

REPORTS AND NOTES OF CASES.

Dominion of Canada.**EXCHEQUER COURT OF CANADA.**

Audette, J.] IN RE LAPOINTE AND THE KING. [Feb. 4.
*Government railway—Negligence—Fatal injury to workman—
Brakesmen—Defective coupling on car—Knowledge of defect—Acceptance of risk—Unskilled workman—Standard of prudence—Liability.*

T. was employed on the Intercolonial Railway as a brakesman. At the time of the accident whereby he lost his life he was one of the crew on a shunter-train working between different stations along the line of the Intercolonial Railway in the province of Quebec. The coupling device of one of the cars in this train was defective in that the chain connecting the pin and the lever was broken and disconnected, so that the device would not act automatically. It is the practice of brakesmen to uncouple cars when the train is in motion by means of this automatic device. There are no rules or regulations of the road forbidding the work being done in this way. It was shewn by the evidence that the train hands knew that the coupling on this particular car was defective. The deceased was not a permanent employee and had not acquired that skill in coupling and uncoupling cars that more experienced brakesmen have. His attention was called by one of his fellow-workmen to the fact that the coupling was defective but notwithstanding this he undertook to uncouple the car while the train was in motion. Finding that he could not accomplish this with the defective device he went between the cars and attempted to do the work of uncoupling with his hands. He fell between the cars and the wheels passed over him, injuring him fatally.

Held, that T. had accepted the risk of making the coupling under the circumstances; and that the Crown was not liable.

(2) If an inexperienced workman knowing from observation of his skilled fellow-workmen that a particular piece of work is hazardous if done in the method pursued by them, undertakes to so perform it, while another and less dangerous method is open to him, he is not observing a proper standard of prudence and ought not to be held blameless if any accident results from his lack of care.

Stein, and Lapointe, for suplicants. Cimon, for respondents.