

Canada Law Journal.

VOL. XLI.

OCTOBER 1.

NO. 19.

MASTER AND SERVANT.

SERVICE DISTINGUISHED FROM TENANCY.

1. Generally.
2. Service or tenancy.
3. Character of occupation, whether as servant or tenant. Generally.
4. Character of occupation tested with reference to its being ancillary or not to the services performed.
5. Cases illustrating the application of this test.
6. Character of occupation tested with reference to its beneficial or non-beneficial quality.
7. -----to the effect of the arrangement as giving or not giving the servant an estate in the land.
8. -----to the fact that the privilege of occupation represents a certain amount of pecuniary compensation.
9. Change in the character of the occupation, when inferred.
10. Occupancy of a dwelling "by virtue of an office, service, or employment."
11. Character of occupation, viewed as an element determining the correctness of the wording of indictments for burglary.

1. Generally.—The cases which depend upon the character of the occupation of premises by a person who is residing thereon, while engaged in work which he has undertaken to perform for the owner of the premises, are divisible into two main classes:

(a) Those in which the sole question to be determined was, whether the relation of master and servant, or the relation of landlord and tenant, was created by the contract between the owner of the premises occupied and the person performing the work.

(b) Those in which it is conceded, or established by satisfactory evidence, that the person performing the work was, in respect to such work, a servant of the owner of the premises occu-