

trellising, staking, and tying up the vines, receiving a reasonable compensation therefor, in pursuance of which he was placed in possession, did not create the relation of landlord and tenant, but was one for employment, the court refused to grant an injunction restraining a contractor from entering the premises to perform certain work for the owner. *Ferris v. Hougland* (1898) 121 Ala. 240, 25 So. 834.

A., being owner of a farm let it for seven years to B.; and by a written agreement of the same date it was agreed, that A. should manage the farm for B., B. allowing A. 12s. a week, and 'allowing him and his family to reside in and have the use of the dwelling-house and furniture therein, free of rent,' and this agreement was to be put an end to by three months' notice or three months' wages. *Held*, that this agreement did not require a lease stamp, as it did not contain a demise of the house, the occupation of it being a mere remuneration for services. *Doe v. Derry* (1840) 9 Car. & P. 494. Parke, B., was of opinion that the words "allowing, etc.," might import a lease, but that taking the whole of the instrument together, they must be taken to indicate a reward for services.

See also cases cited in § 7, post.

*Clerks.*—R., a brewer, engaged L. as clerk, at a yearly salary, and agreed to permit him to occupy a certain house as his residence, free from rent rates and taxes, another clerk being also boarded and lodged in the same house if R. should require it, but paying for his board; and such salary and house accommodation were to be in full satisfaction to L. for all perquisites and for his expenses in the service. Either party might give the other three months' notice of determining the service. L. occupied the house for some time, and then, his health being impaired, he removed to another. L. agreed with the landlord for this house, but the latter considered R. his tenant. *R. v. Lynn* (1838) 8 Ad. & E. 379 [liability to poor rates]. Lord Denman, C.J., said: "I think that the appellant was an independent holder of the premises. He took them, and agreed to pay the rent; and, by the universal consent of those interested, was assessed to the rates and window duty. He was the party liable to a distress. The cases which have been cited do not come in question. It would be strong, however, to say that an allowance by the master as in this case, in part payment for services, made the occupation of the house auxiliary to the service. Any house he might occupy while he was servant might be so in some sense; but the cases where a party has been held to occupy premises as a butler's pantry or a coach-house in the character of servant are very different from this."

In *R. v. Lower Hayford* (1830) 1 Barn. & Ad. 75, where an attorney, having a cottage and land near his residence, allowed his clerk to occupy them, that he might the more conveniently attend to the business; and suffered him to hold them rent free, as an augmentation of his salary, it was observed by Littledale, J., in the course of his judgment that, if it had been necessary to decide the point, there would have been no difficulty in holding that the occupation was that of a tenant as it was unconnected with, and wholly independent of, the service. But the claim was founded on a statute, (3 W. & M. c. 11, § 6), under which a settlement could be gained by paying rates for a tenement worth £10 a year, and such a claim was not defeasible by proof that the person in question had occupied as a servant, and not as a tenant.

In an Irish case where a book-keeper in a distillery, claiming the right to vote as a "householder" under the first English Reform Act (see § 3 par. (c), ante), was shewn to have been given the privilege of occupying an entire house in lieu of a part of his salary, eleven judges held that he was not qualified for the franchise, although it was admitted that the house was not essential to the discharge of his duties. But in this case there were the other significant elements, viz., that the employer kept the house in repair and paid the taxes, that the house communicated with the distillery yard, and that his possession was entirely dependent upon his remaining in the employment. *Ferar's case* (1836) Alcock R. C. R. 248; 1 Rogers Elections, 81.