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GENERAL JURISDICTION OF COURTS — A CRITIQUE OF THE MARYLAND LAW

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"It is traditional that statutes are unreadable, indefinite, confusing and misleading." — 1A.J. SUTHERLAND, STATUTES AND STATUTORY CONSTRUCTION, Ch. 21, § 21.05 (1972).

"The laws ought not to be subtle. They are designed for people of common understanding." — C. MONTESQUIEU, THE SPIRIT OF THE LAWS, BOOK XXIX, Ch. XIV (Aldine Ed., 1900).

This article evaluates Maryland legislation regarding judicial jurisdiction over claims having no relation to the state, and seeks to determine which of the above commentaries better describes Maryland law. From an appraisal of Maryland's statutory evolution and the impact of Supreme Court case law, it appears that Sutherland's observations are more applicable.

There are two basic species of jurisdiction that have developed in American practice. This article distinguishes between these two varieties of jurisdiction by reference to the terminology suggested by Von Mehren and Trautman.[1] The term "general" jurisdiction refers to the assertion of a state's authority to decide any controversy on the basis of a relationship between the forum and the parties. Under "general" jurisdiction, this power is extended irrespective of whether the controversy relates to the state. The second form of a state's adjudicatory power, "specific" jurisdiction, is predicated upon a nexus between the forum and a particular controversy. Where a state is accorded "specific" jurisdiction, the power to adjudicate is limited to claims

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1. A. Von Mehren and D. Trautman, *Jurisdiction to Adjudicate: A Suggested Analysis*, 79 HARV. L. REV. 1121, 1136 (1966).

arising out of the specific controversy.[2] This article encompasses an appraisal of "general" jurisdiction; *i.e.*, the assertion of the power to adjudicate any claim between the parties despite the claim's having no relation to the state.

The statute that asserts Maryland's general jurisdiction has been amended twice — once in 1971 and again in 1973. The original statute, modeled on the Uniform Interstate and International Procedure Act[3] was adopted in 1964.

I. THE 1964 STATUTE

A. *The Separate Treatment of General and Specific Jurisdiction*

The statute enacted in 1964 separated the distinct classes of jurisdiction into two sections. The first section, § 95 of Article 75, provided for general jurisdiction: "A court may exercise personal jurisdiction over a person domiciled in, organized under the laws of, or maintaining his or its principal place of business in, this state as to any cause of action."[4] This provision asserted jurisdiction over unrelated claims. The second section, § 96 of Article 75, enumerated various acts of the defendant in or affecting the state which furnished a qualified

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2. Although the specific terminology may differ in the treatment of the subject, the distinction between the two types of jurisdiction is basic for proper analysis. For example, according to Weintraub, "it will be useful to keep in mind the distinction between generally-affiliating contacts and specifically-affiliating contacts;" the former providing the basis for jurisdiction over a defendant as to any cause of action, and the latter only as to a cause of action that is related to the contact. R. WEINTRAUB, COMMENTARY ON THE CONFLICT OF LAWS 132 (2d ed. 1980). Vernon distinguishes between the "broad" jurisdiction of courts in adjudicating claims unrelated to the forum, based on a "single" factor connecting the defendant with the state; and "limited" jurisdiction based on a "multiple-factor" foundation stemming from a defendant's acts in the forum state or affecting that state. Vernon, *Single-Factor Bases of* In Personam *Jurisdiction — A Speculation on the Impact of* Shaffer v. Heitner, 1978 WASH. U.L.Q. 273, 276 [hereinafter cited as Vernon]. It would seem, however, that the distinction is not so much the "singleness" or "multiplicity" of the factors but rather whether they relate to the controversy or to the defendant.

3. The Uniform Interstate and International Procedure Act [hereinafter cited as Uniform Act] was promulgated by the National Conference of Commissioners on Uniform State Laws in August, 1962, and was approved by the House of Delegates of the American Bar Association in February, 1963. The Uniform Act and the Commissioner's Comments are now contained in 13 UNIFORM LAWS ANN. 459 (1980) [hereinafter cited as UNIFORM LAWS].

4. MD. ANN. CODE art. 75, § 95 (1964). As part of the revision of the Code in 1973, this section was enacted as § 6–102(a) of the Courts and Judicial Proceedings Article.

basis for jurisdiction.[5] Section 96 restricted the state's jurisdiction to suits arising out of specifically enumerated conduct of the defendant. Jurisdiction over a controversy unrelated to the state was covered only in the general jurisdiction section.

A statute's disparate treatment of the two forms of jurisdiction promotes a clear understanding of their differences. It facilitates the analysis of issues which are settled according to the variety of jurisdiction involved. One issue, for example, entails the time at which the jurisdictional fact must exist. It is clear that specific jurisdiction is based on events which took place in the past and usually have ended before the action was instituted. In contrast, assume that general jurisdiction over an unrelated claim is asserted on the basis of facts which, although previously existing, are no longer true at the time of suit (for example, in an automobile accident that occurred outside the state, the defendant formerly was domiciled in the state but since has moved away). Here, as distinguished from specific jurisdiction, it is generally held that the general jurisdictional basis must exist at the time of suit.[6] The only basis for this jurisdiction is the connection between the defendant and the state; if such connection has ceased, so has the jurisdictional foundation.[7]

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5. Article 75, § 96, as originally enacted, reads as follows:

> (a) A Court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's
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> (1) Transacting any business in this State;
>
> (2) Contracting to supply services in this State;
>
> (3) Causing tortious injury in this State by an act or omission in this State;
>
> (4) Causing tortious injury in this State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in this State or derives substantial revenue from food or services used or consumed in this State;
>
> (5) Having an interest in, using, or possessing real property in this State; or
>
> (6) Contracting to insure any person, property, or risk, located within this State at the time of contracting.
>
> (b) When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him.

MD. ANN. CODE art. 75, § 96 (1964). In 1973, the subject matter of the section was placed in § 6–103 of the Courts and Judicial Proceedings Article. For discussion of the statute as originally passed, *see* Auerbach, *The "Long Arm" Comes to Maryland,* 26 MD. L. REV. 13 (1966).

6. Lucini v. Mayhew, 113 R.I. 641, 647, 324 A.2d 663, 666 (1974). *See* RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 29 (1971) (hereinafter cited as RESTATEMENT); WEINTRAUB, *supra* note 2, at 183–85.

7. The Commissioner's Comment to the general jurisdiction section of the Uniform Act justifies the wide range of jurisdiction upon "the defendant's enduring relationship or continuing contact with the state." UNIFORM LAWS, *supra* note 3, at 464 (Commissioner's Comment).

B. *Matters Not Covered by the Statute*

1. Method of Giving Notice

The 1964 statute governed only that component of jurisdiction which concerned the state's assertion of its adjudicatory authority. The statute did not regulate the second element of jurisdiction, the method of providing proper notice to the defendant. Instead, the means for giving proper notice is to be prescribed by the Maryland Rules of Procedure.[8]

2. Physical Presence as a Basis for Jurisdiction

The presence of an individual within the state was not included in the 1964 statute as a basis for the assertion of general jurisdiction (*i.e.*, jurisdiction over an unrelated claim). The traditional basis for jurisdiction at common law was one's permanent or temporary presence in the state; the only recognized means of giving notice under the common law was personal service.[9] It was thought, therefore, that it was unnecessary to incorporate this element into the statute. All other bases of jurisdiction, however, required a statutory provision.

C. *The "Principal Place of Business" Formula for General Jurisdiction*

Under the statute, general jurisdiction also arises from the state's authority to resolve an unrelated claim based upon a non-resident individual or a foreign corporation locating its principal place of business in the state. As the Commissioner's Comment to the Uniform Act notes, this is an expansion of the jurisdiction which most states formerly had exercised over individuals.[10] This formulation, however, limits the jurisdiction many states previously had asserted over foreign

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8. The Maryland statute makes this explicit. It provides: "In addition to any method allowed by law, service of process may be made in accordance with the Maryland Rules or the Maryland District Rules." MD. CTS. & JUD. PROC. CODE ANN. § 6-301. Md. R. Civ. P. 107 (Service of Process Outside the State) was promulgated pursuant to this provision following the passage of the long-arm statute.

9. *See* RESTATEMENT, *supra* note 6, at § 28a. Consent to jurisdiction by the defendant, or appearance in an action, were also recognized at common law, but in these instances the submission to jurisdiction was a voluntary one. *Id.* at §§ 32-33.

10. *See* UNIFORM LAWS, *supra* note 3, at 464. Prior to the enactment of long-arm statutes, general jurisdiction over individuals was asserted on the basis of physical presence, domicile, consent or appearance.

corporations when the basis for jurisdiction was the corporation's "doing business" in the state.[11]

The Supreme Court established the standard for general jurisdiction over foreign corporations in *Perkins v. Benguet Consolidated Mining Co.*[12] The standard was not particularly precise. The business done must be "sufficiently substantial and of such a nature" as to permit jurisdiction over an unrelated claim.[13] The Restatement of Conflicts defines the standard as whether the "business is so continuous and substantial as to make it reasonable for the state to exercise such jurisdiction."[14]

In *Perkins,* a foreign corporation had its principal place of business in the forum state. This is not to imply that the exercise of general jurisdiction over a foreign corporation necessarily is rendered invalid because the corporation does not have its principal place of business in the state. The business done may be sufficient in continuity and extent to make the jurisdiction proper. But, if the activity is characterized as "ordinary" or "usual," the exercise of jurisdiction over an unrelated claim may be improper. The application of these generalized standards is not an easy one. It is clear, however, that general jurisdiction on the basis of the "doing business" standard, would, in many cases, violate the "fair play" and "substantial justice" principles which *International Shoe Co. v. Washington*[15] established as the foundation for proper jurisdiction.[16] In those situations, the defendant's activities in the forum are not sufficient to require the defendant, as a matter of equity, to

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11. Whatever the exact dimensions of "principal place of business" and "doing business," it is clear that the former requires a much greater association with the state than the latter.

12. 342 U.S. 437, *reh. denied,* 343 U.S. 917 (1952).

13. *Id.* at 447.

14. RESTATEMENT, *supra* note 6, at § 35(3) (individuals), § 47(2) (corporations). Von Mehren and Trautman object to the *RESTATEMENT* formulation to the extent that it may imply that "doing business" in a state by a defendant is sufficient for general jurisdiction. What is necessary is a "total, close, and continuing" relationship to a community, such as the location of a head office within a state. Von Mehren and Trautman, *supra* note 1, at 1144.

15. 326 U.S. 310 (1945).

16. Justice Traynor of the California Supreme Court stated this conclusion as follows:

> Although a foreign corporation may have sufficient contacts with a state to justify an assumption of jurisdiction over it to enforce causes of action having no relation to its activities in that state . . . more contacts are required for the assumption of such extensive jurisdiction than sales and sales promotion within the state by independent non-exclusive sales representatives.

Fisher Governor Co. v. Superior Court, 53 Cal. 2d 222, 347 P.2d 1, 3 (1959).

appear in an action unrelated to its forum activities.[17] Exercising caution, the Uniform Act adopted the stricter "principal place of business" standard for general jurisdiction and greatly expanded the instances of specific jurisdiction over foreign corporations. The 1964 Maryland statute did the same.

II. THE 1971 AMENDMENT

In 1971, Article 75 § 96(a)(4), the predecessor to § 6–103(b)(4) of the Courts and Judicial Proceedings Article, was amended to assert jurisdiction over actions involving tortious injuries outside of the state. Prior to this amendment the subsection provided for jurisdiction as to a cause of action arising from a person's "[c]ausing tortious injury in this State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in this State or derives substantial revenue from goods, food, services or manufactured products used or consumed in this State."[18] The amendment added the phrase "or outside of this State," so that the first part of the subsection now reads "[c]ausing tortious injury in this State or outside of this State by an act or omission outside the State."[19]

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17. Examples of situations where sufficient contacts with the forum arguably existed to constitute the doing of business but where general jurisdiction over the defendant was denied are: maintenance by a Phillipine banking corporation of deposits in the six local banks for processing letters of credit and facilitating the transfer of funds between the forum state and the home country of the defendant, H. Ray Baker, Inc. v. Associated Banking Corp., 592 F.2d 550 (9th Cir.), *cert. denied,* 444 U.S. 832 (1979); mail solicitation and mailing of promotional literature to about 650 forum doctors by a foreign drug manufacturer, Ratliff v. Cooper Laboratories, Inc., 444 F.2d 745 (4th Cir.), *cert. denied,* 404 U.S. 948 (1971); advertising by mail and visits by about a half-dozen salesmen to potential customers for solicitation of business, Seymour v. Parke, Davis & Co., 423 F.2d 584 (1st Cir. 1970); the hauling of freight into the forum state approximately twenty times per year for about seven years prior to an out-of-state accident, Cornelison v. Chaney, 16 Cal. 3d 143, 545 P.2d 264 (1976); the leasing of two offices in the state by a foreign railroad for the purpose of soliciting freight traffic, Wainscott v. St. Louis-San Francisco Ry. Co., 47 Ohio St. 2d 133, 351 N.E.2d 466 (1976).

There is a greater tendency to find that sufficient contacts exist for jurisdiction over an unrelated claim where the plaintiff is a local resident. *See, e.g.,* Carter v. Massey, 436 F. Supp. 29 (D. Md. 1977).

18. MD. ANN. CODE art. 75, § 96(a)(4) (Cum. Supp. 1970). The reference to goods and manufactured products as a source of revenue derived in the state was not contained in the original statute, but was added in 1970. *See* the original enactment of Article 75, § 96 in its entirety, *supra* note 5.

19. MD. CTS. & JUD. PROC. CODE ANN. § 6–103(b)(4) (1980).

A. *The Introduction of General Jurisdiction Into the Specific Jurisdiction Section*

Section 6–103 is intended to govern "specific" jurisdiction, *i.e.*, claims arising out of events which connect the case to the forum.[20] Here, too, the 1964 statute followed the Uniform Act. In subsection (b)(4) the event that connected the case to the forum was the injury out of which the claim arose which occurred in the state. The defendant's conduct which caused the injury took place outside the state. The business conducted or revenue earned by the defendant in the state did not have to relate to the specific events connected with the injury.

The justification for adopting this formula requires some explanation. The legislature contemplated a typical products liability case in which a local consumer is injured in the state by a product manufactured elsewhere by the defendant. The jurisdictional problem that emerged was connecting the defendant, which played no part in bringing the product into the state, with the forum. In *Hanson v. Denckla,*[21] the Supreme Court established the requirement that the defendant's act must be one "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."[22]

The Illinois Supreme Court responded to this problem in *Gray v. American Radiator & Standard Sanitary Corp.*[23] The Illinois court concluded that by placing the product into the stream of commerce with the reasonable expectation that the product would find its way into the forum state, the defendant had sufficiently connected itself with that state. It was not until 1980 that the United States Supreme Court indicated approval of the "stream of commerce" rationale.[24] Prior to that

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20. *See* notes 4 and 5 and accompanying text *supra*.

21. 357 U.S. 235 (1958).

22. *Id.* at 253 (citing with approval International Shoe Co. v. Washington, 326 U.S. 310, 319 (1945)).

23. 22 Ill.2d 432, 176 N.E.2d 761 (1961). The illinois statute based jurisdiction upon the commission of a tortious act within the state. The court held that a tort is "committed" in the jurisdiction where the last event necessary to create liability occurs. *Id.* at 435, 176 N.E.2d at 762.

24. World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980). "[I]f the sale of a product . . . arises from the efforts of the manufacturer or distributor to serve, directly or indirectly, the market for its product in other States, it is not unreasonable to subject it to suit in one of those States if its allegedly defective merchandise has there been the source of injury to its owner or to others." *Id.* at 297.

time, however, many cases rejected this "stream of commerce" notion.[25] The Uniform Commissioners similarly were unconvinced by the concept.[26] The Uniform Act, therefore, additionally required some overall connection between the defendant and the forum. The connection did not have to be a "substantial" one, nor was it necessary for the activity to amount to the "doing of business."

The 1971 amendment effectively removed the requirement of injury in the state. As a result, the claim of jurisdiction is no longer for "specific," but rather for "general" jurisdiction. Jurisdiction is now asserted over a claim not related to the state on the basis of a connection between the state and the defendant. The legislature could have accomplished the same result by simply deleting the words "in this State" in reference to the place of injury.

B. The Problems Produced by the 1971 Amendment

1. Statutory Problems

Although the legislature incorporated the subject matter of § 6–102, which governs general jurisdiction, into § 6–103, which governs specific jurisdiction, no change was made in the general structure of either provision. Section 6–102 still required that, in order for a defendant to be subject to suit on an unrelated claim in Maryland, the defendant's principal place of business must be within the state. Section 6–103(a) retained its requirement that the cause of action must arise from conduct specifically enumerated in that section.[27] Subsection (4), however, refers to two separate acts by the defendant: first, the defendant's conduct outside the state producing the plaintiff's injury; and second, the defendant's overall activity (or revenue earned) within

25. A good example of the reasoning of such cases is contained in Hutson v. Fehr Bros. Inc., 584 F.2d 833 (8th Cir. 1978). The court there held that the sale of a product by a manufacturer to a supplier or wholesaler who in turn introduces the product into a state is too "frail" a foundation for jurisdiction over the manufacturer in that state. The control over marketing decisions relating to the product is in the hand of the supplier, not the manufacturer. Thus, the manufacturer "did not consciously solicit or purposefully avail itself of the privilege to conduct business in the forum state. . . ." *Id.* at 837.

26. The Commissioner's Comment to § 1.03 of the Uniform Act notes that its rule is more restrictive than that of the *Gray* case. It explains that "[i]n sustaining the exercise of jurisdiction over a defendant who has caused injury in the state by means of a tortious act done outside the state, the courts have often emphasized that the defendant had contacts with the state that bore no relation to the particular tort." UNIFORM LAWS, *supra* note 3, at 468–69.

27. In 1973, this requirement was placed in subsection 6–103(a) which reads: "If jurisdiction over a person is based solely upon this section, he may be sued only on a cause of action arising from any act enumerated in this section." § 6–103(b) enumerates those acts. *Compare* MD. CTS. & JUD. PROC. CODE ANN. § 6–103 *with* MD. ANN. CODE art. 75, § 96.

the state and unconnected with the injury. If the act enumerated gives rise to the claim, but does not provide a basis for jurisdiction, the question that emerges is whether the "arising from" requirement has been satisfied. In a suit involving an out-of-state injury, the resolution of this inquiry will determine the existence of jurisdiction. The claim does not arise out of a jurisdiction-producing fact (*i.e.*, general conduct within the state), but rather the claim arises out of a non-jurisdiction-producing fact (*i.e.*, act and injury outside of the state). Therefore, if § 6–103(b) is interpreted to require that the cause of action arise from the act which is the basis for jurisdiction over the defendant, it cannot be satisfied.

2. Constitutional Problems

A second issue is the amendment's constitutional validity. As noted above, jurisdiction is asserted over an unrelated claim based on the defendant's conduct in the state, which need not even amount to the "doing of business." Many situations covered by the amendment undoubtedly will not reach the level of being "sufficiently substantial and of such a nature" as to permit general jurisdiction over the defendant.[28] It is clear that deriving revenue from the state without any actual conduct by the defendant will not support general jurisdiction.[29] A serious question of constitutional validity, therefore, will arise in many circumstances in which the amendment applies.

The "principal place of business" formula of § 6–102 may have been too strict. The 1971 amendment, however, makes no change in this standard, but instead introduces a different formula into § 6–103(b)(4) so that both exist simultaneously. The result is that in the case of a tortious injury unrelated to the state, the jurisdictional standard is broadened considerably, perhaps beyond constitutional limits. For all other causes of action, the overly restrictive original standard remains undisturbed.

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28. *See generally* cases cited in note 17 *supra*.

29. In World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980), the Oklahoma court asserted jurisdiction in a case arising out of an Oklahoma automobile accident, over the New York automobile dealer who sold the car, and over the wholesale distributor. One of the arguments for jurisdiction was that the defendant derived substantial income from automobiles which from time to time are used in Oklahoma. The Court rejected this argument, stating that "financial benefits accruing to the defendant from a collateral relation to the forum State will not support jurisdiction if they do not stem from a constitutionally cognizable contact with that State." *Id.* at 299. Note that the Court rejected the "revenue" basis for jurisdiction even where the accident occurred in the forum state.

C. The Response of the Federal District Court

In 1973, Judge Frank A. Kaufman of the United States District Court for Maryland confronted these questions in *Egeria, Societa di Navigazione Per Azioni v. Orinoco Mining Co.*[30] The plaintiff sued for damage to its freighter occurring in Venezuela, and claimed that the defendant negligently maintained the ship channel and negligently cleared the ship for passage. The defendant, in addition to operating a Venezuelan ship channel, mined iron ore. Judge Kaufman found that there was at least a significant question as to whether the defendant derived substantial revenue from the use of its iron ore in Maryland, as required by § 6–103(b)(4). Before proceeding to that factual inquiry, however, the court determined whether the statute was satisfied even if the defendant had earned substantial revenue in the state.

The question presented was whether the cause of action arose from an act enumerated in subsection (b)(4) as required by subsection (a). Judge Kaufman answered in the negative. He reasoned that the purpose of subsection (a) is to prevent the assertion of claims under § 6–103 "that do not bear some relationship to the acts in the forum state relied upon to confer jurisdiction."[31] In other words, the purpose of subsection (a) is to classify the subject matter of § 6–103 under specific jurisdiction and not general jurisdiction. Because the "act enumerated" is the derivation of revenue in the state, and because none of the elements of the alleged negligence of the defendant were in any way connected with the defendant's derivation of revenue in Maryland, the court held that subsection (a) of the statute had not been satisfied. As a result of this holding based upon the facts in the case, it was unnecessary to address the constitutionality of an assertion of jurisdiction.

D. The Response of the Maryland Court of Appeals

When the Maryland Court of Appeals in 1976 faced the same questions in *Geelhoed v. Jensen*,[32] its answers differed. The plaintiff in *Geelhoed* sued for criminal conversation which allegedly occurred in Montreal, Canada in March, 1971.[33] The plaintiff and his wife were domiciled in Maryland. Although the defendant was a domiciliary of

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30. 360 F. Supp. 997 (D. Md. 1973).

31. *Id.* at 1005, *quoting* Malinow v. Eberly, 322 F. Supp. 594, 599 (D. Md. 1971).

32. 277 Md. 220, 352 A.2d 818 (1976).

33. *Id.* at 222, 352 A.2d at 820. In Kline v. Ansell, 287 Md. 585, 414 A.2d 929 (1980), the Maryland Court of Appeals held that the common law action for criminal conversation violated the Equal Rights Amendment to the Maryland Declaration of Rights because the action was available to men but not to women.

California, he had been a full-time resident of Maryland while fulfilling his Selective Service obligation between 1969 and June, 1971.

The court first established that the requirements of subsection (b)(4) were satisfied: the defendant's act was outside the state; it was immaterial where the injury occurred; and the defendant was engaged in a persistent course of conduct in the state, having been a full-time resident for two years.

The court next examined § 6–103(a)'s requirement that the cause of action must arise from one of the acts enumerated in subsection (b). The resolution necessarily was contingent upon which act enumerated in subsection (b)(4) was the one referred to by subsection (a): was it the act causing the injury or the persistent conduct in the state (*i.e.*, the residence of the defendant in Maryland). If found to be the latter, there could be no jurisdiction.

The full text of the court's conclusion follows:

> The reference to "act enumerated in this section" with respect to subsection (b)(4) refers only to the act or omission which causes tortious injury; to hold otherwise would be to impose a limitation not required by due process. Furthermore, subsection (b)(4) would add little or nothing to the statute if it were held that the cause of action must arise out of the defendant's doing or soliciting business, engaging in any other persistent course of conduct or deriving substantial revenue from activities in the State. Such action would be provided for in other sections of § 6–103.[34]

This conclusion is based on the argument that the legislature, in amending subsection (b)(4), impliedly changed the basic thrust of subsection (a), which was to establish that § 6–103 covered only "specific" jurisdiction. A continued adherence to that interpretation would have rendered the 1971 amendment a nullity since jurisdiction over an unrelated claim (injury outside the state caused by an act outside the state) based on an overall relationship of the defendant to the state (*e.g.*, full-time residence) cannot satisfy a requirement that the cause of action arise out of the acts which are the basis for jurisdiction.[35]

As the court noted, if the claim arises out of the defendant's conduct in the state, one or more of the other subsections of § 6–103(b) would be applicable. As to those subsections, the original purpose of subsection (a) — to limit the assertion of jurisdiction to claims related to the state —

34. 277 Md. at 232, 352 A.2d at 825–26.

35. For a similar analysis and conclusion, *see* Carter v. Massey, 436 F. Supp. 29, 32 (D. Md. 1977).

retains its validity. Since the *Geelhoed* case, however, this analysis no longer applies to subsection (b)(4).[36] Subsection (a) effectively limits the assertion under subsection (b)(4) of jurisdiction over an unrelated claim to cases arising from tortious injury only. Nonetheless, even for this purpose, the limitation of subsection (a) is probably unnecessary in view of the specific reference in subsection (b)(4) to tortious injury.

By arguing that a contrary interpretation of subsection (a) would impose a limitation not required by due process, the *Geelhoed* court reasoned that due process permits general jurisdiction, and that the 1971 amendment provides for general jurisdiction; therefore due process does not require an interpretation of subsection (a) that prevents the amendment from being effective. It should be noted however, that, as stated above, many cases satisfying the requirement of subsection (b)(4) would be skating on constitutional thin ice.[37]

A curious issue emerges toward the conclusion of the *Geelhoed* opinion. The defendant argued that he had moved out of Maryland prior to the commencement of the action, and that general jurisdiction requires the relation to the forum state to exist at the time the authority of the state is to be exercised, *i.e.,* when suit is commenced.[38] The court's response to that argument did not dispute its validity. It noted that although the tortious act occurred outside the state, it "bore a substantial relationship to the State."[39] The plaintiff was domiciled in the state which was the situs of the marital relationship. The injury, therefore, took place in the state. For these reasons, the fact that the defendant moved out of the state did not remove the state's interest in the dispute.

According to this analysis, the *Geelhoed* case actually represents an assertion of specific jurisdiction rather than general jurisdiction because the claim itself is related to the state. The cause of action does arise out of the event which provides the basis for jurisdiction, namely, the act of the defendant causing consequences in the state. The implication of the court's response is that in the case of a truly unrelated claim, where the act and the injury both occur out of the state, the defendant's relationship to the state which provides the basis for jurisdiction must exist at the time of the commencement of the action — a requirement not applicable to the other subsections of § 6–103(b).

36. Prior to the 1971 amendment the "act enumerated" in subsection (4) was the defendant's act causing injury in the state out of which the claim arose, which provided an essential element for the jurisdiction over the defendant.

37. *See* notes 28 and 29 and accompanying text *supra.*

38. *See* notes 6 and 7 and accompanying text *supra.*

39. 277 Md. at 233, 352 A.2d at 826.

E. Section 6–102: The Appropriate Place for the Expansion of General Jurisdiction

The aim of the 1971 amendment was to expand general jurisdiction. The appropriate place for statutory change, however, was § 6–102, which concerns general jurisdiction, and not § 6–103, which covers specific jurisdiction. The "principal place of business" standard could have been replaced by a more inclusive formula which would have been applicable to all cases and not just to tortious injuries. It is difficult to understand why a Maryland plaintiff having a contract claim, for example, should not enjoy the same opportunity to sue in a local court as a Maryland plaintiff having a tortious injury claim. Had this approach been adopted, the problem of interpreting § 6–103(a) after the amendment would have been avoided.

The original text of subsection (b)(4) reflected a careful consideration of the constitutional permissibility of asserting jurisdiction based upon a combination of injury in the state and some minimal general contact of the defendant with the state. The amendment deleted the requirement of injury in the state, yet made no change in the standards for the defendant's relationship to the state. Therefore, the constitutional underpinning for the exercise of the asserted jurisdiction has been seriously weakened. Had a more precise standard, specifically applicable to all cases of general jurisdiction, been the subject of an amendment to § 6–102, the constitutional infirmity would have been vitiated.

III. THE 1973 AMENDMENT

In 1973, the Maryland legislature amended § 6–102(a) by adding four words. Prior to that time the section provided: "A court may exercise personal jurisdiction over a person domiciled in, organized under the laws of or maintaining his or its principal place of business in this state as to any cause of action." The amendment added the words "served with process in" following the reference to domicile. This amendment was included in the new Courts & Judicial Proceedings Article promulgated at that time as part of the recodification of the Maryland Code.

The original text was the same as the Uniform Act. The Commissioner's Comment to the applicable section of the Uniform Act stated that the section establishes the basis for personal jurisdiction over a person who is outside the state as to any cause of action.[40] Jurisdiction

40. Commissioner's Comment to § 1.02 of the Uniform Act, UNIFORM LAWS, *supra* note 3, at 464.

is justified by the defendant's enduring relationship or continuing contact with the state.[41] Prior to 1973 the Maryland courts invoked the common law rule and asserted jurisdiction over individuals served with process in the state as to any cause of action.[42] The 1973 amendment made this assertion of jurisdiction a statutory one.

A. *The Application of the 1973 Amendment by the Court of Special Appeals to Foreign Corporations*

In 1978 the Maryland Court of Special Appeals considered the 1973 amendment in *Springle v. Cottrell Engineering Corp.*[43] The case involved a North Carolina resident who was injured in North Carolina while serving aboard the defendant's dredge as a seaman. The action against the owner of the dredge was based upon its failure to provide the plaintiff with maintenance and care. The defendant was incorporated in Delaware and had its principal office in Virginia. None of the defendant's acts involved in the case occurred in Maryland. The defendant, after qualifying to do business in Maryland in 1964, appointed and maintained a resident agent in Maryland to accept service on its behalf. In this case, process was served on the resident agent. The court concluded that "service of process, in Maryland, upon a resident agent appointed by a foreign corporation will subject the corporation to State court jurisdiction if, in addition to the fact, and validity, of that service, it is shown that the corporation has sufficient contact with the State to make it constitutionally subject to suit here."[44]

There must be a statutory source for the assertion of any jurisdiction over foreign corporations, because there is no common law rule for jurisdiction over such corporations, as there is for individuals. There is serious doubt that the intent of the 1973 amendment was to assert a new basis for jurisdiction over foreign corporations by means of service of process on an agent in the state. The Revisor's Note to § 6–102(a) states that the new section "presently appears" as Article 75, § 95 (the prior code provision). It then explains that the new section "states the general rule that a state has jurisdiction over its residents and over non-residents served with process in the state as to any cause of action wherever it arose." The reference to "residents" and "non-residents" would cover only natural persons. It would seem that in the

41. *Id.*
42. *See* note 9 *supra*.
43. 40 Md. App. 267, 391 A.2d 456 (1978).
44. *Id.* at 288, 391 A.2d at 469.

interests of completeness the new Courts Article was drafted to include the common law rule as to jurisdiction over individuals based on physical presence in the state.

The United States Supreme Court has laid down the principle that service on an officer or an agent of a foreign corporation in a state is in itself insufficient to confer jurisdiction over the corporation if it is not otherwise subject to the state's jurisdiction. This holds true even if the agent is in the state on corporate business.[45] The business conducted in the state may be a proper basis for jurisdiction, but the service of process per se is not.

Service of process on an agent of a corporation therefore performs only the function of notice-giving. As such, it is the proper subject of the Maryland Rules of Civil Procedure and not the Maryland Code, which concerns itself only with the basis of authority over a defendant.[46] The basis of authority over a corporation is its activities in, or relationship with, the state. The reference to service of process in the statute can therefore only refer to natural persons where at common law such service performed a dual function — the assertion of authority and the giving of notice.

B. Consent as a Possible Basis for Jurisdiction Over a Foreign Corporation Whose Agent is Served in the State

An argument for applying the service of process provision to foreign corporations may be made as follows: A state has the power to exercise jurisdiction over a foreign corporation which has authorized an agent to accept service of process in the state, as to all causes of action to which the authority of the agent extends.[47] By appointing the agent, the corporation may be regarded as consenting to jurisdiction over it as to all causes of action. Thus, general jurisdiction over a foreign corporation can be accomplished by serving the agent with process in the state.

Even according to this argument, the basis of authority is not the service of process but the prior consent of the corporation. Section

45. Consolidated Textile Corp. v. Gregory, 289 U.S. 85, 88 (1933); Goldey v. Morning News, 156 U.S. 518, 521–22 (1895).

46. The Maryland Rules provide for service of process upon a "resident agent or upon the president, secretary or treasurer [of a corporation]." Md. R. Civ. P. 106(b)(1).

Federal Rule 4(d)(3) provides for jurisdiction over a corporation by means of service on an agent appointed to receive service of process. Both the Maryland and the Federal Rules, therefore, provide the mechanism for bringing notice of the action to the attention of the defendant corporation.

47. RESTATEMENT, *supra* note 6, at § 44.

6–102(a) does not refer to consent as a basis for jurisdiction. In any case, § 7–210 of the Corporations and Associations Article provides that qualification by a foreign corporation to do business in the state (which includes the designation of a resident agent) will not in and of itself render the corporation subject to suit in the state, nor will it be considered as consent by it to be sued.[48]

C. The Constitutional and Statutory Problems Arising From the Application of the Service of Process Clause of § 6–102 to Foreign Corporations

The court in *Springle* held that § 6–103(b) determines whether a corporation whose resident agent is served in the state has sufficient contact with the state to make it constitutionally subject to suit.[49] These subsections say it is constitutionally permissible to sue on a *related* claim under these circumstances. *Springle* extends these criteria to *unrelated* claims, and validates the jurisdiction if any one of the criteria contained in that section is satisfied.[50] Thus two distinct standards for general jurisdiction over foreign corporations will exist simultaneously — one for corporations that have appointed an agent and another for corporations that have not appointed an agent. For those corporations that have not appointed a resident agent, general jurisdiction will be governed by the "principal place of business" standard of § 6–102(a). The rationale for the distinction is not easily ascertainable. On the contrary, why should a foreign corporation failing to appoint an agent, contrary to law, be less subject to local jurisdiction than one conforming to its obligations?

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48. MD. CORP. & ASS'NS CODE ANN. § 7–210. This provision originally was enacted in 1941. 1941 Md. Laws art. 23, § 120(a). For the background of this enactment, *see* the discussion in the *Springle* case, 40 Md. App. at 278–79, 391 A.2d at 463–65.

49. *Id.* at 288, 391 A.2d at 469.

50. Although the court refers to all the criteria contained in § 6–103(b), only those stated in subsection (4) conceivably could provide a basis for general jurisdiction over an unrelated claim. The other subsections refer either to single transactions or to the ownership of property. A single transaction in a state cannot be the basis for jurisdiction over a foreign corporation on an unrelated claim. International Shoe Co. v. Washington, 326 U.S. 310, 317 (1945). Neither can the ownership of property. Shaffer v. Heitner, 433 U.S. 186, 209 (1977). As a matter of statutory interpretation the court concluded that "the effect of reading §§ 6–102 and 6–103 together is to make inapplicable the requirement of § 6–103(a) that the cause of action arise from an act enumerated in § 6–103(b), since jurisdiction would not be based 'solely upon [that] section'. " 40 Md. App. at 288 n.18, 391 A.2d at 469 n.18. But constitutional limitations still remain. The practical effect of *Springle,* therefore, is to permit jurisdiction on the basis of the criteria of subsection (4) even for non-tortious injury claims if service is made on the foreign corporation's resident agent in the state.

One might also ask a further question: if the corporation has engaged in sufficient activities in the state to subject it to jurisdiction on an unrelated claim, why distinguish between service of process in the state and outside the state? Either is sufficient for notice-giving purposes.

The pattern that results is the following: if the corporation has its principal place of business in the state, service can be made either in the state or outside the state.[51] If the corporation does not have its principal place of business in the state, but engages in sufficient activity in the state to subject it to suit on an unrelated claim, it is subject to jurisdiction only if a resident agent is served in the state.[52] The corporation, however, cannot be served outside the state. However, this is not true concerning claims for tortious injury outside the state because § 6–103(b)(4) becomes directly applicable and service can be made either in or outside the state.[53]

The *Springle* court's reference to the criteria contained in § 6–103(b) as the standards for jurisdiction over a foreign corporation whose resident agent has been served in the state is buttressed by the argument that if these standards are sufficient for a non-qualifying corporation, upon less than "personal" service, then surely they are sufficient to establish jurisdiction over a qualifying corporation whose resident agent is served in the state. But whether or not a corporation formally qualifies to do business in the state is irrelevant to the question of jurisdiction, except for the argument of consent, which the legislature has rejected.[54] It is what the corporation actually does that is the deciding factor.

Once again, as with the 1971 amendment to § 6–103(b)(4), criteria originally intended for the exercise of specific jurisdiction over a related claim are being used as standards for the assertion of general jurisdiction over an unrelated claim. Aside from the inherent constitutional problem involved, as discussed above,[55] there is an added element

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51. Service in the state would be made pursuant to Md. R. Civ. P. 106. Service outside the state would be made pursuant to Md. R. Civ. P. 107. While service of process is prescribed by the Maryland Rules of Civil Procedure, MD. CTS. & JUD. PROC. CODE ANN. § 6–102(a) governs only the state's assertion of jurisdictional authority over Maryland corporations.

52. According to *Springle,* § 6–102(a) authorizes service in the state.

53. The assertion of jurisdictional authority would rest on § 6–103(b)(4). Service in the state would be made pursuant to Md. Rule 106, while service outside the state would be made pursuant to Rule 107.

54. *See* notes 47 and 48 and accompanying text *supra.* The court's argument overlooks the fact that the criteria for jurisdiction under § 6–103(b) over non-qualifying corporations with less than "personal" service refer only to claims arising out of the contacts enumerated.

55. *See* notes 28 and 29 and accompanying text *supra.*

of confusion regarding the 1973 amendment. The provisions of § 6–103(b) are being read into the "service of process" clause of § 6–102 without anything in the statute itself to so advise the unwary practitioner. Furthermore, this reading is being applied only to corporations and not to individuals (who are subject to jurisdiction on the basis of service of process in the state without reference to the § 6–103(b) criteria), despite the fact that the same provision in § 6–103(a) applies to both.

IV. THE IMPACT OF *SHAFFER V. HEITNER*

Shaffer v. Heitner[56] was decided by the United States Supreme Court in 1977. It is one of the most important decisions in the area of judicial jurisdiction in recent years and has a potentially strong impact on the subject of general jurisdiction. *Shaffer* could not have been cited in *Geelhoed,* of course, because *Geelhoed* was decided in 1976. The *Springle* case, however, was decided a year after *Shaffer,* yet the court makes no reference to it.

The *Shaffer* case involved the assertion of jurisdiction in connection with a claim unrelated to the forum state on the basis of the presence of the defendant's property in the state. Since *Pennoyer v. Neff,*[57] this method often has been employed to obtain jurisdiction, the only limitation being that the amount of the judgment is limited by the value of the property. This is the traditional *quasi-in-rem* jurisdiction.[58]

Shaffer involved a claim against non-resident officers and members of the board of directors of a Delaware corporation for violating their duties to the corporation by acts, outside the forum state of Delaware, that resulted in corporate liability in a private antitrust suit. The state used sequestered shares of the stock in the corporation owned by the defendants as the basis for *quasi-in-rem* jurisdiction. The Supreme Court held that the presence of property in the forum state is not, by itself, sufficient to assert jurisdiction over a claim unrelated to the forum. There must be a sufficient relationship between the forum, the defendant, and the litigation for proper jurisdiction to exist.[59] This

56. 433 U.S. 186 (1977).

57. 95 U.S. 714 (1878).

58. *See* RESTATEMENT at §§ 66–68.

59. After tracing the development of the law from *Pennoyer* to *International Shoe,* the Court summarized as follows: "Thus, the relationship among the defendant, the forum, and the litigation, rather than the mutually exclusive sovereignty of the States on which the rules of *Pennoyer* rest, became the central concern of the inquiry into personal jurisdiction." 433 U.S. at 204. The Court, in its discussion of the presence of property in a state as a basis for jurisdiction, emphasized the need for "contacts among the forum State, the defendant, and the litigation." *Id.* at 207.

standard is applicable to all assertions of jurisdiction, however technically denominated.

A. Shaffer's *Impact on* In Personam *General Jurisdiction*

1. In General

To what extent does the *Shaffer* emphasis on a forum-defendant-litigation nexus apply to assertions of general jurisdiction over the person? In such cases, the forum-litigation element of the nexus is necessarily absent. The *Shaffer* case indicated two situations where jurisdiction might exist validly in the absence of this element. One situation is where no other forum is available.[60] This condition would be rare. The second circumstance arises in cases involving a question of status,[61] such as divorce. The status exception, however, is not relevant to this analysis.

Even on the basis of the *Shaffer* case, it is probably going too far to contend that, except for these two situations, all general jurisdiction has been invalidated. The specific context of the Court's discussion is the *quasi-in-rem* situation where jurisdiction is asserted solely on the basis of defendant's property in the state, and not on personal jurisdiction. The opinion in *Shaffer* stated that the jurisdictional doctrines set forth in *International Shoe* and its progeny are applicable "to all assertions of state court jurisdiction."[62] It is speculative, however, what effect these doctrines have on assertions of general jurisdiction in which the connecting factor is one that links the defendant with the state — *e.g.*, an individual being served with process or domiciled in the state, a corporation being organized in the state, or a non-resident or foreign corporation being engaged in some continuing activity in the state. At the very least, a heavy burden of persuasion rests on those who would argue for the validity of any particular exercise of general jurisdiction to overcome the absence of the forum-litigation element of the three-way nexus required by *Shaffer*.

Shaffer held that state court jurisdiction, however denominated, must comply with the standards of "*International Shoe* and its progeny;"[63] therefore a review of the facts in *International Shoe Co. v. Washington*[64] is necessary. In that case, the defendant foreign corporation's activity in the state was the continuous and systematic solicitation of purchase orders. The

60. *Id.* at 211 n.37.
61. *Id.* at 208 n.30.
62. *Id.* at 212.
63. *Id.*
64. 326 U.S. 310 (1945).

claim sued upon arose out of those activities — a case of specific jurisdiction as it was a related claim. The Court held that, under such circumstances, "fair play and substantial justice" permitted the assertion of jurisdiction — the forum state had a sufficient interest in the matter, and the defendant had conducted itself in such a way as to make it fair and convenient that it should defend itself on that claim in that forum. The defendant's activities had created a reasonable expectation of possible suits, and it should not have been surprised by the choice of forum.

Can these standards be satisfied when the claim sued upon is an unrelated claim and when the forum state has no direct interest in the claim itself, based upon the argument that there is a sufficient nexus between the forum state and the defendant? The answer may depend on the quality and strength of the link between the two.

2. Service of Process in the State

There is a general consensus of opinion among the commentators that the *Shaffer* doctrines have invalidated jurisdiction based solely upon service of process on an individual in the state.[65] The common law rule which allowed jurisdiction based on an individual's physical presence in the state at the moment process is served fails to satisfy the requirement of a state interest in the case, as well as the requirements of fairness and convenience to the defendant. Furthermore, there is no reasonable expectation of being sued in the particular forum. The fact of the defendant's presence in the state should provide no greater justification for jurisdiction over a claim unrelated to the state than the presence of his property in the state. If this view is correct, the provision of § 6–102 which asserts such jurisdiction must be considered invalid.

3. Domicile

Domicile of an individual in a state is undoubtedly a stronger link than transient physical presence. *Milliken v. Meyer*[66] established domicile as a valid basis for jurisdiction, and emphasized the permanent reciprocal rights and duties between the domiciliary and his state, a relationship which

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65. R. LEFLAR, AMERICAN CONFLICTS LAW 43 (3d ed. 1977); Vernon, *supra* note 2, at 302–03; R. WEINTRAUB, *supra* note 2, at 134–35; Werner, *Dropping the Other Shoe:* Shaffer v. Heitner *and the Demise of Presence-Oriented Jurisdiction,* 45 BROOKLYN L. REV. 565, 567 (1979); Bernstine, Shaffer v. Heitner: *A Death Warrant for the Transient Rule of* In Personam *Jurisdiction?,* 25 VILL. L. REV. 38 (1979). Some cases since *Shaffer* also take the position that jurisdiction based on presence alone is no longer valid. *See, e.g.,* Schreiber v. Allis-Chalmers Corp., 448 F. Supp. 1079, 1088–89 (D. Kan. 1978); Energy Reserves Group, Inc. v. Superior Oil Co., 460 F. Supp. 483 (D. Kan. 1978).

66. 311 U.S. 457 (1940).

exists even when the individual is temporarily absent. *Milliken,* however, was decided before *International Shoe.* Applying the *International Shoe* standards, it is at least debatable whether the forum state has a sufficient interest in a case which does not concern it directly, merely on the basis of the defendant's domicile. There is an element of convenience to the defendant in litigating the case in his home state, and he should perhaps anticipate being sued there. There is also an element of justice arguably due a plaintiff in providing him with a certain and predictable place where he can make a claim against a defendant. Yet, when an individual is sued at his residence a thousand miles away from the place where an accident occurred, one can reasonably argue against the appropriateness of the case being tried at the place of residence. Under *Shaffer,* it is no longer a question of *forum non conveniens,* but of proper jurisdiction. Thus, the continued validity of the domicile provision in § 6–102 is at least arguable.[67]

4. Incorporation in the State

The closest equivalent to domicile in the case of a corporation is its organization under the laws of a state. The act of incorporation in a state creates an ongoing relationship with that state, and it is this relationship which is the rationale for the provision of § 6–102 asserting jurisdiction on this basis. However, just as for domicile of an individual, the *Shaffer* case has raised at least some doubt as to the validity of incorporation as a basis for jurisdiction.

5. Continuing and Substantial Activity in the State

Service on an agent of a corporation while in the state is no different, in and of itself, than service on an individual. However, the fact that a foreign corporation has a resident agent in the state indicates that it is engaging in some activity there. If there is to be valid general jurisdiction over the corporation, it would have to be based on these activities. But, after *Shaffer,* general jurisdiction over a foreign corporation is questionable, even when it rests upon continuing and substantial activity in the state.

On the one hand, *Shaffer* may be read as saying that even a close and substantial relationship of a defendant to a state is not sufficient for jurisdiction over a claim in which the state has no interest. The nexus between the state and the litigation is absent, and the jurisdictional

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67. *See* Werner, *supra* note 64, at 596; *Developments in the Law: State-Court Jurisdiction,* 73 HARV. L. REV. 909, 941–43 (1960). *See also* Vernon, *supra* note 2, at 299–301. Weintraub concludes that *Shaffer* "may bar the use of technical domicile alone as a basis for jurisdiction." R. WEINTRAUB, *supra* note 2, at 135.

focus is no longer on the parties alone but also on the case. This is not to say, however, that the court is abandoning the *Hanson v. Denckla*[68] emphasis on the defendant's purposeful contact with the forum state. What is required is that the purposeful contact be within the context of the particular dispute.

A contrary argument would rely first on *Shaffer's* invocation of *International Shoe* and its progeny. *Perkins v. Benguet Consolidated Mining Co.*,[69] an offspring of *International Shoe,* upheld general jurisdiction over a foreign corporation based on continuous and systematic activity in the state. Where the defendant has a very substantial relationship to the forum, sufficient interest of the forum in the litigation, although indirect, could be said to exist. It is not inconvenient for the defendant to litigate there and the choice of forum is not completely unexpected.

B. *The Supreme Court's Trend vs. The Maryland Trend*

Whatever the outcome of the specific questions posed, it is clear that the Supreme Court has begun a process of restriction on the exercise of general jurisdiction. Developments in Maryland, by legislation and decision, exhibit the contrary trend of expansion in the exercise of general jurisdiction. By legislation in 1971, the more inclusive standards for linking the defendant with the state for purposes of specific jurisdiction over tortious injury cases (injury in the state) were made applicable to general jurisdiction (injury outside the state).[70] By decision in 1978, the same standards were to be used for general jurisdiction over all claims against a foreign corporation so long as an agent was served in the state.[71] The objective of a long-arm statute is to delineate the permissible bases for jurisdiction. To the extent that the constitutional parameters are exceeded, the statute fails to achieve its purpose.

CONCLUSION

The United States Supreme Court has clearly indicated the future direction which the law of judicial jurisdiction will take. The focus will be on the relationship of the forum state to both the parties and the dispute. Perhaps it is only in the exceptional situation that a state will

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68. 357 U.S. 235 (1958); *see* text at notes 21 and 22 *supra*.

69. 342 U.S. 437, *reh. denied,* 343 U.S. 917 (1952). *See* notes 13 and 14 and accompanying text *supra*.

70. *See* notes 18–26 and accompanying text *supra*.

71. *See* notes 43–46 and accompanying text *supra*.

be able to provide a forum on the basis of general jurisdiction where the link to the dispute is absent. Maryland law with its expanding use of general jurisdiction needs to be re-thought and made consistent with this constitutional trend.

At the same time, attention should be given to the confusing pattern of the current statute. Both §§ 6–102 and 6–103 now contain provisions covering general jurisdiction. The standards in each are different and, in some cases, overlapping. The standard in § 6–102 is "principal place of business" and applies to all cases. The standard in § 6–103(b)(4) is ordinary types of activity, and applies to tortious injury. This also applies to jurisdiction over a foreign corporation in all of the cases where service is made on a resident agent. The standard of § 6–102, however, applies if service is made by registered mail to the home office of the corporation.

The statutory problem could be eliminated by the adoption of an approach similar to that taken by the California legislature. The California statute reads: "A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States."[72] In each case, only the problem of the constitutionality of the jurisdiction would have to be decided.

If this approach were adopted in Maryland, the repeated statements of the courts that the Maryland statute makes judicial jurisdiction coextensive with the limits permitted by the due process decisions of the Supreme Court[73] would finally become accurate. An advantage to the legislator in enacting this type of statute is that he need not be prescient regarding future Supreme Court decisions. There has been enough experience since *International Shoe* to make the constitutional standard sufficiently precise to resolve the question. Even if the itemization of jurisdictional assertions is retained for specific jurisdiction, the constitutional standard could be made the sole criterion for general jurisdiction.

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72. CAL. CIV. PROC. CODE § 410.10 (West).

73. Geelhoed v. Jensen, 277 Md. at 224, 382 A.2d 818, 821 (1976); Krashers v. White, 275 Md. 549, 558, 341 A.2d 798, 803 (1975); Lamprecht v. Piper Aircraft Corp., 262 Md. 126, 130, 277 A.2d 272, 275 (1971); Harris v. Arlen Properties, Inc., 256 Md. 185, 260 A.2d 22, 27, 195 (1969); Gilliam v. Moog Industries, 239 Md. 107, 111, 210 A.2d 390, 392 (1965).