says frequently, If I take a summons out for the county court I have to wait so long for it, and I shall lose so many days' work, which I cannot afford; my employer has money, and he will employ some one to represent him, and get his case conducted better than I can perhaps, and the result will be loss of time and great embarrassment; I will let the matter rest where it is.

1907. In the cases of breaches of contract on the part of employers, are such cases contested by the workmen when they are contested with the assistance of their union?—Sometimes.

1908. In cases of fine, would the fine be paid by the union?—If they thought the man right, but not if they thought the man wrong.

1909. Whether the case is taken up by the union or not depends upon whether, in the opinion of the union or those who guide it, the man is in the right?—Yes, they would not otherwise take it up. I have known once in a way men make appeals to their unions that they have been completely condemned for; I could refer you to two or three cases, but I have not the particulars of them with me; there have been cases, but they are very exceptional cases, where men have absconded with their employers' work, and could not be found, the union to which the men belonged have then sent their officer to the master at once to know the damage done, and to pay for the loss, so that the master should suffer no loss.

1910. You say the unions have sent their officer, what officer?—The secretary, or one of the officials, or one of the committee, so that the master should sustain no loss. It would be the worst thing in the world for the unions to encourage men to annoy, in any way, their employers; a union could not stand upon any such principle. It is to the interest of the unions to encourage good conduct on the part of workmen towards employers. We have in our society throughout England, a printed form of security for all work entrusted to men belonging to our society. If a stranger came from Scotland, for instance, and wanted to get work, the master would say, "You are a stranger to me; I do not know whether I am safe in giving you out work." Then if the employer wishes such a thing, having a doubt upon his mind that the man might not be a genuine character, he sends to the secretary, and the secretary fills in a security for any amount that the employer feels disposed to entrust the man with, and should the man abscond with the work, and cannot be found, it is paid for by the union; that is general with us.

1911. Is that the case in all trades?—I do not know

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know whether it is the case in other trades. I think not generally, but with us it obtains throughout the entire country, so that from that it is clear that it is not our desire in the least degree that the masters should suffer by anything that we do.

1912. Mr. *Fawcett*.] In other trades there is probably not the same necessity for that security, because you take the materials to work up in your own house?—Yes.

1913. *Chairman*.] Are there not other trades in which the work is given out, tailors, for instance?—Yes; the tailors often have to get securities from their landlords, or any one in a responsible position.

1914. A suggestion has been made to the Committee, that the law should be altered to this extent, that the justices, or whoever tried the case, should have the option of awarding fine or imprisonment, according as the case appeared to them to be one of simple breach of contract, or one of wilful misconduct; and that, further, instead of having recourse to a warrant, in all cases summonses should be first issued, and that a warrant should only follow in case of non-appearance to the summons; what should you say to such a change in the law as that?—It is a step towards the thing aimed at, but at the same time I think if it could be carried to the extent urged by us, that is, to make the procedure purely a civil one, it would be much better.

1915. The object, I imagine, of those who propose this change, in retaining certain criminal powers to be exercised at the option of the persons trying the case, is to meet cases which you could not deal with exceptionally in law, viz., cases where through misconduct on the part of a workman, great loss might be entailed upon the employer, and perhaps danger to life or limb, and injury and loss to his fellow-workmen; should you see any objection to a discretionary power being left with the person trying the case, of dealing criminally with such cases as I have just referred to?—I have not turned so much attention to that as I should desire to do before giving an answer to that question; but it appears to me at present, that if it could be clearly proved that a man had wilfully broken his contract, in such a case as you suggest, an enactment of that sort would not be altogether unjust.

1916. You think that doing away with the warrant in the first instance, would be a great step, and would cause great satisfaction?—Yes, that would be much better than the present state of things.

1917. Workmen object strongly to being summarily seized, perhaps taken out of bed, and manacled and carried before a magistrate, and imprisoned, as if they were felons?—Yes.

1918. That objection would be met by a summons instead of a warrant?—Summoning would certainly be much better than a warrant.

1919. Then that would enable a man to get up his defence, and have some one in court to defend him?—Yes, and not only that, but his family would not be so much embarrassed.

1920. And the criminal character of the offence would disappear?—Yes.

1921. Supposing it was provided that no person should sit upon the bench who was an employer of labour in the particular branch of trade in which the man under trial was engaged, and that the justices should never sit singly, and that coupled with a summons, should first issue

instead of a warrant, so as to give the man an opportunity of getting somebody to appear for him in his defence, whether his legal adviser, or his friends, or his witnesses; that would, you think, give greater security than the present law for the proper administration of justice?—That would be much better than at present.

1922. With such changes as that, would you (as representing the workmen who have objected to the jurisdiction of the magistrates) see any objection to the jurisdiction being left, as at present, with the magistrates?—I hold to the opinion, that if the case could be taken before a county court judge it would be better; but, the course indicated by your Lordship would be far preferable to the one at present in existence.

1923. Without speaking positively, do you think that some such change as I have pointed out would be upon the whole accepted and looked upon as a satisfactory solution by the servant-class?—I think that it would receive favour to a very great extent indeed, and would show some desire towards improving the state of things.

1924. Mr. *Fawcett*.] Probably you would not think that the magistrates would be a perfectly satisfactory tribunal, even if that change was introduced which has just been mentioned?—I think not.

1925. You object to them, not because you suppose they would desire to decide cases unfairly, but because, being employers or capitalists, or landowners, they must be presumed to have a natural sympathy with their class?—That opinion prevails, and I share in the opinion to a great extent myself.

1926. You think, for the same reasons, workmen, however desirous they might be to be fair, would be an unfair tribunal to try a case between employer and employed?—I do think so.

1927. Seeing that those cases of breach of contract occasionally involve very difficult questions both of law and of evidence, you probably object to the justices as a tribunal, because you have no security that they have the slightest knowledge of law?—Quite so. There are certain things connected with our trade, which, if we were to bring before the court in cases of breaches of contract, could not possibly be placed before the magistrates sufficiently clearly for them to comprehend the real state of things.

1928. In fact, considering the class of cases brought before them, it would be almost impossible to conceive a tribunal less competent to deal with such cases, considering the knowledge which they possess?—I think if we could establish Boards of conciliation and arbitration to try those cases, it would be the best mode of dealing with them; and I think, if a man was brought up for breach of contract and found guilty, it would be a wise and beneficial enactment to allow him to pay the damages by instalments.

1929. Speaking generally, you object to the tribunal of magistrates, in the first place, because they must have a natural sympathy with the employer class, and, secondly, because those persons concerned in the case have no security that they possess sufficient knowledge to deal with the cases brought before them?—Yes.

1930. If this suggestion which the Chairman has just made were carried out, to treat ordinary cases with fine, and to treat cases of wilful misconduct which might lead to loss of life or anything like that with imprisonment, of course you would expect that the same law should be applied to

to the masters?—It is only reasonable to expect so.

1931. It is possible to conceive that through their wilful misconduct the employed might suffer?—Just so.

1932. And in such a case they should suffer imprisonment in the same way as the employed?—Yes; and I should hope if the Committee felt it to be their duty to endeavour to get amended legislation upon that point, it would be so arranged that the one would be placed in the same position as the other.

1933. One great reason why the workmen object to the present law, is not on account of the number of cases brought under its operation, but because you feel that there is an inequality which places the labourer in a degraded position?—Quite so; but at the same time the number is important. I think of late years the number has been about eight or nine thousand annually.

1934. Even suppose it were proved that the number was rapidly diminishing, your objections would not be much diminished, the same moral stigma would attach?—Yes; I should not consider simply because the law was not put in full force, that it was any the better for that.

1935. You have been asked how it was that the case to which you have alluded, which happened 16 years ago, was singled out to be mentioned in the general trades report; I suppose the reason was considering the peculiar circumstances about the child's death, and so on; it was a case that attracted general notice in the newspapers?—Yes.

1936. Any case which attracted general notice would be taken up by the general trades council?—Very likely.

1937. Others would be taken up by the separate trades?—Yes, and therefore would not be in our reports; if we were to report everything that occurred, our reports would become very bulky.

1938. You think, speaking for the workmen, that no change in the law would in the least degree satisfy them unless it placed master and servant exactly in the same position?—It could not be satisfactory, because English people make a boast of equality; I wish that equality existed.

1939. It has been urged, that if the penalty attached to breaches of contract were simply a fine, the master would not be placed in the same position as the man, because the fine might be always recovered from the master, while it might not be recovered from the man; do you see any weight in that?—I think, as a rule, the workmen pay their debts quite as much as the masters; if the debts owing in this country on the part of employers or on the part of any other class, according to number and circumstances, were fairly balanced against the workmen, we should have the best of it, we should be on the creditor side instead of the debtor side.

1940. You think that the fact that almost the whole of the labourers of this country now belong to trades societies would give very great security that those fines would be paid?—In our trade we always secure our men for any work entrusted to them.

1941. I mean, supposing a man were fined, you think that the fact of a man belonging to a trade society would give a security that he would not abscond, but that he would pay the fine; he would lose so much by absconding that he would probably pay the fine?—In 99 cases out of 100; 0.71.

and more than that, the fine would be paid, and in almost all cases in full, immediately; but it would be advisable to allow a man to pay a fine in instalments, because it would make him more independent; if the man were fined 4*l.* or 5*l.*, very often he would have to make himself beholden to others for the money; we should not like that if we could avoid it.

1942. That might be left to the discretion of the tribunal?—Yes, there might be a difference in that respect.

1943. The penalty of a fine would impose serious consequences upon the workmen, though of small amount, so that they would be probably just as desirous not to break a contract as their masters would be?—I believe they are as anxious to keep their contracts with the employers as the employers are with the men.

1944. If the law was so amended as to treat every breach of contract simply as a civil offence, you think that no mischief could result either to masters or to workmen?—So far from thinking that mischief would result from it, I think a great deal of good would accrue from it. I believe as we are situated now, it is the general wish of the men to go on smoothly with their employers.

1945. You would prefer such an alteration of the law to the modified alteration suggested by the Chairman, of treating wilful misconduct as a crime?—I cannot at present see my way clearly to endorsing what was put to me by the Chairman; it is quite new to me, and perhaps I may be excused for not offering anything very positive upon it; but the only difficulty I can see in the way of accepting it is this: that there are so many technicalities and complications connected with trades, that those who had the trying of the cases would not have a sufficient technical knowledge to deal properly with a case; the line between a wilful breach and an accidental one would be very difficult to draw, and probably some injustice, and perhaps some suffering to families, would result on account of that. Of course, those who had the framing and carrying out of the law would do their best to avoid that; but when there are those complications, the probability is that they would not be so successful as they might desire to be.

1946. However excellent a judge you had, those technical complications would be so great, that wilful misconduct could not always be ascertained with anything like certainty?—Yes.

1947. That is your great reason for objecting to the suggestion put to you by the Chairman?—I do not exactly urge it as an objection; I only say, as I view the matter at present, there is a difficulty.

1948. That particular difficulty you have just alluded to would become more serious if the tribunal were the justices instead of a county court judge?—Yes.

1949. *Chairman.*] The difficulty would not be greater than it is at present where the justices are the only tribunal?—No.

1950. In what I shadowed forth to you, I suggested alterations in the mode of procedure before that tribunal, which appeared to you to meet in a great measure the objections now raised by the workmen to the present tribunal?—I think your suggestion far superior to what at present exists.

1951. You said, in answer to Mr. Fawcett, that one great advantage which would arise from a change in the law as between master and servant would

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would be that it would give rise to a better feeling between master and servant?—Yes.

1952. You think that the present state of the law causes bad feeling between master and servant?—Yes, anything is bad that causes men to think that they are hardly dealt with; anything that leaves a man under the impression that there is a wrong engenders some mischief. I think men who are cognizant of this law say at once, "There is an inequality, and it is against us;" they say, "Who made it? not us; we had no hand in making it; it was made by those who employ us, and by those who govern us, that is evidence of their justice and right;" and a man who was disposed to be a bit disagreeable towards employers or the ruling classes could very well cite this Act, and kindle a bad spirit among the men against their employers or against their rulers.

1953. Do you think this law tends to prevent men going out on strike?—No, I do not think it affects the men with regard to strikes.

1954. The fact of the existence of this law, under which men who break contracts may be had up, does not at all deter men from going out on strike?—Not the least, because our system is this: if it is thought that we can fairly and justly make an effort to raise our wages, all the circumstances connected with the men and their masters are gauged by the society; and if a man has so much work out, which he has got to make up, he is ordered by the society to finish his work before he can take any step; that order he is obliged to obey, or he will get into disgrace with the society.

1955. What would his disgrace consist in?—A fine.

1956. How would the fine be levied?—He would have to pay so much a week, and if he did not pay it he would become refractory, and would cease to belong to the society.

1957. Is the only penalty attached to a refractory member of the society, that his name is struck off the books of the society?—He forfeits what he has been paying into the society.

1958. When a strike is voted, do those who vote it take into consideration the position in which those men who are threatening to go out on strike would place themselves under this Act?—Yes, they do; they take good care that the men shall keep themselves within the limits of the law; that is one of the first and primary considerations.

1959. That is, they do not strike till the contracts are fulfilled?—Just so; that is always guarded against.

1960. That is where the contracts are short; but in cases where the contracts are twelvemonth-contracts, how do the society proceed?—Then the society do not seek to break them, they wait till the time is up; I should suppose they would; I never heard of a society recognising a breach of contract; in our own trade, the first requisite is for the men to finish their work in a proper and satisfactory manner, and to get their bills settled up by the employer.

1961. The contract with you is mostly piece-work, not to work for a certain time?—Yes, only for a certain quantity of work.

1962. Then the present law so far operates to prevent strikes, that it tends to delay them?—In our trade it would not much, but it might do so in trades where the contracts were of long duration.

1963. Where the contracts are for 12 months, there will always be fresh hands coming in and making fresh contracts, and therefore one does not see how those contracts would expire at the same time so as to enable a strike to take place?—The contracts are not generally for 12 months, they are exceptional.

1964. Do you know whether, in cases where the contracts are for 12 months, there are less frequent strikes than in cases of contracts for short periods?—I have not turned my attention to that.

1965. Do you know any trades where the contracts are for 12 months?—I have heard of some.

1966. Are there any in London?—I do not know of any in London.

1967. Do you know of any where the contracts are for a period of six months?—No.

1968. Do you know of any where they are for a period of four months?—No.

1969. What is the longest contract you know of in any trade belonging to your council?—I have not heard of any beyond a week in London; there may be some.

1970. Mr. Fawcett.] Of course, if the men found that that length of contract interfered with their power to strike, they would not consent to have those long contracts?—If they desired to strike, it is very certain they would say at once, we must shorten our contracts or we will never get a strike.

1971. Most trades recognize that a juncture may arise when it may be necessary to strike?—I think the tendency now is, to keep away from strikes as much as possible, and to win advances without them by memorialising, and by moral suasion. Within the last three months the trade to which I belong, the West-end women's-shoemakers, gained 16 to 25 per cent. advance, it being in some cases 25 per cent., the general run being 16 per cent.; we have been two months at it, and have had no angry word with the employers upon the subject.

1972. Chairman.] With the reserve of a strike, I suppose?—A strike was never mentioned, it was our intention when we started to avoid it if possible.

1973. Mr. Fawcett.] You would not like to do anything that would prevent you having the power of striking, supposing this moral suasion and conciliation, which is becoming more frequent, should fail?—I do not think that the men would like to give up the power.

1974. Mr. McLagan.] You stated that the two objections you have to the justices being the jurisdiction before which such cases should be brought are, first, that they would be more likely to be partial; and secondly, that they had not sufficient knowledge of the law are you aware of any cases in which the justices have shown partiality or incompetency?—I did not mean to say that I objected to them on account of their deficiency of knowledge of the law, but on account of their deficiency of knowledge regarding the technicalities and complications of the trades.

1975. And their not being accustomed to weigh evidence?—I mean their not being conversant with the peculiar circumstances connected with the trades. I do not mean that I should object to them on account of want of knowledge of the law. The Act itself does not speak of any of the technicalities of the trades; it makes no provision with respect to them at all.

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1976. Do not you think that the justices are just as well qualified and as competent to judge of such technicalities as you have spoken of, as an ordinary legal judge?—Perhaps so; but class prejudices are more strong in their case than with the county court judges.

1977. Are you aware that the justices take an oath before they enter upon their duties that they will discharge them properly?—Yes.

1978. Are you aware also that the county court judges in England and the sheriffs in Scotland are in the same class generally as the employers?—With regard to an oath, I would observe that I recollect reading a remark by Mr. Roebuck in the House of Commons, that he took a false oath every time he entered a new Parliament, so that I do not think the oath argument is worth much after that.

1979. The county court judges in England and the sheriffs in Scotland are in the very same class in society as the employers, generally speaking, and as the justices of the peace, are they not?—I have heard so, but not to the same extent.

1980. And they are, one might suppose, just as liable to be led away by prejudices as the justices of the peace?—It is likely that they would be under those circumstances.

1981. In the two cases you mentioned to us, the justices were inclined to show leniency to the man?—Just so; I should be sorry that it should be inferred that I meant to say that all justices were disposed to do wrong, or all employers either; I believe that there are as many good men among the employers as among any other class of society; but magistrates who are employers have fellow feeling for employers naturally; men cannot help influences more or less.

1982. In a case of neglect of duty where life and property might be imperilled, you would not object to the workman being prosecuted criminally on condition that the master should also be prosecuted criminally in a similar case?—Not the least.

1983. You want the law to be equal in that respect?—Yes.

1984. You are aware that there are cases where employers are sometimes prosecuted criminally, when life has been imperilled and property damaged, as for instance, the case of managers of railways; you are aware of some cases where they have been apprehended and prosecuted criminally?—Yes.

1985. And therefore the law does take cognizance of such cases, and enables the public prosecutor to proceed against those men criminally, masters as well as servants;—Yes; if I were base enough wilfully to neglect my duty, even if I did not endanger life, I should be doing a very wrong act, and if life was endangered by my neglect it would be more serious still.

1986. Would you prosecute a man criminally if by neglect of duty property was damaged?—My only reason for saying that the question wanted more consideration than I had given to it, before I ventured to give a positive opinion upon it, was, that I was afraid that sometimes it would be difficult to draw the line between wilful neglect and accidental.

1987. Supposing, however, you thought it better to punish a man by fine rather than by prosecuting him criminally, and supposing the man was not able to pay that fine, you would

have no objection to his being prosecuted for a debt?—Just so.

1988. Supposing he could not pay, and had not sufficient property to pay that debt?—Then I suggest that he should be allowed to pay the debt by instalments.

1989. You have no such thing in England as arrestment of wages?—No.

1990. Would you approve of such a power being given to the master?—I think it would be dangerous, it would put a weapon in the hands of the employer who might be disposed to be not exactly so just as he should be. There are employers who would probably take advantage of it; I do not believe that the bulk of them would. I should not like a law that could be made to operate oppressively towards the workman, nor would I like to see a law passed that might place the employer in the hands of the men. I should like to see it as fair for the one as for the other.

1991. Supposing a workman left the place where he had been living before, and went to a distant part of the country, would you object to the employer following his wages?—It is a point that requires some consideration; I should not object to a man being followed and put to trial for so doing in the ordinary way, but it is a question whether any good could be obtained by the arrestment of his wages.

1992. Do you not think that the arrestment of wages would have a bad moral effect upon the man?—Yes; I do not think it could be productive of any amount of good. If in some cases it might work satisfactorily, in the bulk of cases I think it would be unsatisfactory.

1993. It would tend to damage the man's character in the new district to which he went?—Yes; and probably the man would never hear the last of it. Supposing I had been doing some work for an employer and I broke my contract, and I left the town, perhaps not being under the apprehension that I had been doing any wrong (because the contracts in our trade are so frequently broken, that a man might easily be under the belief that he was not doing anything that would make him amenable to the law); suppose I left the town, and suppose I went 50 miles away and worked there under a fresh employer, not considering that I had done any wrong to any man, and that next week there was an arrestment of my week's wages for leaving London, I, not believing that I had done any wrong to any one, should not like to be dealt with in that manner. The master, if he felt annoyed at my leaving London, could do that; he could send after me an arrestment of my wages, and, being in a strange town, my family would suffer, for I would have no wages for them to go on with.

1994. Are you not aware that when the wages are arrested there is a sufficient amount allowed to the workman for subsistence?—Yes; but the amount of a workman's wages is only sufficient for his subsistence when taken in the aggregate.

1995. I am putting the case that the court has decided that the man must pay that debt; supposing he has left the district, you think it would not be a good plan to follow him and arrest his wages, making the man pay the debt by instalments?—I think it would not; I would leave it to the ordinary procedure of the county court.

1996. Mr. George.] Is it not the fact, that the magistrates have the power of deciding questions with respect to wages between masters and domestic

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domestic servants and agricultural labourers?—I believe so, under another Act.

1997. If the magistrates are considered competent to decide questions between masters and agricultural labourers and domestic servants, do you see any reason why they should not be considered equally competent to decide cases between masters and workmen in different trades?—Their competency is not the thing that is questioned; we contend, and I think not without some reason, that there is a partiality on the part of the employers among the justices towards their own class.

1998. If an employer in the same trade as the prosecutor were prohibited from sitting on the trial of the case, and supposing the magistrates were independent country gentlemen, not being in trade at all, would you consider them not competent to, and not likely impartially to administer justice in cases of that kind?—I do not think that independent country gentlemen would be preferable to manufacturers.

1999. You object to the manufacturer because he has a similar interest to the master who has the dispute with his servant?—It frequently happens that a country gentleman employs men, and he is apt to view the dispute from an employer's point of view.

2000. You think even an independent country gentleman would be likely to be biased from his acquaintance or sympathy with the manufacturer whose case might come before the bench of magistrates?—Yes.

2001. You have only cited to the Committee two cases of what you consider hardships, one of them occurring in 1850, and the other occurring in 1857; you have not, as I understand, stated to the Committee the particulars of any cases since 1857 of what you consider hardship?—My reason for citing those two cases only, though I could have cited a great number, was this: I have not heard the whole of the evidence that has been given here; but in the little evidence I have heard I heard cases referred to, and I have no doubt in the evidence which I have not heard a great number of cases have been mentioned; and I thought that to bring forward a lot of cases of a similar character would only be to unnecessarily occupy the time of the Committee. I cited two cases that were different in their character to those other cases that have been cited; in the cases that have been mentioned to the Committee by preceding witnesses the men had been imprisoned; in the cases I referred to they were not; they were cases in which, though the men had done no moral wrong, they were brought before the magistrates, and they had to go through all the ordeal of a trial.

2002. I understood you to say that a law like 4 Geo. 4 was no longer so necessary as it might have been, from the improved condition of the working people; may not that account for the fact, that from 1857 to the present time, no case like those which you referred to has arisen which you have considered it necessary to cite to the Committee?—That was not my reason for citing those cases; my reason was because I was desirous of showing that though the men had done no harm in those cases, still there was an amount of hardship resulting from a bad law existing.

2003. Were those cases which you have cited, and those reported in the trades' reports, cases tried before the magistrates?—Yes.

2004. Were notes of them taken down by any authorised reporter in the court, or were they taken from any newspaper reports of the day?—I cannot say who took them.

2005. You spoke of your secretary; is it the practice for the secretary of the society to attend those cases when tried before magistrates, and make a report of them himself; or does he take them from the newspaper reports of the day?—The secretary who reported this was in the court and attended the trial.

2006. Does he report them himself, or does he trust to the newspaper reporters to make their reports and then select such as he thinks worthy of being transferred into that trade's report?—In this particular case I believe the secretary made his own report, he being in court at the time of the trial.

2007. Are those very highly-coloured expressions which you read from that report, the language of the reporter of the newspaper, or of the secretary of the society?—I expect that the language here is the language of the secretary, but the case was put in strong colours by the newspapers at the time, and I think it was put much more strongly than is expressed here.

2008. Suppose a master committed an act, or omitted to do an act, by which any workman in his employ lost his life, do you or not know that he would be indictable for manslaughter?—I am aware of that.

2009. Therefore for any act of such gross negligence, or carelessness even, any act of commission or omission, by which human life might be lost, the master is, in fact, liable to be indicted for manslaughter and punished by the ordinary law of the land?—I am perfectly aware of that.

2010. You mentioned to the Committee, that in this Act the 4th of George IV., under which proceedings between masters and servants are generally taken, the words "misdemeanour and misconduct" are repeated three different times; are those expressions "misconduct" and "misdemeanour" applied to every act, even to breaches of contract between the workman and the master?—They appear to me to be so.

2011. There is no separation in the 4th of George IV. between simple breaches of contract and any other act that is called "misdemeanour or misconduct"?—I have not noticed any.

2012. You think it unfair and unreasonable to characterize the mere breach of a simple contract between master and servant as an act of "misconduct" and "misdemeanour"?—Yes; such terms not being applied to the case of the employer: the masters commit acts to which the same term might be well applied. I object to the terms being used in that Act as appertaining to the men only, not applying it to the master in any degree whatever.

2013. If the law were that mere matters of simple contract with respect to wages and other matters of that kind between the master and servant should be treated as a purely civil matter; and if a summons were to be issued in the first instance, except in cases savouring of criminality, or misconduct, or misdemeanour, which might be specified in the Act, in which cases a warrant might be issued, would that, do you suppose, be consistent with the views which the workmen take?—If it were made to apply to the workmen, I think the same thing should apply to the masters.

2014. Supposing the framers of the Act of Parliament



liament could specify those acts which would be matters of misdemeanour and misconduct between masters and servants, would you then think it proper that that distinction should exist between matters that are purely matters of contract and matters of misconduct and misdemeanour?—I think it would be much better if a man did not suit the master for the master to discharge him at once.

2015. Supposing he committed an act of misconduct or misdemeanour before he left the master?—I should think a distinction might be made in cases where the workman endangered life or property, or anything of that sort; but "misconduct and misdemeanour" are very vague terms as they now exist in the Act.

2016. A man at the windlass might choose in the morning all at once to strike work, and say, "I will do no more to-day," whereby a great number of men might be put out of employment for perhaps 24 hours; do you think that such an act as that might be specified in the Act as a misdemeanour?—I think that is a matter for fair consideration, and would be an improvement upon the present Act; any way of defining the terms would be useful, and perhaps some legislation in that respect might be beneficial.

2017. Taking an illustration from your own trade, there is the man who closes the uppers, and the man who does the bottoms; supposing there were but those two individuals in the employ of a master, and the person who made the tops deliberately said, "I shall do no more to-day," whereby the other was thrown out of employment; would you think a wilful act of that kind, that could not for the moment be remedied, would be such an act of misconduct or misdemeanour as ought to be punishable accordingly?—I think no good would be derived from punishing such an act as that; the master has the remedy in his own hands; the master would say, "This fellow is careless about his work, he will not do for me"; and he would discharge him.

2018. But not only would the master have suffered by that act, but his fellow workman

would have been thrown out of employment; would not you meet such a case with some punishment?—The fellow workman would suffer to an extent, and he would know that it was not the employer's fault; he would put up with it.

2019. You will not punish the master for the act of the man?—Certainly not; I would not punish any man for what he was not responsible for; I have known men sometimes overstep their proper bounds, and I have seen them somewhat insulting to the masters, but I have observed that those masters who sent them about their business, without taking any other proceedings against them, generally got on better with the men. If a master says, "You are an insulting fellow, I will give you in charge," it creates a bad feeling. I have heard many masters abuse their workmen in a most shameful manner, but it is not customary for the workmen to take any notice of it.

2020. Is not the jurisdiction of the local magistrates, and even the jurisdiction of the county court judges, limited to the particular district or county in which they preside?—Yes.

2021. Suppose a workman violates his contract and goes out of that jurisdiction, how are you to reach him by a civil process?—I think that could easily be provided for.

2022. By enabling the process to be extended to places outside the jurisdiction?—Quite so, and I do not think that the providing for that would be found to be a real difficulty.

2023. Have you seen the forms of warrant issued under the 4th of Geo. 4?—No.

2024. *Chairman.*] In Scotland, by the common law, where a man has been fined and he goes to another service, his wages can be followed and detained in payment of such fine, to the extent of half his week's wages. Do you think such a power as that is objectionable, or desirable, with a view of meeting fines?—I think it is very objectionable.

2025. You do not think that anything of that kind would be desirable?—No; I think it would be productive of harm.

Mr. JOHN WATSON ORMISTON, called; and Examined.

2026. *Chairman.*] I BELIEVE you are Manager of the Shotts Iron Company?—Yes.

2027. For how many years have you been there?—Seven and a-half.

2028. Where are the Shotts Iron Works?—In Lanarkshire, and the company have also extensive coal and ironstone works in Linlithgow and Midlothian.

2029. How many hands are employed in all those works?—I think at the present moment the Shotts Iron Company employ nearly 2,000 men and boys altogether.

2030. You have had experience in the management of iron works, and also in the management of coal mines?—Yes.

2031. What is the system of contract prevailing in your works; have you, what we have heard prevails very largely in Scotland, the system of daily or minute contracts?—The system of contract in the Shotts Iron Company's service is a system of day or minute contracts.

2032. You turn a man off at any hour of the day?—Practically we never do it.

2033. Might you do so without breach of contract?—Yes, but it is never done.

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2034. A man might leave you at any hour of the day without breach of contract?—Yes.

2035. How do you find that system work?—Very well with us.

2036. How long has it been in force in your works?—It is six years since I introduced it into the Shotts Iron Works.

2037. What led you to introduce it?—I had some experience of the working of it in Ayrshire, when I was at Messrs. Merry & Cuninghams' works there.

2038. How long had it been in operation in their mines?—I think it is twelve years since it was introduced into Messrs. Merry & Cuninghams' works.

2039. You introduced it into the Shotts Works, both in the collieries and in the iron works?—Quite so, the system applying to all the men, with the exception of the enginemen and the furnacemen.

2040. What led to its being introduced into Messrs. Merry & Cuninghams' works?—There was a pretty long strike of the workmen; they stopped work without any warning whatever, and at the termination of that strike the masters

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gave notice, that as warnings did not seem to be held binding by the workmen, neither would the masters hold them binding any longer, and therefore they would abolish the system of contract.

2041. Did the men re-engage themselves under this new system without any further strike?—Yes, the strike was terminated by that time.

2042. The same men re-engaged themselves under this new system?—Yes.

2043. Did they do so willingly?—No, they did not like it at first.

2044. What was the result; was it satisfactory to both parties?—Afterwards it was; at first the best men did not like it at all, they did not like to be liable to be turned away at any time, but after they got to see that such a power was never used by the masters, except to turn away bad men, they got quite reconciled to it, and now they like it better than the old system.

2045. Do you believe that under this new system the men remained for longer or shorter periods than under longer engagements?—I believe it makes no difference whatever in the case of the good steady workmen; in the minds of some workmen it creates a feeling of independence; they feel that they are under no obligation to the employer, and that they can leave when they like.

2046. Were you connected with Messrs. Merry & Cuninghams works at the time this system was introduced?—Yes, I was principal manager at their iron works at Ardeer, in Ayrshire, at that time.

2047. Was it on your recommendation that it was introduced?—No, it was arranged by the masters themselves.

2048. The masters of the district?—The masters of Ayrshire and Lanarkshire; I do not think they all went into the arrangement, but Messrs. Baird, in Ayrshire, and Messrs. Merry & Cuninghams, and some of the other Lanarkshire iron-masters, agreed to abolish warnings at that time.

2049. From your experience of the working of it in Messrs. Merry & Cuninghams, you introduced it into the Shotts Works, of which you have the management?—Quite so.

2050. Has the result been equally satisfactory there?—Yes.

2051. Was its introduction into the Shotts Iron Works the result of any strike?—No: so far as I can recollect, I think, in the first place, there were several men left without giving the necessary warnings that were required by the rules of the work at that time; and, in the second place, there was a case in which a workman proceeded against the company for refusing to pay him the same rate of wages that they had been previously paying him without giving him a fortnight's warning, as prescribed by the rules of the work, and in that case the company gained the case. It was shown that the nature of the working was so irregular, that prices required to vary almost day by day, and that there was no necessity to give warning; that though the rule of the work was a fortnightly warning, yet that the custom of the particular work in which he was working was that the prices might be varied from day to day, or from week to week, according to the change of circumstances. The man lost his case, but it was that case, and the men leaving without giving the necessary warning, that led me to introduce the system of no warnings.

2052. You say that the men had been previously in the habit of leaving without warning;

had many men in consequence of so leaving been prosecuted under the Acts we are considering?—As far as I can recollect, I do not think, in all my experience as a manager, that I ever prosecuted a single man for leaving without warning.

2053. Practically, in your experience, as regards these Acts, they have been a dead letter?—Yes, since I became the manager of the Shotts Iron Works. At the time I was sub-manager of the Glengarnock Works of Messrs. Merry & Cuninghams, there were some cases of prosecutions; but half-a-dozen cases altogether are all I can recollect.

2054. How do you account for the fact that in one case there were prosecutions, and in the other not?—The cases that were prosecuted in Messrs. Merry & Cuninghams's were particularly aggravated cases of desertion of service.

2055. What kind of cases were they?—I think they were mostly enginemen.

2056. Enginemen leaving their posts suddenly?—Yes, a sudden combination of those men; thereby stopping a number of other workmen from getting on with their work.

2057. In those cases, what was the period of the contracts?—I think they were fortnightly contracts. The rule ran in these terms: "Every workman employed at the Glengarnock Works shall be held to be engaged for two weeks; and thereafter until he shall have given his employer, or have received from him, notice of fourteen days to quit, which notice shall only be given on the pay-day of the Works, or on the second Saturday after the pay."

2058. That applied to all the workmen, whether enginemen or ordinary pitmen?—Yes.

2059. It was in consequence of those aggravated cases of desertion by the men in responsible positions, that the law of master and servant was brought into operation, and they were prosecuted?—Yes, so far as my recollection serves me.

2060. In those pits or other works where the system of fortnightly contract has been abandoned, and the system of day contract substituted, have any instances occurred of desertion of the men in similar positions?—No, I cannot recollect at this moment, a single case.

2061. You have stated that the furnace-keeper and the engineman are the only exceptions throughout all your works to the system of daily or minute contract, what notice are those men required to give?—They are only required to give a week's notice; they can give it any Saturday.

2062. Why are those two men excepted?—Simply because they are in responsible places, and anyone or more of them leaving on a sudden might put the company to very great inconvenience, besides entailing very serious loss and damage upon them.

2063. What are the duties of the furnace-man?—To keep up the fire.

2064. And to stir up the metal?—Yes; to keep the furnace in order generally. Suppose the furnace-man left on a sudden, and another could not be got to keep the furnace in order, the master would be therefore subject to losing 2,000*l.* or 3,000*l.* for each furnace so abandoned.

2065. And the men would be out of employment?—Yes.

2066. The works would stop practically till the furnace could be set going again?—Yes.

2067. To meet those cases you require a week's notice

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notice before the men leave?—Yes, because three or four days' notice would enable us to put the furnace in such a condition as to be able to stand for, perhaps, two or three months if necessary: I have known them stand even six months: I mean, stand without doing any damage. They would take the blast off the furnace and stop working and still keep the lighted materials in the furnace, ready to resume working again.

2068. If the man went without notice, that could not be done?—No; the furnace in that case would not be in order for standing, and if it were so left for any length of time, the furnace might be destroyed.

2069. Besides the loss of work?—Yes.

2070. In the same way with the engineman; if they left the works, I presume their fellow workmen would be thrown out of work, and the master would be put to loss?—Yes; a sudden strike of enginemen might result in the stoppage of all the works together. Supposing there were half-a-dozen pits, and all the enginemen in all those pits suddenly left work, unless the master could get men to take their place, the works would have to come to a stand.

2071. In some parts of the country, is not it difficult to find suitable men competent to take the place of enginemen?—No doubt enginemen are important men, especially where the pits are deep.

2072. Are there generally men in a mine who could at once be put to the engines if the enginemen were to go?—No; generally in large works we have, perhaps, one or two spare enginemen for any sudden emergency; but we could not replace the whole of the enginemen, or half of them.

2073. They are in great demand?—Yes.

2074. There is a difficulty in getting good men?—Yes.

2075. The post of engineman is so important, and so difficult to supply, that it is necessary to make an exception in his case, and to put him under a different contract to the other men?—Yes.

2076. Is the engineman the only exception you make in the pits?—Yes; there are other men employed in the pits whose places it would be just as difficult to fill up as the engineman's, but those men are attached to the company's service by a much higher rate of wages; they are selected men.

2077. Such as what?—Such as roadsmen.

2078. You bind them to you by high pay?—Yes.

2079. If they were to break their contract, would there be danger to life, or loss to the employer?—No, I do not think so.

2080. So far as regards loss to the employer, or danger to those employed in the mines, there is no such necessity for binding persons in the position of the roadman, as there is in the case of the engineman?—No, not in our case; I speak only of our own works, and our own experience.

2081. In all other mines of which you have any experience in Scotland, where this system of daily or hourly contract is in force, are there exceptions made in the case of the engineman and furnaceman, or is it only in your case that those exceptions are made?—I can only speak of Messrs. Merry & Cunningham's works in Ayrshire, and the Shotts' Works.

2082. How was it in Messrs. Merry and Cunningham's works?—There were those exceptions in Messrs. Merry and Cunningham's

works; in fact I just adopted the rule of Messrs. Merry and Cunningham's works in the Shotts' works when I made the change.

2083. In the iron works the furnaceman is the only man in so responsible a position as to necessitate your making that exception?—Yes, along with the blast engineman; but he would come under the class of engineman.

2084. Are you conversant with the working of the Mines Inspection Act?—Yes.

2085. Under that Act there are certain regulations drawn up and approved by the Secretary of State, for the guidance of men employed in the mines?—Yes.

2086. By those regulations the duties of the different men at their various posts are very accurately laid down, are they not?—Yes.

2087. And a penalty of 40*s.* or two months' imprisonment attaches, does it not, to a breach of those rules and regulations in such cases?—Yes.

2088. It has been given in evidence that under the Mines Inspection Act, the statutory regulations which define the duties of the engineman, and others in the pits, give all the security needful for the proper working of the pit, and for the performance of the duties of the man, rendering it unnecessary to have recourse to the law of master and servant; and that with those regulations the men may serve by the hourly or daily contract system with perfect safety to all concerned; what is your opinion as to that?—I have never considered that, with reference to the enginemen; those are the only class in our pits to which the question would apply.

2089. You cannot say whether those statutory regulations would be sufficient without weekly contracts?—No, I could not say, on the spur of the moment, whether they would or not; I have never considered that.

2090. You do not know whether there are any pits or works where all the men work under daily contract or hourly contract, without exceptions, such as you have mentioned?—No, I do not know any works where there are not those exceptions I have mentioned.

2091. Have you turned your attention at all to the law of master and servant?—Very little.

2092. You cannot speak to the working of the law, because, practically, under the system of hourly contracts that law is very seldom brought into operation; in fact, in your works it could only come into operation in the exceptional cases of the furnaceman and the engineman?—Just so.

2093. Since this system has been in operation, you have had no cases?—I have not had a case for 12 years.

2094. Are you aware that there are a number of pits in Scotland where this system is in force?—Yes.

2095. It has been stated, that out of 35,000 miners, 25,000 are under this daily or hourly contract system; should you, from your knowledge on the subject generally, believe that that is a fair statement of the case?—I should think it likely enough.

2096. Do you think it is a system likely to gain ground?—I think so; I think it is gaining ground.

2097. Is it spreading southwards at all?—I am not aware.

2098. You are not aware of its existence in England?—No.

2099. Are the men satisfied with it now?—

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Yes,

Mr. J. W. Ormiston. Yes, for anything I have ever heard to the contrary.

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2101. Mr. *M'Lagan*.] Have you ever heard any objection taken to the jurisdiction of the justices in Scotland, in cases of breaches of contract between master and servant?—I have never heard them objected to.

2102. It has been stated to us here, that cases have been tried in public-houses; that the justices have met in a public-house near the colliery, and decided the cases; have you ever heard of such a thing?—I have never heard of such a case.

2103. Did you say that the system of minute contracts was introduced by the masters, or by the men?—It was introduced by the masters in all the cases that I have known.

2104. Do you think that the character of the men has been improved since this system commenced; do you think they remain longer in their work than formerly?—I think it makes no difference as far as the good men are concerned, while as to the bad men we can speedily get rid of them.

2105. You think that the men are not more inclined to leave than they were; they do not wander about more than they did?—No, I do not think so at all?

2106. Were you ever obliged to arrest a workman's wages for leaving his service in Scotland?—Never.

2107. Do you approve of that system of arrestment of wages?—I do not.

2108. What are your objections to it?—I think it leads to the perpetuation of very improvident habits in the workmen, from the facilities it affords them for getting credit at the shops in the neighbourhood of the works.

JOSEPH DICKINSON, Esq., called; and Examined.

J. Dickinson, Esq. 2109. *Chairman*.] ARE you an Inspector of Coal Mines?—Yes; for the Manchester district of Lancashire.

2110. In that capacity has your attention been directed at all to the law of master and servant?—It has come under my notice very frequently, though, as inspector of mines, I have avoided having anything to do with the Master and Servant Act.

2111. In the performance of your duties as inspector of mines, you have perhaps become conversant with the system of contract which generally prevails in the mines in your district?—Yes.

2112. Is that a system of long contracts or short contracts?—The general rule of the district is a fortnight's notice on either side.

2113. You have heard, perhaps, the evidence given by Mr. Ormiston, of the system prevailing in some parts of Scotland, namely the system of hourly contracts?—Yes.

2114. Are you aware whether such a system prevails at all in Lancashire?—To some extent it does, some of the largest employers of labour in my district, in the immediate neighbourhood of Manchester, some of the largest colliery owners, neither give nor require notice.

2115. That system prevails in collieries employing how many hands, should you say?—Between 2,000 and 3,000.

2116. Has that system been recently introduced?—I think it would be of about 20 years' standing, but I cannot speak to it for more than 15 or 16 years.

2117. You do not know whether it was introduced by the masters in consequence of any strikes, or how it originated?—I have heard that it arose out of a very long strike.

2118. Did the men object to it at first?—I only know it by hearsay; I cannot speak to what took place at first.

2119. Has it resulted satisfactorily as far as you know to both masters and men?—I think very much so.

2120. Is it spreading, or likely to spread?—It does not appear to be spreading.

2121. How do you account for its not spreading, if, in the case of both masters and servants,

it works satisfactorily?—I think the men on the whole consider that it is more favourable to them to have the fortnightly notice till they have tried it; but, as the last witness told you, as soon as they have tried it they appear to prefer it; that seems to be borne out by what I have seen in regard to those collieries in my district. Practically the men do not throw up their work at a minute's notice.

2122. Are there in those collieries more cases of desertion of service, or not so many as in other collieries?—I should think there are fewer; a workman under the system of minute contract feels that he is secure of his work so long as he conducts himself properly.

2123. And the men in those mines, upon this system, remain fully as long in their employment as they do in the other mines?—I should think longer.

2124. There is a good feeling between employer and employed?—It seems to be a pure commercial feeling.

2125. Do you know if every man in those collieries is under the system of minute contracts, or whether, as the last witness stated was the case in the mines in Scotland with which he was connected, some exceptions are made?—I believe every person is under the system of minute contract.

2126. Including the engineman and the furnaceman?—Including the engineman and the furnaceman, and the fireman; but practically any man engaged in one of those occupations would not think of giving up his post, unless he were a very stupid man, without making the employers aware that it was his intention to change his employment.

2127. In those pits the law of master and servant is, practically, a dead letter?—So far as regards the contract.

2128. The power that the master has under the "Master and Servant Act," of enforcing contracts of service is apparently not required, for the service appears to be well performed under this hourly system?—Quite satisfactorily to both parties.

2129. You are naturally conversant with all the details of the Mines Inspection Acts, from your

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your position?—Yes, I have worked under all the Acts from the commencement.

2130. It has been stated, that under the "Mines Inspection Act" statutory regulations are drawn up which meet every case of dereliction of duty that could well be anticipated on the part of the men in the pits in responsible positions?—I think the special rules are capable of meeting such cases.

2131. Those rules impose a penalty of fine and imprisonment, do they not, on men in certain positions specified in those rules, who neglect their duties?—Yes, the special rules become, as it were, a part of the Act; the punishment is a fine not exceeding 2*l.*, or imprisonment for three months.

2132. Is there an option given to the magistrate under those regulations and under that Act, of either imposing a penalty, or awarding imprisonment?—It rests in the discretion of the magistrate.

2133. Have you known many cases under those Acts of fine or imprisonment?—Yes.

2134. Which punishment do the magistrates generally inflict?—In my district they generally inflict the fine; if I saw any disposition on their part to send the offender to prison, I should do all I could to induce them to levy a fine.

2135. Have you known cases of imprisonment?—I do not recollect any man having been sent to prison in my district, but I have seen accounts of men having been sent to prison in other districts.

2136. Were those cases of imprisonment which you have heard of in other districts cases of aggravated offences, or was it simply that the magistrate exercised his discretion differently?—Simply because the magistrate exercised a different discretion.

2137. I suppose you can easily conceive of cases under the Mines Inspection Act, and under those regulations, where a fine would hardly be a sufficient punishment, and where it might be necessary to imprison?—There might be such cases, but they would be very few.

2138. What would you conceive to be a case that would require to be met by imprisonment?—Something aggravated.

2139. If a man neglected his duties and entailed serious injury to either life or limb, or to property, should you consider that a case requiring to be met by imprisonment, or by a fine?—If he did it maliciously I would punish him by imprisonment, but if he did it through ignorance, or want of skill, I think he ought not to be punished by imprisonment.

2140. Should you think, from your knowledge of the Master and Servant Act, that it would be desirable, or not, to introduce a change in the present law?—I think certainly a change is wanted in the law as regards master and servant.

2141. In what respect do you think it is wanted?—The magistrates, at the very least, should have the option of fining.

2142. You would give the magistrates, under the Law of Master and Servant, the same power as is given them under the Mines Inspection Act?—They might be certainly given that power at least.

2143. You say "at least," would you suggest any further alteration?—I think if you could regulate the power of awarding imprisonment, so as to confine it to aggravated cases, it would be well to do so.

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2144. Do you think that it would be possible to define the aggravated cases, throughout the whole of the trades of the Kingdom, in which the magistrates should have the power of inflicting imprisonment?—It would be very difficult.

2145. Do you think that it would be possible?—I am not quite sure that it would; but if you could possibly see your way to do it, I think you would be acting wisely in recommending it. Putting a decent working man into prison should be only resorted to in extreme cases.

2146. You think that the option of imprisonment should be given?—Yes; but it should be resorted to as seldom as possible; if you could confine it to aggravated cases, so much the better.

2147. Unless those aggravated cases were defined by the Act; if imprisonment was only to be resorted to in aggravated cases, the judging what an aggravated case was would have to be left to the person administering the law?—There would be a difficulty in that respect.

2148. That probably would be what it would have to end in; you would have to trust to the discretion of the justice in administering the law?—Unless the witnesses who have been giving evidence before you have been able to lead you to lay down some definition.

2149. You, yourself, do not see any way of specifying such cases?—I have not been able to see my way to doing so.

2150. You are clearly of opinion that a change in that direction is necessary?—I think that is undoubted.

2151. You think the law at present as regards the servant, is too harsh and unequal?—Yes, I think it is too harsh and unequal, and that is the general complaint of the men with whom I have conversed upon the subject.

2152. Have you conversed with the masters about it?—Yes.

2153. What is their feeling about the law of master and servant?—They consider that there must be some means of compelling the men not to abuse the trust reposed in them.

2154. Do you think there is a feeling on the part of the masters that the law is somewhat too severe at present?—I think there is, with the thoughtful portion of them.

2155. You think that they would not object to a change?—No.

2156. Have you heard that the Miners' Association have recommended a change?—I have heard so.

2157. The change being, that an option should be given to the magistrate trying the cases, to inflict a fine instead of imprisonment?—That would be a very great improvement.

2158. That you would approve of?—Yes.

2159. It has been further suggested that instead of a warrant being issued in the first instance, a summons should invariably be issued, and a warrant only had recourse to in cases of non-appearance on the summons, or where the case was an aggravated one?—I think that such a change is necessary to keep up the kindly feeling that should exist between master and servant.

2160. With such a change in the law, do you think, from your knowledge of the working of mines, that any danger to the employer, or fellow workmen would be likely to ensue from men suddenly leaving their posts?—There might be that danger with those minute notices, if a person in the position of an engineman, or the position of a furnace keeper, or fireman, or any one in a place

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of trust, were to desert it suddenly; but practically it has not been found that men desert their posts without notice, or without some intimation that they are going. If it were found that it acted in that way, there would be no difficulty in introducing into the special rules of coal mines, provisions to meet such cases.

2161. They would receive the sanction of the Secretary of State, which, I suppose, is given on the recommendation of the inspector?—I have no doubt they would, because the Secretary of State is guided by the inspector in sanctioning special rules established for the collieries. In my district we have no supplementary rules (*i. e.*, a set of private contract rules between the master and the workmen) attached to our special rules; I have set my face against them; there is not a single colliery in the district that has those supplementary rules attached to the special rules.

2162. All the rules in every colliery in your district have been examined by persons representing the Home Office, and are signed and approved by authority?—Yes; but they are not all signed; they only have to be signed in case the coal-owners require us to certify them; it is only a few coalowners who require them to be certified.

2163. Under those rules, and under the Mines Inspection Act, in cases which come under the rules, how are the men brought before the magistrates; is it by warrant or summons?—By summons.

2164. In every case?—In every case.

2165. Warrants are not issued?—They are summoned under Jervis's Act. Generally, an information has to be laid, but every magistrate's clerk does not require an information; most of them do, but not all; then a summons is issued upon that information, the information not being required to be upon oath.

2166. You say, that though those regulations are drawn up under the Mines Inspection Act, they are summoned under Jervis's Act?—The form of procedure is under Jervis's Act.

2167. The power is given under the Mines Inspection Act, and the form of procedure is under Jervis's Act?—Yes.

2168. An information is first laid, and then a summons is issued, and failing appearance to the summons, a warrant is issued for the apprehension of the offender?—He always appears to the summons.

2169. Do many cases arise under the Mines Inspection Act in your district?—Yes; I only take proceedings against the owner or principal agent, or one of the managers. I always leave it to them to take proceedings against the workmen; if they wish to maintain discipline amongst the men, they must see that they attend to their duties.

2170. Before whom are those cases tried?—Before the justices in Petty Sessions.

2171. Is there any rule as to coalowners not sitting on the bench when cases occurring in a colliery are tried?—The owner himself, and certain relatives of the owner, are prohibited from sitting; but there is nothing to prohibit a coalowner sitting, provided he is not interested in the particular case.

2172. Is it provided by the Act that a certain number of magistrates shall hear the case?—There must be two, except in the case of a stipendiary magistrate, then one suffices.

2173. Have you heard any complaint made on

the part of the men, or do you believe that there is any ground of complaint, against the jurisdiction of the magistrates in such cases?—I never lay an information where I see the slightest doubt about it, and even going upon those severe grounds, I perhaps succeed in only nine cases out of ten; one might perhaps be inclined to suppose that they had taken a wrong view of the case one loses, but on the whole I believe they are guided by perfect fairness, and I have every confidence in their decisions.

2174. You believe the jurisdiction to be a safe one, and that they administer the law impartially and fairly; can you suggest any other jurisdiction that would be more fair, or more convenient?—No, I prefer the jurisdiction of the magistrates.

2175. As regards prosecutions under the Mines Inspection Act, you would not suggest any improvement as regards the jurisdiction?—No.

2176. As regards master and servant, should you see any objection to cases, under a modified law of master and servant as suggested by yourself, being tried as they now are, before the magistrates?—Not any; it seems to me the most satisfactory tribunal for such cases.

2177. From your knowledge of the working of the Master and Servant Act as regards the trial of cases arising under that Act, do you think you can speak with the same confidence with which you have spoken with reference to similar cases under the Mines Inspection Act, as to the way justice is administered by the justices?—I speak with considerable confidence with regard to their adjudication of cases under the Mines Inspection Act.

2178. Practically they are the same men?—They are the same in both cases.

2179. So that if their decisions are sound and just under the Mines Inspection Act, you see no reason why their decisions should not be equally sound and just in cases coming before them under the Master and Servant Act?—I should have equal confidence in them in either case.

2180. Have you ever considered whether the power of arresting a man's wages which obtains in Scotland would be a reasonable way of meeting fines?—The system as practised in Scotland is excessively annoying to anyone connected with the management of a work; on the morning when they are about to make the pay, they have a handful of little papers arresting the payment of money to perhaps several workmen; whatever those men may have done before they came there it certainly does not appear to work satisfactorily to anyone concerned.

2181. Have you been an inspector in Scotland?—No; but before becoming inspector, nearly 16 years ago, I was an agent at Sir John Guest's collieries, in South Wales, between seven and eight years; and I was also an agent at a colliery in Scotland for three years.

2182. What colliery was that?—It was the Nithsdale Colliery, in the neighbourhood of New Cumnock; it has become chiefly a Cannel coal work now.

2183. Was that under dry contract?—No, we gave notice there.

2184. You would not be in favour of any system of payment of fines by arrestment of wages?—No; nor do I approve of arrestment of wages for the payment of debts; because, if a man has not paid his bills at the shops, there are other means

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means of compelling him to pay his debts without arresting the payment of his wages at the pay-office.

2185. Do you think that that change in the law which you have heard has been suggested before this Committee, and which you say you approve of, would be sufficient, or does anything else occur to you?—That would be a very great improvement, and would, I dare say, meet the general views of all parties, so far as I have been able to ascertain them; but if you could see your way to limiting the power of imprisonment to aggravated cases, it would be better to do so.

2186. Supposing such a change in the law were to be recommended, from your knowledge of the justices, do you think they would have any difficulty in dealing discretionately with aggravated cases?—As a general rule they exercise a wise discretion, but now and then one meets with a case where the power with which the justices are entrusted has not been exercised in the way one would desire.

2187. On the whole you do not think that there would be any danger of the magistrates abusing such a discretionary power, if vested in them?—Certainly not.

2188. Mr. George.] Are those special rules, under the Mines Act, set out in the Act itself, or are they referred to in it, and settled by the Secretary of State?—They are referred to in this way in the Act; the colliery owner is bound to draw up special rules, such as appear necessary for safety, with regard to the persons employed in and about his mine, and having framed his rules, he has first to post them up for 14 days, in a conspicuous place in the principal office, or place of business at the colliery, and also where the wages are paid, so as to give the men an opportunity of seeing whether there is anything objectionable in them, and at the end of that 14 days he has to submit them to the Secretary of State for his approval. The Secretary of State, on receipt of those rules, sends them to the Inspector, to make a report upon them to him, and if the inspector's report is satisfactory, they are then returned to the colliery owner, with the information that the Secretary of State does not object to them, and if not objected to by the Secretary of State, they become as much law as the Act of Parliament itself.

2189. They are not, in the first instance, set out on the face of the Act, but after they are posted in the way you describe, and not objected to by the Secretary of State, they then become by reference incorporated in the Act of Parliament and become law?—Exactly; and the workmen are, for a breach of any of these rules, liable to be punished, and so is the owner or the agent for a breach of any of the rules which apply to them; the penalty for the owner or principal agent is not exceeding 20*l*.

2190. Except from the practical difficulty of specifying all the special cases that might arise between master and servant, you do not see any objection to following in any amended Master and Servant Act that might be framed, pretty much the same course as under the Mines' Inspection Act, viz., that certain rules should be approved by the Secretary of State, in which certain offences should be classed as being of a criminal nature, and that they should become virtually incorporated in any new Act of Parliament to be framed?—The plan of having special

rules works well with regard to the Colliery Act, because it enables the colliery owners and the inspectors to make any amendment which, in the course of time, might appear to be necessary, without having to go to Parliament for an amendment of the Act.

2191. The moment those matters were specified between master and men, it would leave no discretion to the magistrates as to what was an offence within those special rules or not?—Not any.

2192. It would be the same as a clause in the Act of Parliament?—Yes.

2193. The only discretion that would remain for the magistrates would be, to ascertain whether the man had violated the special rules, and consequently the Act of Parliament should be insisted?—That would be all.

2194. Is it by the provisions of the Mines Inspection Act, or by courtesy, that a summons issues in the first instance; is it optional with the magistrates to issue a summons, or, upon information sworn, to grant a warrant?—It is the invariable practice to issue a summons in the first instance. I have never known a case where a warrant had to be issued.

2195. Are you aware whether that is under any special provision in the Mines Inspection Act, or under Jervis's Act?—That is under Jervis's Act; the mode of procedure is under Jervis's Act.

2196. Is there any other proceeding than by summons under Jervis's Act?—I am not prepared to answer that; but I can tell you this much, that the mode of procedure is always by summons.

2197. Seeing that a summons would only go within the jurisdiction of the magistrates, supposing a workman, after he had violated a special rule, left the jurisdiction, how would the proceedings be taken?—The master would have to resort to a warrant if the man left the jurisdiction; and the offender would be liable to the expense of serving the warrant.

2198. As I understand you, you would, in ordinary cases, proceed by summons?—Invariably. I never knew an exception.

2199. If a man absconded, and went out of the jurisdiction, you would then see no objection to proceeding by warrant?—I apprehend that Jervis's Act gives that power; if it does not, it should give it.

2200. You would see no objection to such a provision being inserted in any Act which might be framed for the amendment of the Law of Master and Servant?—Such a provision would be necessary.

2201. Did I rightly understand you to say that any magistrates, in the same trade as the prosecutor, would not sit on the bench during the trial of the case?—The Act only prohibits the owner, or the father, son, brother, or agent, from sitting; the Act does not prohibit other coal-owners sitting on a colliery case; as a rule we see no objection to coalowners sitting when colliery cases are being adjudicated.

2202. The Act only specifies that the owner of the mine in question, and relatives of the owner must not sit, leaving all other coalowners on the bench free to sit if they think they ought to do so?—Yes; if there is any difference in the decisions of the coalowners, I think it is that they perhaps come down with a heavier fine on other owners than another justice would.

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2203. Practically, do you see any more objection to magistrates dealing with cases of that kind than their dealing with questions of servants' wages, or agricultural labourers' wages, which cases they now deal with, though every magistrate sitting on the case may happen to be a master or a landowner?—I see no objection to the magistrates; they are generally either gentlemen who have made their way in the world from their ability, or landowners resident in the district; it is an object with them to be advanced to the bench, and I think they feel that the eye of the public is upon them, and they are anxious to show that they administer the law, as far as it is entrusted to them, with fairness.

2204. Is it your opinion, that if it should be determined that there should be new legislation on this matter, the better way would be, instead of attempting to specify cases in the Act, to leave it to the Secretary of State to approve of special rules, like those under the Mines Inspection Act, which would be considered as incorporated with the Act?—You could not do better than

follow the example of the Mines Inspection Act, which lays down a few leading principles, those leading principles being carried out in detail in the special rules.

2205. The Act itself might lay down the leading principles?—Yes.

2206. For example, such cases as those where irreparable damage would ensue to property, or danger be caused to life, and matters of that kind, leaving the particular instances to be specified afterwards in the rules to be approved of by the Secretary of State?—It would be a matter of considerable consideration as to what should be the leading principles; but probably there would be no difficulty as to some of them; for instance, that a man suddenly leaving a place of trust, so as to endanger life or limb, should be punished?—It would require great consideration in framing the leading principles.

2207. Though very difficult, it would not be impossible to frame them?—I should think it might be done.



*Tuesday, 19th June 1866.*

## PRESENT:

Mr. Dalglish.  
Mr. Algernon Egerton.  
Lord Elcho.  
Mr. George.  
Mr. Gathorne Hardy.

Mr. Jackson.  
Mr. M'Lagan.  
Mr. Edmund Potter.  
Mr. Alderman Salomons.

LORD ELCHO, IN THE CHAIR.

WILLIAM PROWING ROBERTS, Esq., called in; and further Examined.

2208. Mr. Dalglish.] AT the conclusion of your examination the other day, we were upon the subject of breach of contract by a workman, and the mode in which the workman could be punished for that breach of contract, supposing that he had not the means of paying the fine or damages awarded against him; I think you said that you had considered the subject, and had some scheme to propose, or some suggestions to make upon that point?—No; I am not aware that I have anything to propose beyond what I and the other gentlemen who have been examined, have proposed; namely, making the contract a civil contract, and attended only with civil consequences.

2209. Mr. Alderman Salomons.] Do not you think that attached to every engagement between master and servant there should be some short notice by which each party might, if he pleased, cancel the engagement?—That question was asked me before, and I answered it in the affirmative. I am hardly prepared to stand strongly by the opinion I then gave; because in a great number of instances, it happens that a superior workman is brought from a distance, where, perhaps, he has an engagement paying him very well; but he is offered a better engagement to superintend others, and is induced to bring his wife and his family from the place where he is, to where he is wanted. It would be a great hardship on that man to be discharged at a month's notice.

2210. That would not affect the principle which I am pointing at; he might have the same right of action against his master for damage, as the master would have against him for causing damage; an agricultural servant, for example, is engaged for a year at the latter end of the autumn when work is slack; for when spring comes, and workmen are in demand, he finds that he has made a bargain which is unfavourable to him, and he wants to release himself from it; but he finds that he cannot, having engaged himself for a year; would it not be better to import into the law of master and servant that common law that works so well in the case of domestic servants engaged by the year, either party being at liberty to terminate his engagement by a month's notice?—I very much doubt it. It is not the law with regard to domestic servants, it is only the law with regard to domestic servants when no other contract is entered into between them.

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2211. However, it is so much the custom as to establish a sort of common law?—Yes, what you propose would work exceedingly well, provided that no contract were entered into. I thought your question referred to cases where the parties had entered into a contract, binding them for a year to each other; say a superior file maker; a man who is known to be a superior file-maker is taken from Sheffield to Manchester. I had a case the other day where the value of a man's contract, taking the period of his engagement, was 50 £; the man was suddenly dismissed; his master, afterwards finding there was a contract, sent for him and gave him very inferior work; I brought that case before the county court, and was successful in inducing the judge to hold that putting him to an inferior description of work, was tantamount to dismissing him, and I got 20 £ damages; the man had brought all his family from Sheffield, and had given up a good situation there for the purpose of coming to Manchester; if I understand your question rightly, the master ought to have been able to discharge that man by giving him a month's notice.

2212. Take your Sheffield case, it might have been better worth the master's while to pay him the 20 £ damages than to keep him on?—Yes, but he would pay him what the judge should decide to be the value of the loss of the contract.

2213. Would not it therefore be advisable that the law should always allow those contracts to be terminated with power to adjudge damage on either side, in a case where damage is sustained by the arbitrary termination of the contract?—In the case I have just given, the master would have given the man a month's notice, and would have kept him on working that time, and then the man would have been dischargeable, and all the loss to which he had been put would fall upon him.

2214. Which is the party generally most discontented with regard to service, is it not the servant rather than the master?—No, I do not think so; I think the discontent is rather with the master against the servant; with the master many circumstances may occur; badness of trade, or the money wages may be larger than he likes to pay; he may have another man offer to do the work at a less rate; and in a number of cases the master would be willing and desirous of getting rid of the servant. On the other hand, the servant

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servant having settled down with his family, having a house and furniture, and so forth, and having formed his habits and acquaintances, would rather submit to some little loss than leave his employment.

2215. Are not the cases of such skilled mechanics rather the exception than the general rule?—They have been more exceptional than at present; but trades are now extending far beyond what existed years ago; the file trade, for instance, is one. Though there may be special inconveniences, I think all the argument is in favour of placing the workman, with regard to contracts, in the same position as other men; all the general argument is in favour of doing away with the words, or rather the spirit of "master and servant," and so on.

2216. You would prefer that there should be yearly contracts of service without any power of terminating them within the year?—Whatever is done in that direction must be for both parties. I should not like to give the master the power of turning away a workman at the end of six months, whom he had agreed to employ for twelve months, and on the other hand I could not ask for the master to be bound, unless the man was to be bound also.

2217. I mean on both sides, should not there in all yearly contracts be an opportunity of cancelling the contract, as there is with clerks and domestic servants?—My views do not go in that direction, my views are rather in the direction that the contracts should be held sacred; there might be a limit; for instance, a contract for five years seems rather too long; but the objection to a lengthened contract is increased by this criminal jurisdiction. Certainly, if the law is to hold good which has been laid down in *Unwin v. Clark*, that a man may be sent to prison time after time, notwithstanding the fact that he may find his situation unsuited to him, that his wife's health or his own may not be able to bear the particular place, it would be well that there should be some power of terminating the contract on the part of the servant, and also, as a corollary, on the part of the master.

2218. Take the case which is so very common in the southern counties, with regard to the engagement of agricultural servants, where the servant having engaged himself for a year, the master calls in the aid of the magistrates to enforce the contract; how would you propose in substitution of that state of things?—The agricultural servant is such a peculiar being, that unless I gave more consideration to his case than I have done, I do not know what I should recommend; I should, however, deal with him on the same principle as others, trusting, so far as he is deficient in education and so forth, that he might in the course of a few years be on a par with those who have had better advantages.

2219. What would you do with him?—I would bring him before the county court.

2220. What would you go for when you brought him there?—Supposing the man left his employ for a day or a week, if he came before the county court, the judge would ascertain from the master how much damage he had sustained; he would say 5s. or 5l., or what not, depending upon the difficulty or the facility of obtaining another person to supply his place, and so the judge would decide for the master or the man. The difference we complain of is this: in the case of the man

proceeding against the master, he can only go against the master before the county court, and get the loss which he has sustained, which may be only a few shillings, because the man would have to prove that he could not get employment elsewhere; he would not only have, as the law stands, to prove that he had been discharged but that he could not obtain employment elsewhere. If the judge should think that he could get employment elsewhere with due diligence, he would give damages to the extent of 4s. or 5s. On the other hand, in the case of the master proceeding against the workman, supposing a man leaves his employer's service, he is taken before the magistrate, and is liable to three months' imprisonment; and men frequently get it, because it is not an unfrequent observation for a magistrate to make, "I do not sentence you exactly for what you have done, but to make you an example for others."

2221. When this man was brought before the county court for having left his service, how would you deal with him?—In the same way as any man would be dealt with who owed a debt. The master would make out his case; he would say, "I employed this man and he has left me; I have sustained so much damage," and the county court would give the damage according to what it thought proper; the man's goods would be liable.

2222. When the man had paid the damages, what would become of the service?—The service should either then be terminated, or should be subject to the decision of the county court judge. I think the county court judge might say, "I order you to pay 5s. for the loss your master has sustained by your being absent, and I order you to return to your service; and, in the event of your not returning to your service, I order you to pay 5l." I mention 5l., because that is the amount mentioned in the Master and Servant Act, as the limit of the wages for which you can sue the master.

2223. When the workman could not pay, what would you do with him, would you send him to prison?—As the law now is, yes; because he would be sent the same as any other debtor.

2224. He would be sent to prison for three months?—No, for 40 days; he would not be sent for 40 days in the way he is now sent; he is now sent for whatever time he is to be imprisoned as a punishment. In the county court he would have to be again summoned, and the judge would have no power to send him to prison unless it was proved that he had money or goods to meet the amount which had been awarded. The power of the county court judge to imprison is given to him as against a contempt of court, and not as a penal infliction for a criminal offence.

2225. Would this man have the power of releasing himself by paying the 5l., or not?—It would be treated just in the same way as any other contract; I would reduce it to a contract; the contract between the two would go before the judge, and the judge would have to decide not the guilt of the man, but he would have to decide on the loss the master had sustained, and give judgment against the man just in the same way as against anybody else.

2226. Would not it be better, then, that the service should be cancelled?—I think the county court judge should have power to cancel the service, as the magistrate now has; I think the county court judge should have the power to say, "You

"You two are not suited to each other, and I cancel the service."

2227. Do you know anything of the practice in the south, in the agricultural districts?—I have had very little to do with agricultural contests.

2228. *Mr. Edmund Potter.*] You object to the use of the term "master and servant" altogether, as I understand you?—I do not so much object to them; I say that they are growing into disuse, and I think it is a good thing that they are growing into disuse. There are men who under the present law are in the position of servants, who are earning their 200*l.* and 300*l.* a year; according to the decision in the Court of Queen's Bench, a calico engraver, earning, perhaps, 500*l.* a year, would come under this "Master and Servant Act."

2229. You would treat labour as you would treat any other commodity, merely as an article to buy and sell?—Yes.

2230. And you would enforce a contract between master and servant in the same way as you would enforce other contracts?—My own view is that the contracts should be enforced in just the same manner as any other contracts; there might be a question whether wages might not be followed where there had been a breach of contract with the employer. At present they cannot. I was talking with a gentleman yesterday who has had vast experience in these matters, and who said that he would have the wages followable to the extent of one third; that is, that the master whose contract the servant had broken, should have the power of giving notice to the other master, with whom the man was serving, to stop a third of the net wages that he was earning.

2231. In the case of a decision by the county court judge, or the stipendiary magistrate, in respect to an unfulfilled labour contract, the county court judge would have the power of ordering payments extending over a certain period of time; he would have the power of saying so much a month should be paid?—Yes, that power is generally exercised with fairness.

2232. After the county court judge had decided that the labourer was a debtor to the master, you think he should have the power to decide the rest of the question?—Exactly so.

2233. *Mr. Gathorne Hardy.*] At present all contracts of labour, unless there is any stipulation to the contrary, are under the "Master and Servant Act," the 4th George 4?—Yes.

2234. Has it ever occurred in your experience that stipulations have been made in a contract between master and servant, that the parties to the contract should not be brought under the operation of the "Master and Servant Act"?—No, it has not; but I have seen this, which is indeed just the reverse; I have seen a list of rules hung up in a factory or mill as long as my arm, against almost every possible offence, against men's smoking or being late, and a variety of other matters, and then at the end that the master shall have the option of either fining the offender, or of taking him under the "Master and Servant Act," or both; and I have known a magistrate send a man to prison after he has been fined under the rules.

2235. Is there anything to prevent a workman entering into stipulations with his employer that his contract shall not be subject to this Act?—My attention has not been drawn to that; but, speaking off-hand, I should say such a stipulation would be lawful; I am not quite certain about it.

2236. Assuming that to be so, then at present the workmen enter into these contracts with their masters with the knowledge that they could enter into a different one?—It is part of the case that the workmen neither know nor sufficiently inquire into their own powers. Theoretically there might be no objection to this Act of Parliament, or any other, because it might be said that the man entered into the contract with his eyes open, and could have entered into others, or could have objected to the stipulations of the contract he entered into; but we do not find it is so, practically; we find that the men will sign almost anything.

2237. Following that point with respect to the rules that are hung up in most factories and in most workshops, do you think there is any injustice to working men in making them a part of their contract, in fact, if their attention is called to them when they enter upon the work?—That is another question to which I must give the same answer as before: to a great extent the workmen do not know what the rules are. It was one of the suggestions I meant to make to the Committee, that it should be compulsory, whatever alterations in the law were made, that a book of the rules should be given to a man on entering his employment; it would not cost any appreciable sum; it would not cost half a farthing; and it would afford evidence of what the contract really was.

2238. But, as I understand you, your objections seem to arise partly from the fact that the workmen either do not or will not know what their rights are?—I know this, that treating one portion of the contract between master and man as criminal begets in the mind of the man a sort of idea (it is not for me to explain it) that everything he does against the master is criminal, so that in a strike which the men have perfect liberty to have recourse to, they are induced to secrecy, and much of their organization is agreed to in secret. I believe that strikes, and a great deal of the wild feeling, and almost savage feeling, which exists on both sides, are rather created by this power of taking up the man as a criminal for a mere breach of contract; and it must be recollected that a greater degree of savagery, if I may use the term, is had recourse to in enforcing these Acts than with regard to any other crime. It not only frequently but generally happens, except in large towns, that the men are taken by warrants, and usually the time when the men are in their beds is selected—and generally they are taken with handcuffs, where they would not be so taken for a larceny. Then they are taken to private houses and tried before the magistrate—no one being present but the master—who is sometimes an intimate friend or relation of the magistrate. I myself trace a great deal of the feeling, which we all regret as existing between masters and servants, to this criminal jurisdiction, and I believe that feeling would not exist if that criminal jurisdiction were done away with and the workman were put in just the same position as any other man. The distinction between master and servant is a monstrous one in the difference of its result to either party. When you proceed against a master for breach of contract, you cannot take him before a magistrate; you take him before the county court judge, and a few shillings damages are awarded.

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awarded. The master may the next day take the man before the magistrate, and may visit him, for a less breach of contract, with three months' imprisonment and hard labour. If the Committee will permit me, I will just give an illustration of that. Some time ago there was a strike at Stockton simply about the length of time the men should work, and the masters finding themselves very strong had recourse to a strike (because a lock-out after all is nothing but a strike by the employers), and they posted up notices that all their workshops would be closed on a particular day, unless the men would agree to work a particular number of hours. At that time there were a number of persons in employ under contract, and a larger number not under contract; but, however, the "Master and Servant Act," the 4 Geo. 4, applied to all of them. This notice so stuck up by the masters was general in its terms, and it was that their workshops would be closed against all labour, so that the men who were under contract were compelled to leave off working the same as the men who were not under contract, and they had to get work elsewhere if they wanted work. After three or four weeks' time the masters, finding they could not maintain the strike, gave notice to the men that they should open their shops again. Some of those men who had been under contract—and several perhaps had gone elsewhere in consequence of those notices—were summoned before the magistrates, and the magistrates decided that they were bound to return to their work. The argument urged on behalf of the workmen was that they had been kept out of work for the last three weeks by the very act of the employers themselves; but it was of no use; the magistrates held that they were bound to return, notwithstanding the stoppage of the contract by the notices which the employers had put up.

2239. Mr. *Edmund Potter*.] Would not the magistrate in his decision be guided altogether by the nature of the contract?—He ought to be; but the language of the contract was positive that the men should go on working till the ship was completed. Those men were stopped in the middle of their work, and then told to come back again, and it was held that they were liable to be punished because they did not come back again.

2240. Had not the master the power of stopping the work according to the contract, and then going on again?—No; it was one of those cases in which a county court judge would have decided exactly the reverse.

2241. Was there not an appeal against that decision?—No, there is no appeal. It is in that fact that part of the evil consists. There is a sort of appeal by demanding a case for the Superior Courts; but this appeal is merely on points of law; and there is the awkwardness that the facts are set out by the very magistrate who has convicted; human judgment, we know, is liable to err; and the facts are not always set out so fairly in favour of the men as one might wish. And there is another thing, the man when he demands a case is bound to produce two sureties to the satisfaction of the magistrates that he will carry the case on to trial. Now, the bail which the magistrates require is pretty much the same as it has always been, namely, two in 20*l.* each, besides the man himself in 40*l.* It is often exceedingly difficult to get two men to be bound in 20*l.* each. Under the Combination Act, if a man appeals to the Quarter Sessions against the decision of the justices, he is only bound to bring two

sureties of 10*l.* together, that is 5*l.* each. There does not seem to be any reason why so large an amount should be required when a case is demanded. Therefore that appeal to the Superior Courts is seldom had recourse to. In this case which I am speaking of, there were nine men; I should have had to find bail for 360*l.*

2242. Could you not have taken a case out, on the conviction of one?—I might, perhaps, have done so.

2243. Where there is a trade's union, would not they find the bail for 40*l.*?—Trades' unions are sometimes very strong, but the strength does not exist in all cases. In this case which I am speaking of, as occurring at Stockton, the trade's union did not recognise the dispute as belonging to them.

2244. Did they find funds for the defence?—No, they did not; my costs were paid by the men of Stockton and not by the trade's union.

2245. Mr. *Algernon Egerton*.] Do you think it would be advisable in such cases as you have mentioned, to give an appeal to the Court of Quarter Sessions instead of to the Court of Queen's Bench?—No; I would myself rather have the appeal to the county court judges.

2246. From the magistrates?—Yes; the county court judges who have received a legal education, are men who are compelled to regard the responsibility of their position.

2247. In a case where the magistrates had awarded imprisonment, and not a fine, do you think the appeal should lie to the county court judge, and not to the Quarter Sessions?—If the criminal jurisdiction is to be retained, I say yes.

2248. In all cases you would have an appeal to the county court judge?—I would like the first proceeding to be before the county court judge; but if the criminal jurisdiction is to be retained, that is, of going before the magistrate in the first instance, I would like the appeal to be to two county court judges sitting, perhaps by themselves, or in connection with the magistrate who decided the case.

2249. Would you have the two nearest county court judges?—I would have them from the nearest courts—two of the judges sitting at the nearest two courts to the place; I would have a day appointed, and let them attend.

2250. Mr. *Gathorne Hardy*.] If the criminal jurisdiction were to be retained, what you propose would be giving a totally new jurisdiction to the county court judges?—Yes; if the criminal jurisdiction were to be retained, then the appeal to the county court judges would simply be in the nature of an appeal from the judgment which had been previously pronounced.

2251. Still it would be a criminal jurisdiction?—Yes.

2252. I suppose in a borough you would not object to the recorder?—No. There was a case occurred a short time ago, in which I am perfectly sure such a jurisdiction would have given a different decision. It was a case which occurred in Dronfield, in Cheshire: some men had been employed to work on an iron chain composed of links, and they had worked till the chain became injured; the chain was taken away, and another was substituted, but the other chain which was substituted was a chain which had been used some three or four months before, and had broken in its work, in consequence of which a man had either been killed or seriously injured; the chain had been spliced since, and on the men being required

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quired to work upon it, they refused. They had no dispute with the employer as to wages or anything else, but they were afraid to work with that chain; they were assured that everything had been done to make the chain safe, but still they were afraid, and they refused to work unless they were provided with another chain. They were summoned before a magistrate, or perhaps they were taken by warrant before a magistrate, at Eccleston, I think. There I urged on their part what I have just stated; but the magistrate held on the evidence given, that the chain was perfectly safe, and in that case we had this remarkable evidence: an engineer was examined, who stated that some of the links would bear, we will say, a couple of tons, and others much weaker, that would only bear half a ton. The magistrate asked him what average the chain would carry; and the witness replied, "A ton." I asked him courteously whether the strength of a chain was not its weakest part; eventually I did convince him that such was the fact; but not till after 20 minutes' tuition. I brought that case in some degree before the Government. Being very anxious about it, I came up to town and sent for Mr. Bazley out of the House, and some other gentlemen. Mr. Bazley said he would take me to Mr. Waddington; I said, "For heaven's sake do not do anything of the sort! I know what I shall have from Mr. Waddington; he will receive me with the greatest courtesy; he will take down two or three particulars from me; he will send to the magistrate, and in two or three weeks time I shall receive the usual lithographed letter, saying that he begs to inform me, with extreme regret, that there is no ground for interference in this case." Mr. Bazley said, "I will try and make a different result in this case"; so I went before Mr. Waddington and told him what I have just stated. He said, "But what is there in this case to take it out of the ordinary category of cases?" I said, "There is this: I pledge myself to this; that the chain which the men refused to work by was defective three months before, and a man was killed, or nearly so, by its defect; I pledge myself to that." "Well," he said, "that does make a distinction, certainly; I will write to you in two or three days;" and he intimated that the men should be released. However, in the course of a fortnight, I got the ordinary letter, and the men were still in prison. That is a case in which a county court judge could not have given that decision. I do not believe the engineer could have given that evidence to a county court judge. The magistrate took it as gospel truth, that one link carrying two tons and another only carrying five hundred weight, the chain would carry an average weight of one ton.

2253. *Chairman.*] The last time you were under examination you said you would consider, before you were again examined, what change you thought might be introduced in the form of procedure before the magistrates, assuming these cases were still to be tried by the magistrates; you have mentioned that you consider there ought to be an appeal to the county court judges; have you any other suggestion to make with reference to the procedure?—I think a servant should, in all cases, have full notice of the charge made against him; at present—under a warrant especially—he has no notice whatever; that I speak to positively; I have frequently been called upon to defend men who have not known what

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it was they were to be charged with. The policeman goes to the man, generally at an untimely hour; the man asks what is the matter, he has perhaps been working up to six o'clock at night; the policeman tells him, "You will know that soon enough when you get into court." In the summons the offence is generally stated to be breach of contract, but what the particular breach of contract is, does not appear. I think there should be served on the man who is charged a written statement of the precise acts he is charged with and the witnesses who are to prove it. I think it is necessary that he should have the names of the witnesses, that he may learn their character and have some idea of what is to be sworn against him.

2254. That you would have set forth in the summons?—In the summons, or in a separate paper.

2255. You are of opinion that what has been suggested to this Committee should be done, namely, that the first proceeding should be invariably by summons and not by warrant?—That is my opinion; then, I think, if the criminal jurisdiction should be retained, and the power of proceeding by warrant also, that no warrant should be granted unless it was sworn by the person applying for it, that the man was likely to abscond, and unless some facts were deposed to such as are required to be sworn to by the "Absconding Debtors Act" before the man can be taken into custody, though he may owe half-a-million.

2256. Would you limit the time for the return to the summons?—I think, at all events, the accused ought to have at least 48 hours' notice; the county court gives ten days' notice.

2257. Is there any limit fixed under *Jervis's Act*?—None whatever; a man may be tried, and is tried the same hour that he is taken; then, I think, that a copy of the rules by which he is to be bound should be given to the workman on entering his service, and should be read to him; all masters are not the same, and in several collieries I know that the rules are read every month; at all events in one or two collieries there are employers who insist upon the men being made to know the rules by their being read to them.

2258. Do you mean that the men are assembled and that the rules are read to the men?—That is what is already done in some collieries, and I would have it universal; there is another thing which I think ought to be done; all cases should be tried in open court, and that court should be the ordinary court where the magistrates meet; sometimes they meet in public-houses; that I do not so much object to, though of course it is very objectionable; but the greatest objection I have is to the magistrates having these trials in their own houses.

2259. There must always be two present, must there not now?—No, only one; in respect to which I would suggest another alteration, that there never should be less than three magistrates.

2260. *Mr. Gathorne Hardy.*] That would be an entire novelty, that would be more than is required for petty sessions?—Exactly so; but I speak from experience I have had, and of one case in particular. I could mention a case where all the magistrates but one were opposed to a conviction; the chairman was for a conviction; the chairman signed the conviction, and the men went to prison.

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2261. That is a proceeding that could have been brought before the Lord Chancellor as a misfeasance?—It could have been brought before the Lord Chancellor; I did not know the facts till sometime afterwards; but, in the meantime, there was a rumour of it; the case came partially under the notice of one of the judges here, and he said he should presume that all that was done was done rightly.

2262. *Chairman.*] In some districts there might be a difficulty in getting three magistrates?—There would be some difficulty; and this suggests the necessity of having a stipendiary magistrate, which would obviate much of the difficulty. At Hyde and other places all the magistrates are, more or less, manufacturers.

2263. Have you any other suggestion to make?—If any general alteration is made, I should say that the men, where their work is tested by weights or measures, should have the benefit of the weights and measures in ordinary use. This is one of the cases in which, theoretically, no harm is done to the men, but, practically, I know that a great deal of harm is done; for instance, there is very often in collieries an arrangement that a ton shall be 23 cwt., or 25 cwt., or 26 cwt., and that a tub should consist of so many cwt., a departure from the ordinary law of the land: a collier assents to that, without considering what he is doing. I would keep them to the statutory weights and measures.

2264. Perhaps you are not aware that that point to which you have just referred has been under the consideration of the Committee on Mines?—I was not aware of that.

2265. Is there any other point with reference to the mode of bringing those cases before the magistrates which you would wish to bring before the Committee?—No; if they are to come before the magistrates, they cannot come better than by summons, the summons containing the entire statement of the case, and a list of the witnesses; and I think, in addition to that, that the man should have the liberty, as he now has under the 17th George 3, with regard to cases brought under the jurisdiction created by that Act, of having a postponement for a week, in order that he may get his witnesses together and have the benefit of such legal assistance as he wishes for.

2266. *Mr. McLagan.*] You mentioned that you knew of two collieries where the rules were read over to the men once a-month; will you name those collieries?—I think one was at St. Helen's; I learnt it incidentally in trying some

other case; I asked the overlooker whether the men knew the rules; he said, "Yes, they are read over there once a-month"; but I speak rather guardedly upon that.

2267. Where was the other?—I am not able to say.

2268. You mentioned the case of a man that was punished by the magistrate after he was fined by his employer?—I cannot recollect when that happened.

2269. Do you know the name of the employer, or the name of the case at all, or whether it was published?—I do not; I know that it was a long time ago; it made a great impression upon my mind; the result has remained on my mind, but the facts have faded from my memory.

2270. Is not it the fact that the use of any other weights and measures, but the Imperial weights and measures, in any contract renders the contract null and void?—I have contended so repeatedly in Durham, but the magistrates were all against me. I should say that the exception, in Durham and Northumberland, is that the statutory weights and measures are used.

2271. Is not it illegal to use any other weights than the Imperial?—I have contended so, and I believe so; but there is reason for doubting whether it is illegal as between persons standing in the relation of master and servant.

2272. *Mr. Gathorne Hardy.*] As I understand you, it is not that they use illegal weights in measuring the coal, but that they throw something into the ton that does not properly belong to it?—Yes.

2273. *Mr. Algernon Egerton.*] Have you had any cases of dispute in Lancashire, between colliers and their masters, with regard to the measurement of the coal?—No.

2274. Such cases have occurred, I believe?—I do not know whether they have occurred in Lancashire; in fact they would not often occur, they would be very rare indeed; but I have known one or two in Durham, where the men refused to work because the tubs were too large, but in those cases it was because the tubs were larger than was provided by their agreement. What I think is, that if the statutable quantities were adhered to, the tubs would be made equable; 20 cwt. is more correctly reached than 22½ cwt.

2275. Do you remember the name of the place where this dispute occurred with regard to the size of the tubs?—Somewhere in the neighbourhood of Thorneby, in the county of Durham.

WILLIAM BURNS, Esq., called in; and Examined.

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2276. *Chairman.*] I BELIEVE you are a Solicitor at Glasgow?—Yes.

2277. And Secretary and Law Agent to the Association of Mine Owners of Scotland?—Yes.

2278. And a Member of the Executive Committee of the Mining Association of Great Britain?—Yes.

2279. Has the subject that is before this Committee been brought before that Executive Committee of the Mining Association?—It was so, just about the beginning of the present Session of Parliament, and before this Committee had been struck.

2280. Was it then that that resolution was adopted which was laid before this Committee,

suggesting certain modifications of the law?—Yes.

2281. Were you present on that occasion?—I was present on that occasion.

2282. And you approved of that modification?—It was I who moved the resolution.

2283. That proposes that an option should be given to the justices, in case of breach of contract, to impose a fine or imprisonment?—Yes.

2284. That is the substance of the resolution?—It is.

2285. That resolution did not touch upon the question of warrants or summonses?—No; but the subject was a matter of discussion among the committee at the time.

2286. Was

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2286. Was no resolution come to upon that point?—None.

2287. It has been suggested to this Committee, that, in the first instance, all proceedings should be by summons, and that a warrant should only issue in case of a man absconding or threatening to abscond; what is your opinion upon that point?—While we did not pass any resolution upon that subject in the Mine Owners' Association Committee, it was discussed, and the general opinion was that the state of the law with regard to that matter might reasonably be modified, but not exactly to the extent that some of the witnesses have suggested.

2288. To what extent do you think it might be modified?—I do not think that a mode of procedure by summons would meet many cases of emergency. My own notion is, that as the master has under the Act to make a certain statement of the case against the party complained upon, and also to make an oath in support of that statement, a distinction might be drawn between cases where the party was about to abscond, and cases where there might be a supposable *bona fides* on the part of the person complained of; it might be a matter arising out of some dispute about wages, or something of that kind; and unless the master was prepared to state in his petition or complaint, and to support it on his oath, that he had reason to believe that the party complained of was about to abscond from the district or country, the summons should be adopted; but if the master was prepared to say in his complaint, and to support it by his oath, that the party complained against was about to abscond, then a warrant should be issued immediately, because obviously a summons in such a case as that would be no remedy. I may illustrate the distinction by a case, or cases, that have come under my own experience professionally. A malleable iron manufacturer in Glasgow had brought from Staffordshire a great number of workmen called puddlers (puddling being the initiatory process of malleable iron making). They were under agreement to serve for a month; we had occasion once or twice to make applications under the statute against some of those men, and we did obtain convictions, but those were followed by the master requesting the magistrates not to send the party to prison upon his professing his repentance and offering to return to his work; however, it ended by-and-bye, in the whole of the puddlers striking simultaneously and giving notice that they were about to proceed from Glasgow to Liverpool by the following day's steamer. Obviously a summons in a case of that sort would have been quite nugatory. We got warrants, and we attempted to apprehend them on board the steamer; we were unsuccessful, they being too strong for the posse of officers. We sent to Liverpool, and, having got our warrants endorsed, we brought back eleven of those men, who were committed to prison under the statute, and for several years we had no occasion to exercise the power again.

2289. How long was that ago?—A number of years ago; it is the most remarkable case that has occurred in my experience as illustrating the necessity of the magistrates having the power to issue a warrant at once. This distinction may be illustrated by reference to our law of *meditatione fuga*. In Scotland, even a civil creditor, if he is able to say to the sheriff, on a complaint made for the purpose, that his debtor owes him such a debt, and is about to leave the country, if he can

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condescend in his relative oath, upon facts and circumstances *prima facie* warranting him in making such a statement, then the sheriff issues a warrant for the apprehension of the party at once.

2290. Is that a power which is frequently acted upon?—Very often. Then the party is apprehended, and if he denies that he is *in fuga*, the complainer is put upon his probation as to the fact; he is allowed to lead evidence to prove the allegation he made in his petition, and oath. If he is successful, then the party complained of must find caution or a bail bond for his appearance at all future diets of the court till judgment is given. That being the state of the law in Scotland with reference to a simple debt, the proof of the existence of which depends, in the first instance, entirely upon the statement of the creditor, I think it is a very strong precedent for retaining in any statute, with reference to the matter now before this Committee, a power in the magistrate under circumstances such as I have been pointing at, to issue a warrant at once.

2291. Practically, are warrants frequently issued in the first instance?—Warrants, I may say, were always issued under the statute, till the passing of "The Summary Procedure Act, Scotland, 1864." There is no option in the Act, the 4th of Geo. 4, itself, between issuing a summons and granting a warrant, and though I understand from report that a practice different from that is followed in England, it never was so in Scotland. By "The Summary Procedure Act, Scotland, 1864," 27 & 28 Vict. cap. 53, cases under the 4th of Geo. 4., and almost under any other penal statute may be brought in a summary way before the court; by it the magistrate is authorised either to issue a warrant or a summons according to the circumstances of the case; and since the passing of that Act the practice has been so far modified that summonses are frequently, or at least occasionally, issued.

2292. The Bill now before Parliament proposes that there should be an appellate jurisdiction?—Yes; there is a Bill before Parliament which proposes to give an appeal to the Court of Session and the Justiciary Court, those being the supreme civil and criminal courts.

2293. Such an appeal would meet the views you have heard stated here?—Very much. I heard the preceding witness speaking of a court of appeal as being desirable; I think such an appeal would meet his views as far as Scotland is concerned.

2294. Do you yourself, from your experience of the jurisdiction of the magistrates, consider such an appeal to be necessary or desirable?—If it could be fenced in such a way as to prevent its running into an abuse, I think it would be very desirable; but I know that many in Scotland feel a strong objection to the proposed arrangement, on the ground that it would be subject to great abuse. They think that there would arise a class of law agents who would encourage appeals of that kind and make a sort of business of them. That is the apprehension in many men's minds in Scotland; and after all an appeal of that kind cannot very well be upon the facts. No doubt by the Bill now before Parliament, it is proposed that the appeal shall be on a case stated by the judge, upon the application of the appellant; but I see great difficulty in creating a very effective appellate jurisdiction in that way to deal with the facts of the case.

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2295. *Mr. Gathorne Hardy.*] The Bill follows the English Act, does it not, in giving the party who is not satisfied with the decision an opportunity of having a case stated for the opinion of the court?—I take it that the Bill for Scotland before Parliament now, is an attempt to assimilate the procedure of Scotland to that of England.

2296. *Chairman.*] From your experience in those cases of the decisions of the magistrates, do you think, with a view to justice, that an appeal is necessary?—I cannot say that I have formed that impression; I think under these and similar Acts an appeal would be very desirable to a higher court, for the purpose of producing uniformity of decision and judgment throughout the various jurisdictions of the country, but I cannot say I would look with a favourable eye upon the proposal to have appeals on cases stated upon the facts, in all those summary proceedings before the magistrates.

2297. Supposing there was no change made in the "Summary Procedure Act of Scotland," and that this Bill now before Parliament did not become law, and supposing it was thought desirable to give an appeal under these Master and Servant Acts from the decision of the justices, where do you think that appeal should lie?—To the Court of Session or Justiciary, if at all; the preceding witness recommended an appeal from the magistrates to the county court judges, who stand somewhat in a parallel position with our sheriffs, but I do think any one would advise an appeal from the justices to the local sheriffs.

2298. You think it would be better to leave it in the hands of the justices themselves?—Yes.

2299. Complaints have been made of the jurisdiction of the justices in Lanarkshire. Have you any reason to believe that cases arising between master and servant, are either harshly or irregularly dealt with by the magistrates in Lanarkshire?—I have no reason to believe so. From my own experience, I would rather say that the magistrates deal more leniently with the parties than a legal judge would. I am quite certain that if a workman were brought before some of our sheriffs at Glasgow, in place of being brought before the justices of the peace, he would be dealt with much more stringently than he is.

2300. You do not believe that there is any failure of justice through ignorance of the bearings of the law of contract on the part of those justices?—I may say I have a general objection to the jurisdiction of unpaid magistrates altogether, arising from their frequent want of knowledge of the law, but since such a jurisdiction exists, I have no particular reason for supposing that there is a failure of justice before the justices of Lanarkshire, any more than elsewhere; I have heard generally the statements made with respect to the justices of Lanarkshire, and I must say that I would look upon those statements as a gross calumny.

2301. Does your experience of the administration of justice, by the justices, extend to other parts of the country?—No; I practice in the courts of Glasgow, Airdrie, and Hamilton, which form the lower and middle wards of the county of Lanarkshire.

2302. You object, theoretically, to unpaid jurisdiction; would you think it desirable in these cases to make a change, and to transfer the jurisdiction under the Master and Servant Acts, from the magistrates, to any other person or body?

—Wherever there was a stipendiary magistrate, I should think he would be the proper judge to deal with these and all similar cases.

2303. In Scotland, would you transfer the jurisdiction from the magistrates to the sheriff?—There might be practical difficulties in that, because there would be a difficulty in bringing parties from a distance to the courts of the sheriffs; and there is another practical difficulty, that probably many of the sheriffs have quite enough to do already. The Committee may perhaps be aware that our sheriffs are judges, with almost universal jurisdiction; they have jurisdiction in civil cases up to any amount, and in criminal cases in a great variety of crimes, besides having ministerial duties to perform; and without some alteration in the constitution of the courts, to transfer entirely from the justices of the peace to the sheriffs, those cases between master and servant, might be very inconvenient. At the same time there are localities in which the local sheriffs are not so very fully occupied with other business, but that they might be able effectually to act in the matter.

2304. *Mr. Gathorne Hardy.*] Do you express that opinion as having practised before a stipendiary magistrate, or is it only a general opinion in the favour of a legal assessor instead of a layman?—We have not in Scotland any stipendiary magistrates in the strict acceptation of the term, but our sheriffs, having criminal jurisdiction, and all other jurisdictions, stand in such a position as to enable us to make the comparison. The fundamental defect of unpaid magistracy is, in my opinion, that the legal portion of the business falls upon the assessor or clerk of the Justices of the Peace, so that the responsibility is, in a considerable degree, divided; the justice rests the responsibility upon his clerk, and the clerk being merely the party drawing the wires behind, does not feel the responsibility; that I look upon as the most serious defect in the constitution of such courts; but I think any statement that the magistrates in the county of Lanarkshire, for example, do not do their duty to the best of their ability, is not warranted.

2305. *Chairman.*] Have you any suggestion to make as regards the taking of evidence in such cases before the justices?—No, I cannot say that I have any suggestion to make upon that point; but with respect to the issuing of a warrant or a summons, and the conduct of the case, apart from the punishment or judgment to be pronounced, I think these cases between master and servant are eminently cases in which the law of evidence with regard to quasi-criminal proceedings should be assimilated to the law of evidence in civil proceedings; that is to say, that a party accused under the Master and Servant Act, whether the existing Act, or one substituted in its place, should be permitted to be examined as a witness. It must be very often of the greatest importance for the purpose of arriving at the true state of matters that he should have that privilege.

2306. It has been suggested to-day that the circumstances of the breach of contract complained of should be set forth either in a separate paper or in the summons itself; do you think that would be desirable?—Wherever the case was to be dealt with by summons I would take it for granted, looking at the mode in which we transact business in Scotland, that the summons would contain a copy of the complaint containing a statement of the case. We have scarcely such a thing as a summons or citation that does not embrace



embrace in itself the elements of the case that is to be tried.

2307. Would you limit the time within which the summons should be returnable?—I should say two or three days.

2308. Forty-eight hours as the minimum?—Yes.

2309. Have you any suggestions to make as regards costs in cases of acquittal?—I know it is matter of complaint that though parties sometimes are acquitted after having been taken away from their employment, and probably put to some expense in travelling, and in employing a legal gentleman to defend them, they are not allowed any costs. I think it should be in the power of the magistrate trying such a case in all instances of acquittal to award costs, including those travelling expenses, dependent, of course, on the circumstances of the case, because there might be an acquittal under such circumstances that the court would not think it necessary to allow costs, as often happens in our other courts.

2310. Witnesses before this Committee have spoken of the system of arresting wages in Scotland under the Common Law; what is your opinion upon the policy of arresting wages in such cases as those of which we are speaking?—I understand that the suggestion is to give a master the power of arresting the future wages of a workman in payment of any penalty or fine that might be inflicted or damages that might be found due in a case of this description, combined with a proposal to abolish altogether anything in the shape of imprisonment. I understand the arrestment of wages is a proposed substitute for imprisonment.

2311. I think it was put as an option?—Taking it in that way, it occurs to me, from the consideration I have given the subject, and from the discussion that took place between myself and the practical gentlemen of the Mine Owners' Committee, that the proposal to strike out altogether the element of punishment in such a law as this rests upon a fallacy: that the object of such a law is not so much (and it does not profess to be a law for such a purpose) the recovery of loss or damage that may have been sustained by the master, *post facto*, but that it is intended as a precaution against breaches of contract, and thereby the preservation of the necessary subordination and discipline, generally speaking in large works or establishments; so that if there be anything in the principle, there must be always in any law intended to carry it out, a certain punitive element, and the moment you convert the whole thing into a mere money question, of damages for loss, to be recovered by a civil process, you lose sight of that punitive element, and of the influence *a priori*, so to speak, of the law, upon the relation of master and servant.

2312. That answer is given upon the assumption that the punitive character, or the criminal jurisdiction, was to be done away with in any amendment of the law; but assuming that the resolution passed at that Executive Committee of the Mining Association of Great Britain were to be adopted, that would leave an option to the person before whom the case was tried of awarding criminal punishment?—It would.

2313. Giving that option to the justice, should you be in favour of his having the power of arresting wages prospectively in payment of any fine that he might award?—I might say in the

first place, I would not be in favour of any avoidance of imprisonment, unless upon the payment of a fine into court at once. The attempt to follow out a process for the recovery of a fine, either by arrestment or any other civil process, would in ninety-nine cases out of a hundred be entirely nugatory.

2314. Is this power, which exists in Scotland, and does not appear to exist in England, of following wages under these Acts, acted upon?—It is to a certain extent.

2315. Will you explain what the process of arrestment of wages is?—It is a right that exists in every creditor holding a decree or judgment to attach the funds or moveable property of his debtor in the hands of a third party. Having obtained his decree, he then proceeds, by a process which we term forthcoming (that is to say, making the subject forthcoming), to call the party holding the funds or moveable property into court, to ascertain what he has, in order that it may be paid over in liquidation of the debt. But besides having the privilege of arresting in this way upon a judgment or decree, the creditor, in the general case, has the further privilege of using such power of arrestment upon the dependence of any suit; that is to say, along with the writ or summons for bringing the parties into court in a civil case, there is combined a warrant to arrest, so that the subject arrested remains in the hands of the third party till the issue of the suit and judgment is given. That is a right belonging to all civil creditors; but it is limited in the case of workmen's wages by statute: for example, the statute constituting our Small Debt Sheriffs' Courts, 1 Vict. c. 41, s. 7, which declares that workmen's wages are not arrestable, except so far as there may be a surplus after what is requisite for maintenance, and the statute 8 & 9 Vict. c. 39, which abolishes arrestments of wages on the dependence of Sheriff Small Debt actions. Practically, it comes to this, that in some courts where forthcomings are brought on arrestments against workmen's wages, the court awards to the creditor half the wages. In other courts a more fluctuating rule is followed, more favourable to the debtor. As to the character of this remedy, I believe that very few in Scotland would say that there should be any interference with it in the ordinary case of debtor and creditor; in short, we look upon it as a facility peculiar to our legal forms; but with regard to the arrestment of workmen's wages I believe the large majority of people in Scotland are entirely against it, for this reason, that it is a thing that induces the workman himself to deal upon credit, because the party furnishing him with goods has this peculiar facility in recovering his debt. On the one hand, it leads the shopkeepers or other dealers to give those facilities of credit upon the expectation of recovery; and, on the other hand, it leads the workman to get into debt, and, having got into the books of the shopkeepers, he very often finds it a difficult thing to get out of them; besides that, there is all the trouble and annoyance that arises from the proceedings for the recovery from the masters of those sums which are arrested. They must keep the money in their hands; they must keep exact accounts of the arrestments, and they must appear in court to exhibit their books, and state the condition of the debit and credit between them and the men, and so on. And without going much further into the thing, I may say that there did prevail until

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recently a system of dealers carrying on sales by what were termed clubs; that is to say, a workman entered into a club with many others, and he paid in, we will say, the sum of a shilling a week into the dealers' hands, upon the faith of which he got credit. Some people about Glasgow carried on a very enormous business of that description; indeed, so extensive that they were actually in the practice of keeping sheriffs' officers in their own employ for the purpose of carrying out those arrestments and the necessary proceedings upon them; and it was no uncommon thing to have hundreds of cases of that kind upon the roll of the Sheriffs' Small Debt Court in a single day; I believe that there is no part of our procedure that has been more animadverted upon than these arrestments on small debts, and that it would be an anomaly to give to a master a power of recovering any pecuniary claim against a servant in that way, which is considered so objectionable in the hands of everyone else.

2316. That is a power which you would not recommend should be allowed in any alteration of the law?—It is.

2317. Would you go the length of advising that this Committee should recommend that that power which now exists at common law should be abolished?—If that is a matter which is within the reference to the Committee, I would have no hesitation in saying yes.

2318. You think that the evils are so great attending it?—Yes, I think that the evils are so great that they completely overbalance the benefits.

2319. Mr. *Edmund Potter*.] Would it not be a great bar to a man's getting employment if it were known that his wages were likely to be arrested?—Yes; besides the evils that I have spoken of there is that to which you have pointed; and so annoying are these arrestment proceedings against workmen, miners and others, that when once a man gets into that position that his wages are arrested, it generally ends in his leaving the locality and going elsewhere.

2320. *Chairman*.] Have you had any experience of the working of what has been called the "minute system," in Scotland?—At second-hand; acting as legal adviser of a section of the associated mine owners in Scotland, and for many of them individually, I have had occasion to hear from them upon the subject, and I have also corresponded with them upon it. It is a misnomer to call the thing a minute contract, it is a day contract.

2321. Is the system extending?—Yes.

2322. From all the evidence given before this Committee, it appears to work satisfactorily to both parties; as far as you have been able to hear anything with reference to it, is that your opinion also?—I understand that evidence to that effect has been given to the Committee, but I find a contrariety of views among employers upon that subject; even among mine owners I find those who think it is desirable to maintain a system of warnings, of a fortnight or a week, as the case may be, and who actually do maintain them; for instance, the great firm of Messrs. Baird & Company have that system of fortnightly warnings with their men, and there are others in the same position. Then I find that it is the exception, where in a large work, such as a colliery, the officials, as they may be called, such as the furnace-man and the engine-man, are not under some sort of contract.

While in some works they have abolished contracts beyond the period of a day, in the case of their common workmen upon whom nothing very important depends, they retain the contract to the extent of a week or a fortnight, or a month, with those responsible workmen. And I find in the iron works, properly speaking, the system of contracts for a week or a fortnight still subsists; I do not find any modification of it among them.

2323. As far as your experience goes, may we take it to be the fact, as has been stated to this Committee, that this system of daily contracts is very prevalent in Scotland?—You may, I think, take it so.

2324. That it is extending, and that where it exists it appears to work satisfactorily, both as regards the employer and the employed?—I am unable to dispute that as regards miners, with the qualification that it must be applied to the ordinary workman. I cannot speak as to other departments of business.

2325. Such a system must naturally tend, must it not, to simplify all these matters of contract, and to render, practically, the law which we are now discussing a dead letter?—I cannot see that; whether the contract be for a month, or a fortnight, or a day, there is still a contract between the parties.

2326. Are those contracts for a whole day?—Yes, I understand so; nobody, so far as I can learn, would think of employing a man by the hour, on the supposition that he was at liberty to leave his work when he pleased.

2327. So that the term "minute contract," as used before this Committee, is a misnomer?—It is a misnomer, and therefore, suppose all contracts were reduced to a day, and the Act 4 Geo. 4 remained in operation, it would still affect those contracts. If a man agrees to work with me to-morrow, he may put me to very great loss and inconvenience if he does not come; he is then failing to fulfil the contract he has made with me. Again, if he does come, but misconducts himself in the execution of his work during that day, the terms of the Act being "misconduct or misdemeanour in the execution of his contract," he is still liable to the statute.

2328. One may conceive cases where a man might be tempted to break a fortnightly contract, where he would not break a daily contract, because he would know that at the end of twelve hours he would be free, and therefore, under such a system, there would be, would there not, fewer breaches of contract?—So far as the mere breach of contract is concerned, I believe, practically, short contracts may have the effect your Lordship refers to.

2329. They must naturally have that effect?—They must naturally have that effect, but the other elements in the statute remain, "misconduct and misdemeanour in the execution" of the contract.

2330. Do you know anything as to the alleged confinement in cells under this Act; can you speak as to the practice in that respect?—I never heard of such a thing under the statute, and in cases in which I have myself been engaged, I have often considered it rather a hardship that I was obliged to pay an officer for residing in an hotel, or other place of accommodation, with his prisoner, for a night and a day; we never dreamt, under the old system, that a man could be confined till he was convicted; but I may explain that, under the "Summary Procedure Scotland

Scotland Act," there is a power given to the magistrate, in case of an adjournment of the proceedings, to issue a warrant for the detention of the party until the next hearing, or until he finds caution or surety for his appearance, and I am led to believe that, since the passing of that Act, and under the powers so given, where the party has failed to find surety for his appearance, in case of an adjournment, there have been instances of confinement in prison; I do not know in what particular way.

2331. It has been stated that the almost invariable practice has been to use handcuffs; do you believe that to be the case in Scotland?—I do not believe a single word of it; I never heard of such a thing, and I may state with confidence that, if under the old Statute, and before this power which I have just referred to in the Summary Procedure Act was given, any man had been imprisoned before he was convicted, he would have had a good action for damages, and he would have found plenty of law agents to follow it up; and much more would that remedy have been open to the man if an attempt had been made to manacle him.

2332. So that, as regards imprisonment before conviction, if there is any, it arises not under the Act which we are here considering, but under the recent Summary Procedure Act of the year 1864?—Quite so.

2333. And that imprisonment does not apply to cases of servants breaking contracts more than to any other case which can be brought under the Act?—So I understand the Act.

2334. That Summary Procedure Act is the general Act applying to every description of case?—It covers the mode of procedure in the case of almost every conceivable statute relating to penalties and small crimes; in short, as its name indicates, it points out a summary mode of procedure with reference to matters in which formerly it was troublesome and expensive.

2335. Has your attention been drawn at all to the special rules which are hung up in mines, for the guidance of those employed therein, and have you any remarks to make upon that subject?—Yes; my attention has been specially called to those rules, seeing that I had a very active hand in the framing of them. I mean the rules as they now exist, almost entirely throughout Scotland, wholly in the west, and I think generally, elsewhere. Those rules are framed under an express provision of the Mines Inspection Act, and when they have been hung up a certain time, in order to allow the workmen an opportunity to object to them, they are transmitted to the Secretary of State, and if he approves of them, they become, by adoption, a portion of the Mines Inspection Act itself. I believe it has been suggested, that the existence of those rules, becoming statutory in the way I have referred to, supersedes the necessity for any general law, as regards master and servant. That strikes me as a very strange mode of attacking the existing law, or any general law, because it suggests the question, why should people employed about mines be treated in an exceptional manner? If it was right, that in 1860 the Mines Inspection Act should be passed, which authorised the existence of such special rules, the procedure under which is of a quasi criminal character, it would be a strange anomaly, to say that no other kind of workmen, throughout the country, were to be subject to

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anything of the same description. I make that remark in passing, for it is important to notice that the Legislature has sanctioned a law of a similar kind to the existing law of master and servant, with reference to workmen in mines, so recently as 1860; and there is also one element in those special rules, which must strike any one very forcibly, namely, that they do not apply merely to ordinary miners, but to all the officials employed about the colliery, up to the underground manager. The underground manager may be a man of very considerable position in the colliery, but he is liable to be brought up summarily under the statute and imprisoned for a breach of those special rules. If that be a defensible law with regard to such people as those, it seems a strange argument to put it forward as a reason why the general law should be abolished. But, apart from that, I do not think that those special rules, even as regards the department of mining, are calculated or intended, or fit, to supersede the general law: they are framed under a section of the statute which limits the extent to which the special rules may be carried: Section 11 says, that "In addition to the general rules, there shall be established and observed in every coal mine or colliery, or ironstone mine, such other rules (hereinafter referred to as special rules) for the conduct and guidance of the persons acting in the management of such coal mine or colliery, or ironstone mine, and of all persons employed in or about the same." Now I apprehend, if it had been attempted under that enactment to introduce into those special rules for the collieries the power of punishing men for misconduct or misdemeanor, in respect of a breach of contract; for example, an engineer not coming to his work under his contract, it would have been objected to by the Home Office at once as not within the purview of the statute. I can scarcely figure to myself any case in which it is more important that regularity should be observed on the part of the officials engaged in any large business than a mine; there is, for instance, the fireman, who must come in the morning and examine all the working places before the men begin to work; there is the pit-head man, upon whom rests especially the regulating of everything at the pit head; there is the engineman, who must work the engine, otherwise everything stops; there is the furnace man, who must keep up the furnaces, and there is the underground manager. Now those parties may be under weekly contracts, or fortnightly contracts, or the contracts may be shorter, but I apprehend that the offence of their remaining away would not at all fall within those special rules. I am very doubtful if the offence of going away would fall under any of them; certainly such an offence as intimidation of their fellow-workmen would not fall under them.

2336. Would intimidation of fellow workmen come under the Master and Servant Act?—I have no doubt of it, as misconduct or misdemeanour; I have not had occasion to see it tried; but it is a misdemeanour or misconduct in the execution of the contract, he being hired to work with other men, and we may suppose that the intimidation would be for the purpose of inducing the men to stop work. If those special rules and the criminal procedure under them be justifiable, that is an argument in favour of retaining the general law of master and servant rather than the reverse; the procedure being this: the statute first of all

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deals with officials, and then proceeds to deal with the workmen, as follows: "And every person other than aforesaid employed in or about a coal mine, colliery, or ironstone mine, who neglects or wilfully violates any of the special rules established for such coal mine, colliery, or ironstone mine, shall for every such offence be liable, upon a summary conviction for the same, before two Justices of the Peace, or in Scotland before the sheriff having jurisdiction in the county or place where the offence is committed, to a penalty not exceeding 2*l.*, or to be imprisoned, with or without hard labour, in the common gaol or house of correction for any period not exceeding three calendar months." That is a *quasi* criminal procedure similar to that under the 4 Geo. IV., though it is not quite so stringent, and the penalty to be inflicted under the Mines Inspection Act is nothing to the damage and injury which one of those responsible men to whom I have referred might occasion.

2337. Mr. George.] It is optional with the magistrate under the Mines Inspection Act to fine the offender or imprison him?—Yes, I was going to call attention to that; the option is given to the magistrate to fine or imprison, and with or without hard labour, as he sees cause. I think the defect here is, that while a penalty is directed to be inflicted, there does not follow the alternative, that if not paid the party shall be imprisoned; I have noted upon my copy of the statute that very remark: "At the end of this there should be a clause, 'and on failure to pay or find sufficient caution or surety for payment of the penalty, then to be imprisoned, but without hard labour, for any period not exceeding three months.'"

2338. Chairman.] The limit to the pecuniary penalty is 2*l.* in the "Mines Inspection Act"?—Yes.

2339. Under the "Masters and Servants Act," what limit would you fix to the penalty?—That is a point to which I have not specially directed my attention; but, generally speaking, my impression is against a too particular definition of what the magistrate is to do, and therefore I would make the penalty considerable, not exceeding, perhaps, 10*l.*, or something like that; or you might make it even larger, giving more discretion to the magistrate, to deal with every case according to its circumstances.

2340. Are not the cases intended to be met by those regulations to which you have just referred, under the Mines Inspection Act, cases of men deserting their duty in very important posts; the desertion of which duty might entail very serious loss to the employer, and injury to their fellow-workmen?—I have never known cases of such desertion.

2341. They might occur, might they not?—Yes.

2342. Yet the penalty fixed is 2*l.*?—Yes.

2343. Why would you in the other case fix the penalty at so much larger an amount?—Because the penalty in the Mines Act is a great deal too small.

2344. Besides the defect to which you have already referred, that appears to you to be another defect, that the penalty fixed at 2*l.*, is too small?—Keeping in view that these are not laws for the purpose of recovering damages, but for the purpose of producing discipline and subordination, and that the master does not get the penalty, it is merely punitive.

2345. Mr. George.] What becomes of the penalties?—They go into Her Majesty's Exchequer. Under the Mines Inspection Act, you are not to measure the penalty by the *ex post facto* appearance of damage that may have arisen.

2346. Chairman.] What do you think should be done with the fines in such cases, under the Master and Servants Act; would you propose that they should likewise go to Her Majesty's Exchequer?—I do not think that any master would seek to participate in them, looking upon them in the light that they are punitive. It has been said that the recovery of the penalty by distress, as you call it in England, or pointing as we call it in Scotland, would be a harsher remedy than arresting future wages; I doubt that very much; I would suppose a man would rather pay his penalty by distress than be liable to be pursued with arrestments against his future wages wherever he went. But the men themselves should be the best judges of this. Then another point has been suggested, as I understand, with reference to giving the magistrate power to make any sum awarded payable by instalments. That immediately loses sight of the punitive character of the remedy given to the master, and makes it a mere recompense for the injury sustained. I think it would be an anomalous thing to make such a debt recoverable by instalments. The principle upon which such a power is exercised with us is, that the court is dealing with a man who has *bona fide* got into debt, and who is unable to pay, by reason of some fortuitous circumstances, such as want of employment or something else, and for that reason the judge deprives the creditor of his constitutional right of enforcing immediate payment, by saying it shall be by instalments; but when you come to look at the exceptions to that principle, such as a debt for rent, in which no allowance is ever made, you see at once the distinction, viz., that a man may fairly be allowed an opportunity of paying a debt incurred under ordinary circumstances by instalments, but if he is a person who has wilfully violated a contract, or committed misconduct and misdemeanour, and become thereby subject to a penalty, he is not entitled to come under that principle. That suggests the remark, that in determining the aggravated or limited character of an offence, you are not to wait until the consequences of that offence have been ascertained; because in one case an engineer may misconduct himself, for example, in the management of his engine, thereby running the risk of subjecting the master and all those employed in the works to loss of life and serious damage; but by the merest accident, some subordinate man who has been looking on, and who has learnt by observation how to manage the engine, averts the consequences; whereas, in the next case, the same thing happens, and nobody is at hand to supply the engineer's place, the consequence of which is that damage ensues to property and life; but in a punitive point of view, those two men are guilty of the same misconduct. It is a mere accident that great damage is done in the one case, and none in the other, and you ought to deal with them apart from that element of loss and damage. I have made that observation because I have heard it suggested that the punishment should be founded upon the loss and damage.

2347. Is not it the fact that the element of damage is the foundation of the law with respect to

to breaches of contract, seeing that in nine cases out of ten the reason why the master wishes the contract enforced is because by the non-performance of that contract damage arises to him?—Yes; but damage may be averted, as I pointed out, fortuitously.

2348. You urge very strongly retaining, as a rule, the punitive character of the remedy against the servant; why, in cases of breach of contract between master and servant, if the injury to the master is one of damage, would you retain the punitive character of the remedy more than you would in any other breach of contract where a person fails to deliver goods or fails to perform any other duty that entails loss and damage on the person who has covenanted for those things?—There are different reasons for that; the most obvious one that presents itself to one's mind is, that where a master, for example, fails to carry out a contract with the servant, the loss or damage is certainly quite a subject of civil claim, and in 99 cases out of 100 may be recovered by civil process; but in the case of a servant failing to perform his contract with his master, in 99 cases out of 100, supposing the remedy were resolved into one merely civil, the loss never would be recovered. I think that makes an obvious distinction between the position of the master and the servant.

2349. You make the remedy punitive or criminal as regards the servant, because you say the circumstances are different?—Yes, that is one consideration.

2350. That distinction would rest solely upon the question of injury or damage?—If you are treating it merely as a question of injury or damage, that is probably the way to put the case. If you treat the question between the master and the servant wholly as one of injury or damage, then the reason I have just pointed at is a sufficient reason for distinguishing between the modes of recovery of the penalty, the offender being liable to imprisonment in the one case and not in the other.

2351. May not a master at present, under Jervis's Act, be imprisoned?—I do not know anything about Jervis's Act; it is, I understand, an English Act entirely.

2352. The state of the law as laid before this Committee is, that in the event of a master not having goods wherewith to pay, he may be imprisoned under Jervis's Act?—That leads me to make the remark, that I would see no objection (and I do not suppose any of the masters with whom I come in contact would see any objection) to making any damage or loss that a servant could recover against him for breach of contract, recoverable by imprisonment, if necessary, which would just be in effect to that extent suspending the operation of the statute abolishing imprisonment for small debts. That would be the result of it. I think it is quite reasonable, that if a servant cannot recover his damages or wages otherwise, he should have that remedy.

2353. Do you believe that the present state of the law causes the existence of bad feeling between master and servant generally?—I do not believe it.

2354. Do you believe that servants are aware of the state of the law?—I believe that they are perfectly aware of the state of the law; they have abundance of advisers anxious to make them aware of it.

2355. And you think that the discontent does  
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not arise from themselves, but rather from those who advise them?—I think so.

2356. Still, those resolutions which were passed at the meeting to which you have already referred, at which you were present, pointed to the opinion on the part of the masters themselves, that the servants had grounds of legitimate complaint?—Cases of hardship have arisen among the men which have given rise to that complaint. I may say, that where cases have come under my notice, in practice, the anxiety of the magistrates and the anxiety of the masters has always been, unless in very aggravated cases, to modify the action of the statute; and therefore it is not at all surprising, when the matter is now made a subject of inquiry of this kind, that such gentlemen as the mine-owners should follow up that feeling by pointing out voluntarily what they consider to be the excessive stringency of the statute.

2357. To revert to the question of the jurisdiction of the magistrates, do you think it desirable that all such cases should be tried before not less than two magistrates, and, instead of at their private houses, in open court?—There is a practical difficulty in a court constituted of two judges, because, in case of difference of opinion, the jurisdiction becomes nugatory. The only remedy for that would be, if the number is to be increased, to make it three.

2358. Do you think there would be any practical difficulty in obtaining three?—I am afraid that to obtain the attendance of three justices in thinly-populated districts might be a difficulty; there would be no difficulty about it in a place like Glasgow. Then, as to the place of trial; I certainly, as a professional man, have always been in favour of publicity in every case of the kind, and where at all practicable, that the trial should be in the open and ordinary court, in place of any private residence; and yet I can conceive of cases where that would be very inconvenient, if not impracticable, the court house being at a distance from the place where the offence has been committed.

2359. Mr. *M'Lagan*.] The great complaint that has been made against the law of master and servant is, that the parties are placed in unequal positions; that is to say, the law enacts that the servant shall be prosecuted criminally, while the master can only be proceeded against civilly; would you have any objection, in any alteration that might take place in the law, to their being placed on an equal footing?—As I have stated in answer to the Chairman, I see no objection to any claims by the servant against his master for breach of contract being recoverable by imprisonment, failing immediate payment.

2360. I think you mentioned that you would have no objection to the law being altered to this extent, that the servant should be summoned before a warrant was issued?—I have endeavoured to explain that I think, in very many cases, the proceeding by summons might be fairly adopted where there was no reason for supposing that the party complained against was about to flee from the jurisdiction, but that the power to issue a warrant *de plano* should remain with the judge, where circumstances are set forth amounting to *prima facie* evidence of an intention so to flee.

2361. You would have no objection to the law being altered to the same extent as regards the master if he meditated flight?—No objection whatever.

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2362. You

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## THOMAS PART, Esq., called in; and Examined.

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2389. *Chairman.*] You have, I believe, been Clerk to the Borough and County Magistrates of Wigan between 30 and 40 years?—I have.

2390. And you have been Clerk to and Registrar of two Courts of Request, and county courts, which were converted into county courts afterwards?—Yes, for nearly the same period.

2391. You can speak, therefore, to the way in which the Master and Servant Acts work, so far as regards the jurisdiction of the magistrates?—I can speak to it so far as the comparatively few cases arising in our district have enabled me.

2392. You have not had many cases before you?—Not many, considering the extent of the population, and the number of works in the district.

2393. Have you turned your attention to the question whether it is advisable that cases arising under those Acts should be tried before the magistrates?—It has formed a subject of consideration with me often, and I am strongly inclined to think that it would be advisable to retain the present tribunal as it now stands, retaining the option which now exists of either having recourse to the magistrates or to the county court.

2394. Do you mean that there is that option under the "Master and Servant Act"?—By the common law, for a breach of contract, a servant can bring an action against the master for the loss he has sustained; he can bring an action for the recovery of his wages, or he can summon him before the magistrates.

2395. Has the master the same option?—In the case of the master, he would most probably not have recourse to the common law, he would have recourse to the magistrates.

2396. You say there is an option on the part of the man; would you, in the case of the master, propose any change in the law, so as to give an option, as regards the enforcing of contracts, on the part of the employer against the employed?—I do not think it is called for, or that it would be for the interest of either master or man. Supposing a question of breach of contract arose between master and servant, and the master complained of something the man had done, he would have an immediate remedy by application to the magistrates; there would not be a delay of more than a week at the outside; whereas, if he were to have recourse to the county court, there would be a delay of at least a month, and during that month the man might be kept in suspense, and probably have to remain idle and debarred from obtaining other employment.

2397. Have you heard the evidence given before the Committee?—I have heard a good deal of it.

2398. Are you prepared to suggest any alteration in the law or any change in the jurisdiction?—I think it would be desirable in all cases, except upon a special declaration that there is a necessity for a warrant, that a summons should issue in the first instance; that has been the invariable practice in my office ever since I began to act as clerk to the magistrates. I have never issued a warrant in the first instance unless there has been some special reason for it.

2399. It has been suggested that an option should be given to the justices to award either fine or imprisonment, according to their discre-

tion; would you approve of such a change?—I think that it would be a very great improvement, and I think a fine should be in the first instance awarded, unless the magistrates be satisfied that in their own judgment it was an aggravated case, calling for imprisonment.

2400. Would you think it desirable to give any appeal from the decision of the justices?—Yes, I think there ought to be a power of appeal.

2401. To whom?—To the Quarter Sessions.

2402. Complaints have been made of justice failing, through ignorance on the part of the justices, and through sympathy, on their part as employers of labour, with the prosecutor; do you believe that there are any grounds for such complaints?—No, I think not, so far as my experience goes. I think, in the interest of the workman, it is advantageous for him to have a practical man on the bench, because he is able to understand the technical details that may arise in the case that may be brought before him. I have often known instances of judges in the county courts, from want of practical knowledge, not being able properly to apply the evidence. Nine cases out of ten that come before the magistrates turn not upon any question of law, but upon questions of fact.

2403. In case of a breach of contract on the part of a collier, you would think it desirable that a coal-owner should sit upon the Bench (not of course his employer), on account of his practical knowledge of all the technical details of the working of the mine; you think he would be better able to give judgment on such a case than a county court judge?—If it were a mere abstract question of breach of contract that did not involve any question of practical working, probably it would be more satisfactory to all parties that the Bench should consist of magistrates not employers of labour in the same trade; but so many cases involve questions of practical detail which a person conversant with the trade can alone thoroughly understand, that I think, on the balance of good and evil, the advantage is in favour of having men conversant with the trade who are not personally interested in the question.

2404. Though generally in favour of issuing a summons first, you would, as I understand you, approve of a discretionary power resting with the magistrates of issuing a warrant, which, I presume you would think, would be upon a statement of fact, upon oath being tendered to him by the person seeking the warrant, that the person against whom the complaint was lodged was likely to abscond?—Yes; I should certainly guard it by the necessity for an information upon oath before the magistrates, stating the grounds why a warrant ought to be issued in the first instance.

2405. Would you recommend that the summons should set forth in all cases the grounds of complaint?—We always do set forth the general nature of the complaint in the summons, though the details are not given.

2406. Would you limit any time for the summons?—It would be desirable to put some reasonable time as the limit within which the summons should issue, provided the party could be met with. The police should exercise due diligence, but if the party could not be met with, the summons should remain in force. I would not allow

an offender to escape by keeping out of the way.

2407. Would you suggest that such cases should in future be tried before more than one magistrate?—I think it would be desirable that such cases should not be tried before less than two magistrates.

2408. Would you have such cases tried in Petty Sessions, or in some public place?—In some public place, certainly; in all cases of summons I would have them heard in Petty Session, but in cases of warrant, where the liberty of the subject was interfered with, of course it would not be desirable to wait till a Petty Session was held, if two magistrates could be got to attend.

2409. Would you require the presence of two magistrates on the issue of either a summons or a warrant?—One magistrate would be sufficient; generally speaking, the issuing of a summons or warrant is a mere ministerial act; I would make no change in that respect.

2410. Have you any other suggestions to make with reference to the form of procedure, assuming the jurisdiction to remain as at present?—No, the tribunal works with us very satisfactorily.

2411. Mr. George.] Do you set out on the face of the warrant the nature of the charge?—Yes, in much the same way as in indictment.

2412. Sufficient to inform the workman of the nature of the offence?—Certainly; it is my practice to state the offence in the warrant, in the same way as in the information.

2413. Assuming the option of imposing a fine instead of imprisonment to be given, what limit would you put to the amount of the fine, or would you put any?—I think it is undesirable to subject parties to too heavy a fine; where it was an aggravated case imprisonment ought to take effect at once. I do not think it desirable to put the fine at a higher amount than 5 *l*.

2414. Mr. Potter.] Would that be enough to meet all cases?—My experience leads me to think that a larger fine would necessitate men going to prison for default of payment; 5 *l*. is a large sum of money for a workman.

2415. Do not you think that it might be necessary to call the Act into operation, in the case of some of the higher class of workmen, in whose cases a fine of 5 *l*. would not be a sufficient remedy?—I think it is very seldom that the Act is required to be put into operation in the case of the higher class of workmen.

2416. Do you not think that it might be necessary to impose a higher fine than 5 *l*., in order to prevent men being bribed to leave their employment?—I think where a man was open to receive a bribe to leave a particular employment, it would be better that he should leave that employment. I think heavy fines defeat themselves very often.

2417. Would you see any danger in putting the limit at 10 *l*.?—I think the cases in which that limit might be gone to, if adopted at all, ought to be special cases, and specified in some way in the Act.

T. Part,  
Esq.  
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Friday, 29th June 1866.

MEMBERS PRESENT:

Mr. Clive.  
Mr. Algernon Egerton.  
Lord Elcho.  
Mr. Fawcett.

Earl Grosvenor.  
Mr. M'Lagan.  
Mr. Edmund Potter.  
Mr. Alderman Salomons.

LORD ELCHO, IN THE CHAIR.

WILLIAM MATHEWS, Esq., called in; and Examined.

W.  
Mathews,  
Esq.

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2418. *Chairman.* I BELIEVE you are owner of iron and coal works in South Staffordshire?—Yes, I am.

2419. And you are a Magistrate of the counties of Stafford and Worcester, and President of the Mining Association of Great Britain?—Yes.

2420. Have you been long engaged in the coal and iron trades?—Yes, upwards of 40 years.

2421. You have therefore had your attention directed to the Acts regulating the law of master and servant?—Yes, not only as an employer of labour, but as a magistrate.

2422. As a magistrate you have had experience of the working of those Acts, and have had to sit in cases arising under them?—Yes.

2423. Will you state to the Committee anything with reference to those Acts which you think desirable should be brought under the notice of the Committee?—There has been a great complaint on the part of the workmen with regard to committing men to prison for breaches of contract, or, in other words, visiting a civil offence with a criminal punishment. There has been a very prevalent impression of injustice on the part of the workmen on that score; and not only so, but the stipendiary magistrates of my district, who have generally had to deal with those cases, are under the same impression, that it is hardly right to visit a civil offence with a criminal punishment. There has therefore been considerable disinclination on the part of the magistrates to commit, as well as on the part of the prosecutors to have the men committed. The subject has been brought before the Mining Association of Great Britain, and that body is of opinion that the law may be safely modified to the extent of giving magistrates the option either of fine or imprisonment. The objection to fining is this, that the fines are usually paid by the workmen's unions, and therefore the fine amounts to no punishment at all, though the case may be an aggravated case. On the other hand, in cases of committal to prison, the legal adviser of the men generally applies to the magistrate to take bail, giving notice of appeal against the conviction; the result of which is that the men are released out on bail, and a considerable time elapses before the appeal can be brought on. In the meantime, the offence having passed out of sight, the master has become lukewarm in the prosecution, and it ends in no prosecution at all. The result is that there is a defeat of justice in cases where the fines are paid by the workmen's union, and

there is an equal defeat of justice in the case of committal to prison by the process I have just mentioned. We therefore think that the law might be advantageously modified by giving the magistrates the option either of fine or imprisonment. The magistrates, in the exercise of their discretion would, of course, in a case which they thought would be met by a fine, impose a fine to the extent of the nature of the case, and they would only imprison in aggravated cases.

2424. That would imply a change in the law, there being at present no such option left to the magistrate?—Yes.

2425. What you have suggested as a change in the law was suggested, was it not, by the Mining Association of which you are president?—It was brought forward by the Mining Association in the first instance; I mean before it was publicly taken up.

2426. What was the date at which it was brought forward by the Mining Association?—The 20th of February of this year.

2427. So that it was proposed by the Mining Association before the meeting of this Committee this year?—Yes.

2428. But you are aware that the Committee had met last year?—So I understand; but I do not think that the proceedings of the Committee last year excited much attention, the Committee not having made any report.

2429. Your association proposes, does it not, that the jurisdiction should remain as at present, with the magistrate?—Yes.

2430. You propose no change as regards the jurisdiction?—None at all; all that we propose is, that the powers of the magistrates should be enlarged to the extent of giving them the option of fine or imprisonment. I may add that, in some districts, the magistrates in strictly construing the Act, hold that they have no option as to issuing a summons or a warrant, but that it is incumbent upon them to issue a warrant. I understand that in Scotland they act rather rigidly upon that impression; but in the Midland districts the magistrates almost invariably issue a summons in the first instance, and if there is no appearance to the summons they then issue a warrant to bring the culprit before them.

2431. To revert to the jurisdiction of the magistrates, you would not propose any change?—No.

2432. Complaints have been raised before the Committee, that the magistrates being like the prosecutor,



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prosecutor, employers of labour, have a sympathy with the prosecutor, and that there is, thereby, a failure of justice; do you believe that, generally speaking, such a charge could be substantiated?—It is very natural to infer that that would be the case, but I may observe that, according to my experience, magistrates scrupulously abstain from acting in a case with which they are in any way directly or indirectly connected. In Staffordshire, and in other districts, there are stipendiary magistrates, and the stipendiary magistrates almost invariably take those cases.

2433. There is nothing at present to prevent a coal owner sitting in judgment upon a coal owner's case, is there?—I think not.

2434. Do you think it would be desirable, in any change of the law, to prohibit his doing so?—I think it would be far better left to the good taste of the magistrates themselves. I do not think that any magistrate, with a proper sense of right, would be inclined to adjudicate in a case in which he was either directly or indirectly involved.

2435. I do not mean only a case in which his own personal interest was involved, but a case involving the interest of his class?—I mean such a case as that when I say "indirectly." The interest of his class would be indirectly his own interest.

2436. If mere convenience alone were considered, it might be desirable that a coal owner should sit in a case in which another coal owner was concerned. Would you think it desirable to prohibit that by law?—I should not think it desirable to prohibit it by law. I should not act in a coal owner's case myself. I should say, "I am indirectly interested in this case, and I decline to act." In North Staffordshire, for instance, there are two classes of manufactures, the iron trade, and the pottery trade. Magistrates who are engaged in the iron trade almost invariably decline to act in a case of breach of contract arising in the iron trade, leaving the adjudication of it to those magistrates who are unconnected with that trade; and on the other hand, magistrates who are engaged in the pottery trade do not act when a case comes before them connected with the pottery trade. There is a stipendiary magistrate there too; so that I think there would be hardly any necessity for making any alteration in the law, beyond the alteration which I have been alluding to, namely, giving the magistrate the option of imposing a fine or committing to prison.

2437. In your district, practically, magistrates do not sit in a case where the prosecutor is in the same trade as themselves?—Very rarely indeed.

2438. What would your objection be to making that which is practically the rule, really the rule?—I have no particular objection to it beyond this, that it would be casting a sort of imputation, however distant, upon gentlemen, that they were supposed to be capable of doing an injustice.

2439. But that imputation already exists in the law, inasmuch as a magistrate is forbidden by law to sit in his own case?—Yes, but I think that the law has already gone far enough in that direction. In the case of the Truck Acts, not only is a magistrate, who may be connected with the trade in which the truck system is practised prohibited from sitting, but all his relations are disqualified from sitting.

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2440. It is the fact, is it not, that brewers cannot sit in licensing cases?—I believe it is.

2441. Supposing such a prohibition were enacted, it would only be an extension of a principle already found in legislation?—It would be an extension of a principle already sufficiently unpopular, and, therefore, I would not have it carried further in that direction.

2442. Do you believe, irrespective of the unpopularity and damage to character from such an imputation, any practical inconvenience would arise from such a prohibition; do you think that there would be a difficulty in getting a sufficient number of magistrates?—I think there would be in some districts; for instance, in some parts of Wales, and other mineral districts, the magistrates might be very few in number unconnected with the trades of those districts.

2443. On the other hand, it has been suggested that, frequently in cases brought before the magistrates under these Acts, technical matters are involved, in which it would be desirable to have on the bench a person well acquainted with the branch of labour connected with the particular case brought up for decision?—No doubt it would be.

2444. Do you believe that in mining cases it would be difficult to get a sufficient number of magistrates technically conversant with mining, and who would not be connected with the case to be adjudicated?—In some districts it would; it would not in the midland districts, because there there would be no difficulty in getting magistrates who would be totally disconnected with the particular case.

2445. Who would have a knowledge of mining operations sufficient to meet any technical point which might arise?—Yes.

2446. At present the cases must be tried before two magistrates?—Yes.

2447. At present a man may be tried in a magistrate's private house; would you suggest any alteration in that respect?—I deprecate that most strongly; I would not adjudicate a case in my own private house.

2448. At present, as the law stands, that may be done, and is done, occasionally, is it not?—No such case has come within my own knowledge; no doubt there are such cases.

2449. Such cases you would strongly deprecate?—Yes.

2450. You would have the cases tried in some public court, in preference to a public house?—I deprecate privacy in the administration of the law in any case.

2451. You object to the law being administered in public houses?—You are in some districts obliged to hold the Petty Sessions in public houses.

2452. In consequence of there being no public place in which to hold them?—Yes.

2453. Might not it be advisable that public courts should be erected where they do not now exist?—Yes; in Staffordshire many have been erected within the last ten years, for two objects; first, that everything should be as public as possible, and next, that the Petty Sessions should not be held in public houses.

2454. You say that it is desirable to retain the power of imprisonment for aggravated cases; you would not be able, I presume, to define what constitutes an aggravated case; that must be left to the discretion of the magistrate?—Yes, it

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must; but I wish to convey to the Committee that many cases arise in which the breach of contract of the workman is of so aggravated a character, involving so much pecuniary loss to the master, and so much injury to the fellow-workmen, that it may be a case for committal to prison in the most summary fashion.

2455. From your knowledge of mining operations, will you specify what you would consider a case of such an aggravated character as to require a more stringent punishment than a fine?—I will take the case of the engineer at the blast furnace engine; he might leave his work, thereby causing the furnaces to stop, and unless there were an engineer on the spot whom you could put into his place, it might throw all the men engaged at those blast furnaces out of employment; by which there would be great pecuniary loss to the master, and great injury to the workmen. In such a case as that, unless a reasonable excuse were offered, I would give power to the magistrate to commit him to prison summarily.

2456. In the case you have just specified, the breach of contract would lead to a loss, you say, to the master as well as to the fellow-workmen by stopping the work?—Very great pecuniary injury; and in other cases which might be put, such as stopping the pumping engine, it might lead to the men being drowned.

2457. So that you would be in favour of retaining the power of imprisonment in aggravated cases in the interests of the employed, as much as in the interests of the employer?—Yes.

2458. You think there would be no difficulty in the magistrates drawing the line between ordinary cases and the cases that ought to come within the class of aggravated cases?—No. I think it would require no great ability or acuteness of intellect to distinguish them.

2459. Such aggravated cases would be exceptional?—No doubt. I have had such cases in my own works, but they are not common.

2460. With regard to the mode of procedure, it has been given in evidence before this Committee, that the form of procedure is generally by summons, a warrant being issued in exceptional cases?—That is the practice in the midland districts. I may say that the magistrates in our district never issue a warrant except under pressing circumstances, such as a man absconding, or in very aggravated cases indeed. I never grant a warrant myself unless a summons will not answer the purpose.

2461. Should you think it advisable to lay down the rule that in all cases of breach of contract, the first procedure should be by summons?—No; I do not think it would be advisable to lay down that rule, because cases may arise (and those can only be decided upon by the discretion of the magistrates) in which a warrant would be absolutely necessary; where, for instance, the man may be gone off in three hours, and therefore I would leave it to the magistrate to issue a warrant or a summons as in his discretion would best meet the ends of justice.

2462. You would lay down the rule that a summons should be issued first, leaving it to the magistrate to issue a warrant only in exceptional cases?—Yes.

2463. Do you think the cases in which warrants would have to be issued would be frequent?—I think not.

2464. Do you think they would be very ex-

ceptional?—I think they would be very exceptional.

2465. The existence of that power to issue a warrant in those cases, would, to a certain extent, take away from the grace of the concession on the part of the employers that recourse should be had to a summons as a rule, would it not?—I hardly know what to say upon that point, because we so rarely come into contact with the necessity for applying for a warrant.

2466. Does it not strike you, if that is the case, if the issue of a summons would be the rule, and the issue of a warrant the exception, that it might, perhaps, be hardly worth while to retain the power of issuing a warrant in the first instance?—Then you do not provide for the cases where a warrant would be absolutely necessary; you exclude the cases where the man may abscond, and the ends of justice be defeated for want of power on the part of the magistrates to apprehend by warrant.

2467. Would there be any difficulty in following a man who had absconded?—There would; I had a case where I was obliged to send a police officer into Lincolnshire after a man who had absconded. A summons having no effect, I had to send a warrant into Lincolnshire after him. In that case a warrant in the first instance would have brought the man at once.

2468. Where a man absconds, does he give notice that he is going to abscond?—No, certainly not.

2469. Therefore he has absconded before you issue a warrant for his apprehension?—That depends upon the vigilance of the police; the man may elude the vigilance of the police in both the case of the warrant and the case of the summons.

2470. Take the case of a man in your own works, if he intended to abscond he would not let that be known?—There might be cases where he would elude the vigilance of the police.

2471. It is not a case of eluding the vigilance of the police; the police do not know anything about it; he eludes the vigilance of the police after he has absconded?—If a man leaves his work under aggravated circumstances, the facts are very soon known, and the police are very soon upon his footsteps.

2472. By means of the telegraph and railways now-a-days, the facilities of apprehending men who have absconded are much greater than they were, are they not?—No doubt; but however great they may be I do not think that they afford sufficient grounds for taking away the power on the part of the magistrates to issue a warrant in cases which, in their discretion, require a warrant. I would leave it to the good sense of the magistrates to exercise that power or not as they thought fit.

2473. At present are warrants issued upon oath?—Yes.

2474. Upon good grounds being given for the issue of the warrant?—Yes.

2475. That you would still require?—Yes.

2476. In cases where a warrant was issued, would you require any further steps to be taken on the part of the prosecutor to obtain that warrant than are now taken by him?—No; I would leave it as it is. I do not think it worth while to complicate the law in matters of that sort.

2477. In what light would you regard the fines that might be imposed, as merely punitive or in the light of damages to the employer?—I would leave

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leave it pretty much to the magistrate. In aggravated cases I would leave the magistrates to impose a heavy fine, and in trifling cases a small fine, more in the nature of a warning than as a punishment.

2478. What would you do with the money so paid?—I would leave it as now.

2479. You would let it go to the employer?—I would let it go to the employer in mitigation of his damages to a certain extent. Of course, no fine that might be imposed would compensate an employer for many breaches of contract, for do they consider that they can obtain compensation in the way of fine, except to a small extent; but it has a salutary effect on the workmen.

2480. You do not think that, with the exception of the legal expenses incurred, any surplus arising from the fines so imposed should go to some other purpose than to compensate the employer?—I would leave it as it is at present.

2481. You would leave it to the discretion of the magistrates and the employer?—Yes.

2482. What is the custom now?—I can hardly tell you.

2483. The fines under the Mines Inspection Act do not go to the employers, do they?—No, they are distributed at the option of the magistrates.

2484. They do not go as compensation?—No, they do not.

2485. Do you see any reason why, under the law of Master and Servant, there should be an exceptional dealing with fines?—At present the magistrate has power to abate the wages and compensate the master in that way. I would leave it to the magistrate to dispose of the fines as he thought fit, either for a public purpose or in part compensation for the damage the master might have sustained.

2486. You say that the fines would be paid by the unions?—They would; they are now paid by the unions. I have had cases in which the men have told me themselves, "We do not care about your fining us; the union will pay the fine."

2487. That is inevitable as long as there are unions?—Yes; unless fines were, at the option of the magistrates, made more formidable than they are.

2488. What limit would you think there should be to the fines which might be imposed?—I have no opinion upon that point.

2489. Do you consider that the knowledge of the fact that fines are paid by the Trades Unions would lead the magistrates, in lieu of imposing fines, to order imprisonment, supposing the option were given them?—The magistrates are not disposed to recognise the unions; we know it is a fact, but it is not publicly given out, that the unions pay the fines.

2490. The magistrates, provided the fines were paid, could have nothing to say to the quarter from whence the money came?—No, I think not. Unless the magistrates had the unions before them in some judicial shape, I do not think they would recognise the fact of the unions paying the fines as an element in their decisions.

2491. Are you aware that in most cases now fines are given to workmen's benefit clubs, infirmaries, and other charitable objects?—Yes; I believe they are in many cases.

2492. Mr. Algernon Egerton.] I believe in the present state of the law, the defendant or prisoner who is brought up under the Master and Servant Act cannot be examined himself?—I believe not.

2493. Should you advise any alteration in the law in that respect?—I should not object to it. I should not object to the power of the magistrates being enlarged to any extent in that respect. I would let them get any information from any quarter. If they received evidence from a quarter immediately interested, I would let them receive it with a certain amount of caution; in other respects, I would have no objection to the admission of evidence in any shape.

2494. You would let it be taken *quantum valeat*?—Yes.

2495. It has also been suggested that in cases of breach of contract, the magistrate should have the power to make the defendant give bail to perform his contract; would you be in favour of such an alteration in the law as that?—As the law at present stands, you may fine a man or imprison a man for breach of contract, and when he has paid the fine, or comes out of prison, if he does not perform his contract, you have the power to fine him or imprison him again. I must confess that a man having been once punished, it is a hardship that he should be punished again for the same offence; and there would be, I think, no harm in modifying the law, so as to meet the ends of justice more fairly.

2496. What is the usual period of contract in South Staffordshire?—Fourteen days, unless any special arrangement is made for a longer period, which is not common.

2497. Are there cases of monthly contracts?—They are not common; there are a few cases where the contracts are monthly, where the men are in posts that involve a little more care or responsibility, or where it would be more difficult to supply their place on an emergency; but, generally speaking, they are fortnightly contracts, subject to a fortnight's notice on either side.

2498. I have been informed that at a bleach works in Lancashire the men enter into yearly contracts, and, in some cases, for three years. In such cases as that, if the men entered into those contracts willingly, it might be argued, might it not, that it would be unfair to the masters not to give them the power to enforce the performance of those contracts?—When you come to those long periods of contract the matter assumes more the nature of a civil contract; it is more a subject of an action for damages than anything else. We have no such contracts in the coal and iron trade, and therefore I have not considered them much.

2499. Mr. Fawcett.] Those cases of breach of contract often involve, do they not, very complicated questions, both of law and evidence?—They do occasionally, but not commonly. Suppose I engage an iron worker or a collier to work at certain prices, and subject to 14 days' notice on the part of either master or man; if I discharge him I must give him 14 days' notice, and if he wishes to leave his service he must give me 14 days' notice. If he breaks his contract, and the case is brought before the magistrates, the contract is proved, and the magistrates then adjudicate upon the matter with what evidence may happen to be before them. I do not think it is common that the evidence is very complicated.

2500. Do you think that the magistrates have a sufficient legal education to be a good tribunal for the trial of such cases?—Yes, I do; but though I do not preach up the legal knowledge or the legal acumen of the justices, generally speaking,

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speaking. I believe they have good and experienced advisers, in the shape of their clerks, to confer with them; and they have, if not an accurate knowledge of the law, at all events, a sufficient knowledge to enable them to do fair justice between man and man.

2501. Do not you think that there must necessarily be in a Bench, composed entirely of employers, however fair they might wish to be, some inevitable sympathy towards employers of labour who brought cases before them?—I do not mean to preach up the infallibility of human nature; but, I think, in ordinary cases, there is very little to be charged upon the magistrates for acting with injustice, or unfairness, or bias, in matters of this sort.

2502. What was the breach of contract which the man committed in the case to which you referred, where you had to send a warrant after him?—I think it was leaving the steam-engine, and doing some malicious damage to it; putting a piece of iron in the cog wheels, by which they were broken.

2503. Do cases occur in your neighbourhood of men bringing actions against masters for breach of contract on their part?—Very frequently; they proceed by summons.

2504. Do you see any objection to the law being made the same with regard to masters as with regard to men; that is to say, that the magistrates should have the power of inflicting imprisonment upon a master in an aggravated case of breach of contract?—The two cases are not similar. In the case of a breach of contract on the part of the master, the loss is to the individual alone; whereas, in the case of a breach of contract, where a man leaves his employer, he occasions not only injury to the master, but a large amount of loss to his fellow-workmen; the injury in that case is far more extensive than can possibly arise if the master breaks his contract with the workman.

• 2505. Cannot you conceive a case of wilful neglect on the part of a master with regard to want of ventilation, for instance, producing quite as serious consequences to the workmen as any breach of contract on the part of the men?—No; I do not think it is possible to produce such a case.

2506. Supposing it were represented to the master that he was not ventilating his mine properly, and he took no notice of the representation?—There are special provisions to meet cases of that sort under the Mines Inspection Act.

2507. You cannot imprison the master, can you?—No.

2508. Why should not such a case as that be met by imprisonment, if you meet an aggravated case of breach of contract on the part of the workman by imprisonment?—Because I do not believe that any master in England would be such a fool as to cut his own throat, which he would be doing by acting as the question implies.

2509. Such a case, you say, is provided for under the Mines Inspection Act; such a case as that is treated by a fine?—Yes; but in the case of a complaint on the part of the mines inspector, that the mine is not sufficiently ventilated, it does not arise from a vicious desire on the part of the master to under ventilate, but from an impression that the mine is sufficiently ventilated, though the inspector may differ with him; surely you would not imprison the master under those

circumstances. No master would be such a fool as to do himself serious injury, and his workmen serious injury, except under misapprehension; and to visit him with imprisonment would, in my opinion, be a very hard case indeed.

2510. Why should you assume that a workman would do injury to his fellow-workman?—I am supposing a case of vicious malice.

2511. You suppose that there may be vicious malice on the part of a workman, but that there cannot be vicious malice on the part of a master?—If you could convict a master of vicious malice, I would treat him in the same way as a workman; I would send him to prison.

2512. I do not say the case ever occurs, but under the present law, supposing you could prove a case of vicious malice on the part of a master, you would have no power of imprisoning him?—No; I would have no objection to alter the law in that respect, because if I did not send him to prison for being a knave, I would send him to prison for being a fool.

2513. You think it would be advisable to change the law in that direction, so as to remove the sense of injustice which at present exists on the part of the workmen, even if no cases were to come under it?—I cannot conceive of a case between master and man that would bring the master under the punishment of imprisonment, and to legislate upon an exceptional and very strongly drawn case, would be a sort of legislation that certainly would not be palatable in this country: legislate upon a rule, but do not legislate upon an exception.

2514. Mr. M'Lagan.] We have had it in evidence before us, that in Scotland minute or day contracts prevail very much?—So I have understood; I cannot offer the Committee any evidence upon that point, because, as far as I am aware, there are no such contracts in England; a day contract means no contract at all, in fact.

2515. Do you approve of monthly or fortnightly contracts?—As a matter of convenience, I should say fortnightly contracts are the most convenient, but I would leave that to the discretion of master and man. We find in practice it is most convenient to have fortnightly contracts.

2516. Do you find that the men stay longer under fortnightly contracts or under monthly contracts?—I have had men stay under fortnightly contracts for 30 years together.

2517. It has been stated to us that where minute contracts have been introduced, the men stay very much longer in their employments than under fortnightly or monthly contracts?—Under fortnightly contracts a convenient time is allowed for the men to seek other employment, and a convenient time is allowed to the master to seek other men; a fortnight is by far the most convenient description of contract that could be devised.

2518. Did you say that the only cases in which you have issued warrants against workmen were cases in which there were sufficient grounds for suspecting that they intended to abscond?—Yes. I think you might safely leave the option to the discretion of the magistrate; if a summons would be likely to fail let him have the power to issue a warrant; but if it were not a case where a summons would be likely to fail, let him issue a summons in the first instance.

2519. If he failed to pay the fine you would send him to prison?—If he did not pay the fine

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he would be subject to the common law; master and servant would be treated alike in that case. If he had no goods wherewith to pay, in either case, he would have to be sent to prison.

2520. Supposing the man's goods were not sufficient to pay the fine, would you approve of taking it from his wages?—I would get the fine in any way I could.

2521. Supposing the man left his employment and went out of the district, would you approve of following his wages?—No, I am not an advocate for the following of a man's wages. There are plenty of means of obtaining justice without that. What I understand by following wages is this, giving notice to a new employer to stop that man's wages on your behalf. If I received a notice from a previous employer to stop a man's wages I would not stop them. I would be no party to a quarrel between the previous employer of that man and the man himself.

2522. You think, for all parties, imprisonment would be better?—I think it would.

2523. Earl *Grosvenor*.] I understand you to say that neglect on the part of a master would not be likely to occur, because it would affect his own interest?—Yes.

2524. Did you ever hear of such an exceptional case as a master neglecting his own interest and causing damage?—No.

2525. Might not a master, while in a state of drunkenness, give extraordinary orders which might cause damage?—I must confess that I call drunkenness a sort of madness, and I am not prepared to give an opinion upon legislating for madmen.

2526. Mr. *Potter*.] Would not the common law be sufficient to meet a case of that kind?—I

think so; I do not think that in legislating you can take cognizance of such exceptional cases as those.

2527. In the case of any serious damage, such as loss of life arising from neglect of the master, he is liable to be indicted for manslaughter?—No doubt; he is open to a great many modes of punishment.

2528. *Chairman*.] I understand you to say that you do not approve of the system of arresting wages?—I do not; I think it is a complication, and an unfair complication of the relations between master and man, which had better not be imported into them.

2529. At present there is a power under the Master and Servant Act of remitting a man to prison till he has consented to complete his contract; do you think that is a power which it is desirable to retain or not?—That power not only exists in cases of breaches of contract, but in other cases, bastardy, for instance; I have sent a man three times to prison because he would not pay the woman. Whether the power is retained in those cases or not, I would not retain it in civil offences like these.

2530. At present the law admits of that being done; it admits of a man who refuses to complete a fortnightly contract or a month's contract being re-imprisoned for any length of time till he completes it?—Yes; I must confess I am not an advocate for that.

2531. You think a change in that respect might be advantageously made?—Yes.

2532. You would give him but one imprisonment as a punishment?—Yes.

2533. And you would then let him be free?—I would.

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Mr. ALFRED MAULT, called in; and Examined.

2534. *Chairman*.] YOU appear on the part of the builders of Birmingham?—I appear on the part of an association that is called the General Builders' Association, which includes not only the master builders of the Midland Counties, but the master builders of the Northern and Western Counties, and some of the larger towns in Scotland also.

2535. Is that an association recently formed?—It has been only recently formed; in fact it is now in process of formation to a certain extent. The formation has extended to the extent I have mentioned, viz., some of the principal towns in Scotland, and the whole of the Northern and North-western, and Western, and Midland Counties of England.

2536. Where did it originate?—It originated with about a dozen towns in the Midland Counties.

2537. When?—About 18 months ago.

2538. What led to its formation?—In the first place it was originated for the purpose of protecting the masters from the action of the trades' unions; but in the course of a few months that special idea was given up, and the association was formed for the purpose of considering matters of general interest to master builders, and the question of the action of the trades' unions is now simply an incidental one, whenever any action arises on the part of those unions.

2539. It is for considering generally questions affecting the masters in their trade?—Yes. Of course the labour question is one of the most im-

portant; but hitherto we have not treated it as the most important; our attention has been rather directed to the law of contract between master builder and proprietor than to the law of contract between master and man.

2540. Is it an association that is extending its operations?—It is every day extending its operations.

2541. Other districts are coming in?—Yes.

2542. Is it extending to the metropolis?—We are in communication with a similar association in the metropolis.

2543. Which is formed now in the metropolis?—Yes, but which is confined solely to London.

2544. Are you about to form a union with that association?—I cannot say; we have not had any intercourse with that view.

2545. Are you yourself a master builder, and employer of labour?—I was a master builder up to the time of what I may call the second formation of this association upon its broader basis, and I was induced to give up my own business to take the management and direction of this association.

2546. You are now the secretary of this association?—Yes.

2547. Has there been any meeting of the association or of the representatives of the association, with reference to the subject before this Committee?—Not any special meeting in reference to this subject, because we have really not had time to consider it. The quarterly meeting was called to-day at Liverpool for this among

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other purposes, and, as you are aware, I requested an extension of time before appearing here; but I was informed that this was the last day upon which evidence would be taken; therefore, though I understand fully the views of the association upon the matter, I must speak, of course, rather from my general knowledge of the building trade and its requirements, than as a representative of that association.

2548. You say that there is to be a meeting held to-day at Liverpool, upon the subject of the law of masters and servants?—Partly to consider that subject.

2549. Not exclusively?—No, it is a general quarterly meeting of the association.

2550. Has the attention of the association and yourself only during the last week been directed to this subject?—More especially during the last week, but, of course, we have, from time to time, thought the matter over; and knowing that the Committee was sitting, I was anxious that even an individual master builder should be heard upon the subject, rather than that you should have no evidence whatever in relation to the building trade upon the side of the masters, because I hold that the circumstances of our trade are, to a great extent, special circumstances.

2551. Were you not aware that the Committee has been sitting some time?—I was not aware that the Committee was sitting till I saw a casual notice of it in the "Beehive" newspaper; I was not aware of it till that time.

2552. It is owing to that that action has been taken thus late on the part of the Builders' Association; and your appearing here does not arise from any peculiar circumstances that have arisen in the trade?—That is so.

2553. Your attention, previously to the sitting of this Committee, has been, as you say, directed to the Master and Servants Acts?—Yes.

2554. Is there any special point which you wish to bring before the Committee in relation to those Acts?—In the first place, the penalty imposed by the present Acts is not so great an object as the process by which that penalty is to be arrived at; our great object is to secure as summary a process as possible. And having heard that evidence had been given before this Committee to the effect that on certain grounds it would be advisable to alter the law so as to make the contract between master and man of such a nature as to be enforceable only by civil process, I wish to state, that I consider that such a process would be totally useless to us in our particular circumstances; we are not situated as any other manufacturers or employers of labour are situated, on this account, that we do not in one particular spot manufacture goods or raise materials that can be used or sent anywhere; but we manufacture real property, which is obliged to be made on the very spot at which it is required. We have, therefore, continually to shift our staff of labourers, or to get labourers on the very spot where we want them; and directly we have done with them on that spot, the labourers go elsewhere; consequently our operatives are far more nomadic than any other class of operatives whatever. Unless the contract between us is a contract which can be enforced by summary process, we cannot enforce the contract at all. Our men, and especially a certain class of them, are continually shifting from place to place as their work requires; they have no local habitation, except temporarily. We cannot take the

same security, so to speak, from them that other masters can take from their men, because other masters having fixed trades upon one spot, naturally employ men who are equally fixed to the spot. The men have a house and goods and chattels on the spot, and the master knows where to find them. If the system were adopted which was advocated by the last witness, viz., the magistrate being left no option but that of inflicting a fine, in his case those fines could be pretty readily levied, but in our case they never could be levied. We are in the habit, in cases of breach of contract, as the last witness informed the Committee was done in his case, of almost invariably proceeding by summons; in fact, I may say, invariably proceeding by summons. And even now, under that system, we find that those summonses are continually evaded. Where the case is of sufficient importance, the summons has to be supplemented by a warrant, because the men are, as I have just explained, always ready to go to any place; there is no packing up to be done; the man picks up his tools and goes away, and you do not know where to find him. We have really no means of knowing where a man has gone to, and consequently, before the summons is returnable, the man is away no one knows where.

2555. That is what you find to be the case now?—Yes.

2556. But if that is the case, why do you issue a summons and not a warrant?—I suppose that it is as much a matter of sentiment as anything else; we do not like to commence with a warrant in any case, nor do the magistrates like it. We can always get a summons, but we cannot always get a warrant.

2557. What is the period of your contracts?—Lately the contracts have been lengthening; but operatives in the building trade have somehow a great objection to any lengthened contracts, and we had the greatest difficulty in getting even a contract for a day. Lately we have introduced a month, and we find that under the monthly contracts we get on a great deal better than under the daily ones; but those monthly contracts are adopted to a very limited extent; only in one or two towns.

2558. You say that the contracts have been lengthening, and that you have now a few monthly contracts; what was the rule before that?—Usually either by the job or by the day, or quarter of a day, or even without notice whatever in many cases.

2559. So that practically, in the building trade, they are either day notices or no notices at all?—Yes, practically that has been the case hitherto.

2560. If that is the case, I presume that there are not many cases of prosecutions under the Act?—Latterly a great many more cases have occurred; in fact, this year a great many more cases have occurred than ever occurred before.

2561. Why is that?—Because we have introduced longer contracts, and because we have paid more attention to the subject. There has been, till recently, the greatest ignorance prevailing among builders as to the provisions of the law; they had no idea, or if they had any idea, they never acted upon it, that a man could be followed who had broken through a contract even on a matter of piece work, much less on a matter of time.

2562. You attribute this increased number of cases

cases to the fact that there are some contracts of a month's duration instead of short periods, and also to the fact, that by some means or other the attention of the masters has been directed to the Act, and the powers which they have under that Act?—Yes, partly to the one and partly to the other.

2563. Do you apply that to the whole country or merely to the district of your association?—Primarily to the district of our association, but from my knowledge of the whole country, I believe that it is true of the whole country also.

2564. Has the attention of the masters been drawn by yourself to the Act?—I dare say that I have had a hand in drawing attention to it; but more attention has, from some means or other, lately been called to this subject than previously was the case.

2565. What number of prosecutions has there been within the last year under the Act on the part of the builders?—I am aware, I should think, of about a dozen.

2566. What per centage would that be; what number of men are there in the building trade in the districts where those dozen cases have been prosecuted?—I really cannot say, but it would be a larger per centage than one would suppose.

2567. Would you say 1 per 1,000?—A great deal more, because those prosecutions have been undertaken under these circumstances. Strikes have existed in certain localities, and consequently but few men have been at work; two or three prosecutions would therefore involve a large per centage of them. The prosecutions have really been undertaken quite as much for the protection of the men as for the protection of the masters. For instance, the bricklayers in the Potteries are at present on strike, and the masters in the Potteries having been obliged to go elsewhere for a supply of labourers, have entered into contracts with bricklayers whom they have introduced from other parts. The Bricklayers' Trades Union in the Potteries district has induced those men either by threats or by other means to break their contract, and though the men themselves were anxious to fulfil it, yet, under the coercion of the trades union of the district, they were obliged to go to Burton-on-Trent. When they got there they telegraphed to their late employers asking for protection, and offering to complete their contracts. The masters had in the meantime taken out warrants, and found out the men in Burton-on-Trent and brought them back. When taken before the magistrates, of course the masters did not require any penalty whatever, seeing that the men were willing to complete their contracts; and the men are at present at work partly under the protection of the police, but subject to continual annoyance. Unless those men had themselves been willing to fulfil their contract, and unless the masters had had the power of taking out warrants, the expense which the masters had been put to to get those men from other localities would have been thrown away, and the masters would have been without a remedy.

2568. You say that the men who were brought up by warrant were anxious themselves to complete their contract?—They were anxious to complete their contract.

2569. If the men were themselves willing to complete their contract, would they not have come equally to a summons?—In that particular

case they would, but it was an exceptional case that they wanted to complete their contract. The usual case is, when a man has been induced to break his contract, and goes away, that he does not desire to come back.

2570. How many men were brought up under warrant in this instance?—I think eight.

2571. Are those eight included in those 12 cases that you referred to?—Yes, as one of the cases.

2572. It was 12 cases and not 12 men, that you referred to?—Yes.

2573. Each of those cases embraced several men?—One or two others embraced several men; but in no other case so many as in that;—usually a single man.

2574. In this case you say eight men were brought up under a warrant; in the remaining 11 cases were the men brought up under warrant or summons?—I do not think that in any of the other cases the men have been taken at all. A summons has been issued and served, and directly upon the service of the summons, the men have made off, and have not been apprehended. In some cases they have not even been followed.

2575. In all the other cases summonses were issued, and in this case of the eight men if a summons had been issued, the men would have appeared?—In that case the men would have appeared.

2576. You say that as a rule summonses are issued, and you say that that arises from sentiment; do you think that that sentiment would support such a change in that rule as you think desirable, viz., issuing a warrant instead of a summons?—I do not say that I think it desirable. I confess, for my own part, that I am satisfied with the present law. When I came here, I was under an impression that the evidence which had been given, had been principally with a view to effect a change of the law, so as to make that which is now a criminal procedure a civil procedure. I believe that, as a body, we are quite content with the law as it is; the law is never put in force by builders, except in such exceptional cases as I have alluded to, where men are either drawn off or coerced off work, during the continuance of a strike. During ordinary peaceable times, the masters never have occasion to put the law, even in its present shape, into force, or never care about doing so.

2577. You say that you are satisfied, speaking on the part of the masters' association to which you belong, with the law as it at present stands; are you opposed to any change in that law?—I think that such a change as I have heard advocated since I have been in the room to-day would be perfectly useless in our trade, because, if a summons is of no effect without a warrant, in very few cases would it be worth while, after a conviction was got and a fine imposed, either in the absence or the presence of the man, to follow that man, one does not know where, for the recovery of the fine.

2578. He would have to pay the fine at once, you say, either in his presence or absence; if present, the magistrate having the option of inflicting a fine, he would have to pay the fine or go to prison?—No doubt, if the man were present; but, in many cases, under a mere summons, he would not be present; he would usually not be in our trade, because, as I have said before, the men have no such local ties in our trade as in other

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other trades. But, even supposing that the man was present, I believe, as the last witness said, that the fine under those circumstances would invariably be paid by the trades union to which the man belonged.

2579. That you could not help, but the fine would be paid?—The fine would be paid, undoubtedly; but the fine should be a penalty upon the man; the penalty would not fall upon the man, because it would be paid by the union.

2580. You are opposed to the magistrate having the option of fining or imprisoning?—Yes; I should prefer to retain the power of imprisonment to levying a fine.

2581. Though, practically, you say the building trade has gone on as it has without having recourse to this law at all?—Yes, but how has it gone on? No trade has gone on with so much dissatisfaction to the masters, and with so little profit, as the building trade of the country. There are more names twice a week in the "London Gazette" of men connected with the building trades, than with any other trades.

2582. To what do you attribute that?—It is owing to the action of the trades unions upon the labour question on the one side, and the very unsatisfactory terms of the contracts drawn up between proprietors and builders on the other hand.

2583. Do you think that the law of Master and Servant affects the unsatisfactory contracts that are drawn up between proprietors and builders?—No; but as you asked me a general question, I answered as generally; I pointed out the circumstances out of which the present unsatisfactory state of things in the building trade has arisen. I think, undoubtedly, the relations between master and servant have something to do with that unsatisfactory state.

2584. How does the law of Master and Servant affect the question of contract between proprietors and builders?—It does not affect that.

2585. What bearing has it upon the unsatisfactory state of the building trade?—I was referring to the bearing that the present relation between master and servant had upon the working of the law. At present, even with the law being so highly penal as it is described, we find that the operatives themselves have, among themselves, enacted laws which are just as highly penal, and to a certain extent directed against the observance of the public law, that they are illegally and continually enforcing these laws against each other, and against the masters. They impose fines upon each other; and they impose fines upon the masters; not fines for the breach of any trade union rules, but for opposition to their views upon the labour question. And I say that when the men in secret and irresponsible tribunals are carrying out such a law as that, it is not a time for relaxing the general law of Master and Servant.

2586. But you say that this state of things exists concurrently with the present law of Master and Servant; we may assume from that, may we not, that the law of Master and Servant is inoperative as regards preventing strikes, and as regards these laws which the men enact as against each other?—You will notice that I have not introduced strikes into this question. I think that the present law of Master and Servant, and I think that any law of Master and Servant that was a just law, would be inoperative to prevent strikes.

2587. You say that you did not introduce the question of strikes; are not those harsh laws to which you referred, which the men enact as against each other, connected with strikes?—They are apart from strikes; the men have trades unions, and some laws of those trades unions are not regulations of a union as a union; but they are expressions of their opinion upon the general question of labour; for instance, they impose fines for operatives doing piece-work, and they say that operatives shall only do their work by the day; and in some of the unions there are fines levied of 2*l.* upon any man who takes any piece-work. I only give that as an example.

2588. That would not be affected, would it, by any change which might be made in the law of Master and Servant?—I do not say that it would, but I say that when the men themselves, in secret and irresponsible courts, are not only enacting and carrying out laws like these against each other, and also against the masters, it is not a time for the men on their side to complain that the public law of the land which is publicly administered is harsh, and to demand that it should be relaxed in their favour. The men themselves, in their trades' unions, are carrying out a law that is a far more penal law, as far as their circumstances permit (of course they cannot imprison), than the public law of the country. And not only that, but they administer it in a perfectly irresponsible way. The defendant, in their courts, has really no cognizance that the court is sitting; he is not summoned there, because often he is a master, and often he is a person not connected with the union; yet that court imposes punishment upon him, sometimes it is a fine, sometimes a condemnation to non-employment, what the men call "shelving." A man is sometimes shelved, that is, he is refused permission to obtain employment anywhere where union men can prevent it; and a master is shelved, that is, he is refused permission to employ any man over whom they have control. When the men are administering in such a manner, such a law as that, it is not a time for them to ask for any remission of the public law of the land on the master and servant question.

2589. Your argument amounts to this, that supposing it appears that a public law exists which is harsh, and unnecessarily harsh, it is not desirable to make an alteration in that public law, because in a certain business private laws are enacted by the workmen for regulating their concerns one with another which are also harsh and uncalled for?—No, I do not think that a very fair way of putting my argument. You must remember that, in the first place, I am speaking in relation to builders alone. I do not profess to enter into the general law of Master and Servant, but I say, taking the case of the building operatives, I presume that they are complaining of the present harshness of the law, and my answer to them is, that the law they are themselves administering is a far more harsh law. It is one which we cannot get at, and its administration cannot be modified by public opinion. And when they, as a peculiar class of men, are doing that, I say it is not a time for them to ask for any modification of a law similar to that which at present exists.

2590. That is as far as regards building operatives?—Yes.

2591. You are aware that this law applies to every



every description of servant, except household servants?—Yes.

2592. What proportion do the building operatives bear to the rest of the working population?—I should think that in this country, with the exception of agricultural labourers, the building trades employ more of the adult male population than any other trade.

2593. You are aware that this law applies to agricultural labourers as well?—Yes.

2594. They are a considerable element, are they not, in the working population of the country?—Yes.

2595. Do you think that the proportion which the operatives in the building trade bear to the rest of the employed population in the kingdom is a twentieth?—Very considerably more.

2596. Upon what do you rest that statement?—Upon the last Census Returns.

2597. Can you state what the last Census gave as the number of building operatives?—I can, to a certain extent, but I must explain to the Committee that, under the heading, "Labourers," in the Census Returns, there is a certain number put down whom we cannot identify as labourers connected with the building trades, though we feel certain from other circumstances that the greater part of these labourers must belong to them. And at the same time there are other headings embracing men who are employed in the building trades that we cannot separate from men employed in other similar trades; but I have no doubt that in England and Wales alone over 800,000 males were employed in connection with the building trades in 1861, that is to say, 800,000 men and apprentices.

2598. Mr. Alderman *Salomons*.] What trades do you include?—The carpenters and joiners numbered, I think, 177,000; the bricklayers numbered, I believe, 88,000; the masons numbered 75,000; I cannot trust my memory with respect to the others; it is to be borne in mind that each mason and each bricklayer must have a labourer

2599. *Chairman*.] In short, you think the builders would be about a sixth or seventh of the whole population?—A sixth or seventh.

2600. That leaves other six parts to be accounted for, assuming it to be a seventh; you object to a change in the law in consequence of what is going on on the part of a seventh of the population, the law affecting, more or less, the remaining six-sevenths?—It is hardly so, though it is so, in one sense; I come here and occupy an *ex parte* position, having to express the views of the trade to which I belong. I am not so unreasonable as to expect that, because we are situated in certain peculiar circumstances in relation to a seventh part, or a sixth part, or even a quarter of the population, that the law should remain in its present condition in order to suit our circumstances.

2601. You are not prepared, in consequence of the peculiar circumstances attending the labourers in your trade, to object to a change in the law which might be considered desirable as regarded other trades?—In coming to give the Committee the views of the master builders upon this question, I thought that the circumstances that were connected with our trade might, to a certain extent, be also connected with other trades; I know there are trades unions connected with almost all the large manufacturing industries of the day, and what is true of our

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trade, I should think must, to a certain extent, be true of other trades; if not, undoubtedly I am not prepared to say that it would be either just or wise, that, because, in one particular branch certain anomalies existed, the whole operatives of the country should remain under any particular system.

2602. Assuming that in the cases of other trades such objections as you have raised to a change in the law have not been raised, would you think it desirable or necessary that any exception, in any change in the law, should be made as regards your special business?—I confess, whatever my own notion of the abstract right of such a proposition might be, I would never suggest it.

2603. You do not think that it should be a case of exceptional legislation?—I do not think so, because I should hope that our circumstances might be reached by certain general legislation in another direction.

2604. With respect to the jurisdiction of the magistrates, do you consider that tribunal to be a right and proper one?—I think it right, simply because it is the readiest.

2605. And you wish these questions to be dealt with as speedily as possible?—Yes, as speedily as possible.

2606. I understand you to say that you object to giving the magistrates the option of inflicting a fine instead of imprisonment?—I do not think that a fine would at all meet the case, because it would not be paid by the delinquent; besides I do not think it could be levied in the majority of cases.

2607. Mr. *Fawcett*.] I understand you to say, that you are quite satisfied with the law of Master and Servant as it now stands?—I cannot say that I am. I do not know that I have expressed such a view as that. What I meant to convey to the Committee was, that we are extremely anxious that whatever the law may be, it should be very summary in its process.

2608. You having considered these questions, are you or not satisfied with the law as it now stands?—I am satisfied with it as far as it goes, as far as I understand it.

2609. Have you any alterations to suggest in the present law?—I have none that I could put in a practical shape. I have thought that it would be very desirable that in trade cases the magistrate, whether a stipendiary magistrate or ordinary magistrate, should be assisted by assessors, say one master and one operative in the special branch with which the case is connected, but I am afraid that that would be a very cumbrous machinery.

2610. That would be an alteration in the mode of administering the law rather than in the law itself?—Yes.

2611. But in the law itself you have no alteration to suggest?—No.

2612. You said, did you not, that the great losses arising in the building trade, and the low rate of profit prevailing were due, to a certain extent, to the unsatisfactory contracts between proprietors and builders?—I gave that as one of the reasons.

2613. Is that as important as the others?—I think quite as important.

2614. With those contracts the workmen have nothing to do?—No, not as a general rule. I know there are certain localities in which the

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trades unions are strong enough to say that they must approve of them.

2615. But, as a general law, the workmen have nothing to do with them?—No.

2616. You spoke about those very harsh laws which the men themselves make; you say that there are 800,000 building operatives; I suppose the whole of those 800,000 do not submit to those laws?—No, they do not.

2617. What proportion do you think submit to them; would you say 100,000?—Considerably more than that submit to them.

2618. And approve of them?—And approve of them; I should say, that out of the 800,000, not above 130,000 or 140,000 belong to trades unions; in the case of the masons about one-fifth belong to unions; in other trades the proportion would be rather smaller. But the union men are the noisiest and most influential, and consequently control a large proportion of the non-union men.

2619. Mr. *M'Lagan*.] I think you stated that the only alteration you would suggest would be that you would have assessors appointed to assist the magistrates?—I think that some alteration in that direction, if it could be practically made, would work well.

2620. Are you aware that these cases come before the Justices of the Peace?—Yes, or the stipendiary magistrates in places where there are stipendiary magistrates; they come before the ordinary Court of Petty Sessions.

2621. Do you approve of the Justices of Peace Court, as the proper tribunal for the trial of such cases?—Yes.

2622. In preference to a stipendiary magistrate?—No; but the stipendiary magistrate usually sits in the same court as the Justices of the Peace, and the Justices of the Peace either assist him or sit on alternate days in the very same court.

2623. Have you equal confidence in the two classes of magistrates?—No, I cannot say that I have. It stands to reason that a man who has received the judicial training which a stipendiary magistrate ought to have received should be more qualified to weigh evidence.

2624. You would not recommend that these cases should be tried only before a stipendiary magistrate?—I do not suppose that it would be really practicable; I should recommend it if it were practicable, not simply in relation to master and servant, but everything. I do not suppose that it is practicable to appoint a stipendiary magistrate in every little country town in the kingdom. Our cases arise in all manner of places.

2625. They come before the county courts, do they not?—Very seldom.

2626. They might come before the county courts?—Yes, except that the action of the county court is hardly quick enough.

2627. They do not sit frequently enough?—No.

2628. Mr. Alderman *Salomons*.] Why cannot the magistrate decide those cases without an assessor?—I think I said, in the first place, I thought that if such an arrangement as the appointment of assessors could be made, it might be desirable. I had not an opportunity of saying why I thought so. My idea is, that the principal use of those assessors would not be so much to assist the magistrate, whoever he might be, in the discharge of his judicial function, as to act as a

kind of court of conciliation between master and man.

2629. Is not the case of a man who has broken his contract really a matter of the most simple nature, that almost anyone of ordinary common sense, without a knowledge of law, could decide fairly?—Yes, to a certain extent, it is a very simple thing, so I am quite content with the law as it at present stands, but when I made the suggestion with respect to assessors, I said that I had not really given the matter much consideration. I had thought that the appointment of trade assessors might assist the administration of justice in technical matters.

2630. One can well understand that in any complicated question of law a magistrate might be advantageously assisted by a legal assessor, as he is assisted at present by his clerk, but would not an ordinary justice of the peace be as competent as anyone else to decide a question of breach of contract between master and man?—I quite agree with you. What I suggested was not so much in relation to the law of master and servant alone, as the general relations between master and servant, and questions involving technical details.

2631. To revert to the remedy to which you lean so much, viz. sending a man to prison without the option of a fine, do you think that you make him a better man by committing him to prison?—I do not think so.

2632. That is what you lean to?—I lean to that power rather than to the power of imposing a fine, as being in our case the only real penalty.

2633. Do you think that a law which left to the magistrate no option of inflicting a fine, but which, whenever a dispute arose between a master and a man, and the man left his employment, compelled the magistrate to send the man to prison with hard labour, could be an advantageous law, or one that would be desirable either for master or servant?—I do not think it is, putting it generally as you do.

2634. Do not you think that in ordinary cases where there was a mere breach of contract, the man should be fined for having broken his contract, and that where he had not only broken his contract, but inflicted some ascertainable wilful damage, he should then be imprisoned for that wilful damage?—Taking the question as broadly as you put it, I do think so.

2635. You think that it would be an improvement of the law to make a man fineable for merely having broken his contract, treating it as a civil matter, but that if he committed some real ascertainable wilful damage, he should be made to pay a penalty in money, or in person, by imprisonment?—Taking the question as broadly as you put it, I undoubtedly would say yes.

2636. You think it would be just to so far modify the law as to make a mere breach of contract, such as a man leaving his engagement, liable to fine; but that if by leaving his engagement he has wilfully inflicted an ascertainable damage upon his master, such as might occur by leaving horses unfed, or through leaving some work by which some great loss might fall upon him, he should be liable to pay the expense, or go to prison?—As a general principle, I think so, undoubtedly; that in every case where fines could be inflicted, fines would be far the better remedy for such breaches of contract as you have referred to.

2637. Do not you think that if you could so modify the law, it would make the man more obedient

obedient and more manageable by the master?— I should hope it would, and I really think it would.

2638. Mr. Clive.] What could you do in the event of the fine not being paid?—As I have already said, as far as the building operatives are concerned, fines would not meet the case. If fines were inflicted, they would not in one case out of a hundred be paid, and when paid would be paid by unions. So I hold that at present so far as the law as connected with building operatives and building masters is concerned, it is not desirable to change it.

2639. What would you have as the other alternative, assuming a fine to be inflicted and not paid?—There is no other alternative than the present punishment of imprisonment.

2640. Would you have that in the Debtors' Prison or at hard labour?—I confess that I have not much considered the subject; I think that

where it is a simple case of breach of contract, not involving any other question, a fine would be quite sufficient to meet the case; and if the non-payment of the fine were followed by imprisonment, the nature of that imprisonment should be perfectly optional with the magistrate.

2641. He should have the power to inflict the punishment of hard labour if he thought the case demanded it?—Yes; but if the non-payment simply arose from inability to pay, I would look upon it as a debt.

2642. Would you authorise the magistrate to grant a warrant in the first instance, or would you require that a summons should be first issued.—I would give the magistrate the power to issue a warrant in the first instance.

2643. You would not be in favour of remitting the whole thing to the common law, making a mere matter of contract of it?—Not by any means.

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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,

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.

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.]

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## 2. Evidence to a contrary purport; recommended Abolition of the Practice in Scotland:

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*Cutlery Trade.* Frequent prosecutions and great hardship under the Act in the case of the cutlery and other hardware trades of Sheffield, *Dronfield* 774-779. 797. 819-828. 839-843—Monthly contracts are the custom of the cutlery and hardware trades, *ib.* 780-787. 808—Very injurious effect of the practice of hiring in the cutlery trade; several instances of this, *ib.* 864.—See also *Sheffield.*

D.

*Davis, J. E.* Letter from Mr. Davis, stipendiary magistrate of Stoke-upon-Trent, to the Chairman of the Committee, dated 28th June 1866, offering sundry suggestions for an amendment of the law relating to masters and servants, *App.* 130-132.

*Day Contracts.* See *Minute or Day Contracts.*

*Dickinson, Joseph.* (Analysis of his Evidence).—Is inspector of coal mines for the Manchester district, 2109, 2110—General rule in the district to give a fortnight's notice on either side, 2111, 2112—Adoption in some of the largest collieries in the district of the system of minute contracts, the result being satisfactory both to masters and men, 2113-2128—Fewer cases of desertion of service where notice is not required than where there are fortnightly notices, 2121-2123. 2160.

Sufficiency of the special rules under the Mines Inspection Act for meeting aggravated cases of neglect of duty by colliers, 2129-2131. 2160, 2161—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, 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, 2143-2155. 2185. 2190-2193. 2204-2207—Expediency of proceeding, in the first instance, by summons, instead of by warrant; practice hereon under the Mines Inspection Act, 2159-2169. 2194-2200.

Satisfactory adjudication by the justices in petty sessions, in cases under the Mines Inspection Act, the owner himself or any relative being prohibited from sitting, and it being necessary to have two magistrates, unless one is a stipendiary magistrate, 2170-2179. 2201-2203—Approval of a similar tribunal to the foregoing in cases of breach of contract, 2174-2179. 2186, 2187. 2201-2203.

Objection to a power of arrestment of wages, whether for debt or for fine, 2180-2184—Way in which the special rules adopted in collieries obtain the force of law, not being set out on the face of the Act, 2188, 2189—Advantage of similar rules being prepared under the law of master and servant, specifying the cases in which imprisonment might be imposed, 2190-2193.

*Dissolution of Contract.* A commitment under the Act does not dissolve the contract, *Newton* 3132; *Campbell* 330. 435—Power of the magistrate to discharge the man from his contract instead of sending him to prison, *Campbell* 435, 436.

*Distress Warrants (Non-payment of Fines).* Advantage if the workman were sold up absolutely by distress warrant for the whole fine inflicted by the county court, *Newton* 208—Objection to a man being sold out of house and furniture for non-payment of fine, *M' Donald* 561. 601-603; *Steele* 732, 733; *Williams* 1107-1128. 1151-1157—Dissent from the view that recovery by distress is a harsher proceeding than recovery by arrestment of wages, *Burns* 2346. 2372-2376.

Approval by the Committee of a resort to distress warrant failing payment of fine, *Rep.* iii.

*Dronfield, William.* (Analysis of his Evidence).—Is secretary to the organised trades of Sheffield, being an amalgamation of trades unions; is by trade a printer, 761-770—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, 771-774. 796, 797—Frequent prosecutions and great hardship under the Act in the case of the cutlery and other hardware trades of Sheffield, 774-779. 797. 819-828. 839-843—System of fortnightly or monthly contracts in Sheffield, minute contracts being exceptional, 780-795. 808. 880-884.

Belief that making breach of contract a civil offence would not operate injuriously either to employer or employed, 796-798—Approval of imprisonment of workmen for non-payment of fines where the amount is reasonable, 799, 800—Non-objection to arrest

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

of wages in cases of breach of contract, but not under the common law, as in Scotland: 801-803—Satisfactory operation anticipated from a system of minute contracts, if generally adopted in Sheffield, 804-806—Advantage of a fortnight's notice over a month's notice, 809, 810.

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, 811-829—Grounds for objecting to the justices as the tribunal for deciding between master and men in Sheffield, 829-834. 847-854. 860-864—Improvement if the county court judge dealt with these cases, or if there were a stipendiary magistrate at Sheffield who could undertake them, 829. 835. 846. 862.

Dissent from the view that the trades' unions in Sheffield have been prejudicial to the growth of trade, 855-859—Very injurious effect of the practice of hiring in the cutlery trade; several instances of this, 864—Frequent inducement held out to men to leave one master for another; suggestions for the prevention of this practice, 864-879—Circumstance of the steel melters in Sheffield not being under the trades' union; explanation on this point, 885-889.

## E.

*Equality of Treatment.* Concurrence in the view that the workman should be placed on an equality with the master, by being made liable only to civil consequences for breach of contract, *Newton* 8-10. 15. 46-53. 62-68; *Dronfield* 796-798; *Normansell* 947; *Williams* 1093, 1094. 1115; *Roberts* 1647 *et seq.*; 2218-2232; *Odger* 1914—Chief object of the present movement to place the workman on an equality with his employer as regards breaches of contract of service, *Newton* 8-10; 130. 197-200; *Campbell* 314—Equality of punishment by the infliction of a fine upon the workman, as upon the master; question hereon in the event of the workman not being able to pay the fine, *Newton* 69, 70. 116-121. 203, 204; *Odger* 1938-1943—Expediency of misdemeanours under the Act being equally applicable to masters as to men, criminal punishment being, however, undesirable in either case, save for very exceptional breaches of contract, *Odger* 1930-1938. 2008-2019—Approval of imprisonment for both master and man for non-payment of fines, *Burns* 2352. 2359. 2370, 2371; *Mathews* 2519.

See also *Civil Offence.* *Criminal Offence.* *Fines.* *Imprisonment.* *Inequality and Hardship.* *Procedure.*

*Evans, William.* (Analysis of his Evidence.)—Is editor of the "Potteries Examiner;" was formerly a working potter, 1351-1356—Long-continued strike and serious distress in the potteries district in 1836 and 1837, on account of the badness of the written contracts and the system called "good from oven," 1357-1368—Particulars relative to the system of "good from oven," and its harsh operation upon the working potters, 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, 1367 *et seq.*

Unsatisfactory working of the system of annual agreements or contracts in the pottery trade; advantage if the contracts were monthly, 1369-1377. 1382, 1383. 1404-1410—Increasing number of prosecutions for breach of contract, 1374—Trial of the cases before the ordinary justices, a stipendiary magistrate sitting with them, 1387-1395—Dissatisfaction of the workmen in being treated criminally for breach of contracts, whilst the masters can only be proceeded against civilly, 1400, 1401. 1411—Redress open to the master if allowed to arrest the workman's wages; doubt as to the expediency of this system, 1412-1416—Advantage to the men in the pottery trade if day contracts were introduced; probability of such contracts working well, 1416-1424.

*Examinations (Breach of Contract).* Suggestion that the person charged with breach of contract be permitted to be examined as a witness, *Burns* 2305—Approval of its being permitted to examine workmen when charged with breach of contract, *Mathews* 2492-2494.

The Committee are not prepared to recommend the adoption of the suggestion for the examination of the parties to the action, *Rep.* iii.

## F.

*Factory Workers.* Frequent imprisonment, under the Act, of female factory workers in Scotland, *Campbell* 303.—See also *Gray, Alexander.*

*Fines.* Statement upon the question of a fine being an adequate punishment, as workmen may not have wherewith to pay it, *Newton* 69, 70. 116-121. 203, 204—Limited remedy of the employer in the event of workmen striking for wages and causing him serious loss through the non-fulfilment of a contract undertaken by him, *Campbell* 405-409.

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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.

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*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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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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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.

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*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 partiality.

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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.

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2. *System of Contract in Mines in England.*
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*Notice (Termination of Contract).* Satisfactory results where notices have been dispensed with in favour of hourly or day contracts, *Newton* 79-82; *Campbell* 383-392—Witness does not object, however, to the practice of notices before termination of contracts, *Newton* 115—Advantage if generally there were no contract at all, and if notice were dispensed with, *Campbell* 398-402.

Evidence as to the very salutary operation of the system in the Scotch mines of dispensing with all notice or warning, *McDonald* 470 *et seq.*; *Hood* 1226-1246. 1303, 1304; *Ormiston* 2031 *et seq.*—Satisfactory results in the iron-moulders' trade in Scotland, through



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*Notice (Termination of Contract)*—continued.

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; *Mutheus* 2496-2498. 2514-2517.

See also *Annual Contracts. Miners, 1, 2. Minute or Day Contracts.*

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

See also *Cutlery Trade. Liverpool. Mines and Miners, 3. Shoemakers.*

## O.

*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.

[Second Examination.]—Explanation that prosecutions for breach of contract in the shoemaking trade frequently occur in Northampton, Bristol, and other places, though there are none in London; difficulty of accounting for this, 1815, 1816—Reference to a case in the shoemaking trade at Bristol in 1857 as illustrating the undue power of the masters in regard to punishment, 1816, 1817—Particulars relative to a case of a tinsmith worker prosecuted at Wolverhampton in 1850 by his master for breach of contract; hardships of this case, 1818-1839—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, 1818-1827. 1862-1872. 1935-1937.

Strong objection to the criminal procedure and the power of imprisonment as regards workmen, whilst the masters can only be dealt with for a civil offence, 1834. 1840, 1841—Bad feeling created in the workmen by the knowledge that they can be treated in an unequal and oppressive manner, 1840. 1856-1861. 1951, 1952—Connection in recent years of nearly all workmen with clubs and benefit societies; grounds for objecting on this score to their being subject to criminal consequences for breach of contract, 1841-1854. 1874. 1940, 1941.

Gain to masters as well as to men if the former would declare against the inequality of the Act, 1854. 1944—Vague definition in the Act as to the conduct for which the workman is to be liable for misdemeanor, 1854, 1855—Frequent breach of contract on the part of masters in the shoemaking trade, without proceedings being taken by the men, 1861. 1874, 1875. 1906—Suggestion that the county court process be applied to men as well as to masters, 1873-1876. 1898-1906—Objection to criminal procedure even in exceptional cases of breach of contract by workmen, to the injury of their fellow workmen as well as of their masters, 1876-1888. 1982-1986.

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, 1889-1897. 1921-1929. 1945-1950. 1974-1981. 1996-2000—Instances of workmen being referred to the county court when they have been desirous to proceed summarily before the magistrates, 1902-1906—Assistance sometimes given by trades unions to men when proceeded against for breach of contract; practice at the same time of the unions to give security to the masters against loss through their workmen absconding, 1907-1913.

Improvement if the magistrate had an option to fine or to imprison, 1914, 1915—The main thing required is to make the procedure entirely a civil one, 1914—The warrant should in fact be abolished in favour of a summons, 1916-1920—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, 1921-1923. 1945-1950—Advantage if workmen were allowed to pay the fine by instalments, 1928. 1941. 1988.

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, 1930-1938—Adequacy of fines as a punishment for workmen; very  
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*Odger, George.* (Analysis of his Evidence)—continued.

exceptional instances of their not being in a position to pay fines in full, 1938-1943—Question considered as to the law of master and servant having any effect in connection with strikes; action of trades unions adverted to hereon, 1953-1973.

Approval of imprisonment for non-payment of fine, 1987—Grounds for objecting to an arrest of wages in payment of fine, 1989-1995. 2024, 2025—Explanation as to witness having cited only two cases in illustration of the oppressive character of the present law, 2001, 2002—Practice as to the reporting or taking down of the cases cited in the trades reports, 2003-2007—Expediency of misdemeanors under the Act being equally applicable to masters as to men, criminal punishment being, however, undesirable in either case save for very exceptional breaches of contract, 2008-2019—Facility of extending the jurisdiction of the local magistrates if civil process only were to be resorted to, 2020-2022.

*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.

Resolution of the Committee as to the cases being publicly tried, *Rep.* iii.

*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.

Exception, under the system of minute contracts, in the case of enginemen and furnacemen, from whom notice is still required on account of the importance of the duties fulfilled by them, 2054-2057. 2061-2083. 2090—Inoperative character of the law of master and servant where minute contracts are in force, 2060. 2091-2093—Gradual spread of minute contracts in Scotland; improvement thereby, 2094-2100. 2103-2105—Witness has never heard objection made to the jurisdiction of the justices in Scotland. 2101, 2102—Disapproval of the system of arrestment of wages, 2106-2108.

## P.

*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.

Great improvement if the magistrate had the option of inflicting a fine instead of imprisonment, 2399—Approval of an appeal to the quarter sessions, 2400, 2401—Efficiency of magistrates as the tribunal to decide cases of breach of contract, 2402, 2403. 2410—Practice of witness, in issuing a summons, always to set forth the nature of the charge, 2405. 2411, 2412—Objection to any undue limit of the time for which the summons should continue in force, 2406—Advantage if the cases were tried by not less than two magistrates, and in open court, 2407, 2408—Sufficiency of one magistrate for the issue of the summons or warrant, 2409—Objection to the fine being placed at a higher maximum than 5*l.*, 2413-2417.

*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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**PROCEDURE**—continued.**2. As to the Amendments required, &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.

Proposition that all contracts between masters and servants should be the same as contracts between other people, 1655-1657. 1673, 1674—Suggested adjudication by the county courts, instead of by the magistrates, 1655. 1659, 1660. 1673—Strong feeling on the part of working men against the inequality of the law, 1658, 1659—  
Necessary

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

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.

Different parts of England in which proceedings against colliers chiefly arise under the law relating to breach of contract, 1720. 1722-1728—Numerous cases which arise between bricklayers and their employers, 1720, 1721. 1729-1732—Many cases also in the iron trade, 1733—Also in the glass trade, though probably not so numerous as formerly, *ib.*

Evidence as to the great importance of weekly payments; in the case of colliers, witness would in fact make such payments compulsory by law, 1733-1771—Great evil arising from monthly or long payments, 1733-1735. 1757-1760—Numerous instances of colliers being paid only once a month, though fortnightly payments may be the general rule, 1740-1749. 1771—Reasons for not leaving it to the colliers themselves to demand weekly payments, 1745-1752—Practice of weekly payments by most houses in the cotton trade, 1762-1768.

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.

Effect of the criminal jurisdiction as regards breach of contract by workmen in creating a hostile and almost savage feeling, and in leading to strikes rather than in deterring from them, 2238—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.*—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, 2238-2241.

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.

See also *Mines and Miners*, 4.

## 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.

Very beneficial operation of the practice of minute contracts in witness's trade, 715, 716. 720, 721. 726—Exceptional occasions on which, by moulders suddenly and wilfully discontinuing work they may injure their employers and stop the employment of their fellow workmen; approval of such exceptional cases being dealt with criminally, 716-721. 728. 744-760—Expediency of masters and servants being treated equally under the law, and of the latter being liable only to civil proceedings, save only under very exceptional circumstances, 723-733. 742-760.

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

Non-objection to imprisonment when fines are levied but are not paid, 728, 729—  
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grounds for the feeling of the men that the law is not properly or impartially adminis-  
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*Stipendiary Magistrates.* Feeling of stipendiary magistrates in the midland districts that it  
is hardly right to visit a civil offence with a criminal punishment, *Mathews* 2423.

See also *Tribunal.*

*Strikes.* Belief that strikes have not increased on the part of Scotch miners through notices  
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*Tinplate Workers.* Particulars relative to the case of a tinplate worker prosecuted at  
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*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  
the master class, and have a sympathy for the employers, *Newton* 13. 54-58. 87-91.  
145-156. 264-268—Several grounds for objecting to the justices as the tribunal for  
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## 1. Evidence opposed to the Justices of the Peace, &amp;c.—continued.

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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.

## 2. Evidence in Defence of the Jurisdiction of the Magistrates:

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.

Suggested adjudication by the county courts instead of by the magistrates, *Roberts* 1655, 1659, 1660. 1673—Necessary change in the tribunal if breach of contract by working men were not treated as a criminal proceeding, *ib.* 1660—Decided advantage of stipendiary magistrates over justices of the peace, as the tribunal to adjudicate, *ib.* 1685-1687. 1712.

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.

Satisfactory adjudication by the justices in petty sessions in cases under the Mines Inspection Act, the owner himself, or any relative being prohibited from sitting, and it being necessary to have two magistrates, unless one is a stipendiary magistrate, *Dickinson* 2170-2179.



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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.

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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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