

sold the 400 shares . . . without notice to him, he held 2,500 shares of the same stock in the hands of other brokers in England, which he still held at the time of the trial, and he said that if plaintiffs had not sold the 400 shares he would still have held them. That this evidence is very material upon the question of damages, is, I think, plain. . . . [Reference on this point to *Williams v. Peel River Land and Mineral Co.*, 55 L. T. N. S. at p. 692.] If we take the statement of defendant in the present case as to what his course would have been with regard to this stock—and I see no reason for not doing so—it seems to me he has concluded himself upon the question of damages, for the admission made was, that the stock at the time of the trial could have been bought very much below the price at which plaintiffs sold it. And it is not a case in which defendant can say that plaintiffs had his money, and that therefore he could not buy stock to replace what they had sold, for the evidence shews that they had not only repaid to him the \$8,000 deposited as margin, but that they had actually advanced him a further sum of \$4,000 upon the stock.

In my opinion, therefore, defendant has failed to shew that he is entitled to recover damages from plaintiffs, because he has shewn that their action has, in the event, been a benefit to him instead of an injury.

I am of opinion also that defendant, by his unreasonable delay in objecting to the sales, disentitled himself to recover, and must be treated as having adopted and ratified the sales. . . . The sales were notified to defendant by plaintiffs not later than 19th June, and no objection was made until after the present action was brought, in the following December. Considering the fluctuating nature of the stock in question, this was an unreasonable time. Plaintiffs were entitled to an early objection from defendant to the course they had taken, so that they might have an opportunity of buying back the stock to protect themselves; and defendant was not entitled to lie dormant and object or approve according as the fluctuations of the market might suit him best: *Haywood v. National Bank*, 96 U. S. 611; *Colbet v. Ellis*, 10 Phila. (Pa.) 375.

Plaintiffs are, therefore, entitled to judgment for the amount of their advances, with interest on them at the rates shewn in the accounts rendered, deducting the dividends received and the proceeds of the sale of stock, and defendant must pay the costs.