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Law Rev. 14; Stebbins, *Constitutionality of the Recent Amendments to the Bankruptcy Law*, 17 Marq. Law. Rev. 163; Sargent and Zerkowich, *The Problem of Reorganizing "Solvent" Corporations*, 29 Ill. Law Rev. 137. Those holding against its constitutionality contend that the constitutional grant "on the subject of bankruptcies," (U.S. Const., Art. 1, Sect. 8), does not give the authority to effectuate a plan of reorganization. However the Supreme Court of the United States has never attempted to make an inclusive definition of "the subject of bankruptcies" as pointed out by Judge Sparks in *In re Landquist (In re Parmenter)*, 70 F. (2d) 929 (C.C.A., 7th, 1934). Those upholding the validity of the amendments see little difference between a scaling down of secured claims, and a compelling of unsecured non-assenting creditors to accept less than their contract claims in a composition proceeding. Composition proceedings are valid. *In re Reiman*, 20 Fed. 490, (D.C.S.D., N.Y., 1874); *In re Landquist*, supra.

ROBERT P. HARLAND.

CONDITIONAL SALE AGREEMENTS—ASSIGNMENTS—AUTOMOBILE REGISTRATION.—

An automobile dealer purported to sell a car to one of his salesmen. Payment of the stipulated purchase price was secured by a conditional sale agreement. The car was left in the dealer's garage. The dealer assigned the contract to the defendant who filed it with the register of deeds in the county where the salesman resided. That was not the county where the dealer's garage was located. The dealer sold the car in the regular course of business to another purchaser on another conditional sale contract which the dealer assigned to the plaintiff. This contract was filed in the proper district. The defendant eventually seized the car claiming as an assignee of the vendor. Thereupon the plaintiff also claiming as an assignee of the vendor, brought this action for conversion. The trial was by the court and there was a judgment for the plaintiff. *Held*, judgment affirmed, the contract upon which the defendant relied was void, and the defendant had failed to file the contract in the proper district. *Burnett Co. Abstract Co. v. Eau Claire Citizen's L. & I. Co. Co.*, (Wis., 1934) 255 N.W. 890.

Conceding, as the court does when it suggests the second ground for decision, that the assignment of the first sale agreement was comparable to the giving of a chattel mortgage, the defendant, having failed to comply with the filing statute (Wis. Stat. [1933] § 241.10), could get no protection against a subsequent purchaser or encumbrancer like the plaintiff, the second assignee. *Carpenter v. Forbes*, 211 Wis. 648, 247 N.W. 857 (1933); *Hartford Accident & Indemnity Co. v. Callahan*, 271 Mass. 556, 171 N.E. 820 (1930). On that ground alone the decision could be supported, but the court suggested, too, that the contract upon which the defendant had relied was void, because there had been no change of possession after the purported sale. It is submitted here that the mere fact that a salesman had purported to purchase an automobile from his employer on a conditional sale agreement, and that he had permitted the car to remain in the dealer's garage, would not be conclusive that the sale was void, nor would it follow thereafter that an assignee of the dealer-vendor could get no protection against any third party. Whether the dealer and his salesman have caused the car to be registered in the name of the salesman, the purported vendee, and whether they have caused a certificate of title to be issued to him, ought to be the decisive factors in these cases concerning the amount of protection to be given to an assignee situated like the defendant in the instant case, and that ought to be true whether the deal between the dealer and the salesman was a real transaction

or only a pretended one. See, *General Motors Acceptance Corp'n. v. Ferguson*, 191 N.E. 834 (Ohio App., 1934); *Tripp v. Shawmut Bank*, 263 Mass. 505, 161 N.E. 904 (1928). If a certificate of title had been issued to the original vendee, it is not likely that the dealer in the instant case would have tried to sell the car to a second purchaser. The assignee of the first contract ought to find out whether the certificate of title has been issued. If the purported vendee has a certificate of title, and if the assignee has filed the contract in the proper district, he ought to be protected against any subsequent claimant to the automobile, even against a subsequent claimant like the second vendee or like the second assignee as in the instant case, conceding that what is not likely to occur does happen, that another certificate of title is issued to a second purchaser because of the connivance or mistake on the part of the administrative officials in the office of the secretary of state. If the assignee takes an assignment when no certificate of title has been issued he has failed to protect himself against a second sale which no administrative official can detect. It is submitted too, that filing in the proper district ought not be enough to protect this assignee against a second purchaser or an encumbrancer through the second purchaser where the automobile is a new car. It is easy to understand why a second purchaser might not examine the records to find if there are encumbrances on new automobiles in the hands of a dealer. As between the first assignee and the second purchaser in this situation the first assignee has made the first, and it is suggested, the more important mistake.

JOHN C. QUINN.

CORPORATIONS—AGREEMENT TO PURCHASE STOCK—SUBSCRIPTION OR EXECUTORY CONTRACT.—The claimant was the employe of the insolvent corporation. He seeks to recover from the receivers thereof money paid under a contract with the corporation whereby he subscribed for \$20,000 of capital stock in the corporation and agreed to pay for the same in installments. When the receivers for the corporation were appointed, claimant had paid in \$17,600 under the contract. The corporation needed no funds when the subscription was taken; the stock was issued to the corporation's agent in one block and he in turn transferred the required number of shares to the employes when their subscriptions were fully paid. The directors never specifically authorized the issuance of the stock to the agent; and the balance sheet did not reflect such issuance. *Held*, the claimant was a stockholder and not a creditor of the corporation and could not recover the payments made. *Hegarty v. American Commonwealths Power Corp.*, (Del., 1934) 174 Atl. 273.

A stockholder is one who appears on the books of the corporation as the owner of shares, and is, therefore, entitled to a voice in the management and burdened with the liabilities incident to that relation. See, *Ludden v. Bates*, 18 Ala. App. 652, 94 So. 239 (1922); *O'Brien v. Fulkerson*, 75 Mich. 554, 42 N.W. 979 (1889). A subscription for stock is to be distinguished from a contract to purchase stock from a corporation. *Walter A. Wood Harvester Co. v. Jefferson*, 57 Minn. 456, 59 N.W. 532 (1894); *Peninsula Leasing Company v. Cody*, 161 Mich. 604, 126 N.W. 1053 (1910); *Fletcher Cyclopedic Corporations*, (1933), Perm. Ed., §§ 1363-73. The distinction between the sale of corporate stock and a subscription thereto is that a subscriber has certain attributes in the way of rights, privileges, and liabilities, including title, that do not attach to a purchase. See, *Walter A. Wood Harvester Company v. Jefferson*, *supra*. The subscriber becomes, by virtue of the subscription and its acceptance, a stockholder with all the rights and subject to all the liabilities, common law and statutory, which