ing a duty which by the relations of master and servant rests upon the master. The English Courts generally hold, that where the master has provided a reasonably safe place, machinery and materials in and with which the work is to be performed, but undertakes to keep the place and machinery in suitable repair through agents and servants, he has fully performed his duty when he has exercised reasonable care and prudence in selecting skillful and careful servants to detect defects and make repairs, and has supplied such servants with suitable materials with which to make such repairs, and that the master is not liable to another servant for any negligence of the first servant in detecting and making such repairs.

Wilson v. *Merry et al.*, 1 L. R., (S. & D. Ap. 6) 326. In this case the Lord Chancellor states the doctrine as follows :—

"I do not think the liability or non liability of the master to his workmen can depend upon the question whether the author of the accident is not or is in any technical sense the fellow workman or *collaborateur* of the sufferer.

"In the majority of cases in which accidents have occurred the negligence has no doubt been the negligence of a fellow workman; but the case of a fellow workman appears to me to be an example of the rule and not the rule itself.

"The rule, as I think, must stand upon higher and broader ground..... The master is not and cannot be liable to his servant unless there be negligence on the part of the master in that, in which he, the master, has contracted or undertaken with his servant to do. The master has not contracted or undertaken to execute in person the work connected with his business. The result of an obligation on the master personally to execute the work connected with his business in place of being beneficial, might be disastrous to his servant, for the master might be incompetent personally to perform the work.

"At all events a servant may choose for himself between serving a master who does and a master who does not attend in person to his business. But what the master is, in my opinion, bound to his servant to do, in the event of his not personally superintending and directing the work is to select proper and competent persons to do so and to furnish them with adequate materials and resources for the work. When he has done this, he has, in my opinion, done all that he is bound to do. And if the persons so selected are guilty of negligence this is not the negligence of the master, and if an accident occurs to a workman to-day in consequence of the negligence of another workman, skillful and competent, who has formerly been but is no longer in the employment of the master, the master is in my opinion not liable although the two workmen cannot technically be described as fellow workmen."

This view places the liability of the master upon the duty he owes the workman arising from their relations to each other. It implies that if the master personally attempts to discharge that part of the work which the relation devolves upon him, and his negligence therein causes injury to the workman, the master is liable therefor.

The question is naturally suggested : Why should he not also be liable for the negligence of the agent or servant whom he has appointed to discharge the same duty in his stead although he has exercised due care to select a person competent and skillful?

Is such an agent or servant while performing the duty cast by the relation upon the master, a fellow workman with the master's servant in the employment, in such a sense that the latter cannot and ought not to recover of the master for injuries sustained through the negligence of the former? If so, the master who performs his part of the duty, as this defendant and all corporations must, by agents and servants, secures an immunity from liability which the master who personally enters the service to manage and direct the performance of the work does not enjoy.

The doctrine now established by the United States Supreme Court and by most of the Courts of last resort in the several States, holds the master liable to his workman for injuries sustained from the negligent performance of duties which rest by the relation upon the master, whether the master performs such duties personally or through an agent or servant.

Says Mr. Wharton in his work on Agency, p. 232 :

"It is important..... to remember that the master is liable *where the negligence of the offending servant was as to a duty assumed by the master as to working place and machinery.*