

themselves or by their duly authorized agent petition for the issue of the said letters patent, and that the same were issued on the faith of the original unconditional subscription of the said persons, which had been transmitted and communicated to the Provincial Secretary or other proper Governmental officer; that the said letters patent were issued on the 15th of July, 1880, and were published according to law, and that the fact that the same were issued to the corporators mentioned therein was published in the leading daily newspapers then in the city of Montreal, which newspapers were at the time subscribed to or read by the said corporators and each of them; that the persons at whose instance the information was laid were persons of large reputed means, and that the fact of their being known and published as corporators in the said Company contributed largely to the financial standing of the said Company, and was thus an inducement to capitalists to make advances to the said Company.

The action of La Banque against the defendant William G. Murray, together with the intervention of the said Thomas Darling and the information for the writ of *scire facias*, together with the proceedings in impropriation and the motion to reject the evidence above mentioned, were heard in the Superior Court, before the Honourable Mr. Justice Loranger, and in or about June, 1886, the learned Judge gave judgment in the said action, granting the motion for the rejection of evidence, and dismissing the application for annulling the letters patent, and ordering the defendant William G. Murray to pay the amount claimed from him into the hands of the intervener, the liquidator of the said Company, to be distributed according to law. Similar judgments were delivered in the Superior Court in the other actions.<sup>1</sup>

In March, 1887, the Honourable Honoré Mercier, Attorney General for the Province of Quebec, was by order of the Court of Queen's Bench, substituted for the Honourable Louis Taillon.

The defendants and the Attorney General

<sup>1</sup> See *Banque d'Hochelaga v. Garth*, M.L.R., 2 S.C. 201-218.

respectively appealed against the said judgments, and the cases, having been consolidated by the order of the Court of Queen's Bench, were heard in March, 1888, before the Honourable Sir Antoine Aimé Dorion, Knight, Chief Justice, and the Honourable Justices Tessier, Cross, and Church.

The said Court (*dissentiente* Tessier, J.) on the 19th May, 1888, gave judgment reversing the judgment of the Superior Court on the information for the *scire facias*, and it was ordered that the letters patent should be repealed, cancelled, and annulled in so far as the defendants were concerned, and that the names of the defendants should be struck out of the said letters patent; and the actions of the appellant Bank against the defendants were dismissed.

It has been agreed for the purpose of this appeal that the declarations, pleadings, evidence, and judgments in the consolidated cases are the same, *mutatis mutandis*.

Their Lordships concur with the majority of the Judges of the Court of Queen's Bench in their findings of fact, as stated in their reasons. From these it appears that the defendants were never organized as shareholders, and that no allotment of stock was ever made to them; that they had proposed the formation of a Joint Stock Company, which, however, was only to be put into operation on certain conditions, and especially that of obtaining a Government subsidy, without which it was distinctly understood that the Company should not be formed; that the conditions not being fulfilled, they abandoned the project, and their names were never entered in the list of shareholders; that the Bank did not lend money on their names, and was, therefore, in no respect led astray by the fact that their names were used without their permission; and furthermore, that the promoters acquiesced in the withdrawal of the defendants, and at a later period formally approved thereof, and that from the time of their severance from the project the defendants ceased to be considered or even reputed to be subscribers to the undertaking; that they were never notified of any further proceedings, nor were they ever required to pay any call; that they took no part in any further