

rendered, in which defendant was charged with the advances and interest, and credited with the dividends and proceeds of the sales.

Defendant set up in his defence that plaintiffs bought the stock as his brokers, and held it as a pledge or security for the amounts advanced, with interest at 6 per cent.; that they had sold without notice to him and in violation of his rights; and that, having done so, they were not entitled to call upon him for payment of any balance.

It was admitted by plaintiffs that the sales made by them were without notice to defendant, and that they were not entitled to sell without notice, but they contended that defendant should have repudiated the sales when he was informed of them, and was not justified in remaining silent and taking his chances of a rise or fall in the price of stock of this speculative character.

It was also admitted that plaintiffs had closed their doors on 2nd June, 1903, although they had continued the business for the purpose of liquidation; and it was sworn that they were in a position to have delivered to defendant his stock at any time down to the time they sold it.

D. E. Thomson, K.C., and W. N. Tilley, for plaintiffs.

S. C. Biggs, K.C., for defendant.

STREET, J. (after setting out the facts)—The prices of Dominion Coal stock upon the Toronto Stock Exchange upon the dates which seem material to this question were proved to be as follows:

27th May, 1903 .....	94	to	95½.
29th May, 1903 .....	91½	to	93½.
2nd June, 1903 .....	78	to	84.
3rd June, 1903 .....	82	to	83.

The lowest price reached in June, 1903, was 75 on 16th June; the highest was 97½, which was after 15th June.

In July, 1903, the highest price was 108, and the lowest 88½.

In August, highest 89½, lowest 79¾.

In September, highest 85, lowest 68¾.

In October, highest 73½, lowest 60.

In November, highest 75½, lowest 70¾.

In December, highest 78, lowest 72¾.

At the time of the trial (8th February, 1905), the price was admitted to be under 70.

The precise character in which plaintiffs held the 400 shares of stock was that of pledgees to secure the amount of