

## Sec. 2—Judicial Power and Jurisdiction

## Cl. 1—Cases and Controversies

**Stockholder Suits.**—Moreover, adversity in parties has often been found in suits by stockholders against their corporation in which the constitutionality of a statute or a government action is drawn in question, even though one may suspect that the interests of plaintiffs and defendant are not all that dissimilar. Thus, in *Pollock v. Farmers' Loan & Trust Co.*,<sup>369</sup> the Court sustained the jurisdiction of a district court which had enjoined the company from paying an income tax even though the suit was brought by a stockholder against the company, thereby circumventing a statute which forbade the maintenance in any court of a suit to restrain the collection of any tax.<sup>370</sup> Subsequently, the Court sustained jurisdiction in cases brought by a stockholder to restrain a company from investing its funds in farm loan bonds issued by federal land banks<sup>371</sup> and by preferred stockholders against a utility company and the TVA to enjoin the performance of contracts between the company and TVA on the ground that the statute creating it was unconstitutional.<sup>372</sup> Perhaps most notorious was *Carter v. Carter Coal Co.*,<sup>373</sup> in which the president of the company brought suit against the company and its officials, among whom was Carter's father, a vice president of the company, and in which the Court entertained the suit and decided the case on the merits.<sup>374</sup>

**Substantial Interest: Standing**

Perhaps the most important element of the requirement of adverse parties may be found in the "complexities and vagaries" of the standing doctrine. "The fundamental aspect of standing is that it focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated."<sup>375</sup> The "gist of the question of standing" is whether the party seeking relief has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the

<sup>369</sup> 157 U.S. 429 (1895). The first injunction suit by a stockholder to restrain a corporation from paying a tax was apparently *Dodge v. Woolsey*, 59 U.S. (18 How.) 331 (1856). See also *Brushaber v. Union Pac. R.R.*, 240 U.S. 1 (1916).

<sup>370</sup> Cf. *Cheatham v. United States*, 92 U.S. 85 (1875); *Snyder v. Marks*, 109 U.S. 189 (1883).

<sup>371</sup> *Smith v. Kansas City Title & Trust Co.*, 255 U.S. 180 (1921).

<sup>372</sup> *Ashwander v. TVA*, 297 U.S. 288 (1936). See *id.* at 341 (Justice Brandeis dissenting in part).

<sup>373</sup> 298 U.S. 238 (1936).

<sup>374</sup> Stern, *The Commerce Clause and the National Economy*, 59 HARV. L. REV. 645, 667–668 (1948) (detailing the framing of the suit).

<sup>375</sup> *Flast v. Cohen*, 392 U.S. 83, 99 (1968). This characterization is not the view of the present Court; see *Allen v. Wright*, 468 U.S. 737, 750, 752, 755–56, 759–61 (1984). In taxpayer suits, it is appropriate to look to the substantive issues to determine whether there is a logical nexus between the status asserted and the claim sought to be adjudicated. *Id.* at 102; *United States v. Richardson*, 418 U.S. 166, 174–75 (1974); *Duke Power Co. v. Carolina Env'tl. Study Group*, 438 U.S. 59, 78–79 (1978).