

even the simple expression "labourers" would, in most jurisdictions at least, be regarded as covering such employés. Even the manager of a company, although he is also its president, has been held to be entitled to a lien⁹.

(c) "*Labourers and employés.*" Two cases which involve the construction of this combination of terms imply an acceptance of the theory that the use of the expression "employé" imports an extension of the scope of the statute beyond that which would be ascribed to it if only "labourers" were mentioned. In one of these cases an employé of a natural gas company, who was designated superintendent, but who was neither an officer of the company, nor its general manager, was held to be entitled to a preference¹⁰. In the other a preference was

porter, clerk or bookkeeper, and yet they are generally regarded as being clearly within the provision of the statute. It has been held that one of the main purposes of this Act is to prevent those persons whose labour is indispensable to the continuance of the business of a corporation, from abandoning it, and thus suspending its operations, whenever they become alarmed by fear of losing their wages. *Lehigh Coal and Navigation Co. v. Central R.R. of N.J.*, 2 Stew. 252. A sudden and general desertion would, in many instances, result in complete ruin to all concerned. The principal design of this statute is to erect a guard against such disasters. I think it is quite obvious that the petitioner belongs to the class of persons which the legislature intended to protect by the enactment of this statute."

⁹ See *Duryea v. United States Credit System Co.* (N.J. Eq. 1893) 32 Atl. 690. The court relied upon the earlier case of *Weatherby v. Sawony Woollen Co.* (N.J. Eq. 1894) 29 Atl. 326, in which a similar claim had been allowed. It is to be observed, however, that the fact of this allowance is not mentioned in the report itself.

¹⁰ *Pendergast v. Yandes* (1890) 124 Ind. 159, 8 L.R.A. 849. The duties of the claimant were thus stated by the court: "He was himself responsible directly to the company, and had no immediate superior officer except the president and vice-president. His duty was almost wholly confined to superintending the employés under his control, in the discharge of which duty he was required to do a great deal of walking along the pipe-lines; and, when testing gas wells, it was necessary for him to handle wrenches and other tools for a few minutes. But, beyond this, the discharge of his duties did not make it necessary for him to do any physical or manual labour other than such as is ordinarily incident to the superintendency of the employés engaged in such work, although he did occasionally, of his own volition, when work was pressing, and there was scarcity of hands, do some physical labour in the handling of gas pipes, and other work incident to the laying and fitting of them. His salary or compensation was \$100 per month. His duties kept him constantly with the men who were engaged in the manual labour of laying the pipes, and doing the other work herein specified, to see that such work was done properly, and with proper mechanical skill; and, as these men were often separated into different gangs, it was necessary for him to travel back