

clause" in favour of one Raphael Fortin, hypothecary creditor. [See in the above summary.]

Assuming in respondent's favour that that clause avails him notwithstanding that, Fortin's interest in the policy had ceased and been cancelled, it cannot avail to dispense with the making of proofs of loss by somebody, and the Act provides that: "Proof of loss must be made by the assured, although the loss be payable to a third person." (1).

The respondent, consequently, cannot stand upon the ground that he can recover without a preliminary proof having been made.

Then, as regards the proofs of loss, none were in fact furnished. It is said that the proofs of loss were waived or dispensed with by the appellant. So far as respects the letters invoked by the respondent, they show that Gendreau's attention was called to the fact that he had not made proofs of loss, (a thing which both his contract and the law itself told him should be done);

They also show that the respondent was told that he was not transferee of the policy. There is no waiver in the letters. As regards naming an adjuster; it appears that the appellant's solicitors, in a letter to respondent's law agent, stated that they had written to Mr. Gendreau that if he had any claim to make he should do so at once and communicate with Mr. Morris insurance adjuster. The respondent has not shown that he communicated with Mr. Morris or joined in any appraisal or that any appraisal was made. Mr. Morris did examine the property at appellant's request and verbally reported that the principal building insured was a total loss. There was no waiver in that.

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(1) R. S. Q., art. 7034, § 12.