

File No. 11264 Continued.

OPINION.

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3. "Do firemen and deck-hands on the ice-boats come within the Act?"

The words "laborers" and workmen" are placed side by side, and though they do not mean exactly the same, under the rule of construction that one word is to be construed in reference to its associates, the meaning of the word "laborers" in the Act is somewhat restricted by its connection with the word "workmen". Ordinarily, a laborer is one who literally "earns his bread by the sweat of his brow", and who performs with his own hands, at the cost of considerable physical exertion, the contracts made with his employers.

Farinholt vs. Lockwood, 90 Va., 937, 938.

A workman is a laboring man, or one who earns his living by manual labor. (Century Dictionary).

A workman is a man employed in labor, whether tillage or manufacture. (Webster's Dictionary).

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These definitions lead me to believe that firemen and deck-hands are not included within the Act, which was intended to refer to the individuals who are constantly working with their hands, and does not apply to those cases where the individual has an opportunity to rest from what would otherwise be a continuous occupation, the purpose of the Act being to limit the hours of labor of those who are constantly occupied during the period of labor, so that they may have additional time for recreation and improvement.

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In the case of Harig versus the Mayor and City Council of Baltimore, under a statute somewhat similar, Judge Phelps held that a fireman in the City Hall was not within the purview of the Act, and, in the case of Longley versus the Mayor and City Council of Baltimore, Judge Niles held that a watchman was not within the purview of the Act of 1908.

It, therefore, seems to me that it was not the intention of the Legislature to include firemen and deck-hands on the ice-boats within the provisions of the Act, and that, therefore, the Act does not apply to them. If it does not apply to them, then, of course, the City would be at liberty to make any agreement as to their compensation, and if subsistence is a part of their compensation the money compensation could be reduced accordingly.