

goods⁸; nor the superintendent of a brewing corporation⁹. On the other hand it is applicable to farm labourers¹⁰; and to salesmen employed in a store¹¹.

8a. — of groups of words importing manual work.—(a) All persons doing any "work or labour." This phrase has been held to embrace such superior employés as a civil engineer who surveys routes for and superintends the construction of a railroad¹; a foreman who directs the work of labourers in improving a railroad²; and an overseer in a mine who was under the orders of the general agent of the foreign company which owned the mine, and who personally superintended the manual labour of the miners and directed the development of the property³.

⁸ *Green v. Weller*, 3 Ohio C.D. 488.

⁹ *Hanner v. Maumee Brew. Co.*, 6 Ohio N.P. 385. This decision, however, is inconsistent with another, also rendered by a court of inferior jurisdiction, to the effect that a man employed to oversee and manage in all its details the work of a contractor engaged in the business of making streets, grading, etc., and who, when it was necessary, lent a helping hand, was held to be entitled to a preference. *Re Angle*, 1 Ohio N.P. 110.

¹⁰ *Re Lowry*, 7 Ohio Dec. 282.

¹¹ *Re Assignment of Dukme*, 6 Ohio Dec. 448.

¹ *Van Frank v. St. Louis C. G. & S.R. Co.* (1902) 93 Mo. App. 412. The theory of the court was that the phrase occurred in the general lien law of Missouri (Rev. Stat. 1899, § 4239), and that this was of a broader scope than another enactment, (Rev. Stat. 1890, § 1006), which was intended to protect "labourers."

² *Sweem v. Atkinson T. & S.F.R. Co.* (1900) 85 Mo. App. 87.

³ *Cullins v. Flagstaff Min. Co.* (1878) 2 Utah, 219, (Aff'd. (1881) 104 U.S. 176, L. ed.). In its opinion the Supreme Court of the United States remarked: "His duties were similar to those of the foreman of a gang of track hands upon a railroad, or of a force of mechanics engaged in building a house. Such duties are very different from those which belong to the general superintendent of a railroad, or the contractor for erecting a house. Their performance may well be called work and labor; they require the personal attention and supervision of the foreman, and occasionally in an emergency, or for an example, it becomes necessary for him to assist with his own hands. They cannot be performed without much physical exertion, which, while not so severe as that demanded of the workmen under his control, is nevertheless as really work and labour. Bodily toil, as well as some skill and knowledge in directing the work, is required for their successful performance. We think that the discharge of them may well be called work and labour."

The decision in *Idaho M n. & Mill Co. v. Davis* (1903) 123 Fed. 396 is to the same effect (with reference to Sess. Laws Idaho, 1895, p. 49, § 1).