or a notary, of the city or district, certifying as to the character of the insured and as to the said magistrate's or notary's knowledge or belief that a loss had been sustained to the amount therein mentioned. Fire happened and the insured delivered a certificate, but it was silent as to knowledge or belief of amount of loss. It was held (upon an objection not taken in the court of first instance) that the certificate was insufficient, and that the insured had no right of action.

A policy requires notice of loss to be given in 30 days from the loss. Suppose cargo insured in a ship that sails from Quebec 15th May; she is not heard of afterwards except on 17th May, when 100 miles from Quebec, until December 10, when found on the coast of Newfoundland a perfect wreck, all hands lost—one dead on board. Is it to be held that the insured cannot recover, announcing the loss only 7th January following, on the ground that the 30 days have passed since the loss, and that in marine cases the loss is presumed as at time of last news (17th May)? This would be a hard case.

Suppose insurance in London, England, of a house at Batavia or Amboyna; burned 1st May, news of it to either assured or insurer only on 1st August. Surely notice of that might well be given 15th August and the insured recover!

Notice of fire having happened, being required to be given forthwith, say as by the second of the conditions at the head of this paragraph, notice only after three weeks, might be held non compliance with the condition fairly in many cases, but in some cases not so; if the insured were absent, for instance, and only got home after three weeks after a fire, I would hold his notice then sufficient, he delivering in one calendar month his particular account of loss. In *Inman* v. *Western Ins. Co.*[1] a fire having happened on the 23rd of February, notice of it given only on the 2nd of April was held non compliance with the policy.

Alauzet, vol. 2, p. 423, says that if notice of fire be required to be given in a certain delay, this is comminatory only, in France; and in Lower Canada this principle has been approved, and it has even been held that the term fixed for the filing of the particular account of loss is not a *terme fatal.*

In *Dill* v. *Quebec Ass. Co.* the Queen's Bench of Lower Canada, in 1844, upon motion for new trial by the defendants founded firstly upon plaintiffs not having filed particulars of loss within 14 days according to the policy, secondly upon plaintiffs not having proved by legal evidence that the defendants had extended those 14 days till the 28th of October as alleged by plaintiff, held that the term of 14 days for filing particulars was not necessarily a *terme fatal;* Pothier Ass. No. 127; Grun & Joliat, No. 237, ch. iv); and 2nd that the president and secretary of the assurance company had extended the term of 14 days, as plaintiff alleged, and that they had right to modify the condition of the policy and to extend the term. The fire occurred on the 1st of October. On the 2nd the plaintiff notified the company of the fire. The plaintiff was suspected, and the company procured an enquiry before a magistrate. Before the end of the enquiry or the expiration of the 14 days, plaintiff asked the president and secretary of defendants at their office for delay to file particulars, which they granted. On the 18th of October the enquiry ended, and on the 28th plaintiff filed his particulars which were received without objection. Afterwards the company asked an affidavit from plaintiff, which he gave them, the president of the company swearing him. At the trial defendants said that their officers could not waive things so. The court held the contrary. The defendants' policies stated that the president and secretary were authorized to sign all policies, and that no alteration of a policy could be made except at the office of the company with the approbation of the "secretary or agent" of the company. The court held that such secretary or agent issuing policies might strike out what conditions he pleased, and that certainly the president and himself might, in the office, agree to extend the term fixed by a condition for assured's doing a thing in.

Had there not been the agreement referred to, the majority of the court would have held the 14 days not a *terme fatal.*[1]

[1] 12 Wendell.

[1] *Semble* they would, Grun & Joliat to the contrary notwithstanding; see Toullier, Tom VI, No. 608.