his creditors loses $4,000 by the bankruptcy, another $8,000, another $10,000, one bank $40,000, another $18,000, another $71,000. Surely such creditors are entitled to explanations. These not being made, the petition must be rejected.

Girouard & Wurtele for petitioner.
Bethune & Bethune for contestants.

CIRCUIT COURT.

MONTREAL, Sept. 30, 1881.

Before JOHNSON, J.

LA COMPAGNIE DU CHEMIN DE PEAGE DE LA POINTE CLAIRE v. VALOIS.

Corporation—Defects in organization—Action for calls.

Defects in the organization of a company incorporated by letters patent cannot be set up by a shareholder in defence of an action for unpaid calls.

PER CURIAM. The plaintiffs sue as a corporation under the 33 Vic., c. 32, which was amended by the 36 Vic., c. 26 (Quebec) to recover $40, being for three instalments of $10 each, and interest upon $100, the amount of his share.

The defendant pleads by exception in substance that the plaintiffs have no corporate existence. That is, as I understand these statutes, he pleads that there are no letters patent, because if the letters patent have been duly issued, the statute says expressly in sec. 7 that "after certain formalities have been observed, and on the report of the Commissioner of Public Works, the Lieut.-Governor in Council may grant to the petitioners by letters patent, under the great seal, a charter constituting them a body politic and corporate for the objects set forth in their petition. In point of fact what was contended by the defendant's counsel was not that there was no corporate power; but that there was deficient organization, in that no directors had been appointed, and that the capital had not been completely or properly subscribed.

Neither the first position, nor the one subsequently taken up are sustained by law. The cases cited, viz., *La Compagnie de Navigation Union* v. *Rascony* (20 L. C. Jurist, 206), and the case of the *Union Building Society* v. *Russel*, and *Moran*, opposant, (8 L. C. Rep. 276), are directly in point to the full extent of both grounds taken in the present case. If the argument of the defendant's counsel means anything—and I admit it was a very able and ingenious one, and meant a great deal—it meant that this corporation was non-existent for the purposes of this suit against the defendant. Now, there are many cases and authorities that might be referred to, but I had a case which I decided in December, 1877, which went fully into the subject—the case of the *Windsor Hotel Company* v. *Murphy*. I have before me the full notes of my judgment there (1 Legal News, p. 74), and a reference to them now enables me to point out precisely the grounds and authorities upon which I decide the present case, and I therefore give judgment for plaintiffs in the present case for the amount demanded. I see that in a case decided yesterday in the Court of Appeal (*The Windsor Hotel Co.* v. *Lewis*, *ante*, p. 331), a similar case to the one I decided, and which had been dismissed in the Court below, the judgment has been reversed, and what I held in *Windsor Hotel Co.* v. *Murphy* was upheld.

CIRCUIT COURT.

MONTREAL, Sept. 30, 1881.

Before JOHNSON, J.

CORPORATION OF THE VILLAGE OF STE. ROSE v. DUBOIS.

Municipal front road—Repairs—M. C. 397.

Where a person, who already has a front road on his farm, voluntarily opens another road to the public through his land, such road will be considered a municipal front road under M.C. 397.

PER CURIAM. This is an action of a sort well known, and of constant occurrence under the Municipal Code. The Corporation, under articles 397 *et seq.* of the Code, sue to recover the sum expended in repairing a road, together with 20 per cent on the amount, under art. 398, after notice to the proprietor or occupant by the inspector.

The plea is that this was not a public road and the defendant is not bound to keep it in repair. That he is not proprietor of the adjacent land, and that the road is not a front road. That the plaintiffs had no authority to do the repairs necessary to a road of this description.

The facts are these. The defendant's predecessor was proprietor of a large farm or *terre* at one end of which he was bound to maintain a *chemin de front*, and he opened the present road for the purpose of getting to the station of the