

Federal Interpleader Applied to Inheritance Tax Disputes

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CURRENT LEGISLATION

FEDERAL INTERPLEADER APPLIED TO INHERITANCE TAX DISPUTES.—For many years persons, having in their possession money or property in which they had no personal interest, were often subjected to double vexation by the claims of citizens of different states. The only remedy they might have had, interpleader, was not available, because the courts, both state¹ and federal,² were unable to obtain the necessary personal jurisdiction of the claimants. In 1917, Congress passed the first Federal Interpleader Act³ which removed this difficulty by allowing the district courts to issue process running into all parts of the country. The Act, however, conferred only a limited jurisdiction as to parties and it did not remove the ban imposed by Section 265 of the Judicial Code⁴ on injunctions against suits in the state courts. The remedy sought to be achieved had, therefore, a very limited application.

Subsequent amendments⁵ increased the classes of stakeholders who might interplead, and removed the bar presented by Section 265. The ease and rapidity with which this statutory remedy worked and the benefits which inured to both stakeholders and claimants led to the realization that it might justly be extended to all classes of stakeholders.⁶ Accordingly in 1936 Congress passed a new act which provided relief for "any person, firm, corporation, association or society" which was subject to double vexation by citizens of different states.⁷

¹ *Pennoyer v. Neff*, 95 U. S. 714, 24 L. ed. 565 (1877); *New York Life Ins. Co. v. Dunlevy*, 241 U. S. 518, 36 Sup. Ct. 613 (1916); *Hanna v. Stedman*, 230 N. Y. 326, 130 N. E. 566 (1921).

² 36 STAT. 1101 (1911), 28 U. S. C. A. §§ 111-114 (1926).

³ Act of Feb. 22, 1917 (39 STAT. 929), U. S. COMP. STAT. § 991(a) (1919 Supp.).

⁴ 28 U. S. C. A. § 379 (1926). This section is derived from Act of March 2, 1793, c. 22, § 5, 1 STAT. 334, and REV. STAT. § 720. It provided that:

"The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy."

See Chafee, *Interpleader in U. S. Courts* (1932) 42 YALE L. J. 41, n. 2. See also *Lowther v. N. Y. Life Ins. Co.*, 278 Fed. 405 (C. C. A. 3d, 1922).

⁵ 43 STAT. 976 (1925), 28 U. S. C. A. § 41 (26) (1925); 44 STAT. 416 (1926), 28 U. S. C. A. § 41 (26) (1926).

⁶ Chafee, *Interpleader in U. S. Courts* (1932) 42 YALE L. J. 41.

⁷ 28 U. S. C. A. § 41, subd. (26). The bill was entitled "An Act to Amend Sec. 24 of the Judicial Code by Conferring on District Courts Additional Jurisdiction of Bills of Interpleader and of Bills in the Nature of Interpleader." The section now reads:

A problem which seemed for a long time to be practically unsolvable seems to have been solved, at least in part, by this latest

"Sec. 41. The district courts shall have original jurisdiction as follows: * * *.

"(26) Original jurisdiction of bills of interpleader, and bills in the nature of interpleader. (a) Of suits in equity begun by bills of interpleader or bills in the nature of bills of interpleader duly verified, filed by any person, firm, corporation, association, or society having in his or its custody or possession money or property of the value of \$500 or more, or having issued a note, bond, certificate, policy of insurance, or other instrument of the value or amount of \$500 or more, or providing for the delivery or payment or the loan of money or property of such amount or value, or being under any obligation written or unwritten to the amount of \$500 or more, if—

"(i) Two or more adverse claimants, citizens of different states, are claiming to be entitled to such money or property, or to any one or more of the benefits arising by virtue of any note, bond, certificate, policy, or other instrument, or arising by virtue of any such obligation; and

"(ii) The complainant (a) has deposited such money or property or has paid the amount of or the loan or other value of such instrument or the amount due under such obligation into the registry of the court, there to abide the judgment of the court; or (b) has given bond payable to the clerk of the court in such amount and with such surety as the court or judge may deem proper, conditioned upon the compliance by the complainant with the future order or decree of the court with respect to the subject matter of the controversy.

"Such a suit in equity may be entertained although the titles or claims of the conflicting claimants do not have a common origin, or are not identical, but are adverse to and independent of one another.

"(b) Such a suit may be brought in the district court of the district in which one or more of such claimants resides or reside.

"(c) Notwithstanding any provision of Part I of this title to the contrary, said court shall have power to issue its process for all such claimants and to issue an order of injunction against each of them, enjoining them from instituting or prosecuting any suit or proceeding in any State court or in any United States court on account of such money or property or on such instrument or obligation until the further order of the court; which process and order of injunction shall be returnable at such time as the said court or a judge thereof shall determine and shall be addressed to and served by the United States marshals for the respective districts wherein said claimants reside or may be found.

"(d) Said court shall hear and determine the cause and shall discharge the complainant from further liability; and shall make the injunction permanent and enter all such other orders and decrees as may be necessary or convenient to carry out and enforce the same.

"(e) In any action at law in a United States District Court against any person, firm, corporation, association, or society, such defendant may set up by way of equitable defense, in accordance with section 398 of this title, any matter which would entitle such person, firm, corporation, association, or society to file an original or ancillary bill of interpleader or bill in the nature of interpleader in the same court or in any other United States District Court against the plaintiff in such action at law and one or more other adverse claimants, under the provisions of paragraph (a) of this subsection or any other provision of Part I of this title and the rules of court made pursuant thereto. The defendant may join as parties to such equitable defense any claimant or claimants who are not already parties to such action at law. The district court in which such equitable defense is interposed shall thereby possess the powers conferred

enactment.⁸ The estates of wealthy individuals are often subjected to double inheritance and transfer taxes when they include property in more than one state. Each state claims that the decedent was domiciled there, and the courts of the respective states decide the individual claims. The executor is bound, therefore, to fight both suits, yet each state may decide eventually that the decedent was domiciled within its boundaries. The decision in one state is not *res judicata* in the action in the other state, so that double taxation may result. A famous example of this situation is that of the Dorrance estate⁹ which has already been depleted to the extent of several million dollars by a Pennsylvania inheritance tax and the treasury of New Jersey will probably be enriched in a similar manner. Each state claims that the decedent was domiciled there at the time of his death. The two claims are, of course, mutually inconsistent, but in spite of that the executors seem powerless to prevent both states from collecting the tax. Furthermore, the New Jersey courts have refused to allow the amount paid on the Pennsylvania tax to be deducted from the total taxable estate.

In another recent case, *Matter of Trowbridge*,¹⁰ Connecticut submitted the question of the decedent's domicile to the New York courts. After an adverse decision by the Surrogate, the Court of Appeals reversed and decided in favor of Connecticut. This method of settling the question is not likely to be resorted to very often, as there is a perfectly natural hesitation on the part of each state to risk the probable prejudice of other courts in favor of their own respective states.

Federal interpleader, on the other hand, offers an easy and practicable solution of this problem.¹¹ It has been held for some time, that for purposes of inheritance taxation, intangibles have only

upon district courts by paragraphs (c) and (d) of this subsection and by section 398 of this title.

"Sec. 2. The Act entitled, 'An act authorizing casualty companies, surety companies, insurance companies or associations or fraternal or beneficial societies to file bills of interpleader,' approved May 8, 1926 (U. S. C., Supp. III, title 28, sec. 41 (26)) is hereby repealed. Said repeal shall not affect any act done or any right accruing or accrued in any suit or proceeding had or commenced under said Act hereby repealed, prior to the passage of this Act, but all such acts or rights, suits or proceedings shall continue and be valid and may be prosecuted and enforced in the same manner as if said Act had not been repealed hereby." (Jan. 20, 1936, c. 13, 49 STAT. 1096.)

⁸ Chafee, *The Federal Interpleader Act of 1936* (1936) 45 YALE L. J. 1161, 1169 *et seq.*

⁹ *In re Dorrance's Estate*, 309 Pa. 151, 163 Atl. 303 (1932), *cert. denied*, 287 U. S. 660 (1932), 288 U. S. 617 (1933); *Dorrance v. Pennsylvania*, 53 Sup. Ct. 122 (1932); *In re Dorrance's Estate*, 172 Atl. 900 (1933); *In re Dorrance*, 115 N. J. Eq. 268, 170 Atl. 601, 116 N. J. Eq. 204, 172 Atl. 503 (1934), *aff'd*, 13 N. J. Misc. 168, 176 Atl. 902 (1935); *Hill v. Martin*, 296 U. S. 393 (1935), *aff'g*, 12 F. Supp. 746 (D. N. J. 1935).

¹⁰ 266 N. Y. 283, 194 N. E. 756 (1935).

¹¹ Chafee, *The Federal Interpleader Act of 1936* (1936) 45 YALE L. J. 1161, 1169 *et seq.*

one situs, which is the domicile of the decedent at the time of his death.¹² Furthermore, a person can have only one domicile, no matter how many residences he may have.¹³ The federal courts, having power under the Act to issue process running into all parts of the country, can obtain jurisdiction of the tax officials of both states and can enjoin each of them from any further proceeding. This will give to a single court the opportunity to decide the question of domicile in one proceeding with all the parties before it. Since the two states may have different laws as to domicile this may give rise to a federal rule.¹⁴

It will not be necessary for the district court to decide the amount of the tax due; having decided in which state the decedent was domiciled, the amount of the tax may quite properly be left to the state officials.¹⁵ The executor may file a bond, in accordance with the terms of the Act, to insure payment of the proper amount after the main question is decided.

The objection will be made that the stakeholder may be a co-citizen of one of the claimants and therefore the court should not have jurisdiction. This objection, however, has been held not to be a bar to jurisdiction in several cases under the Acts,¹⁶ but in any event this may be avoided by appointing an executor from some third state.¹⁷

A further objection may be that such a suit is, in reality, one against the respective states and is, therefore, prohibited by the Eleventh Amendment.¹⁸ However, one of the taxes is in violation of the Fourteenth Amendment¹⁹ and therefore one of the state officials is

¹² First National Bank of Boston, Ex'r, v. Maine, 284 U. S. 312, 52 Sup. Ct. 174 (1932); Farmers' Loan and Trust Co., Ex'r, v. Minnesota, 280 U. S. 204, 50 Sup. Ct. 98 (1930); City Bank Farmers' Trust Co., Ex'r, v. Schnader, 291 U. S. 24, 54 Sup. Ct. 259 (1934); Worcester County Trust Co., Ex'r, v. Long, 14 F. Supp. 754 (D. Mass. 1936).

¹³ Brisenden v. Chamberlain, 53 Fed. 307 (D. S. C. 1892); Corel v. Chicago, R. I. & P. Ry. Co., 123 Fed. 452 (D. Mo. 1903); U. S. *ex rel.* Thomas v. Day, 29 F. (2d) 485 (C. C. A. 2d, 1928); *In re* Newcomb, 192 N. Y. 238, 84 N. E. 950 (1908); Commonwealth v. Gogigian, 265 Mass. 531, 164 N. E. 472 (1929).

¹⁴ Chafee, *The Federal Interpleader Act of 1936* (1936) 45 YALE L. J. 1171, n. 27.

¹⁵ Worcester County Trust Co., Ex'r, v. Long, 14 F. Supp. 754 (D. Mass. 1936).

¹⁶ Ackerman v. Tobin, 22 F. (2d) 541 (C. C. A. 8th, 1927); Allen v. Hudson, 35 F. (2d) 330 (C. C. A. 8th, 1929).

¹⁷ Chafee, *The Federal Interpleader Act of 1936* (1936) 45 YALE L. J. 1161, n. 33; Mecom v. Fitzsimmons Drilling Co., 284 U. S. 183, 52 Sup. Ct. 84 (1931).

¹⁸ U. S. CONST. Amend. XI.

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State."

¹⁹ U. S. CONST. Amend. XIV.

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and

acting unconstitutionally,²⁰ although which one is as yet uncertain. In many suits against state officials, the jurisdiction of the court has been upheld.²¹ In the case of *Gunter v. Atlantic C. L. R. R. Co.*, Mr. Justice White said:²²

"A suit against state officers to enjoin them from enforcing a tax alleged to be invalid is not a suit against a state, within the prohibition of the Eleventh Amendment."

This view is further supported by the words of Chief Justice Hughes in the more recent case of *Sterling v. Constantin*:²³

"The applicable principle is that, where state officials, purporting to act under state authority, invade rights secured by the Federal Constitution, they are subject to the process of the federal courts in order that the persons injured may have appropriate relief."

Thus there seems no sound or valid objection to federal interpleader in such tax disputes and it seems probable that the courts will take jurisdiction whenever such cases arise, following the example of the Massachusetts District Court in *Worcester County Trust Co. v. Long*.²⁴

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of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

²⁰ *First National Bank of Boston, Ex'r, v. Maine*, 284 U. S. 312, 52 Sup. Ct. 174 (1932).

²¹ *Smyth v. Ames*, 169 U. S. 466, 18 Sup. Ct. 418 (1898); *Prout v. Starr*, 188 U. S. 537, 23 Sup. Ct. (1903); *Gunter v. Atlantic Coast Line R. R. Co.*, 200 U. S. 273, 26 Sup. Ct. 252 (1906); *Ex parte Young*, 209 U. S. 123, 28 Sup. Ct. 441 (1908); *Sterling v. Constantin*, 287 U. S. 378, 53 Sup. Ct. 190 (1932); *State of Missouri v. Fiske*, 290 U. S. 18, 54 Sup. Ct. 18 (1933).

²² 200 U. S. 273, 283, 26 Sup. Ct. 252 (1906).

²³ 287 U. S. 378, 393, 53 Sup. Ct. 190 (1932).

²⁴ 14 F. Supp. 754 (D. Mass. 1936).