

superintendent or manager of a corporation is not entitled to a preference¹⁹. Such a functionary is regarded as being substantially an officer²⁰; or, as it is expressed in another case, he is the representative of the corporation in respect to the conduct of its business²¹. Nor do these words include an agent for the sale of goods in a foreign country, on a salary and commissions²². There is, however, a conflict of opinion concerning the scope of the expression with relation to the lower grades of corporate servants.

One view is that it "includes persons employed by a corporation in comparatively subordinate positions who cannot correctly be described either as operatives or labourers; such for example as bookkeepers, clerks, salesmen and agents engaged at a regular compensation in soliciting orders for goods"²³. This statement summarizes the effect of some of the earlier decisions²⁴. The essence of that doctrine is that the term

by a corporation (other than an insurance or moneyed corporation), of which a receiver should be appointed, to 'employés,' using the word in its largest sense, the words 'operatives and labourers' with which it is associated are superfluous. The use of these associated words indicates that the word 'employés,' by which they are preceded, was used in a restricted and limited sense."

¹⁹ *People v. Remington* (1887) 45 Hun. 329, Aff'd. 109 N.Y. 631 (memo.); *Re Stryker* (1899) 158 N.Y. 526, Aff'g. 73 Hun. 737.

²⁰ Andrews, C.J., in *Palmer v. Santvoord* (1897) 153 N.Y. 612, referring to the first of the cases cited in the preceding note.

²¹ *Re American Lace & Fancy Paper Works* (1898) 30 App. Div. 321.

²² *People v. Remington* (1887) 45 Hun. 329. Aff'd. 109 N.Y. 631 (memo.).

²³ *Re American Lace & Fancy Paper Works* (1898) 30 App. Div. 321.

²⁴ In *Brown v. A.B.C. Fence Co.* (1889) 52 Hun. 151, it was held that a man employed to assist the general manager in keeping the books of the company, and to clean the office and show room, and assist in putting together, taking apart, and shipping the manufactured products was entitled to the preference. The language used in the opinion shows that, even if the duties of the claimant had been confined to those of a bookkeeper, he would still have been treated as being within the protection of the statute.

In a later decision by the same court, the right of a bookkeeper to a preference was explicitly affirmed. *People v. Bevendge Brewing Co.* (1895) 91 Hun. 313. The court disapproved *Re Stryker*, 73 Hun. 327, which was afterwards affirmed by the Ct. of Appeals in 158 N.Y. 526. See *infra*.

The position taken in these cases was indorsed by the Court of Appeals