

had no knowledge of the defects in the chattels lent. But the reasoning in *Blakemore's Case* seems to imply that the plaintiff would have been allowed to maintain the action, if he had been, instead of a mere volunteer, a servant regularly employed by the bailee. Supposing this to be a justifiable inference, the principle, underlying this ruling and those in which it has been followed would be that the duty to warn the bailee as to defects in the chattels lent enures to the benefit of any person besides the bailee, who is morally certain to use them. A servant of the bailee would obviously belong to this category, where the chattel lent was an industrial appliance which is either customarily operated by servants, or which must be so operated, for the reason that the bailee cannot manage it without assistance.

It would seem from the cases cited under (G) and (H) that the courts, although they have not formulated such a principle in express terms, have proceeded on the theory that as regards persons whom the transferor of a chattel is bound to take into his calculations as being likely to use it, the essential difference between the obligations resulting from a gratuitous transfer and from a transfer upon valuable consideration, is that in the former case his duty is limited to informing the transferee as to defects of which he has actual knowledge, while in the latter case his duty extends to examining the chattel with reasonable care before it leaves his possession.

It will be observed that the facts presented the cases under this head, which involve a bailment, are closely analogous to those in which an implied invitation is treated as the controlling factor. But the principle upon which they are based is of wider scope than that of an invitation, which, as the authorities now stand, can scarcely be considered to cover more than the predicaments which imply either actual control or, as in *Heaven v. Pender*, supra, what may be termed the constructive control which is supposed to have continued for a period, varying in length according to circumstances, after the injurious agency has left the possession of the party charged with culpability.

XII. The attempts which have been made to introduce some order into the chaos which, as the foregoing digest of the decisions only too clearly shews, has resulted from undertaking to solve, by means of a number of isolated doctrines between which there is little or no correlation, a class of problems which are identical as respects one essential element will next claim our consideration.