of past offenses. Though the crime in the present case, committed fourteen years before, should perhaps be given little weight, to deny the judge the privilege of considering it altogether would be unnecessarily depriving him of valuable information in exercising his discretion in the fixing of the penalty.

FLORENCE BROADY

Equity—Suit upon Foreign Decree for Alimony—Enforcement by Contempt Proceedings—[Minnesota].—The plaintiff, having been awarded alimony in a divorce action in South Dakota, sought to recover the accrued alimony in an equitable suit in Minnesota, and asked, that the decree make provision for enforcement by contempt. The trial court, having found that the plaintiff's legal remedy was inadequate because the defendant persisted in making salary assignments to his wife, rendered a decree for payment of the accrued alimony, and provided for enforcement of the decree by contempt proceedings. *Held*, decree affirmed. *Ostrander v. Ostrander*, 252 N.W. 449 (Minn. 1934).

If the amount of accrued alimony may not be affected by the court awarding the decree, action upon it is usually permitted in a foreign court. *Mayer v. Mayer*, 154 Mich. 386, 117 N.W. 890 (1908); *Williamson v. Williamson*, 169 App. Div. 597, 155 N.Y.S. 423 (1915). Where the legal remedy is inadequate, and there is no affirmative objection, such action should be permitted in a court of equity. Pomeroy, Equity Jurisprudence (4th ed. 1918), § 220. The court in the principal case, having concluded that the plaintiff's legal remedies were inadequate [see McClintock, Adequacy of Ineffective Remedy at Law, 16 Minn. L. Rev. 233 (1932)], provided for enforcement of the decree by contempt proceedings on the ground that the case came within the terms of a statute permitting the use of such proceedings "in all cases where alimony or other allowance is ordered or decreed to the wife or child." Mason's Minn. Stat. (1927), § 8604. Under a similar statute a Michigan court came to the opposite and perhaps justifiable conclusion that the statute did not refer to decrees of foreign courts. *Mayer v. Mayer*, 154 Mich. 386, 117 N.W. 890 (1908).

It is believed, however, that the same result as in the principal case could have been reached independently of the statute. One of the inherent powers of a court of equity is to enforce its decrees by the process of contempt. 4 Pomeroy, Equity Jurisprudence (4th ed. 1918), § 1433. A state, however, may place certain limitation upon this power. It has been held that statutes making available common law execution for the enforcement of equity decrees restrict the equity court's attaching power to those cases where the remedy by execution has been exhausted, or where it would be futile to pursue it. *Klimek v. Borkowski*, 259 Mich. 383, 243 N.W. 313 (1932), note, 31 Mich. L. Rev. 731 (1933); *Harris v. Elliott*, 163 N.Y. 269, 57 N.E. 406 (1900). The majority of jurisdictions, however, hold that such a statute merely creates an additional method of enforcing an equitable decree. *Wightman v. Wightman*, 45 Ill. 167 (1867); *White v. White*, 233 Mass. 39, 123 N.E. 389 (1919). The Minnesota divorce statute provided for sequestration, but such process would have been futile in the principal case. Cf. *People v. Wagner*, 117 Misc. 526, 191 N.Y.S. 697 (1921).

It is generally held that the usual constitutional guarantee against imprisonment for debt restricts the power of a court of equity to enforce its money decrees. *Coughlin v. Ehbert*, 39 Mo. 285 (1866); *People v. Pape*, 230 App. Div. 649, 246 N.Y.S. 414 (1930); *Brierhurst Realty Co. v. Lambrecht*, 299 Pa. 9, 149 Atl. 863 (1930). A minority of courts,

however, reason that such a constitutional provision prevents attachment where the defendant is unable to comply with the terms of the decree, but not where he is able to comply but refuses, as in the present case. It is said in the latter case the imprisonment is not for the debt but for the contempt in refusing to pay. *Hurd v. Hurd*, 63 Minn. 443, 65 N.W. 728 (1896). Such an analysis leads to the conclusion that the equity courts' power is not in reality restricted, for inability to comply with a decree traditionally purged a defendant of contempt. *Blake v. People*, 80 Ill. 11 (1875); *Davison v. Davison*, 125 Kan. 807, 266 Pac. 650 (1928); *Lakewood Trust Co. v. Lawshane Co.*, 102 N.J.Eq. 270, 140 Atl. 334 (1928); but see Cook, Powers of a Court of Equity, 15 Col. L. Rev. 106, 112, n. 18 (1915).

Even if it is assumed that the imprisonment for debt provision restricts the power of a court of equity to enforce money decrees, it is generally held that the obligation to pay alimony is not a debt within the meaning of the constitutional provision. *Wightman v. Wightman*, 45 Ill. 167 (1867); *White v. White*, 233 Mass. 39, 123 N.E. 389 (1919); *contra, Coughlin v. Ehbert*, 29 Mo. 285 (1866). And the nature of the obligation should not be altered when the original alimony decree is merged in the decree in the present suit. *White v. White*, 233 Mass. 39, 123 N.E. 389 (1919).

HOWARD SIEGEL

Insurance—Sunstroke as Death by Accidental Means—[Federal].—The petitioner as beneficiary sought recovery upon two insurance policies providing for payment upon death from "external, violent and accidental means"; one policy excluded liability if death resulted "wholly or partly from disease or physical or mental infirmity." The declaration alleged that insured suffered a sunstroke while playing golf and that there was, unknown to him, a "temporary disorder or condition of his body not amounting to a physical or mental infirmity." *Held*, that the order sustaining the demurrer be affirmed. *Landress v. Phoenix Mut. Life Ins. Co.*, 54 Sup. Ct. 461 (1934). Cardozo, J., dissenting.

Doubtless the insurer in using the term "death by external, violent and accidental means" rather than "accidental death" intended to limit liability to cases in which some accidental *means* caused the death, as distinguished from situations where the *result* alone is accidental and the act constituting the *means* is intentional. See Vance, Insurance (2d ed. 1930), 871, § 258. This distinction between "accidental means" and "accidental result" has been universally recognized, *U.S. Mutual Assn. v. Barry*, 131 U.S. 100, 9 Sup. Ct. 755, 33 L. Ed. 60 (1889), but courts have differed in their application of it. In sunstroke cases involving facts similar to the present case, apparently all the federal courts and a number of the state courts refuse recovery because the sun's rays do not constitute a mishap or accident, and the subjection to them is voluntary. *Nickman v. N.Y. Life Ins. Co.*, 39 F. (2d) 763 (C.C.A. 6th 1928); *Paist v. Aetna Life Ins. Co.*, 54 F. (2d) 393 (D.C. Pa. 1931): *Harloe v. Cal. State Life Ins. Co.*, 206 Cal. 141, 273 Pac. 560 (1929); *Continental Casualty Co. v. Pittman*, 145 Ga. 641, 89 S.E. 716 (1916); *Semancik v. Continental Casualty Co.*, 56 Pa. Super. Ct. 392 (1914). If by accident a person is subjected to the sun's rays and dies from sunstroke, recovery is allowed; the accident is treated as the means of the death. *Richards v. Standard Accident Ins. Co.*, 58 Utah 622, 200 Pac. 1017 (1921), see *Sinclair v. Maritime Passengers Assur. Co.*, 3 El. & El. 487, 7 Jurist (N.S.) 367 (1861). The other state decisions adopt an interpretation of "accidental means" broader than that intended by the insurer, and hold that if the