sions to the contrary have been, and the better reason is against Quénault.

The better opinion in France is that the purchaser, unless he has been accepted by the insurer, cannot sue, after a fire happening, after sale by the original insured of the subject insured (and this whether the policy be special or not).

So it would be in Lower Canada also, but all the policies are worded or conditioned so that purchaser cannot ordinarily get such benefit of the policy, unless after he has been accepted by the insurer. In England a policy would not go with a house sold as incident to the sale.

Quénault extends the above to the case of a donee and legatee, also, if the house be burned during the policy. But most companies do stipulate that transfers of the objects insured, whether by gift, death, sale or otherwise, must be declared to them and mentioned on the policy under pain of *dechéance*. Of course, the policy will not be extended, whether in favor of the insurer or the insured, from one case mentioned to another not mentioned.

Leclaire v. *Crapser* (5 L. C. R.) was a case growing out of a sale to defendant, in 1852, by a man named Tavernier. A land, with buildings insured, was sold for £462 10s., of which £100 was paid at the time of the sale, and for the balance defendant (the vendee) agreed that the property should be under mortgage. Tavernier at the time had a policy for £600 in force covering the buildings sold. Of this he transferred £100 to defendant, in consideration of the £100 paid by him. The transfer of the £100 was notified to the insurance company. On the 8th of July, 1852, a fire destroyed the buildings insured, and on the 12th Tavernier got paid £500 upon his policy. He did *not* inform the insurance company of his alienation of the property, and got £500, though only interested to the extent of £362 10s. Not satisfied with so much good luck, Tavernier, on the 18th of the same month, sold and transferred to plaintiff, Leclaire, £362 10s., called the balance of purchase money due by defendant, and plaintiff sued in his own name for it. The defendant pleaded that plaintiff was without right; that the debt referred to had been paid to Tavernier by the insurance company; that Tavernier having received from the insurance company the £500, the balance of price of sale had been more than paid to him, and this previously to the pretended transfer by him to plaintiff; that Tavernier could not collect the insurance money and also the debt from the purchaser, etc. The Superior Court, Montreal, held that Tavernier, having received the insurance money as he did, could not afterwards transfer to plaintiff the alleged balance, although he might have subrogated the insurers into his place in respect of it, with right to collect it in his name. The plaintiff's action was dismissed. The insurance company in this case paid Tavernier what they need not have paid, and actually overpaid him £137 10s.

§ 309. *Loss payable to insured.*

The name of insured concludes where he alone appears as insured. If a loss happen, in vain will the insured (aided by the insurer even) say after a loss and trustee process by creditors against insured, that the insurance was that of the man's wife.

§ 310. *Rights of heirs, etc.*

Some policies are made payable to the insured, his heirs, etc.; others are payable to the insured, his executors, or administrators, or assigns.

In England there are subtleties on this point. If the insurance money, as secured by a policy against fire, is made payable to the insured, his executors, administrators and assigns; and houses and buildings in fee are insured, which afterwards descend to the heir, and are burnt during the continuance of the policy, the executors of the insured will not be deemed trustees for the heir, and the heir will not be entitled to the proceeds of the policy. A decision (*Mildmay* v. *Folgham*, 3 Ves.) to this effect has been made with reference to the constitution and policy of the Hand in Hand office, by one of the articles of which it was declared that the interest of a member dying should survive to his executors, administrators and assigns; and by an order of the society, reciting that every insurance became void at the time when the property of the person insured expired, it was ordered that, upon applying at the office and declaring their property in the