

The claim is one which, it is admitted, was within the jurisdiction of the Illinois Court; and judgment was, as it is also admitted, regularly entered up, in that Court, upon the writing, signed and delivered by the defendants, authorising such an entry of judgment in that Court. What valid objection, then, can there be to that judgment? How can it be, here, treated as of no effect, as long as it stands? The mistake of the defendants, in no way induced by the plaintiffs, may be a sufficient ground for being let in to defend, but it cannot, in my opinion, be a good ground for anything more than that.

The defendants can, of course, apply to the High Court here to stay proceedings in this action pending the result of an application to be let in to defend the action in the foreign Court, and pending the result of that action if they shall be so let in to defend.

So long as the plaintiffs maintain their claim upon the foreign judgment, and are successful in it, they cannot recover upon their alternative claim, nor can I think it proper to consider it; if they had chosen, or should choose, to discontinue their claim upon the judgment, they would be entitled to have the alternative claim considered.

I would dismiss the appeal.

OSLER, GARROW, and MACLAREN, JJ.A., concurred.

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HIGH COURT OF JUSTICE.

SUTHERLAND, J., IN CHAMBERS.

MAY 10TH, 1910.

REX v. GRAVES.

*Liquor License Act—Conviction—Warrant of Commitment—Interlineation—Previous Conviction—Police Magistrate—Evidence—"Unlawful Sale"—Charges for Conveying to Gaol—Amendment of Conviction—Habeas Corpus—Motion for Discharge.*

Application, on the return of a writ of habeas corpus and certiorari in aid, to discharge the defendant from the common gaol at Kingston, where he is now confined. He was, on the 7th January, 1910, by the police magistrate for the county of Frontenac, at Kingston, convicted for that he unlawfully sold liquor without the license required by law, and that he was previously, to wit, on the 8th day of August, 1908, convicted of having unlawfully sold liquor without the license by law required.