specific directions from the maker, to pay the note out of funds of the maker on deposit in the bank, and that this interpretation of section 87 is contrary to the terms and implications of section 70. Bigelow, Bills, Notes & Checks, 3rd ed., sec. 341, p. 258, fn. 1 (pp. 258-260). The problem is not likely to arise in Minnesota, since in the Minnesota statute section 87 has been changed to provide that an instrument made payable at a bank "shall not be equivalent to an order to the bank to pay the same for the account of the principal debtor thereon." See Mason's 1927 Minn. Stat., sec. 7130.

CONFLICT OF LAWS—DOMICILE—CONFLICTING ADJUDICATIONS AS TO DOMICILE.—The decedent, while domiciled in New Jersey, purchased an estate in Pennsylvania which he and his family thereafter occupied as a residence. His business remained in New Jersey, he kept his house there although he occupied it very infrequently, he voted there, and otherwise indicated his intention to retain his domicile in that state. He died in New Jersey, and his will was probated there. His executors made a report of the assets of the estate, comprised mostly of intangibles, as of a resident decedent, to the New Jersey tax commissioner. Meanwhile tax proceedings were instituted against the estate in Pennsylvania, and the supreme court of that state directed the assessment of a transfer tax of some $17,000,000 on the theory that he was domiciled in that state. *Dorrance's Estate,* (1932) 309 Pa. St. 151, 163 Atl. 303, cert. denied (1932) 288 U. S. 617, 53 Sup. Ct. 222, 77 L. Ed. 570. The executors paid that tax. Subsequently New Jersey assessed a transfer inheritance tax amounting to nearly $17,000,000 against the estate. The executors appealed from the assessment contending that the decision of the Pennsylvania court on the question of the decedent's domicile was controlling on the New Jersey authorities. *Held,* that the tax be affirmed. Although the Pennsylvania house was in fact the real residential home of the decedent and his family, he had no intention that it should be his permanent home; he intended it to be only a temporary home for so long as should be requisite to complete his daughters' education and give them the proper social preparation for their start in life. His domicile remained in New Jersey, and only New Jersey validly could assess the tax. *In re Dorrance's Estate,* (N.J. Prerog. 1934) 170 Atl. 601.

The Pennsylvania court based its finding of domicile on the generally recognized proposition that the intention requisite to a domicile of choice is the intention to have a home in fact, domicile following as a legal consequence whether that consequence is desired or not. See (1934) 18 MINNESOTA LAW REVIEW 224. The New Jersey court recognized that a man's domicile will follow him to a new home, but only when he intends the new home to be his permanent home. See also *Matter of Thompson,* (1828) 1 Wend. (N.Y.) 43, 45; *Dailey v. Town of Ludlow,* (1929) 102 Vt. 312, 317, 147 Atl. 771. But in making the intention to remain permanently essential to domicile, the New Jersey court is clearly not in accord with the modern tendency to require only a settled place of abode with no intention of presently changing it for another. Goodrich, Conflict of Laws, sec. 24, p. 34-35; *Berry v. Wilcox,* (1895) 44 Neb. 82, 62 N. W. 249, 48

Am. St. Rep. 706; *Klutts v. Jones,* (1916) 21 N. M. 720, 158 Pac. 490, L. R. A. 1917A 291. A "floating" intention to return to a former home has been held insufficient to prevent a new home from becoming the place of domicile. *Gilbert v. David,* (1915) 235 U. S. 561, 35 Sup. Ct. 164, 59 L. Ed. 360. As the result of these conflicting adjudications as to the domicile of the decedent, it would seem necessary for the United States Supreme Court to take jurisdiction and to determine in which state he was domiciled in order to effectuate completely its policy against multi-state inheritance taxation on the transfer of intangible personalty. *Farmers Loan Co. v. Minnesota,* (1930) 280 U. S. 204, 50 Sup. Ct. 98, 74 L. Ed. 371; *First Nat'l Bank v. Maine,* (1932) 284 U. S. 312, 52 Sup. Ct. 174, 76 L. Ed. 313. These decisions make domicile a jurisdictional factor. Since it is fundamental that no person can have more than one domicile at his death, American Law Institute, Restatement of the Law of Conflict of Laws, Proposed Final Draft No. 1, sec. 13, p. 33, quaere: whether there is a denial of due process of law where two states assume to levy an inheritance tax on the same estate on the basis of inconsistent findings of domicile? In *Baker v. Baker, Eccles & Co.,* (1917) 242 U. S. 394, 37 Sup. Ct. 152, 61 L. Ed. 386, the court did allow two states to make conflicting findings as to domicile, but in that case domicile was not an element of jurisdiction, its only importance being to determine what law governed the succession of property. It has been suggested that the United States Supreme Court would open its docket to a flood of unimportant litigation by undertaking to review factual findings of domicile and for that reason should leave the question to the states although multiple findings of domicile may in some instances result in double taxation. See (1932) 81 U. Pa. L. Rev. 177, 187. But review by the Supreme Court of findings of fact as to domicile where jurisdiction under the federal constitution is involved would not require it to review all questions of fact as to domicile in cases where domicile is not a jurisdictional element.

CONFLICT OF LAWS—WHAT LAW GOVERNS WHETHER THE ACTION SHALL BE AT LAW OR IN EQUITY?—A Massachusetts resident held a Massachusetts motor vehicle liability insurance policy. In the terms of the policy was incorporated by reference a Massachusetts statute which provides for a suit in equity to reach and apply in satisfaction of a judgment for injuries the obligation of an insurance company to the judgment debtor under a policy insuring the judgment debtor against liability for such injuries. A Rhode Island statute permits recovery from the insurance company under similar circumstances in an action at law. Plaintiff, having recovered a judgment against the insured for injuries sustained through the negligent operation of the insured's automobile, brought an action at law in Rhode Island against the insurer to satisfy the judgment. From a judgment of the superior court for plaintiff, defendant took exception. *Held,* that the exception be sustained and the record remitted with directions to dismiss the action without prejudice to the right of plaintiff to prosecute his claim in equity. The superior court sitting as a court of law is without jurisdiction to entertain the action. *Farrell v. Employers' Liability Assur. Corp.,* (R.I. 1933) 168 Atl. 911.