

du mal," a reference which is pointless if the *faute* of such "personne" is immaterial and if all that is needed is that in fact the thing should be under his care. To all this the plain words of the article, if they are plain as their Lordships conceive them to be, are a sufficient answer. In enacting the Code the legislature may have foreseen cases of the kind now in question many years before any of them arose. In construing it *Fletcher v. Rylands* (1) and *Nichols v. Marsland* (2) had better be left out of account. There is no reason why the Code should be made to conform to them. The mere title given to a group of articles is not in itself enough to contradict the prescriptions of one of them. As to the fact that the article begins with "Elle" and not with "Toute personne," it may be that a person incapable of knowing good from evil would be also incapable of having others under his control or of having things under his care, or at any rate would by that very incapacity be entitled to exculpation, on the ground that, if he could not tell right from wrong, neither could he prevent the *fait* which caused the damage. Even if this be not so, the only result would be to exempt from liability under art. 1054 persons incapable of knowing right from wrong, though they may occupy no decision or opinion need be given about it. The positive words of the article stand and must have effect.

Two other points may be briefly disposed of. The poplar tree grew in the field of one or the plaintiffs and belonged to him and both the houses burnt belonged to customers of the defendant company. Though these points were touched upon, it is not clear what legal consequence was supposed to result from them. The owner of the poplar was not shown to have been in fault and, even if