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Domestic Relations—Husband-Wife—Alimony Pendente Lite

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Alimony Pendente Lite

Pending an action for divorce, annulment or separation in New York, the court at its discretion, by order, may require the husband to provide the necessary monies to support the wife and children and to enable the wife to carry on or to defend the action.³⁸ Such payments, frequently referred to as alimony *pendente lite*, apply only while the court has jurisdiction over the parties.³⁹ Enforcement of payments by the proper motion is deemed applicable only where the court has jurisdiction⁴⁰ and is therefore lost where the action is terminated,⁴¹ e. g., by settlement,⁴² abandonment,⁴³ discontinuance,⁴⁴ dismissal of complaint.⁴⁵

In *Polizotti v. Polizotti*⁴⁶ the husband was delinquent in temporary alimony payments. The wife was held unable to punish her husband for civil contempt⁴⁷ for although the motion was made prior to dismissal of her petition for separation the finding of civil contempt was rendered after dismissal of the petition for separation. The Court of Appeals held that the Appellate Division did not have the jurisdiction or power to modify the contempt order, dating it *nunc pro tunc*⁴⁸ as of date of wife's motion.

IX. LABOR LAW.

Internal Union Management

In *Maltese v. Dubinsky*,¹ the Court of Appeals had to determine the validity of a provision of defendant union's constitution. Plaintiff was elected business agent of Local Union 48, International Ladies' Garment Workers' Union, an unincorporated association. The constitution and by-laws of the International

38. C. P. A. § 1169.

39. *Ibid.*

40. *Karlin v. Karlin*, 280 N. Y. 32, 19 N. E. 2d 669 (1939).

41. A motion, C. P. A. § 113, relates to an incidental question collateral to the main object of an action and is dependent on the principal remedy. *Matter of Tilden*, 117 Misc. 656, 191 N. Y. Supp. 766 (Surr. Ct. 1922).

42. *Conklin v. Conklin*, 201 App. Div. 170, 194 N. Y. Supp. 685 (1920), *aff'd*, 234 N. Y. 546, 138 N. E. 441 (1922).

43. *Carbulon v. Carbulon*, 293 N. Y. 375, 57 N. E. 2d 59 (1944).

44. *Matter of Thrall v. Thrall*, 12 App. Div. 235, 42 N. Y. Supp. 439 (1st Dep't 1896), *aff'd*, 153 N. Y. 644, 47 N. E. 1111 (1897).

45. *Hayes v. Hayes*, 150 App. Div. 842, 135 N. Y. Supp. 225 (2nd Dep't 1912), *aff'd*, 298 N. Y. 600, 102 N. E. 1104 (1913).

46. 305 N. Y. 176, 111 N. E. 2d 869 (1953).

47. JUDICIARY LAW § 753.

48. The function of an order *nunc pro tunc* is to correct irregularities in the entry of judicial mandates or like procedural errors, *Mohrman v. Kob*, 291 N. Y. 181, 51 N. E. 2d 921 (1943).

1. 304 N. Y. 450, 108 N. E. 2d 604 (1952).