Highway Law--Section 282e As Affecting Common Law Liability of Owner of Motor Vehicle (Fluegel v. Coudert, 244 N.Y. 392 (1927))

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the suit of the purchaser, and, apparently, no authority to the con-
trary has been found by the learned author.

Once the fact of knowledge is established, it would seem unfair
upon principle to deprive the original purchaser of his specific remedy
merely because the title has passed from the party with whom he con-
tracted; nor should a subsequent vendee be heard to disclaim knowl-
edge gained by an attorney within the apparent scope of his authority
while handling a matter entrusted to him.

HIGHWAY LAW; SECTION 282e AS AFFECTING COMMON LAW
LIABILITY OF OWNER OF MOTOR VEHICLE—The action is to recover for
death alleged to have been occasioned through the negligent operation
of an automobile. The uncontradicted evidence necessitates the con-
clusion that the driver of the car was using it at the time of the accident
for his own purposes exclusively, without the permission and against
the commands of the defendant his employer. Held, The action would
not lie inasmuch as the plaintiff gained nothing by Sec. 282e of the
Highway Law (Cons. Law Chap. 25) providing that the owners of
motor vehicles, operated upon public highways, shall be liable for death
or injuries to person or property resulting from negligent operation
by any person legally using same with the permission, express or im-
plied, of the owner. Judgment affirmed. Fluegel v. Coudert, 244 N.
Y. 392 (1927).

The Court held that the effect of the statute was to render ob-
solete the doctrine of such cases as Van Blaricom v. Dodgson, 220 N.
Y., 111, 115 N. E. 443 (1917); Fotts v. Pardee, 220 N. Y., 431, 436,
116 N. E. 78 (1917), and that liability no longer depended on use or
operation by a servant in the “business” of a master, but upon its
legal use or operation in the business “or otherwise” of the master
with permission or consent. Thus the owner who loaned the car to a
friend or an employee would be liable for the negligence of the opera-
tor though the loan was unrelated to employment and a mere friendly
accommodation. The father would be liable for the negligence of the
son to whom he had entrusted the use of the family automobile (Van
Blaricom v. Dodgson, supra). The Court significantly stated, “We
make no attempt at exhaustive enumeration. What has been said will
suffice for illustration or example.” It would thus appear that the
Highway Law does not recognize such independent operation by a
gratuitous bailee as will relieve the bailor from liability for the
former’s negligence, and the Court’s opinion would seem to indicate
that the section is still charged with such pregnant possibilities as will
materially change the law of automobiles. 1 St. John’s L. Rev., 53, 54
(1926).

SALES—ELECTION OF REMEDIES—RIGHTS OF PARTIES—Defendant
sold to one Edgar an automobile under a conditional bill of sale con-
tract. Edgar paid $50 in cash and gave a promissory note for the
balance of purchase price. The conditional sale contract provides
inter alia, that title should not pass until full price was paid, an
acceleration clause for balance in case of default. In event of such
default vendor may take immediate possession of property with
privilege of resale, seller to have right to enforce any one or more