that it had given way because of the pressure caused by the changes. . . .

A motion for a nonsuit was made at the close of the plaintiff's case, and renewed at the close of the whole case, upon the grounds that the evidence shewed that Smyrles was the occupant; that he at least stood in the relation of independent contractor to the defendant Reid; and that there was no evidence of negligence on the part of the defendant Reid. . . .

[Extracts from the charge of LATCHFORD, J., to the jury.]

Objections were taken by the defendant's counsel, among other things, to the reference made by the trial Judge to the arches, which had not been connected by the evidence with the accident—an objection, in my opinion, well grounded and of a somewhat serious nature.

Other objections were urged more or less in line with the defendant's contention on the motion for nonsuit.

An owner may be liable, although out of possession, if he created or permitted to be created the nuisance complained of, or if the injury complained of was brought about through the defective condition of the premises which it was his duty under a covenant with this tenant to repair: see Todd v. Flight, 9 C.B. N.S. 379; Rich v. Basterfield, 4 C.B. 783; Payne v. Rodgers, 2 H. Bl. 348; Regina v. Pedley, 1 A. & E. 822. . . .

The changes and alterations which undoubtedly brought about the disaster were none the less Reid's because he did not perform the work with his own hands. He certainly authorised and indeed commanded it. . .

[Reference to Harris v. James, 45 L.J.Q.B. 545.]

I agree with Teetzel, J. (delivering the judgment of the Divisional Court), that the defendant Reid may, in the circumstances, claim to stand in the same position as one who has had work done by an independent contractor. But it is never, so far as I have seen, a good defence to say that a particular thing causing damage was done for the person charged by an independent contractor. Such a defence, based on the law of master and servant, or respondeat superior, extends only to injurious things arising in the course of the operation, and not in every case even to them, for there are many exceptions.

The law upon the subject is briefly but satisfactorily discussed by Williams, J., in Pickard v. Sears, 10 C.B.N.S. 470.

Here the injury does not arise collaterally, but is the direct consequence of the very thing contracted to be done, and for which, therefore, its author, the defendant Reid, is responsible, unless otherwise excused.