

men Act of 1875, it is reasonable to suppose that the rule of construction thus indicated would be followed in determining whether a workman was a "miner" for the purposes of the Employers Liability Act (*z*).

With respect to the distinction between "mines" and "quarries" it has been held that workers in underground quarries of slate are entitled to the protection provided for miners under the Metalliferous Mines Act (*aa*). For some purposes it is clear that a surface quarry is not a "mine" (*bb*). But the question whether a workman is employed in such a quarry is or is not a "miner" is not material in the present connection. Quarrymen of all descriptions are at all events within the purview of the general clause, "otherwise engaged in manual labor" (*cc*).

(*h*) *Persons "otherwise engaged in manual labour."*—Conformably to a familiar principle of statutory construction, this general phrase is held to refer to labour ejusdem generis with the specific kinds previously mentioned (*dd*).

There is some difficulty in defining the line beyond which a person will fail to come within the definition of a "workman" as defined by this clause. In some cases the true conclusion will be indicated by the fact that the legislature has used the word "labour" not "work." Various occupations may be said to involve "manual work," and not manual labour (*ee*). In other

(*z*) The word "workman" in the Employers' Liability Act of Victoria is, by an express provision, not applicable to any person coming under Div. 1, Part III, of the Mines Act of 1890.

(*aa*) *Sims v. Evans* (1875) 23 W.R. 730; *Jones v. Cwmorthen Slate Co.* (1880) 41 L.T.N.S. 576.

(*bb*) In a case where a lease was under construction it was held that the expression "mines" did not comprise "quarries," and it was said that a quarry is distinguished from a mine as being "a place upon or above or not under ground." *Turner L.J. in Bell v. Wilson* (1866) L.R. 1 Ch. 303.

(*cc*) See *Devonshire v. Rawlinson* (1864) 38 J.P. 72. [A case under Stat. 4 Geo. 4, ch. 34, sec. 3, in which a servant's wages were forfeited for absence from work.]

(*dd*) *Day, J., in Morgan v. London General Omnibus Co.* (1883) L.R. 12 Q.B. Div. 201, 50 L.T.N.S. 687, 32 Week. Rep. 416. In the Court of Appeal (1884) 53 L.J.Q.B.N.S. 352, L.R. 13 Q.B. Div. 832, 51 L.T.N.S. 213, 32 Week. Rep. 759, 48 J.P. 503, Brett, M.R. said that this phrase meant "any person engaged in the same way as all the others are engaged, although they do not go by the same names." To the same effect see remarks of Smith, J., in *Cook v. North Metropolitan Tramways Co.* (1887) L.R. 18 Q.B. Div. 683, 56 L.J.Q.B.N.S. 309, 56 L.T.N.S. 448, 57 L.T.N.S. 476, 35 Week. Rep. 577, 51 J.P. 630.

(*ee*) *Cook v. North Metropolitan Tramways Co.* (1887) L.R. 18 Q.B. Div. 683, 56 L.J.Q.B.N.S. 309, 56 L.T.N.S. 448, 57 L.T.N.S. 476, 35 Week. Rep. 577, 51 J.P. 630, per Smith, J., who illustrates the distinction by referring to the case of