Held, also, that the Crown having a beneficial interest in the lands on which it held a mortgage, such lands were exempt from taxation, and the tax sale was invalid.

Appeal dismissed with costs.

Bain, Q.C., for appellants.

Gamble for respondents.

Quebec.] [Nov. 6.

DAWSON *v.* DUMONT.

Appeal—Jurisdiction—Action in disavowal—Prescription—Appearance by attorney—Service of summons—C.S.L.C., c. 83, s. 44.

In an action brought in 1866 for the sum of $800 and interest at 12½ per cent. against two brothers, J.S.D. and W.McD.D., being the amount of a promissory note signed by them, one copy of the summons was served at the domicile of J.S.D. at Three Rivers, the other defendant, W.McD.D., then residing in the State of New York. On the return of the writ the respondent filed an appearance as attorney for both defendants, and proceedings were suspended until 1874, when judgment was taken, and in December, 1880, upon the issue of an alias writ of execution, W.McD.D., having failed in an opposition to judgment, filed a petition in disavowal of the respondent. The disavowal attorney pleaded *inter alia* that he had been authorized to appear by a letter signed by J.S.D., saying, "Be so good as to file an appearance in the case to which the enclosed has reference," etc.

The petition in disavowal was dismissed. On appeal to the Supreme Court of Canada, the respondent moved to quash the appeal on the ground that the matter in controversy did not amount to the sum of $2000.

Held, 1st, that as the judgment obtained against W.McD.D. in March, 1874, on the appearance filed by the respndent, exceeded $2000, the judgment on the petition for disavowal was appealable.

2nd. That there was no evidence of authority given to the respondent, or of ratification by W.McD.D. of respondent's act, and therefore the petition in disavowal should be maintained.

3rd. Following *McDonald* v. *Dawson*, Cassels' Digest, p. 322, and 11 Q.L.R. 181, that the only prescription available against a petition in disavowal is that of thirty years.

4th. That where a petition in disavowal has been served on all parties to the suit, and is only contested by the attorney whose authority to act is denied, the latter cannot on an appeal complain that all parties interested in the result are not parties to the appeal.

Appeal allowed with costs.

Irvine, Q.C., and *Robertson* for appellant.

McLean for respondent.

[Nov. 10.

HURTUBISE *v.* DESMARTEAU.

Supreme and Exchequer Courts Amending Act, 1891, s. 3—Appeal from Court of Review.

By s. 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. and D., a judgment was delivered by the Superior Court of Review at Montreal in favor 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 and *Brosseau contra.*

[Nov. 16.

BROSSARD ET AL. *v.* DUPRAS ET AL.

Composition—Loan to effect payment—Secret agreement—Failure to pay—Articles 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 four, five, and twelve months. At the time L. was indebted to the Exchange Bank (in liquidation), who did not sign the composition deed, in a sum of $4000. B. *et al.*, the appellants, were at that time accommodation endorsers for $7415 of that