himself, will not take him out of the class of persons "engaged in manual labour" (*tt*).

A person whose occupation is one of which the essence is manual labour is entitled to recover under the Act if he is injured while performing a duty or work incidental to that occupation, even though the duty does not directly involve manual labor (*uu*).

(*i*) "*Working under a contract with an employer.*"—The contract of employment to which this phrase points is, as the subject-matter of the Act indicates, one of service as distinquished from one which is entered into with an "independent contractor." Accordingly, although the work in which the employé whose rights or liabilities are in question may have been of such a character as to bring him prima facie within one of the descriptive terms used for the purpose of defining the word "workman," yet he cannot sue under the Act, if it appears that his agreement merely bound him to produce certain specified results, and did not place him under his employer's control with respect to the means by which, or the manner in which, those results were to be attained (*vv*). If his agreement is essentially one of this nature, he is not converted into a servant by participating in the manual labor by which the agreement is performed (*ww*). One of the ordinary characteristics of such an agreement is that the contractor is free to perform his contract either in person or by deputy. In several cases, therefore, the existence or absence of an obligation on the part of the employé in question to do the stipulated work himself has been

(*tt*) *Granger* v. *Aynsley* (1880) 6 Q.B.D. 182.

(*uu*) *Holland* v. *Stockton Coal Co.* (1898) 19 New So. Wales (L.R.) L 109, where it was held error to nonsuit a plaintiff whose husband, a man ordinarily working as coal-hewer in a mine, was suffocated by gas, while engaged, as one of an exploring party, in locating the origin of the gas.

(*vv*) *Sleeman* v. *Barrett* (1864) 2 Hurlst. & C. 934, 33 L.J. Exch. N.S. 153, 10 Jur. N.S. 476, 9 L T.N.S. 834, 12 Week. Rep. 411, where it was held that the word did not include "butty colliers," i.e., men working in partnership who contract for digging coal by the day, the ton, or the piece, according to the nature of the work, and employing others to assist them, for whose wages they are responsible. See however *Bowers* v. *Lovekin* (1856) 25 L.J.Q.B.N.S. 371, 6 El. & Bl. 584, 2 Jur. N.S. 1187, cited in note (*aaa*), infra. A person who contracts to weave certain pieces of silk goods for another at certain prices is not an "artificer or handicraftsman" or "other person" within Geo. IV, chap. 34, § 3. *Hardy* v *Ryle* (1829) 9 Barn. & C. 603, 4 Mann. & R. 295, 7 L.J.M.C. 118.

(*ww*) *Riley* v. *Warden* (1848) 2 Exch. 59, 18 L.J. Exch. N.S. 120; *Ingram* v. *Barnes* (1857) 7 El. & Bl. 115, 26 L.J.Q.B.N.S. 82, 3 Jur. N.S. 156. (In both these cases the plaintiff was denied to be a "labourer" within the meaning of the Truck Acts.)