The proofs of loss were furnished in good faith, and the appellants objected to the loss upon other grounds than for imperfect compliance with the condition, within the meaning of sec. 172; and, the trial Judge having found that it would be "inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with the condition," the objection to the sufficiency of the proofs was not open to the appellants.

In the Ontario Insurance Act, 1912, sec. 172 appears as sec. 199, amended by substituting for the words "allowed as a discharge of the liability of the company on such contract of insurance" the words "allowed as a defence by the insurer or a discharge of his liability on such policy."

It appears to have been thought at the trial that it was decided in National Stationery Co. v. British America Assurance Co. (1909), 14 O.W.R. 281, that, although sec. 172 as amended prevents the non-compliance with the requirements of condition 13 being set up as a defence, the original section did not. Nothing of the kind was decided in that case, and all that was said which bears upon the meaning of sec. 172 was said by Riddell, J., who expressed the opinion that "the whole effect of that section is to prevent the defect in the proofs of loss being 'allowed as a discharge of the liability of the company on such contract of insurance.' This has no reference to the matter of costs;" and it is, therefore, unnecessary to determine whether the trial Judge was right in applying sec. 199, which did not come into force until after the actions were begun.

An important question as to the effect of the provisions of the Insurance Act as to the statutory conditions was raised at the trial and upon the argument before us.

Upon the policies of the appellants in the second and third cases are endorsed variations of the statutory conditions, and by them condition 22 is varied so as to read: "Every suit, action or proceeding against the company for the recovery of any claim under or by virtue of this policy shall be absolutely barred unless commenced within six months next after the loss or damage shall have occurred."

This variation, as the respondents contend and the trial Judge had held, is not a just and reasonable condition, and is, therefore, null and void; and this ruling, the appellants contend, is erroneous. . . .

[Reference to Hickey v. Anchor Assurance Co. (1860), 18 U.C.R. 433, and Peoria Sugar Refining Co. v. Canada Fire and Marine Insurance Co. (1885), 12 A.R. 418, distinguished them.]