RICE *v.* HOUSTON, ADMINISTRATOR.

A citizen of one State getting letters of administration on the estate of a decedent there, its citizen also, and afterwards removing to another State, and becoming a citizen of it, may sue in the Circuit Court of the first State, there being nothing in the laws of that State forbidding an administrator to remove from the State.

ERROR to the Circuit Court for the Middle District of Tennessee; the case being thus:

A. W. Vanleer, a citizen of Tennessee, having died at Nashville, letters of administration were granted by the proper authority there to one Houston, on his estate. It seemed to be admitted by counsel that, at this time, Houston was a citizen of Tennessee. But he afterwards, it was equally admitted, was in Kentucky and domiciled there. Thus domiciled he brought two suits in the court below, the Circuit Court for the Middle District of Tennessee, to recover from Rice on certain notes given to his decedent, Vanleer. In these suits he described himself in his *narr.* as "a citizen of the State of Kentucky and administrator of the estate of A. W. Vanleer, deceased." The defendant craved oyer of the letters. This disclosing that the letters were granted in Tennessee, the defendant pleaded that "by the said letters of administration it appears that the administrator of the estate of the said A. W. Vanleer is the creature of the law of Tennessee, and has no existence *as such* outside of the State of Tennessee." To this plea the plaintiff demurred, and the demurrer being held good and judgment given for the plaintiff, the defendant brought the case here. The point involved was of course the jurisdiction of the Circuit Court.

Mr. R. A. Crawford, for the plaintiff in error:

Of course the Circuit Court has no jurisdiction between citizens of the same State. But here Houston was the domestic administrator, and in point of fact, it will be con-

ceded, though not so asserted in the record, a citizen of Tennessee, when he got his letters; he having *afterwards* removed to Kentucky. Independently of this, since, personally, he is a stranger to the suit, his personal domicil in Kentucky cannot be looked to. By his letters, he represented the sovereignty of Tennessee, regardless of personal alienship.

Messrs. F. B. Fogg and H. Maynard, contra.

Mr. Justice DAVIS delivered the opinion of the court.

The question of jurisdiction is the only point in the case.

Although in controversies between citizens of different States, it is the character of the real and not that of the nominal parties to the record which determines the question of jurisdiction, yet it has been repeatedly held by this court that suits can be maintained in the Circuit Court by executors or administrators if they are citizens of a different State from the party sued, on the ground that they are the real parties in interest, and succeed to all the rights of the testator or intestate by operation of law. And it makes no difference that the testator or intestate was a citizen of the same State with the defendants, and could not, if alive, have sued in the Federal courts; nor is the status of the parties affected by the fact that the creditors and legatees of the decedent are citizens of the same State with the defendants.*

In this state of the law on this subject, it is not perceived on what ground the right of Houston to maintain these suits can be questioned. He was a citizen of Kentucky, had the legal interest in the notes sued on, by virtue of the authority conferred on him by the court in Tennessee, and, therefore, had a right to bring his action in the Federal or State courts at his option.

It is to be presumed, in the absence of an averment in

* Chappedelaine *v.* Dechenaux, 4 Cranch, 306, 307; Browne et al. *v.* Strode, 5 Id. 303; Childress's Ex. *v.* Emory et al., 8 Wheaton, 669; Osborn *v.* Bank of the United States, 9 Id. 856; McNutt *v.* Bland et al., 2 Howard, 15; Irvine *v.* Lowry, 14 Peters, 298; Huff *v.* Hutchinson, 14 Howard, 586; Coal Company *v.* Blatchford, 11 Wallace, 172.

Statement of the case.

the pleadings to the contrary, that Houston, when appointed administrator, was a citizen of Kentucky, and if so the appointment was legal, for the laws of Tennessee do not forbid the probate courts of that State to intrust a citizen of another State with the duties of administering on the estate of a person domiciled at the time of his death in Tennessee.

But if the fact be otherwise, as seems to be admitted in argument, and Houston were a citizen of Tennessee at the time he got his letters of administration, the liability of the defendants to be sued in the Federal courts remains the same, because there is no statute of Tennessee requiring an administrator not to remove from the State, and the general law of the land allows any one to change his citizenship at his pleasure. After he has in good faith changed it, he has the privilege of going into the United States courts for the collection of debts due him by citizens of other States, whether he holds the debts in his own right or as administrator.

JUDGMENT AFFIRMED.

CURTIS *v.* WHITNEY.

1. A statute does not necessarily impair the obligation of a contract because it may affect it retrospectively, or because it enhances the difficulty of performance to one party or diminishes the value of the performance to the other, provided that it leaves the obligation of performance in full force.
2. A statute which requires the holder of a tax certificate made before its passage to give notice to an occupant of the land, if there be one, before he takes his tax-deed, does not impair the obligation of the contract evidenced by the certificate.

ERROR to the Supreme Court of Wisconsin; the case being thus:

Mary Curtis brought suit under a statute of Wisconsin to have her title to a certain piece of land, which she claimed under a deed made on a sale for taxes, established and quieted as against the defendants.