C.C.P.) The leave to appeal now sought to be obtained is from the judgment dismissing the appeal.

The Court has invariably refused leave to appeal to Her Majesty from judgments dismissing the appeal to this Court for want of jurisdiction in this Court to hear the appeal. Leave to appeal, therefore, could not be granted in this case; but it is only necessary for the Court to dispose of the motion to order back the record. This motion is rejected.

Abbott, Tait, Wotherspoon & Abbott, for Appellant, moving.

W. W. Robertson, for Respondent.

VALOIS, Appellant, and COMMISSAIRES D'ÉCOLE POUR LA MUNICIPALITE DE HOCHELAGA, Respondents.

LUSSIER, Appellant, and CORPORATION OF HOCHELAGA, Respondent.

Appeal to the Privy Council—Future rights.

An appeal will not be granted to the Privy Council from a judgment of the Queen's Bench maintaining an action to recover an amount of assessments illegally exacted, where the matter in dispute does not exceed £500 stg. The fact that the roll under which the assessments were collected might exist for three years does not bring the case under art. 1178 C.C.P., especially where the total amount for the three years would be under £500 stg.

Sir A. A. DORION, C.J. These are two rules by the Corporation, Respondent, for leave to appeal to the Privy Council from judgments of this Court. The Court is of opinion that the Corporation has no right to appeal. The action in each case was to recover back a sum of money exacted illegally from the appellant under an assessment roll.* The validity of the roll was not in question. Future rights were not affected,—at least, not such rights as are contemplated by the article. If the roll were in existence for three years, the total amount at stake would not give the right of appeal.

Leave to appeal refused.

Mousseau & Archambault, for the Corporation moving.

Barnard, Monk & Beauchamp, for Valois and Lussier.

* See 3 Legal News, p. 277.

MORIN, Appellant, and HOMIER, Respondent.

Security in appeal—New surety allowed.

A new surety may be substituted for one whose real estate is proved to be of a value less than the amount of the bond.

Motion to set aside security as insufficient.

Sir A. A. DORION, C.J. The question is whether the security is sufficient. The sureties justified on real estate. It is established by affidavit that the real estate of one of them, Joseph Deloge, is only worth $250, while the bond is for $400. The appellant is given 15 days to procure another surety instead of Deloge.

Piché & Sarrasin, for Appellant.

Archambault & David, for Respondent.

MONTREAL, September 17, 1880.

Sir A. A. DORION, C.J., MONK, RAMSAY, CROSS, JJ.

JONES, plff. in error, v. THE QUEEN, deft. in error.

Criminal law — Writ of error — Felony— Discharge of jury, effect of.

The record showed that on the trial of the indictment the judge discharged the jury after they were sworn, in consequence of the disappearance of a witness for the Crown, and the prisoner was remanded. On writ of error, held, that the judge had a discretion to discharge the jury, which a Court of error could not review; that the discharge of the jury without a verdict was not equivalent to an acquittal; and that the prisoner might be put on trial again.

RAMSAY, J. This case comes before us on a writ of error. The plaintiff in error was indicted before the General Sessions of the Peace for felony. At the trial one Wm. Geo. Turner was called as a witness on the part of the Crown and made default. It appears that previous to this the Crown witnesses had been called over in Court, and he answered to his name. This is not strictly speaking of record, for the fact is only established by the mention of it in the motion subsequently made to discharge the jury, and on which motion the jury was actually discharged. Turner was again formally called on his recognizance, and he still making default, his bond was forfeited and a warrant