

room which was the subject of the burglary was or was not inhabited by the owner through his servant¹.

A consideration of the facts involved in the decisions cited below in which it was held either that the dwelling in which a burglary had been committed was properly stated in the indictment, or that it should have been stated as the dwelling, not of the master who owned it, but of the servant who occupied it, indicates that the same conclusion as that which was adopted would have been reached if the test explained in § 4, ante, had been specifically applied². The same remark may be made with regard to a case

the authority of the Mother Superior, the authority of the Bishop of the Diocese, and the superior authority of the Church; but it would seem to me that except, perhaps, in the case of the Mother Superior, this authority is of a judicial character, and bears no analogy to that of a master over a servant. The Mother Superior probably comes nearer to what this section has in contemplation but even as to her, I can hardly believe that the Legislature intended to describe her as a person under whom a Sister of Mercy serves."

¹ *R. v. Stork* (1809) Leach C.C. 1015.

² Apartments in the King's palace, or in the houses of noblemen for their stewards and chief servants, must be laid as the mansion-house of the King or nobleman. 1 Hale, 556, 557; 2 East, P.C. c. 15, s. 14, p. 500.

Where three persons were charged with having broken into the lodgings of one H. at Whitehall Palace, it was held that the indictment should be for breaking the King's mansion, called Whitehall. *R. v. Williams*, 1 Hale, 522; 11 Russell on Crimes (6th ed.) p. 28.

Where a man was indicted for breaking into a chamber in Somerset House, and the indictment charged it to be the mansion-house of the person who lodged in it, it was agreed that the whole house belonged to the Queen-mother, and therefore that the indictment was bad. *R. v. Burgess*, Kel. 27; 2 Russell on Crimes, p. 28.

Where a house at Chelsea was broken into, which was used for an office under government, called the Invalid Office, and the rent and taxes of which were paid by government; it was held that the indictment was defective in laying it to the house of a person who occupied the whole of the upper part of it. *R. v. Peyton* (1784) 1 Leach, 324.

An indictment for a burglary in the Custom-house rightly describes it as the dwelling-house of the King, as he occupies it by his servants. *R. v. Jordan*, 7 C. & P. 432, per Gaselee, J., and Gurney, B.

The prisoner was indicted for breaking the mansion-house of one S. It appeared that the house belonged to the African Company, of which S. was an officer; that he and many other persons as officers of the company, had separate apartments in the house, and that the apartment of S. was the one which was broken open. It was held that the apartment of S. could not be called his mansion-house, because he and the others inhabited the house merely as officers and servants of the company. *R. v. Hawkins* (1704) Fost. 38; 2 Russell on Crimes (6th ed.) p. 28.

An indictment for a burglary in the dwelling-house of the East India Company was held to be good, the house being inhabited by the servants of that company. *R. v. Pickett*, 2 East, P.C. c. 15, s. 14, p. 501. 2 Russell on Crimes (6th ed.) p. 28.

Where the servant of a partnership had three rooms assigned to him for lodging over his employer's banking room, with which these rooms com-