Neutral Citation Number: [2013] EWCA Crim 324

Case No: (1) 2013/00300;(2)2013/3300301;(3)2013/00298;(4)2013/00297

IN THE COURT OF APPEAL (CRIMINAL DIVISION)
ON APPEAL FROM BRISTOL CROWN COURT
His Honour Judge Longman
T2011/7146/T2011/7429

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26/03/2013

Before :

THE LORD CHIEF JUSTICE OF ENGLAND AND WALES
MR JUSTICE SIMON
and
MR JUSTICE IRWIN

- -

Between :

(1) William Connors	**Appellant**
(2) James Connors	
(3) John Connors	
(4) Miles Connors	
- and -	
R	**Respondent**

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(1) M Borrelli QC for the **Appellant William Connors**
(2) N J Atkinson QC for the **Appellant James Connors**
(3) G Cammerman for the **Appellant John Connors**
(4) Roger Smith QC for the **Appellant Miles Connors**
D Grieve QC (Attorney General) and E Brown QC for the **Respondent**

Hearing date: 14th February 2013

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Approved Judgment

The Lord Chief Justice of England and Wales:

1. This is a Reference under s.36 of the Criminal Justice Act 1988 by the Attorney General of sentences imposed at Bristol Crown Court by His Honour Judge Longman on 19 December 2012.

2. The offenders, referred to hereafter as the defendants, are William Connors, who is 52 years old, James Connors, who is 20 years old, John Connors, who has recently passed his 30th birthday, and Miles Connors who is 24 years old. William Connors is the father of John and James Connors, and Miles Connors is his son in law. Mary "Brida" Connors is his wife, the mother of John and James Connors, and mother in law of Miles Connors.

3. On 14 December 2012, following a three month long trial, all five defendants were convicted of a single count of conspiracy to require a person to perform forced or compulsory labour, a substantive offence defined in s.71 of the Coroners and Justice Act 2009. During the course of the trial, at the close of the prosecution case, the judge directed the jury to acquit the defendants of conspiracy to hold a person in slavery or servitude on the basis that insufficient evidence had been adduced by the prosecution in support of this count.

4. On 19 December 2012 Williams Connors was sentenced to 6½ years imprisonment, John Connors to 4 years imprisonment, James Connors to 3 years detention in a Young Offenders' Institution and Miles Connors to 3 years imprisonment. Mary Brida Connors was sentenced to 2 years 3 months imprisonment. The Attorney General submits that the sentences on the first four defendants were unduly lenient.

5. Before addressing the facts on which this specific conspiracy charge was based, we must offer some general observations about the troublesome crime of exploitation of labour. The problem has been with us for some time, and has been growing. Unhappily different forms of exploitation are found in the sex industry, the construction industry, agriculture and residential care. That list is not comprehensive. Those who are exploited are always and inevitably vulnerable, and just because they are so vulnerable, profoundly reluctant to report what has happened or is happening to them. The Asylum and Immigration Act 2004 criminalised the exploitation of labour when it was connected to trafficking in human beings, but not otherwise. Therefore it did not prevent vulnerable but untrafficked individuals from being subjected to forced or compulsory labour. The Gang Masters' Licensing Act 2004 established a system for licensing those who employed workers in specified industries. Nevertheless, this legislation, too did not address the entire problem. The end result was that many men and women continued to remain vulnerable to exploitation without any counter-balancing protection against exploitation.

6. Section 71 of the Coroners and Justice Act 2009 closed this vulnerability gap by creating an offence capable of being committed in three different ways. This new offence does not require that the victim should have been trafficked, and does not address or create a new offence relating to immigration crime. The first offence involves slavery, the second, servitude, and the third, forced or compulsory labour. In the order of seriousness, slavery is the most grave offence, followed by servitude, and then forced or compulsory labour. Although this is the least serious form of these offences, it remains a serious offence in its own right.

7. The distinction between these three forms of the same offence is illuminatingly described by this court in *S K* [2001] EWCA Crim. 1691 applying the jurisprudence of the European Court of Human Rights in *Saliadin v France* […] and *Van Droogenbroeck v Belgium* [1979] …

> "we have found assistance on what may be described as the hierarchy of the denial of personal autonomy to which Article 4 and thus s.4 of the 2004 Act relate in *Clayton's and Tomlinson's "The Law of Human Rights"*, 2nd Edition, volume 1, paragraphs 9.17 to 9.20 (on the concepts of "slavery" and "servitude") and paragraph 9.25 (on the concept of "forced or compulsory labour"), where the following commentary appears:
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> "9.17 … "Slavery" involves being in the legal ownership of another – a concept which is sometimes referred to as "chattel slavery". It has been suggested that this concept has evolved to encompass various other forms of slavery which are also based on the "exercise of any or all of the powers attaching to the right of ownership." In practice, issues concerning slavery have not arisen under the Convention because legally sanctioned slavery does not exist in any of the states which are parties to it.
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> 9.18. "Servitude" also embraces the totality of the status or condition of a person. However, it is distinguishable from slavery in that servitude does not involve ownership, but concerns less extensive forms of restraint. For Convention purposes "servitude" means an obligation to provide one's services that is imposed by the use of coercion.
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> 9.19. Servitude can be differentiated from forced labour. In the *Van Droogenbroeck* case, the Commission stated that:
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> In addition to the obligation to provide another with certain services the concept of servitude includes the obligation on the part of the "serf" to live on another's property and the impossibility of changing his condition …"
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> "9.25 … Forced labour connotes direct compulsion whereas compulsory labour impliedly includes *indirect* forms of compulsion as well … In most cases the distinction between the two is unnecessary."
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> In descending order of gravity, therefore, "slavery" stands at the top of the hierarchy, "servitude" in the middle, and "forced or compulsory labour" at the bottom."

8. The maximum sentence for each offence is 14 years imprisonment. The legislation does not create different maximum sentences for the three different forms the offence may take. It is therefore fallacious to suggest that the maximum sentence for

servitude must always be lower than that for slavery, and the maximum sentence for forced or compulsory labour lower than the maximum sentence for servitude. The hierarchy of these offences does not necessarily define the criminal culpability of the offender. Precisely the same obtains when the offence is conspiracy to commit any one of these three offences. What can be said is that where the other circumstances are broadly similar, an offence of slavery is likely to be more severely punished than one of servitude, and one of servitude more severely than one of forced labour: it is however important to emphasise that distinctions of this kind only apply where the manifestations of criminal behaviour, in the context, for example, culpability and magnitude and complexity and profit are indeed similar.

9. The level of sentencing for those convicted of these offences has not been addressed by the Sentencing Guidelines Council or the Sentencing Council, and we see no pressing need for the production of a definitive guideline. We are unable to derive any assistance from the definitive guidelines relating to fraud or sexual offences. A measure of assistance can however be derived from the *Attorney General References Nos. 37, 38, 65 of 2010* [EWCA Crim. 2880], decided in the context of convictions under the Asylum and Immigration Act 2004, where the maximum sentence as with the present case, is 14 years imprisonment. The conspiracy then under consideration lasted for four years. Fooled by a deceitful promise of work, nine men from the Middle East or South Asia were lured to work in a restaurant, but after their arrival in this country, suffered many of the different forms which the exploitation of labour can take. On the facts of that case, the court considered that the starting point for sentence after a trial would have been 6 years imprisonment. More important for present purposes was the analysis of some of the relevant factors which might assist in the assessment of the seriousness of an offence. Unsurprisingly, the relevant considerations include what we might describe as the hallmarks of criminality. These include the nature and degree of the deception or coercion involved in persuading the worker to join the organisation, and the nature and degree of subsequent exploitation after arrival at the workplace; conditions at the workplace, together with the level and methods of control to ensure that the individual remained trapped within the organisation; the level and extent of his vulnerability, and the degree of harm, including physical, psychological and financial harm, suffered by him; plainly the nature and extent of the organisation and the financial objectives and profits actually achieved, and the number of those exploited within the organisation and the individual offender's role within the organisation all contribute to the assessment of the seriousness of the offence and the appropriate level of sentence for any individual convicted of it. None of these considerations gives rise to any surprise. They underline that the deliberate targeting of a vulnerable victim is an aggravating feature of any crime. They give a clear indication of some of the different facets which merit consideration by the sentencing court.

10. Sentences in this class of case must make clear, not merely that the statutory minimum wage should not be undermined, but much more important, that every vulnerable victim of exploitation will be protected by the criminal law, and they must also emphasise that there is no victim, so vulnerable to exploitation, that he or she somehow becomes invisible or unknown to or somehow beyond the protection of the law. Exploitation of fellow human beings in any of the ways criminalised by the legislation represents deliberate degrading of a fellow human being or human beings. It is far from straight forward for them even to complain about the way they are being

treated, let alone to report their plight to the authorities so that the offenders might be brought to justice. Therefore when they are, substantial sentences are required, reflective, of course, of the distinctions between enslavement, serfdom, and forced labour, but realistically addressing the criminality of the defendants.

11. We must summarise the facts relevant to this conspiracy. The head of the family and the criminal organisation was William Connors. There was a family business which involved paving, tarmacing, general property maintenance and roofing. They travelled throughout England, and John Connors travelled in Scotland, too, taking up accommodation at different gypsy sites. Started many years ago by William Connors, the male members of the family, in effect joined the family business, and helped to persuad, cajole and bully vulnerable men to join their small work force on the basis of false promises that they would be provided with accommodation and food, and paid reasonably well and consistently for the work they were to do. They were chosen deliberately. Usually they were homeless, addicted to alcohol, friendless and isolated, and for one reason or another, or more than one reason, effectively "down and out" and ready to succumb to such blandishments. Once they started working, they travelled with members of the family. It is perhaps important to emphasise, however, that not all those exploited were all exploited by all the members of the family. A number of individual victims effectively worked for different members of the family, although sometimes of course they were deployed to work for others. Although each of the defendants was a member of the conspiracy, and although their employees were mistreated in accordance with the conspiracy, the level of mistreatment by each defendant of those who worked for him was not identical.

12. Dealing with it generally, some of the more serious manifestations of forced labour were that these men were usually paid something like £10 per day, for a day's work, and sometimes £5 or occasionally £20 per day, but on other days they were not paid at all. They worked very long hours, sometimes seven days a week. They would be expected to work in very poor conditions without proper equipment or clothing. The accommodation provided for them was of a very poor standard indeed, sometimes without heating or even running water. On occasion they were subjected to violence or the threat of violence as well as verbal abuse. If they did not understand instructions, or failed to complete their work properly, a number were slapped and punched, and subjected to physical abuse if they were considered to be disobedient or became drunk. Some were told that they could never leave, and were threatened with physical reprisals if they did so. Several "absconded", some never to return, but some were found by members of the family and brought back to work. Many of these who gave evidence at trial felt that they should not leave, sometimes because of the threat of violence, but sometimes also because if they did leave, the life that lay ahead of them would very often be one of homelessness and destitution. Some of their State Benefit documentation taken from them and kept by the family. Nevertheless benefits were collected on their behalf, but seldom passed to them. This provided substantial funding for the conspirators, to be added to the profits made from work, performed by a cheap, degraded, vulnerable, intimidated and sometimes physically assaulted workforce. One manifestation of this level of control was that many of those exploited were effectively deprived of the will to leave, and others were too demoralised to seek to leave, and yet others believed that the world outside had nothing better to offer them. Unsurprisingly the Inland Revenue was defrauded.

13. By contrast with the poverty of the employees, the members of the family lived in luxurious caravans and well appointed houses and enjoyed very prosperous life styles. On arrest it was discovered that William Connors had just short of £370,000 in his bank account, Mary "Brida" had £66,000, James, just short of £50,000, John, £13,000 and Miles, £4,500. The contrast between their prosperity and the poverty of those who worked for them was marked.

14. The essence of the case advanced on behalf of the defendants at the trial was that far from ill-treating those who worked for them, the members of the family supported them. Indeed some of the witnesses spoke of the good relationship they had with individual members of the family, and isolated occasions of kindness shown to them, and some of them, at any rate, believed that they were better off working and living as they did than they could have been outside this environment. In many ways, given the way they were treated, this evidence underlined their vulnerability. The defendants did not give evidence.

15. In short, therefore, this Reference is based on a summary of the evidence in a trial that lasted 3 months, largely given by vulnerable, intimidated witnesses. The Reference itself is lengthy, and has sought to provide an accurate impression of the impact of the evidence, and also fairly sought to draw attention to the relevant matters of mitigation. We have carefully considered its contents.

16. The person best placed to weigh the respective aggravating and mitigating features of the conspiracy, and the individual criminality of and mitigating features relevant to each of the defendants within it, was the trial judge. We have studied the sentencing observations of Judge Longman. They bear all the hallmarks of detailed and careful reflection on the evidence adduced at trial. Each feature is carefully addressed, and placed in its proper perspective. They provide this court with a precise summary of the relevant considerations, and we propose to refer heavily to it.

17. It has not been submitted by the Attorney General that the analysis of the relevant considerations is open to criticism, or that the judge overlooked or misunderstood any aggravating features of the case. The contention is that the end result was unduly lenient.

18. The judge began by addressing the legislation, and accurately describing its purpose. He then addressed the offence of which the defendants had been convicted. He underlined that there must be sentences of imprisonment "to reflect the seriousness of the offence … and to deter others from behaving in a similar way".

19. Turning to the facts, he began the narrative of the facts with reference to the police investigation, and the operation which culminated in the arrests.

20. The judge identified the lengthy period during which some of the employees had worked for the family. He described the circumstances in which they came to be recruited, their vulnerability, homelessness, mental health difficulties, and the like, and the exploitation of this vulnerability. He described the promises which led them to accept employment. He noted the differences between the rich rewards available to the defendants, and the poverty of their employees, and the provision of sub-standard accommodation. Their status compared to the bosses "was so inferior as to render the relationship between them unrecognisable as friendship by normal standards". He

addressed the issue of violence, noting that it was not "regularly used" and the limited freedom allowed to the workers to leave their work. Their freedom was "significantly curtailed", but not to a degree amounting to servitude. Although food was in short supply on occasions, there was no evidence of malnutrition, and some of those employed genuinely appreciated the opportunity to work, although "the indignity of unemployment was replaced by the degradation that accompanied their inferior status and the freedoms and independence that usually accompany employment were largely absent". He reflected that the offence charged covered a period of just under a year. That was an inevitable consequence of the fact that the offence was not created until the coming into force of the 2009 Act. He took the view however that the seriousness of the offence was aggravated by the ill-treatment by the defendants of their workers in the period leading up to the coming into force of the new legislation, in the varying degrees to which the defendants had indeed been involved in this process. The fraud on the Inland Revenue was an aggravating factor which did not "constitute the essence of the offence" of which the defendants had been convicted.

21. He considered the relevant maximum sentence, the decision in *The Attorney General's Reference Nos. 37/38 and 65 of 2010*, and he directed himself of the need for a deterrent element. No credit was available to any defendant for a guilty plea. Finally, before dealing with the individual defendants, he again reminded himself of the offence of which they had been convicted.

22. The judge then addressed the sentence for each individual defendant. William Connors was the head of the family. The judge observed, "the exploitation of vulnerable men by requiring them to work in conditions amounting to forced or compulsory labour has been a way of life that you have lived for many years. Although the offence of which you have been convicted is a new one, that does not in my view mitigate the seriousness either of your offending or that of your co-defendants". The exploitation had brought him "rich financial rewards". He referred to the evidence of violence, and the degrading treatment to which the workers were subjected which was "calculated to reinforce the disparity between the status of a boss and a worker", and this contributed to what he described as the "acquiescence" of some of the workers. He referred to the mitigation that some of the men chose to stay or, after leaving, chose to return, commenting that by doing so "they chose one form of extreme deprivation over another". It was an aggravating feature of the case that he had brought up his sons to behave towards their workers in the same way.

23. The judge recognised that William Connors himself worked on many of the jobs which were done, to a high standard, which he expected of those who worked for him, that he was ready for trial a considerable time earlier, and that the trial was delayed through no fault of his own. He could not find anything more by way of mitigation.

24. The judge turned next to James Connors, the youngest of the defendants, who at the start of the indictment period was only just 17 years old, and indeed by the end of the trial was still under 21. He was party to the conspiracy during the indictment period, but only for a relatively short period before that, heavily influenced by his father, joining in with the way of life in which he had been brought up. He noted a particular incident when James Connors assaulted one of his workers, who although much older, was seen by James Connors as insubordinate.

25. Next the judge addressed John Connors, who was older than James, had a young family, and who like James Connors had inherited this style of life, and grew up in it. That did not provide any excuse for his behaviour. He had pursued this way of life through his adult years. The judge accepted the evidence at trial about three occasions when John Connors used violence towards his workers, although none occurred during the indictment period.

26. Miles Connors married into the family, but in his case, by contrast with the other defendants, he noted that payment to his workers was regular, and again by contrast to the others, he at least made use of machinery and outside help rather than maximising profits by using inadequate equipment and cheap labour exclusively. He noted how Miles Connors had intervened during the assault committed by James Connors, noting that the overall impression of the evidence was of one for whom the men "on the whole, enjoyed working".

27. The essence of the submission on behalf of the Attorney General is that these sentences were unduly lenient, perhaps reflective of the appropriate level following an early guilty plea. In the case of William Connors, the aggravating features are obvious, and the sentence should have been higher, and thereafter the level of sentences imposed on the remaining defendants should be aligned with the increase of the sentence on William Connors, but reflective of their relative levels of culpability. On behalf of the defendants, dealing with it broadly, the contention is that the sentences were appropriate, and even if it were correct to describe them as lenient, they were not unduly lenient, and in any event, given the careful way in which the judge addressed all the relevant considerations, it would be inappropriate for this court to interfere. The judge understood all the refinements of the case, and, serious as the offences were, looked at overall, they were not as vivid as the Crown suggested. Attention was also drawn to the delay in process, for which the defendants were not in any way responsible and, which was rightly reflected in a measure of discount from the sentence.

28. This is not an altogether straightforward case. Addressing these sentences, as inevitably we must, on the basis of the papers, but lacking the significant advantage offered to the trial judge who presided over this long trial and saw and heard some of the victims of the crime for himself, our strong impression on first reading was that the sentences on William Connors and John Connors did not sufficiently address the absence of an early guilty plea. The sentences on the other defendants fell within the appropriate range, if at the lower end of the appropriate bracket. Nevertheless they reflected, in the case of James Connors, his youth and short involvement in the conspiracy, into which he effectively grew up, and in the case of Miles Connors, that his personal involvement was at a relatively less culpable level than the others, for a shorter period, and that there was genuine mitigation as he sought to prevent some of the worst manifestations of a conspiracy into which he had for all practical purposes effectively married.

29. Returning to the sentences on William and John Connors, after careful reflection and discussion, our conclusion is that we cannot replicate the impact of the evidence on the trial judge and given the evident care with which he approached his sentencing decision, we have concluded that although both sentences were lenient; neither sentence was so lenient as to require interference. Accordingly, we shall refuse leave to the Attorney General to refer the sentences on James and Miles Connors to this

court, and although we shall give leave to him to refer the sentences on William and John Connors to the court, we decline to interfere with them.

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treated, let alone to report their plight to the authorities so that the offenders might be brought to justice. Therefore when they are, substantial sentences are required, reflective, of course, of the distinctions between enslavement, serfdom, and forced labour, but realistically addressing the criminality of the defendants.

11. We must summarise the facts relevant to this conspiracy. The head of the family and the criminal organisation was William Connors. There was a family business which involved paving, tarmacing, general property maintenance and roofing. They travelled throughout England, and John Connors travelled in Scotland, too, taking up accommodation at different gypsy sites. Started many years ago by William Connors, the male members of the family, in effect joined the family business, and helped to persuad, cajole and bully vulnerable men to join their small work force on the basis of false promises that they would be provided with accommodation and food, and paid reasonably well and consistently for the work they were to do. They were chosen deliberately. Usually they were homeless, addicted to alcohol, friendless and isolated, and for one reason or another, or more than one reason, effectively "down and out" and ready to succumb to such blandishments. Once they started working, they travelled with members of the family. It is perhaps important to emphasise, however, that not all those exploited were all exploited by all the members of the family. A number of individual victims effectively worked for different members of the family, although sometimes of course they were deployed to work for others. Although each of the defendants was a member of the conspiracy, and although their employees were mistreated in accordance with the conspiracy, the level of mistreatment by each defendant of those who worked for him was not identical.

12. Dealing with it generally, some of the more serious manifestations of forced labour were that these men were usually paid something like £10 per day, for a day's work, and sometimes £5 or occasionally £20 per day, but on other days they were not paid at all. They worked very long hours, sometimes seven days a week. They would be expected to work in very poor conditions without proper equipment or clothing. The accommodation provided for them was of a very poor standard indeed, sometimes without heating or even running water. On occasion they were subjected to violence or the threat of violence as well as verbal abuse. If they did not understand instructions, or failed to complete their work properly, a number were slapped and punched, and subjected to physical abuse if they were considered to be disobedient or became drunk. Some were told that they could never leave, and were threatened with physical reprisals if they did so. Several "absconded", some never to return, but some were found by members of the family and brought back to work. Many of these who gave evidence at trial felt that they should not leave, sometimes because of the threat of violence, but sometimes also because if they did leave, the life that lay ahead of them would very often be one of homelessness and destitution. Some of their State Benefit documentation taken from them and kept by the family. Nevertheless benefits were collected on their behalf, but seldom passed to them. This provided substantial funding for the conspirators, to be added to the profits made from work, performed by a cheap, degraded, vulnerable, intimidated and sometimes physically assaulted workforce. One manifestation of this level of control was that many of those exploited were effectively deprived of the will to leave, and others were too demoralised to seek to leave, and yet others believed that the world outside had nothing better to offer them. Unsurprisingly the Inland Revenue was defrauded.

13. By contrast with the poverty of the employees, the members of the family lived in luxurious caravans and well appointed houses and enjoyed very prosperous life styles. On arrest it was discovered that William Connors had just short of £370,000 in his bank account, Mary "Brida" had £66,000, James, just short of £50,000, John, £13,000 and Miles, £4,500. The contrast between their prosperity and the poverty of those who worked for them was marked.

14. The essence of the case advanced on behalf of the defendants at the trial was that far from ill-treating those who worked for them, the members of the family supported them. Indeed some of the witnesses spoke of the good relationship they had with individual members of the family, and isolated occasions of kindness shown to them, and some of them, at any rate, believed that they were better off working and living as they did than they could have been outside this environment. In many ways, given the way they were treated, this evidence underlined their vulnerability. The defendants did not give evidence.

15. In short, therefore, this Reference is based on a summary of the evidence in a trial that lasted 3 months, largely given by vulnerable, intimidated witnesses. The Reference itself is lengthy, and has sought to provide an accurate impression of the impact of the evidence, and also fairly sought to draw attention to the relevant matters of mitigation. We have carefully considered its contents.

16. The person best placed to weigh the respective aggravating and mitigating features of the conspiracy, and the individual criminality of and mitigating features relevant to each of the defendants within it, was the trial judge. We have studied the sentencing observations of Judge Longman. They bear all the hallmarks of detailed and careful reflection on the evidence adduced at trial. Each feature is carefully addressed, and placed in its proper perspective. They provide this court with a precise summary of the relevant considerations, and we propose to refer heavily to it.

17. It has not been submitted by the Attorney General that the analysis of the relevant considerations is open to criticism, or that the judge overlooked or misunderstood any aggravating features of the case. The contention is that the end result was unduly lenient.

18. The judge began by addressing the legislation, and accurately describing its purpose. He then addressed the offence of which the defendants had been convicted. He underlined that there must be sentences of imprisonment "to reflect the seriousness of the offence … and to deter others from behaving in a similar way".

19. Turning to the facts, he began the narrative of the facts with reference to the police investigation, and the operation which culminated in the arrests.

20. The judge identified the lengthy period during which some of the employees had worked for the family. He described the circumstances in which they came to be recruited, their vulnerability, homelessness, mental health difficulties, and the like, and the exploitation of this vulnerability. He described the promises which led them to accept employment. He noted the differences between the rich rewards available to the defendants, and the poverty of their employees, and the provision of sub-standard accommodation. Their status compared to the bosses "was so inferior as to render the relationship between them unrecognisable as friendship by normal standards". He

addressed the issue of violence, noting that it was not "regularly used" and the limited freedom allowed to the workers to leave their work. Their freedom was "significantly curtailed", but not to a degree amounting to servitude. Although food was in short supply on occasions, there was no evidence of malnutrition, and some of those employed genuinely appreciated the opportunity to work, although "the indignity of unemployment was replaced by the degradation that accompanied their inferior status and the freedoms and independence that usually accompany employment were largely absent". He reflected that the offence charged covered a period of just under a year. That was an inevitable consequence of the fact that the offence was not created until the coming into force of the 2009 Act. He took the view however that the seriousness of the offence was aggravated by the ill-treatment by the defendants of their workers in the period leading up to the coming into force of the new legislation, in the varying degrees to which the defendants had indeed been involved in this process. The fraud on the Inland Revenue was an aggravating factor which did not "constitute the essence of the offence" of which the defendants had been convicted.

21. He considered the relevant maximum sentence, the decision in *The Attorney General's Reference Nos. 37/38 and 65 of 2010*, and he directed himself of the need for a deterrent element. No credit was available to any defendant for a guilty plea. Finally, before dealing with the individual defendants, he again reminded himself of the offence of which they had been convicted.

22. The judge then addressed the sentence for each individual defendant. William Connors was the head of the family. The judge observed, "the exploitation of vulnerable men by requiring them to work in conditions amounting to forced or compulsory labour has been a way of life that you have lived for many years. Although the offence of which you have been convicted is a new one, that does not in my view mitigate the seriousness either of your offending or that of your co-defendants". The exploitation had brought him "rich financial rewards". He referred to the evidence of violence, and the degrading treatment to which the workers were subjected which was "calculated to reinforce the disparity between the status of a boss and a worker", and this contributed to what he described as the "acquiescence" of some of the workers. He referred to the mitigation that some of the men chose to stay or, after leaving, chose to return, commenting that by doing so "they chose one form of extreme deprivation over another". It was an aggravating feature of the case that he had brought up his sons to behave towards their workers in the same way.

23. The judge recognised that William Connors himself worked on many of the jobs which were done, to a high standard, which he expected of those who worked for him, that he was ready for trial a considerable time earlier, and that the trial was delayed through no fault of his own. He could not find anything more by way of mitigation.

24. The judge turned next to James Connors, the youngest of the defendants, who at the start of the indictment period was only just 17 years old, and indeed by the end of the trial was still under 21. He was party to the conspiracy during the indictment period, but only for a relatively short period before that, heavily influenced by his father, joining in with the way of life in which he had been brought up. He noted a particular incident when James Connors assaulted one of his workers, who although much older, was seen by James Connors as insubordinate.

25. Next the judge addressed John Connors, who was older than James, had a young family, and who like James Connors had inherited this style of life, and grew up in it. That did not provide any excuse for his behaviour. He had pursued this way of life through his adult years. The judge accepted the evidence at trial about three occasions when John Connors used violence towards his workers, although none occurred during the indictment period.

26. Miles Connors married into the family, but in his case, by contrast with the other defendants, he noted that payment to his workers was regular, and again by contrast to the others, he at least made use of machinery and outside help rather than maximising profits by using inadequate equipment and cheap labour exclusively. He noted how Miles Connors had intervened during the assault committed by James Connors, noting that the overall impression of the evidence was of one for whom the men "on the whole, enjoyed working".

27. The essence of the submission on behalf of the Attorney General is that these sentences were unduly lenient, perhaps reflective of the appropriate level following an early guilty plea. In the case of William Connors, the aggravating features are obvious, and the sentence should have been higher, and thereafter the level of sentences imposed on the remaining defendants should be aligned with the increase of the sentence on William Connors, but reflective of their relative levels of culpability. On behalf of the defendants, dealing with it broadly, the contention is that the sentences were appropriate, and even if it were correct to describe them as lenient, they were not unduly lenient, and in any event, given the careful way in which the judge addressed all the relevant considerations, it would be inappropriate for this court to interfere. The judge understood all the refinements of the case, and, serious as the offences were, looked at overall, they were not as vivid as the Crown suggested. Attention was also drawn to the delay in process, for which the defendants were not in any way responsible and, which was rightly reflected in a measure of discount from the sentence.

28. This is not an altogether straightforward case. Addressing these sentences, as inevitably we must, on the basis of the papers, but lacking the significant advantage offered to the trial judge who presided over this long trial and saw and heard some of the victims of the crime for himself, our strong impression on first reading was that the sentences on William Connors and John Connors did not sufficiently address the absence of an early guilty plea. The sentences on the other defendants fell within the appropriate range, if at the lower end of the appropriate bracket. Nevertheless they reflected, in the case of James Connors, his youth and short involvement in the conspiracy, into which he effectively grew up, and in the case of Miles Connors, that his personal involvement was at a relatively less culpable level than the others, for a shorter period, and that there was genuine mitigation as he sought to prevent some of the worst manifestations of a conspiracy into which he had for all practical purposes effectively married.

29. Returning to the sentences on William and John Connors, after careful reflection and discussion, our conclusion is that we cannot replicate the impact of the evidence on the trial judge and given the evident care with which he approached his sentencing decision, we have concluded that although both sentences were lenient; neither sentence was so lenient as to require interference. Accordingly, we shall refuse leave to the Attorney General to refer the sentences on James and Miles Connors to this

court, and although we shall give leave to him to refer the sentences on William and John Connors to the court, we decline to interfere with them.