

Assuming for a moment that the accident was due to the negligent act of Bourget, the question to be decided is, whether or not Christin, the defendant, is personally responsible for the negligent act of the driver of the car.

There is one thing certain, that at the moment of the accident, Bourget was legally in possession of the car, and was in control of the car; he was put in possession and control of the car by the defendant, Christin, and for a certain time, until, at least, six o'clock in the afternoon, was making use of the car under the direct instructions of Christin, the defendant, and for his, Christin's, use, and from the time he was put in possession of the car by the defendant until the happening of the accident, he had never parted with the control or possession of the car.

I do not believe it could be said, that if the accident happened through the negligence of Bourget, and if Bourget at the time of the accident had been on his way to St. Eustache (which, indeed, is insisted upon by the learned Counsel for the plaintiff), the defendant could escape responsibility.

On the other hand, it is urged, that when the accident did happen, Bourget was not acting for the defendant; was not using the car for the defendant's purpose, and, therefore, no responsibility attached; he was, according to his own version, on his way to execute if possible, a mandate of agency which had been exclusively entrusted to him by the defendant; he was in possession of the car at that time with the full consent of the defendant, Christin; without that consent he never would have been in possession of the car, and the accident would not have happened. If the accident happened because it was being driven and controlled by the negligent and unqualifi-