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).

The test employed in determining when offenses are the same, and the one purportedly followed in the instant case, is that they are the same whenever evidence adequate to the one indictment will equally sustain the other.[2] It is true that under this test, more than one offence can arise from acts occurring on one occasion. Thus, one who kills two people in the same affray may be tried separately for both killings.[3] Even where only one act occurs, several offences may arise. Thus, the act may involve two different types of crime.[4]

When, as in the instant case, a single act results in the same type of injury to two different people, some courts have interpreted the test as indicating that two offences have occurred.[5] However, in *People v. Majors*, the statement of the court is merely dictum. The *Browning* case is in point however. There, as in the principal case, the court decided that different evidence was necessary to sustain each indictment, *i.e.*, proof of injury to a different person. This seems an unnecessarily narrow interpretation of the test, especially in the present case, since it is conceded in the question as certified that both killings resulted from the same accident, leaving in issue only the question of whether the defendant's conduct at the time of the accident was such as to render him criminally responsible for the results of the accident. His acquittal in the first case settled that issue. This first verdict did not mean that he had not caused the death of A, but rather that his conduct was not criminal in spite of the fact that it had caused that death.[6] The fact that it also caused another death cannot make it so, and the state is not entitled to have that issue tried again because of an immaterial change in the nature of the evidence to be introduced.[7]

The court's analogy to the availability of separate civil suits is not compelling. Since in civil actions for damages, the injured parties are not identical, separate actions may be maintained, but in criminal prosecutions, the state is the only injured party, and it should be allowed to seek satisfaction only once.[8]

[2] 1 Bishop, Criminal Law § 1051 (9th ed. 1923); see also Carter v. McClaughrye, 183 U.S. 365 (1902); Gavieres v. United States, 220 U.S. 338 (1911); Morey v. Commonwealth, 108 Mass. 433 (1871).

[3] Commonwealth v. Anderson, 169 Ky. 372, 183 S.W. 898 (1916); State v. Billoto, 104 Ohio St. 13, 135 N.E. 285 (1922).

[4] See People v. Brannon, 70 Cal. App. 225, 233 Pac. 88 (1924) (*held*, charges of assault with intent to kill X, and of murdering Y may arise out of one act); State v. Rose, 89 Ohio St. 383, 106 N.E. 50 (1914) (*held*, one act of intercourse may result in prosecution for both rape and contributing to the delinquency of a minor); United States v. Lanza, 260 U.S. 377 (1922) (one state and one federal statute violated); Gavieres v. United States, 220 U.S. 338 (1911) (two territorial statutes violated); there may also be separate prosecutions for violation of two statutes by the same act.

[5] See Commonwealth v. Browning, 146 Ky. 770, 143 S.W. 407 (1912) (two people hit by one bullet); People v. Majors, 65 Cal. 138, 3 Pac. 597 (1884); but see *contra*, Clem v. State, 42 Ind. 420 (1873) (same facts); People v. Vitale, 364 Ill. 589, 5 N.E. (2d) 474 (1936) (ten people killed as result of one act of arson).

[6] See Smith v. State, 159 Tenn. 674, 681, 21 S.W. (2d) 400 (1929).

[7] See 1 Bishop, Criminal Law § 1061 (1) (9th ed. 1923).

[8] State v. Cosgrove, 103 N.J. L. 412, 135 Atl. 871 (1927); Smith v. State, 159 Tenn. 674, 21 S.W. (2d) 400 (1929).