

Per MEAGHER, J. (without discussing the position of the relator or the Attorney-General), that the question was one that was eminently proper for the consideration of the City Council.

Per GRAHAM, E. J., McDONALD, C. J., concurring, affirming the judgment appealed from, and dismissing the appeal, that the corporation having accepted the offer was bound by its terms, and that the passing of the rescinding resolution was a breach of contract which the court had power to restrain, the council being agents or trustees of the citizens in securing the gift. Also that the Attorney-General could sue either with or without a relator.

Also that the contract made by the offer and acceptance was supported by good consideration, viz., the mutual promises.

Ritchie, K.C., in support of appeal. Russell, K.C., and Harrington, K.C., contra.

Full Court.]

REX v. BARRETT.

[April 11.

*Criminal law—Procedure to escheat recognizance—Condition—Notice—Code ss. 916-922—Crown Rules 86-87.*

A recognizance was entered into by defendant and his surety before the Stipendiary Magistrate conditioned to keep the peace and to appear before the magistrate on a day named. Defendant failed to appear and the recognizance was estreated without notice to defendant or to his surety.

Held, per GRAHAM, E. J., McDONALD, C. J., concurring, following *Reg. v. Creelman*, 25 N.S.R. 404, that notice was necessary and that the order estreating the recognizance was improperly made.

Held, per TOWNSEND, J., and MEAGHER, J., following the dissenting opinion in *Reg. v. Creelman*.

*R. v. Brooke*, 11 T.L.R. 163, referred to and distinguished.

Crown Rules 84, 86 and 87, and Code ss. 916-922 discussed.

Mellish, in support of motion. Longley, K.C., Atty.-Gen., contra.

## Province of British Columbia.

### SUPREME COURT.

Full Court.]

HUTCHINS v. BRITISH COLUMBIA COPPER CO. [Jan. 19.

*County Court—Practice—Setting aside judgment and granting new trial.*

Appeal from an order of LEARY, Co. J., setting aside judgment and granting a new trial on the ground that the verdict of the jury was against the weight of evidence.

Held, that a County Court Judge has no power to grant a new trial merely because he is dissatisfied with the verdict; he is to be guided in