

Let us pass to a more important point.

III

In the matter before us, is the attorney general bound to grant the request made to him, when, by the petition itself and by the *affidavit* which accompanies it becomes evident that there are sufficient reasons to authorize a prosecution? Yes, because it is a question of right. The only discretion which the minister can exercise is to verify if the violation of the law alleged in the petition is undeniable, and if the facts enumerated are sufficient in law, *prima facie*, to make that violation evident. The attorney general has not the right to take the evidence of witnesses and according to a well established procedure, it is customary in such cases for the Plaintiff to proceed *ex parte* without giving any notice to the adverse party, (Foster, on *scire facias*, p. 249.) It might be said that in such a request, the minister of justice acts the part of a grand jury in a criminal court; he examines whether there is sufficient ground for a law suit.

What says chapter 88 of the consolidated statutes of Lower Canada, sec. 9 :..... and whenever "any corporation, public body or Board offends against any of the provisions of the act or acts creating it.... or violates the provisions of any law in such a manner as to forfeit its charter by mis-user..... it shall be the duty of Her Majesty's attorney general for lower Canada when he has good reason to believe that the same can be established by proof, in every case of public interest and also in every such case in which satisfactory security is given to indemnify the government against all cost and expenses to be incurred by such proceeding, to apply for and on behalf of Her Majesty to the Superior Court, etc."

In conformity with these provisions of the law, and according to principles recorded by legal authors and sanctioned by practice, Hon. M. J. McDonald, the predecessor of Sir Alex Campbell in the ministry of justice, allowed the prosecution of the National Bank.