

From Divisional Court.]

[Dec. 30, 1905.]

COMMALFORD v. EMPIRE LIMESTONE CO.

*Master and servant — Negligence — Evidence — Long continued user.*

The fact that for many years an operation has been carried on in the same way and with the same appliances without an accident while strong evidence in the master's favour is not conclusive and if there is evidence that the system is defective the case must be submitted to the jury.

Judgment of a Divisional Court affirmed, OSLER, J.A., dissenting.

German, K.C., for appellants. Battle, for respondent.

Pol. Mag., Toronto.] REX v. HENDRIE.

[Dec. 30, 1905.]

*Criminal law — Keeping common betting house — Incorporated company — Lease of premises — President — Crim. Code, s. 197.*

The president of an incorporated company, owners of a race course, who lease for valuable consideration part of the premises to an individual to be used for betting purposes, is not merely by virtue of his office, and without anything more than acquiescence on his part, liable to conviction as a party to the offence.

*Rex v. Hanrahan* (1902) 3 O.L.R. 659 distinguished. Conviction quashed, MACLAREN, J.A., dissenting.

Ritchie, K.C., for appellant. Cartwright, K.C., for the Crown.

From Meredith, J.] REX v. QUINN.

[Dec. 30, 1905.]

*Criminal law — Acquittal on indictment for personation at election — Subsequent indictment for perjury in taking oath of identification — Autrefois acquit — Right to acquittal at common law.*

A prisoner was indicted at the assizes in having applied for and voted on a ballot in another person's name at a Dominion election, when he was acquitted. He was subsequently indicted and convicted for perjury in having, on the said occasion, taken the oath of identity.

Held, that the defences were distinct; the personation being complete under s. 141 of the Dominion Elections Act, 1890, when