

been held that such employees as typesetters, cylinder feeders, pressmen and a printer's bookkeeper are entitled to a preference<sup>1</sup>.

(b) *All persons doing labour or service of whatever kind.* By the New Jersey Corporation Act, § 63, as originally framed, only "labourers" were allowed a preference. It was not disputed that this expression was applicable only to those persons who performed manual labour<sup>2</sup>. But the Act, as amended contains a definition clause declaring that the word "labourers" is to be construed as including "all persons doing labour or service of whatever character for, or as workmen or employees in the regular employ of such corporations." It has been held, with reference both to the earlier and the later versions of this statute that neither the president, nor a director, nor any officer, is entitled to a preference<sup>3</sup>. On the other hand it has been

<sup>1</sup> *Heckman v. Taumen* (1909) 184 Ill. 144, 56 N.E. 361. (Ill. Laws of 1895, p. 242.)

<sup>2</sup> See the language used by the court in *Weatherby v. Saxony Woollen Co.* (N.J. Eq. 1894), 29 Atl. 326 (note 5, *infra*).

<sup>3</sup> In *England v. Daniel F. Beatty Organ & Piano Co.* (1886) 41 N.J. Eq. 4, the court argued thus: "The president of a corporation, under the Act, is and must be a director. He is part and parcel of the organization. There must be employer as well as employed; and the question arises: Does the Act authorize the organization, which is the employer, to employ itself? . . . I am well satisfied that to make favourites of this class would be against the true spirit of the Act as well as against a wise public policy. The spirit of the Act is manifestly to pay 'labourers doing labour or service' . . . and not to give a preference to the individual members of the corporation; and not that they may employ themselves and maintain both attitudes, employer or employé, as their individual gain and the loss of creditors may dictate. And as to the public policy of so extending the construction as is urged, let it be considered how strong the inducement as well as how convenient for every director to be employed 'doing labour or service as a workman or employé' for his company; and let it also be considered what a prolific source of injustice and fraud such construction would prove to be. There are numerous considerations in this direction which will arise to the mind of the thoughtful."

In *Weatherby v. Saxony Woollen Co.* (1894) N.J. Eq. 29 Atl. 326, the court after expressing the opinion that the true doctrine had been stated in *Lehigh Coal & Nav. Co. v. Central R. Co.*, 2 Stew. 252, viz., that "the preference given by the sixty-third section of the Corporation Act is in derogation of the right of creditors to be paid equally, and must not be extended by construction," proceeded thus "officers can only be included in the phrase 'labourers and employés' by construction, and that, too, of a very strained character. It cannot be that the legislature, in any of its enactments respecting preferences, meant to include officers, in the words 'labourers' or 'employés,' for there has been no period in the history of