by the courts with relation to various states of fact is shewn by the decisions collected in the subjoined note [1].

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[1] (*a*) *Occupancy as incident to contracts for cultivating land on shares.*—The cases cited below not only disclose a considerable diversity of opinion as to the juridical standpoint which is appropriate in dealing with contracts of this type, but also indicate that, even where the standpoint has been the same, the courts have not always arrived identical conclusions with respect to essentially similar facts.

A "cropper," (*i.e.*, a labourer who is paid for his labour by being given a proportion of the crop which he helps to harvest) is not a tenant, since he has no estate in the land, nor in the crop till the landlord assigns him his share. He is as much a servant as if his wages were fixed and payable in money. *Haskins* v. *Royster* (1874) 70 N.C. 601, 16 Am. Rep. 780, (action for enticement of cultivator, held to be maintainable).

Burgie v. *Davis* (1879) 34 Ark. 179 (holding that the law governing landlord's liens had no application to the case, but that the "cropper" was entitled to file a labourer's lien on the crop for whatever was due to him).

A contract between A. and B. that A. might tend so much of B.'s land as he could cultivate with one horse during a certain year, and that A. was to pay B. as "rent," two bales of cotton out of the first picking—no part of the crop to belong to A. until the rent was paid—constitutes A. a cropper, not a tenant. *Heywood* v. *Rogers* (1875) 73 N.C. 320. In *Neal* v. *Bellany* (1875) 73 N.C. 384, the effect of this decision was thus stated: "Where the crop is to be the property of the owner of the land, that fixes the character of cropper, and not of tenant, upon the man who is to do the work." In the later case service was held to be inferable, where the agreement was that A. was to pay B., the owner of the land, two bales of cotton provided he also kept up the fences and cleaned the ditches properly, and three bales if this work was neglected, and that B. was to make certain advances to A. to assist him in making the crop.

Where A. contracts to raise a crop on B.'s land, in consideration that B. will furnish tools, team, and feed, for the team, and give him one-half the crop raised, and out of A.'s half B. is to retain sufficient to pay what A. may owe for supplies, the contract is one of service, the wages being half the crop minus the amount of the debt for supplies. *Sawtell* v. *Moore* (1879) 34 Ark. 687, (landlord held not to be a mere tenant in common of the crop, so as to be obliged to file a copy of the contract in order to secure his lien for supplies as is provided by the Ark. Act of March 6, 1875).

One who takes charge of another's ranch with the understanding, that he is to receive for his services, a certain sum per month, and that, after paying from the gross proceeds the operating expenses inclusive of his own salary, and deducting what was due for supplies and equipment furnished by him, he is to return the residue to the owner, is a servant, not a tenant. *Todhunter* v. *Armstrong* (1898, Cal.) 53 Pac. 446, (holding that, even if a lien were actually constituted by an oral agreement, which was denied, that the occupant was to remain in possession until he was fully settled with and paid, it would not be a defence to an action by the owner to recover possession).

The relation of employer and labourer, not that of landlord and tenant, is created by a contract which requires a labourer to take in charge, plant and cultivate, the several parcels of land designated by the landowner, according to the directions of such landowner, to house two crops, and see that no portion is removed, until the owner has deducted for himself the amounts stated, and which binds them to be of good moral behaviour, and respectful to the landowner, his family and agent. *McCutchen* v. *Crenshaw* (1893) 40 S.C. 511 (held that the labourer had no such interest in his share of the crop as would support a merchant's lien for advances to him).