In *Watson v. May, 62 Ark. 435; 35 S. W. 1108,* we expressly held that, under what is now Sec. 6848 of Crawford & Moses Digest (Sec. 8804 of Pope's Digest, *ante*) a laborer's lien created thereby was superior and paramount to a mortgage filed prior in point of time. This opinion was written in application to facts which accrued prior to March 11, 1895 (when the act was passed) and therefore this latter act was not construed or discussed in the opinion. Appellant's contention of this appeal is that what is now Sec. 6848 of Crawford & Moses Digest (Sec. 8804, Pope's Digest), and which is a part of the Act of 1868, was impliedly repealed by what is now Sec. 6864, or a section of the Act of March 11, 1895, and for this reason *Watson v. May, supra,* has no controlling effect upon the facts presented in this record. Was Sec. 6848 (Pope's 8804) repealed by Sec. 6864 (Pope's 8820)?

Continuing, the court said:

Repeals by implication are not favored and exist only where there is an invincible repugnancy. * * * (Citations.)

From a careful comparison of the language of the two sections, it is apparent that there is no invincible repugnancy or conflict between them.

Sec. 6848 (8804, *ante*) gives an absolute lien to laborers under contract upon the product of their labor, whereas Sec. 6864 (8820, *ante*) gives a lien to laborers upon "any object, thing, material or property, etc." In other words, Sec. 6848 gives an absolute lien upon the product, objects, property and other things already in existence but which are worked upon or improved by such labor. This Court many years ago announced the rule that statutory liens, which come into existence coeval with the inception of production are superior and paramount to contractural liens, although such contractural liens were created prior in point of time. (Citations.) Although the cases last cited and referred to apply only to statutory liens of landlords, they state sound principles of law, and we know of no good reason to deny their application to the facts of this record. The Circuit Court's views, conforming to these here expressed, should be approved and the judgment is therefore affirmed.

In other words, the statutory lien of the laborer is superior to the contractural lien (consisting of the mortgage given by the landlord on the whole crop), even though the latter was prior in point of time.

(6) REMEDY, IF CROPPER VIOLATES AGREEMENT

Sec. 8842 (Act Mar. 21, 1883)—**Abandonment—forfeiture of wages or share of crop.**

If any laborer shall, without good cause, abandon an employer before the completion of his contract, he shall be liable to such employer for the full amount of any account he may owe him, and shall forfeit to his employer all wages or share of crop due him, or which might become due him from his employer. (*Latham v. Barwick, 87 Ark. 328, Rand v. Walton, 130 Ark. 431;* and see *Crawford v. Slatten, 155 Ark. 283; 244 S. W. 32,* holding that where a sharecropper abandons his crop, it is forfeited to the landlord.)

(7) REMEDY, IF LANDLORD VIOLATES AGREEMENT

One who raises a crop upon the lands of another, under a contract to raise it for a particular portion thereof is a cropper, and not a tenant, and has a lien upon the crop for whatever is due him. *Burgie v. Davis, 34 Ark. 179.*

A cropper could also bring action for breach of contract where the acts of the landlord warrant it. (See Memorandum, p. 8, and Sec. 8828, p. 8.)

GEORGIA

(1) LANDLORD AND TENANT, WHEN

Georgia Code Ann. Title 61—Sec. 61-101:

Relation of landlord and tenant exists, when: When the owner of real estate grants to another simply the right to possess and enjoy the use of said real estate, either for a fixed time, or at the will of the grantor, and the tenant accepts the grant, the relationship of landlord and tenant exists between them. In such case, no estate passes out of the landlord, and the tenant has only a usufruct, which he cannot convey except by the landlord's consent, and which is not subject to levy and sale * * *.

Sec. 61-102:

How relationship created: Contracts creating the relationship of landlord and tenant for any time not exceeding one year, may be by parole, and if made for a greater time, shall have the effect of a tenancy at will.

Georgia Code Ann. Ch. 61-106—Croppers, Sec. 61-501:

Nature of the relationship: Where one is employed to work for part of the crops, the relationship of landlord and tenant does not arise. The title to the crop, subject to the interest of the cropper therein, and the possession of the land, remain in the owner (46 Ga. 584).

The agreement between the landlord and the cultivator may create the relationship of landlord and tenant, or of employer and laborer, depending upon the terms of their agreement, and the intention of the parties. One determining factor is the question of whether the landlord receives his share of the crop as "rent," or the cultivator receives his share as "wages." If the former, they are landlord and tenant; if the latter, they are employer and laborer. A further determining factor is whether the contract transfers any dominion and control over the premises. If there is a demise of such dominion and control, the relationship is that of landlord and tenant, and where no such dominion and control passes to the cultivator, the parties are employer and laborer.

The distinction is laid down in *Sauter v. Crary, 116 S. E. 231, (Ga. App. 1923),* as follows:

The fundamental distinction between the relations of landlord and cropper, and landlord and tenant, is in the fact that the status of a cropper is that of a laborer who has agreed to work for and under the landlord for a certain portion of the crop as wages, but who does not thereby acquire any dominion or control over the premises upon which said labor is to be performed, the cropper having the right merely to enter and remain on the premises for the purpose of performing his engagements; whereas a tenant does not occupy the status of a laborer, but under such a contract acquires possession, dominion, and control over the premises for the term covered by the agreement, usually paying therefor a fixed amount either in money or specifics, and in making the crop performs the labor for himself and not for the landlord. The vital distinction is in whether the person making the crop does so as a laborer upon the premises controlled by the landlord, or whether he performs the work for himself upon premises over which he has possession and control. When in any given case, it is necessary to determine which of these relationships exists, the general rule is applicable, that the true intention of the parties shall be given effect. The fact that under the terms of the contract the person making the crop is to receive a designated proportion thereof, constitutes one of the distinctive earmarks going to establish the status of a cropper, and whenever under the terms of the contract he is thus "employed to work for part of the crop," his status as a cropper thereby becomes fixed. Code, Sec. 3707.

It is possible, however, for a contract of landlord and tenant to be entered upon whereby the person renting and taking over the land is to pay therefor a certain fixed proportion of the crop which shall be made thereon during the term of the tenancy; provided, that the relationship of employer and employee does not exist; and provided, that the person making the crop is to receive possession and control of the premises.

The earliest case on this point is that of *Appling v. Odom, 46 Ga. 583 (1872),* in which case it was held that the landowner to whom a cropper was indebted for advances was entitled to possession of the crop as against the cropper's mortgagee. The opinion of the court reads as follows:

There is an obvious distinction between a cropper and a tenant. One has a possession of the premises, exclusive of the landlord; the other has not. The one has a right for a fixed time; the other has only a right to go on the land to plant, work, and gather the crop. The possession of the land is with the owner as against the cropper. This is not so of the tenant. The case made in the record is not the case of a tenant. The owner of the land furnished the land and the supplies. The share of the cropper was to remain on the land, and to be

subject to the advances of the owner for supplies. The case of the crop is rather a mode of paying wages than a tenancy. The title to the crop subject to the wages is in the owner of the land. We are of opinion, therefore, that no person can purchase or take a lien on the wages of the cropper, to-wit: his share of the crop until the bargain be completed, to-wit: until the advances of the planter to the cropper, for the supplies, have been paid for. A different rule might obtain, as to a tenant, the right of the landlord for supplies being only a lien. But the cropper's share of the crop is not his until he has complied with his bargain.

(2) EMPLOYER AND CROPPER, WHEN

Ga. Code Ann. Ch. 61-5—Sec. 61-501. Croppers:

Nature of relationship: Where one is employed to work for a part of the crop, the relationship of landlord and tenant does not arise. The title to the crop, subject to the interest of the cropper therein, and the possession of the land, remain in the owner.

(3) TENANTS IN COMMON OF THE CROP, WHEN

In the case of *DeLoach v. Delk, 110 Ga. 884 (March 1904)*, the court said:

Where under the terms of a contract between the owner of land and another who agrees to cultivate it on shares, the relationship of landlord and cropper is created, the title to all crops grown on the land remains in the landlord until there has been an actual division and settlement whereby he receives in full his share of the produce. Civil Code, Sec. 3131; *Wadley v. Williams, 75 Ga. 272; Wadley v. Scott, 80 Ga. 95.* That the cropper furnishes the labor necessary to the making of the crop, and is to receive a portion thereof as compensation for his services, does not place him in the situation of a partner having an undivided interest in the product of his labor. *Padgett v. Ford, 117 Ga. 510,* and cit. So if the owner of the land wrongfully refuses to comply with his obligations in the premises, the remedy of the cropper is to assert a laborer's lien on the crops grown by him *(McElmurray v. Turner, 86 Ga. 215)*. He cannot maintain against the landlord an action of trover, the title to the crop being in the latter. *Bryant v. Pugh, 86 Ga. 525 and 529.*

(4) TITLE TO CROP PRIOR TO DIVISION

Ga. Code Ann.—Sec. 61-502:

Title to cropper's crop in landlord: Whenever the relationship of landlord and cropper shall exist, the title to, and right to control and possess the crop growing and raised upon the lands of the landlord by the cropper, shall be vested in the landlord until he shall have received his part of the crops so raised, and shall have been fully paid for all advances made to the cropper in the year said crops were raised, to aid in making said crops.

Under this section it is clear that where the relationship of employer and cropper exists, the title to the crop before division is in the employer or landlord. Where the relationship is that of landlord and tenant, the title to the crop before division is in the tenant, subject to the landlord's lien for the rent and for advances where the special contractural lien under Sec. 61-201 has been taken by the landlord. (Code 1933, Sec. 61-201 and 61-202.) (See 2d col.)

(5) LIEN OF THE PARTIES ON THE CROP

Landlord's lien.—Where the relationship is that of landlord and cropper, the title to the crop prior to division is in the landlord, and no lien in his favor is necessary. [Ga. Code Ann. Sec. 61-502; *Fields v. Argo, 30 S. E. 29 (Ga. 1898)*.]

Where the contract is such as to create the relationship of landlord and tenant, the title and possession prior to division of the crop, is in the tenant, but the landlord has a statutory lien on the crops for rent, and may secure a contractural lien for advances.

The Ga. Code of 1933, Sec. 61-201, provides a lien for advances, as follows:

Landlords may have, by special contract in writing, a lien upon the crops of their tenants for stock, farming utensils, and provisions furnished such tenants for the purpose of making their crops; and such lien shall be enforced in the manner prescribed elsewhere in this Code.

(For enforcement of liens on personal property, see Sec. 67-2401. For liens for supplies, see Sec. 61-202. For mortgages and bills of sale covering the crops, see Sec. 67-1101 et seq.)

Ga. Code, 1933, Sec. 61-202, provides:

Landlords furnishing supplies, money, horses, mules, asses, oxen, or farming utensils necessary to make crops, shall have the right to secure themselves from the crops of the year in which such things are furnished, upon such terms as may be agreed upon by the parties, with the following conditions:

(1) The lien provided for in this section shall arise by provision of law from the relationship of landlord and tenant, as well as by special contract in writing, whenever the landlord shall furnish the articles enumerated in said section, or any of them, to the tenant for the purpose therein named. Said lien shall be enforced in the manner provided in Sec. 67-2401.

(2) Whenever the lien may be created by special contract in writing as provided by Sec. 61-201, the same shall be assignable by the landlord, and may be enforced by the assignee in the manner provided for the enforcement of such liens by landlords.

(See Sec. 61-206, 207; 67-1706, 07; 67-2302.)

Ga. Code, Sec. 61-202:

Liens created by this Section are hereby declared superior in rank to other liens, except liens for taxes, the general and special liens of laborers, and the special liens of landlords for rent, to which they shall be inferior, and shall, as between themselves and other liens not herein excepted, rank according to date.

This is a special lien where the landlord and tenant relationship exists. In the relationship of landlord and cropper, the title to the crop is in the landlord at all times until final division and, of course, no lien in favor of the landlord is necessary.

Cropper's lien.—Since the cropper is an employee or laborer, he may maintain an action to foreclose the statutory laborers' lien. This lien is provided for in the following statutes:

Ga. 1933, Sec. 67-1801—**Lien of laborer, General.**—Laborers shall have a general lien upon the property of their employers, liable to levy and sale, for their labor, which is hereby declared to be superior to all other liens except liens for taxes, and special liens of landlords on yearly crops, and such other liens as are declared by law to be superior to them. (Acts 1873.)

Sec. 67-1802—**Special lien of laborers.**—Laborers shall also have a special lien on the products of their labor, superior to all other liens except liens for taxes, and special liens of landlords on the year's crop, to which they shall be inferior. (Acts 1873.)

Sec. 67-1803—**Rank of laborers' liens—How they arise.**—Liens of laborers shall arise upon the completion of their contract of labor, but shall not exist against bona fide purchases without notice, until the same are reduced to execution and levied by an officer, and such liens in conflict with each other shall rank according to date, dating each from the completion of the contract of labor. (Acts 1873.)

In *McElmurray v. Turner, 86 Ga. 215; 12 S. E. 359, (Ga. 1890)*, the action was brought by a cropper who had been discharged after the crop had been made, claiming a special lien upon the crop raised as a laborer. Affirming the judgment for the plaintiff, the court said:

The evidence shows that the plaintiff was not a "renter," but was what is known as a "cropper." The relation of landlord and tenant did not exist between her and McElmurray. He was to furnish the land, mules, etc., and she was to furnish the labor, and the crop was to be equally divided; and the evidence further shows that he was to control the crop until after the

rent and advances had been paid. Under the evidence, this was simply a mode of paying her wages for the labor of herself and children. She had, as against him, no title to any part of the crop which she raised, until the rent and advances should be paid. Her part of the crop which she had raised being in the nature of wages, she was entitled to foreclose a special lien thereon after she had paid her rent, and paid for the advances made to her by the landlord, which she alleges she did, and which the jury found to be true.

See also:

Lewis v. Owens, 124 Ga. 228, 52 S. E. 333.
Faircloth v. Webb, 125 Ga. 230, 53 S.E. 592.
Garrish v. Jones, 2 Ga. App. 382, 58 S. E. 543.
Howard v. Franklin, 124 S. E. 554 (Ga. Appr., 1924).

Before any action may be brought by the laborer to foreclose his lien, it must be shown that he has fully performed his contract, or that such performance has been impossible because of the conduct of the landlord. In *Payne v. Trammell, 115 S. E. 923 (Ga. App. 1923)*, it was held that a cropper who had been discharged for having unlawfully converted a portion of the crop to his own use had thereby lost his lien. The following is the syllabus by the court:

Under the general rule that, before a laborer's lien can be foreclosed, it must be shown that the laborer has fully completed the contract, a cropper, who under the law has the status of a laborer, is ordinarily not entitled to enforce such lien against his landlord without showing full compliance on his part with the terms of the agreement *(Harvey v. Lewis, 91 S. E. 1052)*, except that such a lack of full performance by the cropper will not defeat the foreclosure of such lien when, without fault on his part, such failure to fully comply with his contractural obligation is occasioned by processes of the law, *(Lewis v. Owens, 52 S. E. 333)*, or by the unauthorized acts and conduct of the landlord *(Ballard v. Daniel, 89 S. E. 603)*.

If the owner of the land wrongfully refuses to comply with his obligations in the premises, the remedy of the cropper is to assert his laborer's lien on the crops grown by him.

DeLoach v. Delk, 119 Ga. 884.
Lewis v. Owens, 124 Ga. 228, 52 S. E. 333.
Garrish v. Jones, 2 Ga. App. 382, 58 S. E. 543.
Fountam v. Fountam, 7 Ga. App. 361; 66 S. E. 1020.

(6) REMEDY, IF CROPPER VIOLATES AGREEMENT

Ga. Code of 1933, Sec. 61-503:

Right of landlord to recover crops disposed of without his consent: In all cases where a cropper shall unlawfully sell or otherwise dispose of any part of a crop, or where the cropper shall seek to take possession of such crop, or to exclude the landlord of the possession of such crop while the title thereto remains in the landlord, the landlord shall have the right to repossess said crops by possessory warrant, or by any other process of law by which the owner of property can recover it under the laws of this state. (Acts 1889, p. 113.)

Sec. 61-9902:

Purchase of farm products from tenants: Any person who shall buy any corn, or any cotton in the seed, from persons residing on the lands of another as tenant or laborer of such other person, or from the agent of such tenant or laborer, when said tenant or laborer had no right to sell, after notice of such disability to sell has been given in writing by the landlord or employer to such buyer, shall be guilty of a misdemeanor. (Acts of 1875-76.)

Sec. 61-9904:

Illegal sale by cropper; refusal to deliver by landlord: Any cropper who shall sell, or otherwise dispose of any part of the crop grown by him, without the consent of the landlord, and before the landlord has received his part of the entire crop, and payment in full for all advances made to the cropper in the year the crop was raised, to aid in making it, shall be guilty of a misdemeanor. Any landlord who shall fail or refuse, on demand, to deliver to the cropper the part of the crop, or its value, coming to the cropper, after payment of all advances made to him as aforesaid, shall likewise be guilty of a misdemeanor. (Acts of 1889, p. 113; 1892, p. 115.)

(7) REMEDY, IF LANDLORD VIOLATES AGREEMENT

The cropper, as an employee, is not entitled to an injunction against the landlord who intends to take possession of the land and crop. Where, however, the landlord has sought by force and violence to frighten the cropper into abandoning the crop, it was held that a court of equity could appoint a receiver to take charge of the crop. This was the holding of the court in *Russell v. Bishop, 110 S. E. 174 (Ga., 1921)*, with the following opinion:

The relation between the parties was that of landlord and cropper. The relation of landlord and cropper is really the relation of employer and employee. Ordinarily the employer may discharge the employee; and if the employer is solvent an employee is not entitled to an injunction against the employer for a breach of the contract, in the absence of other equitable grounds.

It has in effect been held by this court that where the relation of landlord and cropper exists, the landlord cannot be enjoined from taking charge of the crops, in the absence of an allegation of insolvency; the cropper having an adequate remedy at law, *Nicholson v. Good, 76 Ga. 24*. It will be noted, however, in this case that the landlord did not elect to breach his contract with his cropper and suffer the legal consequences thereof; but he sought to frighten the cropper and to compel him through fright to abandon his contract. The landlord resorted to violence, in short, to mob violence, to effectuate his intent and purpose. * * * It therefore seems to us that the judge was authorized, under the peculiar facts of this case, to issue an injunction against the landlord, though solvent, restraining him from going upon and taking charge of the crops by the means and in the manner alleged in the petition.

In the case of *Hanson v. Fletcher, (1937), 183 Ga. 858, 190 S. E. 29, 49 App. 300*, the landlord instituted a suit to enjoin the cropper from continuing to occupy the premises after his discharge as an employee. The court granted the injunction, but appointed a receiver to harvest and divide the remaining crops, as prayed for by the defendant. Exception was as to the order appointing the receiver. The court said:

While it is ordinarily true that under the relation of landlord and cropper, the landlord has the right to control and possess the crops until he has received his portion, and is fully paid for all advances made by him to aid in their production (Code, Sec. 61-502), the right may be varied by special agreement.

The court then went on to say that by the terms of the contract, authority to market the crops was granted to the cropper and, therefore, the court below did not err in appointing a receiver, although it did not appear that the landlord was insolvent. The court cites *Russell v. Bishop, 152 Ga. 428*, and *George v. Bulland, 178 Ga. 589*. The court also points out that this case differs from *Nicholson v. Cook, 76 Ga. 24*, and *Casey v. McDaniel, 154 Ga. 181, (113 S. E. 804)*, where it was held that the cropper having adequate remedy at law did not need equitable relief.

Where the relationship of landlord and cropper exists, and the landlord wrongfully refuses to perform his part of the contract, the cropper has three courses of procedure open to him: (1) If the landlord's breach consists of a refusal to furnish articles which may be obtained elsewhere, it is the cropper's privilege to obtain them, complete the crop as contemplated by the contract, and hold the landlord and the landlord's share of the crop responsible for the actual damages resulting from the breach of the contract; or (2) the cropper may sue immediately for his special injuries, if any, including the value of the services rendered; or (3) he may wait until the expiration of

the harvest season, and sue for the full value of his share of the crop, or what his share would reasonably have been under a faithful performance of the contract by both parties. *Pardue v. Cason, 22 Ga. App. 284, 96 S. E. 16.*

KENTUCKY

(1) LANDLORD AND TENANT, WHEN

As in most, if not all, of the states covered in this memorandum, Kentucky statutes and decisions hold that where there is a demise of the premises the relation between the parties to a cropping contract is that of landlord and tenant. A leading Kentucky case is :

Redmon v. Bedford, 80 Ky. 13 (1882)—Redmon held an estate for life in a tract of land. Preceding his death, and in that year, he permitted one Tate to cultivate a field in wheat on shares; Redmon to furnish one half of the seed wheat, and Tate the other half. Tate was to sow, cultivate and cut the wheat; pay for threshing; and give to Redmon one half of the crop after it was threshed, to be delivered at the machine. Nothing was said about the time of the renting. Tate * * * harvested the crop, and when the wheat was ready to be delivered, Bedford, the appellee, who had administered on the goods of Redmon, took one half of the wheat, and this controversy is between Bedford and the heirs or children of the decedent, the latter claiming interest in the crop, or a part of the rent. We think the appellants were entitled to recover, and that the relation of landlord and tenant existed between the life tenant and Tate.

The first Section of Article 5, Chapter 66, General Statutes, provides that when contracts are made by which the landlord is to receive a portion of the crop as compensation for the use or rent of the land, the rights of the landlord shall be protected * * * . The use of land under like contracts is common within this state, and it is evident from the provisions of the statute referred to that the relationship of landlord and tenant exists in such cases, although no defined term is to be found in the contract between the parties, nor had the renting terminated at the death of the life tenant. (See Sec. 29, Gen. Stat., ch. 39.)

(2) EMPLOYER AND CROPPER, WHEN

The leading case of the very few cases reported in Kentucky in which the legal relationship between parties to a crop-sharing contract is considered is *Wood v. Garrison, 139 Ky. 603, 62 S. W. 728.* This case, with *Redmon v. Bedford, ante,* and *Hickman v. Fordyce, post,* are the only cases cited in the annotations in Carroll's Kentucky Statutes, 1936, to Sec. 2325 and 2327. Sheppard's citations do not reveal any later cases.

In *Wood v. Garrison* the court says:

Appellant as landlord contracted with appellee as tenant for the cultivation of about twelve acres of land in tobacco in Fayette County, for the year 1899. By the terms of the contract the landlord was to furnish the land, the barn room, and also to furnish a tenement house, yard and garden attached, to be occupied by the tenant, and pasture a horse for the tenant. The tenant was to do all the work necessary to plant, to raise and prepare the tobacco for marketing, and when ready for sale the landlord was to ship it, sell it, and pay half of the proceeds to the tenant.

Under this contract the tenant took possession of the tenement house, yard, etc. and planted out some tobacco beds and plowed a portion of the tobacco land. Then the tenant abandoned the work, refusing to complete it. The landlord took charge of the tobacco land and instituted forcible detainer proceedings against the tenant to recover the house. Judgment was rendered for the landlord by the Magistrate, which was traversed by the tenant, and on the trial in the Circuit Court, upon the above facts appearing, a peremptory instruction was given and judgment rendered for the tenant. The landlord appeals.

The question presented is, was appellee a tenant by the contract in which it was stipulated that he was to labor for the landlord, and having begun, without good cause fails to comply with his contract? Or was he a tenant under a contract within the meaning of Section 2325, Kentucky Statutes, which is as follows:

Section 2325—A contract by which a landlord is to receive a portion of the crop planted, or to be planted, as compensation for the use or rent of the land, shall vest in him the right to such a portion of the crop when planted as he has contracted for, though the crop may be planted or raised by a person other than the one contracted with; and so if the land be planted in a different kind of crop than the one contracted for, and for the taking of or injury to any of the crops aforesaid, the landlord may recover damages against the wrongdoer. The landlord may also have an injunction against any person to prevent the taking or injuring of his portion of the crop aforesaid; but nothing contained in this section shall bar the landlord of his right to such damages against the person contracted with as he may sustain by reason of the land being planted, without his assent, in a crop other than that contracted for, or not planted at all, nor for failure to cultivate the crop in a proper manner. This Section shall include a purchaser, without notice, of a growing crop or crops remaining on the premises though severed from the land; but it shall not apply to a purchaser in good faith, without notice, of a crop, after it has been removed for the space of twenty (20) days from the rented premises on which it was planted.

Sec. 2327 of the Stat. is as follows:

Section 2327 When a tenant enters or holds premises by virtue of a contract, in which it is stipulated that he is to labor for his landlord and he fails to begin such labor, or if, having begun, without good cause fails to comply with his contract, his right to the premises shall at once cease, and he shall abandon them without demand or notice. (Acts 1893.)

In our opinion both of these Sections of the Statutes were enacted for the protection of the landlord; other Sections were provided to protect the rights of the tenant. These two sections may be applied to two or more distinct classes of contracts, or may apply to the same class. Where the landlord rents the premises to the tenant to be cultivated in designated crops, and where the landlord is to receive portions of the crop, and where the custody and control of the premises are vested completely in the tenant for a specific term, it is then that Section 2325 only would apply. But where the tenant is to furnish labor and the landlord everything else, and the tenant to receive either so much in money or a given proportion of the crop raised to pay for his work, then the tenant and his contract come within Section 2327, quoted above. He is what is sometimes called a "cropper," a term applied to a person hired by the landlord to cultivate the land, reserving for his compensation a portion of the crops raised.

Steel v. Frick, 56 Pa. St. 172.
Adams v. McKesson, 91 Am. Dec. 183.
Fry v. Jones, 2 Rawle 12.

In Woodfall's Landlord and Tenant, p. 125, it is stated: "It is everywhere admitted, (see cases previously cited), that under a pure and unqualified cropping contract the entire legal ownership of the crop is in the owner of the land until division."

As said by Rodman, J., in *Harrison v. Ricks, 71 N. C. 7,* "A cropper has no estate in the land; that remains in the landlord; consequently, although he has in some sense the possession of the crop, it is only the possession of a servant, and is in law that of the landlord; the landlord must divide to the cropper his share. In short, he is a laborer receiving his pay in the share of the crop."

Under the facts of this case, as stated above, appellee appears to come within the definition of the term "cropper," which is a tenancy contemplated and included in Section 2327. If such a tenant fails to begin the labor contracted to be done by him, or having begun, without good cause fails to continue it, the landlord may maintain forcible detainer and dispossess him, and he might also be entitled to such other remedies provided in Section 2325 as were applicable to the state of the case.

The judgment of the Circuit Court was reversed.

(3) TENANTS IN COMMON OF THE CROP, WHEN

In Kentucky there is no statutory nor judicial determination of the relationship of tenants in common as between landowner and the person cultivating the land for a share of the crops. For a general discussion of the relationship of tenants in common of the crop, see this Memorandum, Mississippi, pp. 18, 19.