

Non-beneficial occupation is also inferred, where a servant is allowed to occupy a house as caretaker, and is ready to leave it at any time, if the owner so orders⁵.

The exemption of a public officer who is occupying property of the Crown for the purpose of discharging his public duties extends in respect to such occupation so far as it is reasonably necessary for the performance of his duties, and no farther⁶.

7. —to the effect of the arrangement as giving or not giving the servant an estate in the land.—In some cases the character of the occupation has been considered with reference to the question, whether the effect of the arrangement was or was not to give the servant a specific interest in the subject of the occupation¹. But

⁵ *Yates v. Charlton upon Medlock Union* (1883) 48 L.T.N.S. 872.

Residence in a lighthouse by one as servant to the owner, at an annual salary, to take care of the light, is the occupation of the master, who alone can be rated in respect of such occupation of the toll house. *R. v. Tyne-mouth* (1810) 12 East 46.

⁶ *R. v. Stewart* (1857) 8 Ell. & Bl. 360.

¹ The following cases may be cited as illustrations, more or less distinct; of this mode of viewing the position of the occupant.

In *R. v. Langriville* (1830) 10 B. & C. 899, it was laid down that, in order to constitute the species of settlement which was based upon the occupation of a tenant of the yearly value of £10, "it is necessary that the pauper should have an interest in the subject of the occupation (such subject being of the requisite yearly value), as tenant and occupier; though it is not necessary that he should be under an obligation to pay rent, or that he should have more than an estate at will (*Rex v. Fillongley* (1824) 1 T.R. 458)." In the same case we find it also remarked: "It is essential, whether the subject of occupation be the land itself, or a part of its profits, that the pauper should have an interest as tenant or occupier—a possession by mere license without that interest is not enough. If a person were permitted by the owner of a pasture to feed his cow or sheep upon it for a time, without any valuable consideration, and without reference to any contract between them, but by a mere fact of charity or favour, no settlement would be gained by such a permissive enjoyment of the produce of the land." It was considered that the fact of the master's having given the servant permission to have the milk of a cow, which was to be pastured on the land, must be regarded as betokening a mere act of kindness or favour of the master, not referable to any contract, and that no interest was thereby acquired by the pauper in the profits of the land.

In *R. v. South Newton* (1830) 10 B. & C. 838, where a shepherd was allowed the use of a piece of land, while attending to some flocks, Little-dale, J., laid it down that a servant could not acquire a settlement by estate unless he was the "substantial owner of the property," and that the arrangement proved did not shew the acquisition of such an interest as would give him such a settlement. Lord Tenterden remarked that "all the interest which he took was in his character of servant from year to year." The question whether the occupation was ancillary to the service was not specifically referred to in the judgments, but the applicability of this test was discussed by counsel.

In *Lake v. Campbell* (1862) 5 L.T.N.S. 582, it was held that a person who was engaged to superintend some operations on an estate, at a weekly