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Need for Adoption of the 1958 Amendment to the Uniform Reciprocal Enforcement of Support Act

By EDWIN W. BRIGGS*

In 1950 the National Conference on Uniform State Laws approved an Act entitled "The Reciprocal Enforcement of Support Act," drafted to subject to effective court action, all persons alleged to owe duties of support to other persons resident in a foreign jurisdiction. It was aimed particularly at fleeing parents who seek to evade their support obligations by escaping to another state, and very quickly demonstrated its value in proving to be generally effective in coping with this hitherto "intractible problem." Montana adopted this Act in 1951, though at the time the original Act continued to be under study for possible improvement. Such study resulted in a major revision thereof in 1952. This writer sought to analyze both the original and the revised Acts in an article published in the spring of 1954, in which it was urged that Montana enact the revised form of the law at once.

In 1956 in its annual meeting the Montana Bar Association passed a resolution, also urging adoption of the revised Act. Then, in August of 1958, the National Conference approved still another revision. While the improvements in the law, found in the 1952 Act were substantial, they were largely procedural in character. The changes effected by the 1958 Revision, however, are so far-reaching as greatly to enlarge the usefulness of the practice authorized thereunder. It is important that our 1959 legislature heed the recommendation of the State Bar that the Act in its latest approved form be adopted in Montana, at least to the extent of carefully considering its improvements over our present law. A detailed analysis of its principal changes, therefore, is very much in order. However, since we have been operating under the 1950 Act to the present, further consideration of some of the questions and difficulties which have become apparent since our analysis of the Act in 1954, will help to demonstrate the need for the Revised Act. This state experience will follow a brief summary of developments at the national level.

Any doubts that may have lingered in the minds of some as to the general constitutionality of this legislation should be dispelled by a series of leading decisions rendered within the past two years. An excellent decision by the New York Court of Appeals upheld the constitutionality of its reciprocal procedure on all counts, and a Connecticut court sustained it against attacks based on "due process." A very recent Missouri case also

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upheld it against charges of unconstitutionality. A Maine case affirmed the validity of the provision subjecting to its jurisdiction a defendant who has never been in the initiating state. A Missouri court wrongly decided that this Act is not available for collecting accrued alimony based on a divorce decree, but a Florida case correctly ruled to the contrary, generally, though the precise issue was whether the Reciprocal Act was available to enforce a duty of support raised by the divorce decree of one Florida court, in another Florida court, at the defendant’s residence. It ruled the Act applicable in all cases to enforce alimony payments (relying partly on section 27 of the 1952 Revision). In 1954 California ruled correctly that a defendant cannot initiate a civil action against himself, in the responding state, to avoid being subjected to an extradition request. Ohio also supports this rule. But in 1957 Florida took a contrary position in a very unsatisfactory decision. Since considerable controversy has developed on this question, as to what the law ought to provide, it will be discussed further below.

Two good decisions, one from Minnesota and one from New Jersey, recently considered at length the complicating question of duty of support, as affected by alleged interference of visitatorial rights of the defendant father. A 1955 New Jersey decision and a 1956 Missouri case confirm the fact that the only court with power to adjudicate on the duty issue is the responding court. These cases develop a doctrine under which the Act may be administered with general effectiveness.

A spot check on Montana practice, from county attorneys’ offices, indicates that summary process still is used generally to assert jurisdiction over the defendant. However our earlier conclusion that the defendant is entitled to demand service by summons, as in an ordinary civil action, with possible supplementary process by citation, has influenced the practice in at least a few counties. Recently, the question of the variety and scope of duties of support enforceable under the Act was adjudicated in Yellowstone County. In a proceeding from Pennsylvania, to require a daughter in Montana to provide support for her mother in Pennsylvania, though the

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*Ivey v. Ayers, 301 S.W.2d 790 (Mo. 1957).
*Rosenberg v. Rosenberg, 152 Me. 161, 125 A.2d 863 (1956).
*Welch v. McIntosh, 290 S.W.2d 181 (Mo. 1956).
*Thompson v. Thompson, 93 So.2d 90 (Fla. 1957).
*Ibid. at 93.
*Jackson v. Hall, 97 So.2d 1 (Fla. 1957).
*Shannon v. Sterling, 245 Minn. 266, 80 N.W.2d 13 (1957).
*Daly v. Daly, 21 N.J. 599, 123 A.2d 3 (1956).
*Every county attorney’s office should subscribe for the information manual published annually by The Council of State Governments, 1313 East 60th Street, Chicago, Illinois, and entitled, “Reciprocal State Legislation to Enforce the Support of Dependents.” In addition to a great deal of other information, it summarizes annually the leading reciprocal enforcement decisions the country over.
*We only inquired of offices in most of the more populated counties. Yellowstone and Lewis and Clark Counties indicated that they still use the citation.
*Only one county, Cascade, actually stated that they had modelled their process after that suggested in Briggs, The Reciprocal Enforcement of Support Act in Montana, 15 MONT. L. REV. 40, 52-56 (1954).
court found the daughter unable to so provide, the district court apparently adopted the correct rule that the Act applies to every person who owes a duty of support to another under the Montana law, which is enforceable under the Act." This confirms our earlier interpretation," simply giving the only permissible construction to the Act's definition of "duty of support."

A recent case decided in Yellowstone County," and described by one of its special deputies, merits attention because of the variety of issues it raises, some of which the writer considered in the earlier study. Here, the defendant was "cited into Court," and served with an order to show cause, along with copies of the papers filed from Oregon, the petitioning state. The defendant made special appearance via a motion to quash, based on the following contentions:

1. That the petition failed to recite sufficient facts to constitute a cause of action against the defendant.
2. That the court in Multnomah County, Oregon, acted without jurisdiction in that "The original jurisdiction over the defendant and over the cause of action was in the said District Court of the Thirteen Judicial District," the reason being that the divorce was obtained here in Yellowstone County and the support act did not contemplate this situation when the same court retained jurisdiction over the parties and children of the parties by the divorce action itself.
3. That the order to show cause was not the proper method to bring the respondent before the court.
4. That the Circuit Court of the State of Oregon exceeded its jurisdiction over the respondent in finding facts, and in declaring a duty to support.

The attorney describes the results thus:

Briefs were submitted in this matter and the Judge, after research and argument, issued an Order denying each and every point raised by the Respondent.

This decision, in effect, approved the Order to Show Cause as a means to bring the Respondent into Court. It abandoned the theory that the divorce court in this state should have exclusive jurisdiction over the question of child support and [held] that the support act could be used concurrently with the divorce action. It found that the Oregon findings were sufficient to come within the contemplation of the statute in Montana and that the Petition did state facts in which to bring the Respondent into Court.

The court's ruling that the divorcing court may be requested to exercise jurisdiction, either under its original and continuing jurisdiction or under the Reciprocal Act is correct and desirable. In ruling, apparently, that though the Oregon Court did not have jurisdiction to decide the issues

"According to my informant, this case was decided recently in Billings, Montana.
"Briggs, supra note 16, at 47, particularly at n. 22, and comment therein.
"My correspondent informs me that this case was decided in Billings about November 18, 1958.
"These are given as summarized in my informant's letter.
or make affirmative findings of fact, those portions should be treated as surplusage and the effect intended under the Act should be given to the papers filed, this Montana case also is correct. It is in accord both with the conclusions of our earlier article on this point, and with the Missouri and New Jersey cases cited above. It apparently rules correctly that the complaint is sufficient, measured by Montana standards. As to the sufficiency of the citation and show cause order as originating process, the doubt we have expressed elsewhere on the adequacy of this process, alone, is based on the strong possibility that our own Supreme Court would sustain an attack on that ground. This is because under our Code this Act may be found to give rise to an ordinary civil action, supported by summons. We have not questioned the auxiliary value of the citation, provided the defendant is granted ample time to prepare his case on a contested issue.

In deciding that a divorcing court may be asked to exercise its jurisdiction for enforcement either under its continuing jurisdiction or under the Reciprocal Act, the above case touches upon the most serious problem dealt with in Montana to my knowledge—one for which the Act offers no direct answer, and little guidance, beyond its general policy. These facts pose the problem: W secures a divorce with alimony, for the support of W and minor children, at the family domicile in Y County. W then moves to Washington state, with the children. H, her former husband, moves to R County, where he engages in business. Upon H’s default in the payment of alimony for four months, W files a complaint under the Reciprocal Act in Washington, as the initiating state. The Washington court transmits the relevant papers to the Montana District Court for R County, as responding court. The officials administering the Act in R County insist that they have neither duty nor power to exercise jurisdiction under the Reciprocal Act in this case. The argument supporting this view runs thus: “The entire intent of the Act appears to be that the initiating state requests the responding state to proceed with trial only in those cases where it is necessary to determine for the first time that the defendant owes a duty of support. (Of course, if valid at all, this would exclude all reciprocal actions based on prior judicial decrees, which are included under the Act by its express terms.)” It is conceded that by the order of the District Court in and for Y County the fact that the defendant owes a duty of support has already been established and determined. Further, the proper procedure is to direct the Washington papers to the divorcing court in Y County, so as to be able to proceed originally and initially for contempt of that court, for citation for contempt at the outset is clearly impossible in R County, which must first again determine that he owes a duty of support, and then cite for contempt upon his failure to comply.” This argument may also

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1. Apparently the courts of Multnomah County, Oregon, are still using the forms for initiating suit which were critically examined in Briggs, supra note 16, at 69.

2. Briggs, supra note 16.

3. Id. at 54-56.

4. Revised Codes of Montana, 1947 (Hereinafter cited as R.C.M. 1947), § 94-901-2(6) provides: “‘Duty of support’ includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial [legal] separation, separate maintenance or otherwise.”
urge that "the extradition sanction could not be used by Washington in this type case."

On the last two minor points, I agree that contempt citation would not be summarily available in R County, except as changed by statute. I reject the argument on power to request extradition. The Act does not require that the defendant ever have been in Washington to be subject to an extradition request. This serves to put added "bite" in its civil action, if there is jurisdiction otherwise under the Act. Section 5, providing for such request, is equally available to Washington.

On the primary question of whether the court in R County either must or should accept the papers transmitted and proceed to trial, our conclusion, with its supporting reasons, appear in some detail in the Appendix attached to this study. But a summary of those reasons may be stated thus:

1. Both a literal and a reasonable interpretation of the Reciprocal Act itself requires that conclusion;
2. There is no legal prohibition against such exercise, constitutional or otherwise;
3. Neither is there any such long established practice in the exercise of a court's continuing divorce jurisdiction as to raise a presumption against such legislative intent—there is no infringement nor conflict in the exercise of each jurisdiction by the respective courts.
4. The question would be more difficult if the divorcing court were to insist that it could exercise no jurisdiction under the Reciprocal Act—that its only jurisdiction is that continuing in it as the divorcing court—though Yellowstone County has ruled that it can exercise either jurisdiction alternately.28

We do suggest one limitation on the defendant's residence court, as responding court, under the above facts, which would not be present if the divorcing court were a foreign court, which likewise has been objected to by officials administering the Act. It merits special mention here because the question may survive, even under the 1958 Revision of the Act. The problem is that, although if a foreign decree were the basis for the duty the Montana court would be free to enter an independent order as to the measure of that duty for the future, since here it is a "local" decree with full inherent efficacy throughout the state, probably the residence court should consider itself bound by the terms of the original decree, continuing to measure the defendant's liability strictly according to its terms, and requiring the defendant to raise in the Y County court the issue of whether the amount due should be modified. This too has been challenged.

In 1955 I was informed that the Yellowstone County Attorney's office had a well established practice of accepting jurisdiction under our hypothetical facts, where it is asked to exercise such jurisdiction as the residence court, rather than as the divorcing court, on the ground that it in no way abridges the divorce court's jurisdiction, but is rather in further aid and assistance in the more effective enforcement thereof. I also am assured

28The information that this is the practice in Yellowstone County, is contained in a letter received from the County Attorney there, December 5, 1955.
that at least one Montana court,7 as the divorcing court, has refused to ex-
ercise jurisdiction under the Reciprocal Act on the ground that the only
court as responding court with jurisdiction is the defendant's residence
court. It seems, however, that Yellowstone County assumes in such case
that it has competence to make an independent finding on the measure of
the duty for the future.8

Extended amendments proposed for three major sections, plus the
whole of the entirely new Part IV of the 1958 Revision, have an important
bearing on this question; further discussion thereof will therefore be post-
oponed until formal consideration of those proposed amendments. This
brings us to a consideration of the Act itself.

Of course we are interested in all the changes made in the 1950 Act (our
present one), by both the 1952 and the 1958 revisions, incorporated in the
Act approved by the National Conference of Commissioners on Uniform
State Laws in August, 1958. The bulk of the 1952 amendments were largely
procedural and administrative—to make the Act work more effectively.
Since we considered them in some detail in the earlier article,9a we shall
only summarize them here. The 1952 Act requires more detailed informa-
tion to help identify the defendant,9 provides for the setting up of machin-
ery to serve as information agencies and to expedite the determination of
the proper responding court,9 vests the court with discretionary power to
charge the state with costs,10 provides for physical detention of the defend-
ant in certain cases,11 makes explicit the duty of the appropriate enforce-
ment officer to represent the petitioner,12 and simplifies the "choice of law"
problem, though it is still not altogether satisfactory on this point.13 In ad-
dition to preserving these improvements in the 1950 Act, the 1958 Revision
makes broad and sweeping changes in substantive portions of the Act, great-
ly enlarging the scope of the jurisdiction to be exercised thereunder and
providing for other changes almost as revolutionary in principle as the
"two court" trial procedure provided for by the original Act. For a sum-
mary statement of these changes one hardly can improve upon that given
in simple language in the Commissioners' Prefatory Note, introducing the
Draft Act, as approved by the National Conference of Commissioners on
Uniform State Laws, in August, 1958:14

Section 6 suggests that, before going through the criminal
procedure of extradition, which is unlikely to produce actual sup-
port money for the family, the Governor allow enough time for the family to take advantage of the available civil remedy.

Section 9 makes it clear that under the act not only current support but also arrearages may be recovered.

Section 15 provides that there shall be no filing fee or other costs taxable to the obligee.

Section 19 permits the forwarding of the plaintiff’s papers not only to another county in the same state but also to another county in another state where the defendant or his property may be found. Heretofore it was necessary to file a new initiating petition in such a case.

The changes made by Section 21 are important. Heretofore courts and prosecuting attorneys were uncertain how to proceed in a case where the defendant filed his answer and gave evidence. The plaintiff was in another state. The judge had before him nothing but the complaint. It was not evidence and the defendant having produced evidence sufficient for a defense the judge would often dismiss the case. Under the new Section 21, the judge now must “continue the case for further hearing and the submission of evidence by both parties.” What is contemplated here is that the prosecuting attorney or other representative of the plaintiff shall use the machinery of deposition and interrogatories, as permitted by the law of the state, to obtain evidence from the absent plaintiff, or her witnesses, then permit the defendant to give further oral evidence in reply and possibly use the machinery of deposition and interrogatories again to obtain further evidence from the plaintiff, etc.

Section 24 permits the enforcement of an order of support in every county of the state.

Section 32 permits the Act to be used when the parties are not in different states but merely in different counties of the same state.

The act, in several places, provides for a better distribution of the duties of courts, clerks of court and prosecuting attorneys to the end that non-judicial duties are not imposed upon courts.

Sections 33 to 38 are entirely new. They constitute a new Part IV of the Act. They provide for the registration in the courts of one state of support orders issued by the courts of another state. The support order, so registered, has the same effect and may be enforced as if it had been originally issued by a court of the registering state. Of course the defendant may oppose the registration, but he may assert only a defense available to a defendant in an action on a foreign judgment. He cannot oppose registration on the ground that the support order is not a final judgment, because a “support order” is defined (in Section 2) as “any judgment, decree or order of support whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered.”

Thus Part IV is very important. It permits enforcement in the courts of every state passing this act of support orders from other states as if they were locally issued.

To these should be added the provision of section 29, that a reciprocal enforcement proceeding is not to be stayed pending other more or less related actions, such as divorce, custody, etc.
The 1958 Revision continues the division of the Act into the three Parts, found in the earlier versions, and adds a Part IV which makes some extremely important new law in the field of judgments. No major changes, however, occur in the first five sections. There is nothing in section 6, as amended, to suggest the hotly contested discussions which have gone on in the annual conferences of various interested organizations as to just what the policy should be concerning extradition requests for a "non-supporter." The controversy developed from an amendment to the Uniform Act, by Arizona, permitting a defendant there, in effect, to initiate a civil action against himself in the responding state so as to stay the extradition proceedings, where the state requesting the extradition failed to begin a companion civil action." There is no doubt that the Uniform Act did not contemplate any such procedure. Arizona readily recognized this in finding an amendment necessary. But the practice caught the fancy of some interested persons, and the argument was on. The 1958 form of section 6 makes it clear that the original idea that the defendant not be allowed any such recourse has prevailed, with a suggestive proviso—an advisory to the Governor that it might be well for him at least to delay extradition for a considerable time, if no civil action has been filed, to be sure that the interested parties have had all the time they could possibly need to file one. We noted in 1954 that the refusal to so file might influence the Governor in the exercise of his discretion."

But there is a fundamental policy issue hidden in the debris of the controversy which has been waged, that most if not all of the disputants have failed to note. Comments on section 6, as revised, generally stress the fact that the language is advisory only—"the Governor may delay honoring the demand for reasonable time to permit prosecution of an action for support," suggesting that his constitutional prerogatives under article IV, section 2, of the United States Constitution compel this treatment." But does this position sufficiently take into account the fundamental distinction between the fleeing felon, with only which the Constitution deals, and "one who has never been inside the requesting state, dealt with by the legislature only'? Discussion generally lumps these two to-

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*Note 36 supra, Briggs, supra note 16, at 68-69.

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*1958 Proposed Amendments to the Uniform Reciprocal Enforcement of Support Act (as amended in 1952) (Tent. Draft No. 2 with Prefatory Note and Comments), Editorial Comment to Section VI, 8-10.

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*Note 29 supra; Briggs, supra note 16, at 68-69.

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*Briggs, supra note 16, at 69.

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gether indiscriminately." Certainly, the governmental interests of a requesting state are much more substantial toward a "fleeing felon," who has just committed acts within its community resulting in a broken, abandoned and stranded family there, than are its interests toward "one who has never been within the state." The instincts of section 6 are sound in apparently leaving an ultimate discretion in the requesting state to determine when the policies of its criminal law require vindication. (Of course this is not to suggest that criminal action is desirable ordinarily—or in any particular case.) But the controversy has not sufficiently clarified the issues, to the present, to assure the sound implementation of policy for the future.

In 1954 we discussed the question dealt with in proposed section 9, expressly declaring that accrued alimony as well as all other forms of support are collectible under the Act. There we took the position that even the 1950 Act clearly contemplated this without such express provision. And in editorial comment the Drafting Committee was able in 1952 to declare that "lawyers are becoming increasingly aware that the Act supplies a convenient method for the collection of alimony and separate maintenance." Nevertheless, the reluctance of Montana officials to allow such proceeding in Montana seems to have persisted throughout the country generally all too often, thus requiring this explicit provision. That point should now be settled beyond doubt.

As noted above, the most serious limitation on the effectiveness of the Reciprocal Act, noted most frequently by its administrators in Montana, is that of costs assessed against the plaintiff by many states." (Though generally charging the fees under our present law, Montana sometimes gives foreign petitioners the benefit of an in forma pauperis plea.) Section 15 of the proposed revision unconditionally provides that "there shall be no filing fee or other costs taxable to the obligee." This comes after six years experience with the discretionary rule which had left this matter to the judge in 1952. Thus section 15 will end the most common complaint. However, for better or for worse, there may be a latent ambiguity in the term "obligee" found therein. A cursory examination of the Act would suggest that the term has been used loosely and inaccurately as synonymous with "plaintiff or petitioner," so as to include all such without

"Note 39 supra. Of course, if section 6 be interpreted as not restricting in any way the right of the requesting state to request extradition under the statutes governing extradition generally, the discretion which we have suggested should continue to be vested in the requesting state is preserved; but, as indicated above, at least arguably, section 6 is framed to apply to all extradition requests based on non-support. See note 39 supra. See also Jackson v. Hall, 97 So.2d 1 (Fla. 1957), for a leading Florida case illustrating the general tendency to make no distinction between "fleeing felon" and "non-fleeing felon" cases: "... we can find no valid reason for construing the Act as giving to the demanding state and the obligee the option of requiring the obligor to answer a criminal charge and be punished in a state in which he may never have resided." Id. at 3.


"Note 29 supra, Editorial Comment to section 14, at 13.

"This was true both in 1954 and 1958, as revealed by correspondence.

"COUNCIL OF STATE GOVERNMENTS, RECIPROCAL STATE LEGISLATION TO ENFORCE THE SUPPORT OF DEPENDENTS 15 (1958 ed.), cites Montana as not waiving any fees. Cf. Briggs, supra note 16, at 61, where we state our finding that in spite of an Attorney General's Opinion to that effect, at least some Counties grant the right to sue in forma pauperis. Current correspondence confirms that practice.

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exception. It seemingly has been so used in several sections in spite of the clear definitional pronouncement that “Obligee’ means any person to whom a duty of support is owed.” Clearly this does not include all plaintiffs. Furthermore, in most if not all of the other sections in which the term seemingly is used synonymously with “plaintiff,” it appears that the subject matter thereof permits the assumption that the “plaintiff” has a provable claim in fact. Such assumption, however, is not permissible in the context of section 15. Further, there is a substantial policy question of whether costs should be assessed against some one else in all cases, regardless of whether the proceeding has been filed in good or in bad faith. In any case, it seems that legislative policy on this matter should be clarified by more carefully selected language.

Sections 18 through 27 enumerate the powers and duties of the state’s courts, acting as responding courts. Section 18 imposes the same affirmative duties to enforce the Act on the “prosecuting attorney” is the responding state, as did section 12 in the initiating state. Though the 1952 Revision intended to make clear such duty is sections 11 and 17, the present sections state the duty even more affirmatively and explicitly. The provisions of section 19, requiring the responding court to forward at once all relevant documents to the court where the defendant is found, when neither he nor his property is found locally, adds force to the obvious policy of the Act that the court at the defendant’s residence should be treated as the court of primary jurisdiction, and to the Act’s determination that effective jurisdiction over the defendant should be sought and established in the most expeditious manner possible. This procedural development has been requested by various people administering or interested in the Act,™ and is a very sensible and marked improvement on its earlier versions, under which, in such cases, the plaintiff had to start all over again. We shall refer further to this developing procedure in another connection.

Section 21 declares that if the plaintiff is absent and the (defendant) presents evidence constituting a defense, the court shall continue the case for further hearing and the submission of evidence by both parties.” This is deemed quite important, in that it makes impossible the practice by some courts of dismissing the action immediately if the defendant answers with a denial and supporting evidence. The approved draft does not adopt the theory of the drafting committee in its June, 1958, draft,™ that it is either necessary or desirable to declare that plaintiff’s complaint, with supporting evidence, should be deemed to establish a prima facie case, so as to support a “default judgment.” The approved section considers it enough simply to declare expressly that the hearing shall be continued so as to give both parties an opportunity to submit evidence. Of course, those trying to administer the Act realistically have developed such practice anyway under the earlier versions thereof.

™Note 35 supra, §§ 4, 7, 8, 9, 19.
™R.C.M. 1947, § 94-901-2(8) ; note 35 supra, § 2(h).
™Note 36 supra, at 19, Editorial Comment to Section 19: “The changes ... have been proposed by at least two Annual Conferences on Reciprocal Support called by the Council of State Governments ... [and] by counsel for the Legal Aid Society of Philadelphia and many others.”
™Id. at 19, 20, with Editorial Comment.
As section 19 tries to guarantee that all relevant documents will "pursue" the defendant for trial as quickly and directly as possible, wherever he may be found, so section 24 intends similarly to guarantee enforcement in the same expeditious manner in providing that,

If the court of the responding state finds a duty of support, it may order the (respondent) to furnish support or reimbursement therefor and subject the property of the (respondent) to such order.

The court and (prosecuting attorney) of any county where the obligor is present or has property have the same powers and duties to enforce the order as have those of the county where it was first issued. If enforcement is impossible or cannot be completed in the county where the order was issued, the (prosecuting attorney) shall transmit a certified copy of the order to the (prosecuting attorney) of any county where it appears that procedures to enforce payment of the amount due would be effective.

There are two things of particular interest, concerning this section. Read literally, it applies only to a court which finds a "duty of support," while acting as a responding court. Secondly, thus limited, it provides that such order shall be equally summarily enforceable in any county within the state (presumably), in the same manner as if originally rendered by the enforcing court. It thus enlarges the enforcement arm of the rendering court to the entire state, through the instrumentality of every other court within the state where enforcement may be effective. This is a very desirable development in judicial procedure, but may not be quite as broad as is desired, in that it does not make the same provision for the summary enforcement of support orders rendered incidentally to a prior divorce decree by another Montana court. But more of that later.

Section 29 adds an interesting and probably worthwhile provision to the 1958 Revision in providing that suit under the Act cannot be "stayed" pending the outcome of another action for "divorce, separation, annulment, dissolution, habeas corpus or custody proceeding." In the Act's past administration, some courts have permitted intolerable delays for this reason. Once those proceedings are completed, any resulting support order may supersede the local order of support, under other sections. Indeed, section 30 expressly provides that no support order issued by a responding court shall supersede any other order of support, but payment thereon satisfies pro tanto payment on the other.

Section 31 is a new optional section protecting either party against the possibility of being subjected to the personal jurisdiction of the court in any other kind of proceeding as a result of his participation in the proceeding under this Act. Except for this express prohibition, such subjection would be possible under the law and procedure of some states, which would result in an unfortunate hampering in the voluntary participation of the parties under this Act.

Note 35 supra, § 19, at 9, 10. The bracketed portion of the section, as quoted, is an optional provision which should be adopted.

Section 32 introduces the greatest innovation found in the first three Parts of the Act. It makes the proceedings authorized under the Reciprocal Act applicable to inter-county suits for support within the enacting state, as well as between states. Thereunder, the plaintiff may file a complaint in her residence county, as the initiating county, subjecting its enforcement officials to the duty to transmit all relevant documents to the defendant's residence county, as responding county, obligating its officials to proceed with the trial under the same procedure as when two states are involved.

This further enlarges the field in which the law is "socialized," but probably is justified by the similarity in difficulty of suit between distant counties within the same state, particularly where the state is large as is Montana, and of suit between two states. There is substantially the same reason for resorting to the "two court" proceeding in the one as in the other. Moreover, the likelihood of the dependents becoming public charges is equally great in both cases.

Part IV of this Act achieves a major revolution in the law regulating the enforcement of foreign judgments. In six very short sections it provides still another remedy by setting up a routine procedure for registering in local courts foreign support orders of every kind, presumably including alimony decrees incidental to foreign divorces.

Section 36 creates "additional remedies" by authorizing the "oblige" to "register" any foreign support order in the "Registry of Foreign Support Orders," maintained by each clerk of court, as provided for in sections 33, 34 and 35. Section 36 then describes the "petition for registration," and requires that it be verified, show the "amount remaining unpaid," and be accompanied by a list of other registrations thereof. All the foregoing documents must be supported by a "certified copy of the support order, along with all modifications thereof." Such order is "registered on the filing of the (complaint) subject only to subsequent order of confirmation."

Dealing with the procedure for such "confirmation," section 37 wisely requires the use of the ordinary civil process to subject the defendant to the court's jurisdiction, and allows him to "assert any defense available in an action on a foreign judgment."

If the defendant defends, the judge adjudicates the issues, including the amounts, if any, remaining unpaid. On default he enters a confirmation of the registered support order, also determining unpaid amounts. Section 38 gives such registered order the same standing as if it were originally rendered by the local court, entitling it to the same summary enforcement, including citation

"It may be objected that this section unfairly discriminates between a plaintiff suing a foreign defendant for support and one suing a defendant in the same county, as to expenses for the suit. Therefore, goes the argument, the state should assume suit costs in all support orders. However, although the state's economic interests are the same in each, the difficulties in suing are very different; the classification probably is a reasonable one under the "equal protection clause." See Bayside Fish Flour Co. v. Gentry, 297 U.S. 422 (1936); Old Colony R. Co. v. Assessors of Boston, 309 Mass. 439, 35 N.E.2d 246 (1941). Cf. G.C. & S.F. Ry. v. Ellis, 165 U.S. 150 (1897). And in any case, since the essential subject of this Act is the "two court" proceeding, this is not the place to enlarge further the socializing of the law in such manner.

"Note, however, that he cannot defend on the ground that the "alimony award is not final." See note 35 supra, Commissioners' Prefatory Note, at 4, and § 2(j)."
for contempt on non-compliance. These last provisions are of the utmost importance.

These sections constitute a major breach in the time honored common law rule that any plaintiff seeking enforcement of a foreign judgment must sue in debt. This general rule applies with full force in an action to recover alimony, imposed in a divorce action. The plaintiff can recover only in debt for the accrued amount, and has to bring a new action for each additional accrual. Furthermore, though a very few courts have liberalized their practice, the forum generally refuses to exercise anything in the nature of a continuing jurisdiction to give any effect to the foreign decree—i.e., the foreign decree as such, has had no standing whatever in court as a judgment and has not been entitled to summary enforcement for any purpose.

California is a leading jurisdiction in giving “more faith and credit” to this essentially equitable decree than is required by full faith and credit. Their leading cases have approved much the same practice under a common law development as is prescribed here in Part IV, recognizing the foreign decree upon “registration,” as having exclusive jurisdiction to determine the duties of the defendant, and enforcing those duties in the same way as if it had rendered the original support order. Moreover, its practice also expressly provides for the immediate filing of any subsequent modification thereof, made by the rendering court.

The profound character of the change which Part IV makes in the existing Reciprocal Enforcement Acts is revealed by the fact that under those Acts the responding court not only has refused to give any kind of summary enforcement to the foreign decree, but has even exercised jurisdiction to grant a support order quite at variance with the requirements of the foreign order and some courts have even insisted that the collection of accrued alimony, based on foreign divorce decrees does not come within the jurisdiction of the Acts.

64 Neilman v. Poe, 138 Md. 482, 114 Atl. 568 (1921); 3 FREEMAN, JUDGMENTS 2799, 2801 (5th ed. Tuttle 1925); CHEATHAM, GOODRICH, GRISWOLD & RESE, CASES ON CONFLICT OF LAWS 255 (3d ed. 1951).
66 Ibid.
67 Established in Cummings v. Cummings, 97 Cal. App. 144, 275 Pac. 245 (1929), this practice is affirmed in later cases. Thomas v. Thomas, 14 Cal. 2d 355, 94 P.2d 810 (1939); Palen v. Palen, 12 Cal. App. 2d 357, 55 P.2d 228 (1936). Several other jurisdictions have held that a foreign alimony decree will be enforced with the same equitable sanctions, such as contempt and sequestration, as are available for the enforcement of a local decree. Annot. 97 A.L.R. 1197 (1935); Shibley v. Shibley, 181 Wash. 166, 42 P.2d 446 (1935); Ostrander v. Ostrander, 190 Minn. 547, 252 N.W. 449 (1934); German v. German, 122 Conn. 155, 188 Atl. 429 (1936), 126 Conn. 84, 3 A.2d 849 (1938).
68 Unfortunately, though our Supreme Court had an excellent opportunity to adopt the same practice here in a very important case some years ago, it misunderstood the rationale upon which the California courts have operated, and completely misapplied the doctrines involved. See Espeeland v. Espeeland, 111 Mont. 365, 109 P.2d 792 (1941), as commented on in Scott, The Enforcement of Foreign Decrees for Alimony, 4 Mont. L. Rev. 77 (1943).
69 Cummings v. Cummings, 97 Cal. App. 144, 275 Pac. 245 (1929).
70 Briggs, supra note 16, at 66-67. Correspondence with various enforcement officers has revealed this practice.
71 Ibid. Of course section 9 expressly required the exercise of such jurisdiction quite independently of Part IV, but only within the limits of traditional doctrine.

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Practically all authorities will agree that these are highly desirable improvements in the law governing the "enforcement of foreign judgments." By treaty or otherwise, many foreign countries have long provided for the registration or filing of foreign judgments with consequent summary enforcement available. This foreign practice is often cited as establishing the "backwardness" of our general practice in the United States. Further, both the condensing of these sections and the changes in the draft presented to the Commissioners by the Drafting Committees are desirable. The changes require the use of the ordinary civil process to acquire jurisdiction, and give the defendant "any defense available to a defendant in an action on a foreign judgment," in the proceeding to "verify" the order. However, on at least two points some clarification might more completely articulate the general policy behind Part IV, and lessen diversity of later interpretation.

Presumably Part IV intends to give a remedy quite independent of and in addition to those in the first three Parts, dealing with the ordinary "two court" proceeding for establishing the duty of support for the first time. Such conclusion is borne out by the declaration in section 33 that "the obligee has the additional remedies provided in the following sections." It also is supported by section 37, which appears simply to contemplate a proceeding for the purpose of "confirming" the registered order; upon confirmation such an order "shall have the same effect and may be enforced as if originally entered in the court of this state." However, an element of ambiguity is injected into these sections by the provision in section 37 that "the foreign support order is registered upon the filing of the (complaint) subject only to subsequent order of confirmation." This is the first, last, and only time that "complaint" is referred to in this Part, even suggestively. Elsewhere the only documents mentioned, are the "petition for registration," and the certified copy of the foreign support order. Furthermore, though these two documents might be deemed a sufficient basis for an official confirmatory registration of a support order entitled to be enforced as if originally entered in the local court, as a practical matter at least, they are not sufficient. Part IV requires a considerable amount of information concerning the identity and location of the defendant, which is not furnished by these documents.

That forces a consideration of this question: Does Part IV intend to provide a self-contained remedy, quite independent of the "two court" procedure, with the "petition for registration" and the "certified order of support," constituting all the documents required to bring an action.

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*Reviewing and comparing Australian and United Kingdom practice, in CHEATHAM, GOODRICH, GRISWOLD & REESE, CASES ON CONFLICT OF LAWS 256 (3d ed. 1951), the authors conclude: "Thus, the enforcement of intra-empire and, in some cases, of international judgments in the United Kingdom is easier than the method now prevailing in this country for the enforcement of sister state judgments." A federal statute now provides: "A judgment in any action for the recovery of money or property in any district court which has become final by appeal or expiration of time for appeal may be registered in any other district by filing therein a certified copy of such judgment . . . and shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner." But this does not include equity decrees, 28 U.S.C. § 1963 (Supp. IV 1957).

*Note 35 supra, at 26-32.

*Emphasis supplied.
to collect accrued alimony on a foreign judgment? Or is it just assumed that these documents will accompany an ordinary complaint asking for support and filed in a foreign state, which will supply the missing information? If the latter, the description "additional remedies" may not be the most apt term therefore. In a real sense these documents become merely incidental to the claim for support, made in the complaint, as a type of supporting evidence much more expeditiously establishing the authenticity of the claim.

But actually, such assumption cannot be granted for every case, because it appears that Part IV intends to apply equally where both the plaintiff and the defendant are present residents of Montana; such remedy would be of quite as much value for that plaintiff as for any other. The plaintiff must not be denied it merely because she is now a resident. If it be suggested that the answers to these questions should be obvious to the writer, the real difficulty lies in determining what should be obvious to the thousands of administrators of this Act, throughout the entire country.

Another possible defect in the approved draft is that it makes no formal provision for the additional registering of further modifications to the support order, made by the rendering court subsequent to the initial registration. Even though it be granted that in the general purpose of Part IV, and from the nature of the remedy it clearly intends to give, registration of such modifications must be deemed implied as a routine requirement, section 38 might well be framed to make that clear.

Even if these suggested changes were made, however, there would remain still another deficiency in the Act as a whole which perhaps can best be illustrated by referring again to the problem case previously discussed. It involved a complaint initiated in the state of Washington and sent to Y County in Montana, though the claim to support is based on a divorce and alimony decree rendered by another Montana court in R county. There is a serious question of whether, with all its improvements, the 1958 Act provides an entirely adequate procedure for that case. There is, however, every reason for assuring to a decree of a sister district court, sitting in Montana, at least as full a measure of exclusive competence in the delimiting of the scope of the duty of support as is given a foreign judgment. Yet there is reason to suggest that the Act leaves too much to the "resourcefulness and imagination" of the administering officials to solve this problem. Surely experience does not warrant such reliance.

To formally implement the principle that the original decree rendered in R County should have at least the same controlling exclusive effect

"Of course, the term "additional remedies" may refer to the fact the foreign support order is given local summary enforcement after its validity is officially established. But even thus interpreted, one may suggest that rather than having more "remedies" the plaintiff has fewer, because she does not get the second independent support order issuing from the responding court that she gets in the ordinary proceeding. (Exactly what does "additional remedies" mean here?)

"Practically universal recognition of the need for "spelling out" the procedures under the Act, because of lack of resourcefulness in its administration, has come out of the great number of national and regional conferences held on the Reciprocal Support Act over the past eight years. A strong statement thereon is found in the Draft Revision cited note 38 supra, Editorial Comment to section 21, at 20."
in Y County as would a foreign decree, it is necessary that it be given exactly the same status in the Y court as has a registered foreign order of support. Obviously that cannot be done under Part IV, however, because it expressly excludes local decrees. There is also at least serious question whether it can be done under section 24, which is quoted in text at note 50 above. That section inaugurates a very salutary procedure for assuring that a support order shall follow the defendant forthwith, wherever he may be found within the state. Note that, in terms, this section applies only to a support order which has been rendered by a court acting as responding court. Can the second and third sentences of section 24 be interpreted as being broader than the first sentence (which limits it to “responding” courts) so as to include any and all support orders issued in the state, whatever their origin? But even though an “imaginative” county attorney, when he receives such a foreign complaint based on a Montana divorce, might well develop the salutary routine practice of writing the rendering court for a certified copy of the decree and registering it under section 24, and even if Y County thereafter summarily enforced it under a “liberal” construction of section 24, that still would not take care of any of the cases where registration may be desirable, independently of such foreign complaint.

As stated in the legal memorandum appearing in the appendix to this article, I have taken the position that even under the 1950 Act presently governing in Montana a prior decree rendered by a sister district court should be recognized as exclusively controlling the question of how much the defendant should have to pay. This contrasts with the position of foreign judgments which admittedly do not so control locally. In the former case the Montana court, acting as responding court, does not have competence to make an independent finding as to how much the defendant should pay, while in the latter it can and does regularly make such independent finding. (Of course it will not have that power under Part IV of the 1958 Act.)

But even if the prior order of support rendered by another Montana court be given such exclusive competence, and even though the process and the jurisdiction to enforce judgments vested in Montana courts be state-wide, unless there is clear and explicit provision made for registering such decree in other state courts as a matter of course, a prior Montana divorce and alimony decree may find itself in a less favorable position in other Montana courts than foreign judgments enjoy. It still is not supported directly by the power of the court with primary effective jurisdiction (i.e., the defendant’s residence) to cite for contempt. To make sure that Montana decrees are not placed in such an inferior position, express language would be appropriate to provide for the registering thereof in other state courts, and to provide that upon registration it shall have “the same effect and be enforced as if it were originally rendered by the second court (residence court), with all enforcement procedures, including the power to cite the defendant for contempt.”

Concentrating on the scope and meaning of the various sections in the Reciprocal Act itself may cause one to forget that such sweeping changes as have been effected therein may so impinge on other related portions of our domestic relations law governing strictly local rights and
duties as to require their "modernizing" also. The concluding remarks of our 1954 study called attention to the probable need to "modernize" those code sections providing for duties of support generally so as to assure to the litigants in strictly domestic litigation a clearly stated right of action to enforce all forms of support duties. So with an ordinary civil action seemingly available to enforce any duty of support under this Act, the same should be true under our code generally.

In extending the remedies and procedures available in the two court suit under this Act to "inter-county" suits within the state, section 32 only partly "modernizes" local actions. Section 20, introduced as an "optional section" and providing that "the court shall conduct proceedings . . . in the manner prescribed by law for an action for enforcement of the type of duty of support claimed," simply refers to whatever present remedies and procedures exist under local law. So even if adopted, it would not improve our present laws on duties of support. All of this justifies the conclusion that in addition to adopting the 1958 Reciprocal Act, our legislature also should take a close look at our existing laws dealing generally with duties of support, and with the manner in which they can be enforced.

When it is ready to consider our statutes dealing generally with duties of support, our legislature should examine carefully still another uniform act, entitled "The Uniform Civil Liability for Support Act," which was approved only in 1954. In the words of the Council of State Governments' 1958 manual:

The purpose of this new uniform act is to set forth in a single, easily understood statute the basic duties of support which may be enforced interstate through the Uniform Reciprocal Enforcement of Support Act. It would be desirable for all states to enact the Uniform Civil Liability for Support Act for this reason alone. In addition, however, it would make possible for the first time in many states a clear understanding of just what support duties may be enforced within the state through civil rather than criminal law sanctions.

Although not as urgent a matter in Montana as in many other states, the problem is important enough and our law incomplete enough that it should be given high priority in the legislature, particularly since it will aid considerably the more effective reciprocal enforcement of duties of support.

Briggs, supra note 16, at 77.
In their Reciprocal State Legislation to Enforce the Support of Dependents 16-17 (1958 ed.) the Council of State Governments considers the problem of determining what "basic duties of support" are created by the laws of the different states; and the Council provides a chart summarizing the duties arising under the laws of each state.
Note 35 supra, at § 9.
Note 69 supra.
APPENDIX

The following is a memorandum on the questions raised by a complaint filed in a foreign initiating court, based on an alimony decree (i.e., support order) originally rendered by Y Montana court, but transmitted to R Montana court as the defendant's present residence court, for enforcement therein. Not only does it consider a continuously practical problem so long as our 1951 statute governs, but it also is relevant in any appraisal of the scope of Part IV proceeding for registering a "foreign judgment."

I understand your position to be that the District Court in R County has no jurisdiction to grant any part of the relief prayed for in the complaint received from Washington—that is, that the only proper court in Montana to exercise any competence under the Reciprocal Act must be the original divorcing court. I submit that your court should find that it has jurisdiction for the following reasons:

1. Both a literal and a reasonable interpretation of the Reciprocal Act itself requires that conclusion;
2. There is no legal prohibition against such exercise, constitutional or otherwise;
3. Neither is there any such long established practice in the exercise of a court's continuing divorce jurisdiction as to raise a presumption against such legislative intent.

First, as to the language and apparent purpose of the Act. The "duties of support" enforceable under the Act are defined in section 1 (6), as including those arising from court decrees, judgments and orders of every kind, as well as all other kinds "imposed or imposable by law." Hence, the fact that this particular plaintiff seeks in part to recover for accrued alimony is no bar whatsoever to the bringing of the action. Indeed, though discussing the paying of fees, editorial comment under section 14 of the 1952 Act declares that "lawyers are becoming increasingly aware that the Act supplies a convenient method for the collection of alimony and separate maintenance." As I state in my article, this may well prove one of the most valuable uses of the Act. This would seem, likewise, to dispose of your latter argument that the Reciprocal Act applies only to a trial to determine whether the defendant in fact owes a duty of support. The fact that a prior judgment has fully established the existence of the duty in no way limits the scope of the Act. Obviously every suit for accrued alimony is simply an action for debt as is any action on a money judgment, the existence of which debt must be re-determined in every new action. Of course, the defendant may have any number of defenses. He may have paid or he may contend that the Y court never did acquire jurisdiction over him. Hence you cannot extra-judicially assume the existence of such duty in every such case.

However, the question remains whether the request should be made to the court rendering the original alimony decree, or to the district court in which the defendant is at present found. Everything in the Act points to the latter. The actual language of sections 94-901-11 and -12 clearly includes the court at the defendant's residence, where he can generally be found. Almost certainly the framers of the Act were thinking in terms of a case where the responding court would have "to obtain jurisdiction" over the defendant for the first time. We shall consider shortly the question of whether it is broad enough to include the court originally granting the alimony in the alternative.

This construction is a most reasonable one in view of the over all purpose of the Act, and of the duties given the responding court to collect and remit payments regularly from the defendant without interfering with his working conditions. Although it be true that the court granting the alimony may have a continuing jurisdiction over both the defendant and the subject matter, this is a technical jurisdiction only, which does not well serve the requirements of the Act. The general object of the Act is to bring pressure to bear on the defendant, disturbing him physically as little as possible as a wage earner. Granted that the divorcing court may order execution and issue a decree ordering him to pay, which will support a citation for contempt for non-compliance, in fact these things do not produce payment or support money until we actually get hold of the defendant. How better and how more expeditiously can we do that, than to have process issued directly from the court of his current residence? Restating in summary, the duties placed both on him and on the court by sections 91-901-15 and -16 can best be performed by his current home court, with less delay and cost and loss of time to everybody concerned.
Where the divorcing court is in another state than where the defendant is now found, why do you not insist that that court be required to serve as the "responding court"? It has just as much "continuing jurisdiction" over the defendant, technically, as it has in this case. It can issue execution, as well as an order to pay, and can cite the defendant for contempt if he does not pay—though the U. S. Supreme Court recently has set limits on this power. It is only a partial answer to say that it is not in a position where sitting in a foreign state to enforce its contempt citation, while it can here. As a practical matter it may be in only a little better position in the present case. While Y and R are contiguous, two courts might be 600 miles apart and still be within the state of Montana. Even here it is submitted that the R court is in a better position to be really effective and to best implement the over-all objectives of the Act.

If this be true, there only remains the question of whether there either is some fundamental rule in the law prohibiting the exercise of such jurisdiction by the R court, or there is such a universal practice looking only to the court granting the original award as to raise a very strong presumption against such legislative intent in passing the Reciprocal Enforcement Act. A blunt and positive no to both of these suggestions seems proper.

Even if there were some basis for claiming that the divorcing court's jurisdiction over the subject matter cannot constitutionally be limited, there is no such limitation here. The divorcing court continues to possess every jurisdictional power it ever possessed. No one that I know of has ever suggested that a suing in state A on a state A alimony award for accrued alimony impinged in any manner on the jurisdiction of the state A court. It is clearly recognized that such action simply is in further aid of the state A court and the enforcement of its award. The quite generally favored practice today, in such interstate actions, is for the B court to accept the A judgment as a continuing basis for all further summary enforcement in B, making the A judgment a matter of record, and treating it as essentially its own for purposes of enforcement subject to modification by A from time to time. California is the leading, but by no means only, exponent of this practice. Under it, the A court continues to exercise even an exclusive jurisdiction for possible modification. Both parties likewise continue to have the privilege of applying to the A court for modification which if granted is immediately given effect in the B court's judgment record.

If this practice is valid as between the courts of two different states, it is at least as valid between courts within a single state. Instead of curtailing Y's jurisdiction in any way, all of this enlarges and increases the agencies available for the more effective enforcement of Y's judgment in the light of a realistic factual appraisal of the situation commonly arising.

This is a summary of the analysis I would make in any case. Fortunately, however, California decisions, particularly, completely support these conclusions as do Montana decisions as far as they go. In an almost identical type of case at the domestic level a recent leading California Supreme Court case ruled that a local judgment or decree might be sued on in another local court whenever "the plaintiff can effectively and summarily secure further enforcement, subject to possible modifications in Butte County. She received all the relief asked for. Thomas v. Thomas, 14 Cal. 2d 355, 94 P.2d 810 (1939). This seems to state clearly the general common law rule, at least as to suing in debt on a prior judgment. See 2 FREEMAN, JUDGMENTS 2212, 2215 (5th ed. Tuttle 1925); and 50 C.J.S. JUDGMENTS § 849 (1947). This rule was first established in California by Ames v. Hoy, 12 Cal. 11 (1859), in an action in debt, based on an equity decree given in another county. And in Lindsay Great Falls Co. v. McKinney Motor Co., 79 Mont. 136, 143, 285 Pac. 25, 28 (1927), our own supreme court declared in a case involving domestic courts that "at common law a judgment has always been regarded as a cause of action on which a right to bring suit exists, . . . the remedy by execution is cumulative merely and statutes giving this remedy do not impair the common law right of action upon the judgment as of date of record," quoting California cases approvingly.

If such practice be permissible, as between W and H, both of whom still are within the awarding state, how much more desirable is it where one of the parties is in a foreign state seeking collection. We have already stated some of the real, practical advantages in allowing suit where the defendant can be found working at the time of the suit. In our case these are advantages which the state itself is quite interested in seeing realized as is the plaintiff because of its active interest in the litigation, expressed in the general policy of the Reciprocal Enforcement Act.
Much more could be said in further support of our position, but I hope that this is enough to tie it down.

Much of what we have said has particular application to your accepting jurisdiction for the purpose of litigating the issue of the defendant's liability as to past due alimony. Aside from the Reciprocal Enforcement Act it might be argued possibly that whatever may be your duty in this respect you have no obligation at all to assume a continuing jurisdiction to assure performance in the future. If the divorce-alimony decree were from a foreign state, such contention would be very arguable. However, whatever the general rule on this point may be, it appears that the Reciprocal Enforcement Act imposes an affirmative duty to accept continuing jurisdiction.

Again if the plaintiff were relying on a foreign decree for her alimony, the Montana court would be free to determine for itself how much the defendant should pay in the future. Since the decree here involved is by a sister court, however, it would seem that you should continue measuring the defendant's liability strictly according to the terms of that decree, permitting the defendant to raise in the Y court the issue of whether the amount due should be changed.

The really difficult question in this case would arise if the Washington court applied to the Y court and it insisted that you had exclusive jurisdiction as the defendant's residence. A plausible argument can be made for the view that either court may be called upon by the Washington court, though to me the wording of the Act points to the residence court. However, without resolving that issue here it seems that it would be administratively desirable generally for the residence court to be asked to respond rather than the divorcing court.