

**Flexner Vs. Farson**

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**Court :** US Supreme Court

**Decided On :** Jan-07-1919

**Appeal No. :** 248 U.S. 289

**Appellant :** Flexner

**Respondent :** Farson

**Judgement :**

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U.S. Supreme Court Flexner v. Farson, 248 U.S. 289 (1919)

**Flexner v. Farson**

**No. 101**

**Submitted December 18, 1918**

**Decided January 7, 1919**

**248 U.S. 289**

*ERROR TO THE SUPREME COURT*

*OF THE STATE OF ILLINOIS*

## SYLLABUS

A state has no power to provide that nonresident individuals, in suits growing out of their business transacted within the state through a local agent, shall be bound by process served upon him after the agency is at an end, and a judgment against a firm of nonresidents, based upon such service, is void. P. [248 U. S. 293](#) .

The power to make such provision as against foreign corporations springs from the power to exclude such corporations from local business whence, by fiction, the continued agency to receive service is attributed to the corporation's implied consent; but there is no room for implying consent in the case of nonresident natural persons, since the power to exclude from local business does not exist as to them. *Id.*

268 Ill., 435 affirmed.

The case is stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is an action brought by the plaintiff in error upon a judgment for money rendered by a Kentucky court. The declaration alleges that the transaction in respect of which the judgment was rendered took place at Louisville, Kentucky, and that, at that time, the defendants were doing business there as partners through Washington Flexner, who was and continued to be their agent until the time of this suit. It further alleges that the defendants were nonresidents, and that the service of summons of the Kentucky suit was made upon Washington Flexner in accordance with a Kentucky statute authorizing it to be made in that way. The defendant William Farson was the only one served with process in the present action, and he pleaded that the defendants in the former suit did not reside in Kentucky, were not served with process, and did not appear; that Washington Flexner was not their agent at the time of service upon him; that the Kentucky

statute relied upon was unconstitutional; that the Kentucky court had no jurisdiction, and that its judgment was void under the Constitution of the United States. The plaintiff demurred to the pleas, and stood upon his demurrer when it was overruled, whereupon judgment was entered for the defendants. There was an appeal to the supreme court of the state on the ground that the court below did not give full faith and credit to the Kentucky judgment and erred in holding the Kentucky statute as to service unconstitutional. The supreme court affirmed the judgment

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below. 268 Ill. 435. The same errors are alleged here.

It is argued that the pleas tacitly admit that Washington Flexner was agent of the firms at the time of the transaction sued upon in Kentucky, and the Kentucky statute is construed as purporting to make him agent to receive service in suits arising out of the business done in that state. On this construction it is said that the defendants, by doing business in the state, consented to be bound by the service prescribed. The analogy of suits against insurance companies based upon such service is invoked. *Mutual Reserve Fund Life Association v. Phelps*, [190 U. S. 147](#) . But the consent that is said to be implied in such cases is a mere fiction, founded upon the accepted doctrine that the states could exclude foreign corporations altogether, and therefore could establish this obligation as a condition to letting them in. *Lafayette Ins. Co. v. French*, 18 How. 404; *Pennsylvania Fire Ins. Co. v. Gold Issue Mining & Milling Co.*, [243 U. S. 93](#) , [243 U. S. 96](#) . The state had no power to exclude the defendants, and on that ground, without going farther, the Supreme Court of Illinois rightly held that the analogy failed, and that the Kentucky judgment was void. If the Kentucky statute purports to have the effect attributed to it, it cannot have that effect in the present case. *New York Life Ins. Co. v. Dunlevy*, [241 U. S. 518](#) , [241 U. S. 522](#) -523.

*Judgment affirmed.*

