

## WHAT IS A MANUFACTURER?

in their ordinary signification. In *Parker v. Great Western Railway Co.*, 6 E. & B. 77, the charter of a railway company which authorized the company to charge a certain rate 'for all cotton and other wools, drugs and manufactured articles,' was under consideration. The Court held that the term 'manufactured articles,' must be understood in its popular sense; that it did not mean all articles produced from the raw state by manual skill and labour, but those articles only which are made in what are, in popular language, called manufactories. To call a farmer, who cultivates his land and reaps and markets his crops, a manufacturer—as he is in the scientific signification of the term—would do violence to language in the construction of a statute, and yet the owner who cuts down the trees which are the growth of his land, and prepares from them lumber for sale in the market, and engages in it as a business is, in a popular sense, and therefore in a legal sense, a manufacturer. Such a person was held to be a manufacturer within the meaning of the Bankrupt Act. *In re Chandler*, 1 Lowell, 478. . . . The Federal Court in the Territory of Utah in 1872, decided that the publishers of a daily newspaper, who also conducted in connection therewith a book and job printing office, in which are manufactured cards, notes, bill heads, blank books, posters, show bills, etc., were manufacturers within the meaning of the Bankrupt Act. *In re Kenyon & Fenton*, 6 Nat. Bank. Reg. 238. In a later case, decided in 1877, the Supreme Court of the District of Columbia decided that the publisher of a weekly newspaper was not a manufacturer within the meaning of the Bankrupt Act. *In re Capital Publishing Co.*, 18 Nat. Bank. Reg. 319. In the last case referred to, *In re Kenyon & Fenton* was cited and commented on. It was there observed that in the earlier case the decision was placed upon the ground that the bankrupts were manufacturers of books, bill heads, etc., and it was declared that in that respect they were undoubtedly manufacturers within the meaning of the Act. This observation was well founded, and all that was necessary to the decision of the territorial Court was that the parties were in fact engaged in some business which made their transactions amenable to the bankrupt law. The rest of the

opinion was *obiter dictum*, and was disapproved. We agree with the reasoning and with the conclusion of the Court in *In re Capital Publishing Co.*, that the publisher of a newspaper is not, in a legal sense, a manufacturer. It is true that in the production of his papers, which he sells, he employs manual labour and mechanical skill. But so does the sculptor who produces, as the result of his handiwork and genius, the statue; so does the painter who executes his painting with his palette and his brush; so does the lawyer who prepares his brief, or the author who writes a book. But neither the sculptor nor the painter is classified as a manufacturer by reason of his works; nor would the lawyer or the author be regarded as a manufacturer though they employed a printer—the former to print his brief, and the latter his book. In the ordinary and general use of the word, 'manufacturer,' the publishing of a newspaper does not come within the popular meaning of the term. As was said by the Court in the case last cited, no definition of the word 'manufacturer' has ever included the publisher of a newspaper, and the common understanding of mankind excludes it. . . . It gives employment to printing presses, types and editors, and yet in the whole history of newspapers from the close of the seventeenth century, this word 'manufacturer' has never been applied to them, or appropriated by them in the whole range of English literature. No author has ever so used it, and it is never so applied by any statute or any authority except by way of opinion in the solitary case from Utah. A newspaper has intrinsically no value above that of the unprinted sheet. Indeed, it has less value, considered intrinsically, as a mere article of merchandise. Its value to its subscribers arises from the information it contains, and its profit to the publisher is derived, in a great measure, from the advertising patronage it obtains by reason of the circulation of the paper, induced by the enterprise and ability with which it is conducted. Neither in the nature of things nor in the ordinary signification of language, would a newspaper be called a manufactured article or its publisher a manufacturer." But on the other branch, "both the cases cited from the Federal Courts agree that a person engaged in