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Slavery In The Coal-Mines Of Scotland

By James Barrowman, Mining Engineer

Presented at Annual General Meeting of the Federated Institution of Mining Engineers, 14 September 1897

It is not necessary that the records of the dim and distant past be searched in order to find a condition of things answering to the title of this paper. Not a hundred years ago, a system of servitude still existed in Scotland, sanctioned by the practice of two centuries, by virtue of which colliers and their families were fixed to the soil almost as effectually as if they had been bought in the slave-market of New Orleans or born in the hut of a negro on some Virginian plantation.

It is matter for surprise that such an institution should have been allowed to exist in Scotland, and our surprise is not lessened when on enquiry it appears that it was not a relic of the social system of the Middle Ages, but was the result of express enactment by the Scottish Parliament.

In the early centuries of our country's history, while yet the forests were extensive and wood abundant, there was little need for coal, and it was therefore not much sought after for domestic purposes. Perhaps the first use to which it was applied to any considerable extent was in the manufacture of salt from sea-water, as we find that the earliest coal-works were on the seashore, and usually associated with salt-pans. Saltmaking, being capable of continuous operation, required a regular supply of coal, and so these industries of saltmaking and coal-mining grew up side by side and interdependent. The early coal-workings were of a superficial character, being chiefly of the nature of quarries; indeed, the primary meaning of the word heugh - the name given in past times to a coal-pit - is a steep bank or glen. The labourers on the coal-producing estates, assisted by the members of their families, performed the work when it suited their convenience. The extension of the workings below the surface of the earth as the open diggings became exhausted, coupled with the increasing demand for coal and salt at home and abroad, necessitated more extensive, systematic, and continuous working, and in this way coal mining came to be a regular craft, not much sought after by outsiders, but providing ready and profitable occupation for the collier and his family, the father and elder sons hewing the coal and the daughters and younger sons - and not seldom the mother also - bearing it in baskets on their backs from the coal-face to the pit-mouth.

The collier and his dependents were subjected to a measure of social ostracism, partly on account of the spirit of the times, which in a much greater degree than now regarded all labour as menial, but chiefly because of the solitary nature of the occupation. Engaged in dirty and unattractive work, in darkness and alone, and dissociated from the activities of the outer world, the collier settled into that condition of separateness which is characteristic of the class to the present day.

Such was the state of the coal-mining population in the sixteenth century, when the country was awakening to a sense of its commercial capabilities. Successive Acts of Parliament passed in the later years of that century to prohibit the export of coal are evidence of the rise of an extensive trade with foreign countries, the wider development of existing coal-works, and the opening up of new fields to meet the demand. The owners of new coal-works, having no trained colliers on their own estates, sought them at established collieries, and induced them by means of gifts and promises of higher wages to leave their employment. This was naturally resented by their masters, who had difficulty in getting sufficient workers for their own pits. The aggrieved coal-owners made application to Parliament to put a stop to the practice. Accordingly, in the year 1606, an Act was passed, which ordained that no person should fee, hire, or conduce any salters, colliers, or coal-bearers without a sufficient testimonial from the master whom they had last served, and that any one hiring them without such testimonial was bound, upon challenge within a year and a day by their late master, to deliver them up to him, under a penalty of £100 for each person and each act of contravention, the colliers, bearers, and salters so transgressing and receiving wages to be held as thieves and punished accordingly. Reference has already been made to the close connexion between colliers and salters, which explains why salters were brought within the scope of this Act.

It need not be supposed that this measure did violence to the sentiment of the time, or that the workers thought it an instrument of oppression. It had been the rule for the collier and his family to live and be cared for and die on the estate on which he was born, and the mere preventing him from leaving the work where he was engaged, unless he had the permission of his master, would probably appear to him to be no unreasonable restriction.

Primarily designed to prevent desertions, the Act was ere long found to have a farther reach than its framers probably dreamt of. It authorized a coal-owner to retain his colliers as long as he had work for them. From the fact that many collieries were then in constant operation, and that some have worked continuously to the present day, it is apparent that the colliers attached to works of a permanent character were bound for life, and from generation to generation. And even in the case of collieries where work was not continuous, the worker found that he could not oblige his master to give him a

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testimonial on leaving, and that he was liable to be recalled as soon as work was resumed. Indeed, it appears to have been the rule for masters to withhold a testimonial, in order that they might the more freely reclaim when need arose.

Up till the year 1661, colliers and salters were the only workers to whom the Act applied, but in that year the Act of 1606 was ratified, and an addition made embracing other colliery workers - named watermen, windsmen, and gatesmen. This circumstance furnishes incidentally a noteworthy proof of the great progress that had been made in mining during the preceding half century. Departments of work that formerly did not exist, or were merely subsidiary, had become specialized; and there were now men in the collieries set apart for laving or pumping water from dip-workings, winding the coal up the shafts by means of windlasses, and attending to the repair of the roads underground.

An Act passed in 1672, for the establishment of correction-houses for idle beggars and vagabonds, authorized "coal-masters, salt-masters, and others, who have manufactories in this kingdom, to seize upon any vagabonds or beggars wherever they can find them, and to put them to work in the coal-heughs or other manufactories, who are to have the same power of correcting them and the benefit of their work as the masters of the correction-houses." We need not conclude that the ranks of the colliers were largely reinforced in this way. The sturdy beggar has always been an adept in evading honest labour, and doubtless those of the seventeenth century were no exception to the rule.

For the first hundred years after the passing of the Act of 1606, it seems to have been the general belief of both masters and men that if a deserting collier succeeded in evading pursuit, by going over to England, or keeping in hiding elsewhere, for a year and a day, he was then at liberty to work where he chose. This was deemed a grievance by the coal-owners, and they sought to have an Act passed in the year 1700 making their title effectual and not subject to lapse if they, within a year and a day of desertion, cited the fugitive at the market cross of the chief burgh of the shire in which he had his residence. The Act was not passed, for what reason does not clearly appear, but decisions of the Court of Session in 1708 and later had the effect of giving the masters what they desired in this particular.

The scope of the Acts as interpreted by the courts may best be understood by reference to some of the cases of which reports have been preserved. A study of the decisions reveals differences amounting to apparent inconsistencies, not only with one another, but with the Acts; and one is almost constrained to think that when a case presented any element of doubt it was not the collier who got the benefit of it.

In the year 1708, Sir Thomas Wallace of Craigie sued William Cunningham of Brownhill for seducing eight or nine of his colliers that were born on his property, and had wrought in his coal-works some years before. Brownhill refused to give them up on the ground that, although belonging to Sir Thomas originally, they had not worked with him for seven or eight years past; and that his having opened a new coal-work was no good warrant for reclaiming, since they had been more than a year and a day away. It appears from the evidence that they had not been a year with Brownhill. The Lords of Session found that colliers could not be hired without a testimonial from their former master, and that Sir Thomas, having now a going coal-work, might well reclaim them; and, although away several years from him, they had not been a year with Brownhill, and that he must restore them. A contemporary legal writer, commenting on this case, remarks:- "By this instance, and some others that have occurred this session, it appears what latitude judges have in the interpretation of laws, sometimes by an extensive interpretation amplifying them beyond what the words carry, and at other times by a restrictive sense limiting them, from equity and circumstances appended thereto."

A somewhat similar case in 1725 between George Lockhart of Carnwath and the tacksman of a coal-work at Saltcoats in reference to a coal-bearer named Kate Thomson, who had absconded from a coal-work at Dryden, was decided in favour of the former master, Lockhart.

That attachment to a coal-work did not deprive a collier of every right of citizenship is pleasingly illustrated in a case decided in 1747. A number of bound colliers at Rutherglen, having been admitted as burgesses, voted in the election of town councillors. Other burgesses of the town, regarding this as an indignity, sought to have the election, so far as influenced by the votes of these colliers, reduced on the plea that the colliers were incapable of voting, but the court held that they were not debarred from voting.

In 1748, John Gibson of Hillhead sued Andrew Scott of Kirklee for delivery of four colliers detained by him. Although it was proved that they had been over a year away from Gibson's work, Scott was held bound to restore them, on the ground that they were allowed by Gibson to go to Scott's work while the work of the former was not going. An argument used in the pleading, and which appears to have been of some weight, was that, being away by permission, their desertion only commenced from the time of their being required to return.

A collier named Simpson, attached to a coal-work on the lands of Quarrole, deserted that work and went to John M'Leod's work at Bowhouse. Mr. Dundas afterwards purchased Quarrole, receiving at the same time an assignation of the colliers, including Simpson, whereupon, in 1754, he raised an action against M'Leod for restitution. The collier had been several years in M'Leod's work. Judgment was given to the effect that Dundas had right to the property of the collier, and this apparently on the ground that if the requisition be not made within the year the master does not thereby lose his property in the collier, but may recover him at common law. Lord Kames, in reporting this case, expresses dissatisfaction with the decision, and gives the opinion that if Simpson had originally to leave Quarrole because he could not find employment he was free after the year and day.

James Gray of Dalmarnock gave up a coal-work and allowed his colliers to go where they pleased, but took the precaution to reclaim them every year in order to preserve his right to them if he should set up his colliery again. With his consent, six of the colliers settled at Mr. Bogle's work at Shettleston, and remained, some more, some less, than a year, when they were enticed to a work at Barrachnie, belonging to Mr. Cross. Mr. Bogle claimed those who had been with him over a year; but the Lords found him not entitled to any of them. The report shows that these colliers had not bound themselves to Bogle, but it is not clear whether the decision was on this ground, or because they were still bound to Gray.

A case, apparently inconsistent with the decision in Dundas's case of 1754, and in which also Dundas was pursuer, is reported in 1761. A collier who had left Grange coal-work after being there for over a year, wrought in Dundas's work at Quarrole for about a year and a half, when he returned to Grange. Dundas reclaimed him from Grange works. The court found him entitled to recover, because the collier had been over a year in his possession. The apparent discrepancy between this decision and the other referred to may be accounted for, if the collier in this case had bound himself to Quarrole, but this is not stated in the report.

In 1739, James Scott took a lease of coal at Rutherglen belonging to Robert Spence, and worked the same for 16 years, when he gave up the lease and opened a work on another estate. Spence took the work into his own hands in 1760, and claimed the colliers that Scott had taken with him to the new work. The court upheld Spence's claim, finding that the colliers were not bound to the tacksman, but to the coal at which they wrought during the currency of the tack.

Two lads, who had been bound with their fathers to a coal-work which became exhausted, took employment in a neighbouring work belonging to Sir James Clark, but without binding themselves. They afterwards left, and Sir James claimed them as his bondmen, but his claim was not allowed upon the footing that a man of full age, whether a freeman or bound, entering into another coal-work without any paction of slavery, his working for whatever time will not make him a bondman, and that the argument concludes a fortiori in favour of these lads, who were under age.

Mr. Archibald Hope, proprietor of the coal of Harrylaw, was lessee of the coals of Edmonstone, Monkton, and Woolmet, all belonging to different proprietors: and the question came to trial in 1769 in an action at the instance of some of the colliers bound to these coals, whether they could be compelled to work at a coal different from that to which they were respectively bound; or if, upon the coal being stopped, they were entitled to an attestation of a reasonable cause of removal in terms of the Act. The decision in this case was that, as the proprietor of a coal is entitled to remove his colliers to any coal where he has work for them, the tacksman must be in the same situation. In the report of this case reference was made to a case decided in 1762, in which the Marquis of Lothian was held entitled to remove his colliers from one estate to another belonging to him 2 miles distant, and to a case to the same effect between Mr. Wemyss of Cuttlehill and some of his colliers.

The attestation referred to in Hope's case was probably a testimonial from the court, given to colliers on application when they were entitled to their freedom. This proceeding was not specifically authorized by the Acts of 1606 and 1661, but seems to have been resorted to on account of the unwillingness of coal-owners to give up their claims, even after their right to retain their colliers had lapsed.

The following letter, dated 1760, from the Duke of Hamilton's overseer at Bo'ness colliery to a ship master in Leith, mentions this, and shows also that the power to reclaim could be exercised on sea as well as on land:- "But the material fact is that her son Charles Grant is a native collier of Duke Hamilton's, and is at present on board His Majesty's tender, Capt. Brown commander. As it is contrary to the laws of this realm to keep any man's bond-servant without a certificate from his master or a testimonial from a judge setting forth the cause of his way-going, if you are acquainted with the Hon. Capt. Falkoner I shall take it as a singular favour if you will take the trouble of letting him know that it will be taken kind by the tutors of His Grace if he would order the boy ashore, as it would save His Grace a good deal of trouble and expense that it may cost in obtaining him in a legal way."

In the year 1778, the proprietors of Elphingstone colliery, Tranent, presented a petition to the Justice of Peace court at Hamilton to grant warrant for the apprehension of three colliers who had absconded from that colliery, and were secretly working in a colliery at Tollcross. Warrant was granted, and they were apprehended and put in prison until the father of one of them became caution for them that they would return to their work, he paying the expenses of the action.

On receiving the necessary testimonial, a collier was at liberty to go where he chose, and he could bind himself to another coal-owner.

The court cases reported do not make clear what constituted a binding paction between coal-masters and colliers. Some of the decisions point to work for a year and a day as constituting the bond, but this was not always the case. The workmen no doubt got every encouragement to enter into a binding agreement, and such was common, the essential element of which was the bestowal of a gift by the master, partaking of the nature of arles in the hiring of a servant. It was customary also for the parents of a child to receive a gift from the master at the birth or baptism of the bairn in token of the child's being bound along with the parents.

Some such compact as this was not unnecessary, because, strictly speaking, the bond of servitude did not pass by birth from father to child. The children of the bound collier were not themselves bound, unless they voluntarily followed their father's occupation. It was, therefore, the interest of the coal-owner to encourage the collier and his wife to bring up their children as colliers and bearers.

The wages paid to the collier usually included a gift, or bounty, as it was called, which was paid either annually or on the usual pay day. In 1693, at a colliery on the Forth, the bounty was 10 merks a year, fully eleven shillings sterling. In the latter part of the following century, the bounty was from one-eighth to one-quarter of the wages, but its payment was dependent on the colliers working regularly.

The following authentic particulars from the history of coal-works in different parts of the country serve to illustrate the working out of the system of servitude. As already indicated, it was usual for proprietors when letting their coal-works to assign to the tenants the rights they possessed in the colliers and other workers. A lease of a colliery on the Firth of Forth, dated 1661, contains the following clause :- "And also with liberty to the tenants to call, pursue, apprehend, and bring back all such coal-bearers and salters who have run away from the said works, conform to Act of Parliament thereanent."

Attached to a lease of coal and salt-works at Bo'hess, in favour of Mr. Cornwall, of Bonhard, dated 1681, is a list of colliers and bearers delivered to him, conform to the tack of the coal and salt-works. There are 18 coal-hewers, 5 male house bearers, 1 of whom is reckoned a half; 21 female house bearers, 5 of whom are reckoned a half each; 1 male fremd bearer and 10 female fremd bearers, 2 of whom are reckoned a half each; in all 13 coal-hewers and 33 bearers. These, with 1 oncost man, the tenant acknowledges to have received, and undertakes to deliver over, or at the least a like number, at the end of the lease. The fremd bearers were those not belonging to the family of the coal-hewer, and who had been hired from outside to assist him.

In a lease of a colliery near Cambuslang, dated 1760, there were let, not only the coal in the lands, but also "the coal-hewers, coal-bearers, putters, cleeksmen, banksmen, gatesmen, and others bound to the said work, and any others that shall be legally employed and become bound during the currency" of the lease. The tenant is "allowed to employ as many coal-hewers as he pleases, and to have full power over them, to require and claim them from other coal-works, imprison and otherwise punish them according to law, in the same manner as the proprietor could do himself."

A memorandum of the number of workers bound to a colliery in the East of Scotland in 1769 is as follows:- "The number of colliers delivered was 55, absent 10; the number of coal-bearers 102, absent 9; the number of salters 16, absent 10; wrights 2; smiths 2; enginemmen 8; pitbottommen 5; banksmen 10; gatesmen, reddsmen, and ginnies 8; oversmen 3; in whole 236, besides children innumerable - 472 souls at the common computation."

The mode of reclaiming colliers who had deserted is set forth in the following extract from a journal of the Duke of Hamilton's colliery overseer, dated 1756 :- "Went to Shettleston, where we found George and William Love and James Watchman, Sr. and Jr., whom we required at Robert Bogle, Esq., personally: then went to Lightburn, where we found Archibald Watchman and son, James and John Nisbet, and William and John Mathieson, His Grace's own colliers, whom we required at Mr. McNair personally, and upon the black of his coal-hill from his manager. From this we went to the Coats coal, where we found James Young, and would have required him from John Farie, but to save us that trouble he promised to be good for him till we sent for him. From this we went to the coal-work of Rutherglen, where we found Archibald Paterson, one of His Grace's colliers, whom we required both on the black of the coal-hill from the manager and from bailie Scott personally at Rutherglen. And from this we proceeded to the Muir-heugh of Glasgow, where we found Andrew Wilson, one of Mr. Calderwood's colliers, and required him upon the black of the coal-hill from the manager, as well as from bailie Leitch, one of the masters personally."

As an illustration of the fact that the collier could not be obliged to go from one estate to another belonging to a different person, a case is reported in the memoranda, dated 1769, of a mining engineer who was overseer of a colliery at Dunmore, and who also supervised a colliery on the Forth belonging to another proprietor. The coal at Dunmore having been worked out, and men being wanted at the latter colliery, the overseer, with the approval of the proprietor, was desirous to get them transferred; and the memorandum indicates that some degree of finesse was requisite in order to effect his purpose. The list of workers he gives as 28 colliers, 23 bearing wives, 17 bearing sons, 29 bearing daughters, 8 windsmen and watermen, and 5 fremd bearers.

Robert Bald, a well-known mining engineer of three-quarters of a century ago, on a visit to Mr. Dunlop of Clyde ironworks in 1820, tells of having seen an old man named Nook, in Mr. Dunlop's service, who had originally been bound to Mr. McNair's coal-work of Green, and who said he had been niffered for a pony belonging to Mr. Dunlop. Had Mr. Bald possessed a keener sense of humour he would probably have seen a merry twinkle in the old man's eye as he told his story. Some such exchange, no doubt, took place, but the parties concerned knew that it could not be effected without Nook's own consent, and probably he and his master kept up the story as a relic of old times by way of a joke. At any rate, this was the view of the late James Dunlop of Tollcross on the subject.

A recent writer on political economy makes an estimate of the living capital of this country, as represented by its men, women, and children. It is interesting as a speculative calculation. Here is an item of a similar kind, attached to the valuation of a Lanarkshire colliery in 1771 (under lease and with 23 years of the lease still to run), and no doubt considered very practical at the time. "To the value of the property of 40 good colliers, with their wives and children, at the rate of £100 a-head were they immediately delivered, but as that cannot be for the space of 23 years, their present value at that rate is only £1,302 5s. 7d."

Even assuming that bound colliers were as fairly treated as if they had been free to serve whom they chose, the system was repugnant to the Scottish sentiment, and could not survive the industrial quickening that the country underwent consequent on the development of the use of steam. An Emancipation Act was passed in 1774, the preamble of which runs thus:- "Whereas by the statute law of Scotland as explained by the judges of the courts of law there, many colliers and coal-bearers and salters are in a state of slavery and bondage, bound to the collieries and salt-works where they work for life, transferable with the collieries and salt-works," etc. The Act imposed so many conditions to be observed by those to be freed that little advantage was taken of it. Moreover, many of the masters were not disposed to give up their old rights without a struggle, and they sought to retain their hold on the workers by advancing money on bills which the colliers were too ready to accept, with no expectation on either side of repayment being made, the advances being kept up as debts against them. But the system was hastening to its overthrow, and an Act was passed in 1799 sweeping it away. The bill as first drafted retained some shreds of the old bonds; but the miners, especially those of the West of Scotland, had now awakened up to a sense of their responsibilities. The colliers of Lanarkshire resolved on resistance, collected a subscription of 2s. per man from 600 of their number, sent deputations to collieries in other districts of Scotland, and employed Mr. Wilson, of Cowglen, a law-agent in Glasgow, to conduct the opposition to the bill, with the result that the objectionable clauses were removed.

And thus it came about that the nineteenth century had dawned before it could be said in truth of Scotland, in the words of Cowper:— There are no slaves at home: then why abroad?

The Chairman said that Mr. Barrowman's interesting paper showed very strongly the great progress which had been made with regard to the liberty of the subject during the last 150 years, at any rate in Scotland. In England also, the conditions were very different from what they had been, immense progress having been made not only in the management of mines, but in the liberty of the men and their conditions of life.

Mr. G. A. Mitchell (Glasgow) said that Mr. Barrowman's paper was an interesting historical account of the past. He thought it would be a matter of surprise to most of the members that such a state of things could have existed within the last 100 years. As far as he knew, that state of matters had been confined to Scotland, and there was no parallel to it in England. He thought that the paper was interesting not only from an antiquarian point of view, but also from a progressive point of view ; that perhaps the best way of knowing how we stood at the present moment was to compare the practical conditions with those that had existed. He wondered what would happen if men of those former days could be present at a miners' delegate meeting of the present day. If the man who had been "niffered for a pony " could hear discussions as to what pits were to be thrown idle, and how many days were to be worked, he fancied that man would be rather surprised. Mr. Barrowman's figures as a comparison with the present conditions were specially interesting, and from two points of view. First of all they found only some 55 colliers employed in what they might regard as a typical colliery of the time, possibly a colliery of some size as things were then. It showed them what a great difference there was when they compared these figures with the large number that were employed at the present time, even in the comparatively small collieries of Scotland. Then there was another point: in three or four cases Mr. Barrowman had given the proportions in the numbers of colliers to bearers employed at that early period. In one instance, they had 55 colliers to 102 bearers. Now, if they compared that mine with the conditions in mines at the present time, it showed the extraordinary advance which had been made in the scientific working of collieries. The proportion would be completely reversed.

In connexion with this paper, though hardly relating to the subject directly, but as a matter of interest, the special legislation in Scotland with reference to coal-mines was somewhat peculiar in other respects than those that regarded slavery. For instance, in 1661, an Act was passed which exempted all coal-rents from taxation. Now, that also was a great contrast to the present day, because the principal object of the legislature nowadays seemed to be to see how much of the taxation of the country could be placed on coal-mines.

Mr. J. B. Atkinson (H.M. Inspector of Mines, Glasgow) said that at collieries in the counties of Durham and Northumberland the yearly bond (which was often declared by the miners' leaders to be a remnant of slavery) was only abolished about 30 years ago.

Prof. Henry Louis (Newcastle-upon-Tyne) enquired whether the Act of 1606 was a new departure at the time, or was merely a codification of the practice then existing. As far as one could trust mining records, in Roman times, mines were worked by slave-labour. In England, they had such records as Queen Elizabeth obtaining a party of German miners to work mines in Derbyshire, and similar records seemed to show that mine-owners pretty continuously owned the miners who were working under them.

Mr. John Whitelaw (Edinburgh) said that the able paper read by Mr. Barrowman had fully proved its title, and shown how slavery came to be legalized in Scotland. It had been his privilege to peruse when at Prestongrange colliery a record, in manuscript, containing reports regarding the development of the workings and the discoveries of new coal-seams, and the modes adopted generally in the conduct of the colliery. In it were recorded inventories of the names of the colliers and their families as belonging to the estate, all carefully enumerated, and of so many as having been lent to the Duke of Buccleuch and the Duke of Argyll, and stating when they were to be returned. From this record, it appeared that the law at that time permitted miners to be borrowed and lent as common chattels. The record to which he had alluded was that of Lord Prestongrange, then Lord Advocate for Scotland (1745), who, from his high legal position, might be accepted as an authority and as one who was not likely to break the law by lending his colliers and causing them to be returned. It might be mentioned that the "arles" were a pair of shoes, the acceptance of which made the colliers bondmen. The Prestongrange colliery was, he believed, the oldest one in Scotland, having been worked by the monks of Newbattle. In a water-level driven from low-water mark, the monks had a sluice-dam to keep back the inflow of the tide. This was opened to allow the mine-water, which had accumulated during high tide, to flow away with the ebbing tide.

Mr. Barrowman, in replying to the discussion, said that he had not been able to satisfy himself that the system of slavery existed prior to 1606. He thought that the workpeople had been free to come and go as they pleased, but that the necessities of the rapidly-growing coal-trade, and the inducements held out by coal-owners in new places to men to leave established works, had created the agitation which resulted in the passing of the Act of 1606, enabling them to retain their men. On this subject, Mr. Cosmo Innes writes:- "Last of all, let me mention that great, peaceful, silent revolution which has never found its way into the pages of our historians. The servile labour of the agricultural class, which had prevailed all over Europe, died out first in Scotland. The last claim of nefyship, or serfdom, proved in a Scotch court was in 1364. In that or the following century the institution must have died out."

The Chairman moved a vote of thanks to Mr. Barrowman, which was cordially approved.