

SEC. 1. chandise by way of bargaining, exchange, bartering, commission, consignment or otherwise, in gross or by retail, and persons who, either for themselves, or as agents or factors<sup>6</sup> for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the workmanship or the conversion of goods or commodities, or trees; but a farmer, grazier, common laborer, or workman for hire shall not, nor shall a member of any partnership, association or company which cannot be adjudged insolvent under this Act, be deemed, as such, a trader for the purposes of this Act.

As to persons  
having been  
traders.

All such persons, co-partnerships, or companies, having been traders as aforesaid, and having incurred debts as such, which have not been barred by the statutes of limitations or prescribed, shall be held to be traders within the meaning of this Act; but no proceedings in liquidation shall be taken against such trader, based upon any debt or debts contracted after he has so ceased to trade.

This section of the Act differs in an essential detail from the corresponding sections of the Acts of 1864 and 1869. The former of these was made applicable to traders only in the now Province of Quebec, but to all persons in Ontario; while the latter was, wherever in force throughout the Dominion, applicable to traders only; but in neither statute was any definition of the word attempted, as is done by the present Act. It remains to be seen whether the change is a beneficial one. It is certainly questionable whether it will be found so. Definitions of this nature run two dangers—of being too narrow or too broad; and it has generally been found more advantageous for the Legislature to restrict itself to the use of a general and flexible term, leaving to the judiciary to apply this term to the circumstances of each particular case. An instrument is thus made of greater utility in dealing with the multiplied and changing phases of commercial enterprise. As it can hardly be expected that questions of doubt and difficulty will not arise, notwithstanding the evident attempt made in this section of the Act to make the definitions exhaustive, a reference to the cases decided in England where the distinction was kept up

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6. *Brehaut et al. v. Moran*, Rob. Dig., 156.