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Foreword

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COMMENTS

PERSONAL JURISDICTION SYMPOSIUM

FOREWORD

Modern technology, especially through advances in telecommunications and transportation, has sown the seeds of an international economy. It has provided the means for persons separated by national borders, continents, or oceans to communicate and enter into social and economic relations quickly and cheaply. But if the telephone and the jet transport have made intercontinental dealings possible, mere interstate operations have become commonplace.

This national economy, engendered by technological progress, has presented new problems with respect to the states' duty to provide effective means by which their citizens can enforce claims. In seeking to protect their citizens, states have recognized that the traditional requirement that a suit be filed at the domicile of the party sued often worked serious hardship on a citizen with a claim against someone domiciled hundreds or thousands of miles away. The expenditures which a plaintiff is willing to make in litigating a claim are usually determined by the chances of success and size of probable recovery. Individuals can seldom afford the cost of going to a distant forum when the expected recovery will not cover expenses. The cost of leaving one's business and home, and perhaps of transporting essential witnesses to a foreign forum, is frequently prohibitive.

To meet the problems presented by evolution of a national economy and the increasing mobility of the American people, the states have expanded their in personam jurisdiction over non-resident defendants. They have provided means whereby a citizen can bring suit in the courts of his home state against a non-resident, compelling the nonresident to submit to that court's jurisdiction, and either to defend the suit there or to suffer a default judgment.

This Symposium is devoted to a consideration of the means by which a state can render a valid personal judgment against a nonresident defendant. But we are not concerned with the nonresident defendant who is personally served with process within the forum state; jurisdiction in such a case is unquestionable. Neither does this Symposium consider the nonresident defendant who actually consents to or waives objection to the jurisdiction of the state of the forum expressly or by general appearance in the litigation; personal jurisdiction, unlike jurisdiction over the subject matter, can be obtained by the consent or waiver of the parties. Our concern is the nonresident defendant, corporate or individual, who has not been personally served within the jurisdiction, has not made a general appearance in the action, and has not actually consented to be sued in the state of the forum.

JURISDICTION IN PERSONAM—THE DUE PROCESS FRAMEWORK AND THE LOUISIANA EXPERIENCE

Although the expansion of personal jurisdiction¹ over nonresident defendants² is being accomplished by individual states, it is occurring within a federal system. To give the states the unbridled right to extend their judicial power beyond their boundaries would be incompatible with federalism: to give each state sovereignty over the citizens of every other state renders the concept of "state" meaningless. The United States Constitution, therefore, imposes certain limitations on the development of the doctrine. In order to place the remainder of this Symposium in the proper federal context, this introductory Comment will attempt to discern the constitutional limits within which the states will be allowed to take jurisdiction, and to determine to what extent Louisiana has occupied the permitted area.

1. "Jurisdiction is the legal power and authority of a court to hear and determine an action or proceeding involving the legal relations of the parties, and to grant the relief to which they are entitled." LA. CODE OF CIVIL PROCEDURE art. 1 (1960). In order to render a valid personal judgment, a court must have jurisdiction over both the *subject matter* of the dispute, *i.e.*, the particular class of action or proceeding involved, *id.* art. 2, and the person, *i.e.*, the legal power and authority to render a personal judgment against the parties involved, *id.* art. 6. This Symposium considers only the latter requirement.

2. Since personal jurisdiction, unlike jurisdiction over the subject matter, can be obtained by the consent or waiver of the parties, RESTATEMENT, JUDGMENTS §§ 18-19 (1942), any party who appears in a court to institute suit consents to that court's jurisdiction over his person. Thus there can never be any problem with respect to the court's jurisdiction over nonresident plaintiffs.