

proceedings, and that their names were never entered in the stock ledger, nor in any book purporting to be kept in conformity with Section 32 of the Statute of Quebec, 31 Vict., cap. 25.

Their Lordships are of opinion that the names of the defendants were fraudulently inserted in the petition for the letters patent without their sanction or authority, and that the solemn declaration of Gerhard Lomer verifying that petition was false. There was therefore no ground for making them liable except the statements in the letters patent.

By Article 1034 of the Code of Civil Procedure for the Province of Quebec, it is declared that any letters patent granted by the Crown may be declared null and be repealed by the Superior Court:—(1) where such letters patent were obtained by means of some fraudulent suggestion, or (2) where they have been granted by mistake or in ignorance of some material fact.

By Article 1035, all demands for annulling letters patent may be made by suits in the ordinary form or by *scire facias* upon information brought by Her Majesty's Attorney General or Solicitor General, or other officer duly authorized for that purpose.

By Article 1036 the information is served upon the person who holds or relies upon such letters patent, and is heard, tried, and determined in the same manner as ordinary suits; and by Article 1037 an appeal lies from the final judgment rendered upon the information.

The Court of Queen's Bench annulled the letters patent only so far as the defendants were concerned, but their Lordships are of opinion that the Code does not in such a case as the present authorize a partial annulment of letters patent. To annul the letters patent as to some only of the members of the corporate body in the present case would be to alter the constitution of the Corporation created thereby. If it could be annulled as to eight or ten of the shareholders, it might be annulled as to all but five, and thus the amount of the capital of the Corporation as intended by Her Majesty to be constituted might be and would be materially diminished. In fact, by such a partial annulment, a Corporation might be created quite

contrary to Her Majesty's intention, and such a one as would be incapable of carrying into effect the objects intended by the letters patent.

The facts found show that the grant of the letters patent and the recitals therein were obtained by means of a false and fraudulent suggestion, and are quite sufficient to warrant a total annulment of the letters patent. A material question was, however, raised by the demurrer to the information as to the construction of the prayer of the information and writ of *scire facias*. It was contended that there was no prayer to have the letters patent wholly annulled, and that the information and writ of *scire facias* merely asked for an annulment so far as the defendants were concerned. Their Lordships cannot put such a construction upon the words of the prayer. The information does not merely ask to have the letters patent declared fraudulent and void so far as the defendants are concerned, but to have them declared fraudulent and void, at least in so far as the defendants are concerned. The words "at least" make a great difference in the meaning. Their Lordships' construction of the prayer is this, that the Court should declare that the letters patent were fraudulent and void, but that if the Court should think fit to declare anything less, the least that should be declared should be that the letters patent were fraudulent and void in so far as the defendants were concerned.

It would be a great miscarriage of justice if the defendants should be held conclusively bound by a false recital in the name of Her Majesty in the letters patent obtained by means of a false and fraudulent suggestion, verified by a false affidavit, and should be compelled to pay the unpaid amount of shares for which they were never subscribers, and of which they were never the holders. Her Majesty has the right, under Articles 1034 and 1035 of the Code of Civil Procedure of Lower Canada, to demand, by Her Attorney General, the annulment and repeal of letters patent obtained by means of any fraudulent suggestion. Her Majesty's Attorney General for the Province of Quebec, acting on behalf of Her Majesty, has by a recital in the information declared it to be