

## SUPREME COURT OF CANADA.

June 28, 1892.

Quebec.]

DOMINION SALVAGE &amp; WRECKING CO. V. ATTORNEY GENERAL.

*Public Company—Act of Incorporation—Forfeiture of—44 Vic. c. 61 (D.)—Attorney General of Canada—Information—R. S. C. c. 21, s. 4—Scire facias—Form of proceedings—Arts. 997 et seq. C. C. P.—Subscription to capital stock—Condition Precedent.*

The appellant company by its act of incorporation (44 Vic. c. 61 (D.)) was authorized to carry on business provided \$100,000 of its capital stock were subscribed for, and thirty per cent. paid thereon within six months after the passing of the act, and the Attorney General of Canada having been informed that only \$60,500 had been *bona fide* subscribed prior to the commencing of the operations of the company, the balance having been subscribed for by one G. in trust, who subsequently surrendered a portion of it to the company, and that the thirty per cent. had not been truly and in fact paid thereon, sought at the instance of a relator, by proceedings in the Superior Court for Lower Canada, to have the company's charter set aside and declared forfeited.

*Held*, affirming the judgment of the Court below,

1. That this being a Dominion Statutory charter proceedings to set it aside were properly taken by the Attorney General of Canada.

2. That such proceedings taken by the Attorney General of Canada under arts. 997 *et seq.*, if in the form authorized by those articles, are sufficient and valid though erroneously designated in the pleadings as a *scire facias*.

3. That the *bona fide* subscription of \$100,000 within six months from the date of the passing of the act of incorporation, and the payment of the 30 per cent. thereon, were conditions precedent to the legal organization of the company, with power to carry on business, and as these conditions had not been *bona fide* and in fact complied with within such six months, the Attorney General of Canada was entitled to have the Company's charter declared forfeited. Gwynne, J., dissenting.

Appeal dismissed with costs.

*Robinson, Q.C., Macmaster, Q.C., and Goldstein*, for appellants.  
*Blake, Q.C., and Lajoie*, for respondent.