

DUVAL, C. J. A great deal has been said about good and bad faith. It is a rule that he who talks about bad faith on the part of his adversary should show good faith himself. Now, the plaintiff has not shown bad faith, but he is answerable for the actions of his agent. The defendant occupied this land in broad day and paid the taxes upon it for several years. The plaintiff's agent allowed the land to be improved and increased in value, and when he brings it into the market, he will get the increased price for it. Under these circumstances, should it be said that, because the defendant is in bad faith, the plaintiff should be allowed to put this money in his pocket? What was the agent doing all this time? The Roman law says that even in the case of bad faith, those expenses which really increased the value of the land, must be re-imbursed. Is this not a principle of equity? Am I to put my hand in my neighbor's pocket because he is a dishonest man? The plaintiff himself was not on the spot, but he is liable for the acts of his agent. If he does not choose to attend to his own interests, he has only himself to blame if he suffers loss.

DRUMMOND, J. What led me to come to the decision I have arrived at, and to feel sure that I was not committing an act of injustice, was the fact that for four or five years, the defendant was allowed to pay taxes on this land. Now, no more convincing proof that he was there with the consent of the proprietor could be given. Whether the plaintiff was absent or not, he was bound to know what were his duties in the municipality. It is true that some taxes were paid by Ellice, but the defendant had been paying the taxes for several years, and the mere fact of the defendant having paid the taxes is full proof to my mind that he was there with the knowledge and consent of the proprietor. There are many persons who hold back, and let squatters pay the taxes till the value of the property has been doubled or trebled. At the same time I should be sorry if this case should be confounded with the other case in which the land is taken possession of without the

knowledge or consent of the proprietor.
Judgment confirmed.

Sanborn and Brooks, for the Appellant.
H. C. Cabana, for the Respondent.

November 28th, 1867.

WIGGINS v. THE QUEEN INSURANCE COMPANY.

Insurance—Making Claim in due form.

One of the conditions in a policy of fire insurance required that the claim should be made in due form. The plaintiff having sued on the policy to recover for loss by an accidental fire, the jury, in answer to special questions, found that the plaintiff had made his claim without fraud or false representation, but not *in due form*.—

Held, that the words *but not in due form* could not be treated as surplusage, and that the defendants were consequently, by law, entitled to judgment in their favor.

BERTHELOT, J. The plaintiff sues for \$1000, on a policy of insurance dated 21st June, 1866, for loss by an accidental fire in his house on the 29th of November, 1866, which destroyed effects to the value of \$1272. The plaintiff states that he put in his claim, accompanied by a statement under oath, of the amount of his loss as soon as possible after the fire, and that he was prepared to prove the amount by documents and papers or otherwise, according as the Board of Directors of the Company might reasonably require; and that within three months subsequent to the fire, he claimed from the Company the sum of \$1000, the amount of his insurance, and that he has observed all the conditions of the policy.

The defendants by their pleas have invoked the 12th condition of the policy by which the insured was bound, within fourteen days subsequent to the loss by fire, to present a detailed statement of his loss duly sworn, or supported by proof, in such manner as the Company or their agents might require, and that if there was any fraud in the plaintiff's claim, he would lose the benefit of his policy. The defendants conclude by averring that the plaintiff had failed to satisfy the requirements of the 12th clause within 14 days after his loss; and that there was fraud according to the 12th condition, the plaintiff having claimed for effects not totally destroyed, and that he was