[IN THE HIGH COURT OF JUSTICE FOR ONTARIO.]

KERR V. MURTON.

***Dealings on Margin—Obligation of Broker to Sell.***

**There is no obligation on a broker, in the absence of the customer's order, to sell shares during a falling market, after he has demanded further margins, and received no reply from his customer; and therefore if he does not sell the stock under such circumstances, he is not liable for any loss that may arise to the customer.**

THIS was an action to recover a balance due on two stock transactions, under the circumstances mentioned in the judgment, and was tried before TEETZEL, J., at the Toronto non-jury sittings on April 28th, 1904.

*Joseph Montgomery,* for the plaintiff.

*R. W. Eyre,* for the defendant.

The authorities referred to are mentioned in the judgment.

June 18. TEETZEL, J.:—The plaintiff is a broker carrying on business in Toronto, though not a member of any stock exchange.

I find upon the evidence that early in September, 1902, the defendant authorized the plaintiff to purchase for him ten shares of Dominion Coal Company stock, and twenty shares of Baltimore & Ohio Railway Company stock, and the defendant paid $350 as margin or part payment.

The principal defences relied upon were that the purchases were not real but bucket-shop transactions, and if there was any purchase of the shares, the stock so purchased was never specifically set aside or bought for the defendant.

The plaintiff employed a member of the Toronto Stock Exchange to buy the ten shares of coal stock, and he placed the order for the railway stock with his correspondents in Buffalo, who employed a New York correspondent, a member of the Consolidated Stock Exchange, to buy the stock.