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**PUBLICATION OF LIBEL IN MONTANA:
LEWIS V. READER'S DIGEST ASSOCIATION**

Maxon R. Davis

THE COMMON LAW HERITAGE AND MODERN REACTION TO IT

The purest treasure mortal times afford
Is spotless reputation; that away,
Men are but gilded loam or painted clay.
A jewel in a ten-times-barr'd-up chest
Is a bold spirit in a loyal breast.
Mine honour is my life; both grow in one;
Take honour from me, and my life is done.

—Richard II, I.i.177-83.

Possessed no doubt with the same nobility of character as voiced by Shakespeare's Duke of Norfolk, and sufficiently aggrieved by the continued circulation of an allegedly libelous report, William, Duke of Norfolk and Lunenburg, one day in the autumn of 1847 directed a servant to obtain a copy of the local newspaper which was carrying the alleged defamation. On September 26, 1847, the servant did procure such a copy from one Harmer, the owner of the *Weekly Dispatch*. In the ensuing libel action commenced by the Duke,¹ the court agreed that the sale of this one copy of the newspaper to the plaintiff's agent was a sufficient publication of the defamation so as to be actionable within the six-year statute of limitations. Liability attached despite the fact that the defendant had actually printed the copy in question on September 19, 1830, seventeen years earlier.

From the *Duke of Brunswick v. Harmer* stems the common law rule that "every sale or delivery of each single copy of a newspaper is a distinct publication, and a separate basis for a cause of action."² The doctrine serves as an extension of the definition of "publication," used in the context of defamation. Publication here is any unprivileged communication of the defamatory material to a third person who in turn comprehends it meaning.³ Today, then, under this "multiple publication" rule, the publisher of a libelous statement in a nationally circulated newspaper, magazine, or book risks potential liability in as many separate causes of action as he has readers. The disruptive potentialities of this rule as applied to the mass media in the twentieth century have thrown it into disfavor with both commentators⁴ and courts.⁵

¹Duke of Brunswick v. Harmer, 14 Q.B. 185, 117 Eng. Rep. 75 (1849).

²PROSSER, LAW OF TORTS § 113 at 769 (4th ed. 1970); see HARPER AND JAMES, LAW OF TORTS § 5.15 at 390 (1956).

³50 AM. JUR. 2D *Libel and Slander* § 146 (1970); HARPER AND JAMES, *supra* note 2; PROSSER, *supra* note 2 at 766; RESTATEMENT OF TORTS § 577 (1938).

⁴Prosser, *Interstate Publication*, 51 MICH. L. REV. 959, 960-962 (1953). While no plaintiff has of yet fully exploited the possibilities inherent in the multiple publication rule, Dean Prosser notes several instances of near abuse. A Professor Hartmann, accused of being a fascist in a 1944 issue of *Life* magazine, brought six suits against Time, Inc. Accused of being a drug addict, the late Annie Oakley successfully prosecuted forty-eight of fifty actions brought against different newspapers carrying the

On a more practical level, the multiple publication rule allows for a plaintiff to easily circumvent, if not outrightly nullify, statutes of limitations, as the *Brunswick* case illustrates. Statutes of limitations applicable to libel and slander are relatively short, commonly varying from six months to two years in the United States.⁶ As such, "these statutes definitely evidence a public policy favoring early trial and either quick recovery or quick death for a type of tort action that is peculiarly volatile and transient because the interest protected is the intangible and changeable thing called personal reputation."⁷ Faced with their facile avoidance, courts in state after state began to hold that a plaintiff could maintain but a single cause of action for a libel printed in one edition of a mass-distributed publication.⁸ At the same time, these holdings served to remove the possibility of a defendant being subjected to repeated suits in each state in which a plaintiff could obtain jurisdiction—the decisions of none of which could serve as *res judicata* in any of the others.⁹ Such decisions were based on the practical consideration that the mass communication of a single defamatory statement is but one wrong and should be actionable as a single tort.¹⁰

This principle gained further credence with the promulgation by the American Law Institute of the Uniform Single Publication Act, so far adopted by seven states and one territory.¹¹ Furthermore, in a contradiction of the RESTATEMENT OF TORTS, which accepted the common law

Associated Press story. And, finally, an Ohio congressman, Martin Sweeney, accused of anti-semitism by the late Drew Pearson, initiated somewhere between sixty-eight and three hundred actions against newspapers carrying the latter's column. *Id.* at 969 nn. 56-60.

⁶Zuck v. Interstate Publishing Co., 317 F.2d 727, 729 (2d Cir. 1963); Tocco v. Time, Inc., 195 F. Supp. 410, 412-13 (E.D. Mich. 1961); see also cases *infra* note 9.

⁷50 AM. JUR. 2d *Libel and Slander* § 390 (1970). In Montana: REVISED CODES OF MONTANA, § 93-2606 (1947), provide "Within two years: . . . (3) An action for libel, slander, assault, battery, false imprisonment, or seduction."

⁸Leflar, *The Single Publication Rule*, 25 ROCKY MT. L. REV. 263, 265 (1953).

⁹Age-Herald Publishing Co. v. Huddleston, 207 Ala. 40, 92 S. 193 (1921); Winrod v. Time, Inc., 334 Ill. App. 59, 78 N.E.2d 708 (1948); Forman v. Mississippi Publishing Corp., 195 Miss. 90, 14 S.2d 344 (1943); Wolfsohn v. Syracuse Newspapers, Inc., 254 App. Div. 211, 4 N.Y.S.2d 640 (1938), *aff'd*, 279 N.Y. 716, 18 N.E.2d 676 (1939); Gregoire v. G.P. Putnam's Sons, 298 N.Y. 119, 81 N.E.2d 45, *reh. denied*, 298 N.Y. 753, 83 N.E.2d 152 (1948) (extending the doctrine to books).

¹⁰Prosser, *supra* note 4 at 968.

¹¹HARPER AND JAMES, *supra* note 2 at 395.

¹²UNIFORM SINGLE PUBLICATION ACT, 9C UNIFORM LAWS ANNOTATED 173 (1957). The act provides in part:

"§ 1. No person shall have more than one cause of action for damages for libel or slander or invasion of privacy or any other tort founded upon any single edition, publication or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture. Recovery in any action shall include all damages for any tort suffered by the plaintiff in all jurisdictions.

§ 2. A judgment in any jurisdiction for or against the plaintiff upon the substantive merits of any action for damages founded upon a single publication or exhibition or utterance as described in Section 1 shall bar any other action for damages founded upon the same publication or exhibition or utterance."

Adopted in Arizona, California, Idaho, Illinois, New Mexico, North Dakota, Pennsylvania, and the Panama Canal Zone. *Id.* at 171 (Supp. 1967).

rule,¹² the RESTATEMENT SECOND (Twelfth Tentative Draft), has opted for the single publication standard.¹³

PROBLEMS WITH THE SINGLE PUBLICATION RULE

Even with the growing body of authority favoring the single publication rule, there remain critics not yet convinced of the rule's intrinsic superiority to the pre-existing common law rule.¹⁴ Several states still adhere to the multiple publication rule,¹⁵ recognizing a separate basis of liability in each reader of the libel. Difficulties in the application of the single publication rule include the question of exactly when the single publication occurs in the writing-printing-distributing process in order for the statute of limitations to start running. More than once, a plaintiff's attorney, in misguided reliance on the cover date of the periodical, has filed an action which the court then determined to be barred by the statute of limitations, it having opted to find publication in some earlier act in the printing and distributing continuum.¹⁶

Also, since the tort of defamation contemplates an injury to reputation—to the drop in esteem with which third parties regard the plaintiff—the distribution of a libel on a nationwide scale raises a troublesome conflict of laws problem for the court in which a plaintiff decides to prosecute his single claim for relief. Two commentators each list ten

¹²RESTATEMENT OF TORTS § 578 (1938), comment *b* states in part: "Each time a libelous article is brought to the attention of a third person, a new publication has occurred, and each publication is a separate tort. Thus, each time a libelous book or paper or magazine is sold, a new publication has taken place which, if the libel is false and unprivileged, will support a separate action for damages against the seller."

¹³RESTATEMENT (SECOND) OF TORTS § 577A (Tent. Draft No. 12, 1966) provides: "(3) Any one edition of a book or newspaper, or any one broadcast over radio or television, exhibition of a motion picture, or similar aggregate communication, is a single publication.

(4) As to any single publication,

(a) Only one action for damages can be maintained;

(b) All damages suffered in all jurisdictions can be recovered in one action; and

(c) A judgment for or against the plaintiff upon the substantive merits of an action for damages bars any other action for damages between the same parties in all jurisdictions."

¹⁴Leflar, *supra* note 7; Note, *The Single Publication Rule in Libel: A Fiction Misapplied*, 62 HARV. L. REV. 1041 (1949).

¹⁵Holden v. American News Co., 52 F. Supp. 24 (E.D.Wash. 1943), *appeal dismissed*, 144 F.2d 249 (9th Cir. 1943); Hartmann v. American News Co., 69 F. Supp. 736 (W.D.Wisc. 1947), *aff'd*, 171 F.2d 581 (7th Cir. 1948); Staub v. Van Benthuyzen, 36 La. Ann. 467 (1848); Louisville Press Co. v. Tennely, 105 Ky. 365, 49 S.W. 15 (1899).

¹⁶Hartmann v. Time, Inc., 166 F.2d 127 (3d Cir. 1948); Tocco v. Time, Inc., *supra* note 5; Winrod v. McFadden Publications, 62 F. Supp. 249 (N.D.Ill. 1945), *aff'd*, 187 F.2d 180 (7th Cir. 1951), *cert. denied* 342 U.S. 814 (1951); McGlue v. Weekly Publications, 63 F. Supp. 744 (D.Mass. 1946); Backus v. Look, Inc., 39 F. Supp. 662 (S.D.N.Y. 1939); Means v. McFadden, 25 F. Supp. 993 (S.D.N.Y. 1939); Belli v. Roberts Brothers Furs, 240 Cal. App. 2d 284, 49 Cal. Rptr. 625 (1964); Winrod v. Time, Inc., 334 Ill. App. 59, 78 N.E.2d 708 (1948); Hartmann v. Time, Inc., 60 N.Y.S.2d 209 (S.Ct. 1945).

different criteria which courts can employ in their determination as to which forum's laws shall apply.¹⁷

THE MONTANA POSITION

Within this historical context, the Montana Supreme Court took under certification in 1973 from the Federal District Court¹⁸ the question of whether the state was to adopt the single publication rule or adhere to the common law multiple publication standard. In its declaratory judgment, *Lewis v. Reader's Digest Association, Inc.*,¹⁹ the state tribunal voiced an unequivocal preference for the multiple publication rule, finding little merit in the alternative:

Despite the numerical weight of authority following the single publication rule, we consider it unsound. Conceived as a judge-made rule to serve the interests of judicial administration and expediency, it nevertheless is wrong in principle and in practice creates far graver problems than it solves.²⁰

This harsh evaluation of the single publication rule is later tempered by closing remarks recognizing a need to balance the at times conflicting interests of private citizens and of a free press, both of whom have constitutionally protected rights.²¹ Still, the decision of the Montana Supreme Court rests squarely upon the previously mentioned uncertainties with the newer standard—of when publication occurs in relation to the statute of limitations and of which forum's laws control in the face of an interstate distribution of the libel.

With such numerical weight of authority having reached the opposite conclusion, the Montana position as expressed in *Lewis* is open to immediate question. One notes that various courts have been laboring under the single publication rule for years. The validity of the *Lewis* opinion must then depend on whether or not such courts have fashioned workable solutions to the recognized problems of single publication.

JUDICIAL DEFINITIONS OF SINGLE PUBLICATION

While proof that the libel has been read may now be inferred under the single publication rule,²² the plaintiff cannot now rely on an equally fixed moment from which to measure the run of the statute of limita-

¹⁷Leflar, *supra* note 7 at 270-71; Prosser, *supra* note 4 at 971-77.

¹⁸*Lewis v. Reader's Digest Association, Inc.*, 366 F. Supp. 154 (D.Mont. 1973). Without reference to the declaratory judgment, the District Court granted summary judgment on the defendant's motion, ruling that reference to the plaintiff's "health mine" in Boulder, Montana, in an article about quack cures for arthritis, was constitutionally privileged. The Court cited *N.Y. Times v. Sullivan*, 376 U.S. 254 (1964), as controlling.

¹⁹*Lewis v. Reader's Digest Association, Inc.*, Mont., 512 P.2d 702 (1973) [hereinafter cited as *Lewis*].

²⁰*Id.* at 704.

²¹*Id.* at 706.

²²*Zuck v. Interstate Publishing Corp.*, *supra* note 5 at 729; *Killian v. Stackpole Sons, Inc.*, 98 F. Supp. 500, 504 (M.D.Pa. 1951).

tions. With the consolidation of the injury caused by countless defamations into one claim for relief, the question becomes at what point in the revelation process—printing, distributing, selling—is the action complete.

The judicial response has not been uniform. With magazines and newspapers, courts have not felt limited by the cover date.²³ This judicial disregard is appropriate in light of modern circulation methods, whereby periodicals are often placed on sale at newsstands and mailed to subscribers days, if not weeks, before the printed cover date. Many third parties have seen the libel already; a strict adherence to the statutory command limiting a plaintiff to so many days in which to file his complaint would demand fixing the cause of action as complete at some previous point. An early standard found publication instead occurring upon the mailing of the libelous matter to subscribers or upon its being placed in the hands of common carriers for shipment to wholesale distributors.²⁴ Equally arbitrary was the rule that the single publication claim was complete when the periodicals were placed on sale at newsstands in the forum state,²⁵ although this position impliedly demands an awareness on the part of the plaintiff of the tortious conduct prior to accrual of his action. Such fixed definitions have since developed into the "initial publication" standard.²⁶ Manifestly vague, such language best applies to the release of books, where one wishes to preclude liability for a later distribution from stock beyond the first release.²⁷ Although originally employed in the context of periodicals,²⁸ its application there carries the potentiality for injustice, imposing on the plaintiff the burden of ascertaining facts frequently known exclusively by the defendant in order to determine the timeliness of his claim. In one such instance, a court relied on the late night first edition of a morning newspaper to bar a plaintiff's claim filed 365 days after the morning delivery to the great mass of subscribers.²⁹

Critics of initial publication—including the Montana Supreme Court in *Lewis*³⁰—raise the spectre of an unscrupulous publisher who takes advantage of the rule by effecting a limited distribution in some remote corner of the nation in order to commence the run of the statute of limitations. His subsequent widespread dissemination will then be accomplished with immunity from suit. This devious fellow has yet to appear,

²³*Hartmann v. Time, Inc.*, 166 F.2d 127 (3d Cir. 1948); *Tocco v. Time, Inc.*, *supra* note 5.

²⁴*Backus v. Look, Inc.*, *supra* note 16.

²⁵*Polchlopak v. American News Co., Inc.*, 73 F. Supp. 309 (D.Mass. 1947).

²⁶*Hartmann v. Time, Inc.*, *supra* note 23; *Killian v. Stackpole Sons, Inc.*, *supra* note 22; *Belli v. Roberts Brothers Furs*, *supra* note 16.

²⁷*See Ogden v. Association of the United States Army*, 177 F. Supp. 498 (D.D.C. 1959); *Killian v. Stackpole Sons, Inc.*, *supra* note 22.

²⁸*See Hartman v. Time, Inc.*, *supra* note 23.

²⁹*Belli v. Roberts Brothers Furs*, *supra* note 16.

³⁰*Lewis*, *supra* note 19 at 705. *See Dominiak v. National Enquirer*, 439 Pa. 222, 266 A.2d 626, 629 (1970); Note, *supra* note 14 at 1043.

but even if he does, the more flexible judicial standards described below will prove adequate. Indeed, where the *Lewis* opinion states that "the single publication rule, however, does not solve the problem,"³¹ the Court seems to imply that the failure of other courts working under single publication to seize upon a uniform holding regarding the statute of limitations indicates a basic inadequacy in the rule. Criticism of decisions relying on initial publication and of like instances of questionable judicial reasoning is proper. On the other hand, the blanket dismissal evidenced by such language fails to take into account the imaginative holdings of courts which were able to arrive at an opposite conclusion in their interpretations of the same rule.

A first attempt at tempering the harshness of initial publication allowed recovery of damages for the mailing of replacement copies of a magazine, although the statute of limitations did bar a claim on the primary—and massive—distribution of the libel.³² This holding was later explicitly rejected,³³ in apparent recognition of the same potentiality for injustice as illustrated in the *Brunswick* case. Now the initial claim is interpreted to encompass the mailing of replacement copies from stock for both magazines³⁴ and books,³⁵ although liability does attach to the subsequent reprinting of a libelous article in a later issue of a magazine³⁶ and to the reprinting or new edition of a book.³⁷

Referring to the one-time-only distribution of a political pamphlet, a New York state supreme court in *Stella v. James J. Farley Ass'n.* determined the date of single publication to be "when the great mass of the issue reaches those for whom the publication is intended."³⁸ A refinement, *Sorge v. Parade Publications, Inc.*,³⁹ which extends the application of *Stella* to a nationally distributed Sunday newspaper supplement, specifically disapproves of the delivery to common carrier standard, focusing again on the "completed distribution"⁴⁰ of the material: "Publication occurred when the matter was availed of for its ultimate

³¹Lewis, *supra* note 19 at 705.

³²Winrod v. McFadden Publications, Inc., *supra* note 16.

³³Winrod v. Time, Inc., *supra* note 16.

³⁴Cannon v. Time, Inc., *supra* note 16.

³⁵Gregoire v. G.P. Putnam's Sons, *supra* note 9; Ogden v. Association of the United States Army, *supra* note 27.

³⁶Hartmann v. Time, Inc., *supra* note 23; Gallo Electronics Corp. v. Consumers Union of the United States, Inc., 47 Misc.2d 914, 263 N.Y.S.2d 465 (1965).

³⁷Wheeler v. Dell Publishing Co., 300 F.2d 372 (7th Cir. 1967).

³⁸Stella v. James J. Farley Ass'n., 204 Misc. 998, 122 N.Y.S.2d 322, 330 (1953); *accord*, Osmers v. Parade Publications, 234 F. Supp. 924 (S.D.N.Y. 1964).

³⁹Sorge v. Parade Publications, Inc., 20 A.D.2d 338, 247 N.Y.S.2d 317 (1964).

⁴⁰See Note, *The Single Publication—Which One?*, 44 TEMP. L.Q. 400. The author reviews the progress of single publication in the Pennsylvania courts, finding a basis for a completed distribution theory in *Jackson v. Ideal Publishing Corporation*, 274 F. Supp. 318 (E.D.Pa. 1967), although the rule in *Jackson* was apparently drawn from a misreading of a previous case. Nonetheless, the author makes a cogent argument in support of the doctrine.

purpose by public distribution. . . . It is the date of actual distribution rather than what may be termed 'release date' which controls."⁴¹

These trial court decisions from New York were handed down within the theoretical framework provided by *Gregoire v. G. P. Putnam's Sons*,⁴² wherein the New York Court of Appeals—specifically extending the single publication doctrine to books—found the cause of action to be complete "when the finished product is released by the publisher for sale in accord with trade practice."⁴³ Confusion does exist as to when this release occurs. Other courts have viewed the *Gregoire* rule as an endorsement of initial publication;⁴⁴ yet, both *Stella* and *Sorge* also cite *Gregoire* as controlling.⁴⁵ While "the New York Court of Appeals has not yet resolved the conflicting interpretations of its *Gregoire* test of accrual,"⁴⁶ there is no reason, as both *Stella* and *Sorge* illustrate, why release in accord with trade practice cannot refer to the final distribution of the material to the parties to whom it is intended.

Alternative dates for the fixing of the time of accrual of the cause of action for libel will normally fall within a few days or weeks of each other. As the time interval between the suggested alternative accrual dates increases, however, it becomes clear that the later the time of accrual the fairer the operation of the single publication rule.⁴⁷

If the action is not complete until the publication reaches "the great mass for whom it is intended," the plaintiff has been placed in a more favorable position to so determine the accrual date. He need not search for that first revelation to a third party—at some obscure point in the distribution process. Furthermore, taken in the context of "trade practice," this completed distribution standard provides no protection for the unscrupulous publisher, who is held to the standard provided by his more ethical colleagues.

THE CONFLICT OF LAWS PROBLEM: WHOSE FORUM?

While "the statute of limitations problem remains the most important area in which the single publication rule operates,"⁴⁸ of subsidiary yet noteworthy concern is the demand placed upon the trier of fact to unravel a perplexing conflict of laws knot. The traditional rule for torts—*lex loci delictus*—applied the law of the forum in which the tortious conduct has its impact.⁴⁹ When the injury is one to reputation, the theor-

⁴¹*Sorge v. Parade Publications, Inc.*, *supra* note 39 at 322.

⁴²*Gregoire v. G.P. Putnam's Sons*, *supra* note 9.

⁴³*Id.* at 49.

⁴⁴*Buckley v. New York Post Corp.*, 373 F.2d 175 (2d Cir. 1967); *Cassius v. Mortimer*, 161 F. Supp. 74 (S.D.N.Y. 1957); *Killian v. Stackpole Sons, Inc.*, *supra* note 22.

⁴⁵*Stella v. James J. Farley Ass'n.*, *supra* note 38 at 322; *Sorge v. Parade Publications, Inc.*, *supra* note 39 at 317.

⁴⁶*Zuck v. Interstate Publishing Corp.*, *supra* note 5 at 731.

⁴⁷*Id.*

⁴⁸*Leflar*, *supra* note 7 at 271.

⁴⁹*Prosser*, *supra* note 4 at 971; RESTATEMENT OF CONFLICT OF LAWS § 377 (1934).

etical niceties inherent in the choice of laws are imposing; when a single claim for relief contemplates an interstate, perhaps national, publication, they become awesome. As noted above, two commentators each propose ten alternatives as a basis for decision;⁵⁰ their lists are not identical. The choice being then dependent upon the court's perception of the injury, one can only classify as an understandable judicial abdication the fact that in a plurality of cases the court applied the law of the forum,⁵¹ without a convincing demonstration of its relationship to the injury to the plaintiff's reputation. On a practical level, one notes that such holdings invite forum shopping by plaintiffs.

One attempt at a solution would have the law of the forum in which the material was first published control.⁵² Here again, the consideration of greatest impact on the plaintiff's reputation appears depreciated. Curiously, the Montana Supreme Court notes in *Lewis* that a more equitable rule would be to allow the law of the plaintiff's domicile to control.⁵³ This preference apparently was voiced in light of the potentiality for forum shopping under the multiple publication rule also. The Court declares that "the single publication rule, however, does not solve the problem," citing *Hartmann v. Time*,⁵⁴ wherein the Third Circuit Court of Appeals did look to the state of initial publication. In response, one can only point out that the cited case, admittedly open to criticism, is not controlling. The Second Circuit has more recently rejected this same argument, holding that "the single publication rule did not make the tort so 'complete' at the place of publication as to preclude application of the substantive law of plaintiff's domicile."⁵⁵

Indeed, the RESTATEMENT SECOND OF THE CONFLICT OF LAWS agrees with the Montana Supreme Court in preferring the plaintiff's domicile. The general rule offered therein—that multi-state defamation is controlled "by the local law of the state which, with respect to the particular issue, has the most significant relationship to the occurrence and the parties. . . ."⁵⁶—is qualified by the statement that "the state of most significant relationship will usually be the state where the person was domiciled at the time, if the matter complained of was published in that state."⁵⁷ The *Restatement* language does provide the requisite flexibility for the situation in which a convincing factual presentation rebuts the assumption that the plaintiff's domicile is the locale where the impact is greatest; yet, as a general principle it goes far to allevi-

⁵⁰Leflar, *supra* note 17; Prosser, *supra* note 17.

⁵¹Prosser, *supra* note 4 at 978.

⁵²*Hartmann v. Time, Inc.*, *supra* note 23; *Association for the Preservation of Freedom of Choice, Inc. v. Simon*, 299 F.2d 212, 214 (2d Cir. 1963).

⁵³*Lewis*, *supra* note 19 at 705.

⁵⁴*Hartmann v. Time, Inc.*, *supra* note 23.

⁵⁵*Buckley v. New York Post Corp.*, *supra* note 44 at 180.

⁵⁶RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 150(1) (1971).

⁵⁷*Id.* § 150(2).

ate the conflict of laws problem. As regards the *Lewis* opinion, the subsequent commentary⁶⁸ makes clear that these rules were developed to meet the demands of the prevailing single standard.

CONCLUSION

A review of the admittedly divergent applications of the single publication rule reveals lines of judicial interpretation that answer the complaints voiced in *Lewis*. Adoption of the single publication rule does not mean that the initial publication must control questions of timeliness and of the conflict of laws. Courts have evidenced the freedom to move away from the less flexible standards criticized by the Montana Supreme Court. By holding that a plaintiff's single claim for relief accrues upon receipt of that libel by the great mass of people for whom it is intended, these courts have insured the diligent complainant his day in court. Also, there is ample authority to support the application of the law of the plaintiff's domicile in resolution of a complex conflict of laws problem, when, as is often the case, the action contemplates a national distribution of the libel.

In short, single publication can work not only to the benefit of the defendant, by reducing the scope of his liability, but also to the advantage of the plaintiff, by providing him a convenient forum in which to try one action for widespread injury. The alternative—of adherence to multiple publication—raises the nightmarish spectre of a judicial system paralyzed by the countless suits arising from one libelous statement. It also allows for the easy frustration of the statute of limitations, which is a clear expression of the legislative policy of giving such actions a short life.

One can hope that the Montana Supreme Court will seriously reconsider its position in *Lewis* if ever again directly presented with the question of the publication of libel. If not, it remains a proper consideration for the legislature, which, by adopting the Uniform Single Publication Act, could prod the judiciary into a re-examination of the progressive approaches to single publication evidenced by the foreign jurisdictions mentioned above.

⁶⁸*Id.* § 150, comments *b* and *e*.