

**LONDON FIRM LOSES
A \$65,000 SUIT HERE**

**Supreme Court Hears That Milk
Buyers Were Really Speculat-
ing in Exchange.**

Upon testimony that an English concern suing a New York corporation on an alleged contract for the delivery of condensed milk was speculating in the fluctuation of English exchange rather than dealing in condensed milk, Supreme Court Justice Newburger dismissed yesterday a suit for \$65,000 damages by Grace Bros. & Co., Ltd., of London against Breakstone Bros. of 344 Greenwich Street and held that there was no contract.

The testimony, which revealed speculation in exchange from a new angle, showed that Breakstone Bros. sent a salesman, one Horowitz, to England in 1919 to create a market there for a brand of condensed milk in which the corporation specialized, limiting his authority to receiving offers and submitting them by cable to the New York office in order that Breakstone Bros. might determine the financial standing of the purposed customers before making contracts with them. He carried credentials as "general representative," and a letter of introduction from the Irving National Bank.

Horowitz cabled offers from Grace Bros. & Co., and Breakstone Bros. submitted counter propositions. He returned to this country after making sales in England, and on July 15, 1919, Breakstone Bros got a cable from the English concern demanding to know how soon deliveries would be made under a contract for 26,800 cases of condensed milk at 34 shillings a case, to be delivered in June, July and August, 1919. Breakstone Bros. disavowed the alleged contract and the suit was brought in the Supreme Court some months later.

At the trial before Justice Newburger, Isidore Gainsburg, for Breakstone Bros., established that the price of condensed milk did not advance in England, as was alleged, because of a scarcity of milk, but proved through the witness for the English concern that "the market was rising in the United Kingdom owing to the exchange fluctuation."

Gainsburg pointed out that there was no increase in the price of milk in New York, and resented the allegation that Breakstone Brothers repudiated the contract because of such advance. He also showed that there was an over-flow of milk in England and no more than the usual demand in the United States, and asserted that the English corporation was seeking to create a contract where there was none to take advantage of the fluctuation in English currency to the extent of thousands of dollars.