IN THE

Supreme Court of the United States

OCTOBER TERM, 1961

NO. 13 ORIGINAL

STATE OF TEXAS,
Plaintiff

V.

STATE OF NEW JERSEY, ET AL,
Defendants

MOTION FOR LEAVE TO FILE BILL OF COMPLAINT, AND COMPLAINT

WILL WILSON
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ATTORNEYS FOR PLAINTIFF,
The State of Texas

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Defendants

MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

The State of Texas, by its Attorney General, respectfully asks leave of the Court to file the Bill of Complaint which is submitted herewith.

WILL WILSON
Attorney General of Texas

HENRY G. BRASWELL
Assistant Attorney General

ATTORNEYS FOR PLAINTIFF,
The State of Texas

STATEMENT IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT

A "case" and "controversy" exists between the States of Texas, New Jersey, and Pennsylvania within the meaning of Article III, Section 2, of the United States Constitution in that each of these states is aggressively claiming, and actively asserting the exclusive right to claim, the same intangible property under its respective escheat and/or custodial statutes. These claims are rival and mutually exclusive, threatening to subject the holder of such property, Sun Oil Company, not only to a multiplicity of suits, but to multiple liability for a single debt in violation of the due process of law guaranteed by the Fourteenth Amendment of the United States Constitution. Further, the claims of New Jersey and Pennsylvania constitute an unauthorized invasion of the rights of Texas in and to such property and subject Texas to the threat of immediate and irreparable loss and damage to its property and property rights.

The property involved is approximately Thirty-Seven Thousand, Eight Hundred and Fifty-Three Dollars and Fifty-Three Cents ($37,853.53) in debts of various amounts and types which Sun Oil Company, a corporation chartered under the laws of New Jersey, but transacting business under certificates of authority in Pennsylvania, Texas, and other states, owes to betwen 1800 and 2000 different persons whose whereabouts are unknown, and have been unknown, for a sufficient length of time to qualify the subject property for escheat and/or custody under the aforesaid states' respective abandoned property statutes.

Texas asserts that the situs of said property is in Texas for purposes of escheat. The property has been reported by Sun Oil Company to the Treasurer of Texas, pursuant to the Texas escheat statutes, as being personal property subject to escheat under the Texas statutes, and the administra-

tive procedures whereby such property can be adjudged by the Texas courts to be escheated to Texas have been instituted. Texas is authorized by its statutes to proceed to escheat such property now but withholds the institution of such an action in the courts of Texas pending the outcome of this original action.

The State of New Jersey has already instituted a suit in its courts against Sun Oil Company to take "protective custody" of this property with a view toward escheating it. Such suit is pending, having progressed past pretrial hearing and now being set for a trial on the merits for July 15, 1962. The State of Pennsylvania has served notice on Sun Oil Company that it is also claiming this property under its escheat and/or custodial statutes, and is conducting an audit of such property with a view toward instituting a suit to escheat this property.

There being no other competent forum available to the parties, and there being a clear threat of imminent and irreparable damage and loss to the property and property rights of plaintiff and the defendant, Sun Oil Company, due to the claims which are being asserted by Pennsylvania and New Jersey to the right to escheat such property, it is imperative that this Court exercise its original and exclusive jurisdiction by granting leave to file the instant Complaint and proceeding to determine the rights of these states with respect to the escheat of this property, as well as granting the further relief prayed for in the Complaint.

It is respectfully submitted that the Motion for Leave to File the Complaint should be granted.

WILL WILSON
Attorney General of Texas

HENRY G. BRASWELL
Assistant Attorney General

IN THE

Supreme Court of the United States

OCTOBER TERM, 1961

No. _____ ORIGINAL

STATE OF TEXAS,
Plaintiff

v.

STATE OF NEW JERSEY, ET AL,
Defendants

COMPLAINT

The State of Texas, Plaintiff, by Will Wilson, its Attorney General, with leave of the Court, files this its Bill of Complaint, against the Defendants, the State of New Jersey; Arthur J. Sills, Attorney General of New Jersey; the State of Pennsylvania; David Stahl, Attorney General of Pennsylvania; and Sun Oil Company.

I.

The original jurisdiction of this Court is invoked under the authority of Article III, Section 2, of the Constitution of the United States and 28 U. S. C. A., Section 1251.

II.

The Plaintiff, the State of Texas, acts by and through the Attorney General of Texas, Will Wilson, the official

of the State of Texas who is charged with the duty under the Constitution and laws of the State of Texas of prosecuting escheat suits in behalf of the State of Texas and of representing the State of Texas in civil litigation generally. Said Plaintiff is claiming the property which is the subject of this suit.

III.

The Defendant, the state of New Jersey, acts by and through the Defendant, Arthur J. Sills, Attorney General of New Jersey, the official of the State of New Jersey who is charged with the duty of prosecuting escheat suits in behalf of the State of New Jersey. Said Defendants are claiming the property which is the subject of this suit.

IV.

The Defendant, the State of Pennsylvania, acts by and through David Stahl, the Attorney General of Pennsylvania, the officer of the State of Pennsylvania who is charged with the duty of prosecuting escheat suits in behalf of the State of Pennsylvania. Said Defendants are claiming the property which is the subject of this suit.

V.

The Defendant, Sun Oil Company, is a corporation chartered under the laws of New Jersey, with offices in Pennsylvania and Texas, and actively engaged in business in Texas and other states under certificates of authority from such states to transact business therein.

VI.

States other than New Jersey and Pennsylvania are not named as Defendants herein because the aforenamed states are the only states which, according to Plaintiff's knowl-

edge, are making any claim to the particular property which is the subject of this Complaint. Plaintiff has, nevertheless, mailed a copy of this Complaint (along with a copy of Plaintiff's Motion for Leave) to the Governors and Attorneys General of all states wherein the Defendant, Sun Oil Company, transacts business, and which have abandoned property statutes to-wit: Florida, Idaho, Kentucky, Virginia, California, New Mexico, Louisiana, Oregon, Oklahoma, Utah, Arizona, Washington, Massachusetts, Arkansas, Connecticut, New York, Michigan and North Carolina; in order that any state desiring to assert a claim to said property may seek leave to intervene herein.

VII.

On January 2, 1962, the Defendant, Sun Oil Company, filed in due form with the Treasurer of the State of Texas, pursuant to the provisions of Article 3272a, Title 53, Vernon's Civil Statutes of Texas, a written report of personal property which is held by such company and deemed by such company to be subject to escheat to Texas under the laws of the State of Texas. Article 3272a requires every person holding personal property subject to escheat under the Texas escheat statutes to file a report thereof with the State Treasurer. Said statute defines the term "subject to escheat" as including:

". . . personal property presumed to be subject to escheat by the prima facie conclusions contained in Article 3272, including all personal property (1) of which the existence and whereabouts of the owner are unknown and have been unknown to the holder for more than seven (7) years and (2) on which, from the knowledge and records of the holder it appears that no claim or act of ownership has been asserted or exercised during the past seven (7) years and (3) on which no will of the last known owner has been recorded or probated in the county where the property is situated within the past seven (7) years."

Said statute defines the term "personal property" as including but not limited to:

". . . money, stocks, bonds and other securities, bills of exchange, claims for money or indebtedness and other written evidences of indebtedness, dividends, deposits, accrued interest, purchase payments, sums payable on certified checks, certificates of membership in a corporation or association, amounts due and payable under the terms of any insurance policy, security deposits, unclaimed refunds and deposits for utility or other services, funds to redeem stocks and bonds, undistribetud profits, dividends, or other mineral estates, and all other personal property and increments thereto, whether tangible or intangible, and whether held within this State, or without the State for a person or beneficiary whose last known residence was in this State."

In conformity with the aforesaid Texas statute, the Treasurer of Texas has received and now holds the aforesaid report from the Defendant, Sun Oil Company, and has caused notices to be posted to the persons appearing to be owners of the property so reported, and in May of 1962, the said property shall be deemed abandoned and shall escheat to the State of Texas, whereupon the Treasurer of the State of Texas shall so certify to the Attorney General of Texas, and the Attorney General of Texas shall, unless otherwise requested by this Court, or unless this Court has not acted on this motion and complaint, institute suit in the courts of Texas to judicially determine that such property has escheated to the State of Texas, as required by the aforesaid statute. The said personal property so reported is now being actively claimed by the Treasurer of the State of Texas and the Attorney General of Texas as property subject to escheat exclusively to Texas under the laws of Texas by reason of having been reported by the holder thereof as abandoned personal property held within the State of Texas, or held without the State of Texas for a person whose last known address was in this State. Said property

has its situs in Texas and is subject to the jurisdiction of the courts of Texas.

VIII.

On or about August 3, 1961, the Defendant, the State of New Jersey, by David S. Furman, Attorney General of New Jersey, filed a suit, State of New Jersey, by David S. Furman, Attorney General of the State of New Jersey v. Sun Oil Company, a corporation, Docket Number C-192-61 in the Superior Court of New Jersey, Chancery Division, Mercer County, wherein the State of New Jersey seeks under Article III, Chapter 37, Title 2A, New Jersey Statutes, to compel the Defendant, Sun Oil Company, to deliver to the State Treasurer of New Jersey for safekeeping and ultimate escheat to New Jersey certain property held by the Defendant, Sun Oil Company. Said property includes all of the property reported, as aforesaid, by the Defendant, Sun Oil Company, to the Treasurer of Texas and which Plaintiff, the State of Texas, claims to be subject to escheat to the State of Texas in the courts of Texas under Article 3272a, Title 53, Vernon's Civil Statutes of Texas. In said suit the State of New Jersey further seeks to compel the Defendant, Sun Oil Company, to deliver to the Treasurer of New Jersey other property held by the Defendant, Sun Oil Company, which has not been reported to the Treasurer of Texas and which the State of Texas does not claim. Neither the State of Texas nor any other State except New Jersey is a party to said suit. The Defendant, Sun Oil Company, has filed an answer in said suit asserting, among other defenses, that the property involved in said suit is being claimed by other states under their escheat laws and that any judgment entered in the New Jersey courts would not be binding on such other states and, therefore, as to Sun Oil Company, such judgment would violate the due process clause of the United States Con-

stitution. A pre-trial hearing has been held in said cause and said defense overruled. A trial on the merits is set for July 15, 1962.

IX.

On or about March 27, 1962, the Defendant, Sun Oil Company, notified the Treasurer of the State of Texas of the aforesaid New Jersey suit, and on or about March 30, 1962, the Attorney General of Texas, at the request of the Treasurer of Texas, notified the Defendant, Sun Oil Company, that the State of Texas is asserting a claim to all of the aforesaid property reported by the Defendant, Sun Oil Company, to the Treasurer of Texas. The Defendant Sun Oil Company has advised the New Jersey court and the Attorney General of New Jersey that Texas is claiming part of the property involved in the aforesaid New Jersey suit, namely that property which has been reported to the State of Texas by Defendant Sun Oil Company. The State of New Jersey, nevertheless, persists in prosecuting the aforesaid suit.

X.

The Defendant, the State of Pennsylvania, has notified the Defendant, Sun Oil Company, that Pennsylvania is claiming the aforesaid property reported by Sun Oil Company to the Treasurer of Texas, and has called for an audit of all such property held by the Defendant, Sun Oil Company. The Defendant, the State of Pennsylvania, is claiming in rem jurisdiction to escheat said property, as is the State of Texas and the State of New Jersey. The Attorney General of Pennsylvania has been notified by the Defendant, Sun Oil Company, that Texas is asserting a claim to said property. Pennsylvania, nevertheless, persists in asserting a claim to said property.

XI.

The property which the Defendant, Sun Oil Company, holds and has reported to the Treasurer of Texas, and which Pennsylvania, New Jersey, and Texas are claiming under their respective escheat statutes, is approximately Thirty-Seven Thousand, Eight Hundred Fifty-Three Dollars and Fifty-Three Cents ($37,853.53) in miscellaneous sums of money owed by the Sun Oil Company to between 1800 and 2000 different persons on:

(1) Uncashed checks in payment of obligations incurred in Texas, which checks were issued in Texas on bank accounts in Texas by the Gulf Coast Division office of said company at Beaumont, Jefferson County, Texas, and by the Southwest Division office of said company at Dallas, Dallas County, Texas, for wages, services, and supplies, and payable to various persons: (a) whose last known address is in Texas; (b) whose last known address is in states other than Texas; and (c) whose last known address is unknown.

(2) Uncashed lease rental checks issued in Texas on bank accounts in Texas by the Gulf Coast Division office of said company in Texas for various persons whose last known address is in Texas.

(3) Unclaimed payments to vendors and others, which obligations were incurred in Texas, and are held for payment by the Gulf Coast Division office and the Southwest Division office of said company in Texas, to various persons: (a) whose last known address is in Texas; (b) whose last known address is in states other than Texas; and (c) whose address is unknown.

(4) Uncashed oil and gas purchase royalty checks issued in Texas on bank accounts in Texas by the Gulf Coast Division office of said company to various persons: (a) whose last known address is in Texas; (b) whose last known address is in states other than Texas; and (c) whose last known address is unknown.

(5) Mineral proceeds reflected by the records of the Gulf Coast Division office of said company in Texas and the Southwest Division office of such company in Texas on production from land and leases in Texas; and held for various persons: (a) whose last known address is in Texas; (b) whose last known address is in other states; and (c) whose last known address is unknown.

(6) Mineral proceeds reflected by the records of the Gulf Coast Division office of said company in Texas and the Southwest Division office of such company in Texas on production from lands and leases in other states for persons: (a) whose last known address is in Texas; (b) whose last known address is in other states; and (c) whose last known address is unknown.

(7) Unclaimed cash dividends on common stock of the Sun Oil Company, which dividends are credited on the books of Sun Oil Company at Philadelphia, Pennsylvania, for persons whose last known address is in Texas.

(8) Unclaimed payments deducted for employees on war bonds, the records of which are now kept at the Philadelphia, Pennsylvania, office of such company, for various persons whose last known address is in Texas.

(9) Uncashed checks issued in Oklahoma, by the Mid-Continent Division office of said company at Tulsa, Oklahoma, to various persons whose last known address is in Texas.

(10) Unclaimed stock scrip certificates of the Sun Oil Company held for persons whose last known address is in Texas.

The debts evidenced, as described above, by (1) uncashed checks for wages, services, and supplies; (2) uncashed lease rental checks; (3) unclaimed payments to vendors and others; (4) unclaimed oil and gas royalty checks; and (5) mineral proceeds from lands and leases in Texas, all arose out of the operations of Sun Oil Company in Texas through its offices in Texas. All company records of these

individual debts were originally made and entered in, and have since been kept in, the said division offices in Texas exclusively.

The debts evidenced, as described above, by (6) mineral proceeds on lands and leases in other states; (7) unclaimed cash dividends on common stock; (8) unclaimed deductions for employees on war bonds; (10) unclaimed stock subscription certificates: and (9) uncashed checks issued to Oklahoma, are believed to have arisen in Texas.

The Plaintiff, the State of Texas, avers that the situs of all the aforesaid property is in Texas and the property is subject to the jurisdiction of the courts of Texas.

The written report of the aforesaid property by Sun Oil Company to the Treasurer of Texas is referred to for purposes of presenting a more detailed description. Said report is not set forth in these pleadings due to its unusual length but is available to the Court and all parties hereto upon request.

XII.

The Defendant, Sun Oil Company, is present in Texas; subject to the jurisdiction of the courts of Texas, and amenable to their process. Said company is now actively engaged in business in Texas and has been so engaged throughout the time the subject debts arose. At all such times, said company has transacted business in Texas under a valid Certificate of Authority from the Secretary of the State of Texas. Said company maintains a designated registered office in Texas and a registered agent for service of process in Texas pursuant to the statutes of Texas governing the operation of foreign corporations in Texas.

XIII.

The Plaintiff, the State of Texas, as opposed to the De-

fendants, the State of New Jersey and the State of Pennsylvania, and any other state or states, has the exclusive power and right to escheat the subject property because the Defendant, Sun Oil Company, is subject to the jurisdiction of the Texas courts and the subject debts have their situs in Texas for purposes of escheat.

XIV.

The Defendant, the State of New Jersey, lacks the power to escheat, and/or take custody of, the said property because all of such property has its situs, for purposes of escheat, outside of the State of New Jersey, the debts having arisen in the course of transactions in other states and being owed to persons whose last known address is in other states.

XV.

The Defendant, the State of Pennsylvania, lacks the power to escheat, and/or take custody of, the said property because all of such property has its situs for purposes of escheat in other states, the debts having arisen out of transactions conducted in other states and being owed to persons whose last known address is in other states.

XVI.

The said intangible personal property claimed by Plaintiff, the State of Texas, is in real, actual and imminent danger of being declared escheated to the State of New Jersey by the New Jersey courts and to the State of Pennsylvania by the Pennsylvania courts without the claim of Texas or any other state to such property having been asserted, heard, or adjudicated by a court of competent jurisdiction. The holder of such property, the Defendant, Sun Oil Com-

pany, is in real, actual and imminent danger of being compelled by the courts of New Jersey to deliver said property to the State of New Jersey and by the courts of Pennsylvania to deliver such property to Pennsylvania without any protection being afforded such holder from the claims of Texas, or other states to this same property. Said company is being subjected to rival and mutually exclusive claims of Texas and New Jersey and Pennsylvania which pose a real, actual, and imminent threat of taking property of said company in contravention of the due process of law guaranteed by the United States Constitution. The exclusive right, title, and interest of Texas in and to this property is in most imminent danger of being lost by the depletion and taking of the subject property by a judgment in the aforesaid New Jersey proceeding. Neither the holder, Sun Oil Company, or the State of Texas can be protected from irreparable injury and loss of property and property rights unless this Court grants the relief sought by this Complaint.

XVII.

The Plaintiff, the State of Texas, is entitled to the opportunity to discover and develop, in proceedings to which all claimant states, as well as any other interested persons or entities, can be made parties, all of the relevant facts and circumstances surrounding the subject property which will prove, or tend to prove, its true situs for purposes of escheat, said proceedings to be conducted by a Special Master appointed by the Supreme Court of the United States, or through such other means as said Court may deem appropriate.

XVIII.

The Plaintiff, the State of Texas, is entitled to the opportunity to proceed to establish before this Court Plain-

tiff's claim to the right and power to escheat the subject property without any interference with said property from the courts or administrative officials of any state pending final action by the Supreme Court of the United States.

XIX.

The Plaintiff, the State of Texas, has no other adequate remedy at law and no remedy whatsoever in any other court.

WHEREFORE, Plaintiff prays:

(1) That this Court take jurisdiction of the parties and subject matter.

(2) That this Court hear and determine the controversy between the parties, either by referring this case to a Master in Chancery, or a Federal District Court, or in such other manner as the Court deems appropriate, for findings of fact and law and recommendations to this Court.

(3) That a temporary injunction be issued restraining the Defendants, the State of New Jersey, the Attorney General of New Jersey, the State of Pennsylvania, and the Attorney General of Pennsylvania, from proceeding with any action now pending, or which may hereafter be instituted, to escheat and/or take custody of said property, pending further orders of this Court.

(4) That a temporary injunction be issued restraining the Defendant, Sun Oil Company, from paying, delivering, or in any manner relinquishing, the said property to the Defendants, or to any other person or entity, pending further orders of this Court.

(5) That upon final adjudication of this suit by this Court the aforesaid temporary injunction referred to in (3) above be made perpetual and permanent.

(6) That a decree be entered adjudging that the Plaintiff, the State of Texas, alone has the power to assert a claim of escheat against the said property and is alone

authorized to proceed, in accordance with the statutes of Texas governing escheat, to obtain a judgment declaring said property escheated to the State of Texas.

(7) That a decree be entered adjudging that neither the State of New Jersey nor the State of Pennsylvania, nor any other state except Texas, has the power to escheat, or to prosecute a claim of escheat against, said property.

(8) That the Plaintiff, the State of Texas, have such other and further relief as this Court may deem proper.

WILL WILSON
Attorney General of Texas

HENRY G. BRASWELL
Assistant Attorney General

COUNSEL FOR PLAINTIFF,
The State of Texas

PROOF OF SERVICE

I, Will Wilson, Attorney General of Texas, one of the attorneys for Plaintiff, the State of Texas, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the — day of ————, 1962, I served copies of the foregoing Motion for Leave to File Complaint and Complaint on each of the parties defendant by depositing copies in a United States post office or mail box, as certified mail with air mail postage prepaid, and addressed to:

(1) Honorable Robert B. Meyner
Governor of New Jersey
State Capitol
Trenton, New Jersey

(2) Honorable Arthur J. Sills
Attorney General of New Jersey
State Capitol

Trenton, New Jersey

(3) Honorable David L. Lawrence
Governor of Pennsylvania
State Capitol
Harrisburg, Pennsylvania

(3) Honorable David Stahl
Attorney General of Pennsylvania
State Capitol
Harrisburg, Pennsylvania

(5) Mr. Joseph T. Wilson, Jr.
Treasurer of Sun Oil Company
1608 Walnut Street
Philadelphia 3, Pennsylvania

(6) Mr. Henry A. Frye
Pepper, Hamilton & Scheetz
Fidelity-Philadelphia Trust Building
Philadelphia 9, Pennsylvania
(It is known to Plaintiff that said person and firm are attorneys for Sun Oil Company in relation to this matter.)

(7) Mr. T. F. Hill
Southland Center
P. O. Box 2880
Dallas 21, Texas
(Said person is Sun Oil Company's registered agent for service in Texas.)

It is further certified that copies of said Motion and Complaint have been served on the states named in Paragraph VI of said Complaint by mailing copies by United States certified air mail prepaid, to the Governors and Attorneys General of each of such states.

WILL WILSON
Attorney General of Texas

ATTORNEY FOR PLAINTIFF
The State of Texas