

in this transaction by his language so guard the plaintiff from misapprehension as to prevent deception on the point adverted to, and did not make such disclosures in relation to the mode in which he had become owner of the stock sold, and the price he paid for it, and what he knew to be the estimation of its value by some other persons than himself, which his position relatively to the plaintiff, and the exigencies of good faith demanded. See Storey's Agency, sec. 21, which, assuming plaintiff to have been under an impression that defendant was acting for a third party, is very suggestive. The plaintiff says, and he is not contradicted by the defendant, "I asked the market price," (referring to this very stock) "he said they were selling at par." That very day the defendant (who did not communicate the fact to the plaintiff), had purchased stock in this company at a large discount.

The defendant entertaining indeed, as he says, an opinion that the stock would pay 14 per cent.—an opinion of the grounds of which plaintiff knew nothing—and asserting in contradiction of the plaintiff's assertion to the contrary, "the plaintiff did not employ me as a broker," does not pretend that in making the contract he used language to the plaintiff stronger or fuller of information than this: "He wanted to invest in a company that would pay a higher dividend. I said I would sell him some shares in the company." Again, he says in very general terms: "He bought from me. He knew the exact position of the company." This bold general language contrasts very strikingly with the full and detailed narrative of negotiation and conversation given by the plaintiff. Considering the antecedent business transactions of the parties, and the position of the defendant at the time of the contract, relatively to the public and to the plaintiff, I think it was proper and necessary in order to disabuse the personal confidence of the plaintiff in the defendant, which the former possibly and probably felt, that the defendant should have used to the plaintiff some such language as this: "Understand that, in regard to this stock, I am not acting for a third party and for you, as I have acted, but for myself alone, in view of my own interests as owner of the stock,