

1906

* May 15.
* June 12.

SUTHERLAND. APPELLANT:

AND

SECURITIES HOLDING CO. RESPONDENTS.

*Broker—Purchase on margin—Non-payment — Sale without notice—
—Liability of customer—Damages.*

APPEAL from a decision of the Court of Appeal for Ontario(1), affirming the judgment of the Divisional Court(2), in favour of the respondents.

Ames & Co., brokers in Toronto, on instructions from the defendant Sutherland, of Winnipeg, procured for him a number of shares of Dominion Coal Co. stock, defendant paying 20% of the then market price and agreeing, by the custom in such transactions, to protect the purchase if the price should go down. It did go down and defendant not responding to the brokers' calls for further payments they sold the stock, and after crediting defendant with the proceeds sued for the balance due them for commissions and interest. Defendant was notified of the sale and of the state of his account and made no objection until the action was brought some six months later.

Plaintiff had judgment at the trial for the amount claimed which was affirmed by the Divisional Court and the Court of Appeal. After the trial the brokers failed and the action was continued by the present respondents, their assignees.

*PRESENT: Sedgewick, Girouard, Davies, Idington and Maclean JJ.

(1) 11 Ont. L.R. 417, *sub* (2) 9 Ont. L.R. 631.
nom. Ames v. Sutherland.

The defendant appealed to the Supreme Court,
which heard the argument and reversed judgment. On a subsequent day the appeal was dismissed.

1906
SUTHERLAND
v.
SECURITIES
HOLDING
Co.
—

Appeal dismissed with costs.

Biggs K.C. for the appellant.

Tilley for the respondents.
