Holdings Act of 1883, which in this matter is identical with that of 1908, was in force, and regret that I cannot acquiesce in the judgment which your Lordship has proposed.

LORD SKERRINGTON—The definition of the word "holding" contained in section 35 of the Agricultural Holdings (Scotland) Act 1908, is open to verbal criticism, because it would seem to follow from it that the site of a shed for straw, or of a byre for cattle, or of a farmhouse, must be described as agricultural land or pastoral land as the case may be. But the meaning of the definition is sufficiently clear. In order to discover whether a particular holding does or does not fall within it, one must consider the subject of the lease both as a whole and also in its various parts, including the buildings (if any) situated upon it, and then make up one's mind whether it contains some material element which is neither agricultural nor pastoral—for example, a spinning mill, a smithy, or an hotel. The landlord's counsel relied chiefly upon the case of *Taylor* v. *Murray*, the decision in which proceeded upon the disproportion between the area and annual value of the house and garden on the holding as compared with the area and annual value of a grass park which formed the remainder of the holding. In the present case the landlord has failed, in my judgment, to establish any facts which demonstrate that the small thatched cottage on the holding, with its garden and byre, necessarily constitutes an element neither agricultural nor pastoral, as would a villa residence which no one would regard as pastoral in character merely because a paddock was let along with it. It was contended for the landlord that the arable land and grazing let to the respondent were "merely appurtenant" to the cottage. No such test is to be found in the definition clause of the statute, and it is not clear what exactly was meant by the expression in question. In any case this contention was negatived in fact by the Land Court after an inspection of the subjects.

The LORD PRESIDENT intimated that LORD MACKENZIE, who was absent at the advising, concurred with the majority of the Court.

The Court answered the question of law in the affirmative.

Counsel for Appellant—Dean of Faculty (Clyde, K.C.)—C. H. Brown. Agents—Macandrew, Wright, & Murray, W.S.

Counsel for Respondent—Christie, K.C.—A. M. Stuart. Agents—Balfour & Manson, S.S.C.

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# HOUSE OF LORDS.

*Tuesday, February* 1, 1916.

(Before the Lord Chancellor (Buckmaster), Lord Atkinson, Lord Shaw, Lord Parker, and Lord Sumner.)

## M'KINNON *v.* J. & P. HUTCHISON.

(In the Court of Session, June 5, 1915, 52 S.L.R. 691, and 1915 S.C. 867.)

*Master and Servant—Workmen's Compensation Act* 1906 (6 *Edw. VII, cap.* 58), *sec.* 1 (1)—*Out of and in the Course of the Employment—Seaman Drinking Water Containing Caustic Soda.*

A seaman while on board his ship at Spezzia was injured by drinking out of a tin which contained caustic soda in solution. The crew were in the habit of putting water supplied by the ship for drinking purposes in places where there was a draught for the purpose of cooling, and this practice was known to the ship's officers. This tin was in such a place. It belonged to another seaman, who used it for making tea, and wanted it cleaned. It was not found that the tin was supplied by the ship, or was similar to tins so supplied or to the tins used by the crew for drinking water, nor was it found that the officers sanctioned an indiscriminate use of tins or that such use existed, nor that such cooling was necessary.

The arbitrator having found that the accident arose out of and in the course of the seaman's employment, *held* that the facts found were insufficient to support his finding in law, and his award *set aside*.

This case is reported *ante et supra*.

The employers, J. & P. Hutchison, appealed to the House of Lords.

At delivering judgment—

LORD CHANCELLOR (BUCKMASTER)—I cannot help regretting that the facts in this case have not been found in a more detailed and decisive form, but they must be accepted as they stand, and I am unable to add that they justify the assumption upon which the judgment of the Judges of the Second Division was based. In the case stated by the Sheriff-Substitute nothing is mentioned as to the character of the tins in which the water was ordinarily cooled, nor as to their ownership, nor again as to the place where it was customary to deposit them. Lord Guthrie, however, came to the conclusion that the following facts were found by the arbitrator:—(1) That the can in question was standing in the usual place where cans were put to cool; (2) that the seaman did not know that the can he drank from belonged to another man; (3) that all the cans were either identical or similar in appearance. And if these assumptions were justified I should not differ from the conclusion at which he arrived.

I have accordingly made the most diligent

examination to see if it is possible to extract these important and material findings from the facts as they are stated in the documents before this House, and I have been unable to find support for any of them. I cannot help having an uneasy feeling that had attention been directed to these points there might have been findings that would have placed the applicant in a more favourable position than that in which he now stands. It seems, however, to be impossible after this lapse of time, with many of the witnesses dispersed and the circumstances far distant from the memory of those who could be obtained, to get a further re-statement of the facts, and the case must be determined upon the findings as they appear in the award.

From these findings it merely appears that it was the practice of the crew, known to and sanctioned by the officers, to cool their drinking water after drawing it from the pump by placing it in cans in a cool part of the ship, and that the respondent drank from a can which was not his own nor found either to resemble his own or to have been mistaken for it.

The can in question contained a solution of caustic soda, and in consequence the respondent was seriously injured. Apart from the practice and the sanction to which I have referred, the case would have been the same as that of one man using another's drinking vessel, and injury resulting from such a cause could not be said to arise out of the employment of the respondent as a seaman on board a vessel. In my opinion the addition of the bare facts found cannot alter this conclusion.

It may have been a reasonable course which the men took to render the water more palatable, and equally reasonable for the officers to raise no objection to its being pursued, but this cannot enable a man to assume at the risk of his employers that a can which was not his own, and not shown to resemble those in general use, was containing water set out to cool in the ordinary way. For these reasons I think the judgment appealed from should be reversed.

LORD ATKINSON—This is an appeal from an interlocutor, dated the 5th June 1915, of the Second Division of the Court of Session on appeal by way of case stated by the Sheriff-Substitute of Lanarkshire as an arbitrator under the Workmen's Compensation Act of 1906.

Certain facts are set out on the face of the case stated, and upon these facts so stated the learned arbitrator pronounced the judgment that the accident by which the respondent, one Michael M'Kinnon, a seaman, was injured, arose out of and in the course of his employment. That judgment was, in my view, a decision on a matter of law—not in any sense a finding of fact, or an inference of fact drawn from previously established facts. It involves the construction of the statute, the determination of its meaning. Until that is ascertained it is impossible to decide whether the facts proved bring the case within it, or the contrary.

The question of law which is put for the opinion of the Court is as follows:—"Whether there was evidence upon which the arbitrator could competently find that the respondent met with an accident which arose out of and in the course of his employment."

The Second Division answer that question in the affirmative.

I own I am rather embarrassed by the form in which the question is put. The arbitrator being the sole judge of fact, his findings of fact, unless, as it is styled, he misdirects himself, cannot be set aside if there was before him evidence upon which he could reasonably find as he has found.

The Court which reviews his decision, just as the Court which reviews the verdict of a jury, may think that his finding was, on the evidence, erroneous, and that a finding to the very opposite effect would have been more in consonance with that evidence. Yet if there was evidence which was reasonably sufficient to support his finding it cannot be disturbed.

A finding, however, in the very words of the statute, to the effect that the accident causing the injury of which the workman complains arose out of and in the course of his employment, may, in my view, cover three things—First, a finding of what the nature and scope of the workman's employment was. Next, what was the cause of his injury. And third, whether upon those findings the case comes within section 2 of the Workmen's Compensation Act of 1906.

To decide this latter point he must construe the statute, must determine its true meaning.

Ruling wrongly upon a question of law, if done by an arbitrator, is styled misdirecting himself. My point upon these findings in the words of the statute is this, that they may often involve decisions purely on points of law, often decisions on mixed questions of law and fact, and often decisions on questions of pure fact. Where they are of the first and second class it is wholly illegitimate, in my view, to apply to them the same rule as if they were of the third and last class.

Such a finding may cover, indeed should cover, a decision upon the question what was the sphere of the workman's employment. This may entirely depend upon or involve the construction of a written document or written documents—rules, for instance, regulating his work and describing his duties. The construction of those documents is a question of law.

It may, in addition, involve the decision of the question whether he was doing something outside the sphere of his employment when he met with the accident, or doing something within that sphere negligently and carelessly. These, if the construction of the written documents be once ruled upon, would almost invariably be questions of fact; but if the arbitrator chooses to wrap them up in a finding in the words of the statute it is difficult to disentangle his findings and separate them into their constituent decisions.

In my view arbitrators should be encour-

aged to make it clear on the face of their report, award, or case stated, what rulings they design to make on any points of law which arise before them, and what rulings they design to make on questions of fact, so that one may readily judge whether or not they have misdirected themselves in point of law, and whether their findings of fact are such as any reasonable man might arrive at upon the evidence.

In this case it is not a matter of importance, in my view, inasmuch as there is not any evidence on which the arbitrator could find as he has found. The respondent was a seaman, one of the crew of the steamship "Fastnet." While his ship was in Spezzia Harbour on the 16th August 1913 he drank out of some kind of tin belonging to the boatswain and donkeyman of the ship what he took to be pure water. He was mistaken. It was not pure water. It was water into which the boatswain, one of the owners of the tin, had put some caustic soda for the purpose of cleaning the tin. The result was that the respondent's mouth and throat were badly burned. This is the injury in respect of which he sues.

There is no evidence as to what kind of tin this was—whether or not it was a tin such as was used on this ship for drinking water out of. It is stated that it was used by its owners for brewing tea.

The respondent found the tin on the deck immediately below the forecastle head, where there was sometimes a draught of air through the hawse-pipe. Whether there was any such draught on this occasion is not stated. It is not stated whether he knew or tried to find out whose tin it was, or by tasting or inquiring tried to find out whether what it contained was fit for drinking or not or who placed it there. Nor is it found whether the place where it was found was a usual place for cans with water in them to be placed in order that the water should get cool. For all that appears it may have been put by the boatswain in a place different altogether from where tins full of water for drinking purposes are placed for the very reason that it was contaminated. The respondent simply saw the tin there with water in it, concluded it was put there in order that the water might get cool, and without more ado drank it.

No doubt the accident occurred to the respondent in the course of his employment, but, stopping there for a moment, there is nothing whatever to show that it arose out of his employment as a seaman. Anyone on board the ship—a ship's carpenter, stevedore, coal porter, or a mechanic brought in to do something to the engines—might as far as appears up to this from the findings and facts stated have done precisely the same.

There is nothing to show that the accident, to use Lord Moulton's words, is specifically connected with the respondent's employment as a seaman, and if that is so it could not be held to arise out of his employment. But this want is attempted to be supplied by statements or findings of fact utterly vague and ambiguous. These will be found in the Case stated.

It is urged that the owners were bound by statute to supply water for the crew under the Merchant Shipping Act of 1894. That no doubt is so. There is no evidence as to where the water which was supplied by the pump was taken from—whether from the condensers or from fresh-water tanks. Nor was there any finding that the water was not on this occasion reasonably potable. But it was found that whenever the water drawn from the pump was warm to the taste it was the practice of the crew to take it in tins or cans to a cool place and leave it to cool and then partake of it as required. But in what tins, to what cool place, and to be partaken of by whom?—the member of the crew who carried away the tin and put its contents to cool, or any other member of the crew who chose with or without the permission of him who procured the water to drink out of the tin? Or again, was any other person who happened to be on board and not a seaman who desired to drink out of it permitted to do so? All is left vague. Yet this vaguely described practice is the only practice which the officers of the ship are found to have sanctioned.

It is not found that the give-and-take custom referred to in paragraph 5 involved one man's drinking out of the tin of another without that other's consent, nor is it found that the officers of the ship either knew of or sanctioned such a practice. It is extremely difficult to suppose that the boatswain or any other member of the crew would carry water to cool for the use of any member of the crew or of any other person who happened to be on board and without his own consent permit it to be drunk, while it would be quite natural that he should carry it away and cool it for his own consumption.

If the ship had provided tins to be filled with water and placed in some particular place to cool, to be used by the different members of the crew in common, then the case might be entirely different, but this is the important matter on which the case stated is silent.

Lord Guthrie, with all respect, gets over the difficulty presented by the vagueness of the findings in the Case stated by drawing for himself several inferences of fact which the arbitrator did not draw. He begins by saying that it was not said that in taking up this can which he thought contained water the respondent was doing anything not sanctioned by the officers of the ship. With all respect, that is reversing entirely the burden of proof. The ship was not obliged to prove that the officers did not sanction this kind of act. The burden of proving that they did sanction it lay on the respondent, who was the claimant.

Again, he said that it was necessary for the proper administration of the ship that the water should be cooled. Well, that depends very much on the heat at which it was delivered and the cause of its being heated. If it was though warm reasonably potable, having regard to the climatic conditions, no such duty was cast upon the ship. Ice-cold water is more palatable in warm climates than water made somewhat

tepid by the sun's heat, but nobody could suggest that the ship was bound to ice the water for the crew though bound to supply water reasonably potable. There was no proof that they had not in fact done so. Neither is there any evidence or finding that the ship did not provide means for cooling the water, as Lord Guthrie assumes, nor was there any evidence that the part of the forecastle where this tin of water was put to cool was one of the usual places where water was put to cool, or that the ship's officers were aware of the fact that it was usually put there, as Lord Guthrie surmises, nor yet, as he takes for granted, that the respondent went to the usual place to get water, or that the water was ever put there by one member of the crew for the use of other members.

Again as to the can, there is another reversal of the burden of proof. It is quite true that there is no evidence that the can was not one of the ordinary cans which in such circumstances would be expected to contain cold water. That is quite true, but there was no evidence that there was any ordinary can so used, or if there was what was its kind or description, or whether or not this can resembled it. Surely it was the part of the respondent to prove affirmatively, if he could, that the can found was of the ordinary kind used for containing water, and that it was found in the place where water put to cool is usually found or might be expected to be found, and that it was the practice for anybody, whether he brought the can there or not, to drink from it when disposed to do so without the consent of anyone.

None of these things are found, nor is any evidence given to this effect, yet because they are not found the converse of them appears to have been assumed, and then the facts so assumed made the basis of the learned Judge's decision.

In my opinion the risk of drinking drugged water out of a can belonging, not to the drinker, but to another member of the crew, was not shown to be in any way specially connected with or reasonably incidental to the respondent's employment as a seaman on this ship, or that it arose out of that employment.

I therefore think that the decision of the Second Division of the Court of Session, concurred in apparently with some doubt by two out of its three members, was erroneous and should be reversed, and the question put in the Special Case should be answered in the negative.

My noble and learned friend LORD PARKER desires me to say that he agrees *in omnibus* with the judgment I have just delivered.

LORD SHAW—[*Read by Lord Sumner*]—I have some difficulties in this case. It arose in Scotland and was, of course, conducted in accordance with the Scotch law and procedure. The latter—the procedure—differs from that of England, and is the subject of separate treatment under statute.

Briefly stated it is as follows—By the Workmen's Compensation Act 1896, 1 (3), any question arising in any proceedings under the Act as to liability to pay compensation is to be settled by arbitration under the Second Schedule. That schedule, section 17 (*b*), provides that in the application of this (schedule) to Scotland "any application to the Sheriff as arbitrator shall be heard and determined summarily in the manner provided by section 52 of the Sheriff Courts Scotland Act 1876." This is, however, "subject to the declaration that it shall be competent to either party within the time and in accordance with the conditions prescribed by Act of Parliament to require the Sheriff to state a case on any question of law determined by him," and his decision thereon may be submitted to the Court of Session for review, with appeal to this House. What "determined summarily" means is, as has been seen, in the manner provided by the Act of 1876. This signifies, in the words of section 52, that the case is to be "disposed of in a summary manner in the Sheriff Court, without record of the defence or evidence."

There remains, therefore, to see what are the conditions under which a case is to be stated on a question of law. These conditions are contained in section 17 of the Act of Sederunt of 26th June 1907, which were expressly framed as follows—"The following regulations shall apply to cases to be stated by a Sheriff in virtue of the provision contained in paragraph 17 (*b*) of the Second Schedule appended to the Act." An application is to be made "setting forth the question or questions of law proposed as subject-matter of the case." If the parties do not agree as to "the terms of the case" these are to be settled by the Sheriff. And (*d*) "the case shall be as nearly as possible in terms of Form II."

Form II—the "form of Stated Case"—after setting forth the names of the parties, thus proceeds—"This is an arbitration (*state concisely and without argument the nature of the application and the facts admitted or proved which raise the question (or questions) of law to be submitted on appeal*)."

A further provision (*g*) is of importance. It is as follows—"The Court, besides having power to determine the case, give answers, and make orders as to costs, may also, before giving their determination, send back the case to the Sheriff for amendment." The law still stands upon this basis. By the Sheriff Courts (Scotland) Act 1907 there is in section 41 of the schedule a power given to the Sheriff to order such procedure as he may think fit. This is in a "summary cause." But by section 3 (i) "applications under the Workmen's Compensation Act" are excepted from summary causes. The Sheriff Courts Act 1913 makes no difference in this particular.

I have thought it right to enumerate these things, because it thus becomes clear that the statement of facts must be taken as it is given by the Sheriff, that there may be no written note of the evidence, and even if there was, that it is the Stated Case alone which is the measure of the facts. A power is given to the Court of Session to have the case sent back for amendment, the intention being apparently

to give the Court a power to have ambiguities cleared up, or essential particulars inadvertently omitted added by the Sheriff.

No such amendment or addition was ordered in this case. The facts must therefore be taken exactly as they are found in the Stated Case. Any other version of the facts is illegitimate; if such a version is proceeded upon the decision may proceed upon grave and fundamental error.

With all respect to the learned Judges of the Second Division, I think such a grave and fundamental error has occurred in this case. It is fair to Lord Hunter to observe that he thinks the case narrow and difficult, and that the Lord Justice-Clerk not only thinks that also, but goes on to say, "had this case been brought immediately after the Act was passed I would have had no hesitation whatever in holding that the Claimant had not a right to obtain compensation from his master in the present circumstances. But the matter has been so extraordinarily extended by decisions that have been pronounced in the past — decisions which I feel bound to submit to— that I cannot see sufficient grounds for differing."

I humbly agree with the learned Lord Justice-Clerk that judged by the Act this case would fail. But the statute has not been either amended or repealed. I do not think, however difficult may be the task of reconciling the decisions, that they have produced a state of matters equivalent to such amendment or repeal. The Act still stands, and stands for our construction, and I say this—repeating myself and re-echoing your Lordships in other cases—the best guide out of many of the difficulties alluded to is to attend, and attend strictly, to the actual terms of the statute.

The judgment of the learned Lord Guthrie does, with respect, go beyond the Stated Case in important particulars. Whether these would justify the judgment need not be considered — the consideration would require to be most serious. But the Stated Case may be taken to have been neither ambiguous nor lacking in completeness in the view of the learned Judges, and therefore not to require the exercise by the Court of its powers in such an event. No proposal was made that this House should exercise or assume any jurisdiction in this particular. The additions made in Lord Guthrie's judgment to the facts mentioned in the Stated Case are challenged with vigour and in detail in the appellant's case, and having fully considered the arguments at your Lordships' bar I am of opinion that this challenge is well founded. I take the facts as they are duly presented to us by law— that is, in the Stated Case.

The seaman received his unfortunate injuries by drinking from a tin a mixture containing caustic potash, mistaking it for pure cold water. Whose was this tin? It was the property of the boatswain and donkeyman, who messed together and used it for making tea, and on the occasion it was being cleaned with caustic potash. It was not the property of the ship. There is no ground in the Stated Case for suggesting that it was of the same kind or size or pattern as tins belonging to the ship, if there were any such, or to other seamen or to the appellant himself.

It does not appear to me to have been an incident of their employment that such a piece of private property should be used by others with consequences inferring liability on the ship. The supply from the pump, for that the ship was responsible. For each seaman to cool it was reasonable and proper. But for one seaman to use his neighbour's or an officer's tin and drink its contents was to help himself for his own convenience from a vessel for whose condition the ship was in no way responsible, and it appears to me to be impossible to hold that ill effects arising solely from the use by one workman of the property of another arose out of the appellant's employment as a seaman.

I agree accordingly that the appeal should be allowed, and that the question put should be answered in the negative.

LORD SUMNER—The accident which happened to the respondent seaman in the course of his employment was due to his own mistake in believing that a solution of caustic soda was pure cold water and in drinking it accordingly. The whole question is whether there was evidence that this accident arose out of his employment.

All we know of the affair is to be found in the Stated Case. There are no other competent materials. The facts proved or supposed to be proved in evidence are there carefully tabulated. The words "I found upon these facts that the accident arose out of and in the course of his employment" do not state further evidence or a further fact found, but are the conclusion—be it one of law only or partly of law and partly of fact—to which the learned Sheriff-Substitute was led by his previous findings, and in his view it is implicit in them.

The can from which the respondent drank was not his own. We are not told that he made any mistake about this. It belonged to the boatswain and the donkeyman, who messed together. We know that they used it for brewing tea, but that carries us no further. We do not know whether they also used it for cooling their drinking water; we do not know whether it was like the tins used by others for cooling drinking water, or whether the tins used by others who did not mess with the boatswain and the donkeyman were similar to one another or diverse. It is true that its shape or character did not prevent the respondent from making his unfortunate mistake, but whether that was because of its similarity to other tins or because he was too confident that it contained drinking water to be deterred by its difference from other tins, again we do not know. There is no evidence about it.

In this state of the evidence I think that there is nothing to show any causal connection between the accident and the employment. The accident was one which might have happened to anyone who drank the contents of a vessel that did not belong to him without first finding out what they

were. It was in no way incident to a seaman's employment as such. Again, the sanction given by the ship's officers to the practice of leaving the ship's drinking water about in tins to cool might amount, and probably did amount, to an authority to the seamen to take this method of preparing for use the drinking water with which they had to be supplied, but it amounts to no more. There is no evidence that the sanction extended to the give and take which is spoken of. There is no evidence that the practice by which seamen drank where they had not drawn formed any part of the ship's routine or the men's employment. It may have been known to the officers; most things are that happen on board ship; but this is pure conjecture. I think that in doing what he did the respondent, so far as the evidence goes, added a risk of his own to the risks incident to his employment.

Where the question in debate is whether or not there is evidence to support a particular conclusion of fact, it is always necessary to begin by scrutinising the evidence given, and this equally where there is a full note of the evidence or only such a condensed summary of it as is given in this stated case. It is doubly necessary to be strict where the appellate tribunal must take the facts as found and is limited to the question of law, viz., whether there was evidence to support the conclusion. With all respect to Lord Guthrie, I think that such an expansion of the stated case by interpretation and inference as his judgment contains is inadmissible.

If any distinction at all is to be drawn, as of course it must be drawn, between arising "out of" and arising "in the course of" an applicant's employment, the stated case discloses no evidence of arising "out of." To hold that it does is either to make "arising out of" and "arising in the course of" mean the same thing, or is to carry the evidence by conjecture beyond the limits of the case. I think that the appeal should be allowed.

Their Lordships reversed, with expenses, the interlocutor appealed from, and set aside the arbitrator's award.

Counsel for the Appellants—Horne, K.C. —Neilson. Agents—Maclay, Murray, & Spens, Glasgow—J. & J. Ross, W.S., Edinburgh—Holman, Birdwood, & Co., London.

Counsel for the Respondent—Healy, K.C. —Scanlan. Agents—Thos. Scanlan & Co., Glasgow—E. R. M'Nab, S.S.C., Edinburgh —Herbert Z. Deane, London.

# COURT OF SESSION.

*Tuesday, January* 4, 1916.

## SECOND DIVISION.

[Sheriff Court at Perth.

## ADAMSON *v.* MARTIN.

*Reparation — Slander — Police—Chief-Constable — General Instructions — Slander by Actings — Photograph and Finger-prints in Register of Criminals.*

A minor accused of theft was liberated without bail on his mother undertaking that he would attend the pleading diet. Immediately after being liberated two police sergeants caused him to be photographed, and imprints of his fingers to be taken, in order that these might be retained by the criminal authorities and placed in an album and register of criminals. Neither his own nor his mother's consent was asked or obtained, nor was his mother allowed to accompany him to the room where the photograph and imprints were taken, though she asked leave to do so. The charge against him was subsequently found "not proven." In an action by him against the Chief-Constable, in whose custody the photograph and imprints were, to deliver to the pursuer the photograph and imprints, or, alternatively, to have them destroyed, and for damages, he averred that the police had acted in obedience to the defender's instructions and with his authority. *Held* (1) that the photograph and imprints had been taken without legal warrant, and that the pursuer was entitled to have them destroyed, but (2) (*diss.* Lord Salvesen) that a mere averment of general instructions was insufficient, and that the conclusion for damages was therefore irrelevant.

The Penal Servitude Act 1891 (54 and 55 Vict. cap. 69), section 8, enacts—"The Secretary of State may make regulations as to the measuring and photographing of all prisoners who may for the time being be confined in any prison. . . ."

Regulations under the above enactment, dated August 20, 1904, made by the Secretary for Scotland, provide, *inter alia*—"1. Subject as hereinafter mentioned, a criminal prisoner may be photographed and measured at any time during his imprisonment. 2. He shall be photographed either in the dress of the prison, or in the dress he wore at the time of his arrest or trial, or in any other dress suitable to his ostensible position and occupation in life. The photograph to be taken shall include a photograph of the full face and a photograph of the true profile of the prisoner. 3. The measurements to be taken may include—The length and breadth of the head; the length and breadth of the face; the length and breadth of the ears; the length of either foot; the length of the fingers of