Upon the evidence, also, it was clear that the stock was damaged by smoke; $2,000 would not be an unreasonable sum at which to fix the damage; and the appellant was entitled to recover that sum, to be apportioned among the respondents according to the amounts of their respective policies—unless the claim of the appellant was vitiated by reason of fraud or false statements in his declaration as to the matters mentioned in statutory condition 19.

The onus of proving the fraud or false statement alleged to have been made was on the respondents; and there must be clear and satisfactory proof.

It was argued for the respondents that what purported to be a statement of a stock-taking on the 5th February, 1915, was a document fabricated after the fire, and that there had been no stock-taking at that time. The fire was on the 11th February, 1915.

According to the provisions of statutory condition 20, the fraud or false statement must be in a statutory declaration in relation to the particulars mentioned in condition 19. In the declarations furnished by the appellant there was no allegation that there had been a stock-taking on the 5th February, and that the accompanying statement shewed the result of it. It was, therefore, unimportant, so far as the question of the application of condition 20 was concerned, whether or not there was in fact any stock-taking: Ross v. Commercial Union Assurance Co. of London (1867), 27 U.C.R. 552. But, in any case, it was satisfactorily shewn that stock was taken on the 4th and 5th February, and that the stock-list produced at the trial was the result of it.

The estimate made by the appellant of the damage that had been done to the stock by smoke was excessive, but not so excessive as to justify the conclusion that it was dishonestly and fraudulently made: Rice v. Provincial Insurance Co. (1858), 7 U.C.C.P. 548; Park v. Phœnix Insurance Co. (1859), 19 U.C.R.110; Parsons v. Citizens Insurance Co. (1878), 43 U.C.R. 261.

The defence founded on the 20th statutory condition was not made out.

In respect of the damage to the household furniture, the appellant should have judgment for $150 against the two insuring respondent companies in the proper proportions; and in respect of damage to the building the appellant should have judgment against the Glen Falls company for $13.20.

The appeal should be allowed with costs, the judgment of the trial Judge reversed, and judgment entered for the appellant in accordance with the opinion as to his rights above expressed, with costs throughout.