20th July, a circular was issued to this effect: "The Company intend to return (after losses are paid) the unearned premium due on the policies surrendered and cancelled only up to the date of July 10, desiring generally to hold existing contracts until expiry, being in a position now to do this." The appellant did not intend to cancel its contract with the insurance company, but only to have an additional security, and the insurance company had never returned any unearned premium, so that the contract had not been cancelled. Their agent had knowledge of the insurance with the North British, and this was sufficient notice. Further, the fire occurred in the morning of the day on which the Stadacona policy expired at noon. The agent at Joliette notified the head office of the loss, and the inspector was sent to the spot and participated in an arbitration to settle the amount of the damage. The company were again informed that the North British and the Citizens had the same risk. It was submitted that the appellant had acted in an open and straightforward manner throughout the business, and that the insurance company had received sufficient notice to meet the condition of the policy. The respondent really profited by the additional insurance, inasmuch as it reduced the appellant's claim from $2,000 to $1,400.

Charbonneau, for the respondent, contended that the fact of the additional insurance should have been endorsed on the policy. This was required by the fourth condition of the policy. The pretended knowledge of respondent's agent as to the additional insurance was not a compliance with the terms of the policy, and could not be deemed sufficient notice. If it proved anything, it would be that the policy with the respondent was cancelled, and that would be fatal to the appellant's case. It was further contended that there had been no waiver of the condition.

RAMSAY, J., was of opinion to reverse on both grounds. The company, respondent, by its own act, discharged the appellant from the necessity of giving notice. On the ground of waiver, however, the Court was unanimously to reverse.

The *considérant* on the question of waiver is as follows:—

"Considering that on the occurrence of said fire the respondents were duly notified thereof by the appellants, and of the existence of the said two other insurances with the said Citizens' Insurance Company and said North British and Mercantile Insurance Company, respectively, and said appellants made and furnished their claim upon respondents in due course, and with due diligence, for which purpose the appellants furnished claim paper, the forms used for their own office, and requested the appellants in making claim to deduct the proportion for which the other two companies would be responsible, and did also by a submission to the arbitration of persons named by themselves and the appellants submit the estimation of the damage caused by fire, and joined in having the same estimated and ascertained, and by such means and otherwise acknowledged the existence and validity of their said policy as a valid and binding contract, and waived any and all objections which they might have otherwise urged, founded on the want of notice of the insurance effected under the other two policies, especially that of North British and Mercantile Insurance Company, and became and were liable to make good to the appellants the proportion of said loss falling to be paid by them in the proportion of an existing insurance by them to the extent of $2,000, which proportion the appellants consented to reduce to the sum of $1,400."

Judgment reversed.

Pagnuelo & St. Jean for Appellant.

Trudel, Charbonneau, Trudel & Lamothe for Respondent.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, July 11, 1883.

Before LORD WATSON, SIR BARNES PEACOCK, SIR ROBERT P. COLLIER, SIR ARTHUR HOBHOUSE.

MACDONALD, Appellant, and WHITFIELD, Respondent.

Promissory Note—Successive Endorsers—Relative Liability.

Where several persons mutually agree to give their endorsements on a bill or note, as co-sureties for the holder who wishes to discount it, they are entitled and liable to equal contribution inter se, irrespective of the order of their endorsements.

The appellant and respondent made their several endorsements upon certain promissory notes, along with other directors of the St. John's