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reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order, and morals of the community. Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will.³²

The plight of the oppressed movie-producer or exhibitor trying to make his next million is indeed touching. Now, thanks to the Pennsylvania Supreme Court's opinions in the above decisions, he is free to display his movies, no matter how corrupting and immoral, while he awaits (and perhaps by delaying tactics postpones) a court determination on his film. By that time, his film's appeal will have expended itself, and he may begin showing another more dangerous than the first. Indeed, Justice Musmanno may be correct in fearing his state may become "a cinematic Gomorrah." The legislature has once again been defeated in its attempt to protect a vulnerable public from obscenity. It would appear that even the so-called "stag movies" could now be shown in theaters to children and teen-agers. Hopefully, the legislature will continue trying to serve the public need for control, but how many times must it suffer reverses at the hand of an unbending court? This is the plight of Pennsylvania now. It still may be aided by informal means of control used in many states—self-regulation within the movie industry by the Production Code or private action groups such as the Legion of Decency, the National Board of Review, or the "green sheet" compiled through the efforts of several national organizations.³³ Although these unofficial controls have had years to develop, their effectiveness remains uncertain, and does not as yet approximate statutory regulation. In addition, most states have criminal statutes which can punish exhibitors for showing obscene movies although they have no boards of censors. These statutes have not been attacked as in *Blumenstein*. Pennsylvania has tried to give its citizens better protection than is afforded in other states, but apparently the court does not recognize the need.

ROGER V. BARTH

INVOLUNTARY WAGE ASSIGNMENTS: A NEW APPROACH FOR EFFECTIVE ENFORCEMENT OF SUPPORT OBLIGATIONS

Moral obligations to support dependent persons have been supplemented by both the common law and statute. As a moral duty alone is legally unenforceable, the common law courts and later the legislatures have been confronted with the problem of either imposing a legal duty upon the proper persons or allowing the moral obligation to result, through inaction, in a public burden. The development of the legal duty at common law was a restrictive

32. *Buffalo Branch, Mutual Films Corp. v. Breitinger*, 250 Pa. 225, 95 Atl. 433, 436 (1915).

33. See Note, *Entertainment: Public Pressures and the Law*, 71 Harv. L. Rev. 326 (1957).

one and extended only to one's wife and natural children.¹ Legislative reaction to this rule came slowly, but as a result of a growing policy to shift the primary burden of support from the public to the individual,² this duty was greatly expanded by statute.³ The primary duty thus established, the practical and more difficult problem of enforcing these obligations remained to be solved, a process which is a continuing one because of changing social conditions.

The traditional enforcement procedures exemplified by sequestration, garnishment, and contempt, or any variation provided by a specific state, are available against a defaulting spouse who is under a court order for support. New York, in addition, provides an involuntary wage assignment under Section 49-b of the Personal Property Law. This section, aimed at maintaining current payments, grants a court power to order that support payments be deducted from wages. *Feder v. Skyway Container Corporation*, the latest decision interpreting the new statute in New York, holds that support orders pursuant to Section 49-b are given a priority to the effect that they will prevent a simultaneous deduction for a garnishee order under Section 684 of the Civil Practice Act.⁴

Failure to support dependent persons may give rise to both criminal sanctions and civil remedies. By statute, the majority of states penalize both abandonment and non-support;⁵ whereas, Illinois, for example, punishes only non-support.⁶ New York, in somewhat a different manner, places criminal sanctions on a group labeled as "disorderly persons."⁷ They are classified as persons who abandon their wives or children without adequate support or leave them in danger of becoming a public burden. Also punished are those persons who fail to provide support according to their means or threaten to abandon the dependent person. Coexisting with these criminal sanctions are the civil remedies, whereby a dependent may obtain a decree for support in a civil action. In most cases, however, this decree will issue from suits or actions to annul a marriage, divorce, or separation. Under these latter suits, a default in payment under the decree will enable the claimant to return to the original court which issued the decree, or in the case of a foreign decree, to bring a new action in New York for the appropriate enforcement procedures. The usual procedures, however, are available only for the collection of arrearages, with the initiating event being a default in payment.

The right of a spouse to enforce a judgment for support has been called

1. See 14 St John's L. Rev. 333 (1940).

2. *Id.* at 344.

3. A mother is now liable for the support of her children under the age of twenty-one, and a wife, for the support of her husband when he is incapable of supporting himself or is likely to become a public charge. Also, an adult would be liable in like fashion for his parents, and a grandparent for his grandchildren. N.Y. Dom. Rel. Law §§ 32, 37.

4. — Misc. 2d —, 218 N.Y.S.2d 362 (Sup. Ct. 1961).

5. See 3 Vernier, American Family Laws § 162 (1st ed. 1935).

6. Ill. Rev. Stat. ch. 68, § 24 (1957).

7. N.Y. Code Crim. Proc. § 899.

a "vested right" with the same remedies available to her as are available to all other judgment creditors.⁸ Although the procedures are controlled by local practice, there are generally three methods of enforcing an order for or judgment to pay support: sequestration, execution, and contempt. New York provides for sequestration under two circumstances. Section 1171-a of the Civil Practice Act authorizes sequestration of defendant's personal and real property when he is not within the state or cannot be found for personal service and has property within the state's jurisdiction. This section, which is for jurisdictional purposes only, should not be confused with Section 1171 which provides for an order that security be given and applied to support payments if there is a default. Under this section, if the defendant either fails to give the required security or make the payments when they become due, the court may order that his personal property and the rents and profits from his real property be sequestered. If the rents and profits are insufficient to eliminate the arrearages, upon application of the receiver, the court may order the mortgage or sale of the property.⁹ While similar powers are given to the courts in Michigan and most other states,¹⁰ the procedure only sets the property aside so that upon a default in payment under the decree, the security will be subject to execution. It insures that property will be available for execution, but cannot be substituted for the defendant's obligation to make current payments. Another limitation upon this procedure is the prohibition of sequestration of monthly earnings to become due. This relief cannot be ordered as there must first be a property right in the husband in the property to be sequestered.¹¹ Although each payment may be regarded as a separate judgment when it falls due, there may be no execution until there is a default in the payment itself.¹² Section 1171-b of the New York Civil Practice Act gives the court discretionary power to enter a judgment for the amount of the arrears in support payments. Such judgment may then be enforced by execution or in any other manner provided by law for the collection of money judgments. By the conversion into a money judgment, the remedies of attachment and garnishment also become available.

Finally, there is enforcement by contempt proceedings. In New York, a judge is given discretion to issue an order to show cause why a defendant should not be imprisoned after default when payments cannot be enforced by either sequestration or otherwise.¹³ This situation most frequently arises when a spouse is attempting to enforce a foreign divorce decree or where the husband's property is beyond the jurisdiction of the state. The courts, in a

8. Accord, 27b C.J.S. Divorce § 253 (1959); *Chester v. Chester*, 62 N.Y.S.2d 229 (Sup. Ct. 1946).

9. N.Y. Civ. Prac. Act § 1171.

10. 18 Mich. Stat. Ann. § 25.105; see generally 2 Nelson, Divorce and Annulment § 16.50 (2d ed. 1961).

11. *Patterson v. Patterson*, 251 App. Div. 272, 296 N.Y. Supp. 311 (1st Dep't 1937).

12. C.J.S., supra note 8 at § 265.

13. N.Y. Civ. Prac. Act § 1172.

majority of states, including New York, hold that this application of the contempt procedure is valid as a civil contempt, and, therefore, would not be prohibited as an imprisonment for a debt.¹⁴ Maryland, on the other hand, holds that a decree for the support of a child is a debt and is not enforceable by contempt; whereas, an unsegregated amount awarded to the wife which includes support for a child is essentially alimony, not a debt, and thereby enforceable through this proceeding.¹⁵ All expenses incurred by a spouse who must resort to the preceding remedies may be awarded to her against the defaulting spouse in New York.¹⁶

The effectiveness of the enforcement statutes is further aided by the Uniform Reciprocal Enforcement of Support Act which has been adopted by every state except New York.¹⁷ New York has adopted the Uniform Support of Dependents Law,¹⁸ which in a similar way permits reciprocity. The statute provides a procedure whereby a dependent residing in one state may enforce the support obligations of persons residing in another state without acquiring a prior in personam judgment. This eliminates a means of circumscribing the enforcement procedures when a father could abscond to another state with his property and thereby avoid enforcement of his support obligation.

These statutes provide an adequate and effective procedure against a defaulting spouse for the collection of arrearages, but are *limited* to arrearages. Generally the same traditional methods are available to all judgment creditors, the purpose of which are the collection of unsatisfied judgments. The traditional approaches are limited by the traditional rules, which may not be in the best interests of a dependent. The concept of a property right, as seen before,¹⁹ prevents the sequestration of monthly wages to become due. Although an analogy has been made between a judgment and a support order, whereby each payment becomes a separate judgment as it falls due, the analogy is hardly satisfactory upon considering a woman and her children who have to rely upon prompt payments in order to meet their everyday expenses. A dependent could be required to bring the recalcitrant spouse into court or at least apply to the court an unlimited number of times in order to collect payments. Such procedures are not inexpensive and they are time consuming. The defaulting spouse may be required to pay the litigation expenses of the other, but the expenses are an immediate burden on the person least equipped to meet them. A new approach was needed in this area. A dependent requires a method which will insure prompt payments in addition to the collection procedures available for arrearages. Genuine security requires regularity of

14. Nelson, *supra* note 10 at § 16.06.

15. Knabe v. Knabe, 176 Md. 606, 6 A.2d 366 (1939); see Nelson, *supra* note 10 at § 16.03.

16. N.Y. Civ. Prac. Act § 1172-d.

17. See Kelso, Reciprocal Enforcement of Support: 1958 Dimension, 43 Minn. L. Rev. 877 (1958-59).

18. N.Y. Dom. Rel. Law §§ 30-43.

19. *Supra* note 11.

payments, which the statutes are neither equipped nor intended to guarantee. Consequently, New York,²⁰ and more recently Illinois,²¹ have enacted involuntary wage assignment statutes, whereby a certain amount each month is deducted from the employee's salary by the employer and paid directly to the dependent subsequent to an order of the court. These amounts are paid as the support payment accrues, thereby eliminating the initiating requirement of a default before the enforcement procedures are started in motion.

Section 49-b of the Personal Property Law of New York provides that where there is a court order for the support of one's spouse or minor children, the court has *discretionary* power to order the employer to deduct from the wages, salary or commissions of the employee certain amounts which the court finds to be necessary for compliance with the order to support. The monthly deductions are to take *priority* over all other wage assignments or garnishments except those deductions made mandatory by law, such as union dues. An order under Section 49-b may operate to enforce support orders authorized by the Domestic Relations Law, which provide for the support and education of children born out of wedlock and to establish paternity;²² the Uniform Support of Dependents Law;²³ support proceedings under the Children's Court Act;²⁴ criminal proceedings for unlawfully omitting to provide for a child;²⁵ the provisions of the Code of Criminal Procedure defining disorderly persons;²⁶ and finally those sections of the Civil Practice Act establishing actions to annul a marriage,²⁷ for divorce,²⁸ for separation,²⁹ and other matrimonial actions.³⁰ Because of its recent enactment (1958), there are few judicial decisions interpreting this statute.

Section 49-b has been held by the lower courts to be merely a new means for the enforcement of an order for support, whether it is under a criminal prosecution for non-support or pursuant to a decree for alimony,³¹ and in each case the prior jurisdiction, whether in rem or in personam, is sufficient for an order under this section.³² No additional service of process is necessary to give the court jurisdiction, although notice must be given to the husband in order for him to defend against the issuance of the order.³³ The court which first issued the order for support, however, must have had

20. N.Y. Pers. Prop. Law § 49-b.

21. Ill. Rev. Stat. ch. 40, § 21.1; ch. 68, § 23.1 (1957).

22. N.Y. Dom. Rel. Law §§ 119-131.

23. *Supra* note 18.

24. N.Y. Children's Court Act §§ 30-33.

25. N.Y. Penal Law § 482.

26. *Supra* note 7.

27. N.Y. Civ. Prac. Act §§ 1132-1146.

28. N.Y. Civ. Prac. Act §§ 147-160.

29. N.Y. Civ. Prac. Act §§ 1161-1165.

30. N.Y. Civ. Prac. Act §§ 1165a-1176.

31. *Weisel v. Weisel*, 27 Misc.2d 695, 212 N.Y.S.2d 895 (Sup. Ct. 1961); *De Jongh v. De Jongh*, 13 Misc.2d 882, 177 N.Y.S.2d 53 (Sup. Ct. 1958).

32. *De Jongh v. De Jongh*, *supra* note 31.

33. *Ibid.*

RECENT DECISIONS

proper jurisdiction before any order may issue from Section 49-b.³⁴ In *Ross v. Ross*,³⁵ as the husband was a non-resident and there was no prior seizure of his property in this state, the court in the first instance lacked jurisdiction to grant the award of alimony, and, therefore, no deduction from wages could be made under this section.

An important feature of the involuntary wage assignment is that the decision of the judge is entirely discretionary.³⁶ This prevents the procedure, an admittedly harsh measure, from being a tool of harassment in the hands of a vengeful spouse. It must be shown to the judge's satisfaction that an order is essential, and unless unusual circumstances are shown, the order will not be issued when the "husband is current and ostensibly complying with the order of the court."³⁷ In *Kenney v. Kenney*,³⁸ the court declined to exercise its power as the husband was currently making prompt payments, his past defaults not being sufficient to show a present need for a deduction from wages.

May arrearages be reduced by a deduction from the employee's wages under Section 49-b? The lower courts have held that an order pursuant to that section is for current support only, and since the statute does not specifically authorize a deduction for either arrearages or counsel fees, it must not have been the intention of the legislature to include these items within the statute.³⁹ On this point, Faval D. Berns in the *Illinois Bar Journal* discussed the newly enacted involuntary wage assignment law in Illinois and expressed the opinion that the statute should not be restricted to current payments as the New York statute has been.⁴⁰ The Illinois statute does not expressly provide for the reduction of arrearages,⁴¹ and the author felt that the full scope and purpose of the statute would not be accomplished unless the court or the legislature allowed for this reduction. It appears, however, that the legislature, at least in New York, did not intend to duplicate the existing enforcement procedures, but to insure current payment by the creation of a means calculated to provide the dependent with a means of subsistence.⁴² The long range purpose of the legislation was to lighten the overburdened court load and to decrease the possibility that dependent families would be forced to go on welfare.

A conflict has arisen in the lower courts concerning the relationship

34. *Ross v. Ross*, — Misc.2d —, 215 N.Y.S.2d 905 (Sup. Ct. 1961).

35. *Ibid.*

36. *Kenney v. Kenney*, 28 Misc.2d 652, 216 N.Y.S.2d 156 (Sup. Ct. 1961).

37. *Id.* at 652, 216 N.Y.S.2d at 157.

38. *Supra* note 36.

39. *Renaudo v. Renaudo*, 20 Misc.2d 963, 190 N.Y.S.2d 285 (Sup. Ct. 1959); *Langus v. Langus*, 16 Misc.2d 648, 183 N.Y.S.2d 922 (Sup. Ct. 1959); *De Jongh v. De Jongh*, *supra* note 31.

40. Berns, *Wage Assignment in Divorce and Separate Maintenance*, 48 Ill. Bar J. 912-922 (1959-60).

41. *Supra* note 21.

42. *Cf. Langus v. Langus*, *supra* note 39.

between Section 49-b, which gives a priority to these payments, and limitations generally on garnishments and voluntary wage assignments in New York. Subsection 2 of Section 49-b gives these orders a priority over all other assignments and garnishments of wages, whereas, Section 684 of the Civil Practice Act permits the enforcement of only one garnishee execution at any one time. An Opinion of the Attorney General in 1959 stated that an order under Section 49-b was not a garnishee execution, and, therefore, Section 684 did not prevent the simultaneous deduction of support payments and a garnishee execution or a voluntary wage assignment.⁴³ Under this interpretation of Section 49-b, the statute was to be read alone without reference to other statutory limitations, and the priority clause, giving only a preference, would not effect an exclusion of other deductions. Following this interpretation of the statute, the Supreme Court held in *Loan Service Corporation v. Bridgeport Lumber Co., Inc.*⁴⁴ that there could be simultaneous deductions and that the provision for priority could not render the employee's wage immune from judgment creditors indefinitely. In this case there was a prior wage assignment which arose from a loan made by the plaintiff. Upon a default in payment, the plaintiff sent a copy of the wage assignment to the defendant-employer for the appropriate deductions. The employer refused to comply with it because of an order under Section 49-b which was issued subsequent to the wage assignment. In holding that the priority clause does not prevent simultaneous deductions, the court, relying heavily upon the Attorney General's Opinion, reasoned that it would be inconceivable that the legislature intended any other result.

The New York legislature has strictly limited these deductions from an employee's wages. Section 684 of the Civil Practice Act and the wage assignment sections of the Personal Property Law,⁴⁵ which contain the same limitation, state that there shall be only one execution or assignment operative at a time and that it shall be limited to ten percent of wages. The legislative purpose behind these sections was not only to protect the wage earner from entering into unwise sales agreements but also to protect his family, the innocent parties to the transaction. Despite the latter limitation, the judgment creditor is given further relief by Section 793 of the Civil Practice Act, which gives the Court the power to "order the judgment debtor to pay to the judgment creditor or apply on the judgment, in installments, such portion of his income . . . as the court may deem proper." This order, however, takes into account the necessary expenses of the family, and the judge is given discretion both as to whether to make the order and as to the amount to be paid periodically. A creditor, therefore, need not wait for the full payment of all outstanding garnishee executions before obtaining his relief.⁴⁶ In view

43. 1959 Op. Atty. Gen. 103.

44. 27 Misc. 2d 938, 215 N.Y.S.2d 185 (Sup. Ct. 1961).

45. N.Y. Pers. Prop. Law §§ 46-49a.

46. *Feder v. Skyway Container Corporation*, supra note 4.

of the protective policy of the legislature, the following quotation from the *Loan Service* case reveals the weakness in the reasoning of the court, irrespective of the decision's correctness. "The Court is aware that allowing two salary deductions will leave D'Agostine precious little net salary. However, D'Agostine himself is solely responsible for the unfortunate plight in which he finds himself, and the situation is partly at least, if not entirely, of D'Agostine's own making."⁴⁷ This decision is weakened both by the preceding reasoning and the failure to discuss the alternative remedy available to a creditor under Section 793.

The Appellate Term, in *Feder v. Skyway Container Corporation*,⁴⁸ was concerned with a similar situation as in the preceding case, but decided the case differently. In this case, however, the garnishee order came after the Domestic Relations Court order under Section 49-b. The court states that an order under Section 49-b *always* warrants a priority, which effects an exclusion of all other garnishments or wage assignments. This does not defeat the rights of creditors as they have the remedy, as previously mentioned, in Section 793 which is over and above the limitations in Section 684. The court held that simultaneous deductions are expressly prohibited by law. The prohibition in Section 684 allows only one execution against wages at a time, each to be satisfied in the order of their priority. Sections 46-49a of the Personal Property Law, concerning voluntary wage assignments, continued the same limitation as in Section 684. The court then reasoned that garnishments and levies upon execution were grouped into the same class as assignments of future income, and that Section 49-b operates as all other wage assignments except that it is involuntary and given a priority. The result is that all the limitations as to voluntary wage assignments are incorporated into Section 49-b, and that the priority clause suspends all prior executions on wages and prohibits future deductions as long as the involuntary wage assignment is operative.

All of the arguments against this interpretation fall upon close scrutiny. The dissenter states that this interpretation could lead to collusion between spouses to defeat the rights of creditors. First of all, a creditor has the further advantages under Section 793. A conceivable evil must not be allowed to overcome the real benefit which the statute was designed to bring about when there is both an absence of any experience with or real danger of this anticipated consequence. A final argument is waged on behalf of the employer. As he is already a tax collector for the government, why must he also become the disbursing agent for a delinquent employee? This argument might carry some weight if there was to be a real burden on the employer. But with only the additional cost of an entry on the ledger and another check, plus

47. *Supra* note 44 at 939, 215 N.Y.S.2d at 186.

48. *Supra* note 4.

the small number of employee who would be affected, the argument is not substantial.⁴⁹

An inspection of the corresponding section of the Illinois statute reveals one difference. The Illinois statute provides that such amounts are to be deducted "without regard to any subsequent garnishment demands, proceedings, wage assignments or claims of other creditors. . . ."⁵⁰ This apparently allows simultaneous deductions, although some priority for the support payments may be inferred. The same purpose, to provide an effective procedure for the enforcement of orders for the support of dependents, is, however, present.

One question, which is not expressly answered by the New York statute or by the small number of cases available, is the duration of an order for the involuntary wage assignment. While reasonableness may always be read into a statute, judges who view the sweeping provisions of this section less enthusiastically than others see an indefinite duration or one which lasts at least as long as an obligation to support exists.⁵¹ Such a result, in the absence of absolute necessity, would be undesirable. While many factors could prompt an unwise failure to make prompt payments, more often than not it would arise from temporary circumstances, such as bitter feelings, because of a recent divorce or separation or the mere inability to make the required payments. These temporary considerations certainly would not warrant an indefinite liability for the wage assignment. The benefit obtained by the order would not overcome the loss of both the personal and business reputation of the husband when he becomes willing to pay voluntarily. Although "one who is in arrears as to alimony, support or suit money is not in favor with the court,"⁵² as he has violated a court order, an order under Section 49-b terminating upon reasonable showing of a willingness to comply with the court's order would allow for greater justice between the interested parties.

Today, modern statutes specifically provide to whom the obligation of support extends, and the trend from early common law is from placing the burden on public welfare or the state to placing it on the individual. The problem which must constantly be faced and resolved in light of changing public demands and individual needs is how such obligations are to be effectively enforced. Traditional enforcement statutes provide for a retrospective type of remedy, which acts only upon a default in payments. Some states require that security be given, but again the operative factor here is a default by the husband. New York and Illinois are trying to insure that the current payments are met without the necessary application to a court

49. See *supra* note 43.

50. *Supra* note 21.

51. *Supra* note 44 at 939, 215 N.Y.S.2d at 186.

52. Nelson, *supra* note 10 at § 16.09.

upon each default for the appropriate remedy. The new involuntary wage assignment acts "provide a hopeful road to [the] prevention of large arrearages, that extra load on court docket, and the thankless and usually unprofitable time consuming collection task for the lawyers."⁵³ Public welfare laws, although being damned currently by some, are not going to be repealed by any progressive legislature; however, they should not enable an individual by merely refusing to comply with a support order to shift his burden, however temporary, upon the public. Wage assignment laws prevent dependents, because of financial necessity, from having to resort to public welfare because of inadequate means to enforce current payments, which is inherent in the time consuming and expensive procedures ordinarily available to these persons. Through procedures facilitating wage deductions of the current obligations, the legislature is placing the primary obligation of support upon the *proper* individual.

ROGER A. OLSON

CONCURRENT JURISDICTION IN MARITIME DEATH—FAITH IN A SEA FABLE?

The Federal Death on the High Seas Act¹ gives a right of action for wrongful death where the locus delicti is the high seas. In the very language of the Act authorizing this action, there seems to be a clear provision stated as to the forum in which the action must be brought. Section One of the Act provides:

Whenever the death of a person shall be caused by wrongful act, neglect, or default occurring on the high seas beyond a marine league from the shore of any State, or the District of Columbia, or the Territories or dependencies of the United States, the personal representative of the decedent may maintain a suit for damages in the district courts of the United States, *in admiralty*, for the exclusive benefit of the decedent's wife, husband, parent, child, or dependent relative against the vessel, person, or corporation which would have been liable if death had not ensued.² (Emphasis added.)

Upon reading this section, it would come as no surprise to learn that the majority of courts have understood the Act to limit the forum in which the death action can be brought to the admiralty side of the federal district courts.³ However, the New York Court of Appeals in the recent case of

53. Berns, *supra* note 40 at 917.

1. 46 U.S.C. §§ 761-767 (1958).

2. 46 U.S.C. § 761 (1958).

3. National Airlines v. Stiles, 268 F.2d 400 (5th Cir. 1959), cert. denied, 361 U.S. 885 (1959); Noel v. Linea Aeropostal Venezola, 247 F.2d 677 (2d Cir. 1957), cert. denied, 355 U.S. 907 (1957); Turner v. Wilson Line of Mass., 242 F.2d 414 (1st Cir. 1957); Higa v. Transocean Airlines, 230 F.2d 780 (9th Cir. 1955), cert. denied, 352 U.S. 802 (1956); The Silverpalm, 79 F.2d 598 (9th Cir. 1935); The Vestris, 53 F.2d 847 (2d Cir. 1931); Wilson v. Transocean Airlines, 121 F. Supp. 85 (N.D. Cal. 1954); Iafrate v. Compagnie