

have the mortgage assigned to them. For some months prior to the fire several of the houses became and remained vacant, of which the plaintiff was aware, but of which he did not notify defendants. In an action by plaintiff upon the policy:—

*Held*, that the actual facts as to occupancy being before them at the time of the application, the defendants were liable, nor were they relieved by their variation of the statutory conditions that the policy would not cover vacant or unoccupied houses:—

*Held*, also, that the variation as to the premises becoming vacant or unoccupied where, as here, the houses were of a class likely to be occupied by tenants for short periods was unreasonable, and the reasonableness of the variation was to be tested with relation to the circumstances at the time the policy was issued.

*Smith v. The City of London Ins. Co.*, 14 A. R. 328, and *Ballagh v. The Royal Mutual Fire Ins. Co.*, 5 A. R. 87, specially referred to:—

*Held*, however, that the fact that several of the houses were vacant to plaintiff's knowledge for some months before the fire, was, under the third statutory condition, a change material to the risk, which was thereby increased, and the failure to notify the defendants avoided the policy "as to the part affected," which in this case was the whole block:—

*Held*, also, that the meaning of the word "risk" in the third statutory condition is not distinguishable from the same word in the first statutory condition, and that subsequent mortgages executed by plaintiff were matters relating to title, and were not covered.

*Reddick v. The Saugeen Mutual Fire Ins. Co.*, 14 O. R. 506, followed:—

*Held*, lastly, that although defendants had paid the mortgagees and taken an assignment of the mortgage, they could not hold it against the plaintiff.

*Imperial Fire Ins. Co. v. Bull*, 18 S. C. R. 697, followed.

Judgment of FALCONBRIDGE, J., affirmed. *McKay v. Norwich Union Ins. Co.*, 251.

2. *Life Insurance—Premium—Payment—Promissory Note of Third Person—Discount of Note of Insured.*—There is nothing to prevent an insurance company from accepting the promissory note of a third person in satisfaction and discharge of a premium; and a condition of a policy providing that if a note be taken for the first premium and shall not be paid when due, the policy shall become null and void, is not applicable to a note so taken, but to one taken for and on account of the premium.

And *semble*, that where the agent of the insurance company discounted notes given by the insured for the premium, and retained the proceeds, sending his (the agent's) own note to the company for the amount of the premium, less his commission, the transaction amounted, when the proceeds of the discount were received, to a payment in cash of the premium. *Fleming v. London and Lancashire Life Ass. Co.*, 477.

3. *Life—Voluntary Settlement—R. S. O. ch. 136.*—A benefit certificate in a mutual insurance society was expressed to be payable to the insurer's mother, and by contract between him and the society it was agreed that it should not be payable nor could it be transferred to any one else than his mother, wife, children, dependents, father, sister or