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# The Farmer and the Bankruptcy Laws

J. Wesley Oler

In conclusion the following generalizations may be made:

I. Ignorance of the common law or a statute is never a defense.

II. A mistake of law is not a defense, except:

A. When the mistake was due to a reliance on a decision of the highest court in the state.

B. When the law upon the subject is confusing or obscure, and capable of more than one reasonable interpretation.

C. When the mistake negatives the specific intent which is an essential element of the crime.

Richard E. Kohler

## THE FARMER AND THE BANKRUPTCY LAWS

In amending the statutory definition of a farmer under the Bankruptcy Act, the 74th Congress progressed with one foot and regressed with the other. It incidentally raked anew the coals of an old controversy centering around the question, Who is a farmer?

Our present Bankruptcy Act,[1] basically created in 1898 and frequently amended since then,[2] exempts farmers from involuntary bankruptcy.[3] It is not the writer's purpose to question the wisdom of extending to the farmer the benefits of voluntary bankruptcy, while withholding from his creditors the complementary assistance of involuntary proceedings.[4] The humanitarian aspects of our

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[1]Act of July 1, 1898, 30 Stat. 544, 11 U. S. C. A. 1-303.

[2]Acts of Feb. 15, 1903; June 15, 1906; June 25, 1910; Mar. 2, 1917; Jan. 7, 1922; May 27, 1926; Feb. 11, 1932; Mar. 3, 1933; May 24, 1934; June 7, 1934; June 18, 1934; June 28, 1934; May 15, 1935; Aug. 28, 1935.

[3]Bankruptcy Act, section 4b, as amended May 15, 1935, c. 114, sec. 1, 49 Stat. 246; 11 U. S. C. A. 22b. Wage-earners (individuals who work for wages, salary, or hire, at a rate of compensation not exceeding $1500 per year) and the following corporations are also immune from involuntary bankruptcy: municipalities, railroads, insurance companies, banks, and building and loan associations.

[4]That the courts are not in agreement as to the reason for the exception is indicated by the two following quotations—the one arbitrarily certain, the other hesitatingly general:

"The intent of Congress to protect men in agriculture, who might fall behind from the failure of crops for one or two seasons, has always been recognized as the basis for this provision in the statute." In re Doroski (D. C.), 271 Fed. 8, at p. 9 (1921).

"It may be safely assumed that Congress had no wish to facilitate preferences among a farmer's banking or mercantile creditors. There were in its judgment, however, reasons which in the overwhelming majority of cases made it inexpedient that farmers be subject to the possibility of involuntary bankruptcy, although, of course, there would be instances in which the denial to creditors of the right to institute bankruptcy proceedings against a farmer would work grave injustice to them and be of no benefit to him." In re Disney (D. C.), 219 Fed. 294, at 297 (1915).

bankruptcy law show forth favorably when contrasted with the practice which existed in ancient Babylonia, where the defaulting debtor was sold into slavery.[5] And we may pride ourselves that creditors are no longer entitled to the dubious privilege of cutting an insolvent's body into pieces and sharing it proportionately, as was allegedly the case in Rome under the law of the Twelve Tables.[6] Even a cursory review of the barbaric treatment once undergone by persons unable to meet their obligations prompts us not to be overly critical of our own system. Yet for centuries the trend of bankruptcy legislation has been in the direction of enlarging the field of those who may become bankrupts. Thus, while the earliest statute on bankruptcy in this country dealt exclusively with involuntary proceedings against merchants,[7] the second Bankruptcy Act added as voluntary bankrupts all persons "owing debts",[8] and the Bankruptcy Act of 1867 embraced all persons, irrespective of occupation, owing debts exceeding $300, whether such persons voluntarily sought the relief or were the objects of involuntary petitions.[9] Therefore, it was reversal of the previous tendency when the Act of 1898 excepted from involuntary proceedings wage-earners and persons "engaged chiefly in farming or the tillage of the soil." In England, the source of our own bankruptcy system,[10] any debtor may be an involuntary bankrupt, regardless of his vocational pursuits.[11]

But whatever may have been the purpose of the framers of the Act of 1898 in exempting from involuntary proceedings all natural persons "engaged chiefly in farming or the tillage of the soil", it must be conceded that the wording of the exemption gave rise to a variety of interpretations among the courts. Although it was uniformly agreed that the facts of each case should determine whether a given debtor fell with the exempt class,[12] and although it was also admitted that if one was actually engaged chiefly in farming or the tillage of the soil, the presence of other interests became immaterial,[13] still, in the application of these generalities, the courts often rendered decisions disconcertingly contradictory.

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[5]Code of Hammurabi, secs. 115-116.

[6]2 Bl. Comm., ch. 31, p. 472.

[7]Act of April 4, 1800, sec. 1, 2 Stat. 19. Repealed by the Act of Dec. 19, 1803, 2 Stat. 248.

[8]Act of Aug. 19, 1841, sec. 1, 58 Stat. 440. Repealed by the Act of Mar. 3, 1843, 5 Stat. 614.

[9]Act of Mar. 2, 1867, secs. 11 & 39, 14 Stat. 517. Repealed by the Act of June 7, 1878, 20 Stat. 99.

[10]Sexton v. Dreyfuss, 219 U. S. 339 (1910).

[11]Act of 4 & 5 George V (1914), c. 59, sec. 1.

[12]In re Mackey (D. C.), 110 Fed. 355 (1901); In re Glick (C. C. A.), 26 F. (2d) 398, at 400. *Cf.* also In re Storey (D. C.), 9 F. Supp. 858 (1934).

[13]Virginia-Carolina Chem. Co. v. Shelhorse (C. C. A.), 228 Fed. 493 (1915).

## FARMING AND THE TILLAGE OF THE SOIL

Some judges took the position that "farming" and "the tillage of the soil" were synonymous terms.[14] Others decided that the two expressions indicated distinct occupations.[15] In order to be consistent, those adopting the former view were obliged to hold that the raising of live stock was not farming.[16] Needless to say, the opposite opinion was maintained with equal insistence by courts adhering to the idea that farming included more than the tillage of the soil.[17]

## CHIEF OCCUPATION

The adverb "chiefly", as used in the series of words, "engaged *chiefly* in farming or the tillage of the soil", provided even more embarrassment. Granting that each case was to be decided by the court[18] on its own facts, this was little comfort to a judge or referee when confronted with the problem of selecting determinative factors and ascribing to each its appropriate weight under the circumstances. Not just some, but all of the respondent's activities had to be taken into consideration.[19] It was not a question of how much *time* a man put in farming; that was only one element. The question of his interests, and his activities, and the things that engaged his attention, made the distinction.[20] Accordingly,

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[14]"The word 'farmer' and the term 'tillage of the soil' are synonymous." In re Brown (D. C.), 284 Fed. 899, at 900 (1922). "The word 'farming' and the words 'tillage of the soil' mean the same thing." Hart-Parr Co. v. Barkley (C. C. A.), 231 Fed. 913 (1916).

See also In re Spengler (D. C.), 238 Fed. 568 (1922).

[15]"Tillage of the soil does not stand as a statutory definition of farming. Tillage is a part of farming, but is not coextensive with the whole of farming." In re Dwyer (C. C. A.), 184 Fed. 880 (1911). *Cf.* also In re Thompson (D. C.), 102 Fed. 287 (1900), where it was stated that one might be a farmer and yet not a tiller of the soil. In Bank of Dearborn v. Matney (D. C.), 132 Fed. 75 (1904), the court took what may be called a middle ground, when it denied that the terms were synonymous but said that they were "more or less closely allied." In Wulbern v. Drake (C. C. A.), 120 Fed. 493 (1903), *aff'g.* In re Drake (D. C.), 114 Fed. 229 (1902), the court added no light to the subject when it defined farming as the business of cultivating land or employing it for purposes of husbandry."

[16]In re Thompson (D. C.), 102 Fed. 287 (1900); In re Brown (D. C.), 132 Fed. 706 (1904); In re Stubbs (D. C.), 281 Fed. 568 (1922). See also Bank of Dearborn v. Matney (D. C.), 132 Fed. 75 (1904); In re Brown (C. C. A.), 253 Fed. 35 (1918), *aff'g* 251 Fed. 365 (1918). Likewise it was observed by way of dictum that one engaged chiefly in operating a dairy farm was not exempt from involuntary bankruptcy. Gregg v. Mitchell (C. C. A.), 166 Fed. 725 (1909).

[17]In re Dwyer (C. C. A.), 184 Fed. 880 (1911); In re Tyler (D. C.), 284 Fed. 152 (1922); Semble, In re Sutter (D. C.), 270 Fed. 248 (1920).

[18]In bankruptcy procedure right to a jury trial on the issue of the defendant's occupation does not exist as a personal prerogative. Moore v. Yampa Mercantile Co. (C. C. A.), 287 Fed. 629 (1923). For the cases where a jury trial may be demanded, see Bankruptcy Act, sec. 19a, 11 U. S. C. A. 42a. It the question of the respondent's occupation is submitted to a jury, the verdict is advisory only. Moore v. Yampa Mercantile Co., *supra.*

[19]In re Brown (C. C. A.), 253 Fed. 357 (1918), *aff'g* 251 Fed. 365 (1918).

[20]In re Spengler (D. C.), 238 Fed. 862 (1916).

the fact that one devoted the greater part of his energy and capital to a given pursuit did not control the case entirely.[21] Proof that most of an insolvent's debts sprang from enterprises unconnected with agriculture tended to refute any contention that he was principally engaged in farming,[22] but such proof, standing alone, did not settle the question.[23] The comparative amount of revenue received in different fields of endeavor represented still another factor to be considered.[24] Where the equities of a case were particularly well balanced the court truly had a difficult task in arriving at a fair conclusion. Even though a few courts tried gallantly to come to the rescue with an all-inclusive definition of "chief business", the futility of these attempts was manifest. We may well imagine with what longing the federal courts looked to the Canadian Bankruptcy Act, which removes all doubt on this point by exempting persons engaged *solely* in farming or the tillage of the soil.[26]

A review of the decisions may give the reader a better idea of some of the situations that arose in this connection. Where a man tilled over thirty-five acres of land, rented twenty-five acres more to other farmers, and received compensation for seventy-five acres of pasturage, but also maintained a picnic grounds, it was held that he was not engaged chiefly in farming.[27] One who spent most of his time in farming, though devoting some attention to the practice of law, was exempt from involuntary bankruptcy.[28] The same result was reached with reference to a person chiefly engaged in farming who was also a private banker,[29] or a bank cashier,[30] or the operator of a grist mill,[31] or who conducted a country

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[21]In re Mackey (D. C.), 110 Fed. 355 (1901).

[22]In re Brown (D. C.), 284 Fed. 899 (1912); In re Maclem (D. C.), 22 F. (2d) 426 (1927).

[23]Powers v. Silberman (C. C. A.), 3 F. (2d) 802 (1925).

[24]Instances of this are frequent. See, for example, In re Hoy (D. C.), 137 Fed. 175 (1905); Rise v. Bordner (D. C.), 140 Fed. 566 (1905); Am. Agr. Chem. Co. v. Brinkley (C. C. A.), 194 Fed. 411 (1912).

[25]One's chief occupation or business is "that which is of principal concern to him, of some permanency in its nature, and on which he chiefly relies for his livelihood or as a means of acquiring wealth, great or small." In re Mackey (D. C.), 110 Fed. 335 (1901). See also Bank of Dearborn v. Matney (D. C.), 132 Fed. 75 (1904).

One's chief business is "the business to which he devotes more largely his time and attention—which he relies upon as a source of income for the support of himself and family, or for the accumulation of wealth." Wulbern v. Drake (C. C. A.), 120 Fed. 495 (1903), *aff'g* In re Drake, 114 Fed. 229 (1902).

[26]Act of 9 & 10 George V (1919), c. 36, sec. 8 (1).

[27]Stephens v. Merchants' Nat. Bank (C. C. A.), 154 Fed. 341 (1907).

[28]In re Hoy (D. C.), 137 Fed. 175 (1905); Olive v. Armour & Co. (C. C. A.), 167 Fed. 517 (1909).

[29]Couts v. Townsend (D. C.), 126 Fed. 249 (1913).

[30]Harris v. Tapp (D. C.), 235 Fed. 918 (1916).

[31]King v. Ohio Valley Trust Co. (C. C. A.), 286 Fed. 928.

store,[32] or maintained a greenhouse,[33] or had a financial interest in various manufacturing concerns.[34] On the other hand, a doctor-farmer who kept regular office hours was deemed to be chiefly engaged in the practice of medicine.[35]

Especially troublesome was the case of the so-called "retired farmer". Courts generally regarded such a person as being subject to an involuntary petition in bankruptcy,[36] even though he continued to live on the farm,[37] leasing it under a "share-cropper" arrangement,[38] and doing occasional work thereon during employment scarcity.[39] Yet one who retired from his farm and went to live in town, leasing the farm to another under an agreement to assist on the farm when able, was held to be chiefly engaged in farming.[40] The courts were not in harmony even on the question of the necessity of one's having any occupation at all.[41]

Where a farmer conveyed to his wife the title to his farm and thereafter continued to operate the farm as his own, the wife merely performing the usual duties of a farmer's wife, it was held that she could properly be adjudicated an involuntary bankrupt.[42] Yet a farmer's widow, on whom title to the land devolved and whose son operated the farm with the understanding that she was to share in the profits, was held to be engaged chiefly in farming, whether she continued to reside on the farm[43] or lived elsewhere.[44]

### PARTNERSHIPS AND CORPORATIONS AS FARMERS

Only natural persons were included in the farming exemption. Therefore, while one who operated a farm for a corporation was exempt from involuntary

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[32]Wulbern v. Drake (C. C. A.), 120 Fed. 493 (1903), *aff'g* In re Drake (D. C.), 114 Fed. 229 (1902); Rise v. Bordner (D. C.), 140 Fed. 566 (1905); Sutherland Medicine Co. v. Rich & Bailey (D. C.), 22 Am. B. R. 85 (1909); Am. Agr. Chem. Co. v. Brinkley (C.C.A.), 194 Fed. 411 (1912).

[33]In re Terry (D. C.), 208 Fed. 162 (1913).

[34]Counts v. Columbus Buggy Co. (C. C. A.), 210 Fed. 748 (1913); Powers v. Silberman (C. C. A.), 3 F. (2d) 802 (1925). But see In re Brown (D. C.), 284 Fed. 899 (1922).

[35]Gilkey v. National Alumni (C. C. A.), 288 Fed. 196 (1923). Similarly as to one whose principal business was the operation of a cannery. In re Maclem (D. C.), 22 F. (2d) 426 (1927).

[36]In re Leland (D. C.), 185 Fed. 830 (1910).

[37]In re Matson (D. C.), 123 Fed. 743 (1903).

[38]In re Glass (C. C.A.), 53 F. (2d) 844 (1931).

[39]In re Driver (D. C.), 252 Fed. 956 (1918).

[40]In re Glick (C. C. A.), 26 F. (2d) 398 (1928). To the same effect, see In re Tyler (D. C.) 284 Fed. 152 (1922).

[41]"For the purpose of determining whether a person is subject to an involuntary petition, one must have *some* vocation." In re Brais (C. C. A.), 15 F. (2d) 693, at 694 (1926).
"The evidence shows quite conclusively that appellant, after he ceased work as a bookkeeper and until the acts of bankruptcy were committed, was not actively engaged in *any* occupation." Swift v. Mobley (C. C. A.), 28F. (2d) 610 (1928).

[42]In re Johnson (D. C.), 149 Fed. 864 (1907).

[43]In re Brais (C. C. A.), 15 F. (2d) 693 (1926).

[44]In re Cox (D. C.), 9 F. Supp. 244 (1935).

bankruptcy,[45] the corporation itself did not possess this immunity, even though it was chiefly engaged in farming.[46] A partnership, on the other hand, if similarly engaged, was not subject to involuntary proceedings,[47] nor were the individual members thereof.[48] In fact, if one partner in a firm was engaged chiefly in farming, the partnership being mainly occupied along other lines, such partner could not be adjudged an involuntary bankrupt in his individual capacity.[49] This, however, did not prevent the firm from being so adjudged.[50] And where a partnership entity was adjudicated an involuntary bankrupt, it was held that the court might seize and administer the property of a partner, although, as an individual, he was exempt because chiefly engaged in farming.[51]

## BURDEN OF PROOF AND DATE OF STATUS

Courts were in agreement at least as to the burden of proof. Not only was the petitioning creditor required to carry the primary burden of showing that the respondent was not within the exempt class,[52] but the petition was demurrable if it failed to indicate the debtor's chief occupation.[53] If, however, notwithstanding the petition's defect in this respect, the respondent moved to dismiss the petition on the ground that he was chiefly engaged in farming, his answer was deemed a waiver of the petitioner's failure to make the proper allegation.[54] And having made out a prima facie case, the petitioner freed himself of the duty of continuing with proof, and the burden shifted to the debtor to show his exemption.[55] It was held, too, that the defense was not personal to the debtor, but might be raised by a creditor as well.[56]

Although some courts ruled that a person's occupation should be determined as of the date when he incurred the indebtedness on which the involuntary petition

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[45]Evans v. Florida Nat. Bk. (C. C. A.), 38 F. (2d) 627 (1930), reversing 28 F. (2d) 67 (1928). *Cert. denied,* 281 U. S. 762 (1930).

[46]In re Lake Jackson Sugar Co. (D. C.), 11 Am. B. R. 458 (1904).

[47]Sutherland Medicine Co. v. Rich & Bailey (D. C.), 22 Am. B. R. 85 (1909); Still's Sons v. Am. Nat. Bk. (C. C. A.), 209 Fed. 749 (1913); In re Beiseker & Martin (D. C.), 277 Fed. 1010 (1921).

[48]In re Terry (D. C.), 208 Fed. 162 (1913).

[49]In re Duke & Son (D. C.), 28 Am. B. R. 195 (1912).

[50]In re Disney (D. C.), 219 Fed. 294 (1915).

[51]Dickas v. Barnes (C. C. A.), 140 Fed. 849 (1905).

[52]In re Beisker & Martin (D. C.), 227 Fed. 1010 (1921); In re Brais (C. C. A.), 15 F. (2d) 693 (1926); In re Maclem (D. C.), 22 F. (2d) 426 (1927); In re Cox (D. C.), 9 F. Supp. 244 (1935).

[53]In re Taylor (C. C. A.), 102 Fed. 728 (1900); Rise v. Bordner (D. C.), 140 Fed. 566 (1905).

[54]Smith v. Brownsville State Bk. (C. C. A.), 15 F. (2d) 792 (1926).

[55]In re Leland (D. C.), 185 Fed. 830 (1910); In re Driver (D. C.), 252 Fed. 956 (1918).

[56]In re Taylor (C. C. A.), 102 Fed. 728 (1900). Instance, In re Sutter (D. C.), 270 Fed. 248 (1920).

was based,[57] the more generally accepted doctrine fixed his status as of the time the alleged act of bankruptcy was committed.[58] On principle, the minority rule should have been applied only where the debtor changed from a non-exempt occupation to an exempt one for the express purpose of defrauding his creditors.[59]

## AMENDMENT OF 1933

The years 1933, 1934, and 1935 saw Congress double the contents of the Bankruptcy Act with amendments designed to aid and relieve debtors by way of compositions, extensions, adjustments, and reorganizations. Among the added sections is 75,[60] providing for agricultural compositions and extensions. The benefits of this section extend only to "farmers". The framers of this amendment sought to obviate some of the problems which the courts had encountered in dealing with the exemption of persons engaged chiefly in farming or the tillage of the soil. Accordingly, they supplied a statutory definition of a farmer. This read as follows:

> "For the purpose of this section [75] and section 74, the term 'farmer' means any individual who is personally engaged primarily in farming operations or the principal part of whose income is derived from farming operations, and includes the personal representative of a deceased farmer . . . ."[61]

If Congress thought that this definition would be free from ambiguity, the confidence was badly misplaced. The courts still had the problem of deciding whether the word "farming", as here used, included more than tillage of the soil. Answering this question in the negative, one court decided that a person engaged primarily in raising sheep was not a farmer.[62] In constrast, it was held in another jurisdiction that one who derived all his income from raising chickens was a farmer within the definition quoted.[63]

Use of the term "primarily" instead of "chiefly", and "farming operations" instead of "farming or the tillage of the soil", may have been intended to help

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[57]In re Burgin (D. C.), 173 Fed. 726 (1909). *Cf.* also In re Crenshaw (D. C.), 156 Fed. 638 (1907); In re Wakefield (D. C.), 182 Fed. 247 (1910); Tiffany v. La Plume Co. (D. C.), 141 Fed. 444 (1905).

[58]In re Mackey (D. C.), 110 Fed. 355 (1901); Olive v. Armour & Co. (C.C.A.), 167 Fed. 517 (1909); In re Disney (D. C.), 219 Fed. 294 (1915); In re Inman (D. C.), 57 F. (2d) 595 (1932).

[59]Harris v. Tapp (D. C.), 235 Fed. 918 (1916).

[60]11 U. S. C. A. 203.

[61]Bankruptcy Act, sec. 75r. Act of Mar. 3, 1933.

[62]In re Palma (D. C.), 8 F. Supp. 920 (1934).

[63]In re Wilkinson (D. C.), 10 F. Supp. 100 (1935). So also as to one who operated a fruit orchard. In re Plumer (D. C.), 9 F. Supp. 923 (1935).

the courts. If so, the purpose was not accomplished, for some judges held,[64] and others denied,[65] that decisions under the wording of section 4b were controlling in the interpretation of the amendment.

The addition of the disjunctive clause, "or the principal part of whose income is derived from farming operations", only served to create more confusion in the minds of the courts. In a case construing the effect of these words the court ruled that the use of the correlative "or" did not destroy the necessity of the petitioner's being primarily engaged in farming. Thus, a person who derived most of his income from the operation of a citrus farm, but who lived in town and spent most of his time in practicing dentistry, was held not to be a farmer.[66] The decision appears to be directly opposed to the express wording of the definition.

Good faith became another test of a person's right to call himself a farmer under section 75. He was required not only to be primarily engaged in farming operations, but also to be so operating bona fide and in person. The framers of the amendment doubtless injected the element of good faith to prevent the possible practice of changing occupations simply to take advantage of the special benefits offered by section 75. In the exercise of general equitable powers, a court of bankruptcy probably already had implied authority to frustrate such an attempt. At any rate, under this provision it has been held that if A owns property worth more than the mortgages on certain of his farms, and conveys his encumbered farms to B, who owns no other realty and no farm implements, B is not a bona fide farmer.[67]

The word "individual", as used in the definition, may have been meant to include a partnership,[68] but certainly not a corporation. The word "income", referred, of course, to gross income, rather than net income.[69] And by "farming operations" was meant the production of raw foods or other material by natural processes of growth.[70]

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[64]"The court is of the opinion that there is little distinction between the phrase 'chiefly engaged in farming', and that of 'personally . . . . engaged primarily in farming,' or that of 'the principal part of whose income is derived from farming operations.' Consequently, the reasoning of the courts in interpreting the language used in the original act is persuasive." In re Day (D. C.), 10 F. Supp. 229, at 231 (1935). In the case of In re Palma Bros. (D. C.), 8 F. Supp. 920 (1934), construing the definition, the court cited as authority cases decided under section 4b.

[65]In the case of In re Wilkinson (D. C.), 10 F. Supp. 100 (1935), the court said: "It is not necessary to be governed by the decisions made under section 4."

[66]In re Hilliker (D. C.), 9 F. Supp. 948 (1935). The court says, p. 950. "If in the definition of a 'farmer' the lawmakers had stopped when they declared that a 'farmer' was one who is 'personally bona fide engaged primarily in farming operations', the courts would have little difficulty in the matter of interpretation. The additional words, separated by the disjunctive 'or' inject cause for debate."

[67]In re Fullager (D. C.), 8 F. Supp. 602 (1934).

[68]That a partnership was included was assumed, but not specifically decided, in the case of In re Palma Bros. (D. C.), 8 F. Supp. 920 (1934).

[69]In re Knight (D. C.), 9 F. Supp. 502 (1934).

[70]Ibid.

Under this definition of a farmer,[71] as well as under the former wording of section 4b,[72] the territorial extent of a person's farming operations played a decisive role in determining whether he was engaged in farming. Thus, a mere truck gardner was held not to be engaged in farming.[73] Just where the line was to be drawn never clearly appeared.

THE FARMER IS REDEFINED

By virtue of the Act of May 15, 1935,[74] there is now complete uniformity in the definition of those who are exempt from involuntary bankruptcy under section 4b and those who may take the benefits of section 75. Section 4b now provides:

> "Any natural person, except a wage-earner or a *farmer* may be an involuntary bankrupt . . . . . "

And section 75r now provides:

> "For the purposes of this section (75), section 4b, and section 74, the term 'farmer' includes not only an individual who is primarily bona fide personally engaged in producing products of the soil, but also any individual who is primarily bona fide personally engaged in dairy farming, the production of live stock, or the production of poultry products or live stock products in their unmanufactured state, or the principal part of whose income is derived from any one or more of the foregoing operations, and includes the personal representative of a deceased farmer . . ."

This definition not only helps to make the Act harmonious within itself, but removes all previous doubt as to the status of those who raise live stock and poultry. Most of the old questions, however, still remain to be solved. Courts will continue to be bothered by the terms "personally", "primarily", "bona fide", and "individual". And by all means a more satisfactory explanation must be made as to the effect of the word "or", in the clause beginning, "or the principal part of whose income is derived . . . ". Since Congress has made a fresh start, it is to be hoped that the courts will follow suit.

J. Wesley Oler

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[71]In re Weis (D. C.), 10 F. Supp. 227 (1935).

[72]In re Spengler (D. C.), 238 Fed. 862 (1916); Swift v. Mobley (C. C. A.), 28 F. (2d) 610 (1928).

[73]In re McMurray (D. C.), 8 F. Supp. 449 (1934); In re Weis (D. C.), 10 F. Supp. 227 (1935); In re Spengler (D. C.), 238 Fed. 862 (1916).

[74]C. 114, sec. 1-3, 49 Stat. 246.