

OTTAWA, Nov. 10, 1891.

Quebec.]

HURTUBISE v. DESMARTEAU.

Supreme & Exchequer Courts Amending Act, 1891, sec. 3 — Appeal from Court of Review.

By sec. 3 of the Supreme and Exchequer Courts Amending Act of 1891, an appeal may lie to the Supreme Court of Canada from the Superior Court in Review, Province of Quebec, in cases which by the law of the Province of Quebec are appealable direct to the Judicial Committee of the Privy Council.

In a suit between H. *et al* and D., a judgment was delivered by the Superior Court in Review at Montreal in favour of D. the respondent on the same day on which the Amending Act came into force. On appeal to the Supreme Court of Canada taken by H.,

Held, that H. *et al* (the appellants) not having shown that the judgment was delivered subsequent to the passing of the Amending Act, the court had no jurisdiction.

Quære—Whether an appeal will lie from a judgment pronounced after the passing of the Amending Act in an action pending before the change of the law.

Appeal quashed with costs.

Geoffrion, Q.C., for motion.

Charbonneau & Brosseau contra.

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BROSSARD *et al.* v. DUPRAS *et al.*

Composition—Loan to effect payment—Secret agreement—Failure to pay—Art. 1039 and 1040 C. C.

On the 20th December, 1883, the creditors of one L. resolved to accept a composition payable by his promissory notes at 4, 5 and 12 months. At the time L. was indebted to the Exchange Bank (in liquidation), who did not sign the composition deed, in a sum of \$14,000. B. *et al*, the appellants, were at that time accommodation endorsers for \$7,415 of that amount, but held as security a mortgage dated 5th September, 1881, on L's real estate. The Bank having agreed to accept \$8,000 cash for its claim, B. *et al*, on the 11th January, 1884, advanced \$3,000 to L. and took his promissory notes and a new mortgage for the amount, having discharged and released on the same day the previous mortgage