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Civil Procedure-Jurisdiction-Quasi in Rem Jurisdiction and the International Shoe Minimum Contacts Doctrine

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CIVIL PROCEDURE—JURISDICTION—QUASI IN REM JURISDICTION AND THE *INTERNATIONAL SHOE* MINIMUM CONTACTS DOCTRINE

U. S. Industries v. Gregg[1]

In 1969 F. Browne Gregg contracted to sell three businesses to U.S. Industries (U.S.I.). Pursuant to the contract, Gregg was to receive 100,962 common shares and 8,750 preferred shares of U. S. Industries stock. In addition, he was to be retained as president of the three companies and receive additional common stock based on the profitability of the businesses. In consideration therefor Gregg was to transfer the businesses to Diversacon (a subsidiary of U.S.I.), contribute one million dollars in capital to the businesses, and execute a $500,000 installment note to Diversacon.

In 1971 a dispute arose between Gregg and U.S.I., and Gregg was removed as president of the businesses. U.S.I. filed suit against Gregg claiming twenty million dollars damage. U.S.I., a Delaware corporation doing business in New York, obtained jurisdiction over Gregg, a Florida resident, by sequestering Gregg's U.S.I. stock pursuant to the Delaware sequestration statute.[2] Delaware law provides that the situs of stock in Delaware corporations is Delaware.[3] The Uniform Commercial Code provides that the situs of stock is the location of the certificate of ownership.[4]

Gregg removed the proceeding to federal court based on its diversity jurisdiction and there challenged the Delaware sequestration procedure as a violation of due process. His challenge was overruled.[5] Gregg then allowed a default judgment to be entered in favor of U.S.I., since Delaware law would subject him to full *in personam* liability if he answered the complaint.[6]

Gregg appealed to the Third Circuit and renewed his allegation that

1. 540 F.2d 142 (3d Cir.), *petition for cert. filed*, 45 U.S.L.W. 3289 (U.S. Oct. 12, 1976) (No. 76-359).

2. DEL. CODE tit. X, § 366 (1974).

3. DEL. CODE tit. VIII, § 169 (1974).

4. U.C.C. § 8-317. Since Delaware is the only state in the nation which did not adopt U.C.C. § 8-317, it may be possible to challenge the Delaware statute as an unconstitutional burden on commerce. The U.C.C. rule was designed to enhance the transferability of shares by only permitting attachment of the stock in the jurisdiction where the certificate is located. The advantage of the U.C.C. rule is that a bona fide purchaser may buy the certificate with confidence in his title. This would not be true under the Delaware statute. As a result, the Delaware statute may constitute an undue burden on commerce. *See* Bibb v. Navajo Freight Lines, Inc., 359 U.S. 520 (1959); Southern Pacific Co. v. Arizona, 325 U.S. 761 (1945); South Carolina State Highway Dep't v. Barnwell Bros., 303 U.S. 177 (1938).

5. U. S. Industries v. Gregg, 348 F. Supp. 1004 (D. Del. 1972).

6. Sands v. Lefcourt Realty Corp., 35 Del. Ch. 340, 117 A.2d 365 (1955).

the Delaware sequestration statute, as applied to him, constituted a denial of due process of law. The appellate court agreed. The court held that the *International Shoe Co. v. Washington*[7] "minimum contacts" doctrine applies to actions *quasi in rem* such as these brought under the Delaware sequestration statute. In applying the minimum contacts doctrine to Gregg, the court found that Gregg had insufficient contacts with the forum state, Delaware, and reversed the default judgment for lack of jurisdiction.

Prior to the establishment of the *International Shoe* minimum contacts doctrine in 1945, the "territorial" theory of jurisdiction, as laid down in *Pennoyer v. Neff*,[8] prevailed. The territorial theory of jurisdiction provided that the jurisdiction of courts was limited by the territorial boundaries of the state from which their authority was derived. A court could assert jurisdiction over any property located within the state,[9] any nonresident of the state who was served with process while within the territorial boundaries of the state,[10] or any resident of the state even though he was outside the territorial boundaries.[11] Courts also developed fictional doctrines of implied consent[12] and "presence"[13] to expand their jurisdiction over nonresidents.

From this territorial theory of power there developed three types of jurisdiction.[14] The first, *in personam* jurisdiction, gives a court the power to render a judgment against a defendant or his general assets. It is usually commenced by service of process on a defendant within the territorial limits of the state. *In rem* jurisdiction gives a court the power to determine the rights, liabilities, and interest of the entire world in a specific piece of property. A court could assert *in rem* jurisdiction over any property found within the state. The final basis, *quasi in rem* jurisdiction, is a hybrid of the first two. Jurisdiction is assumed by the attachment of defendant's property located within the territorial limits of the state. However, unlike *in rem* jurisdiction, a court asserting *quasi in rem* jurisdiction does not ajudicate rights and interests in the property itself. Rather, the claim is usually a

7. 326 U.S. 310 (1945).

8. 95 U.S. 714 (1878).

9. M. GREEN, BASIC CIVIL PROCEDURE, 36-37 (1972).

10. Darrah v. Watson, 36 Iowa 116 (1873); Barrell v. Benjamin, 15 Mass. 354 (1819).

11. Milliken v. Meyer, 311 U.S. 457 (1940) (a Wyoming court properly asserted jurisdiction over a Wyoming resident who had been served with process in Colorado); Blackmer v. United States, 284 U.S. 421 (1932) (exercise of jurisdiction over a United States citizen who had been served with process in France was constitutionally permissible).

12. Hess v. Pawloski, 274 U.S. 352 (1927) (upheld Massachusetts statute which stipulated that a nonresident who operated a motor vehicle on Massachusetts highways was deemed to have appointed the registrar of the state as his agent for service of process). *See also* Scott, *Jurisdiction Over Non-Resident Motorists*, 39 HARV. L. REV. 563 (1950).

13. Philadelphia & R. Ry. v. McKibbin, 243 U.S. 264 (1917); Barrow S.S. Co. v. Kane, 170 U.S. 100 (1898).

14. *See* M. GREEN, BASIC CIVIL PROCEDURE, at 36-37 (1972).

personal claim for a money judgment and unrelated to the property. The court gains the power to ajudicate the *in personam* claim, without *in personam* jurisdiction, by the location of defendant's property within the state. Yet, unlike an *in personam* claim, a *quasi in rem* claim is limited to the value of the property attached. Further, a final judgment does not render the *in personam* claim res judicata, and it can be pursued in a subsequent action on the same claim.[15]

In 1945, the narrow territorial theory of power was greatly expanded in *International Shoe Co. v. Washington.*[16] Defendant International Shoe, a Delaware corporation with its principal place of business in Missouri, was sued by the state of Washington to recover unpaid contributions to the state unemployment compensation fund. Service of process was effected on defendant's agent in the forum state, Washington. Defendant denied the agency. Defendant also was served with process by registered mail at its office in St. Louis, Missouri. Defendant specially appeared and challenged the exercise of jurisdiction by the Washington court as a violation of due process. Relying on the *Pennoyer* territorial theory of power, defendant contended that the exercise of jurisdiction exceeded the territorial boundaries of the state because defendant was not present within the state and had no agent within the state on which process could be served. The United States Supreme Court upheld the jurisdiction of the Washington courts.

After *International Shoe, Pennoyer* was still valid precedent to the extent that it signified that a court's authority was limited by the territorial boundaries of the state in which it exists. However, *International Shoe* expanded *Pennoyer* to the extent that a court could assert *in personam* jurisdiction over a person or corporation outside the territorial limits of the state, provided that such person or corporation had sufficient contacts with the forum state. Furthermore, such contacts must have been related to the cause of action, such that the exercise of jurisdiction would not offend due process notions of fair play and substantial justice. The basic question after *International Shoe*, then, is whether it would be fair to force the defendant to litigate his liability in the forum asserting jurisdiction. In making such a determination, the court must consider the nature and quality of defendant's contacts with the forum state.[17]

15. Riverview State Bank v. Dreyer, 188 Kan. 270, 362 P.2d 55 (1961); Strand v. Halverson, 220 Iowa 1276, 264 N.W. 266 (1935); Oil Well Supply Co. v. Koen, 64 Ohio St. 422, 60 N.E. 603 (1901).

16. 326 U.S. 310 (1945).

17. *Id.* at 316-19. The classic statement of the minimum contacts doctrine as laid down in *International Shoe* is:

> [D]ue 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."

The twin requirements of *International Shoe, i.e.*, that the defendant have sufficient minimum contacts with the forum state and that the cause of action be related thereto, seem only just. For example, assume a plaintiff residing in New Hampshire sues a resident of Utah in a New Hampshire court for a tortious act which occurred in Utah. The defendant's sole contact with New Hampshire is the ownership of ten acres of land within the state. The New Hampshire court, under the minimum contacts doctrine, should decline to assert *in personam* jurisdiction over the Utah defendant. The basis of jurisdiction, the ownership of ten acres of land in the state, is contact with the state of New Hampshire, but it is unrelated to the cause of action which can be more fairly litigated elsewhere. Further, it would constitute an undue burden on the defendant to require him to litigate in New Hampshire because the witnesses and evidence are located elsewhere.

The application of the *International Shoe* minimum contacts doctrine to *quasi in rem* jurisdiction, as in *Gregg*, is rare. The majority of courts have assumed that the minimum contracts doctrine is inapplicable because the traditional basis of both *in rem* and *quasi in rem* jurisdiction is the physical location of the defendant's property within the territorial limits of the state. Apparently, the courts further assume that the minimum contacts doctrine, even if it does apply to actions *quasi in rem*, is a low threshold test which is automatically satisfied by the location of the property within the state.[18] A strong current of scholarly opinion has disputed this view.[19]

. . . .

> [W]hether due process is satisfied must depend . . . upon the quality and nature of the activity in relation to the fair and orderly administration of the laws which it was the purpose of the due process clause to insure. That clause does not contemplate that a state may make binding a judgment *in personam* against an individual or corporate defendant with which the state has no contacts, ties or relations.

18. *See* Greyhound Corp. v. Heitner, 361 A.2d 225, 229 (Del. Super., 1976):

> There are significant constitutional questions at issue here but we say at once that we do not deem the rule of *International Shoe* to be one of them . . . . The reason, of course, is that jurisdiction under § 366 remains . . . *quasi in rem* founded on the presence of capital stock here, not on prior contact by defendants with this forum.

See also Ownbey v. Morgan, 256 U.S. 94 (1921); Breech v. Hughes Tool Co., 41 Del. Ch. 128, 189 A.2d 428 (1963).

19. Carrington, *The Modern Utility of Quasi in Rem Jurisdiction*, 76 HARV. L. REV. 303, 306 (1962):

> In the light of the emerging concept of personal jurisdiction, the quasi in rem procedure is rarely useful to plaintiff except in cases which the defendant ought not to be asked to defend in the forum chosen by the plaintiff.

Traynor, *Is This Conflict Really Necessary?*, 37 TEXAS L. REV. 657, 663 (1959); Kurland, *The Supreme Court, the Due Process Clause and the In Personam Jurisdiction of State Courts*, 25 U. CHI. L. REV. 569, 617 (1958); Martin, *Secured Transactions*, 19 WAYNE L. REV. 593, 641 (1973):

> [M]odern long-arm statutes give the state power over the nonresident when it is fair to do so. Thus jurisdiction obtained by attachment seems to

Application of the majority rule overlooks the fact that the underpinning of its rationale, location of the defendant's property within the state, is often questionable when applied to intangibles, the situs of which is often a matter of dispute.[20] More importantly, with the dramatic expansion of the availability of *in personam* jurisdiction over nonresidents after *International Shoe, quasi in rem* jurisdiction over nonresidents is arguably of two types, that which is unnecessary and that which is unfair.[21]

Following the decision in *International Shoe,* states began enacting "long-arm" statutes to take advantage of their newly expanded jurisdiction over nonresidents. The Illinois long-arm statute,[22] which provided a model for many states, allowed Illinois courts to exercise jurisdiction provided that the cause of action was related to the transaction of any business within the state; the commission of a tortious act within the state; ownership, use, or possession of any real estate situated in the state; or contracting to insure any person, property, or risk located within the state. California's long-arm statute[23] is the broadest. It provides that California courts may assert long-arm jurisdiction is any suit where the assertion of jurisdiction would not violate either the Due Process Clause of the fourteenth amendment or the California Constitution.

McGee v. International Life Insurance Co.[24] is one of several cases which indicated the breadth of a state court's *in personam* jurisdiction under the minimum contacts doctrine. In *McGee*, the defendant life insurance company's only contact with the state of California was the issuance of a life insurance policy to a California resident. The Court found sufficient contacts with the forum state in that defendant had issued a contract which had substantial connection with the forum state. In *Gray v. American Radiator & Standard Sanitary Corp.*[25] Titan Valve Manufacturing Co., a resident of Ohio, manufactured safety valves which it shipped to American Radiator in Pennsylvania to be incorporated into water heaters destined for interstate commerce. The plaintiff, a resident of Illinois, suffered personal injuries due to the explosion of a water heater caused by a negligently

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fall into two categories: that which could have been obtained in the alternative by long arm statutes . . . and that which could not have been, falling outside the limits of fairness.

20. *See* Hanson v. Denckla, 357 U.S. 235, 246-47 (1958). Traynor, *Is This Conflict Really Necessary?*, 37 TEXAS L. REV. 657, 663 (1959):

> It is time we had done with mechanical distinctions between in rem and in personam, high time now in a mobile society where property increasingly becomes intangible and the fictional res becomes stronger and stranger. Insofar as courts remain given to asking "Res, res — who's got the res?" they cripple their evaluation of the real factors that should determine jurisdiction.

21. Martin, *Secured Transactions*, 19 WAYNE L. REV 593, 641 (1973).
22. ILL. ANN. STAT. ch. 110, § 17 (Smith-Hurd 1968).
23. CAL. CIV. PROC. CODE § 410.10 (West 1973).
24. 355 U.S. 220 (1957).
25. 22 Ill. 2d 432, 176 N.E.2d 761 (1961).

constructed valve. An Illinois court asserted long-arm jurisdiction over Titan Valve on the theory that it had committed a tortious act in Illinois. The court held the site of the commission of a tortious act is the place of the occurrence of the final act which is necessary to make the actor liable. In this case, the negligent construction of the valve did not result in liability until the plaintiff suffered personal injuries from the explosion in Illinois. Therefore, application of the Illinois long-arm statute was held not violative of due process as applied to Titan Valve.

Although *McGee* and *Gray* may represent the outside limits of the minimum contacts doctrine,[26] it is clear that the doctrine permits a court considerable latitude in the assertion of jurisdiction over nonresidents.[27] Because of this latitude, it has been argued that where *in personam* jurisdiction cannot be asserted under the minimum contacts doctrine, the assumption of *quasi in rem* jurisdiction is inherently unfair.[28] It provides a plaintiff with only limited jurisdiction and encourages multiple litigation resulting in waste of judicial resources.[29] More importantly, where the minimum contacts requirements cannot be met, then the cause of action is probably so unrelated to the forum as to make the assumption of jurisdiction a violation of due process. The unfairness can best be illustrated by example. Assume a resident of Alabama sustains personal injuries as a result of a Winconsin resident's negligence in causing an automobile accident in Wisconsin. However, the defendant owns $1,000 worth of property in Alabama and the plaintiff seeks to assert *quasi in rem* jurisdiction over the defendant by attachment of his property. Principles of fairness, on which

26. *See* Taylor v. Portland Paramount Corp., 383 F.2d 634 (9th Cir. 1967) (Suit against Elizabeth Taylor for damages due to loss of patronage when moviegoers boycotted the film *Cleopatra*, in which she starred, because of her misconduct with Richard Burton. Held: Insufficient contacts with the forum state for the exercise of jurisdiction); Curtis Publishing Co. v. Birdsong, 360 F.2d 344 (5th Cir. 1966) (Libel suit by the commander of the Alabama Highway Patrol against the Saturday Evening Post for an article referring to the patrol as "those bastards." The court held that the defendant's contacts were insufficient for the exercise of jurisdiction, although the Post had Alabama circulation, because the incident had taken place in Mississippi and the article had been written in New York).

27. *See* Duple Motor Bodies Ltd. v. Hollingsworth, 417 F.2d 231 (9th Cir. 1969) (Defendant, a British corporation, manufactured bus bodies for a second British corporation for resale in Hawaii. Jurisdiction was upheld on the basis of defendant's knowledge that the bus bodies would be resold in Hawaii); Perkins v. Benguet Consol. Mining Co., 342 U.S. 437 (1952) (Permissible for Ohio state court to exercise jurisdiction over a nonresident defendant on a claim unrelated to the forum state, because defendant had systematically and continuously conducted business within the state).

28. Carrington, *The Modern Utility of Quasi in Rem Jurisdiction*, 76 HARV. L. REV. 303, 306 (1962); Martin, *Secured Transactions*, 19 WAYNE L. REV. 593, 641 (1973).

29. *See* Riverview State Bank v. Dreyer, 188 Kan. 270, 362 P.2d 55 (1961); Strand v. Halverson, 220 Iowa 1276, 264 N.W. 266 (1935); Oil Well Supply Co. v. Koen, 64 Ohio St. 422, 60 N.E. 603 (1901). A judgment *quasi in rem* does not have res judicata effect, and thereby encourages multiple litigation.

the Due Process Clause is based, would seem to dictate that Alabama refuse to assert jurisdiction. The defendant's contacts with the forum, Alabama, are minimal and unrelated to the cause of action. Further, the witnesses, evidence, and defendant are all located in a distant forum, Wisconsin.

In the preceding example, the unfairness is heightened if Alabama, like Delaware,[30] does not recognize a limited appearance. Defendant would be faced with litigating the case in a distant and unrelated forum, or losing his property by default judgment. In *Gregg* the defendant was faced with the choice of losing two million dollars worth of stock by default judgment, or defending his property and thereby submitting to full *in personam* liability on a twenty million dollar claim in a forum he probably had never even visited.

The traditional basis of *quasi in rem* jurisdiction, the physical location of property within the borders of the state, is questionable in any case when applied to intangibles. The situs of intangibles can be a matter of controversy[31] and often more than one state can make a credible claim thereto. In *Atkinson v. Superior Court*[32] the court rejected the concept of a fictional situs for intangibles and required the satisfaction of the minimum contacts doctrine before *quasi in rem* jurisdiction could be asserted. The plaintiffs in that case attacked the validity of a contract and trust agreement negotiated by the American Federation of Musicians with their employers. The plaintiffs asserted jurisdiction over a nonresident trustee. *Quasi in rem* jurisdiction was upheld because the cause of action had sufficient contacts with the forum state. The court noted that the trusteeship grew out of plaintiffs' employment within the state and the payments were consideration for work performed within the state. *Atkinson* is important because it demanded sufficient contacts between the cause of action and the forum state before *quasi in rem* jurisdiction could be asserted.[33] However, had California's current long-arm statute been in effect at the time of the *Atkinson* decision[34] the court could have asserted full *in personam* jurisdiction over the nonresident. Because the court found sufficient contacts between the

30. Sands v. Lefcourt Realty Corp., 35 Del. Ch. 340, 117 A.2d 365 (1955).

31. *See* Hanson v. Denckla, 357 U.S. 235, 246-47 (1958): Tax Comm. v. Aldreich, 316 U.S. 174 (1942). *See also* Traynor, *Is This Conflict Really Necessary?*, 37 TEXAS L. REV. 657, 663 (1959).

32. 49 Cal. 2d 338, 316 P.2d 960 (1957), *cert. denied*, 357 U.S. 569 (1958).

33. *Atkinson* was cited in Camire v. Scieszka, 358 A.2d 397 (N.H. 1976). In *Camire*, a New Hampshire resident brought suit against a Missouri resident for injuries suffered in an out-of-state auto accident. Plaintiff asserted *quasi in rem* jurisdiction over the defendant's insurance company's obligation to insure and defend the defendant against liability. Plaintiff contended that this obligation constituted a debt, and that under the rule of Harris v. Balk, 198 U.S. 215 (1905), could be attached in any state where defendant's insurance company could be served with process. The *Camire* court declined to assert jurisdiction. The court based its decision on the *International Shoe* minimum contacts doctrine, and denied jurisdiction for lack of such contacts.

34. CAL. CIV. PROC. CODE § 410.10 (West 1973).

defendant and the forum state, the minimum contacts requirements for *in personam* jurisdiction would also have been satisfied.

Where an intangible res is the asserted basis for jurisdiction as in *Atkinson*, the unfairness which can result from *quasi in rem* jurisdiction is greatly compounded. In *Seider v. Roth*[35] a New York resident instituted suit in New York for personal injuries sustained as a result of the negligence of a Canadian citizen and resident in causing an automobile accident in Vermont. The plaintiff attempted to obtain *quasi in rem* jurisdiction over the defendant by attachment of an insurance policy issued in Canada by a company which did business in New York. The plaintiff argued that the insurance company owed a debt to the defendant by reason of its obligation to insure and indemnify him against liability. Under the rule of *Harris v. Balk*,[36] a debt is located and can be attached wherever the debtor can be found. Therefore, the plaintiff asserted that the insurance policy could be attached in New York where the insurance company was doing business. The *Seider* court found *quasi in rem* jurisdiction to have been properly assumed. Subsequent New York decisions have reaffirmed *Seider*,[37] although numerous other jurisdictions have rejected the *Seider* rule.[38]

Seider demonstrates the problems presented by assignment of a fictional situs to intangibles for purposes of *quasi in rem* jurisdiction. The *Seider* rule would permit a plaintiff to shop for a forum, which not only greatly inconveniences the defendant, but also provides the plaintiff with the greatest procedural advantage. However, a subsequent New York decision[39] which limited the *Seider* rule to cases brought by a resident of New York, or cases where the cause of action accrued in New York, may mitigate the potential for forum shopping. Even so, it seems preferable even in those situations that the forum state be required to fulfill the requirements of the minimum contacts doctrine before *quasi in rem* jurisdiction is asserted. If such minimal contacts are not present, then it is not fair to make the defendant defend the case in that forum. A forum with a stronger connection with the cause of action, its evidence, and witnesses, would be the logical forum in which to litigate the claim.

It is interesting to note, however, that the *Gregg* court, after deciding

35. 17 N.Y.2d 111, 269 N.Y.S.2d 99, 216 N.E.2d 312 (1966).

36. 198 U.S. 215 (1905).

37. Simpson v. Loehmann, 21 N.Y.2d 305, 287 N.Y.S.2d 633, 234 N.E.2d 669 (1967); Minichiello v. Rosenberg, 410 F.2d 106 (2d Cir. 1968).

38. State Government Employees Ins. Co. v. Lasky, 454 S.W.2d 942 (St. L. Mo. App. 1970); Howard v. Allen, 254 S.C. 455, 176 S.E.2d 127 (1970); Ricker v. LaJoie, 314 F. Supp. 401 (D. Vt. 1970); DeRentiis v. Lewis, 106 R.I. 240, 258 A.2d 454 (1969).

The *Atkinson* case has been suggested as a solution to *Seider*. *See Minichiello v. Rosenberg: Garnishment of Intangibles—In Search of a Rationale*, 64 NW. U.L. REV. 407 422 (1969); Stein, *Jurisdiction by Attachment of Liability Insurance*, 43 N.Y.U.L. REV. 1075, 1109 (1968); Note, *Seider v. Roth: The Constitutional Phase*, 43 ST. JOHN'S L. REV., 58, 81 (1968).

39. Minichiello v. Rosenberg, 410 F.2d 106 (2d Cir. 1968).

that the *International Shoe* minimum contacts doctrine should be applied, may have misapplied the doctrine. In *Gregg*, the defendant owned two million dollars worth of stock in a Delaware corporation which he obtained pursuant to a contract which was the basis of the cause of action. The twin requirements of *International Shoe*, that the defendant have sufficient contacts with the forum state which are related to the cause of action such that the maintenance of the suit does not offend traditional notions of fair play and justice, appear to be met.

The *Gregg* court's justification was that neither the plaintiff nor the defendant was a resident of Delaware. *Gregg* was correctly labelled as a resident of Florida. The court also found that U.S.I. was only a technical resident of Delaware because, although it was incorporated in Delaware, it did no business there. The court then reasoned that it would be improper to allow Delaware law to dictate that the situs of Gregg's U.S.I. stock was Delaware solely on the basis of technical residency. In view of the court's determination that the situs of the stock and the residence of both parties were not in Delaware, assertion of *quasi in rem* jurisdiction was deemed improper due to the lack of minimum contacts.

A contrary analysis and result could easily have been supported. U.S.I. did incorporate in Delaware, and the stock, which is the basis of the cause of action, constitutes ownership in a Delaware corporation. Clearly, Gregg did contract to acquire stock in a Delaware corporation and this contract is the basis of the cause of action. This should satisfy the minimum contacts requirement if the holdings in *Gray* and *McGee* are accepted. The contract to buy stock in a Delaware corporation in *Gregg* appears to be equivalent to the contract to insure a California resident in *McGee*. In both cases, the defendant was a nonresident of the state where the cause of action arose and never physically entered the state. Further, both cases involve a contract to purchase an intangible. *Gray* also involved a nonresident who never entered the state. The exercise of jurisdiction in *Gregg*, based on the minimum contacts doctrine, would therefore appear to be proper.

If *quasi in rem* jurisdiction was not permitted except in those cases where the minimum contacts requirements are fulfilled, attachment in aid of jurisdiction would appear to be unnecessary. It could be obtained only where the defendant had sufficient contacts with the forum state to fulfill the minimum contacts requirements. In such cases, *quasi in rem* jurisdiction would serve no useful purpose because once the minimum contacts requirements were satisfied the court could assert full *in personam* jurisdiction. However, it should be noted that although pre-judgment attachment would be obsolete for the purpose of obtaining jurisdiction, it would still serve the purpose, separate and apart from *quasi in rem* jurisdiction, of securing against the dissipation of defendant's assets prior to judgment.[40]

40. MO. R. CIV. P. 85.01 provides twelve instances wherein prejudgment attachment may be exercised by a plaintiff even though not for the purpose of obtaining jurisdiction over a nonresident. *See* MO. R. CIV. P. 85.01 (3)-(14).