STATE AFFAIRS COMMITTEE
March 6, 1967

The meeting was called to order by the Chairman, with all members present. Rep. Loux appeared to discuss H.B. 1378, and stated that this would designate Sedgwick County at an urban area, and permit them to come under certain statutes, and would bring them in line with the spirit of the Constitution. He stated that a lot of legislation referred to areas designated as urban counties and that most of the legislation is permissive but would be a real aid.

Mr. Fred Carmen, Assistant Revisor of Statutes, appeared to explain H.B. 1480, stating that he is also Secretary of the Kansas Interstate Cooperation Commission, and that this law was recommended to the Interstate Cooperation Commission as a "compact"; that H.B. 1132 is a companion bill. This legislation deals with unclaimed property, and he cited the case of Sun Oil Company (see attached material) where they had $37,000 to be paid and they were unable to find the individuals; that the state could escheat abandoned property under this law. He also mentioned insurance companies, banks and savings and loan businesses. He stated he was not talking about automobiles but intangibles, that had been abandoned.

He introduced Dean Howe of Washburn University, who had worked with him in drafting this legislation, and stated that He would answer questions. Mr. Bunten inquired if he thought businesses would be eager to comply; that he felt it would be difficult to enforce. Mr. Carmen explained that he did not appear as a proponent, but at Secretary of the Interstate Cooperation Commission, and it was the recommendation that this legislation be introduced; that probably it might be controversial, with some businesses opposing it, but big companies had a real problem with unclaimed funds, etc. Mr. Rogers asked if it was possible that if Kansas didn't have this bill on the books, that some other state might get monies that would otherwise escheat to Kansas, and Mr. Carmen stated that this is so. Upon question by Mr. Woodworth, it was agreed by Dr. Howe that Section 9 is the reciprocity section. Mr. Woodworth was concerned in such cases as when a purchase is made, payment made and the check never cashed, it becomes non-negotiable after a time, why before the seven year period, the purchaser couldn't stop payment and the proceeds revert back to the business instead of escheating to the state; then, if the creditor ever sued the purchaser could pay. Mr. Turner said he imagined that a big company such as Boeing in Wichita, might have a lot of checks in a period of a year, that were never claimed, and wondered if people like this had been contacted. Mr. Carmen stated the only person he had visited with was Mr. Bob Anderson, representing Mid-Continent Oil and Gas, and that he had received no opinion.

Mr. Anderson stated that he was interested in this bill, but that his company takes no position at this time.

Mr. Bunten inquired about Savings and Loans, in the case where shares are bought, but the passbook never brought in to have entries made, would they be considered abandoned; and Mr. Carmen stated he believed so, but assumed a reasonable effort would be made to find the people before assigning such property to the state. He pointed out that utilities also have a problem where customers make a deposit and then never pick it up when service is discontinued.

Mr. Turner commented that this is very complicated and wondered if this wasn't the type of thing that should carry over until the next session. The Chairman stated that it was possible this might be true and asked the attorneys on the Committee to serve as a sub-committee to consider this. They were appointed as follows: Mr. Rogers, Mr. Turner, Mr. Woodworth and Mr. Buchele. He stated that he would put it on the hold list unless he had objection. Mr. Doyen and Mr. Turner stated they felt a hearing should be had for opponents, and the Chairman directed them to ask for possible opponents.

Mr. Rogers discussed H.B. 1494, the bill drawn to replace Mr. Ratner's 1080; and stated that he had some letters from the universities pointing out some other points; that he would have amendments drawn and be ready to present them soon.

Mr. Doyen stated that he had a request to introduce a bill for another song, written at Centennial time "The 34th Star" and stated that the lyrics were written by someone in the Southeastern part of the state while the music was written by someone else. It was moved by Mr. Buchele that the proposal be introduced as a Committee bill and re-referred for the consideration of the Committee. Motion was seconded by Mr. Ford and carried without dissent.

Meeting was adjourned.

MARGARET GENTRY, Secretary

PROPOSAL No. 15

Unclaimed Property Compact

SUMMARY

The compact would provide a system for the determination of priorities of claim to unclaimed or abandoned property as among two or more states having claims to the escheat or custody of such property. It establishes the state of last known address, state of incorporation, and state of the holder's principal disbursing office (in that order of priority) as the criteria for entitlement. The compact does not make any internal state law on the subject of unclaimed property, but is limited to the settlement of actual and potential disputes among states.

EXPLANATION

The Escheat Committee of the National Association of Attorneys General has had as a major field of interest the development of an Unclaimed Property Compact, work on which was suspended two years ago to await the outcome of *Texas v. New Jersey.*

At least four out of every five states now have fairly comprehensive unclaimed property statutes, and some of the remaining jurisdictions have shown recent interest in legislation of this type. The idea that property which has become unclaimed or abandoned should come into the possession of the state can now be considered well established. The private holder of funds or other property to which he has no claim of his own but which is in his hands only because the rightful owner is unknown or cannot be found is not generally regarded as the proper person to benefit from it. Consequently, statutes now provide in most jurisdictions that, after a fixed period of years, such property is to be delivered into the cu ly of the state. These statutes are of two types, custodial and escheat. The former type provides that the state acts only as custodian and that, if at any time in the future, the person entitled to the property appears and makes claim, the state will pay the property or its equivalent over. The true escheat statute, on the other hand, provides that after a specified period the property belongs to the state. While the differences between these two approaches and their results are notable, the overriding fact is that most of the property delivered to the state under either type of

unclaimed property statute remains in the hands of the state and is available to augment public revenues.

It is probable that in most instances the application of any of the several recognized rules for determining which state is entitled to take unclaimed property yields the same result. However, in enough instances to be of first-rate importance, there is the possibility of claim by more than one state. The last known address of the person entitled to the property may be in one state, while the state in which the holder is incorporated may be another state. Or a variety of other circumstances may produce more than one state whose unclaimed property law could come into play.

Some years ago the number of actual interstate aspects of the unclaimed property situation was relatively small because only a few states had unclaimed property laws. But such is no longer the case. Consequently, the decision in *Western Union Telegraph Co. v. Commonwealth of Pennsylvania,* 368 U. S. 71 (1961) was particularly unsettling. The clear import of that case was that in circumstances where more than one state might be able to claim the property, no state might be able to take, at least not without costly and time consuming litigation in the United States Supreme Court. The reason advanced by the Court was that a state could not take the property unless it could assure the holder that the claims of all other states would be foreclosed.

The logic of this situation appeared to point to an interstate agreement as the most likely means of establishing rules that would produce a single state claimant in particular situations. Accordingly, work on an Unclaimed Property Compact began. The National Association of Attorneys General was involved from the outset, and ultimately came to play the principal role in the drafting of the compact.

While the work was in progress, the case of *Texas v. New Jersey,* 85 S. Ct. 626 (1965) arose, and some states thought it appropriate to await the outcome of that litigation before proceeding with the compact. Since the litigation was decided early in 1965, the Escheat Committee of the National Association of Attorneys General resumed its work.

Since the principle of "last known address" is favored in the statutes of most states, and because the Supreme Court in *Texas v. New Jersey* adopted it as the primary test, the Unclaimed Property Compact also establishes "last known address" as the first reliance for state entitlement to unclaimed property which is both personal

and intangible. With respect to real property and tangible personalty, the compact codifies the generally accepted rule that the entitled jurisdiction is the one in which the property is situated. The compact also makes provision for situations in which the application of the primary test does not yield an entitled state. State of incorporation and principal office of the holder are used, in that order.

While the compact follows the decision of the Supreme Court in basic respects, it is a necessary supplement to and, in some instances, corrective of *Texas v. New Jersey*. That case opened up the prospect of continuing litigation over unclaimed property transactions prior to February 1, 1965 (the date on which the case was decided). It also indicated that further litigation of an unsettling nature might result from subsequently enacted state statutes. The compact would provide necessary finality and stability in these respects, without the need for litigation. By setting up a reasonably complete set of rules for determining entitlement to unclaimed property in cases of multiple state claims, the compact could bring order into the field and assist all states to secure unclaimed property to which they are entitled.

The compact would go into effect on adoption by the first two states. It is open to joinder by all states, the District of Columbia, the Commonwealth of Puerto Rico and Territories and Possessions of the United States. Of course, the compact seeks to affect only rights as among the party states and so will grow in effectiveness as the number of parties increases.

Reference is made to Proposal 16 which describes legislation also related to the problem of disposition of unclaimed property. This commission feels that both proposals are meritorious. The compact will be a better solution if enacted by the surrounding states, but until other states have joined Kansas in enactment of this compact, the legislation to carry out Proposal 16 will be beneficial.

PROPOSAL No. 16

Disposition of Unclaimed Property—Revised Uniform Act

SUMMARY

In 1954 the Conference and the American Bar Association approved the Uniform Disposition of Unclaimed Property Act which is custodial in nature in that it does not result in the loss of the owner's property rights. The state takes custody and remains the custodian in perpetuity. The act serves to protect the interests of owners, to relieve the holders from annoyance, expense and liability, to preclude multiple liability, and to give the adopting state the use of some considerable sums of money that otherwise would, in effect, become a windfall to the holders thereof. Since approval of the act, certain problems have arisen concerning money orders and travelers checks, particularly those issued by an organization not properly classified as a "banking" or "financial institution" as defined in the original act. The amendments approved in 1966 are to take care of these problems.

EXPLANATION

Studies by the National Conference of Commissioners on Uniform state laws have made it abundantly clear that a general act on the disposition of unclaimed property is greatly to be desired. The legislation at present on the statute books is exceedingly diverse and in too many instances is badly formulated. Most states now have statutes dealing with the disposition of unclaimed tangible personal property, the abandonment of which is a more or less obvious fact. In addition about thirty-six states have statutes dealing with the disposition of unclaimed bank deposits. In 1956 only ten states had adopted really comprehensive legislation covering the entire field of unclaimed property, both tangible and intangible. They were: Arkansas, Connecticut, Kentucky, Massachusetts, Michigan, New Jersey, New York, North Carolina, Oregon and Pennsylvania. Since 1956, some states have adopted comprehensive legislation and several states are currently manifesting interest in adopting comprehensive legislation on the subject, and an act carefully drafted to present the best available practices in the field will render a valuable service.

Two decisions of the United States Supreme Court, *Connecticut Mutual Insurance Co. v. Moore,* 333 U. S. 541, 92 L. Ed. 863 (1947) and *Standard Oil Co. v. New Jersey,* 341 U. S. 428, 95 L. Ed. 1078 (1951), reveal that a troublesome problem of multiple liability arises in case two or more states having jurisdiction over unclaimed property enact statutes dealing with such property. If the coverage prescribed by such statutes differs in cases of multiple jurisdiction, it becomes likely that the holder may be subjected to double or perhaps even more extensive liability for funds in its custody. Or, even though the statutes are so framed as to avoid multiple liability, a "race of diligence" between states having jurisdiction may become necessary to reach the funds. In *Connecticut Mutual Insurance Co. v. Moore,* the United States Supreme Court held that the state of New York might take possession of unclaimed funds due on insurance policies belonging to persons whose last known addresses were in the state of New York, even though the insurance company was domiciled in another state. Then, in the later *Standard Oil Company* case, the Court upheld the right of the state of New Jersey, the domicile of the company, to escheat stock and stock dividends of the company belonging to residents of the state of New York. These two decisions taken together reveal the possibility of multiple liability, and one of the principal reasons for the preparation of an act covering the subject is the promotion of statutory means of elimination of this possibility.

During the past two years, the New York State Joint Legislative Committee on Interstate Co-operation and the Council of State Governments have been drafting a proposed interstate compact relating to the disposition of unclaimed personal property. The drafting of the proposed compact follows the recent decisions of the federal courts and also protects the interests of those states, such as Kansas, which do not have large financial institutions within their boundaries as do states such as, New York, Massachusetts, New Jersey, California, etc. This is done by providing that the state in which is located the last known address of the person entitled to the property is entitled to assume custody of the unclaimed property rather than the state in which the holder of the property is incorporated or resides.

As noted in the explanation of Proposal 15, the case of *Texas v. New Jersey* has recently been decided emphasizing the need for this type of legislation. Proposals 15 and 16 are both designed to solve the same problem. The proposals are offered in the alternative for consideration by the 1967 legislature. Since a compact is effective only with states joining it, there is a probability of merit in passing both enactments.

*[379 US 674]

*STATE OF TEXAS, Plaintiff,

v

STATE OF NEW JERSEY et al.

379 US 674, 13 L ed 2d 596, 85 S Ct 626, final decree
380 US 518, 14 L ed 2d 49, 85 S Ct 1136

[No. 13, Orig.]

Argued November 9, 1964. Decided February 1, 1965.

SUMMARY

In an action brought in the Supreme Court of the United States, Texas sued New Jersey, Pennsylvania, and a corporation owing numerous unclaimed debts, for an injunction and a declaration of rights as to which state had jurisdiction to take title to the claims by escheat. Florida intervened.

In an opinion by BLACK, J., expressing the views of eight members of the Court, it was held that the claims were subject to escheat only by the state of the last-known address of the creditor, as shown by the corporate debtor's books and records, and that with respect to property owed persons as to whom there was no record of any address at all, or whose last-known address was in a state not providing for escheat of the property owed them, the property was subject to escheat by the state of the corporate domicil, provided that another state could later escheat upon proof that the last-known address of the creditor was within its borders.

STEWART, J., dissented on the ground that only the state of the debtor's incorporation has power to escheat intangible property when the whereabouts of the creditor are unknown.

HEADNOTES

Classified to U. S. Supreme Court Digest, Annotated

Escheat § 2 — tangible property

1. With respect to tangible property, real or personal, the rule in all jurisdictions is that only the state in which the property is located may escheat.

ANNOTATION REFERENCES

Validity under Federal Constitution of state escheat statutes. 95 L ed 1092, 7 L ed 2d 871.

Suits between states in the Supreme Court. 74 L ed 784, 98 L ed 85.

Validity under Federal Constitution of state statutes relating to disposition of unclaimed bank deposits. 94 L ed 18.

Constitutionality, construction, and application of statutes governing disposition of unclaimed proceeds of life insurance policies. 92 L ed 879.

Escheat or forfeiture to state of property held by corporation in excess of its power or contrary to law. 90 L ed 14.

Escheat of unclaimed bank deposits. 67 L ed 1030.

Uniform Disposition of Unclaimed Property Acts. 98 ALR2d 304.

Escheat of personal property of intestate domiciled or resident in another state. 50 ALR2d 1375.

Supreme Court of the United States § 54.5 — suits between states — escheat

2. In a controversy between states as to which will be allowed to escheat intangible property, it is the responsibility of the Supreme Court of the United States in the exercise of its original jurisdiction to provide a rule to settle the question where there is no applicable federal statute, since the states separately are without constitutional power to settle the controversy.

Courts § 642 — jurisdiction — exclusiveness

3. A state court's jurisdiction of a defendant or his property rights, based on sufficient contact with the state, need not be exclusive.

Escheat § 2 — intangibles — income of real property

4. The fact that an intangible is income of real property with a fixed situs is not significant enough to justify treating it as an exception to the general rule governing escheat of intangibles.

Courts § 756 — rules of decision — case-by-case determinations

5. Any proposed rule of law requiring a decision in each case of the sometimes difficult question of where a company's principal offices are located leaves so much for decision on a case-by-case basis that it should not be adopted unless no other rule is available which is certain and yet still fair.

Escheat § 2 — debts — creditor's last-known address

6. A debt which a person is entitled to collect is subject to escheat only by the state of the last-known address of the creditor, as shown on the debtor's books and records.

Escheat § 2 — debts — corporate debtor's domicil

7. Property owed to persons as to whom there is no record of any address at all, or whose last-known address is a state which does not provide for escheat of debts owed to others, is subject to escheat by the state of the corporate debtor's domicil, provided that another state can later escheat upon proof that the last-known address of the creditor was within its borders.

APPEARANCES OF COUNSEL

W. O. Shultz argued the cause for plaintiff.

Charles J. Kehoe argued the cause for defendant, State of New Jersey.

Fred M. Burns argued the cause for intervenor, State of Florida.

Augustus S. Ballard argued the cause for defendant, Sun Oil Co.

Joseph H. Resnick argued the cause for defendant, State of Pennsylvania.

Ralph Oman argued the cause for the Life Insurance Association of America, amicus curiae.

OPINION OF THE COURT

*[379 US 675]

*Mr. Justice Black delivered the opinion of the Court.

Invoking this Court's original jurisdiction under Art III, § 2, of the Constitution,[1] Texas brought this action against New Jersey, Pennsylvania, and the Sun Oil Company

1. "The judicial Power shall extend . . . to Controversies between two or more States . . . . "In all Cases . . . in which a State shall be Party, the supreme Court shall have original Jurisdiction."

for an injunction and declaration of rights to settle a controversy as to which State has jurisdiction to take title to certain abandoned intangible personal property through escheat, a procedure with ancient origins[2] whereby a sovereign may acquire title to abandoned property if after a number of years no rightful owner appears. The property in question here consists of various small debts totaling $26,461.65[3] which the Sun Oil Company for periods of approximately seven to 40 years prior to the bringing of this action has owed to approximately 1,730 small creditors who have never appeared to collect them. The amounts owed, most of them resulting from failure of creditors to claim or cash checks, are either evidenced on the books of Sun's two Texas offices or are owing to persons whose last known address was in Texas, or

*[379 US 676]

both.[4] *Texas says that this intangible property should be treated as situated in Texas, so as to permit that State to escheat it. New Jersey claims the right to escheat the same property because Sun is incorporated in New Jersey. Pennsylvania claims power to escheat part or all of the same property on the ground that Sun's principal business offices were in that State. Sun has disclaimed any interest in the property for itself, and asks only to be protected from the possibility of double liability. Since we held in Western Union Tel. Co. v Pennsylvania, 368 US 71, 7 L ed 2d 139, 82 S Ct 199, that the Due Process Clause of the Fourteenth Amendment prevents more than one State from escheating a given item of property, we granted Texas leave to file this complaint against New Jersey, Pennsylvania and Sun, 371 US 873, 9 L ed 2d 113, 83 S Ct 144, and referred the case to the Honorable Walter A. Huxman to sit as Special

*[379 US 677]

Master to take evidence *and make appropriate reports, 372 US 926, 9 L ed 2d 732, 83 S Ct 869.[5] Florida was permitted to intervene since it

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28 USC § 1251(a) (1958 ed) provides in relevant part:

"The Supreme Court shall have original and exclusive jurisdiction of:

"(1) All controversies between two or more States . . . ."

2. See generally Enever, Bona Vacantia Under the Law of England; Note, 61 Col L Rev 1319.

3. The amount originally reported by Sun to the Treasurer of Texas was $37,853.37, but payments to owners subsequently found reduced the unclaimed amount.

4. The debts consisted of the following:

(1) Amounts which Sun attempted to pay through its Texas offices owing to creditors some of whose last known addresses were in Texas, some of whose last known addresses were elsewhere, and some of whom had no last known address indicated:

(a) uncashed checks payable to employees for wages and reimbursable expenses;

(b) uncashed checks payable to suppliers for goods and services;

(c) uncashed checks payable to lessors of oil- and gas-producing land as royalty payments;

(d) unclaimed "mineral proceeds," fractional mineral interests shown as debts on the books of the Texas offices.

(2) Amounts for which various offices of Sun throughout the country attempted to make payment to creditors all of whom had last known addresses in Texas:

(a) uncashed checks payable to shareholders for dividends on common stock;

(b) unclaimed refunds of payroll deductions owing to former employees;

(c) uncashed checks payable to various small creditors for minor obligations;

(d) undelivered fractional stock certificates resulting from stock dividends.

5. Texas' motion for leave to file the bill of complaint also prayed for temporary injunctions restraining the other States and Sun from taking steps to escheat the property. The other States voluntarily agreed not to act pending determination of this case, and so the motion for injunctions was denied. 370 US 929, 8 L ed 2d 804, 82 S Ct 1575.

claimed the right to escheat the portion of Sun's escheatable obligations owing to persons whose last known address was in Florida, 373 US 948, 83 S Ct 1677.[6] The Master has filed his report, Texas and New Jersey each have filed exceptions to it, and the case is now ready for our decision. We agree with the Master's recommendation as to the proper disposition of the property.

[1, 2] With respect to tangible property, real or personal, it has always been the unquestioned rule in all jurisdictions that only the State in which the property is located may escheat. But intangible property, such as a debt which a person is entitled to collect, is not physical matter which can be located on a map. The creditor may live in one State, the debtor in another, and matters may be further complicated if, as in the case before us, the debtor is a corporation which has connections with many States and each creditor is a person who may have had connections with several others and whose present address is unknown. Since the States separately are without constitutional power to provide a rule to settle this interstate controversy and since there is no applicable federal statute, it becomes our responsibility in the exercise of our original jurisdiction to adopt a rule which will settle the question of which State will be allowed to escheat this intangible property.

*[379 US 678]

[3, 4] *Four different possible rules are urged upon us by the respective States which are parties to this case. Texas, relying on numerous recent decisions of state courts dealing with choice of law in private litigation,[7] says that the State with the most significant "contacts" with the debt should be allowed exclusive jurisdiction to escheat it, and that by that test Texas has the best claim to escheat every item of property involved here. Cf. Mullane v Central Hanover Bank & Trust Co. 339 US 306, 94 L ed 865, 70 S Ct 652; Atkinson v Superior Court, 49 Cal 2d 338, 316 P2d 960, appeals dismissed and cert denied sub nom. Columbia Broadcasting System, Inc. v Atkinson, 357 US 569, 2 L ed 2d 1546, 78 S Ct 1381. But the rule that Texas proposes, we believe, would serve only to leave in permanent turmoil a question which should be settled once and for all by a clear rule which will govern all types of intangible obligations like these and to which all States may refer with confidence. The issue before us is not whether a defendant has had sufficient contact with a State to make him or his property rights subject to the jurisdiction of its courts, a jurisdiction which need not be exclusive. Compare McGee v International Life Ins. Co. 355 US 220, 2 L ed 2d 223, 78 S Ct 199; Mullane v Central Hanover Bank & Trust Co. supra; International Shoe Co. v Washington, 326 US 310, 90 L ed 95, 66 S Ct 154, 161 ALR 1057.[8] Since this Court has held in Western Union Tel. Co. v

6. Illinois, which claims no interest in the property involved in this case, also sought to intervene to urge that jurisdiction to escheat should depend on the laws of the State in which the indebtedness was created. Leave to intervene was denied. 372 US 973, 10 L ed 2d 140, 83 S Ct 1108.

7. E. g., Schmidt v Driscoll Hotel, Inc., 249 Minn 376, 82 NW2d 365; Auten v Auten, 308 NY 155, 124 NE2d 99; Haumschild v Continental Casualty Co. 7 Wis 2d 130, 95 NW2d 814. See also Clay v Sun Insurance Office, Ltd. 377 US 179, 12 L ed 2d 229, 84 S Ct 1197; Watson v Employers Liability Assurance Corp. 348 US 66, 99 L ed 74, 75 S Ct 166; cf. Richards v United States, 369 US 1, 7 L ed 2d 492, 82 S Ct 585; Vanston Bondholders Protective Committee v Green, 329 US 156, 91 L ed 162, 67 S Ct 237.

8. Nor, since we are dealing only with escheat, are we concerned with the power

Pennsylvania, supra, that the same property cannot constitutionally be
*[379 US 679]
escheated *by more than one State, we are faced here with the very different problem of deciding which State's claim to escheat is superior to all others. The "contacts" test as applied in this field is not really any workable test at all—it is simply a phrase suggesting that this Court should examine the circumstances surrounding each particular item of escheatable property on its own peculiar facts and then try to make a difficult, often quite subjective, decision as to which State's claim to those pennies or dollars seems stronger than another's. Under such a doctrine any State likely would easily convince itself, and hope to convince this Court, that its claim should be given priority—as is shown by Texas' argument that it has a superior claim to every single category of assets involved in this case. Some of them Texas says it should be allowed to escheat *because* the last known addresses of the creditors were in Texas, others it claims *in spite of* the fact that the last known addresses were *not* in Texas. The uncertainty of any test which would require us in effect either to decide each escheat case on the basis of its particular facts or to devise new rules of law to apply to ever-developing new categories of facts, might in the end create so much uncertainty and threaten so much expensive litigation that the States might find that they would lose more in litigation expenses than they might gain in escheats.[9]

New Jersey asks us to hold that the State with power to escheat is the domicile of the debtor—in this case New Jersey, the State of Sun's
*[379 US 680]
incorporation. This plan has *the obvious virtues of clarity and ease of application. But it is not the only one which does, and it seems to us that in deciding a question which should be determined primarily on principles of fairness, it would too greatly exalt a minor factor to permit escheat of obligations incurred all over the country by the State in which the debtor happened to incorporate itself.

[5] In some respects the claim of Pennsylvania, where Sun's principal offices are located, is more persuasive, since this State is probably foremost in giving the benefits of its economy and laws to the company whose business activities made the intangible property come into existence. On the other hand, these debts owed by Sun are not property to it, but rather a liability, and it would be strange to convert a liability into an asset when the State decides to escheat. Cf. Case of the State Tax on Foreign-held Bonds, 15 Wall 300, 320, 21 L ed 179, 187. Moreover, application of the rule Pennsylvania suggests would raise in every case the sometimes difficult question of where a company's "main office" or "principal place of business" or whatever it might be designated is located. Similar uncertainties would result if we were to attempt in each case to determine the State in which the debt was created and allow it to escheat. Any

of a state legislature to regulate activities affecting the State, power which like court jurisdiction need not be exclusive. Compare Osborn v Ozlin, 310 US 53, 84 L ed 1074, 60 S Ct 758

[4] 9. Texas argues in particular that at least the part of the intangible obligations here which are royalties, rents, and mineral proceeds derived from land located in Texas should be escheatable only by that State. We do not believe that the fact that an intangible is income from real property with a fixed situs is significant enough to justify treating it as an exception to a general rule concerning escheat of intangibles.

rule leaving so much for decision on a case-by-case basis should not be adopted unless none is available which is more certain and yet still fair. We think the rule proposed by the Master, based on the one suggested by Florida, is.

[6] The rule Florida suggests is that since a debt is property of the creditor, not of the debtor,[10] fairness among the States requires that the right and power to escheat the debt should be accorded to the State of

*[379 US 681]

the creditor's *last known address as shown by the debtor's books and records.[11] Such a solution would be in line with one group of cases dealing with intangible property for other purposes in other areas of the law.[12] Adoption of such a rule involves a factual issue simple and easy to resolve, and leaves no legal issue to be decided. It takes account of the fact that if the creditor instead of perhaps leaving behind an uncashed check had negotiated the check and left behind the cash, this State would have been the sole possible escheat claimant; in other words, the rule recognizes that the debt was an asset of the creditor. The rule recommended by the Master will tend to distribute escheats among the States in the proportion of the commercial activities of their residents. And by using a standard of last known address, rather than technical legal concepts of residence and domicile, administration and application of escheat laws should be simplified. It may well be that some addresses left by vanished creditors will be in States other than those in which they lived at the time the obligation arose or at the time of the escheat. But such situations probably will be the exception, and any errors thus created, if indeed they could be called errors, probably will tend to a large extent to cancel each other out. We therefore hold that

*[379 US 682]

each item of property *in question in this case is subject to escheat only by the State of the last known address of the creditor, as shown by the debtor's books and records.[13]

[7] This leaves questions as to what is to be done with property owed persons (1) as to whom there is no record of any address at all, or (2) whose last known address is in a State which does not provide for

10. On this point Florida stresses what is essentially a variation of the old concept of "mobilia sequuntur personam," according to which intangible personal property is found at the domicile of its owner. See Blodgett v Silberman, 277 US 1, 9–10, 72 L ed 749, 756, 757, 48 S Ct 410.

11. We agree with the Master that since our inquiry here is not concerned with the technical domicile of the creditor, and since ease of administration is important where many small sums of money are involved, the address on the records of the debtor, which in most cases will be the only one available, should be the only relevant last-known address.

12. See, e. g., Baldwin v Missouri, 281 US 586, 74 L ed 1056, 50 S Ct 436, 72 ALR 1303; Farmers Loan & Trust Co. v Minnesota, 280 US 204, 74 L ed 371, 50 S Ct 98, 65 ALR 1000; Blodgett v Silberman, 277 US 1, 72 L ed 749, 48 S Ct 410. However, it has been held that a State may allow an unpaid creditor to garnish a debt owing to his debtor wherever the person owing that debt is found. Harris v Balk, 198 US 215, 49 L ed 1023, 25 S Ct 625. But cf. New York Life Ins. Co. v Dunlevy, 241 US 518, 60 L ed 1140, 36 S Ct 613.

13. Cf. Connecticut Mutual Life Ins. Co. v Moore, 333 US 541, 92 L ed 863, 68 S Ct 682. As was pointed out in Western Union Tel. Co. v Pennsylvania, 368 US 71, 77–78, 7 L ed 2d 139, 143, 144, 82 S Ct 199, none of this Court's cases allowing States to escheat intangible property decided the possible effect of conflicting claims of other States. Compare Standard Oil Co. v New Jersey, 341 US 428, 443, 95 L ed 1078, 1090, 71 S Ct 822; Connecticut Mutual Life Ins. Co. v Moore, supra; Anderson National Bank v Luckett, 321 US 233, 88 L ed 692, 64 S Ct 599, 151 ALR 824; Security Savings Bank v California, 263 US 282, 68 L ed 301, 44 S Ct 108, 31 ALR 391.

escheat of the property owed them. The Master suggested as to the first situation—where there is no last known address—that the property be subject to escheat by the State of corporate domicile, provided that another State could later escheat upon proof that the last known address of the creditor was within its borders. Although not mentioned by the Master, the same rule could apply to the second situation mentioned above, that is, where the State of the last known address does not, at the time in question, provide for escheat of the property. In such a case the State of corporate domicile could escheat the property, subject to the right of the State of the last known address to recover it if and when its law made provision for escheat of such property. In other words, in both situations the State of corporate domicile should be allowed to cut off the claims of private persons only, retaining the property for itself only until some other State comes forward with proof that it has a superior right to escheat. Such a solution for these problems, likely to arise with comparative infrequency, seems to us conducive to needed certainty and we therefore adopt it.

*[379 US 683]

*We realize that this case could have been resolved otherwise, for the issue here is not controlled by statutory or constitutional provisions or by past decisions, nor is it entirely one of logic. It is fundamentally a question of ease of administration and of equity. We believe that the rule we adopt is the fairest, is easy to apply, and in the long run will be the most generally acceptable to all the States.

The parties may submit a proposed decree applying the principles announced in this opinion.

It is so ordered.

SEPARATE OPINION

Mr. Justice Stewart, dissenting.

I adhere to the view that only the State of the debtor's incorporation has power to "escheat" intangible property when the whereabouts of the creditor are unknown. See Western Union Tel. Co. v Pennsylvania, 368 US 71, 80, 7 L ed 2d 139, 145, 82 S Ct 199 (separate memorandum). The sovereign's power to escheat tangible property has long been recognized as extending only to the limits of its territorial jurisdiction. Intangible property has no spatial existence, but consists of an obligation owed one person by another. The power to escheat such property has traditionally been thought to be lodged in the domiciliary State of one of the parties to the obligation. In a case such as this the domicile of the creditor is by hypothesis unknown; only the domicile of the debtor is known. This Court has thrice ruled that where the creditor has disappeared, the State of the debtor's domicile may escheat the intangible property. Standard Oil Co. v New Jersey, 341 US 428, 95 L ed 1078, 71 S Ct 822; Anderson Nat. Bank v Luckett, 321 US 233, 88 L ed 692, 64 S Ct 599, 151 ALR 824; Security Savings Bank v California, 263 US 282, 68 L ed 301, 44 S Ct 108, 31 ALR 391. Today the Court overrules all three of those cases. I would not do so. Adherence to settled precedent seems to me far better than giving the property to the State within which is located the one place where we know the creditor is not.