Review of Pennsylvania Legislation 1939 - Motor Vehicles
Amendments to the Uniform Automobile Liability Security Act

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portunity of entering bail. In the event bail is entered, a hearing must be had not more than ten days from the day of the arrest.

Section 1220 (c) now furnishes the mechanics for the destruction of abandoned or wrecked vehicles.

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b. Amendments To The Uniform Automobile Liability Security Act

The 1939 Session of the Legislature made several changes in the Uniform Automobile Liability Security Act, more commonly known as the Financial Responsibility Act, which it is believed will be helpful to the motorists of the Commonwealth. These changes, which were made by the Act of June 24, 1939, P.L. 1075, mitigate some of the severity of this statute without encroaching upon its protective features.

Section 8 of the Act originally provided that an operator's license should not be reissued to any person, who within the twelve months preceding his application for renewal had negligently caused injuries or damages exceeding $100.00 to any other person, until such operator had established financial responsibility in the manner required in the Act. Where the amount of the damages or injuries exceeded $100.00, the negligence of the operator would be presumed. The operator, however, upon his request, would be given the opportunity of a hearing before a representative of the Secretary of Revenue. If he exculpated himself, his operator's license would be reissued without further requirement. However, if he was unable to overcome the presumption of negligence, his operator's license could only be reinstated after he had shown his financial responsibility. It is notable, however, that there was nothing in this section that would keep off the highways a person who had been found to be negligent at such hearing, if such person could find an insurance company that would vouch for him. Under this section, the all-important qualification was the means to respond in damages to possible future claims. The 1937 Legislature concluded that a person who had voluntarily paid all claims against him, arising from a motor vehicle accident, had satisfactorily shown his ability and disposition to satisfy possible claims based upon future accidents. It accordingly provided that Section 8 should not apply to a person who had, in such manner, demonstrated his character and financial worth.

It should be apparent, also, that by this means the Legislature encouraged the settlement of some claims founded upon motor vehicle accidents.

The idea that Section 8 was designed primarily to assure the financial re-

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1See McHugh, After the Automobile Accident in Pennsylvania, 41 Dick. L. Rev. 213.

275 Purd. Stats. (Pa.) § 1260.
responsibility of those operators who had given the tangible evidence of their fallibility specified in this section received further recognition and impetus from the Legislature of 1939. It amended this section so as to exempt from its application those persons who carried insurance at the time of the accident. In brief, the scope of the exemption was broadened so as to include, not only those persons who had satisfied claims that had been made against them, but also persons on whose behalf insurance companies had contracted to satisfy the legal liability that might arise from a future motor vehicle accident. A criticism of the Financial Responsibility Act that is heard more frequently, perhaps, than any other is that it too frequently has the effect of "locking the barn after the horse is stolen." Our Legislature, by extending the inducement of exemption from the provisions of Section 8 to persons carrying insurance, has met this criticism to the extent, at least, that this amendment influences operators to carry insurance.

In evaluating this amendment to Section 8, it should be remembered that these amendments in no way militate against or even touch upon the provisions of the Financial Responsibility Act pertaining to the effect of unsatisfied judgments or upon the authority of the Secretary of Revenue to require any person, whose operator's license has been suspended, to establish his financial responsibility.

A much needed amendment was made to Section 11 of the Act. This section originally provided that if a person failed to satisfy a judgment in excess of $200.00, resulting from his operation of a motor vehicle within fifteen days after such judgment became final his operator's license and motor vehicle registration should be suspended and should remain suspended until he had satisfied such judgment and given proof of his financial responsibility. The 1937 amendment provided that this section should become operative when a person allowed a judgment to remain unsatisfied for more than twenty days after it had been recorded. Under the original statute, the defendant was not subject to the operation of this section unless he failed to satisfy the judgment within fifteen days after it became final, that is, after either, (a) the period for appeal had expired and no appeal had been taken, or (b) an appeal, having been taken, the judgment became final by being affirmed. The purpose of the 1937 amendment was to remove from the highways at the earliest possible moment accident-prone operators who were unable to make recompense for the damages and injuries that they had inflicted or were likely to inflict. It was soon apparent that this amendment had gone wide of its mark. One question presented to the Department of Revenue was whether or not a defendant who was able and willing to immediately satisfy a judgment entered against him should be required to establish financial responsibility or lose his operator's license, when the plaintiff was a minor and more than twenty days elapsed between the recording of the judgment and the appointment of a guardian. This question and other equally troublesome ones persuaded the 1939 Legislature to reinstate the original language in the statute. This section, therefore, now pro-
vides, as it formerly did, that its terms shall not become operative until fifteen days after the judgment has become final.

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VIII. Practice

a. Conditional Sale Contracts Judicial Records

The Act of May 4, 1939, makes a conditional sale contract, filed in the prothonotary's office, a judicial record. Just why it was conceived to be necessary to so provide is difficult to understand, in view of the fact that in Delco Ice Mfg. Co. v. Frick Co., Inc., the Supreme Court decided this very question. The Court, in an opinion by Justice Kephart, distinguished between matters recorded in the office of the recorder of deeds, and papers directed to be filed in the prothonotary's office. It was held that an act, in providing that a paper be filed in the prothonotary's office, "may give the record a quasi judicial character," and specifically that the provisions of the Act of 1925, with reference to conditional sales, do give the characteristics of a judicial record to the contract filed in pursuance of said Act. It may be that the Legislature thought that an amendment of the Act itself, declaring what the Supreme Court had already decided, might be useful to bring notice to laymen who have had access only to the Act itself. But will they understand the significance of the enactment?

Since the decision in the Delco case, it has been decided that the only proper way to secure the striking off of the entry of satisfaction of a mortgage is by bill in equity, and that one may not proceed by petition and rule to show cause, since the recording of a mortgage does not constitute a judicial record. In the Delco Ice Mfg. Co. case it had been held that a proceeding by petition and rule to strike off a conditional sale contract is proper, though generally such a proceeding is proper only in the course of pending litigation.

b. Jurisdiction to Modify Support Orders

The Act of June 19, 1939, confers "jurisdiction upon the courts of the Commonwealth of Pennsylvania over support orders made by it." Section one provides:

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1P. L. 43, 69 PURD. STATS. (Pa.) § 403.

1P. L. 440, 17 PURD. STATS. (Pa.) § 265.