scaled and made safe, yet the injury did not arise from the fact that the scaling was dangerous, but because it was not done. It would not necessarily cause injury if carefully done.

It was neglect in not having the dangerous stone removed before the work was continued that caused the injury.

In the contract, however, the company saw fit to provide that "the work shall be carried on and prosecuted in all its several parts in such a manner . . . and at such times and at such places as the engineer shall from time to time direct, and to his satisfaction." And the contractor was bound "in all things to comply with the instructions of the engineer."

This reserved to the company such complete control over the manner of doing what was necessary as, I think, to make them liable with the contractor in case of negligence in the doing of it. It cannot be doubted that the injury arose owing to the manner in which the work was done; the scaling was imperfectly done; it was not completely done. It left the premises in a dangerous condition when the men were directed to proceed with the tunnel, with the consequent injury to the plaintiff.

There is such an intimate connection created and control reserved by the contract, between the company and the contractor, as to make them, in my opinion, both liable for the negligence which caused the accident.

The premises being in this dangerous condition, the plaintiff was directed to do the work. It is true that this direction was given by the contractor's foreman and renders the contractor liable under both sub-secs. 2 and 3 of sec. 3 of the Workmen's Compensation for Injuries Act.

I think that the company are liable independently of the Workmen's Compensation for Injuries Act, for the reason, as above indicated, that the company reserved to themselves the right to direct the manner in which the work was to be done. The company made themselves responsible for the manner of doing the work, and it was the negligent manner of doing the work that caused the accident.

If it be said that the plaintiff is not in the employ of the company, because hired and paid by the contractor, the answer is, that, if that be so, he is not met with the question of common employment, and does not have to invoke the aid of the statute to be relieved of the effect of that doctrine; and, if he has been injured owing to the negligence of the company, he is entitled to recover against the company for such negligence.