

BEVERLY WHITE (DEFENDANT).....APPELLANT; 1889

AND

*Oct. 26.

MARIA PARKER, ADMINISTRATRIX OF THE ESTATE AND EFFECTS OF DAVID M. PARKER, DECEASED (PLAINTIFF).....	}	RESPONDENT.
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ON APPEAL FROM THE SUPREME COURT OF NEW BRUNSWICK.

Appeal—New trial—Abatement of action—Death of plaintiff—Actio personalis moritur cum personâ—Railway accident—Lord Campbell's act.

P. brought an action against a conductor of the I.C.R. for injuries received in attempting to board a train and alleged to be caused by the negligence of the conductor in not bringing the train to a stand still. On the trial P. was non-suited and on motion to the full court the non-suit was set aside and a new trial ordered. Between the verdict and the judgment ordering a new trial P. died and a suggestion of his death was entered on the record. On appeal to the Supreme Court of Canada from the order of the full court: *Held*, that under Lord Campbell's Act, or the equivalent statute in New Brunswick (C.S. N.B. ch. 86) an entirely new cause of action arose on the death of P. and the original action was entirely gone and could not be revived.

There being no cause before the court the appeal was quashed without costs.

*PRESENT: Sir W. J. Ritchie C.J. and Strong, Taschereau, Gwynne and Patterson JJ.
