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Civil Practice—Statute of Limitations

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sarily proceed in the Supreme Court. The court, recognizing the plaintiffs' dilemma, insisted, nevertheless, that relief against the State itself could not be granted in the Supreme Court. *Levine v. Parsons,*[5] a case in which relief similar to that sought by the plaintiff here was granted, was distinguished on the ground that the question of jurisdiction was not raised.

It was pointed out in the opinion in the present case that, while the plaintiffs may have no remedy in the courts, their petition will receive consideration on the administrative level. In this case the administrative ruling was adverse to the plaintiffs. It would seem that a review of the defendants' determination might be sought in the Supreme Court.[6] In view of the broad discretion given to the officials in the treatment of bids once they have been accepted,[7] however, the possibility that the administrative decision would be reversed seems highly unlikely.

Statute of Limitations

The New York statute of limitations for judgments provides: "A final judgment or decree for a sum of money . . . is presumed to be paid and satisfied after the expiration of twenty years from the time, when the party recovering it was first entitled to a mandate to enforce it."[8] It has been held that the words "judgment or decree" are exclusive and that the section does not apply to an *order* directing the payment of costs.[9]

In *Hornblower & Weeks v. Sherwood,*[10] the Court of Appeals was called upon to decide if the twenty year limitation applied to bar the recovery of a fine for criminal contempt of the Legislature imposed by an order in a civil special proceeding. The case arose on an action in the nature of interpleader to decide whether the assignee of the party held in contempt could validly claim the balance due to that party on his account with the plaintiff. Having been served with a writ of attachment, the plaintiff had accumulated the money in the account for more than twenty years. No further attempt was made to collect the money in spite of the plaintiff's notice to the sheriff of the accumulation. When the assignee claimed the fund this action was brought by the plaintiff to determine the right to the fund. The Court of Appeals, affirming (4-3) the decision of the Appellate Division, held that the money was still subject to the attachment and there was no presumption of satisfaction.

5. 258 App. Div. 1003, 16 N. Y. S. 2d 722 (3d Dep't 1940).
6. Under C. P. A. Article 78.
7. PUBLIC BUILDINGS LAW § 8 (4).
8. C. P. A. § 44.
9. *Warren v. Garlipp,* 217 App. Div. 55, 216 N. Y. Supp. 466 (4th Dep't 1926).
10. 307 N. Y. 204, 120 N. E. 2d 790 (1954).

The majority stressed the fact that the words "judgment or decree" had been retained through the various changes in the codes of procedure in spite of the fact that the category of special proceedings with its resultant final *orders* had been created. Under these circumstances they felt that what the Legislature had not seen fit to add should not be supplied by the courts. The dissenters maintained that the inclusion of final orders in C.P.A. § 44 could fairly be implied in view of the fact that the Legislature had apparently intended to create a comprehensive system of limitations.[11]

A fine for contempt is unquestionably different from the ordinary civil judgment. It is not, for example, a debt which will be released by a discharge in bankruptcy.[12] A fine awarded to the state for contempt of the Legislature would seem more closely akin to a fine in a criminal action. It appears that there is no limitation on the recovery of such fines.[13]

Service on Corporations

When the Legislature has provided an exclusive method to be used for service on a party, failure to follow the prescribed method obviates the attempt to obtain jurisdiction over the party.[14] In *Sease v. Central Greyhound Lines of New York*,[15] the Court of Appeals applied this rule most stringently.

The plaintiff, in order to ascertain the name and address of the operator of a bus which is alleged to have caused the plaintiff damage in a highway accident, inquired: (1) at the office of the sheriff where the accident report was filed; (2) at the local office of the defendant nearest the scene of the accident; (3) of the New York Bureau of Motor Vehicles via a State Police teletype to the offices of the Bureau in Albany where the defendant's application for a motor vehicle license was filed. The report from all of these sources was that the operator of the bus was Central Greyhound Lines of New York with offices at 2600 Hamilton Avenue, Cleveland, Ohio. Proceeding on the theory that the defendant was a foreign corporation, and, therefore, a non-resident operator of a motor vehicle in this state, the plaintiff attempted service under Section 52 of the Vehicle and Traffic Law. The defendant was, in fact, a New York corporation with offices

11. See C. P. A. § 10.
12. In re *Koronsky*, 170 Fed. 719 (2d Cir. 1907).
13. *See Smith v. United States*, 143 F. 2d 228, 229 (9th Cir.), *cert. denied* 323 U. S. 729 (1944).
14. *Eisenhofer v. New York Zeiting Publishing & Printing Co.*, 91 App. Div. 94, 86 N. Y. Supp. 438 (1st Dep't 1904).
15. 306 N. Y. 284, 117 N. E. 2d 899 (1954).