

give a legal sanction to laws made by a body having no right to make such laws? If it purports to do so, does it not merely confirm a nullity? But the confirmation of a nullity can hardly make a nullity anything else than a nullity.

DISREGARDING FINDINGS OF FACT BY A JURY.

On a former page (p. 41) we offered some observations on the case of *King v. Northern Navigation Co.*, 24 O.L.R. 643. The case has since been heard, and disposed of by the Court of Appeal, and the judgment of the Divisional Court has been affirmed. It may be remembered that the action was to recover damages for the death of the plaintiff's husband caused by his falling through an unfenced hatchway on the defendants' vessel. The jury found that the defendants were guilty of negligence in leaving the hatchway unfenced, and in answer to the question, "Was the deceased returning to the ship *Ionic* in the course of his duty and employment when he received the injuries complained of?" they answered "Yes." Notwithstanding these findings of fact, both the Divisional Court and the Court of Appeal found as a fact, and based their decision on the finding, that the deceased was not on the *Ionic* in the course of his duty or employment when he received the injuries complained of, and that the defendants in leaving the hatchway unprotected were not guilty of negligence. It may be that the jury, in making the finding they did, acted perversely and against the weight of evidence; but in such a case, if there was any evidence from which the jury might draw the inference they did we fail to see by what right the Court wholly disregarded the findings, and found the facts to be exactly the opposite of what the jury had found. The only legitimate way of getting rid of such a finding, if there was any evidence on the point, would be by granting a new trial. The observations of Lord Halsbury, L.C., in *Watt v. Watt* (1905), A.C. 115 on the question of damages, seem equally appropriate to questions of fact. He said "Has not a defendant a right to say, I refuse to have judgment (dam-