at all of the many cases cited by counsel, and at other cases. My conclusion is, that the defendants can successfully invoke for their defence the doctrine of common employment.

This is a common law action. The plaintiffs have no claim under the Workmen's Compensation for Injuries Act; so, unless there is liability at common law, the plaintiffs cannot succeed.

The plaintiffs rely upon Ainslie Mining and R.W. Co. v. McDougall, 42 S.C.R. 420, as correctly stating the law: "An employer is bound to provide a safe and proper place in which his employees can do their work, and an employer cannot relieve himself from this obligation by delegating the duty to another; and, if the employee is injured by the failure of the employer to fulfil this obligation, the employer cannot, in an action against him for damages, invoke the doctrine of common employment." I do not understand that case to mean that, whenever an accident happens to an employee in the course of his employment, in the room or upon the premises provided by the employer, the place is to be considered an unsafe and improper place in which to work. There is no warranty, on the part of the employer, that the employee will not meet with an accident while at work. The right of action is founded upon negligence; and, if there is no negligence in providing and maintaining the place where work is being done, if it is safe and proper for the work to be done, and if there is no negligence in respect to the particular act or thing which causes the injury to the workman, there is no liability. The building must be structurally safe—it must be free from pitfalls, from dangerous openings insufficiently guarded, and from dangerous machinery unprotected. The contention of counsel for the plaintiffs, in his very able conduct of this case, is, that the kitchen of the hotel, from the time of the attachment of the steam heating to the range, was not a safe place for the hotel employees to work in. If it was not safe, it was for the time made unsafe by the negligence of Gallagher. The contention is, that, if Gallagher was an ordinary servant of the employer, the employer is liable, and, even if an independent contractor, the defendants are liable, and many cases were cited in supposed support of this contention.

Jones v. Canadian Pacific R.W. Co. (1913), 30 O.L.R. 331, has no bearing, as in that case there was breach by the defendants of a statutory duty.

The most recent case on the point of independent contractor is Vancouver Power Co. v. Hounsome (1914), 49 S.C.R. 430.

Upon what may be considered as undisputed evidence, the