

No. 376

MOTOR VEHICLES, permission of foreign "legal owner" may be required before registration of—**MORTGAGES**, chattel mortgagee's permission may be required for registration of foreign motor vehicle—**CONDITIONAL SALES**, permission of vendor may be required for registration of foreign motor vehicle

Held: The registrar of motor vehicles may require the permission of a conditional sales vendor of a motor vehicle or of the holder of a chattel mortgage thereon be secured before certificates of registration or of ownership are furnished.

March 21, 1942.

Mr. W. W. Lessley
County Attorney
Gallatin County
Bozeman, Montana

Dear Mr. Lessley:

You have submitted to this office for an opinion the following facts and question:

"X lives in Wyoming; he buys a car under a conditional sales plan. He moves to the State of Montana; he applies for registration of his car. Must written permission from the legal owner (lienholder) accompany the application for Certificate of Title for Motor Vehicle to enable X, the owner, to secure registration on said car?"

The form of "Application for a Certificate of Title for a Motor Vehicle," according to your letter, includes the following statement:

"If the vehicle for which certificate of title is hereby applied for was previously registered in another state, country or province, this application must be supported or accompanied by the foreign title and verification of last license or a verification of ownership and last license. If the vehicle is encumbered, the application must be accompanied by written permission from the legal owner (lienholder) to register the vehicle in Montana. If Montana title is issued without surrender of the foreign title, it will be retained in the office of the Montana Registrar of Motor Vehicles."

It is assumed this is no new practice but has been followed consistently under the existing statutes since their enactment or amendment.

Section 1759 of the Revised Codes of Montana, 1935, as amended by Chapter 72, Laws of 1937, sets forth what shall be contained in the "blank form" of application for registration of a motor vehicle which is to be prepared and furnished by the registrar of motor vehicles. It is not spe-

cifically provided that, before registration may be had under such application, written permission of the "legal owner (lienholder)" must be secured. The only broad provision as to the contents of the application for registration is "such other information as the registrar of motor vehicles may require." The question, therefore, is whether this provision is broad enough to allow the registrar to require the permission of the "legal owner (lienholder)" to register a motor vehicle in Montana.

It is not uncommon among the states of the United States to prohibit by statute the removal from the state of automobiles sold under conditional sales contracts or covered by chattel mortgages. Perhaps, therefore, compliance with the requirement of the registrar of motor vehicles would assist in uncovering persons who have illegal possession of the automobile in this state because of the existence of a conditional sales contract or a chattel mortgage in the home state. Under these circumstances a conditional sales purchaser or a chattel mortgagor, not having in this state "lawful use or control or right to use or control a vehicle," would not be an "owner" of a motor vehicle under the definition included in Section 1758 of the Revised Codes of Montana, 1935, as amended, and would not have authority, therefore, to apply for registration under Section 1759 of the Revised Codes of Montana, 1935, as amended.

The contents of an application for registration or motor vehicles—as set out in the latest amendment to Section 1759 of the Revised Codes of Montana, 1935—were first specified and set out in the amendment of that section by Section 1 of Chapter 158 of the Laws of 1933. If—since that time—the practice of the registrar of motor vehicles has been to require that permission of the "legal owner (lienholder)" accompany an application for registration of a theretofore "foreign" motor vehicle, such practice would be strong evidence of the true meaning of the statute relating to the necessary showing to be made in order to secure registration and certification of ownership and of registration. See *Miller Insurance Agency v. Porter*, 93 Mont. 567, 575, 20 Pac. (2nd) 643, wherein it is said:

"The contemporaneous and long-continued practice of officers required to execute or take special cognizance of a statute is strong evidence of its true meaning. And if the legislature by its inaction has long sanctioned a certain construction, language apparently unambiguous may be given by the courts such construction, especially if the usage has been public and authoritative."

See also, in this connection, *Guillot v. State Highway Commission*, 102 Mont. 149, 157, 56 Pac. (2nd) 1072, where this language is used:

"While administrative practice does not avail to overcome a statute so plain in its commands as to leave nothing for construction, such practice, if consistent and unchallenged, will be overturned only for very cogent reasons, if the scope of the command is indefinite or doubtful. . . ."

Taking into consideration all that is said above, it is my opinion the registrar of motor vehicles may require the permission of a conditional sales vendor of a motor vehicle or of the holder of a chattel mortgage thereon be secured before certificates of registration or of ownership are furnished.

Sincerely yours,

JOHN W. BONNER
Attorney General