

§ 148. *Insurance of profits.*

In the case of insurance of profits, a great overvaluation of them will not avoid the policy; but if the overvaluation be for the purpose of fraud it may.¹ It is not sufficient that doubt should exist whether the overvaluation was innocent; it must be seen that it was fraudulent, in order to avoid the policy.²

In the case of *Bruce v. Jones*,³ the defendant had insured the plaintiff for £125 by a policy on a ship valued at £3,200. The plaintiff, before suing, had received from other insurers £3,126.13.6, and now was allowed against Jones only £73.6.6. The amount which the plaintiff may recover in such cases may depend upon the order in which he proceeds against the different underwriters.

§ 149. *Where there have been fraudulent representations as to value.*

A valued policy obtained upon false and fraudulent representations by the insured as to the value of the subject insured ought to be held null and void. Some companies stipulate by their policies that "in a valued policy, an overvaluation shall render absolutely void a policy issued upon such valuation."

§ 150. *Fraud not presumed unless overvaluation be excessive.*

There is not, in Quebec, a presumption of fraud against one who insures a thing for more than its real value. The presumption is rather that he has done so with no bad faith. If fraud be alleged it must be proved. Men, it is said, differ as to values, and insurers may gain by overvaluations. But if the insured overvalue and persist in a valuation greater than his loss, particularly under an open policy, the appearances of good faith diminish. But a slight excess ought not to

¹ So held by Story, J., in *Alsop v. Commercial Ins. Co.*, 1 Sumner R. The case of gross overvaluation as a question of fraud is solely for the Jury; *ib.* Overvaluation by mistake, it seems, will not avoid the policy, *ib.*; observations of Story, J.

² *Alsop v. Commercial Ins. Co. supra.*

³ 9 Jurist. (A.D. 1863.)

be regarded. In the old marine insurance cases, Emerigon was for holding that the excess should be of a fourth at least, to be regarded.¹

Phillips, § 1183, holds that the fact of property being valued too highly is not, under the English law, of itself, a badge of fraud; but Marshall, after Lord Mansfield, says, if much overvalued it must be with a bad view. Kent says that if the valuation be grossly enormous it gives rise to a strong presumption of fraud.²

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Aug. 2.

Judicial Abandonments.

William H. Arnton, auctioneer, Montreal, July 29.
William Beattie, trader, Melbourne, July 23.
François Bourgoing, trader, Tadoussac, July 31.
Appolinaire Morency, tailor, Quebec, July 25.

Curators appointed.

Re R. P. Dinahan.—Biledeau & Renaud, Montreal, joint curator, July 25.
Re John G. LeBlanc, trader, Carleton.—H. A. Bédard, Quebec, curator, July 25.
Re John LeBoutillier & Co., Gaspé Basin.—N. Matte, Quebec, and C. S. LeBoutillier, Gaspé, joint curator, July 16.

Dividends.

Re Philéas Faucher, St. François Xavier de Brompton.—Second and final dividend, payable Aug. 19, J. A. Begin, Windsor Mills, curator.
Re Tancred Robitaille, St. Hyacinthe.—First and final dividend, payable Aug. 20, J. Morin, St. Hyacinthe, curator.

Minutes of notaries transferred.

Minutes of Charles Robert, N.P., Ste. Pudentienne, transferred to Joseph Gingras, N.P., Ste. Claire, county of Dorchester.
Minutes of late G. M. Prévost, N.P., and François de Salles Prévost, N.P., Terrebonne, to be transferred to E. S. Mathieu, N.P., Terrebonne.
Minutes of late J. T. Langlois, N.P., Sutton, to F. L. Mongeon, N.P., township of Sutton.

¹ Tome 1, p. 279.

² Kent, Vol. III, note to [375], says that in France valued policies are rejected. This is not the case, but they do not estop the insurers.