act in question, should be regarded as involving pro tanto the resumption of these functions. Under any other theory, it is clear, the master will enjoy all the advantages, and be subject to none of the drawbacks, of the doctrine that the applicability of the statute is to be tested solely by the character of the functions in regard to which negligence is alleged.

The severe doctrine adopted in the cases just cited is qualified to the extent of allowing the servant to recover, when the manual act in question was so connected with a plan or order coming from him in the exercise of his authority as to show that the plan was ill-conceived or the order negligent (*i*). But this qualification is not construed as involving the conclusion that every act done by a superintendent, even to help in carrying out an order which he himself has given, should be regarded as part of his superintendence (*j*) A fortiori is the master not liable where the act of the superintendent has no proper connection with his duties. "The question whether the connection is close enough is," as has

(*i*) *Joseph* v. *Whitney Co.* (1900) 177 Mass. 176, per Holmes, C.J. The authority for this proposition cited by the learned judge was *O'Brien* v. *Look* (1898) 171 Mass. 36, 50 N.E. 458, where it was held that the manual labour of a superintendent who directed the method of lowering the fore and after into its socket, in unwinding a rope from the drumhead, cannot be separated from his duty as superintendent, so as to relieve the master from liability for injury to a servant, resulting from the superintendent's negligence in unwinding the rope when it was in a wet condition. In *McCabe* v. *Shields* (1900) 175 Mass. 438, 56 N.E. 699, the acting superintendent in a foundry directed the plaintiff to use a mold for a casting in which he had made a perforation with a rusty piece of iron. The evidence tended to shew that, when the molten iron came in contact with the rust in the mold left there by the iron used by H. in perforating it, it caused an explosion resulting in plaintiff's injury. It was held that the superintendent in placing the dangerous mold in plaintiff's hands and directing him to use it, acted as a superintendent, but whether the act of perforation itself was one of superintendence was not decided. In *Malcolm* v. *Fuller* (1890) 152 Mass. 160, 25 N.E. 83, it was held that, as a foreman of a quarry was exercising superintendence in determining, after the firing of a blast, that the tamping should be cleared out of a drill-hole by drilling, a servant injured by an explosion while the work was being done might recover, regardless of the fact that the superintendent himself struck the drill. In *Crowley* v. *Cutting* (1895) 165 Mass. 436, where a stone which was being hoisted slipped out of the dogs which held it for the reason that no holes had been drilled to receive them, a verdict for a servant injured by the fall of the stone was upheld, although the superintendent adjusted one of the dogs himself. In *Ray* v. *Wallis* (C.A. 1887) 51 J.P. 519, the court mentioned, as an additional reason for holding the defendant liable, the fact that the manual work was connected with an order previously given, but the decision was independent of this factor.

(*j*) *Joseph* v. *Whitney Co.*, ubi supra.