as a jail matron is an agent or servant or employe of the sheriff, a jail matron who did so contract, would be amenable to the provisions of the statute. It of course follows that a county sheriff can not be authorized to contract with his wife for the supplying of meals to the prisoners if she be the matron of the jail.

With reference to the four questions submitted in your letter, the first two questions having been specifically answered in Opinion No. 833, above referred to, a copy of which is herewith enclosed, I do not again answer them.

As to the third and fourth questions, it is my opinion that:

1. The relation of husband and wife is such that the relation alone does not engender an interest of the husband in the contracts of the wife; and where a county sheriff contracts with his wife for the furnishing of meals to the prisoners in the county jail to be paid for from county funds he does not thereby become interested in a contract for the purchase of supplies for the use of the county in violation of Section 12910 General Code. Nor can he be said thereby to secure a private personal profit out of the feeding of the prisoners confined in the jail.

2. Where a sheriff is permitted to enter into a contract for the furnishing of prepared meals for the prisoners in the county jail, and does so contract, the itemized monthly statements which he is required to file showing the actual cost of the feeding of such prisoners, together with the bills therefor attached, should show the actual number of meals served and the dates thereof and the price per meal which he is required to pay, and the bills attached thereto should be the statements rendered to him by the person or persons with whom he had contracted to furnish such meals.

3. A contract made by the matron of a county jail whereby she agrees to furnish meals for the prisoners in the county jail is in violation of Section 12910, General Code, and therefore illegal.

Respectfully,
EDWARD C. TURNER,
*Attorney General.*

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1184.

APPROVAL, NOTE OF THE OTTERBEIN HOME RURAL SCHOOL DISTRICT, WARREN COUNTY, OHIO—$900.00.

COLUMBUS, OHIO, October 21, 1927.

*Retirement Board, State Teachers' Retirement System, Columbus, Ohio.*

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1185.

MOTOR VEHICLE—REGISTRATION, WHEN PURCHASED IN ANOTHER STATE—MORTGAGEES MUST EXECUTE BILLS OF SALE—PURPOSE OF SWORN STATEMENT.

*SYLLABUS:*

1. *Motor vehicles or used motor vehicles purchased outside the State of Ohio, and brought into this state, must first be registered before they may be operated on the highways*

*of this state. If the car had never before been operated on the highways of this state or if the title thereto had never before been transferred within the State of Ohio, registration may be made by the filing by the owner of a sworn statement as authorized by Section* 6310 13, *General Code.*

2. *In all cases where title is transferred to a motor vehicle or used motor vehicle within the State of Ohio a bill of sale should be executed and filed according to law.*

3. *Motor vehicles or used motor vehicles brought into this state, for which licenses have not theretofore been granted in the state from which they are brought should be registered as provided by the laws of this state and if the car had never been operated on the highways of this state or if the title thereto had never been transferred in this state registration should be made by the filing of a sworn statement as provided by Section* 6310-13, *General Code.*

4. *Mortgagees, lessees or vendees on conditional sale contracts, who repossess motor vehicles or used motor vehicles upon default in the performance of the terms of the contract of mortgage, lease or conditional sale, are required, upon the subsequent transfer of the ownership of such motor vehicles or used motor vehicles, to execute a bill of sale therefor as provided by law and deliver such bill of sale to the transferee together with all former bills of sale or sworn statements of ownership as required by Section* 6310-8, *General Code.*

5. *Sworn statements of ownership of motor vehicles or used motor vehicles authorized by Section* 6310-13, *General Code, can serve only one of three purposes, either as the first link of the chain of title of a motor vehicle owned and operated on the highways of this state on or prior to August* 16, 1921, *as the first link of a chain of title of a car brought from outside the State of Ohio, into the State of Ohio, which car had never before been operated on the highways of the State of Ohio or had the title thereto transferred within the State of Ohio, or as a link of the chain of title of a car which had been broken, by reason of its having once been registered within the State of Ohio, then taken out of the state and transferred at least once while so out of the state, and then returned to the State of Ohio.*

COLUMBUS, OHIO, October 22, 1927.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your communication as follows:

"We respectfully request your written opinion upon the following inquiries received at this office from the Clerk of Courts of Williams County:

'1. How shall I treat cars that are bought by Ohio parties in Indiana and Michigan? It has been our custom to require the seller to transfer their title to the buyer in the same manner as though the Ohio party was a resident of their state. Then we use this title for our authority in accepting a sworn statement of ownership from the Ohio purchaser, attach the title to our copy of the sworn statement and file in the usual manner. There are no titles given with new cars purchased by Ohio parties in these states and we have held that the dealer should execute an Ohio "New Bill of Sale", when accepting this class of business.

2. How shall we treat cars that are purchased in states that do not require a title or bill of sale, such as the State of Illinois?

3. How shall we treat cars that are being driven through Ohio from Illinois to a state east of Ohio? Since residents of Illinois have authority to operate their cars for thirty days without obtaining license plates, some of these cars arrive in Bryan with no license plates attached. Our marshal or

sheriff picks them up and compels them to buy Ohio license plates. How can a clerk of courts furnish necessary papers so an Ohio license can be procured? In the past we have had the driver of the car furnish evidence of ownership to our satisfaction and then accept his sworn statement of ownership.

4. Some sellers of cars, dealers and individuals, persist in eliminating themselves as a party to the transaction. In other words, A sells a car to B, and B sells the car to C. B eliminates himself and makes bill of sale direct from A to C. How can we break up this practice?' "

In a later communication, you submit for my consideration two questons as follows:

"Question 1: When a finance company is compelled to take back a motor vehicle, how can it give a title to the dealer again?

Question 2: How should the transaction be handled, where a dealer takes back a motor vehicle on which he had a mortgage?"

The original act, requiring the making and filing of bills of sale upon the transfer of title to a motor vehicle or used motor vehicle as therein defined, was passed in 1921, (109 O. L. 330). This act was codified as Sections 6310-3 to 6310-14, inclusive, of the General Code. The title of this act reads as follows:

"To prevent traffic in stolen cars, require registration and bill of sale to be given in event of sale or change in ownership of motor vehicles."

As its title implies, it was a police regulation enacted for the purpose of more effectually identifying and tracing the ownership of motor vehicles so as to prevent traffic in stolen cars. It provided a penalty for failure to comply with the terms of the act. It was strengthened by amendments and the enactment of supplementary sections in 1923 (110 O. L. 399) and in 1925 (111 O. L. 460). The spirit of the original act has been retained. The amendments and supplementary enactments of 1923 and 1925 in no way change the purport of the original act, but serve to strengthen and extend its provisions.

If the law has been complied with since its enactment, all transactions involving the transfer of title of either new or so-called used cars in the State of Ohio will have had accompanying such transfer the required bill of sale. If transfers have been made without the required bill of sale, both the buyer and seller are subject to the penalties provided for by the act.

The words and language used in the several sections of the law on this subject are so clear and free from ambiguity and doubt and so plainly, clearly and distinctly express the sense of the framers of the law, that there is no occasion for interpretation or the application of the rules of construction of statutes. I am at a loss to understand how administrative officers could go astray in the application of the law if they would but read and apply the law as it is set forth in the statutes.

Section 6310-3, General Code, defines, for the purposes of the act, the words "motor vehicle", "used motor vehicle", "person", "manufacturer's number" and "bill of sale".

Section 6310-4 makes it unlawful "to sell, convey, give away, transfer, exchange, receive, purchase or obtain" a motor vehicle, new or used, except in compliance with the provisions of the act.

Sections 6310-5, 6310-7, and 6310-8 read as follows:

Sec. 6310–5. "It shall be unlawful for a corporation, partnership, association, or person, the manufacturer of motor vehicles or the importer of motor vehicles, to sell, convey, lease, give away, transfer or exchange a motor vehicle, directly or through an agent or agency of such manufacturer or importer, or other person, unless such manufacturer, corporation, partnership, association, person or importer or the agent of either, shall, at or before such sale, conveyance, transfer, lease, gift, exchange or passage of title, execute, in the presence of two witnesses, a bill of sale in duplicate, and deliver both copies to the purchaser, buyer, transferee, or person receiving such motor vehicle. Such bill of sale shall contain the name of the manufacturer or maker, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, and the horse-power of such motor vehicle with a general description of the body thereto, the name and residence address of the purchaser, buyer, lessee, transferee, or person receiving such motor vehicle, together with a full account of any other number or marks on appliances attached thereto, which may identify or tend to identify such motor vehicle. If such motor vehicle was imported, the bill of sale, in addition to the above requirements, shall contain the name of the importer and the name of the city and country where such manufacturer is situate, the name of the port of exportation and the name of the port of importation, the name of the manufacturer or maker, manufacturer's number, the engine or motor number and the horse-power of such motor vehicle, the name and address of the original purchaser, buyer, transferee, or person receiving such motor vehicle from the manufacturer, together with a full account of any other number or marks thereon, which may identify or tend to identify such motor vehicle."

Sec. 6310–7. "Each corporation, partnership, association, or person, in all sales, conveyances, transfers, gifts, exchanges of, or transactions in which title to a 'used motor vehicle' passes, shall execute in the presence of two witnesses a 'bill of sale,' in duplicate, and deliver the same to the corporation, partnership, association or person purchasing, receiving or obtaining such used motor vehicle, at or before such sale, conveyance, transfer, gift, exchange or passage of title; such 'bill of sale' shall contain the name of the manufacturer or maker, the manufacturer's number, the engine or motor number as well as any other numbers thereon, the horse-power of such motor vehicle, a general description of the body, the type and model, together with any other numbers or marks on appliances attached thereto, which may tend to identify such motor vehicle; the name or names and residence or residences of each and every bona fide owner or owners of such used motor vehicle, beginning with the original or first purchaser of such used motor vehicle from the manufacturer or importer, or the direct agent or agents of either, and a record of each subsequent transaction, involving such used motor vehicle, down to the last owner, owners, or transferee from whom the corporation, partnership, association or person selling, conveying, giving away or transferring derived title thereto; the residence or residences, so stated, shall be by city, village, township, county and state, together with the street and number or post office address, if any, of such former owner or owners, or, if there be no such addresses then by description, designation, or information as may reasonably fix the place or places, residence or residences of such former owner or owners, and shall contain also the date and place where the ownership of such motor vehicle by the corporation, partnership, association or person selling, conveying, giving away or transferring the same began, and whether he acquired title thereto by purchase from such last owner or owners, or in what manner

such title was acquired, and a statement of any and all changes and alterations in the finish, design or appearance of the said used motor vehicle which had been made within the knowledge of the person making the statement."

Sec. 6310-8. "Each buyer, purchaser, transferee or person receiving or obtaining a 'used motor vehicle' shall obtain from the owner, vendor or person conveying or transferring such 'used motor vehicle', at or before such sale, transfer, conveyance or delivery, the bill of sale in duplicate as provided for in Section 6310-7 and verified as provided for in Section 6310-9. In case of transfer of ownership of a 'motor vehicle' or a 'used motor vehicle', by inheritance, devise or bequest, or order in bankruptcy, or insolvency, replevin or execution sale, repossession upon default in the performance of the terms of the lease, conditional sale, agreement or otherwise than by the voluntary act of the owner, the 'bill of sale' transferring such title as required by this chapter shall be signed by the executor, administrator, receiver, trustee, sheriff or other representative, or successor in interest of the owner in lieu of such owner, and delivered to the transferee together with all former 'bills of sale' or statements of ownership and shall set forth in addition to such other information as is required by law to be contained in the bill of sale, the special facts in the premises."

Section 6310-9 requires the verification of bill of sale before delivery and Section 6310-10 reads in part as follows:

Sec. 6310-10. "Each corporation, partnership, association, or person to whom title has in any manner been passed to a motor vehicle shall present to the clerk of courts of the county in which the sale, transfer, conveyance, gift or passage of title is consummated, within three days immediately thereafter, both copies of the duplicate bill of sale. It shall be the duty of the clerk of courts to refuse to accept for filing the duplicate bill of sale if such instrument is not executed and witnessed according to the provisions of this act. * * *"

Sections 6310-11, 6310-11a, 6310-13 and 6310-13a, respectively, provide, in part as follows:

Sec. 6310-11. "It shall be unlawful for a corporation, partnership, association or person to sell, convey, lease, give away, transfer or exchange, directly or through an agent, a 'used motor vehicle' within this state without having in his possession and attached together one copy of all duly executed, verified and filed bills of sale, and of the sworn statement, if a sworn statement has before been filed for such 'used motor vehicle' or duly certified copies thereof, and without delivering the same to the corporation, partnership, association or person receiving or obtaining such 'used motor vehicle.' "

Sec. 6310-11a. "Each corporation * * * to whom title shall in any manner within this state be passed to a 'used motor vehicle' shall obtain from the corporation, * * * at the time or before title to such 'used motor vehicle' shall be obtained, one copy of all bills of sale and the sworn statement, if a sworn statement has prior thereto been filed, for such 'used motor vehicle' or certified copies thereof, and the bills of sale in duplicate required in Section 6310-7 of the General Code, verified as provided in Section 6310-9 of the General Code and sign on such duplicate bill of sale the

name of such buyer, purchaser, transferee or person receiving title to such 'used motor vehicle.'

Such corporation, partnership, association or person shall thereafter present to the clerk of courts of the county in which passage of title was consummated, within three days immediately thereafter, such duplicate bills of sale and the copy of all bills of sale and sworn statements required to be obtained in this section. * * *"

Sec. 6310–13. "No person residing in this state shall drive, use or operate, a motor vehicle or 'used motor vehicle' upon the public highways thereof, without having a 'bill of sale' for the motor vehicle as defined in this act, or without having first filed with the clerk of courts, of the county in which his residence is established, a sworn statement containing the name, residence of each and every bona fide owner or owners of the 'used motor vehicle,' the name of the manufacturer or make, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, the horse power of such 'used motor vehicle,' and a general description of the body thereof, and obtain from said clerk, a certified copy of such statement."

Sec. 6310–13a. "In case a copy of the bill of sale or sworn statement which has been filed according to the provisions of this chapter shall be lost, stolen or destroyed, a certified copy thereof may be procured from the clerk of courts upon presentation of an affidavit showing that such bill of sale or sworn statement of ownership has been lost, stolen or destroyed and on the payment of a fee of twenty-five cents. * * *"

Since there were no provisions of law prior to 1921 requiring the execution and filing of bills of sale when the title to motor vehicles was transferred, the chain of title so far as statutory evidence of title is concerned must necessarily start, for cars in existence at the time of the effective date of the original act, with the first evidence of title as required by the act, viz., a sworn statement of ownership as provided by Section 6310–13, supra, which section has not been amended since the passage of the original act in 1921.

Before the owner of a motor vehicle is permitted to operate or drive the same on the public highways of the state it is necessary that a license be procured, as provided by Section 6294 of the General Code, which reads in part:

"Every owner of a motor vehicle which shall be operated or driven upon the public roads or highways of this state shall before the first day of January of each year, except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the commissioner of motor vehicles or a deputy commissioner, a written application in triplicate for registration for the following year, * * *.

At the time of making such application the applicant shall present for inspection proper bills of sale or sworn statement of ownership, the originals of which have been duly filed with the clerk of courts, or a certificate or certificates of the clerk of courts certifying that such bills of sale or sworn statement of ownership have been duly filed with such clerk, showing title to the motor vehicle to be registered in such application. If such application is not in proper form or if the applicant owned the motor vehicle on the preceding tax listing day and it was not listed for personal property taxes, or if proper bills of sale or sworn statement of ownership or proper certificate thereof, does not accompany the application, the license shall be refused. * * *"

It will thus be seen that before a license can be procured to operate cars on the highways of this state, as well as before title can be transferred to such cars within the state, it is necessary that the owner have in his possession the evidence of the complete chain of title which consists of all bills of sale and sworn statements of ownership having to do with the particular car.

Inasmuch as the statutes of Ohio have no extraterritorial effect, the bill of sale spoken of in the statutes refers only to bills of sale made when transfers have been made in this state and the sworn statement of ownership refers to the original sworn statement made when the car was first operated on the highways of this state. A person who purchases a motor vehicle outside the state would not be required so far as the Ohio statute is concerned to procure a bill of sale therefor nor would the seller be required to give such bill of sale; the transaction would be governed by the law of the state where the transaction was made. If the law of that state provided for bills of sale upon transfer of title to motor vehicles, a bill of sale in accordance with the law of that state should of course be procured.

A person who purchases a car outside the state, however, must necessarily procure the necessary information so that he can file a sworn statement of ownership when he brings the car into this state, else the car can not be registered or operated on the highways of this state. The sworn statement of ownership must contain:

> "* * * the name, residence of each and every bona fide owner or owners of the 'used motor vehicle,' the name of the manufacturer or make, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, the horse power of such 'used motor vehicle', and a general description of the body thereof, * * *."

as provided in Section 6310–13, supra.

A person coming into this state or a non-resident of the state, desiring to register a car in this state and operate the same on the highways thereof, if the car has not been purchased in this state or has never been transferred in this state, obviously could not evidence his ownership by the filing of bills of sale, because none would be in existence, but he should file a sworn statement of ownership as prescribed by the statutes.

If, however, the element of extraterritorial transactions, or transactions taking place prior to 1921, do not enter into the chain of title of a used motor vehicle a sworn statement of ownership can not become one of the links in the chain of title of such a car and county clerks are not authorized to treat them as such, but should insist on the proper bills of sale or certified copies thereof being produced. There is no excuse for the owner of a car failing to furnish the prior bills of sale or certified copies thereof. If he has acquired title without having acquired all prior bills of sale or sworn statements of ownership, if such be legally a part of the chain of title, he has been guilty of a violation of the law and he can not be heard to plead such violation as an excuse for his failure to furnish the complete evidence of the chain of title as required by law. Section 6310–5, General Code, as originally enacted in 1921, was practically the same as since the amendment of 1925. Section 6310–11 as originally enacted in 1921 read as follows:

> "In all sales, conveyances, transfers, gifts, exchanges or transactions in which the title to a 'used motor vehicle' passes, the original 'bill of sale' executed by the manufacturer or importer, or the agent or agents of either, shall be assigned by the seller, conveyor, transferrer or person giving away or passing title to such 'used motor vehicle,' to the purchaser, transferee, recipient or person obtaining title thereto; such assignment must be in writing, and witnessed by two persons and acknowledged by the seller, conveyor,

transferrer, person giving or passing title to such 'used motor vehicle,' before a notary public or other person authorized by law to take acknowledgments of conveyances. All such assignments shall at all times be kept and attached to the original bill of sale, provided, that in the event the said 'used motor vehicle' was purchased from the manufacturer, importer or the agent or agents of either, prior to this act becoming effective, then a bill of sale, in duplicate, as required by Sections 5 and 8 of this act, shall be executed and delivered by the seller, conveyor, transferrer, person giving or passing title to such used motor vehicle."

It will be noted that at all times since the enactment of the so-called bill of sale law in 1921 an examination of the last bill of sale filed should disclose the complete chain of title showing the name and residence of each former bona fide owner and the date and place of all previous transfers, and if any of the prior bills of sale or statements of ownership have been lost or destroyed no serious difficulty should be encountered in procuring certified copies thereof as the last bill of sale would show where such certified copies might be procured.

To trace the chain of title of a used motor vehicle would be as easy as would be the tracing of a chain of title to a piece of real estate registered under the Torrens Law.

I am advised that considerable difficulty is being experienced on account of so-called repossessed cars by mortgagees, who insist that in such cases the filing of a sworn statement of ownership entitles the repossessor of the car to have the car registered in his name.

I find no exemptions in the law in favor of mortgagees. The law in Section 6310-7 says:

"Each corporation, partnership, association, or person, in *all* sales, conveyances, transfers, gifts, exchanges of, or transactions in which *title to* a *'used motor vehicle' passes,* * * *"

Similar language is used in the other statutes pertaining to the subject.

Mortgagees come into possession of cars after the conditions of the mortgage have been broken, either with the consent of the mortgagor or by reason of foreclosure or replevin proceedings. If the mortgagor consents, he surely would execute a bill of sale. If he refuses to execute the bill of sale he could hardly be said to have consented. If he is willing to execute a bill of sale and can not furnish all other copies of bills of sale or sworn statements of ownership, as the case may be, the record of his acquiring title to the car will disclose where certified copies of prior evidence of the title may be procured and the mortgagee is in no different position than any one else who desires to purchase a car. If the mortgagor's record of ownership is not regular there might be some suspicion that his acquiring title was irregular. Surely a mortgagee should not loan money on a car without first having satisfied himself that the car had not been stolen and that the person who claimed title to it really had a good title. The best evidence upon which such a conclusion could be based is the record on file in the office of the clerk of courts where the last transfer was made, or the authorized bills of sale and sworn statement of ownership in possession of the owner.

I am informed that it has been the practice in many counties to permit mortgagees who have repossessed cars, to register their cars by filing a sworn statement of ownership, and thus begin a new chain of title without looking back of the mortgagee's title. It would seem to me that, if anything would be defeating the purpose of the law and opening the door for the doing of the very thing the law intended to prevent, a practice of that kind would be it. It has even been suggested that because the forms kept by county clerks contain the notation that they had been approved by the attorney general, their use for that purpose was justified. Such a contention is

too obviously fallacious to merit contradiction. It is true that county clerks keep on hand a supply of sworn statements of ownership which have been approved by the attorney general for the purpose for which sworn statements of ownership may be used, but not for any purpose other than is permitted by law.

It has also been contended and apparently with seriousness that because the statutes in several places use the expressions 'bills of sale' or 'sworn statements of ownership' the law contemplates that in lieu of a bill of sale a statement of ownership or sworn statement may be furnished. If such be the case, why the provision with reference to bills of sale at all?

Sworn statements of ownership are a sufficient compliance with the law and are proper beginnings of a chain of title to a used motor vehicle when there are no previous instruments of title in existence as I have stated above, but they can not be used interchangeably as and for a bill of sale, when the law specifically requires a "bill of sale" or "all bills of sale." The "sworn statements" contemplated by the provisions of Section 6310-13, supra, can never be anything other than the first link of a chain of title to a used motor car in this state, unless the car having been once owned in this state is taken out of the state and while out of the state has been transferred by sale or otherwise and then brought back into the state, in which event a sworn statement of ownership might be filed for the purpose of having it registered in this state, but even then, if again transferred after being brought into the state, the bill of sale then executed should be accompanied by the former bills of sale executed in this state as well as the sworn statements of ownership made when brought into the state.

It will be noted in Section 6310-1, General Code, it is said:

> "Each corporation, partnership, association or person to whom *title* has *in any manner* been passed to a motor vehicle shall present to the clerk of the county in which the sale, transfer, conveyance, gift or passage of title is consummated within three days thereafter both copies of the duplicate bills of sale."

and in Section 6310-11a we find this provision:

> "Each corporation, partnership, association or person to whom *title* shall *in any manner* within this state be passed to a 'used motor vehicle' shall obtain from the corporation, partnership, association or person from whom title *shall have been obtained,* at the time or before title to such 'used motor vehicle' shall be obtained, one copy of all bills of sale and the sworn statement, if a sworn statement has prior thereto been filed * * *."

If, as is contended by mortgagees who repossess cars upon default in the performance of the conditions of their mortgages, they might file a sworn statement of ownership and thereby swear that they are the owners of the car, title must necessarily have passed to them at some time prior to the execution of such sworn statement.

If by the terms of a mortgagee's contract, title passes to him at the time of its execution or at the time of default in the performance of its terms, then the mortgagee can truthfully say he is the owner of the car, but if he had complied with the law and secured the proper bills of sale when title passed to him he would have no trouble in again complying with the law when he disposes of the car, by executing a bill of sale and attaching thereto the prior evidences of title. If title had not passed to him at some time prior to his repossessing the car and he did not acquire it by foreclosure proceedings he cannot swear that he owns the car.

Since the rendition of opinion No. 648, rendered under date of June 1, 1927, and addressed to the Commissioner of Motor Vehicles, I have received a number of

communications protesting that the holdings of that opinion make the law unworkable and under some circumstances impossible of performance.

In said Opinion No. 648, it was held in substance that it is unlawful for a corporation or any person either to purchase, or sell, or in any manner pass title to a used motor vehicle, without having in his possession the proper verified bill of sale executed in duplicate as provided in Section 6310-5, General Code, and one copy of all duly executed, verified and filed bills of sale and certified copies thereof back to and including the original bill of sale, or back to and including the sworn statement, and without delivering the same to the person to whom title passed at the time of the transaction. It was further held that clerks of courts were without authority to accept for filing the duplicate bill of sale of a used motor vehicle unless one copy of all other bills of sale and the sworn statement, if any, back to and including the original bill of sale, or back to and including the sworn statement, were presented to him properly executed and marked.

In a communication from one of the representatives of a mortgage company in this state it is contended that in most instances it is impossible for the mortgagee who has succeeded to the ownership of a car which he has repossessed after the conditions of the mortgage had been broken to procure certified copies of all former bills of sale. He states:

> "This impossibility can be shown by the following concrete case: The owner of a motor vehicle who has purchased and registered his title under the Bill of Sale Act in Greenville, Darke County, Ohio, moves to Columbus, Ohio, and there borrows from a mortgage company upon the security of his car, executing and delivering to the company a chattel mortgage covering the car. The application for the loan shows that this mortgagor resides in Columbus. Upon condition broken in the mortgage the Columbus mortgage company takes possession of the automobile. The company, having acted pursuant to the practice for six years followed, has not required the mortgagor to deliver to it certified copies of all prior bills of sale, relying upon the practice which has permitted the company to register its title when possession is taken by filing a sworn statement of ownership. The company in its endeavor to comply with the law as interpreted in Opinion No. 648, in order to secure these duplicate bills of sale, is under the necessity of searching the records of every county in the state until the right county is found. The expense of such procedure is often more than the mortgage company has invested in the car.
>
> It does not solve the problem or alleviate the situation to say that the mortgage company should have secured from the mortgagor certified copies of all former bills of sale when the loan was made. The answer is they have not done so and at this time it is impossible to do so. In their former transactions they have acted in good faith and as set forth in the statement of facts have on hands many thousands of dollars worth of automobiles acquired in this manner and they have in their possession mortgages on many more thousands of automobiles, many of which they will eventually be obliged to take over upon condition broken in such chattel mortgage."

It is hard to conceive how a mortgage company can hide behind the failure of itself and its administrative officers to conform to the plain provisions of the law in the past and plead that as an excuse for not now complying with the law. It is equally hard to conceive how it can contend that in its former transactions it has acted in good faith in cases such as the concrete example it presents. Surely it would not have been so careless as not to have made some investigation as to how the applicant for the loan had acquired his title, and it would seem to me that the first source of informa-

tion to be investigated would be the evidence of ownership which the law clearly requires the owner of a car to have in his possession. If that were done, and the mortgage company was so solicitous of the feelings of the mortgagor as to not ask him to leave with them the former bills of sale which he had in his possession, surely there would have been nothing unethical or improper in making a notation of what these papers show so that if it became necessary to repossess the car it would not have to "search the records of every county in the state until the right county is found".

If it did not get this information at the time of taking the mortgage what assurance had it that the applicant for the loan really had title to the car? If such a practice is to be continued, what is to prevent thieves from getting loans? What assurance has a mortgage company that an applicant who does not or can not show the evidence of ownership provided by law, has not driven directly from a "fence", or is not the thief himself? Or what is to prevent a mortgage company from setting up in business for the very purpose of making loans on stolen cars if it is permitted to hide behind the fact, that some county clerks have in the past permitted the filing of a statement of ownership instead of the proper bills of sale as provided by law when transfers of repossessed cars are made?

I am fully aware that the law under consideration was enacted by authority of the police power of the state and is to some extent in derogation of property rights and for this reason and other obvious reasons should be strictly construed so far as its penalty provisions are concerned, but that does not authorize such a loose construction as has heretofore in many instances been placed upon it and is now contended for by mortgagees who have in their possession repossessed cars.

Specifically answering your questions in the order asked, I am of the opinion that:

1. Where the term "bill of sale" or "sworn statement" is used in the statutes in this state with reference to the transfer of title or registering of motor vehicles, a "bill of sale" or "sworn statement" as defined in the statutes is meant, the outline of the contents of which is set forth in Opinions, Attorney General, 1923, p. 452 and Opinions, Attorney General, 1925, p. 415. The sections of the General Code in question do not refer to or include bills of sale or sworn statements authorized or required by the laws of any other sovereignty.

Motor vehicles bought by residents of Ohio outside the State of Ohio, or brought into the State of Ohio for use or sale, should be registered in this state by the filing with the county clerk of the county where the owner is a resident, or where the car is first in general use on the highways of this state, or where the first sale is consummated in this state by the filing of a sworn statement by the owner thereof. Such statement should contain:

> "the name, residence of each and every bona fide owner or owners of the 'used motor vehicle,' the name of the manufacturer or make, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, the horse power of such 'used motor vehicle' and a general description of the body thereof, and obtain from said clerk, a certified copy of such statement."

2. The answer to your first question answers the second.

3. By the terms of Section 6306, General Code, which reads:

> "The foregoing sections of this chapter, and the penal statutes relating thereto, shall not apply to motor vehicles owned by non-residents of this state, provided the owner thereof has complied with the provisions of law in regard to motor vehicles in the state of his residence and complies with such pro-

visions while operating and driving a motor vehicle upon the public roads or highways of this state, and further provided that such sections and statutes are substantially in force as law in the state of his residence."

cars owned by non-residents of the State of Ohio are exempted from the provisions of law with reference to the registering of motor vehicles provided the owner thereof has registered his car and secured license plates in compliance with the provisions of law, in regard to motor vehicles in the state of his residence, and complies with such provisions while operating and driving a motor vehicle upon the public roads or highways of this state, and further provided that such sections and statutes are substantially in force as law in the state of his residence.

As you state, residents of Illinois have authority to operate their cars for thirty days without obtaining license plates. There is no similar provision of law in Ohio. All cars before being operated on the highways of this state must be registered and license plates therefor secured and displayed as provided by the statute, and therefore cars coming from Illinois are not within the exception made for non-residents by Section 6306, General Code, whereby non-residents are permitted to use the highways of this state if they comply with the law of the state from which they came, for the reason that similar provisions to those of the Ohio law with respect to obtaining licenses are not in force in Illinois.

If the owners of cars coming into this state do not first procure license plates in their own state, they should be required to register their cars and obtain license plates therefor, and if the car had never been operated on the highways of this state, or if the title thereto had never been transferred in this state, registration may be had by filing a sworn statement as provided by Section 6310-13, General Code.

The marshal or sheriff at Bryan, Ohio, or any other place, has no authority to pick up persons driving through from Illinois and compel them to buy Ohio license plates if the car has been duly licensed in Illinois, until after the period fixed in the reciprocal agreement made with the state of Illinois by the Secretary of State, pursuant to the provisions of Section 6306-1, General Code, which in this case is six months, has expired. After the expiration of the period during which cars from other states may be driven in Ohio without an Ohio license, the owners thereof may be required to have their cars registered in accordance with the laws of the State of Ohio. This should be done by the filing by the owner of a sworn statement as required by Section 6310-13, supra, with the county clerk of the county where such owner or person desiring to operate the car on the highways of this state resides, either temporarily or permanently.

4. In a transaction such as you have outlined in this question if the title to a motor vehicle really passes from A to B and later from B to C proper bills of sale should be made showing each transaction. If, however, B at no time acquires title and merely acts as an intermediary or agent of one of the parties the bill of sale should be made direct from A. to C. This is a question of fact in each case.

In answer to the questions submitted in your second inquiry, it is my opinion:

1. When a finance or mortgage company acquires a motor vehicle upon which it has a mortgage it should give title to a subsequent purchaser in the same way that any other corporation, partnership, association or person is required to do, that is, by the delivery to the purchaser of a properly verified bill of sale, together with all bills of sale or certified copies thereof back to and including the original bill of sale or back to and including the sworn statement in accordance with the provisions of Section 6310-8, General Code, which is very clear and specific on this point.

2. A dealer acquiring a motor vehicle on which he has held a mortgage is in no different position with reference thereto than any other person who repossesses a

car when the condition of his mortgage has been broken, and upon the transfer of title to a subsequent purchaser such dealer should deliver to the purchaser the same evidence of title that any other seller of a used motor vehicle is required by law to give.

Respectfully,
EDWARD C. TURNER,
*Attorney General.*

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1186.

TAX LEVY—ADDITIONAL TAX LEVY AND RESOLUTION UNDER SECTIONS 5625-15 AND 5625-18, GENERAL CODE, DISCUSSED.

*SYLLABUS:*

1. *Unless the resolution authorized under Section 5625-18, General Code, provides that the additional tax levy authorized under Section 5625-15, General Code, shall be placed on the tax duplicate for the current year said additional tax shall be included in the annual tax budget that is certified to the county budget commission in the succeeding year or years.*

2. *When the original resolution provided for in Section 5625-15, General Code, does not require that the additional tax levy therein authorized shall be placed upon the tax duplicate for the current year, said resolution may not be changed or amended after notice given as provided in Section 5625-17, General Code, and within four weeks of the election, so as to provide that said additional tax levy shall be placed upon the tax duplicate for the current year.*

COLUMBUS, OHIO, October 22, 1927.

HON. GEORGE H. BLECKER, *Prosecuting Attorney, Mansfield, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads:

"The City Council of the City of Mansfield, by authority of the new Section 5625-16, passed the following resolution:

'Resolution No. 807. By Mr. Porter.

Resolution authorizing the submission of a tax of one tenth of one mill for recreational activities.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MANSFIELD, STATE OF OHIO:

Section 1. That there shall be submitted to the electors of the City of Mansfield the question of authorizing the said City Council of Mansfield to levy annually for not to exceed five (5) years a tax of one tenth of one mill on each dollar of the assessed valuation of property in said city for the purpose of establishing, equipping, embellishing, operating and maintaining playgrounds, playfields, gymnasiums and indoor recreation centers. All levy, if adopted, to be in addition to all other levies authorized by law and outside the fifteen mill limitation.