

At the trial the defendants abandoned the allegations of fraud and false statement, and also abandoned the two other defences, as to the sufficiency of the proofs of claim and the prematurity of the actions, except in so far as those two defences should affect the costs.

The actions, except as to costs, thus resolve themselves into the question of the amount of the plaintiffs' loss. To substantiate that the plaintiffs produce a stock list, alleged to have been made out on 1st August, 1907, which shewed their stock in trade at \$6,704.36, and their furniture, etc., at \$1,484.78, making a total of \$8,189.14. To this they add their subsequent purchases, and from the total deduct their subsequent sales of stock and the wear and tear on the furniture, etc.; and, the balance thus found being the value of the goods on hand at the time of the fire, and deducting the salvage, they claim the difference as their loss. The defendants challenge the correctness of the August list, and the subsequent dealings and the salvage on the furniture.

Let us first take the claim as to the furniture, etc., which I will call the plant. . . . I place the total loss on the plant at \$230.

Then as to the stock in trade. . . . The total loss by fire on stock in trade was \$4,132.70. Of this the defendants the British America Assurance Co. are liable for two-thirds, \$2,755.13; the Traders company should pay the other third, \$1,377.57, and also the loss on plant, \$230, in all \$1,607.57. To these sums add interest from 10th June, 1908.

In arriving at these figures, I recognize that they may not, and in the nature of things cannot, be exact, but, having in view the interests of all concerned, I have endeavoured to get at them as best I could. . . .

There remain the two questions of the right of the plaintiffs to sue and the disposition of the costs.

As to the plaintiffs' right to sue, the position is not the same in both actions. In the Traders company's policy the loss is made payable to the Crown Bank. In the other case a document addressed to the British America Assurance Co., and dated 24th April, 1908, was signed by the plaintiffs, per the manager, whereby, in consideration of \$1 and other valuable consideration, the plaintiffs assigned to the Crown Bank all the benefit in and to the moneys due to the plaintiffs by reason of the claim therein being made