

strongly suggested by the fact that there is no decision in the books disapproving in express terms of the rule alleged to be obsolete. A change in the law which is so essentially radical would scarcely, as we may reasonably suppose, have been made without some specific judicial repeal of the principles so long and so often applied. Not to insist too strongly upon this negative argument, however, we assert with confidence that the English cases may be searched in vain for any real indication that there has ever been any repeal of those principles by indirection. The utmost that can be said of the more recent cases is that certain individual judges have used language which, when detached from the facts which occasioned it, may be construed in a sense favourable to the contention of the Court of Appeal.

One of these isolated remarks is the dictum of Pollock, C.B., in *Fairman v. Oakford* (see the words quoted in sec. 9 *ante*). This passage, however, clearly cannot bear the meaning ascribed to it by the Court of Appeal. The first sentence is to be interpreted with due reference to the fact that the learned Chief Baron was negating the obviously untenable doctrine of plaintiff's counsel that the presumption of a yearly hiring must prevail "in the absence of an express stipulation to the contrary." The second sentence is simply a declaration of his approval of the finding of the jury upon the question of reasonable notice in a case where the master's right to determine the hiring within a current year had already been settled upon the evidence submitted.

The words of the Chief Baron are in some sense an echo of some used in *Baxter v. Nurse*, another of the cases supposed by the Court of Appeal to sustain its theory. But that this decision cannot be thus vouched in aid of its doctrine will be at once apparent by referring to the statement of the facts and the extracts from the opinions in sec. 5 and 9, *ante*. It is simply a reassertion of the doctrine that the rule as regards the prima facie duration of a general hiring does not rest upon any fixed principle of law, but simply gives effect to a presumption of fact which, like other such presumptions, is rebuttable by evidence.