lish the liability for injuries similar to that at bar upon the landlord and owner of the premises, and not upon the tenant, lessee and occupant. These cases—especially those of *Swords* v. *Edgar*, 59 N. Y. 35; *House* v. *Metcalf*, 27 Conn. 631; *Nugent* v. *Corporation*, 12 Atl. Rep. 797—are cases where actions were sustained against persons standing in the relation of landlord, and not of tenant or occupant. But I do not think that the premises and the logic of any one of these cases is such as to relieve the tenant or occupant from responsibility, or to establish the proposition that had the action been brought against him instead of his landlord, it could not have been maintained. While it will be admitted that the same legal principles will govern a case brought for an injury caused by negligence in failing to keep in repair an elevator operated in an hotel or store that would apply to an action fo injury for failing to keep in repair an engine or other machinery of railway transportation, or by failing to keep in repair the platform, guards, timbers and supports of a public wharf, yet in so far as there may be a difference necessarily growing out of the nature and use of the several kinds of improvements respectively, I think that the greater burden is thrown upon those responsible for the safe construction, good repair and careful operating of a passenger elevator. The kind of domestic use to which these improvements are applied, the apparently slight risk which presents itself to those who often risk their lives upon the sufficiency of an elevator, and the care with which it is operated in ascending and descending from one floor to another, are calculated to lull into a sense of security, without apprehension, and prevent inquiry and examination of the guest or customer into the construction, the condition or the material of such machinery. Indeed it may be said that all persons at hotels, stores or buildings using elevators, if they do not "take their lives in their hands," constantly intrust them to the fidelity and skill of the constructor and attendant of such machinery; and it may be answered that a like risk is involved in regard to our use of all the complex conveniences of life. That such is true to a considerable extent is granted, but I know of no important experiment to save bodily labor and fatigue upon which the daily safety of individual life depends, and is so much endangered, as that of the passenger elevator. And it will be readily admitted that a rule of law would be objectionable which fails to designate the person or persons in every case, whose duty it shall be to exercise proper care and bear the responsibility for the construction, preservation and management of all passenger elevators to the use of which the public are invited. While I would not say that where a man erects a building with an elevator, and negligently allows it to be unsafely constructed, and afterward lets it to a tenant, and while the same is so occupied, a servant, customer or guest, or one of the general public, who has been expressly or impliedly invited to its use, is injured, without contributory negligence on his part, by reason of the unskilful construction or improper material of such elevator, an action for damages for such injury would not lie against the constructor or landlord, I do hold that in many, if not in most cases, it would amount to a denial of justice to establish a principle or rule of law that would confine and limit the remedy to an action against the builder or landlord. And I think that in the very nature of things such injured person has a cause of action against the person who controls the premises, and profits by the business of which the elevator is a component part and accessory. In the case at bar the plaintiff introduced in evidence the contract lease of the premises from George Warren Smith, the owner, to the defendants, by which it appears that the defendants were by the terms of the lease to keep the premises, and especially the hydraulic elevator and all its connections, machinery and pipes, in good order and state of repair, and free from all obstruction. This evidence obviates the necessity of the discussion of the question of the direct primary liability of defendants, in case there be liability upon any one for an injury sustained by reason of the defective state of repair of the elevator in question. And it appears that the authority of the cases cited by the defendant in error in the brief, and especially that of *Burdick* v. *Cheadle*, 26 Ohio St. 395, establishes such liability of the