

even to the extent of the value of his labor upon B's cloth, which was about \$600. B. lost \$2,000, value of the cloth.

§ 183. *Notice of previous or subsequent insurance.*

"Notice of all previous assurances upon property assured by this company, shall be given to them, and endorsed on this policy, or otherwise acknowledged by this company in writing, *at or before* the time of their making assurance thereon, otherwise the policy subscribed by this company shall be of no effect. And in case of subsequent assurance of property assured by this company, notice thereof must also be given to them, to the end that such subsequent assurance may be endorsed on the policy subscribed by this company, or otherwise acknowledged in writing; in default whereof such policy shall thenceforth cease, and be of no effect."

The above is a condition in most American policies.

The clause in some policies reads: "If the assured or his assigns shall hereafter make any other insurance on the same property, and shall not with all reasonable diligence give notice thereof to this company, and have the same endorsed on this instrument, or otherwise acknowledged by them in writing, this policy shall cease, and be of no further effect." (*Ætna Policy.*)

Such conditions will be enforced; nevertheless their words ought not to be extended. By the condition firstly above printed, the duties upon the insured are greater as regards previous insurances than as regards subsequent. As regards the former, notice is to be given to the insurers *and* endorsed on the policy, or otherwise acknowledged in writing, *at or before* the time of the policy, otherwise it shall be of no effect.

Suppose the fact of previous insurance to be forgotten till a week after the second policy; then, second insurers to be informed of it, and to endorse it on their policy, surely, if afterwards a fire happened, the second insurers could not escape by referring to the wording of the above first clause of condition, "*at or before* the time of their making insurance, etc." This shows that literal interpre-

tation is unjust sometimes, and the spirit is to govern, more than the letter.

A policy was made with the usual conditions. One was that notice of all previous insurances should be given to the company and endorsed on the policy, or otherwise acknowledged in writing,—or the policy to be of no effect. Another condition was that all notices must be in writing. Another insurance was in the Gore Mutual, but not endorsed. B. claimed that he had informed the company's agent of the Gore Mutual insurance, and the company's agent promised to find out its amount, etc., and he promised to have it endorsed in writing, etc. The application was held not true, and verbal notice to company's agent, of no use.

The 13th condition of the Liverpool & London Fire & Life Insurance Company, is, that the company shall not be liable for loss by fire in any building under construction or repair, wherein carpenters are employed, unless the special consent of the company be *first obtained and endorsed* on the policy.

Very rarely is this endorsement made, but a receipt on a separate piece of paper is given instead, declaring reception of premium for carpenters' risk. Such receipt being given, would the above condition operate notwithstanding?

As regards subsequent insurance, notice must be given, in default whereof the policy shall cease; but no time for giving the notice is fixed, and it is to be given "*to the end that*" etc. According to the letter, the insurer is not freed merely because the insured has not had endorsed on his policy or acknowledged in writing, the fact of his subsequent insurance. "*Qui veut la fin veut les moyens,*"—the end attained all is well. As to the time for giving notice, where none is expressly fixed, a reasonable time would be allowed, and as to what was or was not a reasonable time, the jury might, fairly, decide, according to circumstances. According to the law of Lower Canada, an insured would recover in such a case though giving notice only with his particulars of loss, the end of the insurer being obtained by the late as by an earlier notice. Certainly the insured could not be repelled if he effected double insurance one day, and fire happened the day