

COURT OF APPEAL.

**Broker. — Sale on margins. — Mining stock.  
— Delivery. — Gaming transactions**

MONTREAL, — 29 December, 1911.

ARCHAMBAULT, C. J., TRENHOLME, LAVERGNE, CARROLL,  
GERVAIS, JJ.

ALFRED BENNETT *vs* ALBERT J. ESTES.

HELD.—1o. That the sale of mining stocks on margin, in the expectation of a rise in the market price of that security, when there is no understanding between the broker and his client that the certificate will not be delivered, is not a gaming transaction which the law declared null.

2o. That the sale in this case was perfect although the respondent, who was a broker and carried on mining operations on the Exchange, instead of buying for appellant shares on the Exchange sold him a certain number of shares which belonged to him.

3o. That the non-payment of the tax imposed on transfer of actions by the R. S. Q. articles 1360 and 1631 does not render the transactions invalid.

*R. S. Q. articles 1360, 1361, 1363, 1366.*

The plaintiff, respondent, avers that on November 5th, 1909, the defendant purchased from plaintiff 4,000 shares of Union Pacific Cobalt Mines, Limited stock, at 21½ cents per share, payable 20 per cent. at the time of purchase, and the balance within thirty days; that on the total price of \$860.00, defendant received \$172.00, to wit, 20 per cent. thereof; that on December 13th, plaintiff tendered a certificate for said 4,000 shares and demanded