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home, the counsel consented to ballot for the Jury to try another question between the same parties, set down for trial on Monday. The same Jurymen who had the view in the case above reported, had also been viewers in the case to be tried on Monday; and when the Court met on that day, Mr Moncreiff again tendered a Bill of Exceptions to the decision that the viewers were to form part of the Jury, and did not proceed to trial.

In both the cases reported above, applications were made for new trials, which were refused. Both were carried to the House of Lords by appeal, and both appeals dismissed.

ABERDEEN.

PRESENT,

LORD PITMILLY.

1818. September 26.

PETER *v.* TERROL.

An apprentice not bound to work for his master, except in relation to his trade.

SUSPENSION by an apprentice and his cautioner, of a charge by a master, to compel performance of the conditions of indenture.

ISSUES.

"Whether the suspender William Peter, "being bound apprentice to the charger, by "articles of indenture bearing date 12th "November 1814, and referred to in the bill "of suspension, did, in the month of February "1817, desert the service of the said charger, "contrary to the conditions and stipulations "of said indenture; or whether, on said oc-"casion, the charger turned the suspender "out of his service, for refusing to perform "services which did not fall within the terms "of the indenture?

"Whether the suspender, since his dismis-"sal as aforesaid, has sundry times offered to "return to the charger's service, and serve "out the remainder of his apprenticeship, "according to the conditions of his inden-"ture?"

The parties differed as to the facts; the defender alleging that the pursuer left his service; the pursuer, on the other hand, stating that he was turned off by his master, on account of having refused to do menial services, not in the line of his trade; and that he had offered more than once to return and serve out

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his time, on condition that he was to be employed solely in his trade.

After the case was opened for the pursuer, Lord Pitmilly suggested, that before calling parole evidence, the indenture ought to be put in evidence.

Letters of horning and suspension received as evidence of the terms of an indenture narrated in them.

Gordon, for the pursuer.—The indenture is not here, but it is narrated in the horning and suspension.

LORD PITMILLY.—The indenture itself should have been here; but in the infancy of this institution, mistakes will occur; and as the *defender* founds on the indenture, and the case cannot be tried without knowing the terms of it, these documents may be held sufficient to shew the terms.

Parole evidence of the contents of a written document rejected.

A witness for the defender was asked if he carried from the defender a letter, offering to submit the matter to arbitration?

LORD PITMILLY.—It is impossible to receive parole evidence of the contents of a written document.

(To the Jury.)—The issues in this case are so clear, as to require no explanation. The first

depends on the nature and extent of the indenture. The indenture ought to have been here; but though it is not, we have evidence of the terms of it, in the diligence raised upon it. The important clause is that by which the master engaged to teach the pursuer his trade. The terms of it are clear, and by it the master and apprentice are only bound in relation to the trade. If the apprentice agrees to go out of his trade, well; but he is not bound to do so. If it had been alleged that there was a separate contract to the contrary, the party making the allegation would have been bound to prove it; but there is no such question here, and it is not proved. Some evidence was adduced as to the custom of the country, but no such question is here; the only question is on the indenture, which is the foundation of the contract; and I submit it to you, as a proposition in law, that when the terms of an obligation are clear, we are not entitled to explain them by custom.

The second issue is, Whether the pursuer offered to return to the saddlery business? The offer is proved by the letter and two witnesses; and at the time of the offer, there was an opportunity of explanation; but the master, instead of this, told him he might go

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about his business, unless he would do what he gave him to do.

If you are satisfied that he was turned off for refusing to do what he was not bound to do, and that he offered to return, then you may find for the suspenders.

" Verdict for the suspenders on both " Issues."

James Gordon, for the Pursuer.

Maidment, for the Defender.

(Agents, *J. R. Skinner*, W. S. and *James M'Cook*, W. S.)

ABERDEEN.

PRESENT,

LORD PITMILLY.

1818. September 26.

FRAZER v. MAITLAND.

Buildings on a farm found to have been erected by a tenant.

THIS case relates to the value of buildings erected on a farm.

ISSUES.

" 1*st*, Whether the wings of the farm-house " of Gateside were erected at the expence of " the then landlord, Mr Leith, of Freefield?