

the proportion to be paid by the insurer. Where the full amount of the claim is awarded the costs shall follow the event; and in other cases, all questions of costs shall be in the discretion of the arbitrators.

Eighteenth. The loss shall not be payable until sixty days after the completion of the proofs of loss, unless otherwise provided by the contract of insurance.

Nineteenth. The insurer, instead of making payment, may repair, rebuild or replace within a reasonable time, the property damaged or lost, giving notice of his intention within fifteen days after receipt of the proofs by the policy required.

Twentieth. The insurance may be terminated by the insurer by giving notice to that effect and by tendering therewith a rateable proportion of the premium for the unexpired term, calculated from the termination of the notice. In the case of personal service of the notice five days' notice, excluding Sunday, shall be given. Notice may be given by any insurer having an agency in New Brunswick by registered letter addressed to the assured at his last post office address notified to the company, and where no address has been notified, then to the post office of the agency from which the application was received, and where such notice is by letter, then seven days from the arrival at any post office in New Brunswick shall be deemed good notice. And the policy shall cease after such tender and notice aforesaid, and the expiration of the five or seven days as the case may be.

Twenty-first. The insurance may also be terminated by the assured by giving written notice to that effect to the insurer or his authorized agent, in which case the insurer may retain the customary short date for the time the insurance has been in force, and shall repay to the assured the balance of the premium paid.

Twenty-second. No condition of the policy, either in whole or in part, shall be deemed to have been waived by the insurer unless the waiver is clearly expressed in writing, signed by an agent of the insurer.

Twenty-third. An officer or agent of the insurer who assumes on behalf of the insurer to enter into any written agreement relating to any matter connected with the insurance shall be deemed *prima facie* to be the agent of the insurer for the purpose.

Twenty-fourth. Every action or proceeding against the insurer for the recovery of any claim under or by virtue of this policy, shall be absolutely barred, unless commenced within the term of one year next after the loss or damage occurs.

Twenty-fifth. Any written notice to an insurer for any purpose of the statutory conditions where the mode thereof is not expressly provided, may be by letter delivered at the head office of the insurer in New Brunswick, or by letter mailed, postage prepaid and registered, addressed to the insurer, its manager or agent, at such head office, or by such written notice given in any other manner to an authorized agent of the insurer.

SECOND SCHEDULE.

(Section 4.)

VARIATIONS IN CONDITIONS.

"This policy is issued on the above statutory conditions with the following variations and additions:

"These variations (or as the case may be) are, by virtue of the New Brunswick Statute in that behalf,

in force, so far as by the court or judge, before whom a question is tried relating thereto, they are held to be just and reasonable to be exacted by the insurer."

Legal Decisions

FIRE LOSS: MUNICIPALITY NOT RESPONSIBLE.

Mr. Justice Mercier at Montreal on Tuesday gave judgment in a suit entered by Octave Bertrand against the city of Lachine. Bertrand claimed \$400 on account of loss of property by fire. The court summarily dismissed the suit, maintaining that before such an action could be maintained it would be necessary to show that any deficit of water pressure was due to the gross negligence of the municipality or its officers, and the court pointed out, further, that it would be necessary to prove that the municipal officers were cognizant of such deficiency and were neglectful in the matter of remedying it.

Investigation showed that the temporary shortage in this particular main was due to a break in a valve, such break having the effect of blocking the main to a certain extent. The municipality, in opposing the suit, admitted that the pressure was pretty low on that particular street, this being due to the breakage of the valve referred to. However, on the very next street there was an adequate supply, and the firemen, on connecting their hose with the mains of the other street were enabled to get all the water they needed. Moreover, the municipality or its officers did not know that the valve was broken. Such break was due wholly to fortuitous circumstances, and hence the municipality could not be held responsible therefor. The water system of the town worked well as a general rule, and was well looked after. Anyway, the plaintiff had no basis for damages against the town as he was fully insured and his loss had been fully paid by the insurance company. Finally, the whole suit, if there was any basis for it, had been prescribed by reason of the fact that the plaintiff had not given the necessary statutory notices to the town.

Judge Mercier in dismissing the action held that in cases of this kind only the gross negligence and inexcusable fault of a defendant or of its employees could justify the meting out of a condemnation against the defendant. To maintain such actions would be tantamount to constituting, after a certain fashion, the defendant as assurers of the property of the ratepayers, and this, even though the latter did not see fit to have their property insured, and take out policies to guarantee themselves against loss by fire. The defendant, ruled the court, had proven that it had done everything possible to limit the ravages of fire and to control the spread of the particular outbreak figuring in the case. Hence the dismissal of the suit with costs.

An analysis of the character of the fires that occurred in London, England, during 1912, shows that out of a total damage of £421,909, £259,190 was due to fires in which the loss exceeded £5,000. Of the balance £78,877 was on account of fires in which the losses were between £1,000 and £5,000. Losses under £50 aggregated £15,848; under £100, £7,435; under £500, £32,133, and under £1,000, £28,446. The total sum insured was £1,094,946,216.