

should be at liberty to join in the sale of the stock in question, or of any part thereof, and that the proceeds should be held by defendants, pending the disposition of the action, in the same manner and subject to the same trusts and conditions as the stock was then held under, and further that such sale, if agreed upon and made, should be made reserving the rights of all parties and without prejudice to any claim which plaintiffs might have against defendants for damages for detention of the stock or any part thereof.

On the same day defendants' solicitor wrote the solicitor for plaintiffs, referring to the order and expressing a hope that plaintiffs would consult with the "liquidator of the Atlas Loan" (i.e., the defendants) for the purpose of arriving at some arrangement whereby an order for a sale of the stock might be placed, adding that it should be possible to at least agree upon a figure the acceptance of which would be approved by both parties, when an order could then be placed for the sale at that figure.

On the 30th July a letter much to the same effect, written on behalf of defendants by Mr. Home Smith, who was in charge for defendants of the liquidation of the Atlas Loan Company, was sent to Mr. Moore, the manager of plaintiffs the London and Western Trusts Company. The plaintiffs did not respond or make any counter-proposition, and on 11th September the adjourned motion came on for hearing before the Chief Justice of the Common Pleas, when an order was made reciting the withdrawal by the National Trusts Company, Limited, the liquidators for the Atlas Loan Company, of any claim to the possession of the scrip certificates in question, and directing that upon defendants handing over the certificates to plaintiffs to be held by them subject to all the equities attaching, the action be forever stayed, save as to the claim for damages or interest.

On 12th September defendants handed over the scrip certificates, and paid the sum of \$1,050, received for dividends, to plaintiffs. Plaintiffs proceeded with the claim for damages and interest. The Chancellor awarded damages on the footing of improper detention of the scrip by defendants until the end of July, 1903. From this judgment defendants appeal, contending that no damages should have been awarded. By their cross-appeal plaintiffs seek to increase the damages, contending that they should be estimated on the footing of improper detention until 12th September, 1903.