

DISTINCTIONS BETWEEN TRUSTEERING STOCK AND
SELLING IT TO A CORPORATION

(1) Where stock is transferred to a trustee to hold it for the benefit of the transferor, legal title passes to the trustee, but equitable title remains in the transferor; whereas the sale of stock to a corporation in which the seller owns stock transfers both legal and equitable title to the purchasing corporation.

(2). Where stock is transferred to a trustee for the benefit of the transferor, the transferor is entitled to all the income therefrom and the entire proceeds of any sale thereof; whereas the sale of stock to a corporation in which the seller owns stock deprives the seller of any right to the income from the stock sold or the proceeds of any resale thereof in the absence of express contract to the contrary. In the latter case the seller of the stock can thereafter share in such income or proceeds of sale only if the directors of the purchasing corporation choose to declare dividends and only in the proportion which his number of shares in the purchasing corporation bears to the total outstanding shares of said corporation.

(3) If a person transfers National bank stock to a trustee for his own benefit, he remains liable for any assessment thereon; whereas a bona fide, unconditional sale of bank stock to a bona fide corporation prevents the seller from being liable for any stockholders liability incurred thereafter.

(4) Where stock is transferred to a trustee for the transferor's benefit, the transferor can retain the right to vote the same or to instruct the trustee how to vote it; whereas an unconditional sale of stock to a corporation deprives the seller of any right to vote the stock or to direct the manner in which it can be voted, unless the seller is in a position to control the management of the corporation.

(5) Where stock is transferred to a trustee for the transferor's benefit the transferor remains subject to taxation on such stock; whereas the bona fide, unconditional sale of stock to a corporation relieves the seller of any further liability for taxes subsequently levied on such shares.

(6) Where stock is transferred to a trustee for the transferor's benefit, it is not subject to the claims of the creditors of the trustee; whereas stock sold unconditionally to a corporation becomes subject to the claims of all creditors of the corporation.

Effect of the Sale

The sale by Governor Eccles of his stock in the First Security Corporation, of Ogden, to the Eccles Investment Company, of which he is a minority stockholder owning less than 9 per cent of the total stock, resulted in a material change not only in the legal and equitable situation, but in the practical situation as well.

Formerly Governor Eccles was a stockholder in the First Security Corporation; now he is not a stockholder.

Formerly he could vote at stockholders meetings of the First Security Corporation; now he cannot vote at stockholders meetings.

Formerly he had to pay taxes on such stock and on the income therefrom; whereas he no longer has to pay such taxes.

Formerly he had the absolute right to sell, pledge or give away the stock to whom he pleased; whereas he no longer has any such right.

Formerly he was entitled to the entire income from such stock and the entire proceeds of any sale thereof; now the Eccles Investment Company is entitled to the income and proceeds of sale, and Governor Eccles can obtain none of it unless the corporation chooses to pay a dividend or make a distribution of assets. Even in the latter event, instead of receiving all of such income or proceeds of sale of such stock, he would receive less than 9 per cent thereof and the other stockholders of the Eccles Investment Company would receive more than 91 per cent.