

this description, cannot be excluded from its benefits on the ground that he is also a stockholder¹, or a director².

5. Same subject further discussed. Meaning of the word "labourer."—

A class of employes which is always specified in statutes of this type is that composed of "labourers" or "persons performing labour." In its widest sense, the term "labour" may be said to embrace every form of human exertion, whether mental or physical. But, as commonly used in everyday language, it conveys the idea of work which is entirely or principally performed with the hands. This is also the signification commonly ascribed to it by American judges in construing these statutes³. Accordingly the benefit of a provision which grants a preference or lien in favour of a "labourer" can be claimed by such employes as the following: A person hired as a clerk, bar-tender, and boy of all work in a grocery and liquor store⁴; a mailing clerk in a newspaper office, whose work consists in addressing and despatching the papers to the subscribers and in attending to their delivery⁵; a driver of a milk wagon⁶; a cook in logging-camp⁷;

¹ *Conlee L. Co. v. Ripon L. Co.* (1886) 66 Wis. 481.

² *Re Armleder* (1900) 11 Ohio C.D. 320.

This general rule is of course not applicable in a case where the employing corporation has not been legally organized. *Fay v. Eagan* (Wis.), 71 N.W. 893.

³ In *Hinton v. Goode* (1884) 73 Ga. 233, the court, in discussing the meaning of the word as used in § 1974 of the Georgia Code, the court observed: "Labourers, as used in the statute, mean what were generally and universally known as labourers at the time of the passage of the Act. A labourer is one who works at a toilsome occupation—a man who does work requiring little skill, as distinguished from an artisan—sometimes called a labouring man. (Webster.) Clerks, agents, cashiers of banks, and all that class of employes, whose employment is associated with mental labour and skill, were not considered labourers, and were not intended by the statute to be embraced therein as labourers, so as to have a lien for their wages."

⁴ *Oliver v. Boehm* (1879) 63 Ga. 172 (short judgment: no argument).

⁵ *Michigan T. Co. v. Grand Rapids Democrat* (1897) 113 Mich. 615.

⁶ *Wilbur v. Henkins*, 17 Po. Co. Ct. 222. (Pa. Act of May 12, 1891, granting a preference to "hand labourers, including farm labourers or any other kind of labour.")

⁷ *Winslow v. Urquhart* (1880) 3 Wis. 280; *Breault v. Archambault* (1870) 64 Minn. 420 (cook and assistant cook entitled to lien).

It should be observed that in these cases it was not disputed that the