# NOTES

## CIVIL PROCEDURE—LONG ARM STATUTE—IN PERSONAM JURISDICTION ENLARGED

> [T]o the extent that a corporation exercises the privilege of conducting activities within a state, it enjoys the benefits and protection of the laws of that state. The exercise of that privilege may give rise to obligations; and, so far as those obligations arise out of or are connected with activities within the state, a procedure which requires the corporation to respond to a suit brought to enforce them can, in most instances, hardly be said to be undue. . . .[1]

On March 20, 1970, the General Assembly of Georgia adopted an amendment to the Georgia "long arm" statute to provide that a court of this state may exercise personal jurisdiction over any nonresident as to causes of action arising from an act or omission outside this state if the tortfeasor regularly does or solicits business; or engages in any other persistent course of conduct; or derives substantial revenue from goods used or consumed or services rendered in this state.[2] This amendment was adopted in response to a restrictive reading of the Georgia "long arm" statute[3] by the court of appeals in *O'Neal Steel, Inc. v. Smith*.[4] In

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1. International Shoe Co. v. Washington, 326 U.S. 310, 319 (1945).
2. Ga. Laws 1970, p. 443, *amending* GA. CODE ANN. §§ 24-113.1 to 24-118 (Supp. 1969). The Act provides:

> Section 1. A court of this State may exercise personal jurisdiction over any non-resident, or his executor or administrator as to a cause of action arising from any of the acts, omissions, ownership, use or possession enumerated in this section, in the same manner as if he were a resident of the State, if in person or through an agent, he:
>
> (a) Transacts any business within this State; or
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> (b) Commits a tortious act or omission within this State except as to a cause of action for defamation of character arising from the act; or
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> (c) Commits a tortious injury in this State caused by an act or omission outside this State if the tortfeasor regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this State; or
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> (d) Owns, uses or possesses any real property situated within this State.
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> Section 2. Where personal jurisdiction is based solely upon this act, an appearance does not confer such jurisdiction with respect to causes of action not arising from the conduct enumerated in section 1 of this Act.
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> . . . .
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> Section 4. Venue in cases arising hereunder shall lie in any county wherein business was transacted, the act or omission occured, or real property is located.

3. GA. CODE ANN. §§ 24-113.1 to 24-118 (Supp. 1969).
4. 120 Ga. App. 106, 169 S.E.2d 827, *aff'd*, 225 Ga. 788, 171 S.E.2d 519 (1969).

that case the court held that that portion of the "long arm" statute which provides that the courts may exercise personal jurisdiction over a nonresident who "commits a tortious act within the state" can not be construed to encompass the situation where the act is committed without the state and only the injury occurs in Georgia.[5]

Basically, the purpose of the statute remains unchanged. Subsection (a) in regard to the "transaction of business" in Georgia is completely unaltered. Subsection (b), in regard to the commission of a "tortious act" within the state, retains the construction given it by the court of appeals in *O'Neal*. Only subsection (c) has been added to deal explicitly with the problem.

The new provision adopts substantially the language of the Uniform Interstate and International Procedure Act,[6] which, while adopted in several states,[7] has been the subject of suprisingly little interpretation.[8] The following generalizations can, however, be made.

If a nonresident defendant commits a tortious act outside Georgia which results in an injury in Georgia, he is subject to personal jurisdiction if he "regularly does or solicits business in this State."[9] It is regretable that the phrase "doing business" has been introduced to this statute, as it is apparent that the term cannot mean what it means when it is applied to corporations under the Georgia Corporation Code.[10] As that section indicates, if a corporation is doing business in the traditional sense of a regular and systematic course of activity, then no reliance need be placed on the "long arm" statute.[11] It follows therefore, that the

5. *Id.* at 107, 169 S.E.2d at 832.

6. UNIFORM INTERSTATE AND INTERNATIONAL PROCEDURE ACT § 1.03(a)(4).

7. Adopted in Arkansas, Oklahoma, and the Virgin Islands. *See* ARK. STAT. ANN. §§ 27-2501 to 27-2507 (1963); 12 OKLA. STAT. ANN. §§ 1701.01 to 1706.04 (Supp. 1965); 5 V.I.C. ANN. §§ 4901 to 4943 (1965). Substantially adopted in Maryland, Virginia and New York. *See* MD. CODE ANN. art. 75 § 96 (a) (Supp. 1965); VA. CODE ANN. § 8-81.2 (a)(4) (Rev. 1965); N.Y. CIV. PRAC. LAW AND RULES § 302 (a) (McKinney 1966).

8. *See* Leflar, *Act 101—Uniform Interstate and International Procedure Act*, 17 ARK. L. REV. 118 (1963); 22 ARK. L. REV. 627 (1969); Averbach, *The 'Long Arm' Comes to Maryland*, 26 MD. L. REV. 13 (1966); 51 VA. L. REV. 719 (1965); Homberger and Lauger, *Expanding Jurisdiction Over Foreign Torts: The 1966 Amendment of New York's Long-Arm Statute*, 16 BUFFALO L. REV. 67 (1966); 1 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶ ¶ 302.10-302.10a. *See* generally, Annot., 24 A.L.R.3d 532 (1969).

9. Ga. Laws, 1970, p. 443. *See*, Thompson v. Ecological Science Corp., 421 F.2d 467 (8th Cir. 1970).

10. GA. CODE ANN. § 22-1401 *et. seq.* (Rev. 1969).

11. *See*, Sterling Materials Co., Inc. v. McKinley, 218 Ga. 574, 129 S.E.2d 770 (1963); Lamex, Inc. v. Sterling Extruder Corp., 109 Ga. App. 92, 135 S.E.2d 445 (1964).

A few jurisdictions have extended the reach of their courts without resort to the "long arm". In *Henry R. Jahn & Son v. Superior Court*, 49 Cal.2d 855, 323 P.2d 437, 439 (1958), Justice Traynor of the California Supreme Court stated:

> The statute authorizes service of process on foreign corporations that are 'doing business

"doing business", when involved in the present statute must mean something less.

There is, also, a major difference between the business transacted under section (1)(a) and the business done under section (1)(c). In the former, the cause of action must have its genesis in the transaction; in the latter, there is no such requirement. If, for example, a nonresident seller ships substantial quantities of goods into Georgia but for some reason is not subject to the *in personam* jurisdiction of the Georgia courts, and if he thereafter manufacturers a product negligently which unintentionally finds its way into Georgia where it injures plaintiff, that defendant would be subject to jurisdiction under the new statute, even though the cause of action arose, not out of the business transacted in the state, but out of the tortious manufacture which, in and of itself, had no particular Georgia orientation.

The provision that a defendant who merely solicits business on a regular basis in Georgia is subject to personal jurisdiction is also of major significance.[12] Under the new statute, the combination of regular advertisement of products in the state, plus a tortious injury in the state, will suffice for personal jurisdiction even if there is no causal relationship between the advertisement and the injury. The only causal nexus required by the statute is that the cause of action arise out of the tortious act.

Again, in reference to the provision covering a persistent course of conduct,[13] it is not required that the cause of action arise out of that

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in this State.' That term is a descriptive one that courts have equated with such minimum contacts with the state 'that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice".' . . . Whatever limitation it imposes is equivalent to that of the due process clause.

*See also*, 44 IOWA L. REV. 345 (1959).

12. Ga. Laws, 1970, p. 443.

13. *Id.* In *Pennsalt Chemical Corp. v. Crown Cork & Seal Co.*, 224 Ark. 638, 426 S.W.2d 417 (1968), a products liability action arising out of the explosion in Arkansas of a can of refrigerant, jurisdiction was sustained on a third party complaint against the manufacturer of the can, a New York corporation, the packager of the refrigerant in the can, an Illinois corporation, and the manufacturer of a connecting valve, a Pennsylvania corporation. The Arkansas Supreme Court held, *inter alia*, that the "causing tortious injury" provision of the statute was applicable even though the cause of action did not arise out of the foreign corporations' activity in Arkansas, as long as the facts showed a persistent course of conduct within the state. *Cf.* Hill v. Morgan Power Apparatus Corp., 259 F. Supp. 609 (E.D. Ark. 1966), *aff'd.*, 368 F.2d 230 (8th Cir. 1966).

Also in *Novack v. National Hot Rod Ass'n*, 247 Md. 350, 231 A.2d 22 (1967), a suit by an automobile drag race driver who had been injured on a track sanctioned as safe by the defendant California association, where the association sent its agent into Maryland on five occasions within a period of little more than a year to inspect and certify the Maryland track, jurisdiction was upheld on the basis of Maryland's version of the Uniform Act. The court pointed out that the giving of the sanction, which allegedly resulted in the damages sued for, could have been an act or omission in California of one who had engaged in a persistent course of conduct in Maryland, or an act or omission in Maryland by the association's inspector.

conduct, so long as it arises from the tortious act. This section was probably inserted to round out the preceding provision for doing and soliciting business, so that repeated conduct that does not constitute "business" would suffice. The obvious difference between the two provisions is that the persistent course of conduct may cover a wide range of activities beyond the pale of "business" conduct which could, because of its consistency, serve as a solid link of jurisdiction.

The section providing jurisdiction over defendants who derive "substantial revenue from goods used or consumed or services rendered in this State"[14] should prove particularly useful in obtaining jurisdiction over nonresident sellers who are careful to avoid the transaction of business provision by staying out of Georgia, by requiring Georgia buyers to accept delivery outside the state and by systematically insuring that all contacts with the transaction occur outside the state.

It must be emphasized, however, that the mere occurence of a tortious injury in Georgia still does not suffice as the sole basis of personal jurisdiction. Where the defendant never enters Georgia, but he sets in motion forces which result in injury in the state, personal jurisdiction under the "long arm" statute will only exist if the contacts enumerated in the amendment are also present.[15]

In *O'Neal Steel, Inc. v. Smith*,[16] the defendant was a foreign corporation which allegedly "manufactured, fabricated, packaged and loaded" a truckload of "H" beams for the construction of a building in Macon. The plaintiff, employed by the construction company, was injured when one of the metal bands securing the beams broke, causing one of the beams to strike him. Judge Eberhardt, for the court of appeals, articulated the issue as "whether that portion of our 'long arm' statute which provides that our courts may exercise personal jurisdiction over a nonresident who 'commits a tortious act *within* this State' can be construed to cover the situation where a nonresident corporation allegedly commits a tortious act *outside* the state which causes injury within the state."[17] The court held that it could not.

In reaching its conclusion the court reasoned that the courts of Georgia have no inherent power to subject foreign corporations, not present and doing business in the state, to their jurisdiction.[18] The court

14. Ga. Laws, 1970, p. 443. *See*, Annot. 20 A.L.R.3d 957 (1968).

15. It should also be noted that nowhere in Section 1(c) is there a requirement that the nonresident defendant forsee the possibility of a Georgia injury.

16. 120 Ga. App. 106, 169 S.E.2d 827, *aff'd.*, 225 Ga. 788, 171 S.E.2d 519 (1969).

17. *Id.* at 107, 169 S.E.2d at 828.

18. *Id.* at 111, 169 S.E.2d at 830. *Quoting* RESTATEMENT OF JUDGMENTS § 7, comment *a* (1942).

held that "[t]he plain language of our statute requires that the tortious act be commited *within* the state, and we are unable to agree that this language can be construed as synonymous with commits a tortious act *without* the state which causes injury within the state. . . . If our legislature [had intended otherwise] . . . it could have used language appropriate to indicate a different intent."[19] It is unfortunate that the court elected to disregard the construction given the identical statute by Illinois in *Gray v. American Radiator & Standard Sanitary Corp.*[20] and by Washington in *Nixon v. Cohn.*[21] Had the legislature intended a construction less liberal than Illinois, prudence would seem to have dictated a change from the language used in the Illinois statute. The legislature's silence on this point might well have been construed as a token of its satisfaction with the Illinois interpretation.

Perhaps of even greater significance is Judge Eberhardt's dictum: "Had we concluded that the holding in *Gray*[22] is compatable with . . . our statute, we should nevertheless reach the same result. The 'minimum contacts' recognized as requisites to justify the assumption of jurisdiction . . . do not appear."[23] This conclusion is clearly not in line with the expanded notion of the acceptable limits of *in personam* jurisdiction formulated by the Supreme Court of the United States.[24] In *International Shoe Co. v. Washington,*[25] the high Court reasoned, "due

19. *Id.* at 112, 169 S.E.2d at 831.

20. 22 Ill.2d 432, 176 N.E.2d 761 (1961).

21. 62 Wash.2d 987, 385 P.2d 305 (1963). The court of appeals relied rather on *Feathers v. McLucas,* 15 N.Y.2d 443, 209 N.E.2d 68 (1965), *cert. denied,* 382 U.S. 905 (1965), in which the applicable New York statute, which was based upon the Illinois statute in *Gray,* was held not to permit jurisdiction in a factual situation similar to that in *O'Neal.* In 1966, the New York legislature amended this section to reverse the decision in *Feathers. See supra* n.8. For a discussion of *Feathers* and related New York cases, *see* 1 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶ ¶ 302.10-302.10a.

*See also,* Hoagland v. Springer, 75 N.J. Super. 560, 183 A.2d 678 (App. Div. 1962); O'Brien v. Comstock Foods, Inc., 123 Vt. 461, 194 A.2d 568 (1963); Erlanger Mills, Inc. v. Cohoes Fibre Mills, Inc., 239 F.2d 502 (4th Cir. 1956).

22. The Illinois court reasoned:

> With the increasing specialization of commercial activity and the growing interdependence of business enterprises it is seldom that a manufacturer deals directly with consumers in other States. The fact that the benefit he derives from its laws is an indirect one, however, does not make it any the less essential to the conduct of his business; and it is not unreasonable, where a cause of action arises from alleged defects in his product, to say that the use of such products in the ordinary course of commerce is sufficient contact with this State to justify a requirement that he defend here.

22 Ill. 2d at 432, 176 N.E.2d at 766.

23. 120 Ga. App. at 114, 169 S.E.2d at 832.

24. *See.* Kurland, *The Supreme Court, The Due Process Clause and the In Personam Jurisdiction of State Courts—From Pennoyer to Denckla: A Review,* 25 U. CHI. L. REV. 569 (1958); *Developments in the Law—State-Court Jurisdiction,* 73 HARV. L. REV. 909 (1960).

25. 326 U.S. 310 (1945).

process requires only that in order to subject a defendant to a judgment *in personam*, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice'."[26] In *McGee v. International Life Insurance Co.*[27] the defendant's only contact with the forum state was a solitary insurance contract issued to a resident of California.[28] The defendant had no office or agent in the state nor did it solicit any business there apart from the policy sued on. In upholding jurisdiction, the Court held that "it is sufficient for the purposes of due process that the suit was based on a contract which had substantial connection" with California.[29] *McGee* opened broad vistas of jurisdiction to the states. Personal jurisdiction would be sustained where the forum state had a manifest interest in affording a remedy to their residents and in controlling the activity of the defendant.[30] *Hanson v. Denckla*,[31] however, cautioned that *McGee* had not eliminated the territorialist notion of jurisdiction.[32] Whereas *McGee* and *International Shoe* had spoken in terms of reasonableness and contacts with the forum, *Hanson* reverted to the earlier notions of "power jurisdiction" and stated that in order for there to be a reasonable contact with the forum, "it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state, thus invoking the benefits and protection of its laws."[33] It should be noted that the

26. *Id.* at 316.

27. 355 U.S. 220 (1957).

28. It has been argued that inasmuch as the contact in *McGee* was an insurance contract and "an activity that the State treats as exceptional and subject to special regulation", *McGee* should be distinguished from other "single act" cases. *See* Agrashell, Inc. v. Bernard Sirotta Co., 344 F.2d 593 (2d Cir. 1965); Webb v. Stanker & Gelletto, Inc., 84 N.J. Super. 178, 201 A.2d 387, *cert. denied*, 380 U.S. 907 (1964). *Cf.* Terasse v. Wisconsin Feeder Pig Marketing Coop., 202 So.2d 330 (La. 1967); Ehlers v. United States Heating & Cooling Mfg. Corp., 267 Minn. 56, 124 N.W.2d 824 (1963); Beck v. Spindler, 256 Minn. 543, 99 N.W.2d 670 (1959).

29. 355 U.S. at 223.

30. In *Travelers Health Ass'n v. Virginia*, 339 U.S. 643 (1950), a Nebraska insurance corporation was held subject to the jurisdiction of a Virginia regulatory commission although it had no paid agents within the State and its only contact there was a mail-order business operated from its Omaha office. The Court observed, by way of *dictum*, that "suits on alleged losses can be more conveniently tried in Virginia where witnesses would most likely live and where claims for losses would presumably be investigated. . . . Prior decisions of this Court have referred to the unwisdom, unfairness and injustice of permitting policy holders to seek redress only in some distant state where the insurer is incorporated. The Due Process Clause does not forbid a state to protect its citizens from such injustice." *Id.* at 649.

31. 357 U.S. 235 (1958).

32. *Id.* at 251.

33. *Id.* at 253.

supreme court of at least one state has suggested that the holding in *Hanson* may be explained by the particular facts at issue and should be limited accordingly.[34]

Perhaps the most concise restatement of the requirements of due process was formulated by the Ninth Circuit in *L.D. Reeder Contractors v. Higgins*.[35] The court of appeals stated three rules which can be drawn from a combined reading of *International Shoe, McGee,* and *Hanson* against which all future litigation of a like nature may be tested. These rules are:

> (1) The nonresident must do some act or consummate some transaction within the forum. It is not necessary that defendant's agent be physically within the forum, . . . A single event will suffice if its effects within the state are substantial enough to qualify under Rule Three.
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> (2) The cause of action must be one which arises out of, or results from the activities of the defendant within the forum. It is conceivable that the actual cause of action might come to fruition in another state but because of the activities of the defendant within the forum state there would still be 'substantial minimum contact'.
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> (3) Having established by Rules One and Two a minimum contact with the state, the assumption of jurisdiction based upon such contact must be consonant with the due process tenets of 'fair play' and 'substantial justice'. If this test is fulfilled, there exists a 'substantial minimum contact' between the forum and the defendant. The reasonableness of subjecting the defendant to jurisdiction under this rule is frequently tested by standards analogous to those of forum non conveniens.[36]

Returning to the facts of *O'Neal*,[37] the defendant allegedly "manufactured, fabricated, packaged and loaded" a truckload of "H" beams for the construction of a building in Macon. Although the cause

34. Phillips v. Anchor Hocking Glass Corp., 100 Ariz. 251, 413 P.2d 732, 19 A.L.R.3d 1 (1966). It has been suggested that the holding in *Hanson* simply reflects the Supreme Court's distaste for an "unfair" result. This may explain the apparent inconsistency between the decision in *Hanson* and the denial of certiorari in *Atkinson v. Superior Court*, 49 Cal.2d 338, 316 P.2d 960 (1957), *cert. denied*, 357 U.S. 1546 (1958), a case with closely analogous facts reaching a seemingly different result. *See also*, Rosenblatt v. American Cynamid Co., 86 S. Ct. 1 (1965).

35. 265 F.2d 768 (9th Cir. 1959).

36. *Id.* at 773. In *Buckley v. New York Post Corp.*, 373 F.2d 175 (2d Cir. 1967) it was suggested that *forum non conveniens* is not solely a defendant's doctrine. "There has been a 'movement away from the bias favoring the defendant, in matters of personal jurisdiction 'toward permitting the plaintiff to insist that the defendant come to him' when there is a sufficient basis for doing so." *See also*, Von Mehren and Trautman, *Jurisdiction to Adjudicate: A Suggested Analysis*, 79 HARV. L. REV. 1121 (1966).

37. 120 Ga. App. 106, 169 S.E.2d 827 (1969).

of action arose out of tortious conduct in Alabama, the effects of that conduct were felt only in Georgia. Moreover, the tenets of "fair play" and "substantial justice" can most effectively be realized by Georgia's assumption of jurisdiction. It seems somewhat curious that Mr. Smith, a Georgia resident, must go to Alabama to obtain redress for an accident that occured in Georgia, where all the witnesses reside, where all the medical experts are located and whose law will presumably apply.

The Supreme Court of Georgia granted certiorari to consider this question.[38] The court, however, did not approach this issue as the decision in *Bauer International Corp. v. Cagles, Inc.*[39] had rendered it moot.

*Bauer*,[40] an action for debt in which a Georgia corporation attempted to obtain jurisdiction over a New York corporation under the "long arm" statute, held that the original statute did not include corporations within the scope of its intended coverage.[41] Reasoning that the language "or his executor or administrator" could only apply to natural persons, the supreme court further held that the 1968 amendment,[42] specifically including corporations, was not remedial in operation but rather created a new substantive right and is thus not to be applied retroactively.[43]

In striking contrast to *Bauer*, the Fifth Circuit Court of Appeals had earlier held, in *Wilen Manufacturing Co. v. Standard Products Co.*,[44] that the term "nonresident", as set forth in the Georgia "long arm" statute,[45] was not restricted to natural persons but was equally applicable to corporations.[46] The defendant urged that the qualifying phrase

38. 225 Ga. 788, 171 S.E.2d 519 (1969).

39. 225 Ga. 684, 171 S.E.2d 314 (1969).

40. *Id.*

41. *Id.* at 687, 171 S.E.2d at 317. The court reasoned:

> The words "or his executor of administrator" . . . could only refer to a natural person. If the words "any nonresident" should be construed to include foreign corporations, the question would arise as to which foreign corporations were intended, since . . . foreign corporations doing business in Georgia were already subject to the jurisdiction of this State by service of process on designated agents or upon the Secretary of State.

*Id.* at 686, 171 S.E.2d at 316.

42. Ga. Laws, 1968, pp. 1419-1420. That Act amended the original Georgia "long arm" statute by defining "nonresident" to include "a corporation which is not organized or existing under the laws of this State and is not authorized to transact business in this State at the time a claim or cause of action under Section 1 of this Act arises." [GA. CODE ANN. § 24-117 (Supp. 1969)] The bill further provided, "The definition of a 'non-resident' in [GA. CODE ANN. § 24-117 (Supp. 1969)] shall not be construed as expressing the intention of the General Assembly of Georgia as to the meaning of 'non-resident' as used in [GA. CODE ANN. § 24-113.1 (Supp. 1969)] prior to the effective date of this amendment."

43. 225 Ga. at 688, 171 S.E.2d at 317.

44. 409 F.2d 56 (5th Cir. 1969).

45. GA. CODE ANN. § 24-113.1 (Supp. 1969).

46. 409 F.2d at 58.

following the word "nonresident" restricted the application of the statute to natural persons only, since a corporation can have neither an executor nor an administrator.[47] The court found this "linguistic analysis" unacceptable,[48] and sought to rest its decision on the basis of legislative purpose.

> Prior to the enactment of its long arm statute in 1966, the reach of Georgia's process was restricted by such classical standards as 'residence' and 'doing business'. Georgia's passage of a statute similar in language to those of other states during the period of the growth of the long arm leads to the inference that, like her sister states, Georgia intended to afford her citizens the protection of her courts from claims arising out of contemporary multistate economic activity. In the absence of any evidence to the contrary, we accept the conclusion that the Georgia statute was 'designed to take advantage of the liberalized constitutional concepts governing the exercise of personal jurisdiction over nonresidents. . . . The exclusion of corporations would have no basis in history or logic and would be contrary to the *raison d'etre* of the long arm. [Citations omitted][49]

In most states this question has never arisen. In those jurisdictions where it has, "nonresident" has uniformly been interpretated to refer to both corporations and natural persons.[50] It is unfortunate that the supreme court adopted such a narrow and restrictive interpretation.[51]

The new Georgia statute is designed to take advantage of the expanded scope of *in personam* jurisdiction. Although there is no legislative history of the acts of the General Assembly, the intention of that body should be abundantly clear. Since the adoption of the original "long arm" statute in 1966,[52] the act has been amended twice,[53] each time in

47. *Id.* at 57. This was the reasoning adopted by the Supreme Court of Georgia in *Bauer*, see n. 41.

48. *Id.*

49. Id. at 58-59. *See* Weissman, *The Georgia Long Arm Statute: A Significant Advance in the Concept of Personal Jurisdiction*, 4 GA. ST. B.J. 13 (1967).

50. *See*, Lewin v. Block Laundry Machine Co., 42 Misc.2d 559, 249 N.Y.S.2d 49, *aff'd*, 22 A.D.2d 854, 255 N.Y.S.2d 466, *aff'd* 16 N.Y.2d 1070, 266 N.Y.S.2d 391, 213 N.E.2d 686 (1965), *construing* N.Y. CIV. PRAC. LAW AND RULES § 302(a) (McKinney 1965). The phrase "nondomicilary" was applied to both natural persons and corporations. *See also*, GA. CODE ANN. § 102-102(3) (Rev. 1968).

51. *See*, GA. CODE ANN. § 102-102(9) (Rev. 1968) which provides:
> In all interpretations, the courts shall look diligently for the intention of the General Assembly keeping in view, at all times the old law, the evil, and the remedy.

52. Ga. Laws, 1966, p. 343.

53. Ga. Laws, 1968, pp. 1419-1420; Ga. Laws, 1970, p. 443.

response to restrictive readings by the courts.[54] This should not be a lesson lost to the courts. As Mr. Justice Holmes concluded:

> A statute may indicate or require as its justification a change in the policy of the law, although it expresses that change only in the specific cases most likely to occur to the mind. The Legislature has the power to decide what the policy of the law shall be, and if it has intimated its will, however indirectly, that will should be recognized and obeyed. The major premise of the conclusion expressed in a statute, the change of policy that induces the enactment, may not be set out in terms, but it is not an adequate discharge of duty for the courts to say: We see what you are driving at, but you have not said it, and therefore we shall go on as before.[55]

The mandate is clear and the courts should follow it. The jurisdictional concepts which may have been reasonable enough in a simpler economy have lost their relation to reality, and injustice rather than justice may be promoted. Our unchanging principles of justice must be scrupulously preserved. But the rules of law which grow and develop within those principles must do so in the light of the facts of economic life as it is lived today.

E. CARL PRINCE, JR.

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54. Ga. Laws, 1968, pp. 1419-1420 in response to the district court ruling in *Wilen;* and Ga. Laws, 1970, p. 443 in response to *O'Neal.*

55. Johnson v. United States, 163 F. 30, 31 (1st Cir. 1908).