their advance to defendant; holding that character, they were not entitled to sell the shares without notice; and the sales they made were, therefore, a breach of their contract with defendant. This is admitted by plaintiffs, and the question before me is reduced to an inquiry as to the effect of the sales upon the rights of the parties.

Defendant contends, upon the authority of the reasoning in Knickerbocker v. Gould, 115 N. Y. 538, and Gillett v. Whiting, 120 N. Y. 402, that an unauthorized sale of the pledge by the pledgee puts an end to the pledgee's special property in it, and entitles the pledgor, at once and without payment or tender of the advance, to recover the pledge, or its full value without deduction, from the pledgee.

The New York cases are not uniform upon the question, and a contrary view was taken in Baker v. Drake, 53 N. Y. 211, and in Gruman v. Smith, 81 N. Y. 25. The settled rule in England, moreover, is directly opposed to defendant's contention. The leading case of Donald v. Suckling, L. R. 1 Q. B. 585, determined that a pledgee did not, by an unauthorized dealing with the pledge, put an end to the contract of pledge and to the pledgee's interest in it. This case was followed in Halliday v. Holgate, L. R. 3 Ex. 299, and by the Court of Appeal in Yungmann v. Briesemann, 67 L. T. N. S. 642, decided in 1893.

Defendant had rights which he might have enforced upon becoming aware of the fact that plaintiffs had sold his stock; he might have tendered plaintiffs the amount due upon their advance and demanded the shares, and, if plaintiffs did not deliver them, he might bring an action for their value, deducting the amount due to plaintiffs. Or he might have brought an action against plaintiffs for the breach of contract of pledge for the loss he had really sustained by their wrongful act: Johnston v. Stear, 15 C. B. N. S. 330; Yungmann v. Briesemann, 67 L. T. N. S. 642; Ashburner on Mortgages (1897), p. 192.

Defendant took neither of these courses during the 6 months which elapsed from the time he became aware of the sale until he was sued for the balance of their advances by plaintiffs. He has, however, set up the facts of the unauthorized sale in his defence, and his pleading should be treated as a claim to reduce plaintiffs' debt by the damages which he has sustained by their action: Lacey v. Hill, L. R. 8 Ch. 921, 926; Duncan v. Hill, L. R. 8 Ex. 242; Ellis v. Pond, 78 L. T. N. S. 125.

The next question is as to the measure of damages. . . . Much authority is to be found precisely in point in the American Courts, and nothing precisely in point, so far as