intendent within the statute. This provision, in other words, is not construed as being declaratory of the "superior servant" doctrine which prevails, under the common law, in some jurisdictions. See the note in 51 L.R.A., above referred to, at pp. 517, et seq. This conception of the meaning of the statute is doubtless warranted by the fact that cases of the mere exercise of control have been provided for by the succeeding sub-section of the statutes. But it seems to be fairly open to question whether some of the decisions cited below have not construed the facts with undue rigor to the plaintiff's disadvantage. The result of the view thus taken is that the master is not responsible for the negligence of an employé who habitually participates in the work done by his subordinates, and whose authority over them is limited to giving directions in respect to that work (*h*).

(*h*) It has been held that no action can be maintained for the negligence of the following employés: A workman who was being assisted by another in the simple operation of unloading a cart. *Allmarch* v. *Walker* (Q.B.D. 1885) 78 L.T. Journ. 391. A man ordinarily engaged in manual labour, although he in fact superintended his fellow-workmen as a "ganger" or "gang-foreman." *Hall* v. *North Eastern R. Co.* (Q.B.D. 1885) 1 Times L.R. 359 [New trial ordered to determine whether an employé in charge of a body of men engaged in loading cars was a superintendent or ordinarily engaged in manual labour]. A foreman who worked "at getting out lumber and piling it up, and in operating saws." *O'Brien* v. *Rideout* (1894) 161 Mass. 170, 36 N.E. 792 [Plaintiff was a common labourer put to work at a saw]. One employed as a common painter, receiving the same pay and doing the same work as the other men on the job. *Adasken* v. *Gilbert* (Mass.) 43 N.E. 199, 165 Mass. 443. The testimony of the foreman of gang of slaters called by the employer, that he worked with his hands nine-tenths of the time, is not conclusive as to that fact as bearing upon the question whether the witness's principal duty was that of superintendence, but presents a question for the jury, although the fact, if proved, takes the case out of the statute. *Reynolds* v. Barnard (1897) 46 N.E. 703, 168 Mass. 226. Evidence that a person, employed by another as superintendent of the blasting of a ledge of rock by means of dynamite exploded in drill holes by electricity, worked with his own hands in attending to the fire under the steam boiler, in sharpening all the tools used by the workmen, in charging the drill holes and in clearing them out, and in other acts of manual labour, which occupied the most of his time, will not warrant a finding that his "principal duty is that of superintendence." *O'Neil* v. *O'Leary* (1895) 164 Mass. 387. In *Cashman* v. *Chase* (1892) 156 Mass. 342, the delinquent employé was the engineer of the engine by means of which a hoisting apparatus, used for transferring a ship's cargo to a lighter, was operated. His station was on the lighter and the hold of the vessel was out of his sight. There were four men in the hold whose work was to collect the bundles of laths into heaps, around which they put a rope. When the fall was lowered the hook was attached to the rope, and a signal given to the stageman, who signalled to the engineer to raise or lower as the work in the hold required. The engineer employed the men in the first instance, and set them at work. He went into the hold on several occasions, for a few moments at a time, and showed them how to adjust the rope around the bundles of laths. He discharged and employed men. The unloading of the vessel took two or three days, and the men were paid by the defendant in person, who was there several times for a little while on each occasion. The engineer did no manual labour, except the running of the engine. "Upon the facts," said the court, "it might be competent to find that