

since *Quarman v. Burnett* it has been considered settled law that one employing another is not liable for his collateral negligence unless the relation of master and servant existed between them. So that a person employing a contractor to do work is not liable for the negligence of the contractor or his servants. On the other hand, a person causing something to be done, the doing of which casts on him a duty, cannot escape from the responsibility attaching on him of seeing that duty performed by delegating it to a contractor.

"He may bargain with the contractor that he shall perform the duty and stipulate for an indemnity from him if it is not performed, but he cannot hereby relieve himself from liability to those injured by the failure to perform it."

In both of the latter cases, it will be noticed, that a contrast is drawn between negligence of a contractor called "collateral" or "casual," and failure on the part of the contractor to perform the duty incumbent on his employer. For the first the employer is not liable; for the second he is, whether the failure is attributable to negligence or not. The cause of action is founded in the one case upon the negligence, either of the servant acting within the scope of his employment, or of a contractor; in the other the cause of action is founded upon a breach of duty the performance of which a person could not escape by delegation to another.

"The true distinction between cases of master and servant and cases of employer and independent contractor seems to be this, that, when the person actually doing the work does something for which he would himself be liable, the master is, whilst the employer is not, liable for what is conveniently called 'collateral negligence' meaning thereby negligence other than the imperfect or improper performance of the work which the contractor is employed to do": Rigby, L.J., *Hardaker v. Idle District Council*, post p. 352.

Since *Dalton v. Angus* the real question in such cases has been within which of the propositions there stated by Lord Blackburn the case falls. A series of very interesting decisions have