

9. Change in the character of the occupation, when inferred.—(See also § 3, note 12). In a few cases a change in the character of the occupation was held to be inferable from the evidence. Under such circumstances the rights and liabilities arising out of the occupation will, of course, depend upon whether the controversy relates to the period which preceded, or to the period which followed, the change¹.

285 (certain sum deducted out of pay of employé, in consideration of the privilege of occupation); *Mead v. Pollock* (1901) 99 Ill. App. 151 (one of the facts in evidence was that the employé whose right to retain possession of the premises was disputed received, as her compensation, board for herself and daughter); *People v. Annis* (1866) 45 Barb. 304 (house room and pasture for cows furnished); *Doyle v. Gibbs* (1871) 76 Lans. 180 (use of house and other property given as part of remuneration); *McGee v. Gibson* (1840) 1 B. Mon. 105 (the court remarked that the furnishing of the house was "obviously a mode of paying a part of the wages"); *Bradley v. Bowman*, 151 Pa. 351, 24 Atl. 1062 (house to live in was furnished as part of the remuneration); *Heggelginger v. Fulton* (Ind. App. 1900) 56 N.E. 688 (occupation allowed as part of remuneration); *Eichengreen v. Appeal* (1891) 44 Ill. App. 19 (certain sum was deducted from wages as rent of premises); *Fleming v. Hill* (1876) 1 R. & C. (Nor. Sc.) 268 (servant occupied a house rent free, as part of his remuneration).

(b) *Occupation as tenant inferred.*—In *Hughes v. Overseers of Chatham* (1843) 5 Mann. & Gr. 54 (right of voting involved), one of the elements mentioned was that the employé was "permitted to reside in the house in part remuneration of his services."

In another case where liability to the poor rate was the point involved it was remarked that the "occupation had nothing to do with their wages, nor was it in any way taken into consideration in determining the amount of wages they earned." *Smith v. Seghill* (1875) L.R. 10 Q.B. 422, per Quain, J.

In a case where the occupant was held liable for poor rates on the ground that his occupation was "beneficial," Brett, L.J., remarked that the effect of the arrangement as shewn was that he was to have quarters, as part of his remuneration for his services. *Martin v. Assessment Committee* (C.H. 1863) 52 L.J.M.C. 66.

In a case where a man was permitted by certain persons having a right of common, to occupy a tenement of £10 a year, and the case stated by the sessions found that the occupation was allowed as a reward for his services, it was held that he had acquired a settlement. *R. v. Melkeridge* (1787) 1 T.R. 598.

In a settlement case there was held to be a tenancy in a case where the arrangement was construed as one which enabled the employé to pay his rent by allowing a deduction to be made from the wages of his children. *R. v. Bishopton* (1839) 9 Ad. & El. 324.

See also *O'Connor v. Tyndall* (1836) 2 Jones (Ir.) 20 (curate allowed, in lieu of salary, to occupy glebe house and lands); *R. v. Lower Heyford* (1830) 1 B. & Ad. 75 (premises occupied rent free, as an augmentation of salary).

¹ In a case where the defendant in an action of ejectment occupied a cottage as part of an arrangement, under which, for a certain sum of money annually paid, and for the right to cultivate for his own profit certain garden ground he undertook to do gardening work on the estate it was held (Lord Monierieff dissenting), that his occupancy was that of a tenant, for the following reasons: that the terms of occupancy might reasonably