

*Semble*, also, that there was nothing to prevent fresh proceedings being taken against the prisoner upon his discharge.

*Semble*, also, that, in the present state of the authorities, an extradition judge should require proof that the crime is an extradition crime as well by the laws of the demanding state as by our own.

J. B. Mackenzie, for prisoner. R. W. Eyre, for State of Illinois.

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Full Court.] AMES v. SUTHERLAND. [Jan. 22.

*Broker—Carrying stock on margin—Advance by brokers—Sale of shares—Measure of damages.*

On an appeal from a Divisional Court reported 9 O.L.R. 631, 41 C.L.J. 333, 535,

*Held*, that the plaintiffs having admittedly paid money for the defendant at his request they had the usual right of action at law on the common counts for money paid.

That the defendant not having sought to redeem his shares nor made any tender of the amount due by him he cannot say the plaintiffs would not have restored his shares, which could have been bought in the market for a lower price than they were sold for and credited to him.

And that even if the plaintiffs were wrongdoers and had committed a breach of their contract, he was not entitled under the circumstances of this case to damages greater in amount than the price for which the shares had been sold and credited to him.

Judgment of a Divisional Court affirmed.

Biggs, K.C., for the appeal. W. N. Tilley, contra.

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Moss, C.J.O., Osler, Garrow and MacLaren, J.J.A.] [Jan. 31.

DESERONTO IRON CO. v. RATHBUN CO., AND

STANDARD CHEMICAL CO.—THIRD PARTIES.

*Third parties—Leave to defend—Right to appeal—Motion to quash.*

An order of directions under Con. Rules 213 giving a third party the right to appear at the trial of an action even though he be declared to be bound by the judgment is not equivalent to an order giving him leave to defend.