

1936

AUTOMOBILES-REGISTRATION OF TITLE-EVIDENCE OF OWNERSHIP

Follow this and additional works at: <https://repository.law.umich.edu/mlr>



Part of the [Transportation Law Commons](#)

Recommended Citation

AUTOMOBILES-REGISTRATION OF TITLE-EVIDENCE OF OWNERSHIP, 34 MICH. L. REV. 1224 (1936).

Available at: <https://repository.law.umich.edu/mlr/vol34/iss8/13>

This Regular Feature is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

RECENT DECISIONS

AUTOMOBILES—REGISTRATION OF TITLE—EVIDENCE OF OWNERSHIP—
In an action for damages caused by the son's negligent operation of an automobile registered in his father's name, the court affirmed a judgment against the father as an owner consenting to the use of his automobile, and *held* that evidence of the son's ownership was properly stricken from the record, since unregistered transfers were void. *Enfield v. Butler*, (Iowa 1935) 264 N. W. 546.

The extent to which title registration statutes have changed the law of sales applicable to automobiles is essentially a question of statutory interpretation. The purposes of registration are said to be revenue, the exclusion of machines with mechanical defects from the highway, the prevention of theft and fraud, and the fixing of responsibility for damages caused by the operation of automobiles.¹ Statutes requiring registration have been given various constructions: (1) a penalty merely may be imposed for noncompliance;² (2) registration may be made *prima facie* determinative of ownership;³ or (3) a system of title registration may be set up similar to registration of land titles under the Torrens Act.⁴ These constructions may rest upon express provision, general language requiring registration, or the implication of sanctions deemed necessary to effect the ends mentioned. Aside from the more obvious applications of the statutes to actions involving title, possession, and rights of attaching creditors,⁵ failure to comply with registration requirements has been held to deprive the purchaser of an insurable interest in the car,⁶ to subject the operator to liability for injuries to others in the absence of negligence⁷ or to bar the operator's action for damages for injuries caused by others.⁸ A still further application of registration

¹ *Howell v. Conn. Fire Ins. Co.*, 215 Mo. App. 386, 257 S. W. 178 (1924); *United States Fidelity & Guaranty Co. v. Allen*, 158 Tenn. 504, 14 S. W. (2d) 724 (1929); *Bunch v. Kin*, 2 Cal. App. (2d) 81, 37 P. (2d) 744 (1934).

² *Commercial Credit Co. v. McNelly*, (Del. 1934) 171 A. 446, and cases cited therein to like effects; *Littell v. Brayton Motor & Accessory Co.*, 70 Colo. 286, 201 P. 34 (1921).

³ *Braham & Co. v. Steinar-Hannon Motor Co.*, 97 Pa. Super. Ct. 19 (1929); *United States Fidelity & Guaranty Co. v. Allen*, 158 Tenn. 504, 14 S. W. (2d) 724 (1929). In *Tigue Sales Co. v. Reliance Motor Co.*, 207 Iowa 567, 221 N. W. 514 (1928), registration was said to be one circumstance for the consideration of the jury in determining ownership.

⁴ Under such a system [described in Beale, "Registration of Title to Land," 6 HARV. L. REV. 369 (1892)] title only passes upon compliance with the statute, other transfers being void. So held in the principal case and in *Bos v. Holleman De Weerd Auto Co.*, 246 Mich. 578, 225 N. W. 1 (1929).

⁵ 94 A. L. R. 948 (1935).

⁶ *State ex rel. Conn. Fire Ins. Co. v. Cox*, 306 Mo. 537, 268 S. W. 87 (1924); *Mathes v. Westchester Fire Ins. Co.*, (Mo. App. 1928) 6 S. W. (2d) 66.

⁷ 38 HARV. L. REV. 531 (1925); 1 BLASHFIELD, CYCLOPAEDIA AUTOMOBILE LAW, c. 10, § 1 (1927), asserts the contrary to be the general rule.

⁸ 39 YALE L. J. 743 (1930). Cf. *Gonchar v. Kelson*, 114 Conn. 262, 158 A. 545 (1932), which indicates that there has been a change in the registration statute of that state.

statutes is contained in the principal case. Under statutes imposing liability upon owners consenting to the operation of automobiles registered in their names⁹ the registered owner may be liable for the negligence of his transferee who has not registered or taken title in the manner provided.¹⁰ The converse of this situation is a defense created by registration statutes to the unregistered transferee who entrusts his car to a negligent operator.¹¹ The far-reaching effects attributed to these statutes behoove transferors to attend to details of registration. It is submitted that the court in the instant case reached a sound result in construing one of the purposes of the statute to be the fixing of liability for negligent operation of automobiles on the highway.¹²

A. H. R.

⁹ Where principles of agency are relied upon as the basis of charging the owner, a showing of use in the owner's business may be required. *Bright v. Neal*, 168 Tenn. 11, 73 S. W. (2d) 686 (1934); *Biggert v. Memphis Power & Light Co.*, 168 Tenn. 638, 80 S. W. (2d) 90 (1935).

¹⁰ *Endres v. Mara-Rickenbacker Co.*, 243 Mich. 5, 219 N. W. 719 (1928); *Bunch v. Kin*, 2 Cal. App. (2d) 81, 37 P. (2d) 744 (1934). *Contra*, *Fulton v Stahl*, 271 Mass. 23, 170 N. E. 818 (1930).

¹¹ *Kimber v. Eding*, 262 Mich. 670, 247 N. W. 777 (1933), holding that registration statute fastening liability on consenting registered owner excused transferee who had not complied with the statute. On a later consideration of the same facts it was ruled that the registered owner (a sale having been made, but the assigned certificate of title not yet delivered to the buyer) was not liable as a "consenting owner" under this statute, the proof not showing his consent to the driving at the time of the accident. *Tanis v. Eding*, 274 Mich. 288, 264 N. W. 375 (1936).

¹² The broad language of 2 Mo. Rev. Stat. (1929), § 7758, appearing at the head of the section on motor vehicles is: "Application of the Law—This article shall be exclusively controlling on the registration, regulation, operation, ownership and sale of motor vehicles. . . ." Subsequently, § 7774 provides for certificates of ownership and the method of transferring title.