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Charging Orders under the Uniform Partnership Act

Margie Millhone

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NOTES

CHARGING ORDERS UNDER THE UNIFORM PARTNERSHIP ACT

Section 28 of the Uniform Partnership Act attempts to give a remedy by which the judgment creditor of an individual member of a partnership may reach the individual's interest in the partnership. This remedy is called a "charging order". This remedy provides for the appointment of a receiver to take the debtor's share of the profits. This act provides further that the receiver may make any order or inquiries that the case may require. This interest of the debtor partner which is charged may be redeemed before sale, or in case of a sale being directed by the court may be purchased with separate property of one of the partners or with partnership property with the consent of all the partners without causing dissolution.¹

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1. Section 28 is part of the Uniform Partnership Act approved by the Conference of Commissioners on Uniform State Law in 1914 and now the law in thirty-one states and in the Territory of Alaska. (U.L.A., vol. 7, Partnerships, 1953 Supp.). The act was adopted in Wyoming in 1917. (W.C.S. 1945, 61-107 to 61-615).

The full text of the section is as follows:

Partner's Interest Subject to Charging Order.—(1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest

The provision of the Uniform Partnership Act is modeled after a comparable provision in the English Partnership Act which was adopted in 1890.² However, the term "charging order" first makes its appearance in England in the Judgment Act of 1838.³ This act provided for the judgment creditor to charge the interest of the judgment debtor in certain types of stock.⁴

The dearth of cases and the lack of explanation of the charging order in secondary reference material⁵ would indicate that the procedure has not to date been adequately defined nor used to any degree. Even in the "Notes of Decisions" under section 28 of the *Uniform Laws Annotated* reference is made to several cases which do not construe section 28, but which are decided upon other grounds.⁶

thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in the act shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

2. 53-54 Vict., ch. 39.

The comparable section is Section 23, "*Procedure Against Partnership Property for a Partner's Separate Judgment Debt.*—(1) After the commencement of this Act a writ of execution shall not issue against any partnership property except on a judgment against the firm.

(2) The High Court, or a judge thereof, or the Chancery Court of the county palatine of Lancaster, or a county court, may, on the application by summons of any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits (whether already declared or accruing), and of any other money which may be coming to him in respect of the partnership, and direct all account and inquiries, and give all other orders and directions which might have been directed or given if the charge had been made in favor of the judgment creditor by the partner, or which the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged, or in case of a sale being directed, to purchase the same."

3. 1 and 2 Vict., ch. 110.

4. 11 C.J. 296.

5. The topic is not covered in C.J., C.J.S., or Am. Jur., nor can the author find any enlightening discussion in any text or treatise on partnerships.

6. *Upton v. Upton*, 268 Mich. 26, 255 N.W. 375 (1934) is cited to support the point that "A receiver may be authorized to enforce personal liability of partners for firm debts because such liability constitutes partnership asset and when collected is distributed proportionately upon partnership creditors." This case involved the appointment of a receiver of the partnership and not the receiver of a partner's interest under Section 28, therefore it is of little if any value in defining the rights of a receiver appointed under a charging order.

Fiorito v. Goering, 27 Wash.2d 615, 179 P.2d 316 (1947) is cited in the "Notes of Decisions" for the principle, "When court assumes jurisdiction of a partnership matter, cost of receivers, fees of accountants or auditors, masters, or referees appointed by court, and reasonable allowances for services of officers so designated, are proper items of expense to be charged against partnership funds within jurisdiction of court, but such fees and expenses are not collectable when accountants and attorneys are engaged by one of the parties litigant." However, here the court is speaking of cases "involving dissolution of a partnership and for an accounting where a receiver was appointed by the court to settle the partnership accounts."

The note to *Bressler v. Averbuck*, 322 Mass. 139, 76 N.E.2d 146 (1947) states,

In order to appreciate the position of this provision in the law of partnership today the facts and the holdings of the cases that have applied or discussed Section 28 will be cited.

In *Rader v. Goldoff*,⁷ Rader was the judgment creditor of Goldoff. Rader procured a third party order in proceedings supplementary to execution, enjoining a bank from transferring any property belonging to the judgment debtor individually or as a copartner. The effect of this order was equivalent to an actual levy upon the bank account of the judgment debtor's firm. The court said the result was in direct contravention of section 25, subsection 2, paragraph (c), "A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership." The court said the appropriate method of reaching a judgment debtor's interest in partnership property is by Section 28.

In *Northampton Brewery Corporation v. Lande*⁸ the plaintiff caused a writ of attachment to be served upon a partnership in which defendant was a partner. The court said that this was in violation of section 25, subsection 2. The court then quoted section 28 as a possible remedy. When the case came up again the court affirmed an order of the lower court directing that receiver be appointed to determine the value of defendant's interest in the partnership.⁹

In *Cameron v. Superior Court*¹⁰ the creditor's judgment was reversed on appeal causing an automatic destruction of the charging order.

Plaintiff and defendant were partners in *Sherwood v. Jackson*.¹¹ An application to dissolve the partnership had been presented to the court and a receiver had been appointed. After the appointment of the receiver plaintiff suffered personal injuries caused by the defendant and secured a judgment for the injuries. Without notice to the defendant, execution was levied upon his interest in the partnership and the defendant's interest was sold. In the damage suit defendant gave notice of a motion to recall the execution and to squash the execution sale. The court granted the motion stating that under the Uniform Partnership Act "a partner's right in specific partnership property is neither subject to attachment nor to levy under execution, but on the other hand that a creditor is fully protected by the power of a court of competent jurisdiction to 'charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt'."

"Defendant's interest in partnership property may be reached and applied in creditor's bill brought to recover under gaming statute for money lost at gambling." Although Massachusetts had the Uniform Partnership Act, this action was brought under a statute which was not part of the Act, Ch. 214, § (7). This statute was specifically preserved by statute at the time the Uniform Act was adopted in Massachusetts.

7. 223 App. Div. 455, 228 N.Y.S. 453 (1928).
8. 133 Pa. Super. 181, 2 A.2d 553 (1938).
9. 138 Pa. Super. 235, 10 A.2d 583 (1940).
10. 88 Cal. App.2d 597, 199 P.2d 450 (1948).
11. 121 Cal. App. 354, 8 P.2d 943 (1932).

In *Scott v. Platt*¹² the fact situation is somewhat complicated. The plaintiff was the judgment creditor of the defendant who was later adjudged bankrupt. More than four months prior to the adjudication of bankruptcy, a writ of execution was issued; accompanying the writ of execution was a notice of garnishment which brought forth from the partnership of which defendant was a member, a certificate that the partners possessed nothing belonging to the defendant. Within four months of defendant's adjudication in bankruptcy another writ of execution was issued and another notice of garnishment was served upon the partnership. The return was similar to the ones just described. The action in the named case was brought after the defendant was adjudged bankrupt. The action was brought under section 28 to charge the interest of the defendant in the partnership. In this case it appears that plaintiff's position is that section 28 is a proceeding for a foreclosure of an alleged lien, and that such a preferential lien was obtained by the writ of execution.

The court states that the creditor abandoned any levy under the first writ and that second writ was followed within four months by the adjudication of bankruptcy, thus failing to establish the purported preferential lien. The court states further that the charging order would fail because the defendant was adjudged a bankrupt before the petition in this cause was filed. The petition, the court states, is in no way related to the writ of execution or to the notice of garnishment. This is the principle of interpretation that is important in this case. Section 28 is not in aid of execution, attachment or garnishment; nor does it constitute a means whereby a lien may be foreclosed. It is an independent proceeding.

There is another principle given in the case which indirectly interprets the rights arising under the charging order. The plaintiff contended that under section 31 of the Uniform Partnership Act when the writ of execution and garnishment was served the partnership dissolved as a matter of law. The significant language of section 31 is:

"Dissolution is caused:

"(1) Without violation of the agreement between the partners,

"(c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, . . ."

The court construes this section as conferring upon the partners who have not assigned their interests, and who have not suffered them to be charged with their separate debts, the privilege of dissolving the partnership.

The case of *Ribero v. Calloway*¹³ involved an appeal by two partners other than the judgment debtor from a charging order issued against the judgment debtor. The appellants and the partnership were made parties to the proceedings by being given notice of the motion. The court held that the appearance of the partners to deny that the judgment debtor was

12. 177 Ore. 515, 163 P.2d 293 (1945). Rehearing denied, 164 P.2d 255 (1945).

13. 87 Cal. App.2d 135, 196 P.2d 109, 111 (1948).

interested in the partnership was sufficient for the partners to appeal from the charging order as parties aggrieved. The court discussed the English law which requires service on the copartners. The court states, "It seems expedient that copartners should from the beginning have an opportunity to prevent unwarranted charging orders in behalf of creditors of persons clearly without interest in the partnership."

The appellants objected to the appointment of a receiver of the debtor partner's interest as provided in section 28. The appellants objected on the basis that the respondents made no showing that the relief was necessary in order to preserve and protect the rights of the parties, or that the result could not be obtained by less stringent means as by a sale of the interest charged. The court said that the manner of reaching the judgment debtor's interest did not concern the appellants; that only the judgment debtor could object to the proceedings on this point and that he had not done so.

In the case of the *First National Bank of Charleston v. White*¹⁴ the plaintiff obtained a judgment by confession and caused an execution thereon to be placed in the hands of the sheriff. The following day the defendant entered into a contract by which he conveyed his interest in the partnership to his partner for the consideration of one dollar. The day after the contract was made the plaintiff filed his petition in pursuance of provision 28. The court said that in Illinois "prior to the passage of the act, a creditor having a judgment and execution against an individual member of a partnership could levy his execution against the individual interest of the judgment debtor in the partnership estate and sell such interest, but the purchaser could not, in any manner, interfere with the partnership property until there had been an accounting of the partnership, the partnership debts first were paid and until the partnership affairs were settled and it was determined what the interest of the judgment debtor as a partner was." The court held that section 28 merely takes the place of the levy and sale under the former act; that the "reasonable construction of the act is that one suffers his interest to be charged for his separate debts when he permits a judgment to be taken against him and execution to be placed in the sheriff's hands." Therefore the rights of the judgment creditor attached by virtue of the judgment and execution. "The Uniform partnership Act has merely done away with the 'levy and sale' upon execution and provided a remedy by a receivership."

The conclusion reached by this lower Illinois court that the rights of judgment creditor of an individual member of a partnership attach by virtue of the judgment and an execution thereon seems somewhat strained under the language of the statute that a charging order "may be obtained upon due application."¹⁵

A means of obtaining the same result is suggested in *Spitzer v. Buten*.¹⁶

14. 268 Ill. App. 414 (1932).

15. U.P.A., sec. 28.

16. 306 Pa. 556, 160 Atl. 444 (1932).

In that case nine months after the confession of judgment but prior to the charging order sought by the plaintiff all of the partners entered into an agreement whereby the defendant withdrew from the partnership to become the partnership's creditor. The court held that the case should be retried, the plaintiff properly pleading fraud. The court cited section 41, subsection 9, "Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud."

The plaintiff in *Wyoming National Bank v. Bennett*¹⁷ attempted to apply section 28 to the interest of the defendant in a corporation. The court held that this remedy was not available to an interest in a corporation. In the dictum of the case the court said, "A receiver appointed under this Act would not have the usual powers of a receiver, possessing the rights of the insolvent for the purpose of administering his estate for the benefit of the creditors under the direction of the Court. His right under this Act is not to administer but simply receive the share of the insolvent partner in the profits of the concern."

The powers of the receiver are discussed in more detail in *Windom National Bank v. Klein*¹⁸ by the highest court in Minnesota. The plaintiff was a receiver appointed under section 28. He brought an action to annul a chattel mortgage of certain specific property of the partnership executed, not by or for the firm, but individually by partners to secure their own individual debts. The court held that the receiver had the right to have the nullity of the mortgage adjudicated. "Such a receiver is entitled to any relief under the language of the statute 'Which the circumstances of the case may require' to accomplish justice under the law. Obviously, a part of such relief is the avoidance of any unauthorized attempt to dispose of partnership property. . . . While he is not entitled to share in the management of the firm as a partner, the receiver would be of little use if he could not protect profits and surplus by preventing such unauthorized and illegal dissipation of firm assets as the complaint alleges in this case. . . . Hence, a receiver of the interest of one partner is entitled to any relief needed to conserve all partnership property for the payment so far as necessary of partnership creditors."

In *Frankil v. Frankil*¹⁹ the issue before the Pennsylvania lower court was whether the plaintiff was entitled to an order on the sheriff to sell the right, title and interest of the defendant in the partnership under a charging order. The court held that the language of section 28, subsection 2 would be meaningless, unless it were construed "as conferring upon the court the right to direct a sale." The court interpreted the language of this section coupled with the language of subsection one, "to make all other orders, . . . which the circumstances of the case may require," as clearly

17. 32 Luzerne Leg. Reg. Rep. 371 (Pa. 1938).

18. 191 Minn. 447, 254 N.W. 602, 605 (1934).

19. 15 Pa. Dist. & Cy. Rep. 103 (1931).

conferring upon the court the right to order the sheriff to sell the interest charged.

The only English case which sheds some light upon the interpretation of this statute is *Brown, Janson and Company v. Hutchinson*.²⁰ The issue in the case was whether a partner in a partnership registered in France but doing business in England could be subject to a charging order. Lord Justice Lindley states in explaining the new act that the charging order has no immediate effect upon the co-partners at all. "It simply amounts to this—that the interest of their co-partner in the business is charged just as if he had given an equitable charge over his interest. . . . Then, in order to give effect to that charge, provision is made for the appointment of a receiver of that partner's share and profits. The effect of that is that the appointment of a receiver operates as an injunction against the execution debtor receiving anything from his co-partners, . . . In order to get the full benefit of the charge, the section proceeds: 'The Court may direct all accounts and inquiries, and give all other orders and directions which might have been directed or given if the charge had been in favour of the judgment creditor by the partner, or which the circumstances of the case may require'. That means this—that an order may be made to take an account of what is due from the co-partners to the judgment debtor partner, and there is a clause which enable the solvent partners to treat that as a dissolution. . . . Now, that is intended unquestionably to supersede the old practice."

William Draper Lewis who completed the work on the Uniform Partnership Act upon the death of Dean Ames writes, "Section 26 deals with the second property right of a partner—his interest in the partnership. This interest is defined as his share of the profits and surplus. He may assign his interest to others, and it is also made subject to the payment of any judgments secured by a separate creditor. Thus Section 28 provides that the court which entered the judgment, or any other court, on application of a judgment creditor, may charge the interest of a partner with the payment of the unsatisfied amount of the judgment; the court appointing a receiver for his share of the profits, and making all other orders, directions and inquiries which the circumstances of the case may require.

"After the adoption of the Act, when a judgment is secured against a partner by his separate creditor, all that the creditor will have to do is to apply to the court which gave him the judgment, or any other court, to issue an order on the other partners to pay him the profits which would be otherwise paid to his debtor, or to make any further order which will result in his securing the payment of his judgment without unduly interfering with the right of the remaining partners in partnership property."²¹

From these few cases and the comments of Professor Lewis, what principles as to the construction to be given section 28 can be drawn? It

20. 1 Q.B. 737, 740 (1895).

appears that the meager discussion in our case law is insufficient to draw any conclusions.

Some of the principles given in the cases just discussed will be listed. It must be remembered that most of the principles are supported by only one or perhaps a few cases and therefore would not necessarily be controlling on a later decision.

1. The charging order supersedes the former procedure of attachment or execution against the partnership property.²²

2. Section 28 is a wholly new procedure that does not require the issuance of a writ of execution or a notice of garnishment.²³

21. 24 Yale L. J. 617, 634.

22. U.P.A., sec. 25 (2) (c); Rader v. Goldoff, Note 8, supra; Sherwood v. Jackson, Note 11, supra.

An interesting question arises in Wyoming for not only has Wyoming adopted the Uniform Partnership Act, but sections 3-4802 and 3-4803 provide for "attachment against co-partnership" and "execution against member of partnership."

"3-4802. . . . *Attachment against co-partnership.* . . . In all cases of attachment against a member or members of a co-partnership or firm and garnishment in aid of such attachment such garnishment may be served upon any other member or members of said co-partnership or firm in the same manner and with the same effect as in the case of garnishment upon execution. In every case of a garnishment against a co-partnership or firm upon execution or attachment against a member or members thereof, such co-partnership or firm may pay into court for the use of the garnishment creditor the amount of the interest in such co-partnership or firm of the garnishment defendant member or members thereof, not exceeding the amount due to the garnishment plaintiff. Should such co-partnership or firm fail to pay into court as above provided, then and in that case the garnishment plaintiff shall have the right by proceedings in equity, to cause an accounting and winding up of the affairs of such co-partnership or firm and a distribution of the proceeds; and in such equity proceeding the garnishment plaintiff shall have all the rights and remedies that would have been available in favor of any garnishment defendant or defendants in relation to the affairs of the said co-partnership or firm."

"3-4803. *Execution against member of partnership, liability in garnishment after notice.* —If the execution be against a member or members of a co-partnership or firm, and there be not sufficient property found belonging to the judgment debtor to satisfy such execution, upon the demand of the judgment creditor the officer holding the execution shall garnishee the co-partnership or firm by serving notice in writing on the other members of such co-partnership or firm, or any member of the co-partnership or firm, in the same manner as provided in Section 1 hereof, and from the time of such garnishment the co-partnership or firm shall be held responsible to the judgment creditor for the full amount of the interest held and had in such co-partnership or firm by the judgment debtor at the time of such notice of garnishment. And such proceedings shall be had to final judgment and execution as are here set forth in Section 1 of this Act."

Section 3-4802 provides for an attachment and a garnishment in aid of such attachment. Section 28 does not make any provision for an action against a partner prior to a judgment. Section 26 of the Uniform Partnership Act provides, "A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property." It would appear that there would have to be an accounting before the interests of the partner could be determined. Section 3-4802 would seem to be contrary to the general theory of the Uniform Partnership Act in that it would give a creditor of a partner an opportunity to cause the winding up of a partnership more easily than a judgment creditor. For this reason there is a strong argument that section 3-4802 has been repealed by implication.

It would appear that 3-4803 has been superceded by Section 28. Section 28 provides a means of enforcing the interest of the judgment creditor against the debtor partner without necessarily winding up the partnership. Section 3-4803 would appear almost by necessity to cause the dissolution of the partnership. As the purpose of both Acts is the same, that is the subjecting of the partner's interest in the partnership to the debt owed the judgment creditor, the later more flexible statute would seem to repeal the earlier statute.

23. Scott v. Platt, note 12, supra.

3. Under section 31 of the Uniform Act the partners who have not assigned their interests, and who have not suffered them to be charged with their separate debts have the privilege of dissolving the partnership if a co-partner assigns his interest or permits to be charged with his debts.²⁴

4. Co-partners of the alleged partner against whom a charging order is issued may appeal as parties aggrieved to deny that the judgment debtor had an interest in the partnership. They may not object to the appointment of a receiver as the means of subjecting the judgment debtor's interest to his debt.²⁵

5. Although the statute does not specifically require that the partners be given notice of the charging order, such notice appears advisable.

a. Through such notice co-partners would from the beginning have an opportunity to prevent unwarranted charging orders in behalf of creditors of persons clearly without interest in the partnership.²⁶

b. Such notice would give the uncharged partners whose interests have not been assigned an opportunity to dissolve the partnership under section 31.²⁷

6. If the judgment debtor withdraws from the partnership between the time of judgment and the execution of the charging order, the judgment creditor may under some circumstances successfully prove fraud under section 41, subsection 9.²⁸

7. The receiver under the charging order may

a. receive the share of the insolvent partner in the profits of the concern,²⁹

b. protect the profits and surplus by preventing unauthorized and illegal dissipation of the firm assets.³⁰

8. The court under a charging order may direct the sale of the right, title, and interest of the judgment debtor under the direction of the court.³¹

One of the most interesting questions that arises under Section 28 is whether a receiver must be appointed before any relief can be had under the charging order. The language of the statute is not clear on this point,

The First National Bank of Charleston v. White, note 14, supra, appears to combine execution and the charging order. Thus the court holds the rights of a judgment creditor of an individual member of a partnership in the partnership property attach by virtue of the judgment and an execution thereon, and are not wholly dependent on the judgment creditor's filing a bill of complaint under section 28; such section having merely done away with a levy and sale on execution and provided a remedy by a receivership. This construction is not supported by the Act or the other decisions.

24. Scott v. Platt, note 12, supra.

25. Ribero v. Calloway, note 13, supra.

26. Ibid.

27. U.P.A., sec. 31 (1) (c).

28. Sptizer v. Buten, note 16, supra.

29. Wyoming National Bank v. Bennett, note 17, supra.

30. Windom National Bank v. Klein, note 18, supra.

31. Frankil v. Frankil, note 19, supra.

"On due application . . . the court . . . may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt . . . ; and may then or later appoint a receiver if his share of the profits, and of any other money due or to fall due to him in respect of the partnership, . . ." ³²

Clearly Lord Justice Lindley, in the language quoted earlier, states that a receiver must be appointed to give effect to the charge.³³

The language of Professor Lewis cited earlier in this article seems somewhat contradictory as to the necessity of appointing a receiver. Professor Lewis states first ". . . the court . . . may charge the interest of a partner with the payment of the unsatisfied amount of the judgment; the court appointing a receiver for his share of the profits. . . ." In the next paragraph Professor Lewis says, "all that the creditor will have to do is to apply to the court . . . to issue an order on the other partners to pay him the profits which would be otherwise paid to his debtor. . . ." ³⁴

It is the opinion of the author that the enforcement of the charging order would be aided and the procedure better understood, resulting in greater use of Section 28, if the courts would consistently require that a receiver be appointed.

The procedure under Section 28 would then be

1. the securing of a charging order,
2. the appointment of a receiver,
 - a. the application of the judgment debtor's profits to the debt,
 - b. in the event that under the facts of the particular case the debt could not be paid in a reasonable time from the profits of the partnership, the sale of the judgment debtor's interest in the partnership.

The provision giving the receiver the power "to make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require," is merely a provision to aid the receiver in securing the judgment debtor's interest in the profits or in determining the interest of the judgment debtor in the partnership. This provision may also be used to protect the profits and surplus from illegal dissipation.³⁵

Many other questions are presented by Section 28, such as, What is a "competent court?"; What constitutes "due application?"; How far should a court go in exercising the power to make such other orders "which the circumstances of the case may require?"; If a sale of the partnership interest is ordered, by whom and in what manner should it be conducted? What

32. U.P.A., sec. 28(1).

33. *Brown, Janson and Company v. Hutchinson*, note 20, *supra*.

34. Note 21, *supra*.

35. *Windom National Bank v. Klein*, note 18, *supra*.

are the rights of non-debtor partners who redeem or purchase the interest charged?³⁶

As there is no case authority for solutions to the questions here proposed other than the issues already discussed the author will not attempt to reach any solutions.

In conclusion, although it has been forty years since the Uniform Partnership Act was first recommended by the National Conference of Commissioners on Uniform State Laws³⁷ there are still many questions arising under Section 28 which must be determined by statute, court decision, or court rule before Section 28 will be used to the full extent for which it was designed.

MARGIE MILLHONE

RADAR—BLACK MAGIC TO CATCH SPEEDERS

The observant Wyoming motorist, out, perhaps, for a Sunday afternoon drive between Cheyenne and Laramie on U. S. Highway No. 30, will notice several large black and white signs along the highway indicating, "SPEED LIMIT 60 CHECKED BY RADAR." Not being well-versed in the art of radar, he will probably shrug his shoulders and wonder what new kind of black magic the Highway Patrol has "cooked up" to apprehend speed violators. It is to be hoped that if he is cruising at more than sixty miles per hour, he will let up a little on the accelerator, not knowing what to expect from this radar check.

Radar has been used for almost half a dozen years by law enforcement agencies to catch speeders. It is now in use in most states,¹ and the Wyoming Highway Patrol has adopted it.²

In rather simplified language, here is how the radar speedmeter—"the little black box" as it has been called—works: behind the front panel of the speedmeter are two antennas; one of these sends out a cone-shaped stream of radar waves at a certain frequency in the direction the speedmeter is pointed. When a moving vehicle runs through these waves, they bounce back off of it at a different frequency from which they were sent out, and the change in frequency varies directly with the speed of the moving object off which they reflect. The second antenna catches the reflected waves and their frequency is compared with that of the waves sent

36. 28 Wash. L. R. 1, J. Gordon Gose in his article, "The Charging Order under the Uniform Partnership Act" does a most comprehensive job of discussing the effect of Section 28 and the problems that are undecided under this section.

37. U.L.A., v. 7, p. 3.

1. U.S. News & World Report, Aug. 6, 1954, pp. 36-7.

2. For information about the Wyoming Highway Patrol's use of the radar speedmeter the writer wishes gratefully to acknowledge the aid and co-operation of Col. William R. Bradley of the Wyoming Highway Patrol.