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Recent Cases

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RECENT CASES

Master and Servant.

Jesse Doss, who was struck and injured by an automobile belonging to the Monticello Light and Power Company, and driven by Robert P. Meyers, an infant under sixteen years of age, brought suit against the company, its secretary and its general manager, R. A. Meyers, father of the infant, to recover damages.

Held:

1—Liability—Son—Family Purpose Doctrine—Liability of Father.

The "Family purpose doctrine" prevails in this state and is to the effect that the owner of an automobile, which was purchased and maintained for the pleasure of his family, is liable for injuries inflicted by the machine while it was being used by the members of his own family for their own purposes. This on the theory that the machine was being used for the purpose for which it was kept, and that the person operating it was therefore acting as the owner's agent or servant in using it.

2—Automobile—Sufficiency of Evidence.

Evidence that the machine causing the injury was owned by the light company and was sometimes driven by the infant son of the general manager, but for what purpose it does not appear, is not sufficient to bring the case within the "Family purpose doctrine."

Doss v. Monticello Light and Power Company, and Meyers, 193 Ky. 499.

Searches and Seizures—Search Warrant—Search of Person or Baggage—Evidence.

Under section 10 of the constitution of Kentucky providing that "The people shall be secure in their persons, houses, papers and possessions from unreasonable search and seizure, and no warrant shall issue to search a place or seize a person or thing without describing it as nearly as may be, nor without probable cause supported by oath or affirmation," it is unlawful for an officer to search the premises or

seize or search other things of a suspected offender, unless the officer has a search warrant authorizing it. This is subject to the exception that an arresting officer has the right to search the person of a prisoner lawfully arrested, and take from him property connected with the offense, or any weapon or thing that might enable him to escape or to do violence. It is as great a violation of the constitution for an officer to search a person or baggage carried by him, without a warrant authorizing it, as it is to search his premises. Evidence obtained by an officer in making an unlawful search is incompetent, and objection to its introduction may be made when it is offered to be introduced in the trial.

Ash v. Commonwealth, 193 Ky. 452.

