

1894

ST. STEPHEN'S BANK *v.* BONNESS.

*Nov. 9.

Promissory note—Consideration—Accommodation—Discharge—Agreement.

1895

*May 6.

APPEAL from a decision of the Supreme Court of New Brunswick affirming, by an equally divided court, the verdict for defendant at the trial.

The action in this case was on a promissory note indorsed by defendant, who pleaded that it was indorsed on the express understanding that he was not to be called upon to pay it and that he was discharged by the bank subsequently taking security from the makers. At the trial the defendant had a verdict, the jury finding that the bank, on taking security, had agreed that the note in suit should be paid out of the proceeds. On motion, pursuant to leave reserved, for judgment for plaintiffs or a new trial, the court *en banc* was equally divided and the verdict stood.

*PRESENT:—Sir Henry Strong C.J., and Taschereau, Gwynne, Sedgewick and King JJ.

The Supreme Court, Gwynne J. dissenting, ordered 1895
a new trial on the ground that the finding of the jury
did not warrant the verdict for defendant.

ST.
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Appeal allowed and new trial ordered.

Weldon Q.C. for the appellants.

Pugsley Q.C. for the respondent.
