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EXTRATERRITORIAL ENFORCEMENT OF TAX CLAIMS

"[G]ood government demands a solution to the problems of a state attempting to collect revenue beyond its borders . . . and cooperation among the states should help to effect a more equitable distribution of the tax burden."[1] Even in light of the desire of many states for mutual cooperation and an equitable distribution of the tax burden, numerous courts until recently would not enforce the revenue laws of sister states.[2] In the past, the situation most frequently causing difficulty among the sovereignties occurred when a state *constitutionally* levied a sales or use tax upon a non-resident doing business in that state. Attempts to enforce this claim in the taxpayer's state either in the form of a judgment previously acquired in the taxing state or in the form of a naked statutory claim for delinquent taxes often proved unsuccessful.[3] Furthermore, state tax systems already had built-in deficiencies, such as personal property taxes which were characterized by widespread noncompliance.[4] Lack of cooperation among the states in the extraterritorial enforcement of tax claims created greater inadequacies than necessary in the existing state tax systems.

This note is a discussion of the historical development of the rule that one state will not enforce the revenue laws of another sovereignty. This rule will be considered in light of the full faith and credit clause of the Constitution of the United States, and the many judicial decisions involving extra-state enforcement of both tax claims and judgments. The analysis will include a study of the majority solution to this conflicts of law problem—the rapid development of reciprocal legislation.

HISTORICAL PERSPECTIVE

The genesis of the rule at common law that one nation will not enforce the revenue laws of another dates back to 1735 with the English

1. Goldstein, *Interstate Enforcement of the Tax Laws of Sister States*, 30 TAXES 247 (1952).

2. *Id.*

3. The limited scope of this note prohibits a discussion of the constitutional issues which arise in levying taxes on non-residents. In connection with this aspect of the problem *see* Northwestern States Portland Cement Co. v. Minnesota, 358 U.S. 450 (1959); 15 U.S.C. § 381 (1964).

4. J. HELLERSTEIN, STATE AND LOCAL TAXATION CASES AND MATERIALS, 356-57 (1969); H. R. REP. No. 1480, 88th Cong., 2nd Sess., vol. 1, 43-53 (1964).

case of *Boucher v. Lawson.*[5] Although the precise rule was not enunciated in this case, the result was effectively reached. A shipping contract to transport gold from Spain to England was held enforceable even though its performance required the violation of a Spanish law which prohibited the exportation of gold from the country.[6] *Boucher* was first cited for that proposition nearly four decades later in *Holman v. Johnson.*[7] In that case the rule was formally expressed through the dicta of Lord Mansfield and later, in 1779, was reiterated in *Planche v. Fletcher.*[8] In *Planche* the court enforced payment on an insurance policy for loss of the insured's ship, and rejected the insurance company's defense that the policy was void because the insured, in transporting the cargo to France, had evaded French lighthouse duties. Although the insured's recovery was based on the insurance contract, the dictum that one nation need not enforce the revenue laws of another state would thereafter become a permanent rule of comity in England.[9]

The most significant extension of this rule occurred in *Municipal Council of Sidney v. Bull.*[10] In this instance, the town of Sidney was authorized by New South Wales to levy a real estate tax on all realty situated in its taxing district. In attempting to collect the tax in an English court, it was held that the action should be dismissed because England did not have to give effect to the tax statutes of another nation. Thus the term "revenue laws" as set out by Mansfield in *Planche* was extended to include the tax laws of another country.[11] Viewing these cases conjunctively, the conclusion has been reached by many commentators that the bitter commercial rivalry of the time was the basic reason for the failure of one nation to enforce the revenue laws of other countries.[12]

Extraterritorial Enforcement of Tax Claims Without a Judgment

The next important aspect which must be considered is the effect of the English rule on the individual taxing systems of the American states.

5. 95 Eng. Rep. 53 (K.B. 1734) (dictum).
6. Daum, *Interstate Comity and Governmental Claims,* 33 Ill. L. Rev. 249 n.2 (1938).
7. 98 Eng. Rep. 1120 (K.B. 1775) (dictum).
8. 99 Eng. Rep. 164 (K.B. 1779) (dictum).
9. *E.g., id.* at 165; Goldstein, *supra* note 1.
10. [1909] 1 K.B. 7.
11. *See also In Re* Visser, Queen of Holland v. Drukker, [1928] 1 Ch. 877.
12. A. Dicey, Conflict of Laws 154 (Morris ed. 1949); Daum, *supra* note 6 at 249.

The impact of the English conflicts of law rule is evident in the leading case of *Colorado v. Harbeck*[13] in which it was held that a claim for taxes arising in one state, and not reduced there to judgment, was not enforceable by an action in the courts of another state. In *Harbeck*, a domiciliary of Colorado died in New York while enroute to Europe. The decedent's will was probated in New York and the administrators paid the New York transfer tax. Subsequently, Colorado sought to levy a transfer tax and brought an action in the New York courts. The Appellate Division of the New York Supreme Court held that the transfer occurred under Colorado law, that the court should give recognition to the laws of Colorado based on the theory of comity, and that the claimant state should be awarded a judgment of nearly $100,000.[14] The Court of Appeals, with Judge Pound writing the majority opinion, reversed however, holding that the transfer occurred under the force of New York law, and the Colorado statutes could not be given extraterritorial effect. To do so "would conflict with another well settled principle of private international law which precludes one state from acting as a collector of taxes for a sister state and from enforcing its penal or revenue laws as such. The rule is universally recognized that the revenue laws of one state have no force in another." [15]

A close reading of *Harbeck* fails to reveal the basis for this decision, although it seems that Judge Pound placed the most emphasis on the proposition that the state of Colorado had no jurisdiction to assess the tax and, therefore, had no basis to bring the action in New York.[16] Since there was little judicial elaboration in the case, however, the interpretations of commentators have differed as to the meaning of the decision. The following theories have been advanced: (1) taxes are not debts or contracts and, without a judgment, no obligation to pay arises by a mere assessment thereof; (2) revenue laws of one state have no force in another state; and (3) revenue laws are penal in nature and therefore no extraterritorial effect can be given to them.[17] In the final analysis, however, *Colorado v. Harbeck* was decided on broad public policy grounds, and in so deciding the court never reached the sig-

13. 232 N.Y. 71, 133 N.E. 357 (1921).

14. 189 App. Div. 865, 179 N.Y.S. 510 (1919).

15. 232 N.Y. 71, 74, 133 N.E. 357, 360 (1921). *See also* City of Detroit v. Proctor, 44 Del. 193, 61 A.2d 412 (1948); Minnesota v. Karp, 84 Ohio App. 51, 84 N.E.2d 76 (1948).

16. *See* J. BEALE, 3 CONFLICTS OF LAW 1635, 1636-38 (1935).

17. State *ex rel.* Oklahoma Tax Comm'n v. Rodgers, 238 Mo. App. 1115, 193 S.W.2d 919 (1946).

nificant issue of the applicability of the full faith and credit clause.[18] Extending beyond *Harbeck* is the recent case of *Philadelphia v. Cohen*[19] in which the New York Court of Appeals held that neither the full faith and credit requirement of the federal Constitution nor comity, nor even public policy required New York to enforce a Philadelphia tax claim not reduced to a judgment in Pennsylvania.

A problem similar to that of the *Harbeck* case came before the Court of Appeals for the Second Circuit in *Moore v. Mitchell.*[20] In this case, Judge Learned Hand justified the majority rule that tax claims not reduced to judgment need not be recognized beyond the borders of the taxing state by equating tax statutes to penal laws. In his concurring opinion, Judge Hand stated that "[g]enerally it is, of course, true that a liability arising under the law of a foreign state will be recognized by the courts of another . . . . A recognized exception is the case of criminal and penal liabilities. . . . [I]n some . . . cases, this exception has been extended to include revenue laws as well."[21] Judge Hand concluded that the equation of criminal and tax statutes was reasonable because state revenue laws affect a state in matters just as vital to its existence as its criminal laws.[22]

Professor Beale, giving additional reasons favoring the majority view, agreed with Judge Hand's analogy:

> It is undoubtedly true that in many instances the courts have repeated the rule without careful consideration and merely as a literary corollary to the proposition that no state will enforce the penal laws of another state. Nevertheless it is not difficult to find fundamental considerations which seem to furnish ample jusitification for the refusal to allow the action. As Judge Learned Hand pointed out, the relation between a foreign state and its citizens is properly no concern of the forum. Furthermore since the interest of the foreign state is directly affected, the interstate relation should be determined not by the court but by the respective sovereign powers. *Also* the court may well feel very reluctant to assume the burden of administering an intricate tax system with

18. 232 N.Y. 71, 133 N.E. 357 (1921).

19. 11 N.Y.2d 401, 230 N.Y.S.2d 188, 184 N.E.2d 167 (1962). While this is a relatively recent case, further research will reveal that all of these decisions have been greatly effected by reciprocal legislation.

20. 30 F.2d 600 (2d Cir. 1929). *See generally* J. BEALE, *supra* note 16, at 1635.

21. 30 F.2d at 603-04. *See also* Colorado v. Harbeck, 232 N.Y. 71, 133 N.E. 357 (1921).

22. 30 F.2d at 604.

> which it is totally unacquainted, especially in view of the crowded dockets which are to be found almost everywhere.[23]

In summary, the various reasons for the traditional rule that the forum is not required to enforce a tax claim by a sister state which has not been reduced to a judgment may be stated as follows: (1) tax laws of another state are penal in character and need not be recognized by the forum; (2) enforcing the tax laws of another state may be against the public policy of the forum state; (3) the forum state may seriously embarrass its neighbor; (4) the domestic court lacks jurisdiction to interpret statutes of a sister state which relate to the internal order of the sister state; and (5) the issue of recognition by the forum state of tax claims of other states is a matter for the legislature.[24]

The most formidable criticism of the *judicial* majority view is found in *State ex rel. Oklahoma Tax Commission v. Rodgers*[25] which represents the minority judicial view. In this case, Oklahoma instituted an action in Missouri for the collection of an income tax obligation incurred by the defendants while they were residents of Oklahoma. The court held, based upon general rules of comity, that Oklahoma tax laws should be given effect in the forum state. In recognizing the burden placed upon state tax administration by the majority rule, the *Rodgers* court sharply repudiated every major argument advanced in favor of that traditional rule. While commenting upon the famous decisions of Lord Mansfield,[26] Judge Learned Hand,[27] and the case of *Colorado v. Harbeck*,[28] the court stated that the majority rule was outmoded because judicial hostility toward taxes had ceased. The court, in rejecting the *Harbeck* rule, concluded that tax statutes are no longer considered penal laws.[29] It observed that tax statutes are relatively standardized, and therefore the enforcement of another state's tax laws cannot be considered violative of any legitimate public policy. Moreover, since the sister state institutes the action, it also waives any embarrassment

23. J. BEALE, *supra* note 16, at 1638.

24. *See* State *ex rel.* Oklahoma Tax Comm'n v. Rodgers, 238 Mo. App. 1115, 193 S.W.2d 919 (1946); Daum, *supra* note 6; Goldstein, *supra* note 1.

25. 238 Mo. App. 1115, 193 S.W.2d 919 (1946).

26. Planche v. Fletcher, 99 Eng. Rep. 164 (K.B. 1779) (dictum).

27. Moore v. Mitchell, 30 F.2d 600 (2d Cir. 1929) (concurring opinion).

28. 232 N.Y. 71, 133 N.E. 357 (1921).

29. *See* Milwaukee County v. M. E. White Co., 296 U.S. 268 (1935) where the Supreme Court noted that the duty to pay taxes is not penal.

or impropriety emanating from the controversy. Lastly, the court noted that lack of familiarity with another state's tax laws, and difficulty in interpreting such statutes is not a valid argument against their judicial enforcement.[30] Conversely, critics of the minority judicial view have contended that its adoption would work a hardship on the courts of the highly commercial states because there is situated much of the nation's intangible wealth, and there many suits to collect taxes might originate. In practice, however, it has been observed that court dockets of commercial states have not been greatly burdened after the adoption of this rule.[31]

Effect of Federal Legislation and Supreme Court Holdings on *Rodgers* and *Harbeck*

Both *Harbeck* and *Rodgers* were decided before Congress amended the federal statutes in 1948 to require full faith and credit to be granted to *acts* of the legislature, as well as to the judgments, of a sister state.[32] Read literally, these provisions appear to make direct suits for delinquent taxes possible in the courts of another state without dependence upon a home state judgment or reciprocal state enforcement laws. Without further analysis, these statutes would still be limited by the rule that if a state has a valid policy against the enforcement of the revenue laws of another state, the policy must be observed in both state and federal courts.[33]

The Supreme Court, however, has been slow to respond or has found response unnecessary, in giving effect to the federal legislation. As early as 1935 in *Milwaukee Co. v. M. E. White Co.*,[34] the Court, in avoiding the issue, stated, "whether one state must enforce the revenue laws of another remains an open question in this court." In 1951, after the passage of the federal legislation, the Court in *Hughes v. Fetter*[35] refused to rely on the new Judicial Code revision. In this case, an action

30. State *ex rel.* Oklahoma Tax Comm'n v. Rodgers, 238 Mo. App. 1115, 193 S.W.2d 919 (1946). Those states which follow the *Rodgers* view include Arkansas: Oklahoma v. Neely, 225 Ark. 230, 282 S.W.2d 150 (1955); Illinois: City of Detroit v. Gould, 12 Ill. 2d 279, 146 N.E.2d 61 (1957); Kentucky: State of Ohio *ex rel.* Duffy v. Arnett, 314 Ky. 403, 234 S.W.2d 722 (1950); and Nevada: State Tax Comm'n v. Cord, 81 Nev. 403, 404 P.2d 422 (1965).

31. Goldstein, *supra* note 1, at 251-52.

32. 28 U.S.C. § 1738 (1964).

33. *E.g.*, Van Dusen v. Barrack, 376 U.S. 612 (1964).

34. 296 U.S. 268 (1935).

35. 341 U.S. 609 (1951).

was brought by an administrator in a Wisconsin court to recover damages for the death of a decedent who was fatally injured in an auto collision in Illinois. The plaintiff administrator relied on the Illinois wrongful death statute. The decedent, as well as the administrator, the defendant-tortfeasor, and the insurance company were Wisconsin residents. The Wisconsin court refused to entertain the suit. The court claimed that local public policy prohibited the courts from any determination of the matter because its wrongful death act applied only to deaths occurring within the state.[36] The Supreme Court reversed the Wisconsin Supreme Court, and held that the forum state had no conflicting policy in fact. There was, therefore, no valid reason under the full faith and credit clause for Wisconsin to refuse to apply Illinois law. The Court did recognize that the Illinois statute stipulated a different ceiling of recovery. This was not material, however, in light of the full faith and credit clause.

As to the relatively recent federal legislation the Court noted:

> In certain previous cases, . . . this Court suggested that under the Full Faith and Credit Clause a forum state might make a distinction between statutes and judgments of sister states because of Congress' failure to prescribe the extra-state effect to be accorded public acts. Subsequent to these decisions the Judicial Code was revised so as to provide: "*Such acts* [of the legislature of any state] . . . and judicial proceedings . . . shall have the same full faith and credit in every court within the United States . . . as they have . . . in the courts of such State . . . from which they are taken. . . ." [28 U.S.C. § 1738 (Supp. III 1946)]. In deciding the present appeal, however, we have found it unnecessary to rely on any changes accomplished by the Judicial Code revision.[37]

The Supreme Court has required that full faith and credit be accorded statutes in three fields of law. The three types of statutes are those involving the rights of injured employees under workmen's compensation acts, the rights between a corporation and its stockholders, and similar rights of fraternal insurance companies with respect to their policy-holders.[38] The impact of the federal legislation is unclear; many commentators feel that the federal statute affects only state-level tax statutes, and that there probably is a necessity for reciprocal legislation

36. Hughes v. Fetter, 257 Wis. 35, 42 N.W.2d 452 (1950).
37. Hughes v. Fetter, 341 U.S. 609, 610, 613-14 (1951).
38. MacChesney, *Full Faith and Credit*, 44 ILL. L. REV. 298 (1949).

to allow out-of-state tax suits by political subdivisions of a state.[39] The effect of reciprocal legislation on the *Rodgers* and *Harbeck* rules will be discussed later. The conclusion based upon this analysis, however, is that the Supreme Court has not seen fit to implement the new federal legislation requiring state acts to be given full faith and credit in such a way as to include state tax claims.[40] It also appears doubtful that the Supreme Court will, in the near future, extend this mandatory rule to tax claims, especially in light of the success of state reciprocity statutes.

Extraterritorial Enforcement of Tax Judgments

The early belief that the obligation to pay taxes was penal in nature is reflected in the 1888 decision of *Wisconsin v. Pelican Insurance Co.*[41] The Supreme Court held that judgments founded on governmental claims are *similar* to judgments based on penal claims. The Court concluded that "the essential nature and real foundation of a cause of action are not changed by recovering a judgment upon it. . . ." [42] From this decision the inference was drawn that the forum state was under no obligation to recognize sister state judgments based on tax claims.[43]

Thus, before *New York v. Coe Manufacturing Co.*[44] and *Milwaukee County v. M. E. White Co.*,[45] the law was settled that even judgments based on tax claims were not to be given extraterritorial recognition. In *Coe* the highest court of New Jersey held that a judgment based upon a claim for a New York franchise tax must be given full faith and credit by the New Jersey courts. The court reasoned that a New York franchise tax was a claim for debt rather than a "penalty." [46] A year later in *White* a Wisconsin county instituted an action in Illinois against M. E. White Co., an Illinois corporation, to satisfy a $50,000

39. For a short discussion on the effect of the federal legislation and state reciprocity statutes *see* P-H State & Local Taxes—All States Unit ¶ 1035 (1969).

40. *E.g.*, MacChesney, *supra* note 38.

41. 127 U.S. 265 (1888). The *Pelican* decision was followed by Restatement of Conflict of Laws § 443 (1934) which stated:

> A valid foreign judgment for the payment of money, which has been obtained in favor of a state, a state agency, or a private person, on a cause of action created by the law of the foreign state as a method of furthering its own governmental interests will not be enforced.

42. 127 U.S. at 290.

43. H. Goodrich, Handbook of the Conflict of Laws 99 (Scoles ed. 1964).

44. 112 N.J. Law 536, 172 A. 198 (1934).

45. 296 U.S. 268 (1935). *See also* 49 Harv. L. Rev. 490 (1936); 20 Minn. L. Rev. 431 (1936); 84 U. of Pa. L. Rev. 526 (1936).

46. 112 N.J. Law 536, 172 A. 198 (1934).

judgment obtained in Wisconsin on income taxes arising from business transacted in the taxing state. In its decision, the Supreme Court of the United States disapproved of the *Pelican* opinion, and held that the obligation to pay taxes is not penal but is a statutory liability.[47] The full faith and credit clause, the Court continued, requires a state to enforce a judgment of a sister state for its taxes.[48] The *White* case was decided in 1935 and represents the present view that "a judgment for taxes which is entered after *proper proceedings* now is entitled to full faith and credit under the Constitution." [49]

The issue of proper proceedings in obtaining a judgment on tax claims has been the subject of much controversy. In many states the usual method of obtaining a judgment for taxes is by administrative determination, after notice to the taxpayer of the hearing, followed by a summary judgment.[50] In *Ohio v. Kleitch Bros. Inc.*,[51] a similar taxing scheme was used in Ohio. Service of process for the summary judgment proceeding was not made on the taxpayer, however, but upon a designated official as required by statute. The Michigan Supreme Court held that the Ohio judgment must be given full faith and credit, and noted that the taxpayer in obtaining a license to use Ohio roadways had assented to the administrative judgment procedure. In *New York v. Shapiro*,[52] a federal district court in Massachusetts held that an administrative determination of tax liability by the Comptroller of New York was entitled to full faith and credit in Massachusetts. Therefore, the obligation to give full faith and credit to administrative determinations of tax liability is an open question. Fortunately, recent developments in state reciprocal legislation greatly reduces the significance of this issue since most courts now enforce tax claims even when not first reduced to judgment.

Effect of Reciprocity Statutes on Extraterritorial Enforcement of Tax Claims

Reciprocal legislation is the sophisticated counterpart of the rule espoused in the *Rodgers* case. Indeed, most of the present reciprocity

47. 296 U.S. at 271 (1935).

48. *Id.* at 275. *See also* Magnolia Petroleum Co. v. Hunt, 320 U.S. 430 (1944).

49. H. Goodrich, *supra* note 43.

50. *E.g.*, People v. Skinner, 18 Cal. 2d 349, 115 P.2d 488 (1941).

51. 357 Mich. 504, 98 N.W.2d 636 (1959). *See also* 69 Harv. L. Rev. 378 (1955).

52. 129 F. Supp. 149 (D. Mass. 1954). *See also* Ohio v. Kleitch Bros. Inc., 357 Mich. 504, 98 N.W.2d 636 (1959); 69 Harv. L. Rev. 378 (1955).

statutes were enacted in the decade following the landmark case.[53] The rapid enactment of such legislation was the result of the increasing difficulty the states were encountering in collecting taxes from taxpayers who had no property in the state. Thus the statutory solution to the problem is that a state will allow its courts to be used to collect taxes owing to other states as long as reciprocity exists.[54]

The significance of state reciprocal legislation is that it has removed a tremendous burden from state tax administration. It is no longer necessary to obtain a judgment in the taxing state before filing suit in states which have reciprocity acts.[55] Therefore, the traditional doctrine that the revenue laws of another state will not be enforced by state courts has been discarded by an overwhelming majority of states. In fact, by August of 1969, forty-two had enacted reciprocal legislation,[56] and three others have case law to the same effect.[57]

Statutory variations do exist, however, and consequently uniform reciprocity is not always possible. For example, most states believe that moderate tax penalties should be recognized under reciprocal legislation since such penalties are a customary means of assuring prompt payment of taxes. However, there are several states which prohibit the recognition of such penalties.[58] Furthermore, only twenty-two states *expressly* extend the reciprocity privilege to political subdivisions.[59] A good example of such a statute is that of New York:

> The courts of this state shall recognize and enforce liabilities for taxes lawfully imposed by any other state, *or any political subdivision thereof*, which extends a like comity to this state, and the duly authorized officer of any such state or a political subdivision thereof *may sue for the collection of such tax in the courts of this state*.[60]

In the majority of situations, however, failure to expressly provide for

53. *Tax Comity*, 25 CORP. J. 99 (1967).

54. *E.g.*, P-H STATE & LOCAL TAXES, *supra* note 39.

55. *Id.*

56. *Id.*

57. The three states are Missouri: Oklahoma v. Rodgers, 238 Mo. App. 1115, 193 S.W.2d 919 (1946); Nevada: Utah v. Cord, 404 P.2d 422 (Nev. 1965); Wyoming: Nelson v. Minnesota, 429 P.2d 324 (Wyo. 1967). In the *Nelson* case Wyoming would not recognize penalty provisions in Minnesota's tax statutes.

58. *Tax Comity*, *supra* note 53, at 100.

59. P-H STATE & LOCAL TAXES, *supra* note 39.

60. N. Y. TAX LAW § 902 (McKinney 1962) (emphasis added).

political subdivisions does not mean that they are without privilege in the foreign state.[61] Another variation is that in two states, New Jersey and Texas, the right to sue is limited to specific taxes.[62]

The state of Washington's reciprocal act is one of the most narrowly drawn. This statute permits reciprocal tax suits but prohibits tax suits against the state of Washington or any of its political subdivisions. Of greater significance is the provision whereby Washington refuses to allow a tolling of the statute of limitations of the taxing state due to the taxpayer's absence from such state.[63]

The converse of the Washington comity statute is the Hawaii statute which does not require positive action by the foreign state for reciprocity.

> Should a claim be made in the state courts for taxes by a state whose highest court has not yet passed upon the question of enforcing extra-state revenue laws, the courts of the state shall enforce such claims until the highest court of that state prohibits the enforcement of extra-state revenue laws.[64]

A representative statute is contained in the Virginia Code, section 58-1021.1, which expressly provides for political subdivisions. Moreover, it not only provides for those states having reciprocal legislation but also those states which extend comity through case law.[65]

As a practical matter, however, the success of reciprocal legislation should not be understated. Variations in the statutes have not created an overabundance of comment and the desired result of correcting the problems created by the *Harbeck* rule has been adequately accomplished through a network of reciprocal legislation. There is little doubt that in the near future the five jurisdictions still adhering to the minority view will reverse their position.

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61. P-H STATE & LOCAL TAXES, *supra* note 39.

62. N.J. STAT. ANN. §§ 54:8A-46, 54:32B-23 (Supp. 1969-70); TEX. TAX–GEN. art. 20.17 (1969).

63. WASH. REV. CODE ANN. § 4.24.140 (1962). *See also* Alaska v. Petronia, 418 P.2d 755 (1966).

64. HAWAII REV. STAT. § 231-26 (1968).

65. VA. CODE ANN. § 58-1021.1 (Replacement Vol. 1969).