#26

First Supplement to Memorandum 67-13

Subject: Study 26 - Escheat

Attached to this supplement (on pink paper) is a suggested alternative draft of the portion of the tentative recommendation relating to travelers checks and insurance policies. Inasmuch as the form of the tentative recommendation may depend to a certain extent on your interpretation of Texas v. New Jersey, we have also appended that decision to this supplement (yellow pages). The question is whether we are proposing rules that directly conflict with the Texas v. New Jersey rules or whether we are proposing rules to deal with situations which were not covered by that decision and which cannot be covered by that decision without departing from the principles that underlie that decision.

We believe the opinion dealt only with obligations owed to creditors identified on the books of the debtor (see the opinion at headnote references 6 and 7). The opinion did not deal explicitly with obligations owed to an unidentified creditor. And in such situations, therefore, we think there is a reasonable possibility that the court would also sanction an escheat rule that is just as easily administered (by determining all relevant facts from the books of the debtor) and that achieves its underlying purpose of spreading escheats among the several states instead of concentrating them in states of incorporation. This is the view that we think should be communicated through the recommendation.

Respectfully submitted,

Joseph B. Harvey
Assistant Executive Secretary

EXHIBIT I

2. Sums payable on travelers checks and money orders purchased in California should escheat to this state if the identity of the owner or his last known address is not shown by the books and records of the issuing corporation. Funds owed on a life insurance policy or annuity contract to a person other than the insured or annuitant should escheat to this state if the identity of the person entitled to such funds or his last known address is not shown by the books and records of the insurance company and such books and records show that the last known address of the insured or annuitant was in California.

In Texas v. New Jersey, the Supreme Court was concerned with the disposition to be made of numerous small obligations of the Sun Oil Company such as obligations for wages, for goods and services, for royalties, and for dividends. In most cases, a check had been issued to the creditor but had not been cashed. The opinion indicates that the creditor was identified in each instance, but the records of the Sun Oil Company did not reveal his address in many instances. Thus, the Supreme Court did not have before it the problems arising out of uncashed travelers checks and unclaimed insurance proceeds, and the rules formulated by the Supreme Court do not deal adequately with those problems.

In the case of travelers checks and money orders, the issuing company pays on presentation of the original instrument. It is anticipated that the instruments will be negotiated--perhaps several times--before they are presented for payment. Hence, many companies do not retain for long periods of time records showing the identity and address of the original purchaser, for his identity will not be of any value in determining to whom

ultimate payment should be made. Thus, it is usually impossible to apply literally the basic escheat rule stated in Texas v. New Jersey (escheat to the state of the obligee's last known address as shown on the obligor's records) to such instruments, for that rule depends on the retention by the debtor of a record identifying the obligee and his last known address. While the alternative rule stated in Texas v. New Jersey (permitting escheat by the state of the obligor's domicile where the books do not show the obligee's last known address) could be applied to such obligations, such application would tend to frustrate one of the apparent purposes of the Supreme Court in formulating the rules for escheat, which was to distribute escheated obligations wherever possible among the several states in proportion to the commercial activity of their citizens. The Commission has, therefore, decided that obligations owed on travelers checks are sufficiently distinguishable from the obligations considered by the Supreme Court in Texas v. New Jersey that it is not necessary to regard the decision in that case as a constitutional limitation on the right of this state to escheat the obligations owed to unidentified creditors on unclaimed travelers checks and money orders purchased in this state.

Accordingly, the Commission recommends that sums payable on travelers checks and money orders escheat to California if the instrument was purchased here and the identity of the owner or his last known address is not shown by the books and records of the issuing company. Conversely, where a travelers check or money order is issued by a California corporation and purchased in another state, California should not undertake to escheat the unclaimed sum owing on the instrument unless the issuing company has a record showing the purchaser's identity and that his last known address is in this state.

The recommended rule will fulfill all of the reasons given by the Supreme Court for formulating the escheat rules stated in Texas v. New Jersey. The recommended rule will be administratively convenient for companies issuing travelers checks and money orders because the record of the state of purchase is a simple one to make and retain. (Such a record could be made, for example, by a letter designation in the serial number of the instrument.) The recommended rule would distribute the escheat of funds due on travelers checks and money orders ratably among the states in accordance with the volume of business done by their citizens in travelers checks and money orders. As most travelers checks and money orders are purchased at or near the buyer's home, the result reached under the recommended rule would also approximate that reached under the basic rule promulgated in Texas v. New Jersey that unclaimed property should escheat to the state of the owner's last known address.

Similar considerations underlie the Commission's recommendation relating to the disposition of unclaimed funds due on insurance policies where the identity of the beneficiary or his last known address is not shown on the books of the insurer. The Commission proposes that in such cases the proceeds escheat to California when the last known address of the insured or annuitant is in this state. This rule, it is believed, will further the policies underlying the decision in Texas v. New Jersey, for the recommended rule will tend to distribute the escheat of unclaimed insurance proceeds among the states in proportion to the amount of insurance held by their residents.

The Law Revision Commission recognizes that the decision in Texas v. New Jersey can be given an interpretation requiring the application of rules inconsistent with those suggested here. The Supreme Court may have intended

that only the state of the debtor's domicile should have the right of escheat whenever the last known address of the creditor is not shown to be in a state providing for escheat. Thus, the court might hold that whenever the creditor is unidentified, his address cannot be shown to be in a state providing for escheat, and, hence, the state of the debtor's domicile should have the right of escheat.

In advance of actual decisions by the Supreme Court, however, it is impossible to determine whether the Supreme Court will or will not sanction the rules recommended here to provide for the escheat of funds due on travelers checks, money orders, and insurance policies. The rules recommended by the Commission are well designed to achieve the objective set forth in Texas v. New Jersey of distributing escheats ratably among the states in proportion to the commercial activity of their residents. To hold the rules invalid would tend to concentrate the escheat of funds due on travelers checks and insurance policies into those states where the issuing companies are incorporated. To avoid such concentration, states would be required to impose onerous record keeping requirements that would serve no useful purpose for the issuing companies. Accordingly, the Commission believes that there is a reasonable possibility that the validity of the proposed rules will be upheld by the Supreme Court because these rules carry out the policies underlying its decision; and, since these rules provide for a fair distribution of the property involved, the Commission believes that the hazard of an adverse decision on their validity is not a substantial objection to their enactment.

*[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 1275.

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. D. 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" from 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 675]

[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 978, 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.[8]

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.

[8] 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

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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, 440, 95 L ed 1078, 1090, 71 S Ct 832; 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.