

shares of the stock; that it was "a snap;" that he was taking 100 shares, and named others who were to take some also; and that the price was 70. Wallace did not recollect any such conversation; but, assuming it to have taken place, it affords no support for the allegations of fraud upon which defendant relies.

If Wallace did say that the price of the stock was 70 cents in the dollar of the par value, what was meant was, I think, plainly that that was the price which the purchasers, including himself, would have to pay for it. If the stock had been bought by plaintiffs from Ames & Co., as I have found it was, and plaintiffs were offering it for sale at 70 cents, I know of no duty which rested upon them to inform intending buyers of the price at which the stock had been bought or the profit it was making in the transaction.

In my opinion, there is nothing to justify a finding that either plaintiffs or Wallace acted in the transaction as agent for defendant, or that they or either of them led him or his agent Honsinger to believe that they would do so.

Defendant having failed to make out his defence of fraud, it is unnecessary to consider whether, if it had been made out, his dealings with the stock after the discovery of the fraud would not have disentitled him to the relief which he seeks, which is practically rescission of the contract by which he acquired the stock, or to deal with the other matters urged by plaintiffs' counsel. . . .

Judgment for plaintiffs for the amount of the note with interest and costs.

JANUARY 7TH, 1905.

DIVISIONAL COURT.

REX v. SPEGELMAN.

*Gaming—Municipal By-law—Ultra Vires—Municipal Act—
Gambling in Private House—Conviction Quashed.*

Motion by defendant to quash his conviction by the police magistrate for the city of Toronto for allowing a game of chance to be played for money upon his premises, contrary to a by-law of the city.

The motion was heard by BOYD, C., MEREDITH, J., MAGEE, J.

J. M. Godfrey, for defendant.

J. R. Cartwright, K.C., and J. S. Fullerton, K.C., for the Crown.