was promised by the client in return for the attorney's personal attention in taking a deposition in the state of California. The court recognized the general rule, but said that the services were such as were not contemplated in the original agreement, and, therefore, could be recovered, *Bishop v. Vaughn,* 172 S. W. 644. These cases show that it is the general rule that the promise of a client to pay a fee in addition to the fee agreed upon at the beginning of the relation of attorney and client for the same services is void and not enforceable. That the exceptions to this rule depend upon the facts of the particular case and the state where the case is tried, and that Minnesota has gone the farthest in allowing the attorney to recover the increased fee because of the fact that the Minnesota courts will construe the new agreement to be an abrogation of the old agreement and the forma-

M. L. S., '27.

BANKRUPTCY—CLAIMS—SALES—BAILMENTS.—*In re Belle,* District Court W. D. Pennsylvania, 1925.

The petitioner, one Herman Goldberg, sought to repossess and recover from the receiver in bankruptcy certain drug store fixtures. The fixtures in question had been in the possession of the bankrupt under a contract which is in the correct form of a bailment contract, and alleged by the petitioner to be a bailment lease. The receiver, after this petition, had asked for a sale of the bankrupt's personalty, including the latter's interest in the fixtures claimed by Goldberg. Contemporaneously with the so-called lease, a contract of sale of the stock of goods in the store was entered into between Goldberg as vendor and the bankrupt Belle as vendee. Certain down payments were made and the remainder of the purchase price was payable by monthly installments of $100 each. By this contract, when the whole was paid on the goods, Goldberg was to give a bill of sale for the fixtures. Title and possession of the stock of goods were not deferred, but given immediately. *Held*: the contract concerning the fixtures, while in form a bailment, is in reality a conditional sale. The surrounding facts determine the real nature of the transaction. Under Pennsylvania law the fixtures could not be recovered from the receiver.

This decision is rightfully reached by construing the fixtures contract in the light of extraneous facts, and in view of the contract of sale of the stock of goods. The monthly payment of $100, referred

to in each contract, was one and the same payment. The wording and form of the fixtures contract were usual for a bailment, but the courts again look behind the veil of a mere form of words to determine what the transaction really was; no doubt an agreement of sale. Such being the case, the bankrupt's property in the fixtures passes to the receiver and cannot be reclaimed by the vendor.

In effecting a comparison of the principal case with prior decisions, we notice the following characteristics: There is no allegation of fraud, although by authority of *Marion Co. v. Girand,* 285 Fed. 160, actual fraud in a purchase of property by a bankrupt is not necessary to entitle a seller to reclaim it, but it is sufficient if in equity and good conscience he should have that right.

The sales law governing passing of title is the local state law; in the present case the law of Pennsylvania. In accord is *In re Shiffert,* 281 Fed. 284, a Pennsylvania case. Massachusetts appears to be on both sides of the fence. In *Guaranty Corp. v. Reed,* 299 Fed. 265, conditional bills of sale under which defendant held title to automobiles in dealer's possession as security for loans, were held invalid as against the trustee in bankruptcy, under Massachusetts law. But see *Reed v. Federal Finance Corp.,* 291 Fed. 679. In Illinois, a seller, out of possession but reserving title, can assert it against creditors of a buyer unless the latter have levied attachment or execution thereon. A seller who has repossessed before any such levy, prevails as against execution or attachment, or bankruptcy proceedings against the buyer, which have the effect of such a levy. *In re Thomas Electric Corporation,* 283 Fed 392. An enlightening opinion appears in *Vordan v. Federal Trust Co.,* 296 Fed. 738, where a vendor sold on credit and allowed a bankrupt to appear as if he were the real owner, and thus gain credit from the public. The vendor-owner was held to be estopped, on the buyer's becoming bankrupt, to set up his title to the goods as against the trustee in bankruptcy.

The pertinent cases are in confusion. This is due to the differences in state laws on conditional sales; the effect of fraud, the condition of the commercial paper accompanying the transactions, intention of parties as to passing of title, the effect of the four months feature of the bankruptcy act and many other differences in facts.

The principal case seems in line with the weight of authority—if such there be. An attempted analysis of other decisions does little more than impress one with the desirability of universal adoption of uniform sales legislation. R. B. T., '26.