classes differentiated in § 1, ante, one or other of the following points has been determined:

(*a*) The liability of the servant to certain taxes.

(*b*) The servant's acquisition of a settlement under the Poor

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As to the doctrine that a contract with labourers for the raising of a crop a portion of which they are to receive as payment for their labour does not make them the partners of the landowner, see cases cited in 955a, note 1, ante.

That a contract between landowner and labourer for raising a crop on shares creates the relation of landlord and tenant, unless the intention to make them partners or tenants in common with respect to the crop clearly appears, was held in *Birmingham* v. *Rogers*, 46 Ark. 254.

An independent contract, and not service, is inferable where it is agreed that B. shall furnish himself and two daughters and another person to work as labourers on A.'s land, the land and mules for its cultivation to be furnished by A., and that B. is to receive a share of the crop. *Barnon* v. *Collins* (1873) 49 Ga. 580, (action for enticement held not to be maintainable).

In *Duncan* v. *Anderson* (1876) 56 Ga. 398, it was assumed by the court that a "cropper" or person cultivating land or shares was not a servant of the owner, the decision being that the owner was not liable for the tort of the cropper in hiring a labourer previously hired by, and bound to work for the plaintiff.

In *Ponder* v. *Rhea* (1877) 32 Ark. 436, the relation of the cropper to the landowner seems to have been regarded as being rather that of an independent contractor than of a servant, but the precise theory of the court is somewhat obscure.

(*b*) *Occupancy in relation to other contracts for the cultivation of land.*—The relation of master and servant does not exist where one who was under a contract to cultivate land for a certain rental, and, in addition, to work for the landlord, if called upon, whenever he was at leisure, for a certain price per day. The service provided for is a mere incident to the contract of rental. *State* v. *Hoover* (1890) 10 L.R.A. 726, 107 N.C. 795, 12 S.E. 451, (acting for enticement of cultivator, held not to be maintainable).

By an instrument in writing C., a landowner, specified certain services to be performed by H., who was "to have the house rent, use of garden, firewood, and pasturage for what cows he kept for family use," and it was also stipulated that H. was to have possession till a specified date. *Held*, that H. was not a mere agent for C., but took an interest in the premises as lessee, and was entitled to possession until the appointed term had expired. *Colcord* v. *Hall* (1859) 3 Head. 625.

(*c*) —— *to contracts for the keeping of a hotel.*—In *State* v. *Page* (S.C. Ct. of App. 1843) 1 Spears L. 408, 40 Am. Dec. 608, it was held that the following provisions, standing by themselves did not make a lease of a hotel, viz., that for seven years the person in question was to "reside with his family in the hotel, free of all charge for board and rent," "that he was to conduct the same in the manner contemplated by the parties, and have the sole and exclusive management thereof," and that, at the end of the term, the furniture should be returned to the owners of the hotel. The conclusion that no lease was intended was held to be indicated by other stipulations, viz., that the occupant was to "keep the hotel, for the term of seven continuous years," that, "as the landlord he should provide for the hotel," that he "should contract no debts on account of the concern without the consent of the directors," that he should "keep constantly in his employment a bookkeeper, who was to be discharged if the directors disapproved of him, and that the books were to be open to the