until recently—only a trader defined as such being capable of becoming bankrupt, all others could only become insolvent and as such obtain relief only after imprisonment and through the Act for the relief of insolvent debtors—will serve to throw light on the practical application of this section, which was originally framed on the English category contained in the Act of 1849, which remained in force till the 1st January, 1870.

Definition of trader.

In England the first statutory definition attempted was by 1 Jas. I., c. 15, s. 2, by which a trader was defined as a person seeking to gain his living by buying and selling, or in the words of the statute.

By 1 Jas. I., c. 15, s. 2, (which was passed in the year 1604), it was enacted as follows:—

" That all and every such person and persons using or that shall use the trade and merchandise, by way of bargaining, exchange, bartry, chevisance, or otherwise in gross, or by retail, or seeking his, her, or their trade or living by buying and selling, and being, &c., who, &c., shall be accounted and adjudged a bankrupt to all intents and purposes."—Lee, p. 485.

This was interpreted, however, to mean that there must be buying and selling, or at least, an intent to sell. Buying alone, without an intent to sell, or selling alone, without a buying, did not constitute a trader, in a legal sense. I. Com. Dig, vo. Bankrupt, A. The buying must be a purchase in the common and ordinary, and not merely in the legal acceptation of the term. Per Lord Loughborough, *Parker* v. *Wells*, Cooke, 58.

Trading.

Of late years, however, the English laws on bankruptcy have attempted more precise definitions; but the numerous legal contestations which have arisen on the subject show that, as already mentioned, it has been found impossible to make these exhaustive.

"Probably there is no point in the bankrupt law, which has re-" ceived so much consideration from the legislature, and the courts " of law, as this of trading, and there being apparently no possibility " of giving a definition of trading that would relieve the necessity of " all specific expression or exclusion, the Legislature has gradually " extended the meaning of the term, so that in law it now includes by " name the specific designations comprised in the schedule, and the " distinction between them and the general description of classes is " this: the persons to whom these specific denominations are appli-" cable come within the act, however little business they may trans-" act in that capacity; but the other commercial classes only come " within it if their business holds a prominent position in their avowed " means of living." Doria (1874) p. 113.

The list of persons given in this section is mainly taken from the Eng