PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS

FOR THE TWO YEARS

JULY 1, 1930 - JUNE 30, 1932

STATE OF MAINE

REPORT

OF THE

Attorney General

---

for the calendar years

1931-1932

OPINIONS OF THE ATTORNEY GENERAL'S DEPARTMENT

AUTOMOBILE DRIVERS' REGISTRATION UNDER FINANCIAL RESPONSIBILITY LAW

June 1, 1931

To Hon. Edgar C. Smith
Secretary of State

You inquire whether you should suspend a license or certificate of registration under R. S., ch. 29, sec. 97, when you find that a defendant against whom a judgment, within the terms of that section, has been rendered, has subsequently obtained a discharge in bankruptcy.

While the question is by no means free of doubt, I am of the opinion that you should disregard the judgment after learning of the discharge effective against the judgment.

The question is whether a discharge in bankruptcy fully satisfies the judgment of record.

Our statute specifies that the "judgment is unsatisfied" and again "judgment is fully satisfied of record."

Similar statutes in some other jurisdictions leave the question less doubtful. In Ontario, the expression is "until such judgment is satisfied or discharged; otherwise than by a discharge in bankruptcy." Manitoba has the same wording, and so does New York as follows: "while any such judgment or judgments remain unstayed, unsatisfied and subsisting," "until said judgment or judgments are satisfied or discharged, except by a discharge in bankruptcy." The Iowa statute uses the expression "such judgment has been stayed satisfied or otherwise discharged"; Connecticut requires "a copy of a satisfaction of judgment"; California uses the words "unsatisfied and subsisting." It will be seen that several of these statutes make plain that a discharge in bankruptcy is to be disregarded. Whether or not such a statute is unconstitutional, we do not need to inquire, because it seems to me that an effect, such as these statutes aim to accomplish, requires an express indication of a statutory intent to that effect which is not contained in the Maine statute.

The statute is a police measure passed for the protection of users of the highway and the particular judgment creditor whose damages are unpaid. This is a praiseworthy object, but nevertheless is something new to the law and should not be extended further than the legislature has prescribed.

It is true that technically a judgment is not "satisfied" by a discharge in bankruptcy. To that extent, the discharged judgment debtor is not within the express protection of the statute under consideration. On the other hand, the federal constitution gives Congress the power to legislate in bankruptcy matters. By the bankruptcy act, as uniformly interpreted by the courts, Congress has

endeavored to give a broad effect to bankruptcy discharges, in order that one of the main objects of the bankruptcy act might be accomplished; viz, clearing the way to a new start in life for the discharged bankrupt. He has turned over all his property to be divided among his creditors, including the particular judgment creditor in question. The judgment cannot be asserted against him by that creditor. Its effect against the judgment debtor and his property is wiped off the books. To continue to give effect to that judgment, so as to impede the judgment debtor from resuming his place in the community would, to a considerable extent, destroy the effect of the discharge. This, it seems to me, cannot be done by indirection, even if it can be done by an express statute as New York has attempted.

AUTOMOBILE TRUCKS—MAXIMUM GROSS LOADS ALLOWABLE

March 19, 1932

To State Highway Commission

Regarding the maximum gross load of trucks, R. S. ch. 29, sec. 56, is ambiguous. The general provision in the first part of the section sets a gross load of 18,000 pounds for a four-wheel truck, and 27,000 pounds when a trailer follows. The last part of the section introduces provisos. One of these permits an increase of gross weight to 20,000 pounds when the weight does not exceed 600 pounds to an inch width of tire, and 16,000 pounds to one axle; and another proviso permits an increase to 24,000 pounds on four-wheel vehicles equipped with pneumatic tires if the weight on the road surface does not exceed 600 pounds per inch width of tire, and the weight on any one axle does not exceed 18,000 pounds. No express reference to trailers is contained in these several provisos.

In this ambiguity I feel constrained to follow the ruling of the Law Court in its most recent case interpreting an ambiguous statute. In the Standard Oil Company tax case, so-called, decided within a few weeks, the court stated that,—

> "In construing statutes courts expound the law; they cannot extend the application of a statute nor amend it by the insertion of words."

One canon of statutory construction is that a proviso or exception to a general statement is interpreted strictly, and not extended by implication unless clearly necessary.

I see no necessity for extending the proviso in the section above referred to to cover the case of trailers. It may well have been that the legislature felt that a 27,000 pound load is the maximum weight which should be permitted under any conceivable circumstances to the vehicle or vehicles propelled on the highway by a single power plant. In other words, that this is the maximum which should be permitted to any vehicle or series of vehicles forming a single connected transportation unit.