

COLLIERY LEGISLATION AND ITS CONSEQUENCES : 1842 AND THE WOMEN MINERS OF LANCASHIRE¹

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I

THE Mines and Collieries Act of 1842 can be seen as a watershed in the history of coal mining legislation. During the Commons debates on the 1842 Mines and Quarries bill, the Minister of Fuel and Power reminded members of its parent measure :

I do not believe that there were ever such emotional scenes in the House of Commons in the whole of the nineteenth century . . . That marked a real crisis, and actually a turning point in the history of the mining industry in this country.²

It was the first time that legislation had been enacted to improve the conditions of all those employed in mines and collieries. It also pioneered the exclusion of adult women from a particular employment. Just two years later a new Factory Act also accorded special treatment to women (7 and 8 Vict. cap. 15), placing them in the same category as young persons of 13 to 18.

Such monumental legislation may be interpreted as a manifestation of the humanitarian pressure which lay behind the social reforms of the 1830s. By creating a precedent for intervention in coal mining, it formed a prelude to a succession

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² Hansard, vol. dxxii, House of Commons, 21 January 1842, p. 208.

of acts which made it the most highly regulated of all British industries in the nineteenth century. Yet, conversely, the 1842 Act can also be shown to have resulted in a triumph for *laissez-faire*. By examining the implementation of its first clause, which forbade the underground employment of women, it can be shown that simply decreeing exclusion was a far cry from actually achieving it. As with factory reform, legislation was passed, but legislation tempered by those who believed in non-interference and reduced in effectiveness by the lack of clearly defined executive powers.¹ The 1842 Act demonstrates the dichotomy between the zeal for interference and the inadequacy of central and local machinery to make it binding.

Lord Ashley's eloquence had promised a rapid passage for the bill through Parliament. Yet, not being government inspired, it lacked some vital support, particularly in the House of Lords. Here it encountered opposition from those with vested interests. Although the modifications to the first clause looked innocuous, permitting women to enter mines as long as they did not work was an amendment which had serious repercussions on the effectiveness of the law.² This effectiveness was further reduced by the inadequacy of enforcement procedures. Only one Commissioner was appointed (over a year later) to enforce the Act in about 2,000 collieries. Fines were not high enough (£10 was the maximum per individual female offender) to deter wealthy companies. The magistrates were frequently coal owners and reluctant to implement a law which put a brake on their control.

In contrast to the welcome reception from the popular press, the new *Economist* denounced the Act as mischievous interference by men with things they did not understand. The prohibition of female labour was "the sickly sentimentality of the drawing room presuming to regulate the world".³ Yet

¹ See A. J. Taylor, *Laissez-faire and State Intervention in Nineteenth Century Britain* (London, 1972), p. 57.

² Ashley feared that this loop-hole would invalidate the whole clause, but his attempt to win last-minute support from Peel failed (Broadlands MSS. Royal Commission on Historical Manuscripts SHA/PD/2: Diary 1. 1 August 1842). See p. 99, n.2.

³ *Economist*, 28 September 1844, p. 1253.

that regulation did not prove to be as drastic as the journal feared. Although the principle of interference had been conceded in an industry which hitherto had been remarkably free from outside intervention, this same self-sufficiency helped ensure a perpetuation of its immunity. In spite of the results of a fact-finding Commission which covered 2,000 pages, those beyond the coalfields remained ignorant of the problems facing one of the country's oldest and most important growth industries. As late as 1861 it was said that :

of miners the mass of mankind knows no more than if they were Hottentots ; — born, bred and buried, for the most part out of sight of the highly civilised and educated people around them.¹

Although hailed as a turning point in the annals of coal mining, at least as far as female prohibition was concerned, the Act remained in the words of a prominent Lancashire colliery agent, "almost a dead letter". And it created as many problems as it claimed to solve.²

The Act became law on 10 August 1842 (5 and 6 Vict. cap. 99) and within three months all females under eighteen had to leave underground employment. The remaining women were required to cease work by 1 March 1843.³ This precipitate action was not accompanied by financial compensation and the problems of obtaining alternative employment in isolated colliery districts were manifold. Such a situation prevented any immediate lessening of human misery, as had been hoped by the Board of Commissioners (strongly Benthamite in sentiment) and by others, influenced, consciously or otherwise, by Benthamite ideas. Hundreds of women were forced by the adverse circumstances to evade the law and continue working in the pits. The concern of Ashley and other M.P.s to remove women from work and place them back into their "natural" sphere, the home, was particularly unrealistic in the context of the country's disastrous economic state. With no precedent or machinery to

¹ C. Collier, *Gatherings from the Pit Heaps* (London, 1861), p. 17.

² William Peace, agent to the Earl of Balcarres (Haigh Collieries and Estate Papers 25/7/848, 17 July 1846).

³ Surface work was still legal.

help control or direct their fate, about 5,000 women and girls found themselves in an extremely precarious situation which had serious repercussions on the family economy.

The exogenous exposure of social evils, described by MacDonagh as the first stage in his "model" for a revolution in government, marked a beginning rather than an end of difficulties. Certainly there had been a desire to legislate evils out of existence but not only had there been no common consensus as to what constituted intolerable evil, but, even when legislation was drafted, a belated guilty conscience acted rapidly but then conveniently forgot.¹

The incidence of female evasion varied from district to district. In Lancashire, where there had been a traditionally high percentage of females employed and where conditions were backward and wages low, the exigencies of the law posed severe problems. The rest of this article will concentrate on the application of the female clause in Lancashire, considering the alternatives open to the women and the ways in which they adapted to the change.² Such a study is a reminder of the absolute necessity of looking beyond the statute to the problems of the local community in any evaluation of Parliamentary legislation.

II

Consideration of the ways in which Lancashire colliery communities were affected by the female exclusion clause must be preceded by a brief examination of the conditions revealed by the Children's Employment Commission of 1842. John Lawson Kennedy, the Sub-Commissioner for the coalfield south of Burnley, recorded 794 females working in twenty-six collieries in the Wigan, St. Helens, Worsley and Bolton districts.

¹ O. O. G. MacDonagh, "The Nineteenth Century Revolution in Government. A Reappraisal", *Historical Journal*, i (1958), 58; J. Hart, "Nineteenth Century Social Reform. A Tory Interpretation of History", *Past and Present*, xxxi, no. 31 (1965), p. 49.

² This will be restricted to West Lancashire, as it was rare to find women employed in the mill districts east of Manchester. See *Parliamentary Papers* (henceforward P.P.), 1842, XVII, no. 3, p. 841.

His list was, however, incomplete as a number of owners had refused to complete the questionnaires.¹

The demand for an enquiry into mining conditions had been partly prompted by the revelations of E. C. Tufnell. His investigations for the First Report on the Employment of Children in Factories (1833) had included a visit to a tiny, damp Worsley pit. Since this was said to be the best pit in the area, Tufnell concluded :

both from what I saw and the evidence of witnesses given on oath, that it must appear to every impartial judge of the two occupations, that the hardest labour in the worst room, in the worst conducted factory, is less hard, less cruel, and less demoralising than the labour of the best of coal mines.²

Certainly the Children's Employment Commission appears to substantiate this claim, though its evidence must be treated with caution. Sub-commissioners were not necessarily well informed or sympathetic to the lifestyle of colliery communities and they failed to relate the necessity of work to current economic fluctuations. Too often they were content to blame the miners for allowing the women and children to work without paying due attention to factors such as traditional work patterns, the cupidity of some coal owners, and financial difficulties aggravated by geographical and social isolation. Evidence was not transmitted on oath (and might be given in the presence of a colliery underlooker). It was relayed to a middle class official who was looking for instances of abuse on which he could expatiate. As a stranger he would be labouring under particular difficulties, such as local dialect, technical terms and their variations, and estimates of weights and measures (not yet standardized).

Yet, even recognizing some inevitable misunderstanding and embellishment, and bearing in mind the pressures of pro-

¹ The 1841 occupational census returns are even more incomplete. According to Kennedy's figures, Lancashire had a ratio of :

1 adult female for every 12 adult males

1 girl of 13-18 for every 13 boys of 13-18

1 girl under 13 for every 37 boys under 13. (P.P., 1842, xv, p. 39).

The Haigh Collieries are an example of a refusal to comply with the request for numbers (Haigh Collieries and Estate Papers 25/7/749, 18 May 1841).

² P.P., 1833, xx, p. 82.

ducing a lengthy report in a short time, the reader cannot fail to be shocked. The investigators and their contemporary readers were especially disturbed by the effect the work might have on present and future wives and mothers. They stressed the danger to the domestic idyll and the potential threat to morality (rather than providing proof of *actual* misbehaviour).¹ The dangers of adult female employment so concerned them that the Children's Employment Commission became far more than its name and brief suggested. Total female exclusion became a major question for Ashley and was considered important enough to constitute the first demand in the subsequent bill. Kennedy drew attention to the unsuitability of the work which tended "more or less to demoralize and brutalize" women, to incapacitate them from attending to domestic duties, and to diminish their competence in socializing children. Prohibition was therefore justified, especially since it would help protect the state "from the growth of an ignorant, depraved and dangerous population".²

The report revealed that Lancashire girls might begin working when they were only six or seven years old. They frequently worked for twelve hours or longer, and night work was common. Women and girls were chiefly employed to draw or pull small wheeled waggons or trams containing coal. These would be conveyed along plate rails. However, in many smaller pits the old method of dragging baskets or tubs on wooden sledges along the pit floor still survived. This was the case in pits at Clifton, Bolton, Outwood, Lever, Prescott, St. Helens, Blackrod, Rochdale and Worsley. Women and girls were harnessed to their tubs by belt and chain and travelled considerable distances. Ann Stevenson, a twelve-year-old drawer at Worsley, drew tubs three hundred yards each way eight or ten times in her eleven hour working day. She had

¹ This argument and its implications for female surface labour will be discussed in A. V. John, *By the Sweat of their Brow: Women Workers at Victorian Coal Mines* to be published by Croom Helm.

On women and the home see J. L'Esperance, L. Davidoff and H. Newby, "Landscape with figures. Home and Community in English Society" in (ed.) J. Mitchell and A. Oakley, *The Rights and Wrongs of Women* (London, 1976).

² P.P., 1842, xvii, p. 190.

no regular lunch break and earned 7s. 6d. (37½p) weekly. As a female she could never exceed half a man's earnings.¹ Drawers were usually hired by the colliers and paid by them. A small number had their own contracts, while others were employed by a hewer who was himself bound by a contract. Occasionally women hewed coal at the face, but this was relatively rare and on the whole the skilled male jobs were not threatened by the women.²

Although the majority of females were single or widowed, there were some married women working. Mary Hardman, who worked at Ringley, was back at work nine or ten days after the birth of her child.³ The women were strong but they complained that the work made them extremely tired. The long hours underground, frequently preceded and followed by a walk of several miles, left little time for rest. Women miners had the additional responsibility of household chores. There were some complaints that wet pits caused further discomfort—particularly swollen legs and crooked backs.⁴ Though little was known about the relationship between health and occupations, some medical men attested to this. Colliery doctors, anxious not to displease their employers, were, however, careful not to be too damning. The work could also be dangerous. The 1838 register of accidents at the Worsley collieries reveals a number of fatal accidents to girls and women caused by roof falls, firedamp explosions and waggons.⁵ Some females were beaten quite savagely by the colliers. It was impossible to ban this completely but it seems as if this form of abuse was more prevalent than sexual assault, particularly since females often worked with relatives and could be protected by them. Bearing in mind the Sub-Commissioners' easily outraged sense of decency, it was hardly surprising that Kennedy and

¹ At Worsley a man was divided into eight parts for payment purposes. A boy began by earning one eighth of his full wage but a girl never progressed beyond half—about £1 a month (P.P., 1833, xx, p. 79).

² A woman was getting coal (hewing) at Ringley because the men were on strike (P.P., 1842, xvii, no. 24, p. 214).

³ *Ibid.* no. 25, p. 214.

⁴ *Ibid.* p. 189 and no. 6, p. 202; no. 27, p. 217.

⁵ *Ibid.* Appendix B and no. 90, pp. 230-1; no. 22, p. 217.

his colleagues were horrified by the close proximity of men and women working in a state of near undress. Though conditions of work might necessitate this, it provoked not a little misguided judgement. It was easy to assume not that familiarity bred contempt but that the state of morals must have been very low.

Much of the evidence was based on accounts from local gentlemen, particularly clergy, who had some formal connection with colliery folk but often possessed little detailed knowledge or sympathy, and regarded them as a clannish and uncivilized community. They tended to presume that a lack of formal education and religious knowledge must be synonymous with immorality and depravity. The majority of owners, remote from the underground workings, exonerated themselves from any real responsibility for the women. They simply viewed them as cheaper, more reliable and less ambitious than the men. Management resented the interference implicit in the Commission and the increased expenditure which a change in the system would require.¹ As for the women themselves, the majority were opposed to the work, finding it too exacting and arduous.²

If conditions were therefore so bad, even allowing for the deliberately black picture painted by outsiders, why was the 1842 Act not viewed as a welcome release? Why did it encounter problems of enforcement and result in widespread evasion? The answer is a complex one and while it in no way minimizes the atrocities of coal mining conditions in the early 1840s, it does show that a little more thought about the consequences of the legislation might have alleviated some of the difficulties which had prompted it in the first instance.

III

Some problems arose from the fact that the women had not normally known any other work. Although they did not

¹ For example, *ibid.* no. 7, p. 205.

² Dinah Bradbury of Haydock asked at what age she would be turned out. She was about eighteen but wanted Kennedy to put her down as fifteen as she badly wanted to leave (*ibid.* no. 25, p. 214 ; no. 73, p. 229).

view colliery employment as anywhere near an ideal or even desirable occupation, they preferred something familiar to the unknown or, worse still, no job at all. It was extremely difficult to get alternative employment. Economic distress was rife in the early 1840s. Not only were jobs simply not available, particularly in the more isolated of the colliery districts, but a traditional suspicion deterred employers from engaging former women miners. The women themselves were conscious of a handicap. A coal surveyer at Bolton told Kennedy about a pit woman who had watched his servant brewing beer. Not understanding what the servant was doing, she commented: "How should I know anything but how to hook a tub on at the bottom of the pit?"¹ Petitioners protesting against the Act spelt out the problems. Such women were

In a great measure incapacitated from performing the duties of domestic servants or even from acting as ordinary out of door labourers; and, consequently they could not thereby earn a subsistence even could such employment be obtained.²

From early February to mid-April 1843 petitions against female exclusion were presented to Parliament almost daily and then continued sporadically for a further two years.³ Opposition was spearheaded by the proposal of C. L. Cumming Bruce, M.P. for Elginshire and Nairnshire. On 16 May 1843 he introduced an amendment designed to reduce the severity of the legislation. He wanted the single women over 18 and widows in Scotland to continue their former work if they so desired. Conditions were particularly severe there, since the Poor Law made no provision for relief for the able-bodied on the assumption that all could find employment. However, in spite of Cumming Bruce's somewhat undignified attack on the Commission and Roebuck's more sophisticated claim for the right of adult women to judge for themselves, the motion failed. Such intervention was deemed retrospective and was

¹ *Ibid.* no. 18, p. 209.

² Appendix to the first Report on Public Petitions, 1843. Appendix 66, p. 42.

³ See, for example, a petition from fifty Wigan miners and labourers (*ibid.* Appendix 91, p. 54).

defeated by 114 votes.¹ The suggestion of a resumption of underground female labour in Britain was never again seriously raised in a nineteenth-century Parliament.

Outside Parliament the problem remained. The fact that the number of women and girls was not great did not minimize the difficulties, particularly since they were concentrated in a few areas.² The whole family economy was disrupted and in many instances women had aged dependants relying upon them. Prohibition from the pits was not accompanied by any advice or state aid. Yet West Indian slave owners had been compensated handsomely for the loss of their slaves and money was currently being paid by railway companies to owners whose land was being developed. The short-sightedness of the government in failing to provide any compensation prompted an indignant reaction from the writer De Quincey. He referred to the mistaken hope that :

the gracious and paternal senate would send a supplementary stream of gold and silver, in lieu of that particular stream which the Honourable House had seen cause suddenly to freeze up for ever.

He went on to explain that he had not envisaged anything like permanent wages being paid to the mining women but did contend that :

in the act of correcting a ruinous social evil, that never could have reached its climax unless under the criminal negligence of Parliament, naturally and justly the duty fell upon that purblind Parliament of awarding to these poor mining families such an indemnification, once for all, as might lighten and facilitate the harsh transition from double pay to single pay which the new law had suddenly exacted.

Underestimating the number of women affected, he concluded that :

As a sum to be paid by a mighty nation, it was nothing at all : as a sum to be received by a few hundreds of working households, at a moment of unavoidable hardship and unforeseen change, it would have been a serious and seasonable relief, acknowledged with gratitude.³

¹ Hansard, vol. lxxix, House of Commons, 16 May 1843, pp. 471, 480.

² Besides West Lancashire, the other major areas were Pembrokeshire, the East Lothians and West Riding of Yorkshire.

³ Quoted in Collier, *op. cit.* pp. 20-21.

The Lancashire experience confirmed his fears. In the larger towns there were normally some openings, but the severe economic depression had produced enormous competition and pressure for work. Wigan boasted twenty-one cotton mills by 1835 but her population was increasing rapidly. The county borough population increased by 25 per cent between 1841 and 1851. The Wigan registration district had 38,531 females in 1851.¹ In addition to having a high birth rate, the town by this date boasted the greatest concentration of Irish-born inhabitants in England. Many of these took the less skilled spinning jobs. At St. Helens a small number of former women miners may have found work at the large glass works, where production of plate-glass was expanding. Women worked as grinders, smoothers, polishers and globe frosters.² However, many women miners came from more remote colliery districts and experienced difficulty in obtaining remunerative work.³ One Worsley girl had explained to the Commission that she would prefer to work on the top to pit work if she could get enough to live on but :

I should have to work such long hours at weaving to make the same wages that I would rather work in the pit.⁴

A few got agricultural work—potato planting, hay making, weeding, reaping, or cockling in Morecambe Bay.⁵ Such jobs were usually seasonal and paid only a pittance. Some women tried domestic service, but the transition cannot have been easy. The *Bolton Free Press*, indignant about the upheaval, commented that colliers

complain loudly of the injury that has been inflicted on their families by preventing the females accustomed to work in the mines, from obtaining an honest livelihood.

¹ P.P., 1852-3, LXXXVIII, Population Tables 11. Div. VIII, p. 614. This district covered the seven sub-districts of Standish, Aspull, Wigan, Hindley, Pemberton, Upholland and Ashton-in-Makerfield.

² T. C. Barker, *The Glassmakers. Pilkington: the rise of an International Company 1826-1976* (London, 1977), p. 92; J. F. Chance, *The History of the firm of Chance Bros. and Co.* (privately printed, 1919), p. 101.

³ For a recognition of these problems see the comments of T. Dover of Liverpool who talked to a former pit woman from Parr (C. W. Vane, *A Letter to Lord Ashley, M.P. On the Mines Bill* (London, 1842), pp. 82-83).

⁴ P.P., 1842, xvii, no. 93, p. 232.

⁵ Hansard, vol. lxix, House of Commons, 16 May 1843, p. 459.

Although it recognized that a few had found work in cotton mills, others

and by far the greatest portion, are driven out of employment and may be driven to seek a miserable subsistence by means still more objectionable than working in the mines under proper regulations.¹

William Peace, agent to the Earl of Balcarres,² felt the same fears :

Unless the Measure is very slow and gradual in its operation the immediate misery it will produce will be greater than the vice and immorality it is certainly well calculated to check.³

Five former pit women from Billinge were loading carts and filling them with the refuse from road repairs. One observer commented that Ashley and other "humanity-mongers" should have first considered giving compensation before interfering with the labour of the poor.⁴ Such work paid half the wages of men. Another young woman had worked underground until the law forbade it. After a period of unemployment she became a bricklayers' labourer, helping erect a corn mill for Messrs. Potter, flour dealers at Wigan. She earned 10d. (4p) a day.⁵

A positive contribution was made at Haigh. Apart from Dicconson mill, the district offered no work for ex-colliery women. John Sumner, who ran the Haigh Moor Brewery, began employing some of the women. As his son-in-law explained to the diarist A. J. Munby : "At first it was only kindness to those unfortunates whom Parliament had turned out of the coal pits."⁶ It proved a success and women were employed permanently. Some worked there for a number of years (although they had to leave on marriage) and others

¹ *Bolton Free Press*, 27 January 1844. The Belgian Labour Commission of 1886 reported similar misgivings about the fate of women working underground (*Revue Industrielle de Charleroi*, no. 41, 10 October 1886, p. 2).

² This is James Lindsay, 7th Earl of Balcarres from 1825 and 24th Earl of Crawford from 1848.

³ Haigh Collieries and Estate Papers 25/7/779, 23 July 1842.

⁴ *Manchester Guardian*, 17 April 1844.

⁵ *Ibid.* 8 May 1844. The paper's comment implied that she might in fact be paid "much more liberally" by the men.

⁶ Munby MSS., Wren Library, Trinity College, Cambridge : Diary 20, 1 August 1863 ; Notebook 1, 15 March 1865 ; Notebook 3, 10 September 1866.

alternated between brewery and pit brow work. In 1860 Munby found them shovelling malt, cleaning tubs and barrels, stirring, tapping and draining. They did all the work excepting cooperage and carting. Women brewers earned 10s. (50p) a week while those doing menial tasks, such as swilling out passages, got between 4s. (20p) and 8s. (40p). However, Sumner only employed about thirty women at a time.

Many former pit women throughout the country found that there was no work available.¹ Some married women now remained at home, thus fulfilling the object of the exercise. H. S. Tremenheere, the Commissioner appointed to supervise the working of the Act, commented that female exclusion was "the first step towards raising the standard of domestic habits and the securing of a respectable home".² But, unlike their middle class counterparts, most women could not afford to stay at home. Some got work at the pit brow where job opportunities were expanding. Male surface workers resented this, as there were cases of men being dismissed or having their work halved on account of the women. Some of the dislocation might have been reduced. This was demonstrated by the efforts of the few coalowners who tried to phase out female employment more gradually by anticipating the law's demands.³

¹ Pembrokeshire women had told the Commission that they would have preferred other work but none was available—hence their work in the pits. See P.P., 1842, xvii, no. 440, p. 578. The difficulties in other parts of the country are discussed in A. V. John, "Women workers in British Coal Mining 1840-1890, with special reference to West Lancashire", a Ph.D. thesis of the University of Manchester, 1976, chapter 3, section A.

² P.P., 1844, xvii, pp. 2, 10. Tremenheere's industrial knowledge was gained through his work as a civil servant. A lawyer by training, his work as a Revising Barrister was followed by an appointment as Inspector of Schools. Some knowledge of mining districts was gained by his enquiry into the state of education in South Wales in 1840. His report on the London schools of the British and Foreign School Society offended some nonconformists. In November 1843 Tremenheere was offered the post of Commissioner of Mines. His yearly reports described his position as "The Commissioner appointed under the provisions of the Act 5 and 6 Vict. cap. 99 to inquire into the operation of that Act and into the state of the Population in the Mining Districts". See R. K. Webb, "A Whig Inspector", *Journal of Modern History*, xxvii (1965).

³ In 1940 B. R. Seth, former labour investigator to the Bihar government, wrote about the results of the Indian mining legislation of 1929. This forbade

IV

One example of an alternative regulation of female employment was provided by the Haigh Collieries. In 1841 Balcarres's agent Peace told the Sub-Commissioner Kennedy that efforts were being made to prevent the employment of women in mines.¹ In June 1842 underlookers were ordered to exclude immediately all girls under 13. A month later those under 15 had to leave and two weeks later, all under 18. Balcarres and Peace were aware of the dangers of legislation which affected everyone concurrently. They recognized that exclusion by law was required but felt that the measure was to be carried into effect so hastily that it would produce great temporary distress.² Peace would have preferred those over 30 to have continued working, which would have aided widows. His caution may have been a case of learning by experience as he mentioned "our own Measure of a few years' back".³

In addition to gradual enforcement, a recognition of continuing responsibility was needed. This was demonstrated by Lord Francis Egerton at the Worsley collieries.⁴ Egerton's

underground female employment in mines, phasing out exclusion over a ten year period. He believed that the special conditions of mining and the true interests of the workers had been ignored. While he recognized the good intentions of the government, he still felt that sufficient time had not been set aside for this reform and that there was ignorance about its probable effect on the miners. He concluded that it had been carried out "carelessly and blindly" (B. R. Seth, *Labour in the Indian Coal Industry* (Bombay, 1940), pp. 44-45).

¹ Haigh Collieries and Estate Papers 25/7/749, 18 May 1841. James Lindsay (1783-1869), the 24th Earl of Crawford and 7th Earl of Balcarres, was helped by his wife. The Wigan miners' leader William Pickard paid tribute to her efforts to remove women from underground work. She also promoted the establishment of local schools (*Wigan Observer*, 3 August 1867).

² Haigh Collieries and Estate Papers 25/7/778, 20 July 1842; 25/7/779, 23 July 1842.

³ *Ibid.* 25/7/779, 23 July 1842. William Hulton's early efforts to exclude females were not very successful—by 1841 women were working again in his pits (Hansard, vol. lxiii, House of Commons, 7 June 1842, p. 1339; P.P., 1842, xvii, p. 164).

⁴ Lord Francis Egerton (1800-57) had inherited the income from the Lancashire estates and coal mines of his uncle the 3rd Duke of Bridgewater. Having no direct heir, the Duke had artificially perpetuated his line by bequeathing his income to Lord Francis, who adopted the Bridgewater family name of Egerton

spirit of paternalism was well known. Ashley paid tribute to his approach :

Anything more kind or more correct than the management of that property he had never seen—nay, more, he had not read.¹

The motives behind his phasing out of female employment were intrinsically bound up with this outlook. In 1841 the Bridgewater estates boasted a colliery workforce of 3,603. One hundred and forty four of this number were women and girls. Wages were paid on a sliding scale basis, were low and, until the end of 1842, were still paid monthly. They compared badly with their neighbours in South Lancashire. The Chartist *Northern Star* described the workforce as “labouring in the most abject and servile slavery that it is possible for the mind to invent”.² Conditions remained primitive. Although the pits were not deep enough for constant danger from firedamp explosions, accidents did occur fairly frequently. Miners travelled up and down shafts in buckets, and drawers were harnessed by belt and chain.³

It was the practice of using female drawers which particularly outraged Egerton when he took control in 1837. In a fit of fashionable outrage against this “monstrous thing” he declared that “nothing short of its destruction could remedy the evil”.⁴ He was determined to set an example and thereby also forestall a threat to his stringent control by curbing any inducement to immoral practices. Social life came under this tutelary control. Wages were paid, not at a public house (the practice elsewhere before 1842), but at an ornamental house in the 60 acre recreation ground where only ginger beer or coffee could be imbibed.⁵ Families suspected of immoral behaviour were removed to a safe distance and orders were given for colliery

in place of his patronymic of Leveson-Gower. Lord Francis moved to his estate in July 1837. In 1846 he became the Earl of Ellesmere.

¹ Hansard, vol. lxxix, House of Commons, 16 May 1843, p. 459.

² *Northern Star*, 26 August 1843, p. 5.

³ P.P., 1842, xvii, Appendix B, pp. 177-9. See also F. C. Mather, *After the Canal Duke* (Oxford, 1970), p. 320. I am very grateful to Mr. Mather for discussion on the Worsley collieries.

⁴ Hansard, vol. lxxix, House of Commons, 16 May 1843, pp. 459, 470.

⁵ P.P., 1846, xxiv, p. 49.

women with illegitimate children to be dismissed.¹ He also believed that female employment could be conveniently restricted, as there was a labour surplus which needed to be reduced. According to the employment figures compiled by the Deputy-Superintendent Fereday Smith, taking into account the numbers employed in September 1842 and the productivity rate and sales for the past six months, there were 430 more employees than necessary.² There was enough work for 789 (including 47 females) but not for the 1,219 (133 females) at present in employment. The policy of employing more workers than really necessary was common amongst coalowners as a protective device against fluctuations in trade and threats of strikes. At a time when it was expedient to reduce the workforce, one practical answer was to lessen gradually the number of females working in the pits.

Restriction of numbers was also urged by Egerton's superintendant James Loch, whose puritanical approach to life played no small part in the surveillance of the estate.³ Loch's Whig beliefs contrasted with Egerton's Tory sentiments, yet on the question of female employment they reached the same solution though for different reasons. Loch was strictly opposed to the women's work but was also insistent that state intervention was the wrong way to remedy the evil. He was concerned that the Trustees should do all in their power to "save these poor people from the consequence of this premature enforcement of an admirable principle".⁴ He viewed the Children's Employment Commission as a threat to the authority and duty of the parent towards the child. He believed that parents should protect their own children and that, in turn, it was the Trustees' responsibility to teach those parents their duty. He commented with regret that it was "a sad meddling busybody age—everyone taking care of his neighbour's actions".⁵ In

¹ Loch-Egerton Papers, Mertoun, 993, 21 May 1842.

² Ibid. 1383 a, 21 September 1842.

³ James Loch came from Edinburgh, where he had mixed with the progressive thinkers of the Speculative Society. He became chief agent to the Duke of Sutherland in 1812. Between 1833-45 he was auditor of the Dudley Estates.

⁴ Loch-Egerton Papers, 1383a, 21 September 1842.

⁵ Ibid. 598, 28 December 1846.

June 1842 Ashley noted in his diary that Loch was "secretly setting mens' minds against the female clause".¹ The superintendent's suspicion of interference, combined with Egerton's benevolence, led the Bridgwater Trustees to devise their own schemes for exclusion. Plans were being made as early as February 1838 to encourage the building of iron and cotton manufactories in the Worsley area to provide alternative work for displaced women. This would have the additional benefit of inducing the sale of coal and increasing canal traffic.²

Between May 1841 and July 1842 the number of females employed at the Worsley collieries was reduced from 144 to 129.³ Emphasis was placed on prohibiting newcomers when women left. Married women were not to be allowed and in recent months only those over twelve had been permitted to start work. Loch's order of May 1842 was accompanied by a familiar warning :

If any of the unmarried women who are so permitted to continue to work in the mines, shall have a natural child subsequent to the order promulgated to that effect, they shall not be again admitted to work in the mines.⁴

The Bridgwater control must at times have been stifling for its employees with its strong infusion of moral principles. At least, however, this concern involved a recognition of responsibility for their welfare. Loch was particularly worried about the need for total compliance with the new law by March 1843. At a meeting of coalowners, held with Ashley to discuss possible modifications to the bill, he emphasized how easy it was

for those who dine heartily every day to undervalue the effect and the consequences of the want of food. I fear that the severity of this retrospective clause will be to make some of those who are virtuous have recourse to a life of infamy and will render those that are bad still more wicked.⁵

He was convinced that contingency measures were essential. Details of the woman's employment and their families were

¹Broadlands MSS., SHA/PD/2, Diary 1, 28 June 1842.

² Loch-Egerton Papers, 1041, 8 July 1842 ; 993, 21 May 1842.

³P.P., 1842, xvii, Appendix (List of Coalowners); Loch-Egerton Papers, 1041, 8 July 1842.

⁴ Loch-Egerton Papers, 993, 21 May 1842.

⁵ Ibid. 20 June 1842.

noted down and local clergy informed of developments. Although he worried that the measure would be "the parent of some crime and considerable misery", Loch hoped that anticipation and concern might help diminish this.¹

He was aided by Lady Francis Egerton.² Together they examined the ages of those still in employment in July 1842 and found that the great majority were under 21. The eight girls aged 13 and twenty aged 14 were due to leave next, followed by the 15 year olds.³ It was hoped that all these younger women could be educated. In July 1841 Smith had issued instructions from Lady Francis Egerton explaining that if no additional women went into the pits, she would establish a daily school at Walkden Moor. This done, Smith suggested that the school be extended to train some of the girls for domestic service.⁴ The exclusion of the 16 and 17 year olds was timed to dovetail into the legal prohibition date of 10 November for those under 18. Where possible they were to be provided with domestic service or light agricultural work. Adult women would cease working within the following few months, so that by 1 March 1843 all female employment would have ended. The adults were watched before determining their fate. Those not suitable for Lady Francis Egerton's charities were to be given work on the farms. Smith was made responsible for arranging immediate temporary work on the estates and in the gardens.⁵

The Walkden Moor Servants school was opened in 1843, providing a safety valve for a few of those left at the mercy of the law's demands. Twelve free boarders were trained here yearly. Old pupils returned from service to be presented

¹ Ibid. They noted the following details : (1) name and residence, (2) marital status, (3) number and employment of children, (4) husband's occupation, (5) duty, i.e. work performed, (6) wages. A blank column was reserved to fill in details of her fate after leaving the pits.

² Described as "almost the classical Lady Bountiful" in Mather, *op. cit.* p. 320.

³ Loch-Egerton Papers, 1041, 8 July 1842.

⁴ Ibid. 1409, 15 November 1842. Loch was careful to use Lady Francis Egerton's concern to advantage. When colliers were threatening to strike in 1841, his encouragement to resume work included a reminder of "what pains have been taken by Lady Francis Egerton to educate your children—what labour she has undergone in helping to clothe them—how invariably her time has been dedicated to increase your comforts and to promote your spiritual welfare". ⁵ Ibid.

with a book if they had earned good characters. It received many more outside applications for servants than it could supply. Run on lines reminiscent of eighteenth-century orphanages, its authoritarian approach must have been somewhat daunting for the former pit women. There were lists of Draconian rules and a highly regimented time-table.¹ The twelve months provided a thorough training for future housemaids, laundry and kitchen maids. They worked on a fortnightly rota which included lessons at the main part of the school. Egerton wished Ashley no better reward for his labours than to see the deportment in the school :

I am sure you would find evidence that your labours were not likely to be in vain or fruitless. There is an appetite for instruction, an evident sense of its value, and a decency of behaviour, which, considering antecedent circumstances, I confess have surprised me by their prevalence.²

In addition to providing gainful employment in place of pit work, it was also hoped that such training would have wider beneficial repercussions. Smith believed that women so trained would make better wives and that their husbands' wages would in future be spent more carefully.³ Tremenheere, a constant supporter of educational schemes (and in particular those which enhanced a sexual division of education and promoted domestic economy for women), praised the results. He believed that "few people have fulfilled their responsibility more conscientiously".⁴

It had been agreed that a small allowance of 1s. (5p) a week would be paid to parents for a year to compensate for the loss

¹ P.P., 1846, xxiv, Appendix V, pp. 59-62. Rules for the matron included "never to permit a girl to be idle for a moment". General rules were accompanied by appropriate biblical quotations.

² Hansard, vol. lxix, House of Commons, 16 May 1843, p. 470. The Committee of the Council on Education considered the Worsley schools to be amongst the finest in the country. The Mines Inspector Dickinson praised them generously at a talk given to the Manchester Literary and Philosophical Society (*Morning Chronicle*, 13 October 1851, p. 5; *Wigan Examiner*, 19 October 1855, p. 4).

³ Loch-Egerton Papers 702, 5 July 1842.

⁴ Tremenheere Papers, Penzance Library: Journals, Vol. iv, July 1846, pp. 1851; xxiii, p. 40. Tremenheere suggested educational prize schemes himself and also supported the opportunities for women offered by the Gartsherrie and Eglinton Industrial schools in Scotland.

of their daughters' earnings.¹ The Trustees kept their promise. Accounts show that from the end of December 1842 until mid-December 1843 fortnightly sums of 2s. (10p) were being paid out to the girls excluded from colliery work. At first this applied only to those under 18 who had to leave work before 10 November. By December there were sixty girls aged between 13 and 17 receiving payment and one girl who was still 12. Once a girl got a job or if she stopped attending school, the allowance ceased.² The level of attendance was noted. The payment of allowances continued in 1843, although many got seasonal work haymaking and so forfeited part of their payment. Whereas £6 12s. (£6.60p) had been paid out on 19 December 1842, the first week of August cost the Trustees only £3 2s. (£3.10p). A few found more permanent employment—in April and May five got jobs in factories. During the next few months others obtained work in the Worsley and Walkden Moor area. The opening of the Servants school relieved a further dozen, as it provided gratuitous board and lodging.

From March 1843 the allowance system was extended to include the former employees aged 18 and above, now officially excluded from the pits. Not only did the Trustees carry out their original plans but they took them further. In April 1843 twenty-six adult women aged 18 to 24 were receiving fortnightly allowances of 2s. (10p). The fact that adults were also compensated suggests more than placating families for the loss of daughters' earnings. The scheme amounted to a rudimentary form of redundancy payment.³ It emphasizes the severity of the problem. As late as May 1843 seventy females were still being paid. Despite the fact that deliberate efforts were being made to create and find work, the majority of women remained without employment. Allowances were paid directly

¹ Loch-Egerton Papers 1041, 8 July 1842; 1297, 13 July 1842; 1059a, 30 July 1842.

² The following analysis is based on a manuscript "Girls working in the colliery" kindly lent to me by Mr. Donald Anderson. I am grateful to Messrs. John Smethurst and Frank Smith for drawing my attention to this source.

³ There was no consistency in this although, if made to a parent, it was generally to the mother. This may have been due to a fear that the father would squander the money on drink, though it may have simply been paid to whoever was available.

to the older women, whereas the money for the younger ones was generally made to a parent or other members of the family.¹ The final payment was made on 11 December 1843. Only twenty-five girls and women were still receiving payments by this time. The amounts were low in comparison with the money earned underground, yet the numbers requiring assistance (the complete list for December 1842 showed 86) and the slow move in the direction of other work, underlines the even greater difficulties for those in areas where no compensation was provided.

Such a situation makes more comprehensible the readiness with which many women evaded the law. The historian's frequent invocation of the name of Egerton is a sad indication of the extent to which his concern was the exception rather than the rule. Many coalowners were not prepared to make even a meagre return for the labour which they had extracted for so long. The initial interference may have been well intentioned but the situation was readily exploited by those who recognized that the sudden abrogation of an old established practice caused problems. They were initially able to turn this to advantage by condoning evasion. It was a solution which many women were forced to accept.

The lack of training, no job prospects in a shrinking market, and a clinging to tradition gave them little option but to accept the chance of working, albeit illegally, underground. Sheer financial necessity ruled out the other possibility of staying at home. The *Economist* recognized the inevitability of this and deplored the policy of killing with kindness in this "foolish, premature and cruel act which has arbitrarily deprived these women of their labour and driven them underground by stealth", not, it added, to steal but to gain honest bread.²

V

Tremenheere claimed that there were about 200 women working illegally in the Wigan area alone in 1845 and this was

¹ In 1847 the Bridgewater Trustees introduced their own private non-contributory old age pension scheme to supplement the incomes of employees who were incapable of further work. ² *Economist*, 28 September 1844, p. 1253.

most probably a considerable underestimation. As late as 1846 Balcarres's agent Peace commented that the evil was "springing up again in all its original strength".¹ It is difficult to get information after March 1843 as the very nature of the work precluded precise knowledge. But occasionally proof was provided. In February 1845, for example, Hannah Hatharington was killed after a roof fall in a Standish pit. At her inquest her father, who also worked there, pleaded ignorance (possibly under pressure from Ellam and Taylor his employers) of whether his daughter worked underground. However, it was revealed that she had been wearing men's clothes for over a year which, added to her height (5 feet 10 inches), enabled her to pass as a man. It was also discovered that other women, similarly dressed, still worked in this pit.²

Evasion was helped by the vagueness of the law. The Act had authorized a person to enter and examine mines and collieries at any time, to make enquiries about any subject of concern and to report on the execution and observance of the Act and the state and condition of those at work. Tremeneere's appointment was not made until 14 December 1843. He was required to :

take such steps as may be in your power to secure to the labourers employed in mines or collieries the benefits which have been guaranteed to them by Parliament, and to bring to justice those who openly or by stealth violate the law and frustrate the benevolent intentions of the legislature.³

It was a vast task—the *Economist* called it of "Herculean proportions".⁴ The relative ease with which coal-owner-Peers had modified some of the original clauses of the bill was an indication of their power to resist outside interference. It is conceivable that the delay in his appointment was a recognition that, though the act itself was harsh, it might in practice be tempered in some way. While this in no respect lessened the finality of its demands, it did extend the adjustment period. The result was, however, an increased temptation to break the law rather than a constructive remedy to the problem.

¹ Haigh Collieries and Estate Papers 25/7/848, 17 July 1846.

² *Leeds Intelligencer*, 15 February 1845, p. 6. It had been claimed that she was simply taking a man's dinner down.

³ HO 45/OS/511.

⁴ *Economist*, 28 September 1844, p. 1252.

Whether or not the procrastination can be attributed to such motives, the time factor not only facilitated the evasion of the law but demonstrates the way in which positive and apparently uncompromising intervention became moderated. Tremenheere never actually visited the underground workings of a mine or colliery and subterranean visits were not imperative.¹ His duties were very different from those of the Inspectors appointed in 1850, his job being in practice that of a Commissioner acting as a welfare officer.²

Tremenheere viewed his main task as writing yearly reports on the progress of the Act. He accepted that it was bound to cause temporary dislocation and temptation and recognized that a deeper problem of human labour was at stake. However, he did not attack the basis of this problem and acknowledge the economic difficulties. Instead he posited remedies in the form of educational schemes. Social control through education was, for the moralist Tremenheere, a panacea for all ills. He optimistically believed that by stressing evidence of improvement in certain areas where the law was being observed, law breakers would be sufficiently ashamed to desist from their illegal activities! He did make visits but they were always preceded by warnings of his impending arrival (see Appendix I).³

There was some provision for detection and prosecution in his absence but the lack of defined executive power hampered him. He was also restricted by his supervisors—the Home Office resented overtly independent action and required notification of his intended movements. His first step was to obtain from factory Inspectors the names and addresses of lawyers in the localities and to send them copies of the Act. They agreed to obtain evidence wherever possible. But the lengthy procedure involved reveals its absurdity. Once a lawyer got information he sent it to Tremenheere who, in turn, contacted the Home Office if he felt it serious enough. If the Under

¹ P.P., 1849, VII, p. 24, qus. 195, 196, 261.

² This is the description preferred by Sir Andrew Bryan, former chief Inspector of Mines. Sir A. M. Bryan, "His Majesty's Inspector of Mines. A Centenary address" in *Transactions of the Institution of Mining Engineers*, cix (1949-50), 878.

³ This remained the practice for Inspectors until 1878.

Secretary of State also agreed, then permission would be granted for a prosecution to proceed. At times, however, the Home Office was reluctant to allow Tremenheere to go ahead because of the expense involved.¹

He appeared to have been invested with broad discretionary power but in practice he lacked real coercive force. Peace complained that evasion of the Act was so easy for women that the legislation's intentions "cannot possibly be realized".² One weakness was that magistrates were unable to summon witnesses in prosecutions. Although it did not prevent convictions taking place, it did make it far more awkward to ensure the effectiveness of the Act.³ Tremenheere suggested that some alteration be made to remedy this, but nothing was done.⁴ It was particularly annoying since magistrates could enforce the attendance of witnesses when the 1844 factory act was contravened (7 and 8 Vict. cap. 15 sec. 49).⁵

In 1843 Ralph Leigh, Clerk to the Magistrates at Wigan, complained about the difficulty of procuring witnesses and the subsequent dismissal of several cases on account of non-attendance.⁶ Problems were exacerbated since the magistrates were frequently coal owners or their close associates and did not always enforce the law sufficiently. Unlike the Truck Act they were not prevented from sitting on cases of contravention. *Reynolds's Political Instructor* hinted in 1850 at the evasion of the law in Lancashire, "winked at by the magistrates who are more or less interested".⁷ Some magistrates were evading the law themselves. One was Whalley, a coal-owner at Chorley. The *Northern Star* claimed that he exemplified the "low cunning" of a Whig magistrate and deserved to be

¹ For example HO 87/1, 21 January 1848 ; HO 87/2, 11 March 1848. Tremenheere's written reports did not appear until the year after they were compiled. The assistance of counsel was sometimes necessary when corroborative evidence could not be found. For example, this was used successfully in 1845 against Preston and Harding (HO 45/OS/511, 4 August 1845). See also John Lancaster's appeal to Quarter Sessions (HO 87/1, 22 February 1847).

² Haigh Collieries and Estate Papers 25/7/803, 31 January 1845.

³ P.P., 1846, xxiv, p. 5.

⁴ Haigh Collieries and Estate Papers 25/7/852, 12 August 1846.

⁵ HO 45/OS/1490, 31 December 1846. ⁶ HO 45/OS/511, 4 August 1845.

⁷ *Reynolds's Political Instructor*, 9 March 1850, p. 141.

dismissed for his "monstrous iniquity".¹ In 1865 Munby talked to Mary Marsden of Aspull Moor. She and three other girls had worked secretly at several pits for about four years after 1842. She claimed that nearly all the drawers working for Whalley were women and that the management knew this.²

Similarly, in the Black Country coal-owner magistrates were failing to enforce the safety provisions and prohibition of the payment of wages in public houses required by the 1842 Act.³ The legislation could be interpreted very loosely and to the owners' advantage. In September 1846 eight St. Helens colliery proprietors were accused of allowing women to work illegally. Three of the cases were considered, then the magistrates decided to dismiss them all on payment of costs and promises of obeying the law.⁴ One of the owners was Samuel Stock. Munby discovered later that Stock was still employing women at Selney Green in 1848.⁵

In November 1846 a firedamp explosion at the Burgh pit near Chorley revealed that John Hargreaves (a county magistrate) had been breaking the law. Three girls under 14 were killed. They had been employed to draw rubbish from a tunnel that was being driven to get through a fault. Proceedings were started against Hargreaves but at his first trial he was excused by the magistrates under the thirteenth section of the exclusion clause which required proof of "consent, concurrence or knowledge".⁶ He was able to argue that the girls were working without his personal consent. The manager had, in fact, been deploying pit brow girls below ground and had told them to come to work in mens' clothes. However, he, too, escaped blame and tried to incriminate the miners. By turning a blind eye and condoning evasion the temptation was increased for women to continue working. If trouble arose,

¹ *Northern Star*, 30 September 1843, p. 5.

² Munby MSS., Diary 33, 15 June 1865; Notebook 1, 15 March 1865.

³ D. Philips, "The Black Country Magistracy 1835-60; a changing local élite and the exercise of its power", *Midland History*, III, no. 3 (1976), p. 184. By the late 1840s most J.P.s in the heart of the Black Country were coal and/or iron masters. This tendency was also increasing in South Wales and Lancashire.

⁴ *Liverpool Mercury*, 25 September 1846, p. 463.

⁵ Munby MSS., Notebook IV, 26 August 1870.

⁶ P.P., 1847, xvi, p. 35; HO 45/OS/511, 27 January 1847.

coal masters neatly exonerated themselves by disclaiming knowledge or responsibility. Tremenheere deplored the way in which they exculpated themselves, yet found it difficult to remedy the situation, particularly since it was pointed out that hewers employed their own drawers and thus should accept the responsibility. Complicity was not easily proved and the plea was often ignorance and therefore innocence.

The *Preston Guardian* gave the case some adverse publicity :

No man of common decency and generous feeling can have read the evidence . . . without feelings of the strongest indignation, which must in their turn have given place to no little astonishment on perusing the decision of the magistrates at the close of the Inquiry.¹

It deplored the sophistry by which Ellis and Hargreaves escaped blame and feared that the practice would continue as long as owners could be held exempt from responsibility. The "culpable laxity" of the Chorley magistrates screening their colleagues was "a premium to slovenly business habits and a callous indifferent shifting of blame". Hargreaves had to face a second trial and Ellis was convicted. A £10 penalty was imposed for one offence and £5 each for the other two. After the conviction Hargreaves published a notice stating that any collier who in future employed a woman underground would forfeit his wages or be discharged. He even offered a reward to anybody who would help him prosecute known violaters of the Act!²

Effective enforcement was hampered by the imposition of low fines (between £5 and £10), which failed to deter wealthy owners. There was even evidence that some proprietors got the women to defray their own fines. In December 1842 Peace complained to Balcarres that many of their competitors were ignoring the law and in some instances were stopping 4d. (1½p) per week from the women's wages to raise a fund to pay any fines which might be inflicted upon the employers. Three months later he complained again about this practice.³

Those who worked illegally did not earn much money. The Manchester geologist E. W. Binney encountered a woman

¹ *Preston Guardian*, 16 January 1847, p. 4.

² P.P., 1847, xvi, pp.35-6.

³ Haigh Collieries and Estate Papers 25/7/785, 12 December 1842.

on the Ince-Wigan road in 1845-6. She explained how she managed to get down "on the sly" and could not see why she was not as well employed there as anywhere else. She had an old woman at home to support and wished that "those chaps that got the women taken out of the pits would pay me the 3s. a week less wages which I get now".¹ Yet such women were careful not to complain too loudly. All parties were interested in keeping the matter quiet. The women needed the employment and their masters knew this and were anxious for the continuation of cheap labour.

This was the crux of the matter. It was useless for Tremenhoe to enforce the law without the owners' support. Many merely paid lip service to the clause. Reluctance to accept the consequences was linked to expense—heightening roadways and preparing them for older boys or ponies or erecting machinery cost money. The payment of wages was not necessarily affected where older boys or men replaced females, since the hewer had the onus of finding the increased amount of money to pay the new drawer. However, this could ultimately rebound on the owner, not just through a demand for higher wages but also because some men who could not find work for their wives and daughters and who had not been compensated in any way, now sought employment elsewhere.

Peace, disturbed by the illegal employment at the surrounding pits, complained in 1846 that about a dozen men had recently left their Aberdeen pit to get work at the Burgh pit where their wives and daughters were sure of employment.² Hargreaves already had over thirty women working there illegally. Meanwhile the Aberdeen pit was being worked with only two thirds of its full complement of men. Peace told Balcarres in no uncertain terms that :

The Rule is Violation and the Exception Observance of the Act—Ourselves and one or two others in observing it stand to be shot at by our Competitors who drain us of our men and laugh at us.³

¹ G. C. Greenwall, "On the underground conveyance of coal", *Transactions of Manchester Geological Society*, x (1871), 60.

² P.P., 1851, xxiii, p. 20; Haigh Collieries and Estate Papers 25/7/848.

³ Ibid. When the accident occurred at the Burgh pit, Balcarres immediately requested Peace to make enquiries about it *before* the Coroner's Inquest (ibid. 25/13/336, 25 November 1846).

He feared that unless something could be done soon, they would be compelled to permit the women to resume work at their own pits. They had already submitted a written statement on the subject to Tremenheere :

A Probable Case which may happen to us, should all other collieries employ the Women and Children in consequence of the defective state of the Act and we alone do our duty.

Although the mining act in this district is very generally evaded still the fear of detection and punishment will have considerable effect, and I do not believe that the very defective state of the law is generally known among the colliers. If it should become so, it appears to me that the effect will be that those Collieries who really do their duty will not be able to keep a collier, who will naturally leave us to attach themselves, where they can get employment not only for themselves but for their wives and children. By such a fashion it is possible we may be driven although with every reluctance again to employ the Women and Children, (as a great and important concern) as an absolute necessity in self defence, as the women cannot submit to be Ruined, because a new act of Parliament creating a new order of things, is so defective that it cannot be put into execution and the framers of it giving it to us to understand, think they dare not to attempt to commit the errors of the Act.¹

A recurring theme in Peace's correspondence was the loss caused by the unfair competition of rivals.² In this way he not only stressed their own impeccable behaviour but also provided a safeguard against possible future accusations of breaking the law. Those who did go underground illegally were often taking a physical as well as a legal risk. Many pits where the women were welcome were old fashioned and badly ventilated. Peace used to meet the women working for Wood and was frequently asked whether they could transfer to Balcarres's safer pits.³

Some proprietors took steps to facilitate evasion. At several Lancashire pits ladders were placed at the shaft entrance—both Whalley and Fletcher did this.⁴ The women traditionally wore petticoats over short trousers and now donned more

¹ Ibid. 25/7/848, 17 July 1846.

² Nevertheless, new pits were opened in 1845-6 and the 1846 accounts revealed a net profit of £23,079 for the collieries (ibid. 25/7/849, 1846 accounts; 25/7/785, 12 December 1842; 25/7/804, 2 February 1845).

³ Ibid. 25/7/848, 17 July 1846.

⁴ HO 45/OS/511, 7 February 1845; C. Aspin, *Lancashire, The First Industrial Society* (Rossendale, 1969), p. 91.

masculine hats or caps, jackets and trousers (see Appendix II).¹ The *Northern Star* deplored the despicable fraud involved in dressing women in this way :

Mark the outrage—the Beastly infamous outrage upon public morals and public decency, involved in the promiscuous dressing of the sexes.²

The fact that Tremenheere pursued what was largely an “armchair policy” inevitably aided evaders. In August 1846 he wrote to placate Balcarres, admitting that he had hoped that occasional convictions would have been sufficient.³ He still felt that additional powers should be avoided if possible and trusted that before long considerable progress would be made. His first visit to Wigan was not until two and a half years after the Act had been passed. His Circular to local coalowners gave ample warning of his arrival in the spring of 1845. He held interviews with most of the colliery owners and visited again in February 1847. In the meantime he communicated with local persons in authority. In the Wigan area this included an M.P., the Mayor and the Rector. The coalowners met on his advice and agreed that the Captain of Police should go round every local colliery to check that women were not working.⁴ They agreed to fund this themselves. However, Martin and his colleagues had plenty of other work to do and did not devote much time to this task.⁵ And although the coalowners did make some joint resolutions, they did not exert themselves to enforce them. As Peace commented :

The worst of such meetings is that not the least reliance can be placed upon the undertakings of the Individuals comprising them, the moment that private interest appears to clash with them.⁶

¹ Kitty Grayson, who died in 1911 aged 92, had worked illegally for a year at a Wigan colliery. She later recalled how she wore her father's breeches, flannel shirt and jacket (*Science and Art of Mining*, xxii, no. 4, 1911).

² *Northern Star*, 30 September 1843.

³ Haigh Collieries and Estate Papers 25/13/195, 16 August 1846.

⁴ HO 45/OS/511, 7 February 1845; Resolutions passed at the Meetings of the Coal Proprietors of the Wigan District, Wigan Public Library 1843.

⁵ John Topping, owner of a small pit near Wigan, was convicted and fined £5 on police evidence in 1845. However, there were criticisms that the police were neglecting opportunities of bringing cases before magistrates (P.P., 1844, xxiv, p. 4).

⁶ Haigh Collieries and Estate Papers 25/7/1023, 1854-5.

There were frequent rumours of evasion in the Wigan district and sometimes information did help. John Bleasdale of Hindley was convicted in 1844 after Bradley, a town watchman, informed the authorities.¹ Tremenheere was gradually forced to recognize that a more efficient system must be adopted. Pressure from Balcarres and the adverse publicity of the Hargreaves case helped convince him.² It was decided that an Informer should be appointed with a weekly salary of 30s. (£1.50p). Peace was prepared to increase this by an extra guinea since he believed that the only alternative would be the sacrifice of the entire colliery by stopping the pits.³ Local inhabitants were, however, reluctant to perform such a task.⁴ Eventually, in September 1846, a Mr. Sims, formerly a Metropolitan Police Officer, offered his services. He had some success in getting evidence for prosecutions but resigned after two months from ill health. Two replacements were eventually found and they reported weekly until July 1847, when they moved on to St. Helens.⁵

It is impossible to quantify the extent of evasion in the late 1840s. Peace remained convinced that it was the norm, though many owners failed to recognize or, at least, admit its existence. Tremenheere linked it to his conception of colliery folk. He found the Wigan-Chorley area "greatly behind the rest of the community in civilised ideas and habits".⁶ His reports of progress impressed Ashley, who found them far more encouraging than he had dared to hope "having heard that the coalowners in those parts were very contumacious".⁷ However,

¹ *Miners Magazine*, no. 1 (1844), p. 36 (in Pitman's Strike Collection, Wigan Record Office); *The Times*, 9 February 1844, p. 5; *Bolton Free Press*, 27 January 1844, p. 3.

² Haigh Collieries and Estate Papers 25/13/196, 27 November 1846.

³ Peace and the Home Office gave the figure as 30s. (£1.50) whereas Tremenheere mentioned 25s. (£1.25) (HO 45/OS/511, 21 October 1846; P.P., 1846, xxiv p. 4; Haigh Collieries and Estate Papers 25/7/848, 17 July 1846).

⁴ The *Northern Star* did claim that at least one man in the Wigan area had a wife prepared to tell the truth and expose the culprits (*Northern Star*, 30 September 1843, p. 3).

⁵ HO 45/OS/511, 4 August 1845, 20 November 1846.

⁶ P.P., 1847, xvi, p. 35.

⁷ Tremenheere Papers, Family Letters, vol. III, 12 February 1845.

the mammoth task facing Tremenheere, his optimistic outlook and his belief that, after initial adjustment problems, society would revert to its naturally harmonious state, led him to give a more rosy picture than local newspapers and colliery records show. The number of prosecutions must always have been small in comparison with the numbers employed. In 1845 an article by "An Observer and a labouring man" in the *Liverpool Mercury* claimed that countless examples existed of women working below ground at Bolton, Wigan, Leigh and St. Helens "winked at by the authorities".¹ In the same year Tremenheere admitted to evasion by females in fourteen pits and suspected it in half a dozen others, all within a five mile radius of Wigan.² The next year Peace claimed knowledge of fifty instances where the female clause was being disregarded.³ He blamed Tremenheere for failing to go underground and hoped that a proper Inspectorate would be created soon to enforce the law. Engels's sentiments were similar. He complained that as far as females were concerned, the Act had

remained a dead letter in most Districts, because no mines Inspectors were appointed to watch over its being carried into effect... In single cases the employment of women may have been discontinued but in general the old state of things remains as before.⁴

Evasion was most probably at its height in 1843-4 as the more immediate problems of adjustment were felt. Women were not always employed regularly—discovery of other work (some of which was seasonal) might interrupt periods spent underground. Some women engaged to work on the brow might also be expected to work below ground when needed. And it was not always former women miners who worked in the pits after 1842. Molly Gawner told Munby that she had *first* started underground work about 1848. She then worked in the pits for about 18 months.⁵ The latest known and recorded

¹ *Liverpool Mercury*, 7 November 1845, p. 472.

² HO 45/OS/511, 7 February 1845.

³ Haigh Collieries and Estate Papers 25/7/848, 17 July 1846. Further prosecutions ensued—for example, Tellure was fined £10 at Shevington in 1845.

⁴ F. Engels, *The Condition of the Working Class in England in 1844* (London, 1950 edition), p. 251.

⁵ Munby MSS., Notebook IV, 26 August 1870.

examples of Lancashire evasion to date are Katherine Sherratt (11) and her sister (13) who worked with a number of other girls at Rose Bridge about 1854. *Reynolds's Political Instructor* of March 1850 accepted that the practice had died out in most areas but claimed that it was still common in Lancashire.¹ De Quincey explained that the substitution of male labour would prove too costly and awkward (particularly in narrow seams) for an eager or rapid ending to female labour. Writing in 1858, he suggested that the women's work was "likely enough to prevail at this hour".² Evasion had also been common in Scotland, Yorkshire and South Wales. In Monmouthshire many pits were entered by levels in the hillside which aided detection. And, although in 1864 Tremenheere assured the Home Secretary that the employment of females in mines had "for many years passed entirely and definitely ceased", he was forced to admit that in certain districts (notably South Wales) it continued. In 1866, 17 years after the Act had been passed, his fears were proved correct. By chance an accident revealed that two girls had been working at Bailey's Tunnel pit at Nantyglo.³

One contribution to the enforcement of the law was eventually provided by the creation of the Inspectorate. The second stage of MacDonagh's model describes a situation where legislation has failed to eradicate the very social evils which had initially helped prompt intervention.⁴ The next step was the appointment of executive officers who brought the measure to life. They provided a body of persons "professionally charged with carrying the statute into effect". Yet in the

¹ Ibid. Notebook III, 10 September 1866; *Reynolds's Political Instructor*, 9 March 1850, p. 141.

² Quoted in Collier, op. cit. p. 21. Young boys also evaded the law—"The provisions of Lord Ashley's act, so far as regards the ages of boys working in coal-pits, are, I have reason to know, habitually set at defiance in South Staffordshire" (*Morning Chronicle*, 3 January 1850).

³ HO 45/7579, pp. 1858; xxxii, pp. 6-7; pp. 1867 xxi p. 138. *The Times*, 5 July 1866, p. 11. For a discussion of the extent and persistence of evasion nationally see John (thesis), op. cit. ch. 3, section C.

⁴ MacDonagh, op. cit. pp. 58-59. See also his "Coal Mines Regulation: The First Decade 1842-52" in (ed.) R. Robson, *Ideas and Institutions of Victorian Britain* (London, 1967).

coal mining industry, though the evils had not been eradicated, the appointment of professional executive officers was prefaced by an interim stage, limited in its potential. This was the appointment of a Commissioner of Mines. Moreover, the establishment of the Inspectorate in 1850 (both tiny and temporary) was conceived as a response to the urgent demands for increasing safety precautions. The Inspectors were supposed to enforce breaches of the law, but their areas and tasks were so huge that they could not provide much support. In fact, Tremenheere continued his yearly reports until 1859. The creation of the Inspectorate was thus prompted not so much by a desire to enforce the 1842 clauses affecting employment, as from the need to centralize control and responsibility. The twin social evils of female and child employment, revealed by the Commission and not cured by legislation, were only partially eradicated by the civil service. Much of the credit must also go to time, fortuitous publicity (particularly of colliery explosions), and the new kind of pressure exerted by the miners themselves.

The Miners' Association of Great Britain and Ireland had been formed on 7 November 1842, three days before the date designated for the exclusion of females under 18. Not surprisingly it viewed female exclusion as a matter of topical relevance. It firmly allied itself against the continued employment of women, emphasizing this in an uncompromising form in its main organ of publicity, the *Miners' Advocate*. The union sought to control the hours of labour and to obtain the highest possible wages for that labour.¹ While the women were paid less than males doing the same job and remained employable, the men felt themselves to be placed in a bad bargaining position. The *Northern Star* urged that the females should be removed :

Keep them at home to look after their families ; decrease the pressure on the labour market and there is then some chance of a higher rate of wages being enforced.²

¹ R. Challinor and B. Ripley, *The Miners' Association. A Trades Union in the Age of the Chartists* (London, 1968), p. 8.

² *Northern Star*, 23 October 1843, p. 4.

Implicit in such writing was the notion that the working miner should provide for the family, that the woman (and the wife in particular) should not work. Yet the miners' reaction was not the wholesale imbibing of a middle class doctrine which deified the home. It was rather a recognition that their wives and future wives deserved something better than a life below ground. If coal owners' wives led a life of luxury, then their own womenfolk were also entitled to an easy life. Such an attitude is illustrated by the continual denigration of the wealthy owner of the Redding collieries, the Duke of Hamilton. In 1843 a newly-wed woman of 20 working illegally in one of his pits was killed. In an editorial in the *Northern Star* she was compared with the Duke's new Italian wife. Since he would not send the latter from her luxury to the pit :

How dares he to require, encourage or permit the sending of other folks' wives into such situations, exposed to such dangers, and subject to such horrible modes of death?¹

Such owners also demonstrated another kind of double standard of behaviour. Violation of the female clause provided an opportunity to embarrass them and portray these law makers as law breakers, flagrantly abusing the law at the peoples' expense. Ironically the miners were upholding the law in this instance in direct antithesis to their employers, demonstrating their power to discern "right against might". They constantly emphasized this approach in meetings and the press.² In 1846 Wigan colliers took up information pending before the magistrates in an attempt to encourage adherence to the law.

The decision to appoint one Commissioner for the whole country must have been an insulting response to a claim for professional attention. The appointment of Tremeneere with his sycophantic attitudes towards authority, suspicion of trades unions and democracy (enhanced by his visit to the United States in 1851), and concept of reciprocal duty did not impress the Miners' Association.³ He was accused of a lackadaisical

¹ Ibid. 16 September 1843, p. 5 ; 23 September 1843, p. 4.

² For example, *Miners' Advocate*, no. 16 (29 June 1844), p. 129.

³ For further discussion of Tremeneere's attitudes see A. P. Donajgrodzki, "' Social Police ' and the bureaucratic élite : a vision of order in the age of

and partisan approach.¹ And linked to the miners' emphasis on the value of female exclusion was a realization that it might force some owners to modernize and make safer some pits.

Indignation was deepened by the fact that even when the women's plight was recognized, the answer was in some instances merely to remove the women from underground work and keep them at the pit on the surface. Such a policy increased opposition to women working below and contributed to the later struggle to remove women from the pit brow.

Yet in spite of growing opposition to the women's work it would be unfair to suggest that miners overwhelmingly supported exclusion. Personal circumstances varied considerably. Many miners, especially those with wives and daughters of working age, must have had very ambivalent feelings. While they may have supported the principle of exclusion, in practice they may have been strongly tempted to ignore the law and continue using female drawers as before. The ease with which they could evade the law and financial considerations for the family no doubt seriously influenced their actions.

VI

Looking back to the legislation of 1842, commentators in the 1860s were forced to admit that reality had not matched the idealized expectations of those who framed the law. Writing in 1860 a supporter of pit brow women wrote in the *Wigan Times* about the "pitiful and withering results" of exclusion in Lancashire. He described how the youthful female was:

scattered in all directions for a livelihood, families were broken up never to be united again; sent to procure employment in towns where they were exposed to temptations in forms that had never assailed them before.²

While such descriptions might have exaggerated some of the effects in order to stress the danger of a repetition of female exclusion (from the surface), even the most eager opponents of the pit brow lasses recognized the need for caution before

reform", in Donajgrodzki (ed.), *Social Control in Nineteenth Century Britain* (London, 1977).

¹ For example, *Miners' Advocate*, no. 25 (8 February 1845), p. 223.

² *Wigan Times*, 7 April 1860.

legislation. William Pickard, spokesman for the Wigan miners, told the Select Committee on Mines in 1866 that pit brow work for women must be phased out over a two year period to avoid the dire consequences of the 1842 act.¹

There had been a genuine wish for "improvement" in 1842, a desire to diminish human misery. Yet the original intention of the female clause was overshadowed by the results. The experience of the Lancashire women demonstrates how the very real problems revealed by the 1842 report were perpetuated, and how the vulnerability and dependence of mining families upon their employers even increased. The *Edinburgh Review* had commented that legislation would have to be accompanied by the removal of the necessity which had driven the women into the mines in the first place.² Outlawing female labour was not enough. The consequence of it was an increase rather than an eradication or diminution of that necessity.

APPENDIX I

Tremenheere's Circular letter notifying his intention to visit the Haigh Collieries (Haigh Collieries and Estate Papers 25/13/194, 3 February 1845):

Circular

Wigan
Feb. 3, 1845

My Lord,

I have the honor to acquaint your Lordship that as Commissioner under the Act 5 and 6 Victoria c. 99, entitled "An Act to prohibit the employment of Women and Girls in Mines and Collieries, to regulate the employment of Boys, and to make other provisions relating to persons working therein", it is my intention to visit your Works within a short period.

I venture to bespeak your Lordship's co-operation towards giving full effect to an Act so humanly designed by the Legislature for the protection and benefit of those engaged in Mining labour.

I rest my hope of obtaining that co-operation, in the belief, not only of your anxiety as an Employer to support in all cases the authority of the Law, but of

¹ Pickard had first-hand experience of the hardship caused by the act—his first wife had been forced to leave the pits (P.P., 1866, xiv, p. 49, qu 1727). In Belgium, where women continued to work underground, exclusion was made more gradual. Those under 21 were excluded by law in 1889, though those already in employment could continue until January 1892. Total exclusion was not completed until a law of 1911.

² *Edinburgh Review*, lxxix (1844), 51.

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your Lordship's sincere conviction that, in this instance, the dictates of humanity, and the best interests of society, imperatively call for its strict observance.

I have the honor to be

My Lord

Your Lordship's obedient humble Servant

Seymour Tremenheere.

The Earl Balcarres etc. etc. etc.

APPENDIX II

"Boompin' Nell"

A poem by A. J. Munby. This is based on a real pit brow worker, Ellen Meggison, who worked for John Lancaster at Wigan.

' Couldn't I work theer ageean, Sir? I'd go as snug as I can ;
I'd cut my hair quite short, I would, and I'd dress mysen like a man.
Why, I've gotten by breeches here, an my owd top coat an all,
An I lay they suits me better, nor a Sunday bonnet an shawl ;
For my showthers is rare and broad, you see, an I never had much ðf a figure,
An my hands is as hard§ as nails, look, an as big as a man's, or bigger ;
An' what is a woman's voice, when you shouts, but never speaks?
An' my face 'ud be thick in coal dust, so they'd never notice my cheeks,
An' the best on it is, I are tall, so they wouldna make much out o' me,
If I once goes down like a man, Sir, why a man I can easy be.
My mates 'ud know me, it's true ; but they wouldna tell, not they!
So, if you'll only let me, why I'll do it, straight away'.

(Munby MSS., *Vulgar Verses*, 12 August 1887).