terest by one to another of several partners or owners of undivided property who are jointly insured, does not avoid the policy.

Partners insure; one retiring, abandons all to the others without notice to the insurers. Fire happens; the Court held that assignment from one partner to his co-partners was not within the meaning of the condition in the policy (such as in the Ætna *supra*) against assignment.[1]

Angell, § 200 *a*, does not commit himself by an opinion upon this decision. *Wilson* v. *Genessee Mutual* is preferred by Flanders, p. 476, 2nd Edn. Now, the Civil Code of L. C., Art. 2577, orders, as in the *Wilson* case, that cession of interest between partners or co-proprietors who insured conjointly may occur, without nullifying the policy. (*Semble*, unless condition *contra*.)

Three own a house and insure it. The policy contained a clause against alienation of the subject or any part of it. One of the insured afterwards sold to the other two, without consent of the insurers. This was held not to affect the policy. The sale was held not to be alienation within the meaning of the condition, but a mere change of interest among joint owners.[2] Angell § 197, noticing this case, does not commit himself by an opinion upon the judgment.

There must be a subsisting interest at the time of the loss, or the insured cannot recover, but it is not necessary, unless there is some specific provision in the policy to that effect, that the interest should be the same, either in quantity or nature, at the time of the loss as when the contract is made. Therefore, though the interest of the insured is changed from an absolute to a qualified or contingent ownership, or from a legal to an equitable interest, he may still recover, in case he suffers any loss, if his remaining interest is not one which the policy requires to be specifically described.

This doctrine has been applied to the case where the interest of the insured has, after the execution of the policy, been changed from the absolute ownership to that of mortgagor, in *Gordon* v. *Mass. F. & M. Ins. Co.*, 2 *Pick.* 249, and *Jackson* v. *Mass. M. Fire Ins. Co.*, 23 *Pick.* 418, and to that of assignor for the benefit of creditors in *Lazarus* v. *Commonwealth Ins. Co.*, 5 *Pick.* 76; S. C., 19 *id.* 81. *Stetson* v. *Mass. Mut. Fire Ins. Co.*, 4 *Mass.* 330. Would this be so, where a discharge is granted by the creditors? Not in Quebec; but such transfer to the creditors would end the assignor's interest.[1]

In *Reed* v. *Cole*, 3 *Burrow* 1512, where one sold a ship on which he had effected an insurance, but agreed with the purchaser, that in case of her loss he would pay him five hundred pounds, it was held that he still possessed an insurable interest to that amount, for an injury to which he might recover under the policy effected by him before the sale.

As said before, policies are often effected to secure loans. A proprietor borrows money, insures his house in his own name, and afterwards transfers the policy to the mortgagee, to whom any loss is to be payable. A fire happens, but before it the original insured transferred his house without consent of the insurers, and his policy contained a condition such as the American one *supra* against alienation. In *Tillon* v. *Kingston M. Ins. Co.*, it was very improperly held that such conduct of the original insured could not defeat the right of the mortgagee.

More legal was the judgment of the N. Y. Court of Appeals in 1858, in *Grosvenor* v. *The Atlantic F. I. Co. of Brooklyn*, (Monthly Law Reporter of 1858.) M owned houses, and mortgaged them in favor of G. M insured in his own name; "loss, if any, to be paid to G." One condition of the policy was, that "in case of any transfer or termination of "the interest of the assured, either by sale "or otherwise, without the consent of the "company, the policy shall, thenceforth, be "void and of no effect." Before the fire M sold the houses, without notice to, or consent of, the insurers. It was held that the policy was void, even as regarded the mortgagee.

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[1] *Wilson* v. *Genessee M. Ins. Co.*, 16 Barbour R. A.D. 1853.

[2] *Tillon* v. *Kingston M. Ins. Co.*, 7 Barb. R.

[1] Suppose a man insured sell a house for £500, but retains mortgage for say £400, or £100 unpaid price. Alienation (under such clause as the Ætna's.) *Semble*, mutation would be seen in this case in Quebec, for the mortgagee is never proprietor here.