

NUISANCE—MASTER AND SERVANT—CRIMINAL LIABILITY OF MASTER FOR ACT OF SERVANT.

The principle laid down in *Chisholm v. Doulton*, 22 Q.B.D. 736, is that a master cannot be made criminally responsible for the negligent act of his servant. In this case the defendant was summoned for negligently using a furnace so as not to consume the smoke, as required by an Act of Parliament. There was no defect in the furnace, but the act complained of was due to the negligence of the defendant's servant, but for this, Field and Cave, JJ., held the defendant could not be made criminally liable. The only exception to the rule that no man can be made criminally liable for the act of another is where the legislature has expressly so provided.

MUNICIPAL LAW—DISQUALIFICATION—MEMBER OF MUNICIPALITY "CONCERNED IN CONTRACT"—
(R.S.O., c. 184, s. 77.)

Nutton v. Wilson, 22 Q.B.D. 744, disposes of a point in municipal law. By an Act of Parliament a member of a local board who is in any manner concerned in any bargain or contract entered into by such board, shall cease to be a member, and a penalty is imposed on any member acting when so disqualified. The defendant, a member of such a board, was employed a sub-contractor by persons having a contract with the board; and it was held by the Court of Appeal (Lord Esher, M.R., and Lindley and Lopes, L.JJ.), affirming A. L. Smith, J., that the defendant was disqualified and liable to the penalty, he having acted when so disqualified.

SHIP—DAMAGE—IMPLIED REPRESENTATION OF WHARFINGER.

The only case in the Probate Division which it is necessary to notice is *The Moorcock*, 12 P.D. 64, in which the Court of Appeal (Lord Esher, M.R., and Lindley and Lopes, L.JJ.), affirmed the decision of Butt, J., noted ante vol. 24, pp. 580, holding that where a wharfinger agrees for hire to allow a vessel to discharge at his wharf, where the vessel must necessarily ground at low water, there is an implied representation on his part that the bottom adjoining the wharf is in such a condition as not to cause injury to the vessel, and is liable for the injury occasioned to the vessel by reason of its not being in that condition.

COMPANY—DIVIDENDS—PAYMENT OF DIVIDEND OUT OF CAPITAL—WASTING PROPERTY.

Proceeding now to the cases in the Chancery Division, the first is *Lee v. Neuchatel Asphalt Co.*, 41 Chy.D. 1, which was an action by a shareholder on behalf of himself and all other shareholders of a joint stock company, except the defendants, against the Company and the directors, to restrain the payment of dividends. The Company was formed to purchase a lease of, and work, an asphalt mine. The working of the mine necessarily diminished its value, and the directors, notwithstanding, proposed to distribute all profits realized over and above the working expenses. This the plaintiff claimed would amount in effect to a diminution of the capital of the company and should therefore be restrained. But Stirling, J.,