is of course conditional upon proof that the order was within the scope of the superintendent's authority (*c*).

(3) The failure to furnish proper appliances (*d*).

(4) Employing servants not competent for the work to be done (*e*).

(5) Allowing abnormally dangerous conditions to exist in the place of work (*f*).

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did not see that holes were drilled for the dogs which were to hold an unusually heavy stone while it was being hoisted.] The failure to countermand an order when due care requires that it should not be executed. *Cavagnaro* v. *Clark* (1898) 171 Mass. 359, 50 N.E. 542, [where the superintendent saw that an employé, not being aware that an order was given, was about to place himself in such a position that the execution of the order would imperil his safety.]

(*c*) See an unreported case mentioned in Ruegg on Empl. Liab. (5th ed.) p. 34, where, in an action alleging negligence, the evidence was that a master stevedore's foreman, not being satisfied with the way a labourer was doing his work in the hole of a ship said to a man near him: "Get hold of a block of wood and chuck it down on his —— head." The order was obeyed, and the labourer's skull was fractured. A Divisional Court held that there could be no recovery.

(*d*) A judgment awarding damages to a boy injured while cleaning out a brick pressing machine with his hands should not be set aside, where the evidence tended to shew that "scrapers" for doing this work were not furnished in sufficient number by the foreman. *Race* v. *Harrison* (C.A. 1893) 10 Times L.R. 92, rev'g. 9 Times L.R. 567. A sufficient cause of action is stated by an averment that a person to whom the defendant had intrusted superintendence "negligently caused or allowed the use of means or appliances in or about attempting to get said car on said rails which would likely cause or allow said car to fall," and by an averment that such a person negligently "caused or allowed the attempt to get said car upon said rails without proper appliances." *Louisville & N.R. Co.* v. *Jones* (Ala. 1901) 30 So. 586.

(*e*) The foreman employed on a pile-driver may be guilty of negligence in allowing a workman apparently drunk to handle a fall liable to become caught on the choking guard which holds the driving hammer in place, while another workman is engaged in swinging the pile to its place. *McPhee* v. *Scully* (1895) (Mass.) 39 N.E. 1007, 163 Mass. 216. Since a general manager exercises superintendence in choosing incompetent workmen, the master is liable for an injury caused by their incompetence, whether the manager was present or not while the work was being done. *Behm* v. *McDougall* (1892) 14 A.L.T. (Victoria) 47.

(*f*) Negligence may properly be found on the principle of res ipsa loquitur (see opinion of Kay, L.J.,) where a manager of a colliery allows an inflammable brattice cloth to stand within two feet of a winding engine having a wooden brake, which, as he must have known, frequently emitted sparks. *Thomas* v. *Great Western &c. Co.* (C.A. 1894) 10 Times L.R. 244, rev'g judgment of Divisional Court. For one having superintendence of railway tracks and cars in a railway yard, either to direct or allow a car to be placed too near another track, or, upon its being there without his fault, to suffer it to remain, is negligence while in the exercise of his superintendence. *Kansas City, M. & B. R. Co.* v. *Burton* (1892) 97 Ala. 240, 12 So. 88. In *McCauley* v. *Norcross* (1892) 155 Mass. 584, the evidence was that three and a half feet from an open hole in a floor a few iron beams were placed; that they had been there for two or three days, and that the defendant's superintendent, being on crutches, and walking about the floor upon which the beams were placed, in order to pass between a pile of planks and these beams, pushed one of the beams with his foot, so that it swung around on the other beams and fell down through the hole on to the plaintiff. The court said: