

purpose, become part of the master's residential or quasi-residential establishment." (a)

Whether or not a servant is a domestic or menial servant is primarily a question of fact for the jury (b).

(b) *Labourer*.—(See also sub-sec. (i) post.) The generic word "labourer" denotes "a man who digs and does other work of that kind with his hands" (c). In one sense every man who works or labours may be called a "labourer"; but the word as used in the statute, has a more restricted meaning, being applicable only to a person whose work is essentially manual. It does not embrace an omnibus conductor (d); nor the caretaker of goods seized under a *fi fa* (e), nor a carpenter, nor a bailiff, nor the clerk of a parish (g).

In one case it was remarked that artificers, handicraftsmen, miners, etc., do not necessarily or properly fall under the denomination of "labourers" (h). But this distinction is not material in the present connection.

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(a) Roberts & Wallace on Employers (3rd ed. p. 214). This definition was recently mentioned with marked approval by Collins J. in *Pearce v. Lansdowne* (1893) 62 L.J.Q.B. 44, where a potman in a public house was held to discharge duties which were substantially of a menial nature. In actions where the question involved was, whether the rule was applicable, that domestic servants are month's warning when the contract of hiring is terminated, it only entitled to a has been held that the phrase, "menial servants," includes a huntsman hired to take charge of a pack of foxhounds. *Nicoll v. Greaves* (1865) 33 L.J.C.P. 259; and a head gardener, living in a cottage situated on his master's property. *Mowlan v. Ablett* (1835) 2 Gr. M. & R. 54; but not a governess. *Todd v. Kerrich* (1852) 8 Exch. 15; nor the housekeeper of a large hotel. *Lawler v. Linden* (1876) 16 Ir. Rep. C.L. 188; nor an employe who combines the functions of a steward and gardener. *Fagan v. Burke* (1861) 12 Ir. C.L.R. 495. The statement of Blackstone that the word "menial" is derived from *mœnia*, this class of servants being conceived of as *infra mœnia*, dates from the antediluvian period of philology, and is one of the many absurdities of that sort which are still allowed to disfigure legal treatises. The word is really derived, according to the best modern authorities, from the Saxon *meine*, *mesnie*, that is, a household, or family. See Collins, J. in *Pearce v. Lancaster*, *supra*, and Skeat's Etymological Dict., sub *voc*.

(b) *Pearce v. Lansdowne* (1893) 62 L.J.Q.B.N.S. 441, 443, 69 L.T.N.S. 310, 57 J.P. 760, per Williams, J.

(c) Brett M.R. in *Morgan v. London &c. Co.* (1882) 53 L.J.Q.B. 352.

(d) Day J. in *Morgan v. London General Omnibus Co.* (1883) 12 Q.B. Div. 201 (p. 206).

(f) *Branwell v. Renneck* (1827) 7 B. & C. 536.

(g) Brett M.R. in *Morgan v. London &c. Co.* (1884) 13 Q.B.D. 832 (p. 833).

(h) Lord Ellenborough in *Lowther v. Kadnor* (1806) 8 East 113 (p. 124).