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MOTOR VEHICLES—REVOCATION OF DRIVER'S LICENSE

Lawrence I. Driver, Jr., had previously been convicted of "grand larceny of an automobile . . . a felony." The record did not disclose how or by what means the larceny of the automobile was effected. Upon receipt of the abstract of conviction the Acting Commissioner of the Division of Motor Vehicles under authority of Code Section 46-416(4)¹ entered an order revoking Driver's license to operate a motor vehicle in Virginia for a period of one year. When notice of this revocation was received, Driver instituted a suit in equity charging that the revocation was illegal and praying that the Commissioner be required to reinstate his registration plates and driver's license. The Commissioner was enjoined from revoking Driver's license and registration plates because of his conviction, and the former appealed contending that the stolen automobile was "used" in the commission of the felony of grand larceny within the meaning of the statute. Upon appeal, *held*, affirmed. The purpose of the act is to remove from the highways those drivers who endanger the public and who *operate* motor vehicles in the perpetration of serious crimes. "Simply because an automobile was stolen, it does not necessarily follow that it or any other motor vehicle has been run, operated, or driven, and thus 'used' in effecting the crime." *Lamb v. Driver*, 196 Va. 393, 397, 83 S.E. 2d 741, 744 (1954).

The Court should have given a more liberal interpretation to the statute. It did exactly this in *Joyner v. Matthews*² where liability was imposed on the owners of motor vehicle carriers hauling weight in excess of the maximum provided for by Section 46-334 of the Virginia Code of 1950. The drivers had been arrested and convicted in each instance under Section 46-334, and

¹ Va. Code §46-416 (1950): "The Commissioner shall forthwith revoke, and not thereafter reissue during the period of one year, the license of any person, resident or non-resident, upon receiving a record of his conviction of any of following crimes, committed in violation of either State law or of a valid town, city, or county ordinance paralleling and substantially conforming to a like State law and to all changes and amendments of it:

(4) Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is used . . ."
² 193 Va. 10, 68 S.E.2d 127 (1951).

the Commonwealth claimed that the owners were now liable under Section 46-338.1 for the penalties provided for "every person, firm or corporation" convicted under Section 46-334. The owners argued that they had never been convicted of violating Section 46-334; therefore Section 46-338.1 was not applicable to them. The Court held that such a contention was not a sound one since the owners were responsible for and caused the violations of Section 46-334, and hence were equally guilty with the drivers. It was held that Section 46-338.1 is a remedial statute and should be *liberally construed* so as to carry into effect the legislative will which prompted its passage.

Why should Section 46-338.1 be liberally construed and Section 46-416(4) strictly construed? Granted that the purpose of the Act is to remove from the highways those drivers who endanger the public and who operate motor vehicles in the perpetration of serious crimes, would it not be in the best interest of the public to remove from the highways any person who is convicted of the crime of grand larceny of an automobile?

Since the Court has strictly interpreted Section 46-416(4), the statute should be re-worded to read ". . . or any other felony in the commission of which a motor vehicle is used *or which involves a motor vehicle in any way.*"

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