

time, however, the mobility of American society and the increasing complexity of commerce led to attenuation of the second principle of *Pennoyer*, and consequently the Court established the modern standard of obtaining jurisdiction based upon the nature and the quality of contacts that individuals and corporations have with a state.⁸⁵⁵ This “minimum contacts” test, consequently, permits state courts to obtain power over out-of-state defendants.

In Personam Proceedings Against Individuals.—How jurisdiction is determined depends on the nature of the suit being brought. If a dispute is directed against a person, not property, the proceedings are considered *in personam*, and jurisdiction must be established over the defendant’s person in order to render an effective decree.⁸⁵⁶ Generally, presence within the state is sufficient to create personal jurisdiction over an individual, if process is served.⁸⁵⁷ In the case of a resident who is absent from the state, domicile alone is deemed to be sufficient to keep him within reach of the state courts

Corp. Comm., 339 U.S. 643, 649 (1950); *Shaffer v. Heitner*, 433 U.S. 186, 204 (1977), and, more important, a concern for the preservation of federalism. *International Shoe Co. v. Washington*, 326 U.S. 310, 319 (1945); *Hanson v. Denckla*, 357 U.S. 235, 251 (1958). The Framers, the Court has asserted, while intending to tie the States together into a Nation, “also intended that the States retain many essential attributes of sovereignty, including, in particular, the sovereign power to try causes in their courts. The sovereignty of each State, in turn, implied a limitation on the sovereignty of all its sister States—a limitation express or implicit in both the original scheme of the Constitution and the Fourteenth Amendment.” *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 293 (1980). Thus, the federalism principle is preeminent. “[T]he Due Process 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.’ . . . Even if the defendant would suffer minimal or no inconvenience from being forced to litigate before the tribunals of another State; even if the forum State has a strong interest in applying its law to the controversy; even if the forum State is the most convenient location for litigation, the Due Process Clause, acting as an instrument of interstate federalism, may sometimes act to divest the State of its power to render a valid judgment.” 444 U.S. at 294 (internal quotation from *International Shoe Co. v. Washington*, 326 U.S. 310, 319 (1945)).

⁸⁵⁵ *International Shoe Co. v. Washington*, 326 U.S. 310 (1945)). As the Court explained in *McGee v. International Life Ins. Co.*, 355 U.S. 220, 223 (1957), “[w]ith this increasing nationalization of commerce has come a great increase in the amount of business conducted by mail across state lines. At the same time modern transportation and communication have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity.” See *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 293 (1980)). The first principle, that a State may assert jurisdiction over anyone or anything physically within its borders, no matter how briefly there—the so-called “transient” rule of jurisdiction—*McDonald v. Mabey*, 243 U.S. 90, 91 (1917), remains valid, although in *Shaffer v. Heitner*, 433 U.S. 186, 204 (1977), the Court’s *dicta* appeared to assume it is not.

⁸⁵⁶ *National Exchange Bank v. Wiley*, 195 U.S. 257, 270 (1904); *Iron Cliffs Co. v. Negaunee Iron Co.*, 197 U.S. 463, 471 (1905).

⁸⁵⁷ *McDonald v. Mabey*, 243 U.S. 90, 91 (1917). Cf. *Michigan Trust Co. v. Ferry*, 228 U.S. 346 (1913). The rule has been strongly criticized but persists. Ehrenzweig, *The Transient Rule of Personal Jurisdiction: The ‘Power’ Myth and Forum Conveniens*,