

papers"; nor to a man engaged in soliciting orders for, and selling the products of a mine upon commission"; nor to a man employed to disburse money and pay off workmen engaged in the building of a house". Having regard to these decisions, as well as the general trend of the authorities, it seems impossible to accept as correct the ruling that a travelling salesman is a "person performing labour".

Several cases may be said to proceed upon the general principle that the higher descriptions of supervising employés are not "labourers" in the statutory sense of the term. Thus the courts have refused to recognize the claims of the president of a company who was acting as general manager", of the manager of a company"; of a mining engineer employed on account of his professional knowledge and executive capacity to manage a mine"; of a man employed by a company to superintend its affairs at a place where it was erecting a building"; of the architect and superintendent of a building". But it seems to

¹⁵ *Michigan T. Co. v. Grand Rapids Democrat* (1897) 113 Mich. 615. The court remarked that the labour of this class of employés was intellectual rather than manual—"the work of professional men, rather than the work of labourers, giving that word its ordinary acceptation."

¹⁶ *Willaners' Estate* (1882) 1 Chest. Co. Rep. 533.

¹⁷ *Edgar v. Salisbury* (1852) 17 Mo. 271, (construing the Missouri Mechanics' Lien Law, R.C. 1645, p. 733.

¹⁸ *In Re Lawler* (1901) 110 Fed. 135 (Statute of Washington State).

¹⁹ *Seventh Nat. Bank v. Shenandoah I. Co.* (1887) 35 Fed. 436. (Va. Acts of March 21, 1877, and April 2, 1879). The court said: "If the statute had intended to embrace presidents, vice-presidents, general superintendents, general managers, and other like officials, it would doubtless have said so. The prominence of such officials in every company named in the statutes precludes the idea that their distinct existence and claims were overlooked and that they were intended to be embraced in some of the designated classes of employés. They seem to have been purposely omitted; doubtless for the reason that this class of officials are, generally, in a position to protect their interests, and secure their salaries; while the classes included in the statute are not so situated, and are not able to protect themselves against loss."

²⁰ *Fidelity Ins. T. & S. Co. v. Roanoke I. Co.*, 81 Fed. 439 (same statute).

²¹ *Boyle v. Mountain Key Min. Co.* (N.M.) 50 Pac. 347.

²² *Smallhouse v. Kentucky, etc., Co.* (1878) 2 Mont. T. 443.

²³ *Foushee v. Grigsby* (1876) 12 Bush (Ky.) 75. See, however, the decisions to the contrary effect in note 9, *supra*.