the vessel, and that the appeal should be allowed on that ground.

Appeal dismissed with costs.

Weldon, Q.C., for the appellant.

W. Pugsley and *C. A. Palmer*, for the respondent.

[March 18.

NEW BRUNSWICK RY. CO. *v.* VANWART.

Railway Co—Negligence—Duty of company—Contributory negligence.

V. was at a siding of the N. B. Ry. with a pair of spirited horses. He was told that a train was approaching and endeavored to unhitch the horses, but before he could do so the train came along, the horses took fright and ran away, and V. was dragged on the track where he was killed. There was no notice of the approach of the train by whistle or ringing of a bell, and the company not coming under the general Railway Act, were not bound to give such warning. The train was the ordinary freight and was proceeding at its usual rate of speed.

Held, reversing the judgment of the Court below, that the facts presented did not show such negligence by the servants of the company as would make them liable in damages for V.'s death.

Held, also, that if the company were liable the father of the deceased would have had reasonable expectation of future pecuniary benefit from the life of his son, and would be entitled to share in the damages.

Appeal allowed and non-suit ordered.

C. W. Weldon, Q.C., for the appellants.

J. A. Vanwart, for the respondent.

[March 18

THE QUEEN *v.* CHESLEY.

V., a government official, requested C. to sign a bond as surety for the faithful discharge of his duty as such official. C. having agreed to do so, V. produced a blank form of bond and C. signed his name to it and to an affidavit of justification and acknowledged to a third party that he had executed such bond. The third party made an affidavit of the execution before a magistrate, who gave a certificate of its due execution before him. The bond, which had been filled out for the sum of $2000, was then sent to Ottawa to be registered as the statute requires.

In an action on the bond against C. on default by V., C. claimed that the amount of the bond was represented to him to be $500 or $1000, that there was no seal on it when he signed it, that he had not sworn to the affidavit of justification, and that the magistrate should not have given the certificate he did. The Court below held, affirming the judgment of the trial judge, that C. was estopped from denying the execution of the deed, but as his action was not the proximate cause of the acceptance of the bond by the Government, but that the false certificate given by the magistrate was, the Crown could not recover. On appeal to the Supreme Court of Canada,

Held, reversing the judgment of the Court below, that the making of the bond was the real cause of its acceptance and the defendant being estopped, the Crown was entitled to judgment.

Appeal allowed.

R. L. Borden, for the appellant.

Harrington, Q.C., for the respondent.

[March 18

WALLACE *v.* SOUTHER.

A promissory note made payable to John Souther & Son was sued on by John Souther & Co.

Held, that it being clear by the evidence that the plaintiffs were the persons designated as payees, they could recover.

It was no objection to the validity of a promissory note that it is for payment of a certain sum in currency. Currency must be held to mean "United States Currency" particularly when the note is payable in the United States.

If a note was insufficiently stamped the double duty may be affixed as soon as the defect comes to the actual knowledge of the holder. The statute does not intend that implied knowledge should govern it.

The appellant claimed that he was only a surety for his co-defendant, and that he was discharged by time being given to the principal to pay the note.

Held, that the fact of time being so given being negatived by the evidence, it was im-