

Reports and Notes of Cases.

Dominion of Canada.

SUPREME COURT.

Man.] HALPARIN v. BULLING. [Dec. 29, 1914.

*Negligence—Master and servant—Use of motor car—Disobedience—
Act in course of employment—Employer's liability.*

B. was owner of an automobile and hired a chauffeur to run it, giving him positive instructions that the car was not to be used except for purposes of the owner and his family, and that, when not in use for such purposes, it was to be kept in a certain garage. On the evening of the accident in question, the chauffeur took his master's family to a theatre, in Winnipeg, and was directed by them to take the car to the garage and return for them after the close of the performance. The chauffeur took the car from the garage before the appointed time, and proceeded with it for the purpose of visiting a friend in a distant part of the city. While so using the car, contrary to instructions, he negligently ran down the plaintiff, causing injuries for which an action was brought to recover damages against B.

Held, affirming the judgment appealed from (24 Man. R. 235) that, at the time of the accident, the chauffeur was not engaged in the performance of any act appertaining to the course of his employment as the servant of the owner of the car, and, consequently, his master was not liable in damages. *Storey v. Ashton*, L.R. 4 Q.B. 476, followed.

Appeal dismissed with costs.

Nesbitt, K.C., and *H. Phillips*, for the appellant.

W. N. Tilley, for the respondent.

Que.] PRINGLE v. ANDERSON. [Dec. 29, 1914.

*Construction of will—Legacy to church committee—Special fund—
Ultior disposition of bounty—Failure in object of bequest—
Lapse of legacy—Art. 964 C.C.*

At a time when the congregation of St. Matthews Presbyterian Church, in Montreal, was heavily encumbered with debt