On the authority of Curry v. McCanless, the Court, in Pearson v. McGraw, 465 sustained the application of an Oregon transfer tax to intangibles handled by an Illinois trust company, although the property was never physically present in Oregon. Jurisdiction to tax was viewed as dependent, not on the location of the property in the state, but on the fact that the owner was a resident of Oregon. In Graves v. Elliott, 466 the Court upheld the power of New York, in computing its estate tax, to include in the gross estate of a domiciled decedent the value of a trust of bonds managed in Colorado by a Colorado trust company and already taxed on its transfer by Colorado, which trust the decedent had established while in Colorado and concerning which he had never exercised any of his reserved powers of revocation or change of beneficiaries. It was observed that "the power of disposition of property is the equivalent of ownership. It is a potential source of wealth and its exercise in the case of intangibles is the appropriate subject of taxation at the place of the domicile of the owner of the power. The relinquishment at death, in consequence of the non-exercise in life, of a power to revoke a trust created by a decedent is likewise an appropriate subject of taxation." 467

The costliness of multiple taxation of estates comprising intangibles can be appreciably aggravated if one or more states find that the decedent died domiciled within its borders. In such cases, contesting states may discover that the assets of the estate are insuffi-

of such property. On this basis, the domiciliary state would invariably qualify as a state competent to tax as would a nondomiciliary state, so far as it could legitimately exercise control or could be shown to have afforded a measure of protection that was not trivial or insubstantial.

<sup>465 308</sup> U.S. 313 (1939).

<sup>466 307</sup> U.S. 383 (1939).

<sup>467 307</sup> U.S. at 386. Consistent application of the principle enunciated in Curry v. McCanless is also discernible in two later cases in which the Court sustained the right of a domiciliary state to tax the transfer of intangibles kept outside its boundaries, notwithstanding that "in some instances they may be subject to taxation in other jurisdictions, to whose control they are subject and whose legal protection they enjoy." Graves v. Schmidlapp, 315 U.S. 657, 661 (1942). In this case, an estate tax was levied upon the value of the subject of a general testamentary power of appointment effectively exercised by a resident donee over intangibles held by trustees under the will of a nonresident donor of the power. Viewing the transfer of interest in the intangibles by exercise of the power of appointment as the equivalent of ownership, the Court quoted the statement in McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 429 (1819), that the power to tax "is an incident of sovereignty, and is coextensive with that to which it is an incident." 315 U.S. at 660. Again, in Central Hanover Bank Co. v. Kelly, 319 U.S. 94 (1943), the Court approved a New Jersey transfer tax imposed on the occasion of the death of a New Jersey grantor of an irrevocable trust despite the fact that it was executed in New York, the securities were located in New York, and the disposition of the corpus was to two nonresident sons.