fendants as long as there are sufficient minimum contacts with the state as not to offend traditional notions of due process, we have stated a legal rule. Sometimes the court is making up the rule anew, and sometimes it is simply echoing a statement of the rule that can be found in an earlier case or distilled from multiple previous cases. But there is nothing very mysterious about the idea of a holding—it is the legal rule that, as applied to the facts of the particular case, generates the outcome. So it is no error to say that the Court held in *International Shoe* that there must be minimum contacts with the forum state in order to support personal jurisdiction, but neither is it an error to include within the idea of a holding the stated reasons behind the rule and the application of that rule to the facts of the particular case. Thus, we might describe the *International Shoe* holding as the requirement of minimum contacts coupled with the Court's statement that it would be unfair to expect a defendant to defend a suit in a state to which it had virtually no connection, this general statement then being combined with the conclusion that because the International Shoe Company's salesmen had done business in Washington, there were sufficient minimum contacts to uphold the exercise of personal jurisdiction.

Nothing in this account of a holding is problematic by itself. The court states the rule of law on which it bases its decision, applies the rule of law to the facts before it, and announces a result. That is the holding. The problems come when a court does not explicitly say what its holding is and leaves it up to readers of the opinion to try to determine it. Under the traditional account, determining the holding can be accomplished by combining the court's statement of the material facts with the court's outcome, but we have seen that this approach is unsatisfactory. If the court does not say *why* the material facts are material, we are left with a statement of facts that can be interpreted at numerous levels of abstraction, and so we are left with no firm notion of what the court held and no way of reliably applying the precedent decision in the future. Only by stating its holding does the court allow subsequent courts actually to rely on (and obey) its holding, for without the statement, the holding could be almost anything at all. But with such a statement, and with our understanding of the central role that such a statement plays in marking the court's holding, the idea of a holding, just like the idea of a ratio decidendi, becomes much less mysterious.

Traditionally, everything other than the statements of the facts and the statement of the holding is an *obiter dictum*—literally, in Latin, some-

thing said in passing, or something said by the way. It is something extra, and something that is not strictly necessary to reach, justify, or explain the outcome of the case. Commonly shortened to "dicta," these unnecessary statements are often a court's observations about issues not actually before it, or conclusions about matters unnecessary to the outcome the court actually reached, or wide-ranging explanations of an entire body of law, or simply largely irrelevant asides. So in *Marbury v. Madison*,[37] Chief Justice John Marshall held that the Judiciary Act of 1789, upon which the subject-matter jurisdiction of the Court had been asserted, was unconstitutional. But he also went on to say that the Supreme Court possessed the power to exercise jurisdiction over the president of the United States, a conclusion that infuriated President Thomas Jefferson, not least because it was wholly unnecessary to the Court's conclusion and thus clearly dicta. If the Court had no subject matter jurisdiction after all, then there was no need for it to say anything at all about who would have been subject to that hypothetical jurisdiction. Somewhat less consequentially, when Justice Blackmun in *Flood v. Kuhn*,[38] the case that continued professional baseball's historical exemption from the antitrust laws, provided several pages on the history, poetry, literature, and great names of baseball throughout the ages, he included in his opinion material whose status as unnecessary to the outcome and thus as dicta would be difficult to deny.

Yet if providing reasons for their decisions is part of what we expect courts to do, and if providing reasons is a key to the actual workability of a system of precedent, then the traditional distinction between holding and dicta may be more problematic than commonly thought. Because a reason is necessarily broader than the outcome that it is a reason for,[39] giving a reason is saying something broader then necessary to decide the particular case. And that seems to be dicta. What is technically dicta—not totally necessary for the result—is precisely what it is that makes it possible for us to generalize from a very specific ruling and thus to use it

37. 5 U.S. (1 Cranch) 137 (1803).

38. 407 U.S. 258 (1972).

39. The basic idea is that what makes a reason a reason is that it is more general than what it is a reason for. When I say that I go to the gym regularly because it helps me lose weight, I am saying that something helping me to lose weight is a reason for any action (although not necessarily a conclusive one), and not just for my going to the gym on one particular occasion. For a full explanation, see Frederick Schauer, "Giving Reasons," 47 *Stan. L. Rev.* 633 (1995).

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