

Farm Servants and the Development of Capitalism in English Agriculture

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Abstract

In a recent issue of the *Review*, Alun Howkins argued that the traditional analysis of British agriculture through the tripartite structural model of landlord/tenant/labourer is fatally flawed because large numbers of small farmers and farm servants blurred the supposedly sharp dividing lines between the categories. It is argued here that English farm servants were in recent times associated with highly capitalistic farming, and that most of the individuals involved did not identify strongly with the farmers who employed them. Most would spend their lives as landless labourers, and they knew it. Moreover, both the origins and development of farm service seem to be part of the spread of capitalism throughout the economy, rather than the survival of peasant agriculture. Both the legal history of servants' employment contracts and their role as the only permanent paid labour on early modern farms support this contention. The spread of casual labour in the nineteenth century in the south of England has obscured this fact, given the general perception that the southern experience was the norm and that other experiences were deviant. The general perception of servant contracts as inherently oppressive arises from the same source and is shown to be equally wrong. To remove servants as a group from the landless labourer class is thus unjustifiable, and even though a correct understanding of their real nature does destroy the stark simplicity of the old tripartite model, it does not remove its basic strength in helping to understand the roots of change in agriculture.

IN a recent *Review* article, Alun Howkins stated his belief that the tripartite categorization of landlord/farmer/labourer that is usually applied to modern British agriculture does not fit the facts when we take the British Isles as a whole.¹ The continued existence of large numbers of family farms is simply not recognized, and since they also survived in all parts of England, doubt is cast upon the long-standing view that England had no peasantry in recent times. The clear line usually drawn between landlord and farmer is not nearly so clear in this analysis. Furthermore, since farm servants made up a substantial part of the labour force taken as a whole, and were more or less absent only from a small number of counties in south-eastern England, similar doubt is cast on the reality of the division between farmer and labourer if we accept that servants were not proletarianized to the extent of the conventional

labourer. They are also differentiated by the relatively close ties between employer and employee which may seem inevitable where the employer boards and lodges employees and assumes quasi-parental responsibilities over them, as was common in farm service. Moreover, service is usually associated with farming ladders which maintain at least a chance of becoming a farmer later in life, causing the employee to identify with the employer's interests rather than alienating them. Since the division of the agricultural community into classes with clearly separated interests has been widely accepted as the driving force behind the transformation of agriculture along capitalist lines, doubt is cast on the accuracy of the whole analysis by such modifications.

This article seeks to be but a contribution to the debate that has begun on the true status of farm servants, and it is made in the same spirit as Howkins' original: tentative and speculative rather than definitive. It is good to have support in saying that

¹ A Howkins, 'The marginal workforce in British agriculture', *AHR*, 42, 1994, pp 49-62.

servants were both more numerous and more significant than previously supposed, but there is a danger here of misunderstanding the real nature of farm service, and so replacing one inaccuracy with another. As far as can be seen, in the late nineteenth century most British farm servants had no option but to sell their labour to get a living, and most had no prospect of ever achieving any significant alteration of that status. In that sense they were proletarians, and the undoubted difference between their long and legally binding contracts and those of ordinary labourers therefore has no automatic implications for the tripartite model. In arable areas, most servants were hired on to large farms, and on these they were part of a large group which was of necessity detached from the farmer, whatever the arrangements made for providing them with board and lodging. In districts of small farms farming ladders still functioned to some extent, it is true, but overall most farm servants would never become farmers, and most of them knew it from the first day they went into service. However, the servant contract did create a different framework within which farmers and their employees worked from that which prevailed in East Anglia in the nineteenth century, and Howkins is surely right to argue that this must be significant.

It is the fundamental question of the nature of service and of its contribution to the spread of capitalist relations between farmers and the bulk of the rural community which is intended to be explored here, and to do so necessitates going back to the sixteenth century at times. Although detailed evidence will be drawn mainly from twentieth-century East Yorkshire, the overall intention is to illuminate national issues.² It is worth noting, however, that

unlike many other counties the hiring practices of East Yorkshire remained very close to those identified as the mainstream by Ann Kussmaul in her definitive study of English farm service in the early modern period,³ and this gives it particular interest as a kind of real-life counterfactual to set alongside that nineteenth-century south-eastern experience which has been accepted so widely as prescriptive and definitive.

It is not intended to overturn an existing orthodoxy here, so much as to draw attention to an aspect of social development that seems to have been badly neglected, for too often we seem to take for granted that paid work will be organized in ways analogous to those visible today. The apparent dissimilarity of service from modern forms of employment contracts easily creates the impression of a specialized and limited category that was inherently unsuited to a modern world. However, research on the matter suggested that service was a fundamental concept that could be utilized in many different ways according to circumstances, and that it was used throughout the economy in the early modern period under a variety of disguises. While it certainly tied employer and employee together far more tightly than is the norm today, this is not at all the same thing as saying that it inevitably created personal ties or bound the two groups together too tightly for conflict. It certainly was not archaic: it seems to have actively promoted the spread of both market-oriented and capitalist farming, and over large areas it did not become obsolete until well into this century. Indeed, it may well have been an essential part of the transition from the feudal, status-based economy to one capable of organizing itself along voluntarist, capitalist lines, and it continued to contribute to this process long after the

² The factual background to the sections of this article which concern the East Riding of Yorkshire is contained in my book *Amongst Farm Horses*, Stroud, 1991. The general argument was summarized in 'Twentieth-century farm servants: the horselads of the East Riding of Yorkshire', *AHR*, 39, 1991, pp 143-66.

³ R. E. Prothero (Lord Ernle), *English Farming Past and Present*, 1912, 6th ed, 1961, pp 86-9. A. Kussmaul, *Servants in Husbandry in Early Modern England*, 1981.

traditional framework of British farming is usually held to have been dismantled. This is not just a matter of saying that it survived, but of saying that it continued to contribute to development.

Historians from Prothero onwards have, of course, recognized both the existence of farm service and that fact that it underwent a traumatic period at the start of the nineteenth century, just when many of the features of what we now regard as a modernized economy became visible in England. Only in the south-east of England, however, is this analysis accurate, and it is to be regretted that, as Howkins observed, Ann Kussmaul seems to have accepted that what was really a regional experience was acted out everywhere else as well, and that this marked the natural and inevitable end to the story of service. However, contemporaries saw the swiftness and completeness of the abandonment of service in the south-east as more than symbolic, with Cobbett in particular fulminating noisily against this new order and the clear separation between the classes which it brought. We may well disagree completely with his interpretation, but he was flagging up something that needs more thoughtful consideration than it has generally received, especially the question of whether the ending of service was inextricably linked to economic development, or whether there was an alternative. An apparent change from relatively close and personal hiring practices to distant and purely contractual forms at this time has perhaps been too convenient and we need to recognize that in most areas service helped to promote change by adapting to new needs and circumstances, rather than vanishing or ossifying.

As for the tripartite model in general, it is certainly now evident that the work of Caird, Prothero, and other pioneers, has such manifest deficiencies that their conclusions must be extensively reworked. Alun Howkins and Robert Allen are surely

right in claiming that it was its ability to satisfy strong political preconceptions both on the right and on the Marxist left that has made it so difficult to modify, for diversity was not something either school was particularly interested in.⁴ It is striking, for instance, that it was only in the 1970s that the Great Depression of the late nineteenth century began to be widely seen as far from uniform in its impact.⁵ Yet most recent work on modernization within Europe stresses diversity rather than the following of some linear, pre-determined best path to the future, and coping with diversity requires more precise understanding of the nature and limitations of the analytical categories we are using. Perhaps Howkins' problem with the servant as a proletarian stems from the definition of the proletarian rather than the nature of service. Yet, the very fact that this model has been able to endure so long means that it should not be lightly tossed away. Rigidity and oversimplification must be removed, certainly, but it still seems to be useful as a basic analytical tool as long as we do not expect specific cases to conform closely to its generalized form.

I

The best place to start any re-assessment of service is to look at its origins. We need to understand the fundamental legal basis of servant contracts in the late medieval and early modern periods, for the fact that even in this century they required servants to place themselves entirely at the disposal of masters can easily make them seem to be a modified version of serfdom, or even slavery, and nothing could be more out of

⁴ R. C. Allen, *Enclosure and the Yeoman: The Agricultural Development of the South Midlands 1450-1850*, 1992. In his introduction he summarizes very clearly the political influences which have pre-determined so many conclusions in agrarian history. Fundamentalism seems the right description for this process, and I was encouraged to find someone else using the same term.

⁵ P. J. Perry, *British Farming in the Great Depression, 1870-1914: An Historical Geography*, Newton Abbot, 1974.

step with the modern world than that. However, the reality is that service placed genuine obligations on both sides of the contract in law throughout its history, except when manipulated by employers, and that it drew on a tradition that service by adolescents and young men was present as a central concept of medieval European society at all levels.⁶ The *Oxford English Dictionary*, for instance, defines an esquire as 'a young man of gentle birth, an aspirant to knighthood, who attended on a knight, and carried his shield'.

Feudal society in its essence allocated individuals to roles in society and expected them to fulfil them as a duty, with access to food and the other essentials of life allocated by the system rather than coming as rewards for effort. Without reliable cheap supplies of basic foodstuffs and without an extensive and varied labour market, the lot of the permanently landless labourer was uncertain in the extreme in such a system, but building a period of supervised wage labour into the typical life cycle as a bridge to independent adult life short-circuited many of these difficulties. Because service was part of a life cycle it carried no connotations of permanent subordination or of permanent landlessness, and just as it has been argued that industrialization needed a hybrid forerunner, proto-industrialization, to enable it to develop within the older agrarian economy until it was strong enough to stand alone, service created a quasi-proletarian group within the feudal framework. In English law, it was *servant* contracts which were central to permanent and regular paid work, not daily or hourly hires. This is not to say that the latter did not exist, nor that they were not used on a significant scale, but that they could not deliver a reliable permanent labour force, and while serfdom could do that, it could not motivate workers. Service

could do both, and capitalism needed that mix.

The Statute of Artificers of 1563 was the first comprehensive attempt to regulate employment contracts in England. It built on the earlier Ordinance of Labourers of 1349, but in strictly legal terms the statute was the bedrock on which everything else was built.⁷ Given the similarity of modern Scottish agricultural hiring practices it would be very interesting to find the equivalent bedrock of their system. The English statute was not a specifically agricultural measure, but required everyone without other means of support to hire themselves out to employers for a year, and once a hiring had been agreed, it was legally binding on both sides. Such contracts were afterwards known legally as a *general hire*, and they were assumed to be the normal contract of employment for all full-time workers in the absence of proof to the contrary. Thus, a Chief Justice in the early nineteenth century could still state that 'if a master hire a servant, without mention of time, that is a general hiring for a year'.⁸ However, over time it was established that where the work required, it was quite possible to hire for less or more than a year by mutual agreement while remaining within the framework of the general hire, and it is this which has caused much confusion.

The fact that hiring for a year remained widespread in farming well into this century can seem absurd today, but a statement made in court at Scarborough in 1900 showed that the law then still held yearly hiring to be 'founded both in reason and in custom, and [that it] was incidental to the special nature of agriculture, which

⁶ Caunce, *Farm Horses*, chap 3, discusses the sense of mutual obligation that characterized the oral Yorkshire contracts.

⁷ 23 Edw III (Ordinance of Labourers); 5 Eliz I, c 4 (Statute of Artificers): see W Minchinton, ed, *Wage Regulation in Pre-Industrial England*, Newton Abbot, 1972, for a full account of the statute and its enactment, and also D Woodward, 'The background to the Statute of Artificers: the genesis of labour policy, 1558-63', *Econ Hist Rev*, 2nd ser, xxxiii, 1980, pp 32-44.

⁸ Best, C.J., in *Beeston v Collyer*, 1827, 4 Bing, 309, 311, quoted in C Drake, 'The deserted village', *Modern Law Review*, 33, 1970, p 325.

varied at every season of the year, so that in winter a servant might be earning little or nothing and have to be kept, whilst at seed time and harvest his services were not only of great value, but...if he was not then ready to carry out his contract incalculable injury might be done to the farmer'.⁹ Wages would therefore only be properly earned by doing a summer's work as well as a winter's, while they would only be a fair rate if a winter's short hours balanced a summer's long ones. Where six-month contracts prevailed in recent times, such as in Cumberland and Westmorland, winter and summer duties and wages were regarded by both sides as being quite different,¹⁰ and it is likely that farmers needed fewer workers in winter than in summer. By the twentieth century, a yearly cycle was probably appropriate to agriculture alone of the major employment sectors, but in the sixteenth century few trades did not vary with the seasons to some extent. Thus, in its early development mining was a highly seasonal occupation, due both to the flooding of mines in winter and the difficulties of moving coal over muddy roads. In Northumberland and Durham as late as the eighteenth century, most miners were employed on a yearly basis, and could not give notice or even change jobs without permission.¹¹

Even today, some employment terminology outside agriculture recalls the supremacy of general hires. Thus, alongside domestic service we have the civil service and the armed services, and until 1912 the Amalgamated Society of Railway Servants represented many railway workers. This is not merely a semantic linkage, for in the early twentieth century taking the king's shilling was the only legal way a farm servant could set aside a farm service contract once the farmer's fastening penny had

been accepted. The new service contract overrode the other in the national interest. It is surely significant that these echoes are found mostly in areas where the employment contract is not particularly personal but is intended to be long-term and to reflect a particular commitment to an employer. It is this that is the essence of service, not a paternalistic, cordial relationship. Similarly, while farm service is often seen as separated from other types of hire by its similarities to apprenticeship, this is a very imperfect identification that gives a misleading impression.

Farm servants made no special links with any employer, and regularly changed farms. They never received any formal training, they paid no apprenticeship premium, and they were paid from the first for their work. Where a young boy received only his keep, this was because it was seen as the full value of the work of which he was capable. This is not to say that servants learned nothing, nor even that there was no expectation that they would learn in their earlier years, but the onus was on them to discover what was necessary. The employer made no commitment to admit them to trade secrets, which in this century contrasted clearly with farm pupilage. Modern servants commonly remained in the farmhouse into their mid- or late twenties, and at that point the average lad with no great ambition made no pretence of adding to skills. The modern waggoners and third lads on large East Yorkshire farms thus resembled journeymen more than apprentices and provided the same sort of labour: relatively skilled, but still lacking in some respects and still working under direction.¹² The servant contract's historic roots may lie in a quasi-parent-and-child relationship, but given the relatively high rates of celibacy and of widowerhood in early modern Britain, youngsters had never been the only single people who needed

⁹ *Malton Messenger*, 10 Nov 1900, p. 3.

¹⁰ See, for instance, *The Yorkshire Post*, 10 Nov 1910.

¹¹ T. S. Ashton and D. Sykes, *The Coal Industry of the Eighteenth Century*, 1929, chap. 6, esp. p. 87 et seq.

¹² Caunce, *Farm Horses*, chap. 4.

employment. For those who never married, the farmhouse often remained the best home they could find. It is better, then, to view the servant contract as bringing the hireling into the household rather than the family, for the household has always been much more than a kinship grouping and much less personal.

Moreover, while it is often assumed that most early modern servants were hired in ones and twos, hiring servants in some numbers and using them simply as paid labour also has a long lineage. Henry Best, a gentry farmer who lived near Driffield in the East Riding in the seventeenth century, has left a graphic account of his farming practice in his famous farming book.¹³ Firmly entrepreneurial in his outlook, Best supervised work closely and understood the way things were done, but he hired several servants every year, and they were clearly a substitute for the family labour more humble farmers would have used, not a supplement. Ann Kussmaul suggests that the origins of the servant system may lie with the famulus of the manorial demesne, and Best was clearly the natural descendant of the demesne farmer rather than a rising peasant.¹⁴ We need to be careful that we do not let the fact that most early modern farmers had been farm servants lead us to say automatically that most farm servants became farmers. For the majority it was a preparation for simply earning a living as best they could as adults, and men like Best never worked as farm servants.

What encouraged men like Best to hire servants rather than seek permanent day labourers was the fact that adults did not want to commit themselves to labouring for others, and some sort of independence was the ideal for a family man until very recently in historic terms. This rarely meant real self-sufficiency, but the avoidance of

dependence on a single individual was so fundamental that in the seventeenth century the Levellers used it as a natural qualification for the franchise in their proposals for a democratic constitution, because the man who depended on another for his livelihood could not be expected to vote independently.¹⁵ Men like Joseph Arch preserved this tradition in the mid-nineteenth century, working for a wide variety of employers on contract, and others with less skill also preferred this way of life. It is widely accepted that the skilled or propertied members of this group were usually in the vanguard of community resistance, whatever form it took, precisely because they were least beholden to anyone. This urge to make one's own living provided much of the driving force behind the complex networks of mutual assistance drawn by Mick Reed, and it meshes closely with Janet Neeson's re-evaluation of the value of commons and similar perquisites that were such an essential part of pre-industrial life:¹⁶ livelihoods were earned from a multitude of sources rather than resting on one wage, and people valued that very fact.

Unpaid personal and family labour was a third alternative for the family farmer, of course, alongside service and casual day or piece work. This created a tri-modal continuum of practices for getting work done on the land. The choices made at an individual, a community, or at a higher level were not fixed, moreover, but subject to rapid change along the continuum at times: Ann Kussmaul has shown the sensitivity of servant hiring to long-run trends

¹³ Henry Best, *The Farming and Memorandum Books of Henry Best of Elmswell, 1642*, ed D Woodward, British Academy Records of Social and Economic History, new ser, viii, 1984.

¹⁴ Kussmaul, *Servants*, p 7.

¹⁵ See G E Aylmer, *The Levellers in the English Revolution*, 1975, p 172, for such an exclusion clause in the Third Agreement of the People. The meaning of this is discussed in C B MacPherson, *The Political Theory of Possessive Individualism, Hobbes to Locke*, 1962, pp 107-9 and 282-3.

¹⁶ J M Neeson, *Commoners: Common Right, Enclosure and Social Change in England 1700-1820*, 1993. Noel Whiteside, *Bad Times: Unemployment in British Social and Political History*, 1991, pp 78-80 argues that the nature of urban unemployment between the wars shows that our conception of full-time work and complete unemployment as mutually exclusive alternatives is not valid even in recent times.

in the state of the labour market as the balance between the two paid norms shifted over time, and Cobbett's fulminations against upwardly-mobile farmers show a different sort of switch in progress in the early nineteenth century. It is important to remember that we are looking at choices here, sometimes conscious, and sometimes responses to radical change in the economy. Thus, while there was no sudden switch from subsistence to market orientation in the early nineteenth century, the strains of the French Wars concentrated into a short period changes that otherwise would probably have taken much longer to work through. The choices made then reflect the move of many farmers into much greater market orientation, and once we accept that the collapse of service was more apparent than real in national terms we find that the modernization process has to be seen as more evolutionary and more complex than the classic formulations have ever allowed. The fact that service often expanded in the farming areas serving industrializing regions thus does not mean that the creation of an essentially landless labouring group was any the less complete there. Service contracts could continue to be used in such a situation.

II

Service was thus the prime hiring contract used by early modern employers in search of regular labour, but we know that outside farming this primacy would be almost totally lost in the nineteenth century. This might be, and frequently has been, taken to imply that service was inherently associated with small-scale production and was incompatible with a modern economic system. This section will show that this was not so, however. Just as in farming, regular days in a factory fitted very poorly with the pre-industrial workforce's normal work patterns, and the first stages of industrialization in many countries have been

accompanied by the hiring of young, single people, frequently women and girls, and housing them in company dormitories. In this way the total amount of labour power could be maximized without destabilizing society as a whole, and without having to pay adult male wages, so there actually seems no clash between the rise of modern industry and the persistence of tight contracts. In fact, Karen Orren has recently argued that in the USA, judges maintained the old master-and-servant relationship at the centre of employment law down to the New Deal, which explains many of the difficulties labour had in asserting its rights, especially in any collective manner.¹⁷

Tight contracts certainly did not preclude modernization and efficient use of labour in farming, and the use made of East Yorkshire servants in this century economized on skill in ways which characterize modern industry. There were no career horsemen on farms in the county, and young teenagers were caring for and working four horses each with no formal training and no apparent need for any.¹⁸ In fact, while the foreman had no regular contact with the horses, he acted as the head horseman and stepped in whenever greater skill was required, notably when a mare foaled or a horse was sick.¹⁹ The younger lads were restricted to the most straightforward jobs, especially routine ploughing, usually working under supervision and often using old horses who did not need a lot of guidance. If the logic behind this system had been consciously developed, it might well have been hailed as proto-Taylorism, but as it simply evolved it has attracted no notice. It is also striking that there seemed to be little or no horse-

¹⁷ K Orren, *Belated Feudalism: Labor, the Law, and Liberal Development in the United States*, 1991, esp introduction and chap 3, where she argues that master and servant law is absolutely fundamental to the American constitution as well as to its employment practices. I am grateful to Professor Steven Tolliday for pointing her work out to me.

¹⁸ Caunce, *Farm Horses*, chap 8.

¹⁹ *Ibid*, chap 11.

magic in East Yorkshire of the kind discovered in East Anglia by George Ewart Evans, who showed this to be a highly effective device for wresting some control of the workplace from the employer.²⁰ The typical East Yorkshire horselad had nothing to gain by such strategies, however, and it is interesting that it was the apparently modernized society which was associated with apparently archaic customs.

In East Yorkshire the married foremen, the hinds, were generally a key group in the adaptation of service to suit the changing requirements of farmers. They were selected on the basis of proven ability and not by inheritance or favour, and they could contribute significantly to the running of the farm, especially where the farmer was an absentee. They always worked their way up through the ranks of the farm servants and moved around to build up their experience. Over the nineteenth century they also took on the boarding of the servants on behalf of the larger farmers, thus putting distance between the farmers and the servants without destroying the hiring contract. The existence of genuine intermediaries between masters and men was a key element in the success of this type of hiring system. Service could play no role on such farms in binding the classes together. The mobility of the servants also reinforced an apparently paradoxical contrast with non-service areas where men might work for the same farmer for decades and depend on him for charity and for a cottage. In indexing my East Riding tapes, I was struck by how few mentions of farmers there were, and on analysing those that did exist, it became clear that on medium and large farms servants had virtually no contact with their employers.

The existence of hinds did keep some form of farming ladder alive for servants

even in a district of large arable farms, it is true, for they could in theory save enough money to take a small farm in late middle age.²¹ More important, however, was the creation of large numbers of respectable, reasonably well-paid positions in which to spend one's mature years, and this was all most hinds wanted. This could often involve taking on a share of the management responsibility for the farm, allowing them to make a creative contribution to the development of farming techniques. Allen has pointed out that one of the dangers of reducing all workers to the lowest status was to destroy such contributions: 'The yeoman had had to manage his farm, and that stimulus to mental exertion was lost when he was reduced to a labourer.... Depriving the yeomen of their land and lowering them to the status of ploughmen...reduced the intellectual demands in their lives leaving those [intellectual] abilities as merely latent talents'.²² Even hinds were undoubtedly landless employees, however, and East Yorkshire farmers thus found that servant contracts meshed well with their developing market orientation and did not impose unwanted social closeness with their workers.²³

Moreover, there is no evidence of worker dissatisfaction with service as an institution in the north. The radical tradition tends to assume that legal processes have never had anything to offer the poor, but East Yorkshire servants were not of this mind. The moral economy of early modern times may be seen as a substitute for recourse to law, but it required that there should be rules which all should obey. It is striking how often the traditional community, whether organized around a place or a trade, had always turned to the law in the early stages of a crisis, not as a forlorn hope, but with the expectation of

²⁰ G E Evans, *The Horse in the Furrow*, 1967, chaps 20-24 and pp 258-9 for the insecurity of life on Suffolk farms.

²¹ Caunce, *Farm Horses*, pp 199-200.

²² Allen, *Enclosure*, p 289.

²³ Caunce, *Farm Horses*, chap 16.

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justice. They were by no means always disappointed and Reed shows that the final check upon abuse of informal credit arrangements in the villages he has studied was the law.²⁴ Disputes over hiring contracts were settled similarly if no other remedy would do.²⁵ Throughout the history of farm service they went before one or two justices to be determined 'according to the Equity of the Cause', contradicting the established conception that recourse to law has never been a normal part of the British tradition of employment regulation and negotiation. Servants' rights were enforced as well as masters', and as new forms evolved locally by mutual consent they gained legal status by this means. Northumbrian hiring systems could thus diverge substantially from the standard format without abrogating the basic statutory framework. The system allowed many outcomes and forced none of them,²⁶ and this adaptability kept service part of a developing economy.

III

The master and servant legislation as a whole therefore needs careful re-assessment, but we must not simply swing over to a view that it was inherently benign. The Statute of 1563 was designed to regulate employment in favour of employers, not to raise the status of labour, and it is this bias that accounts for much of the basic distrust of the system among labour historians. During labour shortages its provisions allowed unwilling workers to be forced to work, and maximum wages were fixed for each county by its justices of the peace. If either side merely wished not to renew a contract they had to give a quarter's notice of their intention, which could

only benefit the employer. The system that resulted from this statutory intervention always contained elements that, in the right circumstances, could be used to create a labour force completely tied to an employer, but to whom they were under virtually no obligation. Miners' yearly contracts were of this type, and in certain parts of southern England nineteenth-century farmers went down the same route.²⁷ Until 1967, in fact, shop managers, sales managers, and others with loosely worded or informal contracts, were taken to court for breach of contract and had damages awarded against them simply for giving notice, which illustrates the fundamental continuity in this branch of employment legislation. The situation only changed then because Lord Denning ruled in the Appeal Court that 'the time has now come to state explicitly that there is no presumption of a yearly hiring. In the absence of express stipulation, the rule is that every contract of service is determinable by reasonable notice'.²⁸

The basic anti-servant bias of the original legislation survived extensive changes made by two amending acts passed under George II, and another under George IV.²⁹ While a servant's breach of contract was a criminal act, the employer's was civil, and while servants could be jailed until they agreed to complete their contracts, an employer was only liable to a 40s fine. After the acts, servants could recover wages earned before a wrongful dismissal, but they could also be imprisoned for three months as a punishment for breaking a contract. A striker could be arrested on his employer's accusation and tried before a single justice, possibly sitting at home. Since written contracts were extremely rare, a sympathetic justice could easily be

²⁴ M Reed, "'Gnawing it out': a new look at economic relations in rural England", *Rural History*, 1, 1990, p 88.

²⁵ Caunce, *Farm Horses*, chap 3.

²⁶ See J P Dunbabin, *Rural Discontent in Nineteenth-Century England*, 1974, chap 7.

²⁷ Caunce, *Farm Horses*, pp 194-6. In the nineteenth century some southern farmers used written contracts to strengthen their own rights while removing all their obligations.

²⁸ Drake, 'Village', p 327.

²⁹ 20 Geo II, c 19; 31 Geo II, c 2; and 4 Geo IV, c 34.

persuaded that most contracts were general hires, and in 1854 3000 workers went to prison for leaving or neglecting their work.³⁰ In Scotland matters were even worse because the arrest of a striker was compulsory, and agitation began in Glasgow in the 1860s to secure equal treatment for both sides throughout Great Britain, and greater safeguards against abuse of the system.

In 1867 the Master and Servant Act repealed all previous laws and instituted a new system whereby a written complaint had to be handed in to a justice or a magistrate, with any damages claimed, and the case was to be heard before two justices or a magistrate not more than eight days from the date of the summons.³¹ A victorious employer could have his servant's wages abated in whole or in part, or have the servant made to fulfil the contract, while a servant could have the contract annulled and could recover wages due. A fine of up to £20 could be imposed on either side, or else damages inclusive of wage abatements were fixed. The wages of one year could not be touched to pay for a breach of contract committed in a previous year, but an unusually serious injury to persons or property could still mean a sentence of three months hard labour, and there were no safeguards against justices continuing to imprison strikers by deciding that breaches of a non-existent contract were serious. With 17,100 prosecutions and 10,400 convictions in 1872, agitation for reform continued, supported by the parliamentary committee of the newly formed TUC.³²

Finally, in 1875 the Employers and Workmen Act recognized that the concern of the law was to define methods of settling disputes rather than the nature of the con-

tract itself and ended the controversy. It placed most workers' contracts outside general hire regulations, including domestic servants, and female servants were treated differently in East Riding farmhouses in the twentieth century even though they were hired by the year.³³ If the damages claimed were less than £10, a police court or a suitably qualified justice could still hear cases, but all serious actions were to be heard in county courts in England. All powers to imprison and fine were removed, and the courts could only award damages or wages due, or otherwise rescind or enforce the completion of the contract. This left a useful procedure for supplying quick action with low costs (around 6-7s being the usual figure mentioned in court cases before 1914 in East Yorkshire) for genuine servants.

A key element in this solution was the lack of interest shown by the large employers in using general hires, for as the nineteenth century wore on, they grew more wary of the legal ties that would be placed on them. As long as a yearly contract was not a one-sided obligation, it did not force down wages for young men in itself; instead it built wages into overheads, and inevitable uncertainties over trade made a nonsense of talk of yearly cycles. Courts came to accept such details as 'payment by the piece, payment at intervals shorter than a year or a hiring at will' as proof that no general hire had been intended, unless the parties had clearly stated that it was.³⁴ On the other hand, casual employment in the old sense would have been unsatisfactory except where there was such a massive surplus of labour that any skills needed could be obtained and retained without difficulty, as in the rural areas of southern

³⁰ Professor Wedderburn, *The Worker and the Law*, 1965, pp 49, 56, quoted in D N Pritt, *Law, Class and Society. I: Employers, Workers and Trade Unions*, 1970, p 38. This section is largely based on Pritt, pp 36-42.

³¹ 30 & 31 Vic, c 141.

³² Pritt, *Law*, p 38.

³³ 38-39 Vic, c 90. Orren, *Belated Feudalism*, shows that the USA had no equivalent of this consistent and eventually successful attack on the concept of master and servant in the nineteenth century. The conscious manipulation of its potential by employers with the active support of the judiciary made it much harder to attack from below. On domestic service, see Counce, *Farm Horses*, pp 167-8.

³⁴ Drake, 'Village', p 326.

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England. A hybrid contract, the hiring at will referred to above, therefore evolved which bound no-one legally, was tacitly assumed to run indefinitely, and which could be ended by the giving of an agreed period of notice. In fact, this was also the contract that East Riding farmers adopted for their non-servant regular workers, whereas southern farmers simply took on labour as and when needed and paid by the piece or the hour as it suited them.

IV

Until after the First World War, as Alun Howkins noted, over most of the British Isles the servant contract was not an oddity in agricultural districts but a fact of everyday life. In assessing its prevalence, moreover, it is important to remember that in areas like the East Riding it could never cover more than half the workers at most. Overall, service had been expanding in the north and Scotland throughout the later nineteenth century, and as Lord Denning's judgement did not prevent hiring by the year if both parties agreed, recent work on Scotland has found servant hiring continuing well into the 1970s.³⁵ Service flourished best in highly capitalist arable areas where the greatest demand for labour existed, and there it was incorporated into highly profitable, efficient, and modern farming systems. It did not depend for survival on isolation or on special circumstances. Both farm servants of the East Yorkshire type and permanently casualized labourers of the East Anglian type were thus creatures of capitalist farming, and they were both inherently proletarian.

As Richard Anthony has argued for Scotland, there is no case for removing English servants from the landless labourer

category *en masse*.³⁶ East Yorkshire servants could only be slightly less proletarianized than the labourers they worked alongside, for in a few years most of them would become labourers too. Even though small farms still existed in East Yorkshire in the twentieth century, an individual had little chance of becoming a farmer except through inheritance. Since many small farmers were visibly always hard at work to secure an income lower than that of the labourers, it is by no means axiomatic that a majority of the labourers would have taken farms of 20 or 30 acres if they had been available to all.³⁷ Many servants had probably already made the decision to leave agriculture, but this was virtually impossible until they were old enough to move to an industrial district. Working as a servant was acceptable to such teenagers as a short-term measure, which had always been the basis of acquiescence in service.

Hiring fairs held the system together, and the carnival atmosphere associated with them should not obscure the fact that they existed to place lads in jobs through genuine and sometimes fierce bargaining with the farmers. They helped reinforce the servants' sense of a common experience and a common identity as a group by requiring them to stand up to the farmers, not to place blind trust in them. The fairs made the hiring system a real system, something that is all too often ignored. Individual contracts were originally an indivisible part of a whole, not atomistic units that happened to lie alongside each other. In each locality the terms of the implicit contract current at the hirings could reflect purely local needs and norms, but they also had to conform to the legal framework laid down by Parliament. Moreover, the relatively advanced integration of British markets imposed its own pressure for

³⁵ D G Adams, *Bothy Nights and Days: Farm Bothy Life in Angus and the Meams*, Edinburgh, 1991, pp 58–62. He found evidence of hiring continuing to 1978 at least.

³⁶ R Anthony, 'Farm servant vs agricultural labourer, 1870–1914: a commentary on Howkins', *AHR*, 43, 1995, pp 61–4.

³⁷ William Johnson, taped interview; see author's tape 25 side 1. See also H Reffold, *Pie for Breakfast*, Beverley, 1984, p 80.

conformity, for any hiring system that brought high overall labour costs would have been very difficult to sustain. The general sense that hiring showed both strength in depth and the ability to adapt and absorb ordinary economic ups-and-downs is why a general economic crisis was an essential part of the abandonment of service in southern England in the early nineteenth century, and in Yorkshire in the mid-twentieth. Ordinary difficulties led neither the farmer nor the servant to cease hiring, but crisis opened up the possibility.³⁸

The continued existence of servants in the late nineteenth century does then deserve a lot more attention than it has usually been accorded. Any model which includes service chiefly as a remnant of a friendly, face-to-face past cannot but mislead. Service should best be understood as an intermediate stage between a truly localized, agrarian economy where subsistence farming was the overwhelming rule, and one in which much of the rural population had come to depend upon wages, and which was integrated into a much wider industrializing national and international economy. This transition took centuries rather than decades, and exploring the nature of service offers insights into the nature of industrialization in general. It

is important to realize that its early failure in the south of England did not lead to greater commercial success there, and though the labour force there experienced the lowest wages in England throughout the nineteenth century, there was no revolution, so from neither right nor left does a simple linkage between casualization and progress stand up.

The course of events in East Yorkshire shows that capitalism could develop within a traditional framework without destroying it, and that it could develop by negotiating with its workforce as well as by crushing it. Other regions hired servants in different ways, but this generalized conclusion seems equally applicable to them. If it is accepted that casualization is not the same as proletarianization, the existence of servants does not destroy the old tripartite model, only its simplicity. It remains true that there was an inherent conflict of interests across the employer/employee divide, but it took different forms in different places. In many it could be managed and resolved peacefully, but this does not remove the basic fact of conflict. We have to explore this diversity and arrive at a more subtle understanding of the interplay of many forces, replacing the image of a simple structure that defined and shaped events in a crude fashion. Throwing it away altogether leaves the much more daunting task, of seeing every county, and possibly every farm, as unique.

³⁸ Caunce, *Farm Horses*, chap 17.

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