any negligence of an employee to whom it has been confided must be imputed to the employer whether an individual or a body corporate.

Under these circumstances and holdings, without discussing the other branch of the case as to whether the general manager and director of the company was or was not a fellow-workman with the deceased, or was the alter ego of the company for whose negligence they would be liable, I think the appeal should be dismissed with costs.

IDINGTON, J.:—The whole point of this case, as appellant's counsel put the matter, without abandoning other and minor things, is whether the doctrine of common employment is applicable or not, and whether the jury should have been better directed in that regard than they were.

I do not think appellant can now complain of non-direction, after its counsel at the trial prudently and deliberately refrained from taking objection to the charge or submitting a proper question for adoption by the learned trial Judge or otherwise insisting on the point in question being finally and definitely brought to his attention with a view to having the jury pass upon it.

Moreover, on the facts that bear on the exact point raised, there is no dispute.

There is most conflicting evidence as to whether or not what the jury has found to have been negligence was so or not. But there is no dispute that the condition of things pronounced negligent and dangerous was seen and passed upon by three officers of the company, of whom one was manager and director, and another general mine superintendent, for the express purpose of either determining or reporting to the board of directors (it does not appear which) so that it could decide as to reopening the mining operations which had ceased for 18 months.

The condition of the place in and about which the workmen had to work, the nature of that work and the risks created thereby and to be suffered must be taken, I think, as adopted by the company on their reopening of the mine—as a place and things all known to it to be just what it was—and what was that? Was it not a dangerous place wherein the men were to work, and was not the employment of a dangerous character?