

series K, of the above city, dated July 1, 1939. The transcript relative to these issues was approved by this office in an opinion rendered to the Public Employes Retirement Board under date of July 14, 1939, being Opinion No. 886.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said city.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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917.

CLAIM—LIQUIDATION BY REFEREE IN BANKRUPTCY IN OHIO—CONSTITUTES JUDGMENT OF COURT OF RECORD—SECTION 6298-1, G. C.

*SYLLABUS:*

*The liquidation of a claim by a referee in bankruptcy in this state constitutes a judgment of a court of record within this state within the purview of Section 6298-1, of the General Code of Ohio.*

COLUMBUS, OHIO, July 22, 1939.

*Bureau of Motor Vehicles, Fourth and Main Streets, Columbus, Ohio.*

GENTLEMEN: Your request for my opinion reads as follows:

“Section 6298-1 of the General Code provides that the Registrar under certain specified conditions shall revoke the right and privilege of ‘operating a motor vehicle,’ etc. where there is an unsatisfied judgment in a court of record in this state of the nature therein specified, resulting from a motor vehicle collision. Assuming that a suit is pending in a court of record for damages which, if concluded, would result in a judgment within the purview of said section, but before judgment is rendered the defendant files a petition in bankruptcy and on an application to liquidate tort claims, the referee in bankruptcy liquidates the claim pending in the court of record. Our question is, ‘Is such a liquidation by the referee a judgment within the purview of section 6298-1 of the General Code or tantamount thereto as to authorize the Registrar to revoke on a report on same from the Federal Court?’”

Section 6298-1 of the General Code provides:

“The registrar of motor vehicles of the state of Ohio is

hereby authorized and empowered to and shall in accordance with the provisions of this act, revoke and terminate the right and privilege of operating a motor vehicle upon the public roads and highways of this state, each license, certificate, or permit to operate a motor vehicle, as chauffeur or otherwise, and each certificate of registration for a motor vehicle of or belonging to any person, who has hereafter either:

\* \* \* \* \* \* \* \*

(b) Failed within thirty (30) days after the entry of the same, to satisfy or stay the execution of any final judgment hereafter rendered against him in any court of record within this state, in an action for wrongful death, personal injury, or damage to property, caused by such person's individual operation of a motor vehicle."

At the outset, it will be noted that recent amendments to the Bankruptcy Act have definitely established the authority of a referee in bankruptcy to liquidate negligence claims. The new Chandler Bankruptcy Law passed by Congress June 22, 1938 amending Section 63 of the Bankruptcy Act establishes such authority. Section 63 of the Bankruptcy Act provides in part as follows:

"a. Debts of the bankrupt may be proved and allowed against his estate which are founded upon \* \* \* (7) the right to recover damages in any action for negligence instituted prior to and pending at the time of the filing of the petition in bankruptcy; \* \* \*."

Section 57 of the Bankruptcy Act provides in part as follows:

"Provided, however, that an unliquidated or contingent claim shall not be allowed unless liquidated or the amount thereof estimated in the manner and within the time directed by the court; and such claim shall not be allowed if the court shall determine that it is not capable of liquidation or of reasonable estimation or that such liquidation or estimation would unduly delay the administration of the estate or any proceeding under this Act."

The first question to be determined in whether the finding of the referee in the liquidation proceedings is a "judgment" in the contemplation of Section 6298-1, supra. Section 11582, General Code, defines a judgment as follows:

"A judgment is the final determination of the rights of the parties in action."

In the case of *Peter vs. Parkinson*, 83 O. S., 36, a judgment was defined as "the judicial determination or sentence of a court rendered in a cause within its jurisdiction". It clearly appears from the above that since such determination by the referee is in pursuance of law and is dispositive of the issue adjudicated, such determination is tantamount to and constitutes a judgment in the purview of Sections 6298-1 and 11582, *supra*.

Section 6298-1, *supra*, further requires that the judgment be rendered by a "court of record within this state". The United States District courts in the several states are made courts of bankruptcy by the terms of the Bankruptcy Act. Furthermore, the Bankruptcy Act provides for the reference of certain matters to referees, including the authority to liquidate negligence claims. Consequently, the determination or finding of a referee would be the determination and judgment of the court. There can be no doubt but that such courts are courts of record. In Vol. 7 C. J. at page 26, it is stated:

"The various courts of bankruptcy are courts of record  
\* \* \*."

It will be further noted that Section 6298-1, *supra*, merely requires that the judgment be rendered by a court of record "within this state". It would appear, therefore, that it is immaterial whether the judgment be rendered by a federal court or a state court so long as the situs of the court is in Ohio.

Therefore, in specific answer to your inquiry, I am of the opinion that the liquidation of a claim by a referee in bankruptcy in this state constitutes a judgment of a court of record within this state within the purview of Section 6298-1 of the General Code of Ohio.

Respectfully

THOMAS J. HERBERT,  
*Attorney General.*

918.

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TOWNSHIP TRUSTEES—CONTRACTS—PURCHASE ROAD MACHINERY OR EQUIPMENT—MUST COMPLY WITH PROVISIONS, SECTIONS 7201, 5625-33, 5625-37, 7201, G. C.—FAILURE TO FILE CERTIFICATE THAT FUNDS APPROPRIATED TO PAY COSTS OR FAILURE TO OBTAIN CONSENT COUNTY COMMISSIONERS—AGREEMENT VOID—FINDINGS FOR RECOVERY.

**SYLLABUS:**

*Where, under authority of Section 7201, General Code, contracts for the purchase of road equipment or machinery are attempted to be*