that either was acting lawfully would exist. And if the suits could be brought in the same jurisdiction and consolidated, it is inconceivable that jurisdiction would be defeated. Thus, a decision upholding this action would require no invasion of state sovereignty by a more liberal interpretation of the amendment, but merely a slight adaptation of a firmly established principle to a situation only formally different from those of its traditional application.

Corporate Reorganization—Extraterritorial Jurisdiction of Reorganization Court over Debtor's Claim against Non-resident—[Federal].—Trustees of the debtor corporation claimed that the defendants, residents of Illinois and Delaware, received property from the debtor corporation without consideration therefor, and instituted suit for an accounting and judgment in a Federal district court of Mississippi. The defendants were served in their respective states and appeared specially to object to the jurisdiction of the court. On appeal from the action of the district court in dismissing the suit, *held*, affirmed. The dismissal for lack of jurisdiction was proper notwithstanding § 77B(a) of the Bankruptcy Act[1] which provides that the court shall "have exclusive jurisdiction of the debtor and its property wherever located. . . ." *Bovay v. Byllesby & Co.*[2]

Courts and writers alike have suggested that a reorganization court should have extraterritorial jurisdiction to facilitate the reorganization and the management of the corporate business.[3] It has been held that the jurisdiction of the reorganization court is nationwide over tangible property to which the debtor claims title.[4] There is no unanimity, however, among the several courts which have considered the problem of extraterritorial jurisdiction over choses in action. In *Thomas v. Winslow*,[5] it was decided that a reorganization court could extend its process beyond its territorial limits in a suit upon a chose in action, for a chose in action, even though unliquidated, is property in the possession of the debtor. Both the instant case and *United States v. Tacoma Oriental S. S. Co.*[6] seem to be holdings directly *contra*.

Section 77B(a) contains no express provision for extraterritorial service of process upon one claiming title adversely to the debtor corporation. The exercise of nationwide control in such cases is a matter of discretion.[7] It has been urged that the court should weigh all conflicting interests in deciding whether or not the necessity of centralized administration requires extension of territorial jurisdiction.[8] The hardship upon one who is put to the disadvantage and expense of making his defense in a foreign jurisdiction may conceivably be affected by the validity of the claim. The hardship

[1] 11 U.S.C.A. § 207 (1936). [2] 88 F. (2d) 990 (C.C.A. 5th 1937).

[3] Continental Illinois National Bank & Trust Co. v. Chicago R. I. & Pac Ry., 294 U.S. 648 (1935); Gerdes, Jurisdiction of the Court in Proceedings Under Section 77B, 4 Brooklyn L. Rev. 237 (1935).

[4] *In re* Greyling Realty Co., 74 F. (2d) 734 (C.C.A. 3d 1935); see also, Continental Illinois National Bank & Trust Co., note 3 *supra*, which is widely cited as a leading authority by cases coming under § 77B of the Bankruptcy Act, but which construes the identical provision under § 77.

[5] 11 F. Supp. 839 (N.Y. 1935). [6] 86 F. (2d) 363 (C.C.A. 9th 1936).

[7] *In re* Midland United Co., 12 F. Supp. 502 (Del. 1935).

[8] See 49 Harv. L. Rev. 797 (1936).

upon one whose defense to the claim of the debtor appears worthless is much less than upon one whose defense seems so clearly valid that the claim of the debtor against him is groundless. This rationale affords a basis for the reconciliation of the cases involving choses in action. In *Thomas v. Winslow*[9] the taking by the defendant was so clearly wrongful that it was hardly conceivable that he could raise a valid defense. In the instant case and in the *Oriental Steamship* case the likelihood of a successul defense was not similarly lacking. Although no case has yet arisen in which the court has refused to exercise extraterritorial jurisdiction over tangible property of the debtor, there would seem to be no reason why the same distinction should not there be made. In various situations involving tangible property a valid defense may be available to the adverse party.[10] Since, however, the wrong done to the tangible property by the adverse claimant will often be in violation of the four month limitation, it is conceivable that the reorganization courts, in their desire to formulate a rule of thumb, may refuse to recognize the suggested distinction.

In bankruptcy proceedings, the courts have refused to exercise summary jurisdiction over property to which a third party claimed more than a colorable title, even though the property was within the territorial jurisdiction of the court.[11] In a reorganization proceeding the court on analogous reasoning might deny extraterritorial jurisdiction, believing that to force one having more than a colorable claim to go to the reorganization court would impose too great a hardship on him. The Supreme Court has held that under § 77B(c)(10) the staying by a reorganization court of a suit brought by a creditor against the debtor corporation is not a matter of right to which the debtor is entitled, but is within the discretion of the court.[12] A similar conclusion under § 77B (a) would not be an undue extension of the doctrine advanced in that case.[13] It is to be regretted that the proposed bankruptcy reform bill[14] by incorporating the "exclusive jurisdiction" clause of § 77B(a), fails to resolve this ambiguity.

Criminal Law—Double Jeopardy—[Minn.].—The defendant's automobile collided with another, killing A and B, the occupants of the other car. The defendant was acquitted of a third-degree murder charge arising out of the death of A. At trial for the death of B, he pleads former jeopardy. The question was certified to the Minnesota Supreme Court. *Held*, that, since two separate offences were involved in the defendant's single act, the plea must fail and the defendant must stand trial for the death of B. *State v. Fredlund*.[1]

[9] Note 5 *supra*.

[10] For example see: *In re* Frances E. Willard National Temperance Hosp., 87 F. (2d) 894 (C.C.A. 7th 1936) (that mortgagee in possession after condition broken is, under Illinois Law, the owner of the property and may not be ousted in proceedings under 77B); *In re* Lake's laundry, 79 F. (2d) 326 (C.C.A. 2d 1935) (that conditional vendor under the state law retained title to the property and right to possession on default, and the vendor's title negatived sufficient "property" in the debtor to include the chattel within the plan of reorganization).

[11] Hinds v. Moore, 134 Fed. 221 (C.C.A. 6th 1905); *In re* Luken, 216 Fed. 890 (C.C.A. 7th 1914); see Gerdes, note 3, *supra* at pp. 245 *et seq.*

[12] Foust v. Munson S. S. Lines, 299 U. S. 77 (1936).

[13] See *In re* Midland United So., note 7, *supra*.

[14] Chandler Bill, H.R. 8046, 75th Congress, 1st Session, July 28, 1937, c. X, art. III, § 111.

[1] 273 N.W. 353 (Minn. 1937).