

# Effect of Bankruptcy Discharge on Revocation of Motor Vehicle Operator's License for Failure to Satisfy Judgment. Ellis V. Rudy, Commissioner

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/mlr>



Part of the [Bankruptcy Law Commons](#)

---

### Recommended Citation

*Effect of Bankruptcy Discharge on Revocation of Motor Vehicle Operator's License for Failure to Satisfy Judgment. Ellis V. Rudy, Commissioner*, 1 Md. L. Rev. 259 (1937)

Available at: <http://digitalcommons.law.umaryland.edu/mlr/vol1/iss3/6>

This Casenotes and Comments is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Law Review by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact [smccarty@law.umaryland.edu](mailto:smccarty@law.umaryland.edu).

EFFECT OF BANKRUPTCY DISCHARGE ON REVOCATION OF MOTOR VEHICLE OPERATOR'S LICENSE FOR FAILURE TO SATISFY JUDGMENT. *ELLIS V. RUDY, COMMISSIONER.*<sup>1</sup>

The petitioner-appellant's license to operate a motor vehicle in the State of Maryland was suspended by the appellee-Commissioner of Motor Vehicles because he failed "to satisfy a final judgment against him for damages on account of personal injury resulting from the ownership, maintenance, use or operation of a motor vehicle," within 30 days after it became final, as required by the Maryland Financial Responsibility Law.<sup>2</sup> Later the petitioner was adjudicated a bankrupt and was granted a discharge in bankruptcy. This was admittedly a defense to any further action on the judgment. Petitioner applied for reissue of his license on furnishing proof of financial responsibility. The Commissioner refused on the ground that the statute requires the license to remain suspended while the judgment is "unstayed, unsatisfied and subsisting and until" it "is satisfied or discharged and until proof of ability to respond in damages for future accidents is furnished" and held that a discharge in bankruptcy is not a satisfaction of the judgment within the contemplation of the Act. The petitioner brought a proceeding for a writ of mandamus to compel the reissue of the license. The trial court sustained a demurrer to the petition and petitioner appealed. HELD: Reversed and remanded for issuance of writ.

<sup>1</sup> — Md. —, 189 Atl. 281 (1937).

<sup>2</sup> Md. Code Supp., Art. 56, Secs. 187 to 187R, incl.

The Court expressly reserved its opinion on the general validity of the statute, because upon their construction of it the petitioner was entitled to his license. In view of the Court's reservation of opinion, the validity of any provision in the financial responsibility laws relating to motorists may be subjected to future judicial scrutiny.

Apart from the question of bankruptcy, the validity of a statute requiring a judgment debtor motorist to satisfy a judgment within certain limits on condition of forfeiture of his license to operate or permission to own a motor vehicle is usually upheld as a valid exercise of the state's police power and authority over the public highways.<sup>3</sup> So, too, statutory provisions requiring proof of financial ability to respond in damages as a condition to receipt of a license to operate or register a car have been favorably reviewed in advisory opinions of the highest courts of Massachusetts and New Hampshire<sup>4</sup> and seem not to have been attacked.

The question of financial responsibility of motorists to respond in damages to the public has received the attention of several state legislatures.<sup>5</sup> Some States require proof of financial responsibility only of those persons deemed most likely to be involved in accidents.<sup>6</sup> Others require proof of financial responsibility both from such persons and those who have caused motor vehicle accidents without satisfying judgments based thereon. Maryland<sup>7</sup> and New York<sup>8</sup> are in this class. In addition, these statutes provide that the judgment debtor must "satisfy" a prior judgment arising out of the operation of a motor vehicle. Still other jurisdictions (Massachusetts and England<sup>9</sup>) have gone the entire way by requiring proof of financial ability to respond in damages of every motorist before he is permitted to drive a motor vehicle. In the principal case the court

<sup>3</sup> See *Watson v. Division of Motor Vehicles*, 212 Cal. 279, 298 Pac. 481 (1931); *Opinion of the Justices*, 251 Mass. 617, 147 N. E. 680 (1925). *Munz v. Harnett*, 6 F. Supp. 158 (D. C. S. D. N. Y. 1933); *Garford Trucking, Inc., v. Hoffman*, 177 Atl. 882 (N. J. 1935); *State v. Price*, 63 Pac. (2) 653 (Ariz. 1937); *Sheehan v. Division of Motor Vehicles*, 140 Cal. App. 200, 35 Pac. (2) 359 (1934).

<sup>4</sup> *Opinion of the Justices*, 81 N. H. 566, 129 Atl. 117, 39 A. L. R. 1023 (1925); *Opinion of the Justices*, 251 Mass. 617, 147 N. E. 680 (1925); and see *Opinion of the Justices*, 171 N. E. (Mass.) 294, 69 A. L. R. 388 (1930); *Commonwealth v. Funk*, 186 Atl. 65 (Pa. 1936).

<sup>5</sup> See Heyting, *Automobiles and Compulsory Liability Insurance* (1930) 16 A. B. A. J. 362.

<sup>6</sup> See *e. g.* Conn. Gen. Stat. (1930) Secs. 1561, 1590, 1600, as amended by Conn. Pub. Acts 1931, Secs. 294a-300a; N. J. Comp. Stat. (Supp. 1930), Secs. 135, 119, 128, as amended by N. J. Laws 1930, c. 267, *id.* 1931, c. 169.

<sup>7</sup> Md. Code Supp., Secs. 187A, 187B.

<sup>8</sup> N. Y. Cons. Laws, c. 71, "Vehicle & Traffic Laws," Sec. 94-B.

<sup>9</sup> Mass. Gen. Laws (1932) c. 90, Secs. 34A-34J; *id.* c. 175, Sec. 113A; 20 and 21 Geo. V., c. 48, Secs. 35-38 (1930).

holds that construing the statute so as to require the suspension of license to continue after discharge in bankruptcy will frustrate the purpose of the Federal Bankruptcy Act. This purpose is to release the bankrupt from all of his provable debts<sup>10</sup> and to relieve the honest debtor from the weight of oppressive indebtedness in order to enable him thereafter to begin afresh free from obligations and liabilities that have become heavier than he could discharge.<sup>11</sup> The Court construed the act so as to avoid the conflict since there was no unequivocal expression of a different intention by the legislature.

An act of the General Assembly<sup>12</sup> now awaiting the Governor's approval specifically declares that "discharge in bankruptcy or under insolvency proceedings shall not relieve such person . . . from the obligation to satisfy such judgment before having his license renewed." If approved, its validity under the Federal Constitution<sup>13</sup> may be questioned, in view of the policy of the Congress as declared in the Bankruptcy Act. There is a conflict in the decisions of the federal district courts of New York on the validity of a similar provision in the Laws of New York.<sup>14</sup> *In Re Perkins*,<sup>15</sup> a decision by a single judge sitting in bankruptcy, restrained a judgment creditor from transmitting a copy of an unsatisfied judgment to the Commissioner of Motor Vehicles. *Munz v. Harnett*<sup>16</sup> in which a three judge court convened pursuant to Section 266 of the Judicial Code<sup>17</sup> refused to restrain the Commissioner from suspending the plaintiff's chauffeur's license and owner's registration certificate upon receipt of properly certified copies of a judgment record showing that an unsatisfied judgment arising out of a motor vehicle accident was outstanding against him.

A discharge in bankruptcy has never been regarded as a satisfaction of a judgment, but only bars the judgment creditor's civil remedies to collect.<sup>18</sup> The Financial Re-

<sup>10</sup> Bankruptcy Act, Secs. 1 (12), 17 (U. S. C., Title 11, Secs. 1 (12), 35).

<sup>11</sup> *Williams v. U. S. F. & G.*, 236 U. S. 549, 59 L. Ed. 713, 35 S. Ct. 289 (1915).

<sup>12</sup> Md. Laws, 1937, Ch. 30; Md. H. B. 20, 1937 Session.

<sup>13</sup> "The Congress shall have the power . . . to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States." U. S. Const., Art. I, Sec. 8.

<sup>14</sup> N. Y. Vehicle & Traffic Law, Sec. 94B.

<sup>15</sup> 3 F. Supp. 697 (D. C. N. D. N. Y. 1933).

<sup>16</sup> 6 F. Supp. 158 (D. C. S. D. N. Y. 1933).

<sup>17</sup> U. S. C., Title 28, Sec. 380.

<sup>18</sup> *Dimock v. Revere Copper Co.*, 117 U. S. 559, 29 L. Ed. 994, 6 S. Ct. 855 (1886); and see cases cited by Parke, J. in *Ellis v. Rudy*, 189 Atl. 281, note 3, p. 283.

sponsibility statute does not require the judgment debtor to pay in spite of his discharge, but provides that he shall not drive or own a car unless he does pay. It is defended on the ground that it will tend to cause owners and operators of motor vehicles to take pains to avoid having judgments for negligent driving entered against them. This is expected to reduce casualties on the road.<sup>19</sup> The statute has a tendency to require persons of inadequate means to take out insurance, without going to the ultimate extreme of requiring compulsory insurance of everyone, regardless of his financial responsibility. This policy, too, is regarded as proper.<sup>20</sup> A decision<sup>21</sup> holding invalid a city ordinance requiring dismissal of any employee who failed to pay a judgment outstanding against him, irrespective of a discharge in bankruptcy, is clearly distinguishable, because "the ability to pay debts in general has no relation to the qualifications of the bankrupt as a fireman. The statute does not say that no discharged bankrupt shall drive an automobile."<sup>22</sup>

Compare the decision of the Supreme Court holding invalid a state law enforcing an assignment of future wages to secure a debt after the debtor has been discharged of that debt in bankruptcy.<sup>23</sup> The pending statutory provision purporting to change the rule of the principal case is probably constitutional.<sup>24</sup> But quære if the present additional requirement that the motorist must also furnish proof of financial responsibility if he satisfies the judgment after 30 days, but not if he does so within 30 days,<sup>25</sup> is valid. Perhaps reasonable promptness in satisfying judgments is as good a tangible manifestation of ability to do so as would be the filing of a policy of liability insurance.

---

<sup>19</sup> *Munz v. Harnett*, *supra* note 16 at 160.

<sup>20</sup> *Supra* note 3.

<sup>21</sup> *In Re Hicks*, 133 Fed. 739 (D. C. N. D. N. Y. 1905).

<sup>22</sup> *Patterson, J. in Munz v. Harnett*, *supra* note 16 at 161.

<sup>23</sup> *Local Loan Co. v. Hunt*, 292 U. S. 234, 78 L. Ed. 1230, 54 S. Ct. 695 (1934). Reviewed in (1934) 21 Va. L. Rev. 220.

<sup>24</sup> See (1934) 47 Harv. L. Rev. 870; (1933) 43 Yale L. J. 344; (1934) 19 Cornell L. Q. 278; (1933) 11 N. Y. U. L. Q. Rev. 277.

<sup>25</sup> Md. Code Supp., Art. 56, Sec. 187B.