

THE PACIFIC REPORTER VOLUME 39

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The Pacific Reporter Volume 39

National Reporter System



This historic book may have numerous typos and missing text. Purchasers can usually download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1895 edition. Excerpt: ... a certificate for 400 shares of the stock, and demanded compliance with the agreement, which the defendant refused. This action was brought to recover the sum of \$200 as damages for breach of the contract The grounds of demurrer were: First, that the complaint did not state facts sufficient to constitute a cause of action second, that there was a defect of parties defendant And, third, that there was no consideration for the agreement By the terms of the Code, joint agreements are several, and suit may be brought against any of the parties liable or against all of them so that in bringing this action you gains, the defendant alone the plaintiffs exercised a right given them by the statute, and there was no defect of parties defendant We shall have occasion to notice this Code provision again. The agreement was executed for the purpose of being used as collateral security for the note. It together with the certificate of stock, was attached to the note, and, with the note, delivered to the plaintiffs before the money was loaned. The loan to Willoughby was the consideration for the agreement, and the third ground of demurrer is therefore not well laid. A more serious question is presented by the first ground of demurrer, in that it involves the sufficiency of the complaint. The action against the defendant is upon the agreement set out, and we must consider whether such an agreement is capable of enforcement. The certificate of stock which was deposited with the plaintiffs as security for the debt was a pledge. In the absence of special agreement or of any waiver of the pledgor's rights, a pledge, if it consists of property bought and sold in the market, is enforced by sale at public auction, of the time and place of which reasonable...

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