

brokers) to buy for him 400 shares of Dominion Coal Co. stock upon a margin of \$20 per share, and he paid them \$8,000 for this margin. Plaintiffs thereupon purchased and paid for the stock, rendering accounts to defendant from time to time, in which he was charged with the cost of the stock, less the amount paid by him, and with interest upon the balance. The stock was bought at 90 $\frac{1}{4}$ and a commission of $\frac{1}{4}$ was added, making the total cost to plaintiff \$36,200, and leaving a balance due on it of \$28,200.

The bought note delivered by plaintiffs to defendant at the time of the purchase contained the following stipulation: "When carrying stocks for clients we reserve the right of pledging the same or raising money upon them in any way convenient to us."

In January, 1903, the price of the stock having advanced to 130 or thereabouts, plaintiffs repaid to defendant the \$8,000 margin, and advanced to him an additional \$4,000 upon the stock. During March, April, and May, 1903, the price fell rapidly, with occasional advances. On 27th May, 1903, plaintiffs sold 125 of defendant's shares at 95, charging him $\frac{1}{4}$ commission. The sale produced\$11,843.75
On 29th May, 1903, they sold 25 shares at 94 net. 2,350.00
On 3rd June they sold 150 shares at 76 $\frac{3}{4}$ net. 11,512.50
And on the same day they sold the remaining 100
shares at 74 $\frac{3}{4}$ net 7,475.00

The 400 shares producing\$33,181.25
Or an average of \$82.95 per share.

These sums were credited to defendant in plaintiffs' books, leaving a balance at his debit, after crediting dividends and charging interest, of \$6,425.91 on 15th June, 1903, upon which date a statement shewing all this was sent by plaintiffs to defendant, and received by him two or three days later. He was aware of the fact that the sales had been made shortly after 9th June, 1903.

On 8th August, 1903, plaintiffs again wrote to defendant, enclosing a statement of their account in detail, and asking for immediate payment of the balance. No notice having been taken of either of these communications, plaintiffs' solicitors wrote to defendant on 23rd September, 1903, claiming the balance with interest; and again on 6th October, 1903, they wrote that an action would be begun unless a reply were received by return mail. Finally, on 12th October, 1903, defendant wrote that he had referred the matter to his solicitor in Toronto.

This action was brought on 7th December, 1903, to recover the balance due upon the footing of the detailed account