

such wages as are due on account of the manual labour alone". It is also clear, both on principle and authority, that an employé who, if he were engaged to perform work of the description indicated by his occupation or trade, would be treated as being outside the privileged classes, is entitled to claim the preference accorded to "labourers" if, as a matter of fact, he performs manual labour".

As to the New Jersey statutes, see § 7, subd. (b) *post*.

g. Meaning of other single words primarily importing manual work.—

(a) "*Workmen*." In one case the Supreme Court of Pennsylvania, adopting the Webster's definition of this word, viz., "one who is employed in any labour, especially manual labour" refused to hold that it was applicable to a civil engineer¹.

Stat. 8749m.) The conclusion of the court was based upon the ground that statutes of this description are to be liberally construed, and that the claimant's functions involved "manual labour and practical demonstration in the operation of machinery to produce the required result—the performance of such services as are usually performed in a flouring mill." But the opinion was also expressed that, if a strict construction should be placed upon the statute, the claim of petitioner would still come within the letter and spirit of the statute.

² In *Lawton v. Richardson* (1898) 118 Mich. 689, it was held that the phrase "labour debts," (How. Mich. Stat. § 8749m), did not embrace a claim for work done by an employé in assisting the proprietor of a store to purchase goods for a store of which he expected to be manager after it was started, but that it covered his services rendered in unpacking the goods, marking them and putting them on the shelves, and in performing the ordinary work of a salesman in attending to customers, sweeping out the store, etc., during the time which elapsed before the store was closed by creditors. The *ratio decidendi* was that nearly all the labour performed after the purchase of the goods was not intellectual or professional in its character, but in the main manual.

That the same statute was applicable to the *personal* labour performed by the overseer and custodian of a mine, while in charge of the property of the corporation, was held in *McLaren v. Byrne* (1890) 80 Mich. 275.

³ In *Adams v. Goodrich* (1816) 55 Ga. 233, this doctrine was applied with respect to a mechanic. In this case the court seems to have assumed that the term "labourers" was only applicable to persons performing *unskilled* labour—a narrow construction of the term which is not borne out by the other authorities. But the general principle applied is plainly not open to any exception.

"In determining whether a particular clerk, or other employé, is really a labourer, the character of the work he does must be taken into consideration. In other words, he must be classified, not according to the arbitrary designation given to his calling, but with reference to the character of the services required of him by his employer." *Oliver v. Macon Hardware Co.* (1896; Ga.), 25 S.E. 403.

¹ *Leuffer v. Pennsylvania & Delaware R.R. Co.* (1877) 84 Pa. 168, Rev'g. 11 Phila. (Pa.) 548. In the statute there under review, the words