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EXTRATERRITORIAL ACTIONS BY RECEIVERS

By William H. Rose*

Many changes have taken place in this country since the concepts which surround equity receiverships first began to crystallize. From a union of thirteen semi-independent communities, isolated by barriers of poor roads, delayed communication, and the psychological but real impediment of territorial sovereignty, we have integrated into a vast federation, unhampered by commercial subdivisions, where business solvency is a matter of universal as opposed to provincial state concern. Doctrines of local economic sufficiency have succumbed to a recognition of national financial interdependence. Merchants are less conscious of state lines in their dealings with one another. An insolvency in Chicago may be of equal importance to creditors in New York, San Francisco or New Orleans. And so modern business demands that all of a debtor's general creditors share equally, regardless of their residence or the fortuitous location of assets.

Under such conditions a receiver takes office. Charged with the duty of converting property into money and of salvaging from a financial wreck as large an amount as possible for the benefit of creditors, he soon learns that the diffusion of his principal's assets among several states produces special problems. Debtors must be sued in other courts. Claims against stockholders must be enforced in various jurisdictions. Fraudulent transfers must be pursued and recovered. Property situated at a distance must be protected from attachments and forced sales brought by impetuous creditors.

Thus a receiver's duties may frequently lead him into foreign courts whose conduct will contribute directly to the success or failure of his general undertaking. If they fail or refuse to supply him with rules and practice commensurate with his needs, his inability to accomplish the ends desired of a liquidator of a modern business will be due to their neglect to furnish him and society generally with proper machinery for the salvaging process. It is to this phase of receivership law that this article is devoted.

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EXTRATERRITORIAL ACTIONS BY RECEIVERS

ASSIGNMENTS BOTH BY COMMON LAW AND BY STATUTE

Since the powers and privileges which a receiver enjoys in a foreign court are often closely related to the extraterritorial recognition which is accorded assignments for the benefit of creditors, we shall commence our discussion with a brief consideration of that subject. At one time the legal maxim mobilia sequuntur personam was the shibboleth for rationalizing the transfer of personality by the law of the owner's domicile. Commercial usage dictated this rule so that a sale of personality valid at the place of transaction would be recognized everywhere, even as to property located in other jurisdictions. By analogy a voluntary common-law assignment for benefit of creditors, enforceable where made and not in conflict with some rule or policy of the situs, should pass title to personality wherever situated. But at this point a discordant interest arose. If a foreign assignee could remove property from a state, local creditors would lose the advantage of attachment and with it the ability to satisfy their claims out of such assets. They would have to share dividends equally with other creditors and, what was similarly repugnant, must travel miles over poor roads and for relatively long distances in order to protect their claims. The desire to preserve the advantages of

4But the difficulty, uncertainty, and cost of obtaining just distribution by domestic creditors in a foreign country, and their right to protection
local attachment moved courts to refuse to recognize foreign common-law assignments whenever the generally accepted rule, that a voluntary transfer of chattels passes ubiquitous title, could be circumvented. An infringement of some local law or policy was sufficient. The argument sufficed that the law of the situs ultimately governs transfers, and that only through comity do states enforce foreign law.

In the main, however, foreign voluntary common-law assignments received extraterritorial recognition even as against the by their own government, when necessary and rightful, may be another reason authorizing the same conclusion," i.e., discrimination in favor of local creditors. Johnson v. Parker, (1868) 4 Bush (Ky.) 149, 152. See Heyer v. Alexander, (1884) 108 Ill. 385, 395. This doctrine probably received its impetus in our trade with English merchants who became bankrupt. See Burk v. M'Clain, (1766) 1 H. & McH. (Md.) 236, 238. And was carried over to the trade between the states. Booth v. Clark, (1854) 17 How. (U.S.) 322, 337, 15 L. Ed. 164. It is not uncommon to find courts in their arguments for the non-recognition of assignments or receiverships treating sister states as though they were foreign countries. "And it has long since been held, that the states of the Union, for all except national purposes, are to be regarded as foreign and independent of each other." Warren v. The Union Nat. Bk., (1869) 7 Phila. (Pa.) 156. See also: Buckner v. Finley, (1829) 2 Pet. (U.S.) 586, 590, 7 L. Ed. 528; Hoyt v. Thompson, (1851) 5 N. Y. 320, 349.

As a voluntary assignment, valid in the state where made, is enforced in this state as a matter of comity, our courts will not enforce it to the prejudice of our citizens who may have demands against the assignor." Woodward v. Brooks, (1889) 128 Ill. 222, 227, 20 N. E. 685. American Law Institute, Conflict of Laws Restatement, secs. 275-278; Dicey, Conflict of Laws, 3rd ed., sec. 353.

claims of creditors resident at this situs. This was not so in the field of statutory assignments. Here the analogy to sales was further removed. Whether an assignment was voluntary or in invitum, its operation was the product of a legislative act which had merely local effect. This sufficiently distinguished its bearing on foreign assets from that of a conveyance by omnipresent common law.

In the administration of local assignments, as distinguished from the recognition of foreign ones, the constitution was held to demand equal treatment among the citizens of the several states. Sometimes this admonition was advanced as the reason

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7 Local statutes are sometimes construed as inapplicable to foreign assignments: Barnett v. Kinney, (1893) 147 U. S. 476, 13 Sup. Ct. 403, 37 L. Ed. 247; Memphis Sav. Bk. v. Houchens, (C.C.A. 8th Cir. 1902) 115 Fed. 96; Coffin v. Kelling, (1886) 83 Ky. 649; Birdseye v. Underhill, (1888) 82 Ga. 142, 7 S. E. 863; Pittman v. Marquardt & Sons, (1898) 20 Ind. App. 531, 50 N. E. 894; Chafee v. The Fourth Nat'l Bank, (1880) 71 Me. 514; Moore v. T. & T. Co., (1896) 82 Md. 288, 33 Atl. 641; In re Page-Sexsmith Lumber Co., (1883) 31 Minn. 136, 16 N. W. 700; Ockerman v. Cross, (1873) 54 N. Y. 319; Weider v. Maddox, (1886) 66 Tex. 372, 1 S. W. 168; Hanford v. Paine, (1860) 32 Vt. 460 to adopt the English and European practice of recognizing foreign insolvency actions, but he later had to admit that American authority was against him. Kent, Commentaries, 14th ed. 405. A similar liberal but abortive policy was advanced by a lower Ohio court: "It may also be observed, that the state of Ohio, from its central and commercial position, has an interest in adopting a liberal policy of this nature." Finnell v. Burt, (1856) 2 Handy (Ohio) 202, 215.

8 Chancellor Kent attempted in Holmes v. Remsen, (1820) 4 Johns Ch. (N.Y.) 460 to adopt the English and European practice of recognizing foreign insolvency actions, but he later had to admit that American authority was against him. Kent, Commentaries, 14th ed. 405. A similar liberal but abortive policy was advanced by a lower Ohio court: "It may also be observed, that the state of Ohio, from its central and commercial position, has an interest in adopting a liberal policy of this nature." Finnell v. Burt, (1856) 2 Handy (Ohio) 202, 215.


10 Sec. 2 of art. 4.

for disregarding involuntary or state bankruptcy assignments in cases which involved attachments by creditors of sister states. But in this the practice was not uniform.\textsuperscript{12} In a few instances even citizens of the state where the involuntary proceeding was pending were permitted to attach.\textsuperscript{13}

\textbf{The Doctrine of Booth v. Clark}

Such was the discordant background of assignment law into which modern receivership doctrine was born, and to which in many instances it has fallen heir. To discuss its growth means to commence with the case of \textit{Booth v. Clark}.\textsuperscript{14} the rule of which


\textsuperscript{14} (1854) 17 How. (U.S.) 322, 15 L. Ed. 164. See generally: Hamilton, Extra-Territorial Jurisdiction of Receivers, (1883) 22 Am. Law Reg. 289;
has had so great an influence both in state and in federal decisions. The action began with a creditor's bill filed in a New York court by Camara against Clark. Booth was appointed receiver. The assets consisted chiefly of a claim against the Mexican government, which appeared so worthless that Booth made no effort to have it assigned to him. Later Clark moved into New Hampshire where he took advantage of the federal bankruptcy act. The Mexican claim, which was scheduled in this proceeding, was purchased by Clark in his sister's name and transferred to him. Thereafter the federal government recovered $86,786.29 for Clark. The assignee then succeeded in setting aside the sale to Clark's sister, thereby recovering his lost ground. Booth instituted the present action in Washington, D. C., and the contest was treated as substantially one between the receiver and the assignee over a sufficient portion of the fund to satisfy Camara's judgment. The dismissal of Booth's bill in the trial court was sustained by the Supreme Court.

Little criticism can be found with the decision. By not obtaining an assignment Booth failed to protect Camara. The bankruptcy act conveyed the claim to the assignee. Although equally credulous, he deserved the reward. Also, the ruling secured an equable distribution of assets. It is the court's rationalization of its conclusion that has caused the trouble.

The case turned on the receiver's privilege of suing in a foreign court. Booth urged that the New York decree entitled him as domiciliary receiver to all of Clark's assets. These included this chose in action on the theory that it followed Clark's person and was within the jurisdiction of the appointing court. The comity of nations permitted him to maintain his action. The Supreme Court, however, held that although Booth's appointment was under a statute, his interest in the fund was merely that of an equity receiver. Equity acting in personam could have forced an assignment but did not do so. The court's industry was taxed in vain "to find a case in which a receiver has been permitted to sue in a foreign jurisdiction for the property of a debtor."10


15Clark v. Clark, (1854) 17 How. (U.S.) 315, 15 L. Ed. 77.
16Booth v. Clark, (1854) 17 How. (U.S.) 322, 334, 15 L. Ed. 164. "We think that a receiver has never been recognized by a foreign tribunal as an actor in a suit." Ibid.
Booth insisted that since he was a statutory receiver he was entitled to a lien on his debtor's assets, which should be respected just as the lien of an assignee in bankruptcy should be. This reasoning, however, did not convince the court. It admitted that under the doctrine of comity an English court would recognize a foreign bankruptcy assignment and that such might be the continental rule. But recognition was not the original practice in England. When it was first announced, she had become a great creditor nation. If English assignments in bankruptcy were to be recognized abroad, she felt that she must concede a similar effect to those made in other countries. Her former policy, therefore, succumbed to the demands of a new self-interest created by an increased commercial intercourse.

Somehow the wisdom of applying the English rule to states of the Union did not impress the court. Our doctrine developed in colonial days before the reversal of English policy. Although the change took place before the Revolution, knowledge of it did not reach our shores until after the two countries had separated. The rule of the colonies was that of the courts in 1854.

Since an assignment under state bankruptcy laws received no extraterritorial force in this country as against the claim of an attaching creditor of the forum, it seemed to the court that the relation of an equity receiver to the appointing tribunal was not altered merely because the appointment was founded upon a statute instead of upon the inherent powers of the court. In either event it was purely local. Nor was such a receiver entitled to a privilege of foreign action on the basis of comity—and especially in this case since, as the court thought, his lack of vigilance had produced his predicament.

So in holding that because of the receiver's inability to sue abroad the lower court was correct in dismissing his petition, the Supreme Court did more than sanction the use of a rule of procedure. It set up a procedural device by which courts might determine for all practical purposes the substantive interest of future litigants. This was the birth of the federal doctrine that an equity receiver may not sue outside of the jurisdiction in which


19 Supra notes 8 and 9.
EXTRATERRITORIAL ACTIONS BY RECEIVERS

he is appointed. Its growth and exceptions, and its effect upon state courts must now be traced.

EXCEPTIONS TO AND CRITICISMS OF THE FEDERAL RULE

That the restricting doctrine of Booth v. Clark should prove too burdensome was to be expected. The utility of the receivership device was becoming increasingly apparent, but its availability was handicapped by the rule of that case. Yet even that opinion recognized an escape through the medium of title. In 1879 a case arose in which Louisiana creditors of an insolvent Missouri insurance company sought by means of a receivership in the state court to reserve local assets for their separate benefit. Relfe, the Missouri superintendent of insurance, who had been appointed statutory successor of the corporation, petitioned for removal to the federal court. The Louisiana receiver's motion to remand the case questioned Relfe's capacity to petition in a foreign court. He was sustained. In reversing the ruling the Supreme Court stressed the fact that Relfe was not a court officer. He was a state official, a statutory successor of a corporation and a trustee of an express trust. The inconvenience engendered by the rule of Booth v. Clark was thereby limited to equity receiverships, and the device of statutory successor, applicable in proper


23 Relfe v. Rundle, (1880) 103 U. S. 222, 26 L. Ed. 337.
instances to receiverships, was announced as an escape from the confining procedural doctrine of the earlier case.

This "title theory" has been extended further. It is sufficient if a receiver is "a quasi assignee, and representative of the creditors, and as such vested with the authority to maintain an action." Or he may have received an assignment of all the corporate or individual assets, either by force of statute or by means of a conveyance from the debtor. By any of these devices the procedural difficulty may be removed which would otherwise prevent him from suing. But this only assures him of a forum in which he may plead his cause. It does not guarantee that he will recover foreign assets in a contest with local creditors. Nor can it brush aside the territorial limitations which the Supreme Court recognized in assignment cases. He is still the representative of a


28The name in which a foreign receiver should bring an action, and the power (either statutory or by order of the appointing court) by which he sues, are normally of secondary interest in this article. See 1 Clark. Receivers, 2nd ed., secs. 582, 583, 587. However, in so far as the Supreme Court has forbidden suits by receivers in the name of their debtors as a means of circumventing interdiction against foreign actions by equity receivers, they are of primary importance. See Great Western Mining Co. v. Harris, (1904) 198 U. S. 561, 577, 25 Sup. Ct. 770, 49 L. Ed. 1163. Cf. Gt. Western Telegraph Co. v. Purdy, (1895) 162 U. S. 329, 16 Sup. Ct. 810, 40 L. Ed. 986. And see Coal & Iron Ry. v. Reherd, (C. C. A. 4th Cir. 1913) 204 Fed. 859. Similarly where a statutory receiver is treated as a quasi assignee.

29Security Trust Co. v. Dodd, Mead & Co., (1899) 173 U. S. 624,
EXTRATERRITORIAL ACTIONS BY RECEIVERS

foreign court suing to recover a res or a claim which is located beyond the range of the law which governs both his appointment and the conveyance.

In two classes of cases the Supreme Court has avoided the peril of territoriosity. It held in a suit which was brought to enforce a stockholder's double liability that the receiver might not only sue, but that he might recover. The theory was that the stockholder by his contract became a member of the corporation. As such he was bound by the constitutional and statutory provisions under which the company was formed and the liquidation proceeding was instituted. The assessment was a part of the procedure to which he was subject through the representation of the corporation. As quasi assignee the receiver represented the creditors and was the proper person to sue. Full faith and credit must be given to the foreign action in which the amount of the assessment was determined.\textsuperscript{30}

Also, public interest in the liquidation of insurance companies has been strong enough to support the fiction that those who contract for insurance do so with knowledge of the corporation's charter and its charter rights. So when a company becomes insolvent, the claim of insured residents of the forum are subordinated to the common interest of all insured persons as represented by the foreign assignee-receiver.\textsuperscript{31} But when the contract argument is not available, when a receiver is depending upon a statutory title to enable him to recover an ordinary debt or an article of personal property, the "title theory" fails to afford an avenue of escape.\textsuperscript{32}

While it is possible to rationalize the doctrine of Booth \textit{v. Clark} on the basis of accepted legal theory, to agree with it is


American tenets of territorial sovereignty and jurisdictional limitations go hand-in-hand. Hence neither the law nor its vicar as appointee of an equity court may demand ex proprio vigore recognition in another sovereign territory. With this reasoning there need be no quarrel. It is doubtless true that as between states of the Union, or states and the federal government, rules founded upon theories of separate political entity have their time and place. Even as between different federal judicial districts the limited powers of an equity judge may suffice to explain the rule that a receiver may not of right sue in a foreign court. But that the Supreme Court should deny him the privilege of suing in a foreign court is a needless refinement of dogma. The hardship which this refusal of comity causes is often inexcusable. Both in federal and in state courts the sole means of circumvention lies in the appointment of an ancillary receiver, with all of the uncertainty and additional expense which that procedure entails. Even in federal courts each appointment is treated as an independent action. In no jurisdiction is a primary receiver assured that he will be selected as the appointee. The

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judge may be of the opinion that the interests of local creditors require the selection of someone else. If there is a contest the petition for ancillary appointment may even be denied; or the power of refusal may be used to protect local attaching creditors against the possibility of an equal distribution of assets.

Although the securing of an ancillary receivership solely as an entrée for filing local actions seems tortuous and needlessly burdensome, once obtained the beneficent result follows of placing property in custodia legis, after which creditors, both local and foreign, share equally. No one may attach for the court is a sort of legal sanctuary—which is as it should be. But if, as one court intimates, the function of an ancillary receivership is to enable home creditors to reach funds of a debtor without causing them the inconvenience of leaving the jurisdiction, this equal protection is altruism with an ulterior motive. Indeed, as long as the policy continues of respecting attachments by local creditors, this auxiliary device will be a doubtful blessing. To guarantee equality in the distribution of a debtor's estate, an ancillary receivership must be obtained simultaneously with the primary one.

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36Bluefields S. S. Co. v. Steele, (C.C.A. 3rd Cir. 1911) 184 Fed. 584; Clark v. S. C. O. C. F., (1905) 146 Cal. 598, 80 Pac. 931; Flaake v. Winona Mills Co., (1926) 104 Conn. 665, 134 Atl. 265; Irvin v. Granite State Provident Ass'n, (1897) 56 N. J. Eq. 244, 246, 38 Atl. 680; Bank v. Motherwell Iron etc. Co., (1895) 95 Tenn. 172, 31 S. W. 1003. In Mabon v. The Ongley Electric Co., (1898) 156 N. Y. 196, 50 N. E. 805, refusal was on the refreshing grounds of the extra expense and lack of need, since, there being no local creditors, the foreign receiver could sue without local appointment.

37Clark v. S. C. O. C. F., (1905) 146 Cal. 598, 80 Pac. 931.


40Cf. handling of this problem in bankruptcy. Liens which may be avoided under the act: 30 Stat. at L., 564 (1898) sec. 12 c. and f.; 36 Stat. at L. 842 (1910); 11 U. S. C. A., sec. 107, c. and f.
In state courts ancillary administration despite its disadvantages is often very essential and practical. Full faith and credit have not yet been extended to the foreign injunction.\(^4\) Nor would such a decree bind persons who are beyond the jurisdiction of the court when it is pronounced. If local assets are to be preserved from the ravages of forced sales, business is to be reorganized, or property is to be disposed of to best advantage, there are times when the active assistance of the court of the situs must be sought. Its injunctions, proceedings in contempt, or actual grants of special power are necessary in many instances regardless of delay and expense.

It does not follow, however, that the analogy of this situation is either appropriate or desirable when applied to the federal courts. The distinction lies in the single sovereignty of the central government. Its jurisdiction is nation-wide and its power, commensurate. Here, then, is ideal ground for receivership administration. But conditions are about as intolerable in its courts as they are in those of the states, for neither its legislature nor judges have taken full advantage of the political theory on which the country was founded. In one instance, however, Congress has improvised a definite improvement. Where "land or other property of a fixed character" extends as a unit into different districts in the same state, or into different states within the same federal circuit, the jurisdiction of the federal court has been increased accordingly.\(^4\)\(^2\) This decreases the number of ancillary bills which must be filed. An expansion of such a plan to embrace the entire country and all types of receiverships, as was once actively sponsored by the Association of the Bar of the City of New York,\(^4\) would render simple indeed the problem of actions by a federal receiver.

**The Doctrine of the State Courts**

State courts are in general agreement with the rule of *Booth*.

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\(^{41}\) See: Foster, Place of Trial in Civil Actions, (1930) 43 Harv. L. Rev. 1217, 1239-1248; Comment, (1930) 39 Yale L. J. 719.


\(^{43}\) Annual Report of Special Committee on Equity Receiverships, (1927) Ass'n of the Bar of the City of N. Y. 299-331; Hearing before Comm. on the Judiciary of the House of Representatives on Equity Receiverships, (H.R. 9999, 10,000) April 11, 1930. See infra note no. 98.
v. Clark as far as it denies the right of suit to a foreign equity receiver. 44 They differ from it, however, in extending a privilege of suing whenever to do so will infringe upon neither state policy nor the interests of local creditors. 45 This consideration, based upon comity, is sometimes expressed as an exception to the strict federal interdiction—but an exception as firmly entrenched as is the rule itself. 46 An argument of convenience is offered in its support. 47 As an expedient this hybrid comity serves its purpose well. It circumvents the strictness of the federal dogma without sacrificing the financial advantages reserved for citizens.


46 Alderson, Receivers, sec. 551; also cases cited in note no. 45, supra. Laughlin, The Extraterritorial Powers of Receivers, (1932) 45 Harv. L. Rev. 429, 435 et seq.

47 "When the claims of a foreign receiver are brought into conflict with those of our own citizens, the latter will have the preference, because it is hardly just, and certainly not expedient, to remit them to a distant jurisdiction for what is close at hand and can be obtained at home." Smith v. Electric Machinery Co., (1924) 83 Pa. Super. Ct. 143, 145.
of the forum. Their attachments, although subsequent in time to the foreign receivership and with notice of it, will be respected.\textsuperscript{48} It is only necessary for a defendant to show the presence of home creditors,\textsuperscript{49} whereupon the receiver is thrown out of court and is referred to the precarious device, extra expense and delay of securing ancillary papers.

Despite the development in the state courts of the doctrine that a transfer by operation of statute has no extraterritorial effect, these tribunals follow the federal decisions and agree that a receiver who is also a common-law assignee,\textsuperscript{50} a statutory successor to a corporation,\textsuperscript{51} a statutory assignee,\textsuperscript{52} or a quasi assignee\textsuperscript{53} may sue in other jurisdictions. Comity is no longer the basis for his access to foreign courts.\textsuperscript{54} Similarly they utilize contract

\begin{footnotesize}


\textsuperscript{50}"If the title is by virtue of a voluntary conveyance or transfer, it is sustained as against all, including even domestic creditors." Howarth v. Angle, (1900) 162 N. Y. 179, 186, 56 N. E. 489, 492. Acc: Hale v. Harris, (1900) 112 Iowa 372, 83 N. W. 1046; Ewing v. King, (1896) 160 Mass. 97, 47 N. E. 597; Harris v. Hibbard, (N.J. Eq. 1908) 71 Atl. 737.


\textsuperscript{54}In Missouri the rule of comity is replaced by a statutory right to sue: Missouri, Rev. Stat. 1919, sec. 1162. "There is nothing in these contentions even if it had been shown that the Mineral Belt Bank had a creditor in Missouri, which was not. Since the passage of sections 1162, 1163, and 1164, Revised Statutes 1919, the question of comity, within the
EXTRATERRITORIAL ACTIONS BY RECEIVERS

theories to support assessments against foreign stockholders, or to secure an equal distribution of assets of a foreign insurance corporation. An appointing court may avoid the jeopardy of local comity by forcing the debtor to assign, and feel assured that as long as local creditors are not involved, the title, although transferred under coercion, will be respected abroad. But beyond this point the efficacy of the title device is questionable. At the instance of resident claimants some courts will refuse to recognize even voluntary foreign assignments. And if an assignment is statutory, even though it may be no more in invitum than when a debtor executes a deed under compulsion, a court may raise the distinction between voluntary transfers by act of party and those by operation of law.

A consistent adherence to the theory of territorial limitations would probably result in granting the privilege of attachment to residents of third states. But limitations placed on the ability of a court of primary jurisdiction, and the denial of mobilia sequuntur personam are merely expedients. When local preference is not

broad meaning of the word, and in a transitory cause of action of this kind, is no longer material in this state. This state in this suit is not concerned with the distribution of the proceeds of the causes of action. (Sections 1164 and 1165, R.S. 1919). State ex rel. v. National City Bank, (1925) 22 Mo. App. 474, 480, 274 S. W. 945, 949.


See similar treatment in re federal courts, supra pp. 712-14.


the issue, courts disagree as to whether the receiver or the attaching creditor should be protected. Usually residents of the appointing state are held to be bound by their personal law.61 Some courts place citizens of third states on a parity with those of the forum.62 The general language of the decisions supports the receivership in all instances save where interests of local creditors are concerned.63

When the attaching creditor is from the appointing state, its courts are not without remedy even if those of the situs refuse to recognize the receivership. If he has property within the state, or if his person can be seized there, an injunction or a citation for contempt may be effective.64 These injunctions are sometimes respected at the situs.65 And if the creditor, whether he is local or foreign, is shown to have accepted the benefits of a receiver-

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63 "In our opinion the application of the rule in favor of the foreign receiver as against all foreign creditors, without regard to whether they have a common domicile with the receiver, is true comity." Well v. Bank, (1898) 76 Mo. App. 34. Cf: assignment cases supra pp. 707-08.


ship, this conduct is sufficient to forfeit his privilege of local attachment.

That the decree of an equity court cannot directly affect foreign land is clearly settled, both in state and in federal courts. It might seem then that an order instructing a receiver to take possession of a debtor's property would have no bearing on foreign realty. Certainly under our territorial theory of law the court of the situs would not be bound to recognize such a decree of a sister state. As far as the management of realty is concerned authority must come through an ancillary receivership.

State courts, however, are not always as meticulous regarding actions which concern foreign insolvent's interest in local land. While it may be more difficult to rationalize a jurisdictional argument in such cases than where personal property is involved, legal theory is appeased by recourse to the principle of comity.

If a receiver's claim is based upon an assignment, either by act of the party or by statute, the law of that subject should be consulted.

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71 Supra notes nos. 1-9. In the absence of statute the validity of a deed is determined by the law of the situs: United States v. Crosby, (1812) 7 Cranch (U.S.) 115, 3 L. Ed. 287; Moore v. Church, (1886) 70 Iowa 208, 30 N. W. 855; Green v. Gross, (1881) 12 Neb. 117, 10 N. W. 459.
As distinguished from receiving an assignment, a receiver may have obtained a conveyance or a mortgage of foreign land, entered into a contract, reduced a claim to judgment, or taken actual possession of personally which he later sold or sent into a foreign jurisdiction. In such instances his legal interests are uniformly upheld in both state and federal courts. He is considered as having a claim in his own right as compared with one conferred by the mere order of an appointing court. Whether or not this is a sufficient distinction upon which to base the recognition of a foreign receiver is immaterial. The important thing is that the courts have not carried their favoring of local creditors quite so far as to make the operation of receiverships completely ineffective when they reach across state lines.

Lorenzen, The Validity of Wills, Deeds and Contracts as Regards Form in the Conflict of Laws, (1911) 20 Yale L. J. 427, 431. American Law Institute, Conflict of Laws Restatement, secs. 236, 237, 239. That a statutory assignment is not a panacea: "A foreign receiver, or a foreign assignee whose office and power are statutory, and to whom no voluntary conveyance has been made, cannot effectively convey real estate in Illinois, nor can he obtain the assistance of the courts of Illinois to secure the possession of chattels in this jurisdiction." Smith v. Berz, (1905) 125 Ill. App. 122, 130.

Oliver v. Clark, (C.C.A. 5th Cir. 1901) 106 Fed. 402; Iglehart v. Bierce, (1864) 36 Ill. 133.


Since law deals with legal relations rather than with things, the fact that tangibles have actual locations while intangibles have only those which are arbitrarily assigned to them does not substantially affect the power of an appointing court to transfer an insolvent's interest in a foreign chattel or a debt. In either case the law of the situs of tangibles or that which governs a debtor's conduct controls. It is to this law that we must look for comity. But the assignment cases show that little can be expected at present in the way of uniform recognition of a foreign receiver's powers, whether the method of evasion is by refusing the privilege of suit or by denying extraterritorial effect to decrees of a sister court. The basis of the difficulty lies not in the problem of selecting the proper law, nor in any fundamental distinction between matters of substance and of procedure, but in the prevalent assumption by American courts that best ends are served by protecting local creditors at the expense of foreign ones.

This policy makes no attempt to distinguish among the various purposes for which a receiver may be appointed. To this extent at least there is no discrimination. Nor should there be. When the proceeding in the foreign court is in aid of execution instead of for the altruistic purpose of benefiting all creditors, the economic contest is most pronounced. Yet it is submitted that here, too, comity should be extended. If a litigant is unsuccessful in satisfying a judgment which he has legally obtained, citation of

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7Goodrich, Conflict of Laws 362-364 discusses this subject from the standpoint of assignments. See Gilbert v. Herveston, (1900) 79 Minn. 326, 82 N. W. 655.

7Supra note no. 5.

7It is sometimes difficult to determine whether local creditors are being protected by refusing a foreign receiver permission to sue or by denying extraterritorial effect to rights regarding property interests created by the appointing court. See discussion in case note, 4 L. R. A. (N.S.) 824.


authority is scarcely necessary to show that he may demand "full faith and credit" for it in another state. But of what avail is this recognition if a non-resident is denied the use of local enforcement machinery? Whether he sues in his own name or through the medium of a foreign receiver, his resourcefulness should entitle him to the privilege of attaching local property. Home creditors should protect their interests by a similar action or by a timely recourse to bankruptcy. That a non-resident thereby gains a preference is immaterial. An attachment is not intended as an instrument for securing equality. Attainment of that virtue lies in making the device indiscriminately available. Retortion is the net result of the present policy.

Solicitude for the welfare of home creditors is also an alleged factor in the policy of discretionary remission of assets to a primary receiver. Courts hesitate to subject their citizens to the inconvenience of appealing to a foreign court where for aught is known they will be unfairly treated. Hence local dividends should be distributed before any funds are remitted.

Yet the existence of a threatened discrimination does not seem to be a condition precedent to a refusal to remit; nor does the ar-

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85. Witness the following language: "The question is one of far reaching importance. In the instant case, the domicil of the corporation is in New York, and the policy of its law is similar to that of ours with respect
EXTRATERRITORIAL ACTIONS BY RECEIVERS

argument of inconvenience bulk as large today as it once did. In fact, the personal convenience of a creditor living near a state or district line may well induce him to file his claim with a domiciliary receiver in a contiguous jurisdiction, rather than to participate in an ancillary proceeding at some distant point within the state or local district. Possibly hypothetical inconvenience and skepticism regarding the justice which may be meted out by courts of sister states or districts are relatively minor motives when compared with the astuteness of courts in recognizing the claims of local creditors and in protecting their attachments.\(^6\)

Nor is logic as convincing a medium for rationalizing a denial of suit to a foreign equity receiver as is our knowledge of this inherent protective urge.\(^7\) Yet the short-sightedness of such a suggestion goes beyond the range of possibility that in some of the other states there may be laws with respect to priorities quite opposed to the policy of our law, and it seems to me to be inconceivable that this court, having control of assets within this state, would remit its citizens to a foreign tribunal, which might have control only of the entity of the corporation, and compel them to submit themselves to a method of distribution in conflict with the policy of this state under laws having no extraterritorial force. Comity does not extend so far. . . . If domestic creditors must be forced to litigate in New York, they must also be forced to litigate in Texas; and it may be contended that the effect of such a determination does not stop here.” Clark v. Painted Post Lumber Co., (1918) 89 N. J. Eq. 409, 104 Atl. 728, 730. Cf: Superior Cabinet Corp. v. American Piano Co., (D.C. Mass. 1930) 39 F. (2d) 87. See (1932) 41 Yale L. J. 767.

\(^6\) If local assets are large enough so that dividends to which home creditors are entitled may be paid out of them without participation in the primary receivership, economy, convenience and equality may be served best through ancillary proceedings. It rests with the discretion of the appointing court whether or not it will remit assets. Sands v. Greeley & Co., (C.C.A. 2nd Cir. 1898) 86 Fed. 130 citing United States v. Coxe, (1855) 18 How. (U.S.) 100, 105, 15 L. Ed. 299, and cases supra note no. 38. Cf. suggested method in federal cases, infra note no. 100.

\(^7\) E.g.: “The question naturally first arises whether such an officer [foreign receiver] has any power which he can exercise in Wisconsin. Certainly the Illinois court could not transfer to this receiver any property outside of its territorial jurisdiction. . . . This conclusion is founded on reason and sound policy. The reason plainly is that a court cannot endow its officials with powers beyond its own jurisdiction. The stream cannot rise higher than the fountain-head. Therefore, by his appointment in Illinois, the plaintiff acquired absolutely no right or interest in any property owned by Frederiksen in Wisconsin. If he acquired no right can he bring a suit here to set aside an alleged fraudulent conveyance of property by Frederiksen? Suppose he is successful in such a suit, we should have this remarkable anomaly: that, although this receiver cannot come to Wisconsin and take Frederiksen’s property, still he can come here and prosecute an action against a third person, and show that such third person has no title to property as against Frederiksen’s creditors, and triumphantly bear away such property to Illinois to pay creditors. The law does not tolerate such an absurdity. The fact simply is that the order appointing a receiver confers no extraterritorial rights either to property or to maintain actions
policy must be manifest. The insolvency of a concern which has assets situated in more than one state or district is not a matter for territorial insulation. A business and its attendant assets should constitute a unit, and creditors who have not protected themselves by obtaining liens should compose a single class regardless of residence.

Some light may be thrown upon the subject by considering the policies which accompany the ancillary administration of decedents' insolvent estates or of receiverships. The following excerpt from a West Virginia receivership case is in point:

“It is conceded that we have no statute giving to local or resident creditors priority or preference in the distribution of the assets of a foreign corporation located here; but it is argued that we have a public policy to that effect . . . and which the courts are bound to enforce.

“We know of no public policy of this state evidenced by statute or judicial decisions going to the extent affirmed by counsel. We do have chapter 84 of the Code . . . and we have decisions . . . to the effect that foreign receivers will not be allowed to remove to recover property.” Filkins v. Nunnemacher, (1892) 81 Wis. 91, 93, 51 N. W. 79, 80.


91One federal court has declared against this practice in assignment cases, but the cogency of its reasoning is doubtful, and the economics of its decision seems to have borne no fruit. Belfast Savings Bank v. Stowe, (C.C.A. 1st Cir. 1899) 92 Fed. 100. Cf: In re J. L. Nelson & Bros. Co. (D.C. N.Y. 1907) 149 Fed. 590.

92Where . . . the entire assets of the deceased are insufficient to pay all his just obligations, there is such an interdependence between the various jurisdictions as to require the application of the old maxim that 'equality is equity', and the several courts administering the affairs of the deceased . . . must no longer consider the assets within their respective controls as separate and distinct funds for distribution to the creditors within such jurisdictions, but as one entire fund in which all creditors of the deceased having just claims of equal standing shall share pro rata.” Estate of Hanreddy, (1922) 176 Wis. 570, 575, 576, 186 N. W. 744, 746. This seems to be the general attitude in the administration of decedents' insolvent estates: Mitchell v. Cox, (1859) 28 Ga. 32; Ramsay v. Ramsay, (1902) 196 Ill. 179, 63 N. E. 618; Dawes v. Head, (1825) 20 Mass. 128; Lawrence v. Elmendorf and Pool, (1848) 3 Barb. (N.Y.) 73; Tyler v. Thompson, (1878) 44 Tex. 497. See Dow v. Lillie, (1914) 26 N. D. 512, 144 N. W. 1082. "The tendency of modern legislation in this last respect, which we gather from local statutes, is by no means selfish: for it is yielding much not to appropriate local assets to the prior satisfaction of local creditors." Schouler on Wills, Executors and Administrators, 5th ed. sec. 1015a.
assets of a foreign corporation to the detriment of resident persons, or compel local creditors to go into a foreign jurisdiction to collect their debts; but neither the statute nor the decisions evince a public policy to contravene the provisions of the federal constitution, by undertaking to give resident creditors as a class priority and preference in the distribution of such assets, further than to protect them in their right to be paid their equal and ratable shares based on the total assets of the foreign corporation, out of the assets in the hands of local representatives, without having to go outside the state to collect their debts."

But why should such fairness be reserved for ancillary receiverships and not be extended to the foreign receiver who brings an action abroad? This is not the case with a bankruptcy receiver. He may protect assets of the estate even though they are located beyond the jurisdiction of the appointing court. Must equality of treatment among citizens be grounded solely upon


\[\text{\textsuperscript{92}}\] In answer to this seeming inconsistency the court in Catlin v. The Wilcox Silver-Plate Co., (1889) 123 Ind. 477, 479, 24 N. E. 250 says: "But the recognition of well-established principles of comity and courtesy between courts of different jurisdictions is one thing, while the rights of resident or other attaching creditors who are seeking to avail themselves of legal proceedings authorized by statutes of the State for the appropriation of a fund belonging to a resident debtor, must be determined upon altogether different principles." For an extreme case of foresight in favor of local creditors who had filed no claims see Hieronymous Bros. v. China Mut. Ins. Co., (1919) 6 Ala. App. 97, 60 So. 452.

\[\text{\textsuperscript{93}}\] The authority of the bankruptcy court to appoint a receiver for the preservation of the estate pending the adjudication, to authorize the receiver temporarily to conduct the business of the alleged bankrupt, and to make all orders necessary for the accomplishment of those objects, applies to the entire estate of the bankrupt, wheresoever it may be situated in the United States, and is not confined to such property as may be within the district wherein the petition in bankruptcy is filed. In short, the authority to take precautions for the preservation of the estate pending the adjudication in bankruptcy is quite as broad, territorially speaking, as is the authority to collect, administer, and settle the estate after a trustee is appointed. Section 2, clause 3 of the bankruptcy act... authorizes the court to appoint receivers "for the preservation of estates, to take charge of the property of bankrupts. Wherever the estate is in the United States, there this jurisdiction extends. In its exercise the court may authorize the receiver to take possession of property belonging to the estate wherever situated, and restrain third parties from pursuing remedies in other courts which will conflict with the duties of the receiver." In re Dempster, (C.C.A. 8th Cir. 1909) 172 Fed. 353, 356. See: In re Munice Pulp Co., (C.C.A. 2nd Cir. 1907) 151 Fed. 732; In re Peiser, (D.C. Pa. 1902) 115 Fed. 199. Cf: In re Dunseath & Sons Co., (D.C. Pa. 1909) 168 Fed. 973; In re Benedict, (D.C. Wis. 1905) 140 Fed. 55; In re Schrom, (D.C. Iowa 1899) 97 Fed. 760. As to national jurisdiction in bankruptcy: 19th Stat. at L. 63 (1876), 12 U. S. C. A., sec. 192. See Peters v. Foster, (1890) 56 Hun (N.Y.) 607, 10 N. Y. S. 389. The jurisdiction of receivers in county courts may be state wide. Tenth Nat'l Bank v. Construction Co., (1910) 227 Pa. St. 354, 76 Atl. 67; 1 Clark, Receivers, 2nd ed., sec. 294 (a).
federal mandates? If it is correct to say that "the courts of one state have no right to favor domestic creditors in the distribution, but it must be made upon the principle that "equality is equity,"" why should not the spirit of that maxim require a general application of its letter without the necessity of a formal ancillary proceeding?

If it be argued that credit is extended today just as it once was upon the presence of property within the state instead of upon the financial rating of a foreign debtor, a fact which would be difficult to prove, still such a condition is not a convincing reason for permitting local attachments which may be circumvented either by an ancillary receivership or by an administration in bankruptcy. The distinction lacks merit. Recognition of the need for equality is more fundamental than to depend upon a choice of procedure. Distrust of courts of sister states and their receivers sounds strange from the mouths of those who are not only the source but also the object of distrust. The extent to which this pose rests upon the advantage which its maintenance offers to courts in the form of patronage in appointing ancillary receivers and to the bar and the community in additional fees and costs of ancillary administrations are considerations which should not be obscured in the camouflage of solicitude for the interests of local creditors.

It may be that during the early days of the Republic when lanes of commerce were tedious and business was localized to an extent far greater than it is today, the doctrine in favor of local creditors with which courts are saturated was not so pernicious. Sheer distance was an ever present and formidable obstacle to participation in remote receiverships. Physical conditions as well as political concepts combined to justify the decisions. They crystallized colonial thought into rules of law rationalized by arguments concerning territoriality and independence of the various state legal systems.

Today, however, much of this has changed. Business has at least kept pace with improvements in transportation and communication. The creditor and debtor public is the nation and beyond. A business failure in Chicago or New York may have repercussions nation wide—to speak moderately. But the courts.

—People v. Granite State Provident Ass'n, (1900) 161 N. Y. 492, 55 N. E. 1053.
neither state nor national, have advanced with the economic evolution. They still regard receiverships as chiefly of local concern, and extend to the financial security of home folk a solicitude which is disproportionate to its need and inimical to the good of creditors generally.

Yet local citizens experience the same unequal treatment when a resident merchant or corporation with assets scattered among various states is placed in the hands of a receiver. So while the enforcement of the rule may benefit one creditor it may severely injure his neighbor. It acts as a boomerang, but without the merit of always returning to the same person. In the administration of any receivership which involves the recovery of foreign assets, its existence is an actual menace.

If the receivership device is to be modernized, cooperation among courts of the various states and districts is imperative. They must consider the problem in a broader light. A receiver appointed by the court of a sister state or district must no longer be regarded as an alien who would bankrupt local merchants by the withdrawal of assets to foreign shores. It is a matter of national economics rather than of local opportunism, but in which the welfare of the community is ultimately better served by the granting rather than by the denial of comity.

**Suggested Legislation**

How can a change in the treatment accorded a foreign receiver best be brought about? Panaceas are difficult to find. A uniform state statute extending comity would probably stand slight chance of adoption. The ancillary receivership is cumbersome, expensive and in most cases should be unnecessary—certainly as far as recognition of a foreign receivership is concerned. The common-law assignment device has proved of some practical

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95See discussion supra pp. 717-19. But see the Missouri legislation supra note no. 54. Notice the effect which public interest has had in curtailing the growth of the state rule: supra note no. 56. In refusing to extend the rule of local preference to insurance cases the court in Martyne v. Am. Union Fire Ins. Co., (1915) 216 N. Y. 183, 193, 110 N. E. 502 said: "The commercial relations between corporations and citizens of the different states are constantly increasing in extent. They are not only more and more extended, but more and more intimate and inter-dependent. The transactions of a corporation of a foreign state doing business in this state are dependent upon our statute law and generally in the absence of a statutory rule upon the rule of comity. The reasons for extending the rule of comity between the states are constantly increasing. It should when practicable be extended, and not curtailed."
benefit; however, no superior sanction of the Supreme Court has forced states into line and required its recognition. The statutory method is of doubtful merit since in America such assignments ex proprio vigore are accorded no extraterritorial effect.

However, a remedy may be suggested for federal courts. As to them there are two matters of concern: first, to remove the restriction against foreign actions; second, to require extraterritorial recognition of property rights sued on by foreign receivers. A definite step forward was taken when jurisdiction in a small class of receiverships was extended beyond the arbitrary lines of federal districts into certain contiguous ones.\(^6\) This legislation is a recognition of the inadequacy of the district as a unit for receivership purposes. But that is not sufficient. Although the matter could be handled by the courts, probably the Supreme Court is correct in saying that it is now more properly a subject for legislation.\(^7\) Congress, then, should provide that a receiver appointed in one district shall be permitted to sue in any other one to the extent of the powers which were conferred upon him in the jurisdiction of his appointment.\(^8\) It should further permit state receivers to sue in federal courts on the basis of diverse citizenship.\(^9\)

These provisions would entitle a federal receiver to litigate actions abroad and to have them settled on their merits measured by the law of his place of appointment.\(^10\) They would similarly

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\(^{6}\) Supra note no. 42.


\(^{8}\) The proposal referred to supra note no. 43 differs somewhat: "Every receiver or manager of any property appointed by any court or judge of the United States or of any of the several States of the United States or of any of the property of which he is the receiver or manager, in the same manner and to the same extent as the owner of such property might or could have sued with respect thereto had no receiver or manager of such property been appointed." H. R. 9999; supra note no. 43.


\(^{10}\) In the New York proposal the matter of inconvenience in proving claims was discussed thus: Mr. Blanc. "Our committee gave that subject careful thought, because, of course, we do not want to do any such thing. As a matter of fact, in the situation which exists today the local claimant
aid a state receiver. Local law would not usually be involved. However, the law of the situs would prevail as to the form and validity of instruments, their recording, and the capacity of parties. Thus accepted rules of conflict of laws would not be violated, yet a general forum would be furnished in which the local-creditor defense could not be raised.

The benefits which this change alone would bring to federal and to state receivers should sufficiently justify its enactment. However, as a means for defeating attachments in state courts, it might not suffice. From this standpoint the defect in the proposal is that it would convey no present legal interests in foreign property, but only a power to reduce such assets to possession; nor would it necessarily require extraterritorial recognition of foreign receiverships by state courts.

But extraterritorial recognition ex proprio vigore is difficult to obtain. The statute might provide for enlarging territorial jurisdiction in receivership cases to include the entire nation. The primary benefit of this, of course, would be in the field of administration. Such legislation has already been strongly advocated. That the administrative advantage which it offers would encourage the filing of a large number of friendly receiverships in federal courts should recommend rather than inveigh against its enactment. No constitutional impediment stands in its way. Yet, however meritorious territorial expansion may be for other features of federal receiverships, it would probably not solve the jurisdictional conflict which exists between state and federal courts. It might still be necessary for a federal receiver to take actual prior possession in order to protect his interests.

does not prove his claim in the ancillary jurisdiction. He ordinarily proves his claim before a master, sent into that jurisdiction by the court of primary jurisdiction, and our conception is that that again is a subject which the courts will deal with in a way convenient for the claimant. Our plan and our thought is that what will happen will be that a master will be sent by the court who is running this receivership into whatever districts exist, in order that gentlemen who live there may prove their claims conveniently, or will adopt some other machinery conformable to the economical and just administration of equity." Hearings before Comm. on the Judiciary etc., supra note no. 43, p. 11.

American Law Institute, Conflict of Laws Restatement secs. 238-244, 246, 247, 275-278. But see supra note no. 7.

Supra note no. 43. H. R. 10,000.

Sec. 1 of Art. 3 and Sec. 8 of Art. 1 of the U. S. Constitution. For a discussion of the constitutionality of extending the jurisdiction of federal courts see Annual Report of Special Committee on Equity Receiverships, (1927) Ass'n of the Bar of the City of N. Y. 304 et seq.

In addition to extending the jurisdiction of federal courts in receivership cases the statute might endow receivers with title. Yet it cannot be strongly urged that the use of this device would materially change the situation. Under such legislation jurisdiction of the subject matter would still be concurrent. There is nothing sacrosanct or omnipotent about the concept of title. The battleground would be in the state courts. In local attachment suits state tribunals could support their retention of property on priority of actual possession.\(^{105}\) Against this time-honored preference title might be offered as an expedient. The traditional respect which courts have for transfers which are made by the law of the territorial sovereign\(^{106}\) might conciliate state doctrine and justify an extension of comity hitherto denied. The fact and purpose of the federal legislation might of themselves be somewhat persuasive. But the title argument is considerably weakened by the fact of overlapping sovereignties. It could easily be brushed aside by a hostile state court.

Another suggestion would be to expand the exclusive federal jurisdiction which exists in bankruptcy\(^{107}\) so as to include the

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\(^{105}\) See ibid.

\(^{106}\) Codified in American Law Institute Conflict of Laws Restatement secs. 236, 237, 277, 278.

\(^{107}\) Art. 1, sec. 8, U. S. constitution. The recent amendments to the bankruptcy act have made some use of this device. The sections which relate to compositions and extensions of "any person excepting a corporation" and to farmers are less significant, since they apply to a field in which receiverships ordinarily do not function. Davis v. Hayden, (C.C.A. 4th Cir. 1916) 238 Fed. 734; Hogsett v. Thompson, (1917) 258 Pa. St. 85, 101 Atl. 941. Cf. Shapiro v. Wilgus, (C.C.A. 3rd Cir. 1931) 55 F. (2d) 234. However, under the railroad reorganization section (sec. 77, Mar. 3, 1933, ch. 204, sec. 1, 47 Stat. at L.) appears the following: "(a) . . . If the petition is so approved, the court in which such order approving the petition is entered shall, during the pendency of the proceedings under this section and for the purposes thereof, have exclusive jurisdiction of the debtor and its property wherever located." "(k) If a receiver of all or any part of the property of a corporation has been appointed by a federal or state court, whether before or after this chapter takes effect, the railroad corporation may nevertheless file a petition or answer under this section at any time thereafter, but if it does so and the petition is approved the trustee or trustees appointed under the provisions of this section shall be entitled forthwith to possession of such property, and the judge shall make
entire field of insolvency litigation. This would transfer to the federal system a large portion of equity receivership subject-matter involving no question of diverse citizenship. It would partially solve the conflict by the process of elimination. The constitutionality of such legislation would rest in the Supreme Court's power of interpretation. However, regardless of the merit or demerit of developing this federal function, its proposal as a cure for the evil which is under consideration would be both partial and over drastic.

This seems to leave as the most practical suggestion the federal legislation as it was first proposed—a privilege of suing in foreign districts granted to all federal receivers, and to state receivers on the basis of diverse citizenship. Even though it would not entirely solve the problem, this method would furnish an opening wedge toward a broader comity in a field where it would achieve the largest amount of good. The present doctrine, which at one time may have served a political and economic need, has little except short-sighted selfishness to recommend it today, when the conditions upon which it was founded are matters only of history and reminiscence. As the law stands it is an archaic survival of a provincial culture—redolent of the past, symbolic of an individualistic, pioneer society.\(^{108}\)

such orders as he may deem equitable for the protection of obligations incurred by the receiver and for the payment of such reasonable administrative expenses and allowances in the prior proceeding as may be fixed by the court appointing said receiver within maximum limits approved by the commission.\(^{9}\)

The limited application of these provisions (railroad reorganization) will, of course, not solve the problem at hand. However, it demonstrates the possibilities inherent in the bankruptcy act for combating sectionalism in insolvency litigation and administration. Perhaps a general extension of this device to the receivership field may become advisable. Certainly no time is riper than now to rid finance of provincialism. The present problem, though, is much simpler.

For further discussion see Billig, Corporate Reorganization: Equity v. Bankruptcy, (1933) 17 Minnesota Law Review 237, especially pp. 253-257.\(^{108}\) See Hacket, A Possible Future Status of Foreign Assignments to Creditors, (1900) 13 Harv. L. Rev. 484.