ly affected because proponents cannot identify such classes in advance. Weiner, Corporate Reorganization, 34 Col. L. Rev. 1173 (1934); *In re Nat'l Lock Co.*, 9 F. Supp. 432 (Ill. 1934). The recent amendment to the Railroad Reorganization section of the Bankruptcy Act (49 Stat. 911 (1935), 11 U.S.C.A. § 205(d) (supp. 1935)) seems to recognize the benefits to be derived from tentative approval by providing for court approval of the plan before its submission to creditors and stockholders. See Friendly, The 1935 Amendment of the Railroad Reorganization Act, 36 Col. L. Rev. 27, 37 (1936).

Corporations—Repurchase Agreements—Right of Stockholders to Object to Their Enforcement—[New Jersey].—Preferred stockholders of X corporation brought a bill to enjoin certain other preferred stockholders from attempting to enforce stock repurchase agreements, and to have the agreements declared void. About one-third of the stock, or $8,000,000 par, had been sold to the corporation's consumer-customers by its employees who represented that, at the option of the holders, the corporation would repurchase at par. No such agreement appeared on the face of the stock. The remainder of the stock was sold through the regular channels and these purchasers neither received an option to resell to the corporation, nor knew that some of the stock was being sold with this privilege. At the time the bill was filed, 21 suits were pending to enforce the repurchase agreements. The corporation at all times has been solvent and now has a large surplus. On motion to dismiss the bill, *held*, motion denied. The option to resell is unenforcible because it deprives the other preferred stockholders of their status of equality. *Hoops v. Leddy*, 182 Atl. 271 (N.J. 1936).

In this country corporations are generally permitted to purchase their own stock. 6 Fletcher, Cyclopedia Corporations §§ 2848, 2849 (perm. ed. 1931). Existing limitations upon the exercise of this power have been developed almost exclusively for the protection of creditors of the corporation. *In re Tichenor-Grand Co.*, 203 Fed. 720 (D.C. N.Y. 1913); *Otsego Paper Co. v. Slosberg*, 230 Mich., 260, 202 N.W. 991 (1925); 42 Yale L. J. 1128 (1933). While creditors may, of course, be seriously injured by the depletion of assets caused by a corporation's purchasing its own stock, the remaining stockholders may be injured irrespective of injury to creditors. Through such purchases, the management can displace the voting control, give preferences to stockholders in the cash assets, deplete the fund of capital necessary for efficient operations, and create, in some cases, a fictitious appearance of success. Levy, Purchase by a Corporation of Its Own Stock, 15 Minn. L. Rev. 1, 22 (1930); 1 Duke Bar Ass'n J. 25, 27 (1933). Yet, courts have rarely recognized these possibilities of injury. See *Price v. Pine Mt. Iron and Coal Co.*, 32 S.W. 267 (Ky. 1895). The possibility of the management's abuse of its power to issue new stock led to the doctrine of preemptive rights to protect a stockholder's interest in the assets of the corporation (as well as his voting control). Perhaps a parallel rule requiring the corporation to give all stockholders an opportunity to dispose of a ratable proportion of their shares whenever the corporation purchases its stock should be recognized. The adoption of such a rule would seriously hamper the present freedom enjoyed by corporations in purchasing their stock, but since this power is fraught with possibilities of abuse, a rule requiring such dealings to be open and deliberate may be socially desirable. Levy, Purchase by a Corporation of Its Own Stock, 15 Minn. L. Rev. 1 (1930); Nussbaum, Acquisition by a Corporation of

Its Own Stock, 35 Col. L. Rev. 971 (1935). Thus far, no court has recognized such a restriction upon this phase of corporate activity.

Whether stockholders may object to the enforcement, at the option of the favored holders, of repurchase agreements made by the corporation at the time of the original sales is not settled. There are numerous *dicta* that such agreements are void as to stockholders as well as creditors. *Grasselli Chemical Co. v. Aetna Explosive Co., Inc.*, 258 Fed. 66, 68 (D.C. N.Y. 1918); *Murphy Grocery Co. v. Skaggs*, 67 Utah 487, 248 Pac. 127, 130 (1926); *White Mts. Ry. Co. v. Eastman*, 34 N.H. 124, 141 (1856). And it has been held that the breach of a repurchase agreement does not give the stockholder a priority over the other stockholders in the assets of the corporation in the hands of a receiver. *Sarbach v. Kansas Fiscal Agency Co.*, 86 Kan. 734, 122 Pac. 113 (1912); see also *Melvin v. Lamar Ins. Co.*, 80 Ill. 446 (1875). But many courts have ignored the probability of injury to the other stockholders where the corporation was solvent and have enforced the agreements on the theory that the sale or subscription was on condition. *Wis. Lumber Co. v. Greene & Western Tel. Co.*, 127 Iowa 350, 101 N.W. 742 (1904); *Chapman v. Iron Clod Rheostat Co.*, 62 N.J. L. 497, 41 Atl. 690 (1898); *Wolf v. Excelsior Scale Co.*, 270 Pa. 547, 113 Atl. 569 (1921). Even when the repurchases were made for more than the market price these agreements have been enforced, despite the resultant injury to the remaining stockholders. *Furrer v. Neb. Bldg. & Investment Co.*, 111 Neb. 67, 195 N.W. 928 (1923); *Vickrey v. Maier*, 164 Cal. 774, 129 Pac. 276 (1912); *Grace Securities Corp. v. Roberts*, 158 Va. 792, 164 S.E. 700 (1932). In the principal case, however, the court held the repurchase agreements unenforcible without requiring a showing of actual injury to the complaining stockholders, on the theory that the privilege to resell was a violation of that equality of rights which should exist among all the stockholders of a class. Such a result would follow as a matter of course under the rule of ratable purchase. It may be that even though such a rule is not recognized as to all purchases of stock, courts should adopt it as to options to resell and thus set aside all preferential agreements to repurchase made by the corporation when the stock is sold. But such agreements, regardless of whether they are made with a few or all of the stockholders should be discouraged. They are inherently vicious. If the corporation prospers, the option to resell is useless; if it fails, the option may be unenforcible, either because creditors have come in, or as in the principal case, because there are objecting stockholders. Under such circumstances, the promise to repurchase is a snare to the investor. On the other hand, if the option is held enforcible, it must necessarily injure the remaining stockholders by the depletion of the assets of the corporation.

Criminal Law—199 Year Sentence as a Denial of Right to Parole—[Illinois].—Plaintiff in error was convicted of murder and on the verdict of a jury was sentenced to a term of 199 years' imprisonment. On appeal, *held*, affirmed. This sentence was authorized by a statute providing for death or imprisonment for life or a term of years not less than fourteen. Ill. State Bar Stats. 1935, c. 38, § 339. The question of circumvention of the parole statute (Ill. State Bar Stats. 1935, c. 38 § 795), providing for the parole of prisoners after serving one third of a definite sentence or twenty years of a life sentence, is not involved in determining the validity of this sentence. *People v. Pace*, 362 Ill. 224, 198 N.E. 319 (1935).

In reaching this decision, the court subscribed to the majority view that the author-