difference between the two laws is that the unconstitutional one provided for "readjustment," while the valid law spoke of "composition," thereby emphasizing the voluntary or consent aspect of the law. But the Supreme Court went out of its way to say that consent by the state has nothing to do with the law's validity.

In view of the fact that the Court did not place its holding in the instant case on either of the two grounds of difference between the statutes, it would seem that the Court has reversed itself and, in effect, adopted the view of Mr. Justice Cardozo in the *Ashton* case. A new emphasis upon the need for relieving the states of the burden of their obligations and the changed composition of the Court would seem to account for the changed attitude. W. B. M.

TORTS—NEGLIGENCE—LIABILITY OF AUTOMOBILE DEALER FOR DEFECTS IN DEMONSTRATOR CAR—[Missouri].—Defendant automobile dealer lent a car to a prospective purchaser for the purpose of a demonstration. While the latter was taking his wife for a drive, an accident occurred in which the wife was injured. She sued the dealer, alleging that the accident was due to defective brakes, caused by the seepage of grease from the wheel bearings on to the brake lining. *Held,* plaintiff could not recover, there being no evidence that the dealer had not made a reasonable inspection.[1]

In reaching its decision the court adopted the rule as to the liability of a vendor of a chattel, seemingly on the assumption that there was a sale.[2] In general, the vendor of a chattel is under no duty to test articles manufactured or packed by others for the purpose of discovering latent defects and is not liable for injuries resulting from such defects unless he has actual knowledge thereof.[3] The rule has been qualified by two exceptions in which the vendor is under a duty to make a reasonable inspection: (1) where there is something which reasonably tends to call attention to possible defects;[4] and (2) where the article being sold is such as becomes dangerous through defects.[5] The court in the instant case held that the dealer owed some duty of inspection to the plaintiff because the article being sold was unusually complicated, thus in effect placing the instant case within the second exception noted.

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1. Shroder v. Baron Dady Motor Co. (Mo. 1937) 111 S. W. (2d) 66.

2. See also Tourte v. Horton Mfg. Co. (1930) 99 Cal. App. 795, 290 Pac. 919, where the court applied the sale theory in determining the vendor's duty toward a prospective purchaser of a washing machine.

3. Tourte v. Horton Mfg. Co. (1930) 99 Cal. App. 795, 290 Pac. 919; Craig v. Baker & Holmes Co. (1923) 85 Fla. 373, 96 So. 93; Segal v. Carrol Furniture Co. (1935) 51 Ga. App. 191, 179 S. E. 775; Peaslee-Gaulbert Co. v. McMath's Adm'r (1912) 148 Ky. 265, 146 S. W. 770, 39 L. R. A. (N. S.) 465, Ann. Cases 1913E 392; Simons v. Sun Ray Motor Co. (Sup. Ct. 1917) 162 N. Y. S. 968.

4. King Hardware Co. v. Ennis (1929) 39 Ga. App. 355, 147 S. E. 1190; see Restatement, *Torts* (1934) sec. 402.

5. King Hardware Co. v. Ennis (1929) 39 Ga. App. 355, 147 S. E. 1190; Peaslee-Gaulbert Co. v. McMath's Adm'r (1912) 148 Ky. 265, 146 S. W. 770, 39 L. R. A. (N. S.) 465, Ann. Cases 1913E 392.

The automobile which was delivered by the defendant dealer to the plaintiff's husband was to be used for demonstration purposes only. The parties did not contemplate the sale of this demonstrator. Therefore the car actually involved was not the subject of a sale or a proposed sale.[6] Under circumstances similar to the instant case, although not involving the liability of a dealer for latent defects, it was held that the relationship between an automobile dealer and a prospective purchaser driving the former's car is one of bailor-bailee.[7] So when a dealer leaves goods with a prospective purchaser for examination, a bailment for mutual benefit is established.[8] A bailor owes the bailee the duty to inform him of defects which are, or reasonably should be, known to the bailor.[9] Since the court in the instant case found that the defendant made a reasonable inspection, he would not have been liable even on the bailment theory. It is submitted, however, that the court's decision would have been technically sounder had the bailment theory been adhered to.[10] E. M. S.

TORTS—RADIO DEFAMATION—PRIVILEGE OF JUDICIAL PROCEEDINGS—[Oregon].—During the broadcast of a murder trial the defendant's counsel said that a witness for the state "was not truthful and was lower than a rattlesnake because a rattlesnake gives warning before it strikes." That witness brought an action of libel against the counsel who made the statements, the judge who presided over the criminal trial, and the radio station on the theory that the broadcast permitted by the trial judge was unlawful and that, by reason of the untruths and malice in the statements, all the defendants participating in that wrongful act were joint tortfeasors.

The judge was held free from liability.[1] In both England[2] and the United States,[3] because of public policy, a judge is absolutely privileged as to defamatory statements in the course of judicial proceedings,[4] even

6. In Tourte v. Horton Mfg. Co. (1930) 99 Cal. App. 795, 290 Pac. 919, cited supra note 2, there was a possibility of a sale of the particular washing machine. Therefore that case can be distinguished from the instant case.

7. Harris v. Whitehall (1936) 55 Ga. App. 130, 189 S. E. 392; Hamp v. Universal Auto Co. (1933) 173 Wash. 585, 24 P. (2d) 77.

8. Israel v. Uhr (Sup. Ct. 1917) 164 N. Y. S. 50.

9. Goddard, *Outlines of the Law of Bailments and Carriers* (2nd ed. 1928) 20, sec. 20.

10. In the Restatement, *Torts* (1934) sec. 388, the liability of a supplier of a chattel is discussed. In the comment thereunder, it is stated that the rule as to a supplier of a chattel is applicable to cases of bailment. Since the instant case is strictly one of a bailment, this section might have been applied by the court in the instant case. Instead, the court quoted from sec. 402, which deals with the liability of a vendor of a chattel.

1. Irwin v. Ashurst (Ore. 1938) 74 P. (2d) 1127.

2. Scott v. Stansfield (1868) L. R. 3 Ex. 220; Law v. Llewellyn (1906) 1 K. B. 487, 75 L. J. K. B. 320, 94 L. T. 359; Newell, *Slander and Libel* (4th ed. 1924) sec. 360.

3. Mundy v. MacDonald (1921) 216 Mich. 444, 185 N. W. 877; Young v. Moore (1922) 29 Ga. App. 73, 113 S. E. 701.

4. Douglas v. Collins (1934) 152 Misc. 839, 273 N. Y. S. 663, in which defamatory statements made by a judge, after he had adjourned the case,