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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1970

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No. 40 Original

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COMMONWEALTH OF PENNSYLVANIA, et al.,

*Plaintiffs,*

v.

STATE OF NEW YORK, et al.,

*Defendants.*

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REPORT OF SPECIAL MASTER ON APPLICATIONS  
OF THE STATES OF CALIFORNIA, ARIZONA,  
AND INDIANA FOR LEAVE TO INTERVENE

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John F. Davis,

*Special Master*

# Supreme Court of the United States

THE  
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OF THE SUPREME COURT OF THE UNITED STATES  
IN THE MATTER OF THE PETITION OF  
THE UNITED STATES OF AMERICA  
FOR A WRIT OF HABEAS CORPUS  
IN FAVOR OF  
JOHN EDGAR HOOVER  
Respondent  
vs.  
UNITED STATES OF AMERICA  
Petitioner

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## REPORT OF SPECIAL MASTER ON APPLICATIONS OF THE STATES OF CALIFORNIA, ARIZONA, AND INDIANA FOR LEAVE TO INTERVENE

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By order of the Court dated October 12, 1970, the undersigned was appointed Special Master in the above entitled matter. By orders of November 23, 1970, and January 25, 1971, the Court referred to the Special Master, petitions for leave to intervene as parties plaintiff by the States of California and Indiana and as a party defendant by the State of Arizona. Pursuant to the aforesaid orders the Special Master submits the following report.

## FACTS

So far as is necessary for the disposition of these motions, the complaint and answers make it appear that The Western Union Telegraph Company, a New York Corporation, holds material amounts of money received by it for the transmission of telegraphic money orders which for one reason or another aborted. The amount involved is not now established, but it appears to be in the neighborhood of \$1,500,000 for orders purchased on or before December 31, 1962. That date was used in Pennsylvania's complaint because it fits with the seven year period fixed in its escheat statute (Penn. Act of May 2, 1889, P.L. 66, Sec. 1, as amended by Act of July 29, 1953, P.L. 986, Sec. 1). Apparently most of this \$1,500,000, estimated in one survey at 78.1%, consisted of orders as to which the payees could not be found and the amounts were therefore to be refunded to the senders, but they also could not be found. The survey indicated that of the remaining 21.9% about half constituted drafts issued to the payees which were not submitted for payment and the remainder of refund drafts to the senders which also were not cashed.

Pennsylvania alleged that of the total of \$1,500,000, about \$100,000 resulted from purchases of telegraphic money orders in Pennsylvania and that under its escheat law Pennsylvania is entitled to all of that sum. It asserts that there are conflicting claims by Florida, Oregon, Virginia, and New York and, inferentially, by other states. Pennsylvania asked the Court to issue an injunction barring escheat by the states named as defendants and restraining Western Union from releasing the money to them pending further orders of the Court and prayed for what appears to the Special Master to be in the nature of a declaratory judgment spelling out the legal rights of the parties. None of the defendants opposed Pennsylvania's motion for leave to file the complaint and on June 15, 1970, the Court granted the motion. No action has been taken on the request for an

injunction, which New York said was not necessary since it did not intend to institute any such action.

The State of Connecticut filed a motion for leave to intervene as a party plaintiff, alleging that approximately \$100,000 of the money orders in issue had been purchased in Connecticut and that as to that amount it was fair and equitable that the money escheat to Connecticut as against the claims of the defendant states. The Court granted this motion on October 12, 1970, but Connecticut has not yet filed a complaint.

Each of the defendant states, Florida, New York, Oregon and Virginia, filed an answer to the complaint, asserting claims to the money involved conflicting with the claim of Pennsylvania, and, in some instances, conflicting with each other. The Western Union Telegraph Company filed an answer denying sufficient knowledge or information to form a belief as to the correctness of the figures contained in the complaint, but, in effect, admitting the existence of the conflicting claims.

### PETITIONS TO INTERVENE

The motion of the State of California for leave to intervene as a party plaintiff, which has been referred to the Special Master for his recommendation, is substantially the same as the motion submitted by Connecticut and granted by the Court. California asserts that of the money in dispute approximately \$100,000 originated in the purchase of telegraphic money orders in California and that it is fair and equitable that that sum escheat to California as against the claims of other States.

The State of Indiana's motion for leave to intervene as a party plaintiff alleges that under its statutes it is entitled to custodial taking or escheat of money received for money orders originating in Indiana when payment has not been made by cash or draft to the sendee, or a refund made by cash or draft to the sender. In cases where drafts have been

issued, its statutes entitle it to the money where the address of the payee on the draft is in Indiana or, if there is no last known address of such payee, where the draft was issued in Indiana. Indiana asserts that its claim is "within the ambit of the declaratory judgment prayed for by the Commonwealth of Pennsylvania." It asserts that a controversy exists between Indiana and all of the defendants opposed to the distribution provided by its statutes and that no party heretofore joined or having intervened can protect Indiana's interest.

The motion of the State of Arizona to intervene as a party defendant submits a proposed answer to the complaint to be filed if its motion is granted. From this answer it appears that the governing statute in Arizona is said to be substantially the same as the Uniform Disposition of Unclaimed Property Act approved by the National Conference on Uniform Laws in 1955. Under that law Arizona claims the funds represented by money orders sent to an Arizona destination or those sent to a payee whose last known address shown by the books of the debtor is in Arizona. Arizona states that its position is similar or identical to that of Florida which also has the uniform law.

With minor exceptions, each of the parties to this proceeding has stated that it has no objection to the requested interventions.<sup>1</sup>

### RECOMMENDATION OF THE SPECIAL MASTER

The Special Master recommends that each of the motions for leave to intervene be granted. It seems clear that the same type of controversy exists between these three states and the states claiming in opposition to them as existed between the original parties to the case. The position of

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<sup>1</sup>The files of the Special Master do not show that Oregon has taken a position with respect to the motions of Arizona or Indiana, or that Connecticut has taken a position on Arizona's motion or Pennsylvania on Indiana's.

California is the same as that of Connecticut whose motion for leave to intervene was granted by the Court. The position of Arizona appears to be the same as that of Florida. Although the position of Indiana differs somewhat from each of the others, the presence of real controversy seems clear.

It may well be that each of the other forty-one states not appearing in this proceeding also have an interest, large or small, in the outcome. Presumably most of them are willing to leave the matter to the determination of the Court on the basis of the representations of their sister states. However, if some of them desire to intervene at this time, it does not seem to the Special Master necessary that the proceedings before him be delayed to await action on such applications. Unless instructed to the contrary, the Special Master will proceed to hear the present parties and the present intervenors, if their motions are granted. He will, of course, be receptive to the views of other States as *amici curiae*.

It is recommended that the motions for leave to intervene of the States of California, Arizona and Indiana be granted.

Respectfully submitted,

February, 1971

John F. Davis  
Special Master











