BANKRUPTCY—PROMISE AFTER ADJUDICATION TO PAY DISCHARGEABLE DEBT.—Appellant, having been adjudged a bankrupt, offered a composition to his creditors, of whom appellee was one, and borrowed $500 from appellee with which to carry into effect the terms of the composition, promising, in consideration of the loan, that after receiving his discharge he would pay appellee the residue of his claim after the distribution under the composition agreement, in addition to repaying the loan. On appellant's failure to do so, appellee brought an action on the promise, and appellant pleaded that the promise was barred by the subsequent compromise and discharge. *Held,* that the promise created a valid and binding obligation, and, being made after the filing of the petition, it was not a provable claim and not, therefore, discharged. *Zavello* v. *Reeves,* 33 Sup. Ct. 365.

It is elementary that a debt discharged by an adjudication in bankruptcy may be revived by a subsequent promise on the part of the debtor to pay; the discharge does not affect the indebtedness, but merely bars the remedy, and the original consideration supports the new promise. The issue presented in the principal case was whether this promise made after adjudication but before discharge, was renewal of a debt already barred by the proceedings in bankruptcy. A discharge releases the bankrupt from all "provable debts," with certain well known exceptions. The term "provable debts," as applied to those arising upon ordinary contracts, refers only to such as are in existence at the time of the filing of the petition. *In re Burka,* 104 Fed. 326; *In re Swift,* 112 Fed. 315; *In re Roth & Appel* (C. C. A.) 181 Fed. 667, 104 C. C. A. 649. As the date of filing the petition determines the claims that are to be affected by the discharge, it also marks the time to which the discharge reverts as a bar in case of a composition; and any promise such as the law will ordinarily recognize as reviving a pre-existing debt, will, at any time subsequent thereto, renew the obligation. A debt thus renewed is not a "provable claim" that is barred by that particular discharge. In numerous decisions by state courts the rule is declared that a promise made any time after the petition is filed will revive the debt. *Otis* v. *Gazlin,* 31 Me. 567; *Kirkpatrick* v. *Tattersall,* 1 Car. & K. 577, 14 L. J. Exch. N. S. 209, 9 Jur. 214; *Hill* v. *Trainer,* 49 Wis. 537; *Jersey City Ins Co.* v. *Archer,* 122 N. Y. 376.

BILLS AND NOTES—PROVISION FOR EXTENSION OF TIME OF PAYMENT.—A promissory note contained a provision that "the indorsers, guarantors, and assigns severally * * * consent that time of payment may be extended without notice." *Held,* that such provision does not render the note non-negotiable. *De Groat* v. *Focht* (Okl. 1913), 131 Pac. 172.

This case is another example of the failure of courts to look beyond the decisions in their own jurisdictions, and thus defeat legislators in their attempt to secure uniformity in the law. The Negotiable Instruments Law was enacted with the laudable design of securing uniformity in the law of commercial paper so that it might pass from hand to hand as ordinary currency, but that purpose has been thwarted by the courts time and time again on account of their reluctance to seek information beyond their own decisions.

The conclusion of the Oklahoma court in the above case is opposed not only to the better reasoning but to the great weight of authority. *Rossville State Bank* v. *Heslet,* 84 Kan. 315; *Woodbury* v. *Roberts,* 59 Ia. 348; *Smith* v. *Van Blarcom,* 45 Mich. 371; *Coffin* v. *Spencer,* 39 Fed. 262; *Merchants & Mechanics' Sav. Bank* v. *Frazer,* 9 Ind. App. 161; *Mitchell* v. *St. Mary,* 148 Ind. 111. Any provision permitting an extension of time without notice clearly offends against the requirement of the Negotiable Instruments Law that an instrument, in order to be negotiable, "must be payable on demand or at a fixed or determinable future time." *Second Nat. Bank* v. *Wheeler,* 75 Mich. 546; *Glidden* v. *Henry,* 104 Ind. 278. In *Coffin* v. *Spencer, supra,* the court, speaking of such a clause in a promissory note, said: "Every successive taker of the paper is, of course, bound to take notice of this stipulation, and, instead of looking only to the face of the instrument for the time of its maturity, as in case of commercial paper he must, is put upon inquiry whether or not any agreement for a renewal or extension has been made by his proposed assignor or by any previous holder." And in *Hartley* v. *Wilkinson,* 4 Maule & S. 25, Lord ELLENBOROUGH says: "How can it be said that this note is a negotiable instrument for the payment of money absolutely, when it is apparent that the party taking it must inquire into an extrinsic fact in order to ascertain if it be payable."

BILLS AND NOTES—TRANSFER AS COLLATERAL FOR PRE-EXISTING DEBT.—Plaintiff bank sued on two promissory notes transferred to it as collateral security for a pre-existing note of which it was the payee. *Held,* the transfer was in due course of trade and for a valuable consideration. *Lane et al.* v. *First Nat. Bank of Canyon City* (Texas 1913) 155 S. W. 307.

The courts are not in accord on their construction of the provision in the Negotiable Instruments Law that "an antecedent or pre-existing debt constitutes value, and is deemed such whether the instrument is payable on demand or at a future time." The point of conflict among the authorities is as to whether or not the statute includes instruments given merely as collateral security for a pre-existing debt. A minority of the courts hold that one who takes a note as additional security for a pre-existing debt, without releasing any security already held or agreeing to extend the time of payment is not a *bona fide* holder for value. *Boxheimer* v. *Gunn,* 24 Mich. 372; *Thompson* v. *Maddux,* 117 Ala. 468; *Goodman* v. *Simonds,* 19 Mo. 106; *Penn Bank* v. *Frankish,* 91 Pa. St. 339; *First Nat. Bank* v. *Strauss,* 66 Miss. 479; *Jenkins* v. *Schaub,* 14 Wis. 1. The United States courts and a majority of the state courts hold that such transferee is a *bona fide* holder and is unaffected by equities or defenses between prior parties of which he had no notice. *Swift* v. *Tyson,* 16 Pet. 1; *Maitland* v. *Citizens' Nat. Bank,* 40 Md. 540; *Nat. Revere Bank* v. *Morse,* 163 Mass. 383; *Spencer* v. *Sloan,* 108 Ind. 183; *Barker* v. *Licthenberger,* 41 Neb. 751. The law in New York on the point in question had undergone various changes as appears from three leading cases adjudicated in that state, namely, *Coddington* v. *Bay,* 20 Johns. 636; *Brewster* v. *Shrader,* 57 N. Y. Supp. 606; *Sutherland* v. *Mead,* 80 N. Y. Supp. 504; and it is now established in that state that an antecedent or pre-existing debt does