

a breach of a condition is a forfeiture of the policy, and that a "waiver" of such forfeiture—

cannot be inferred from mere silence. It (the company) is not obliged to do or say anything to make a forfeiture effectual. It may wait until claim is made under the policy, and then in denial thereof, or in defence of a suit commenced therefor, allege a forfeiture (a).

And these Courts are, at all events, consistent in thus holding. For if we assume that breach of a condition has, in reality, "forfeited," in the sense of terminated, the policy, there can be no reason why the company should send notification of any sort to the insured. He knows of the breach as well as the company does (and usually better), and he knows, too, that his contract is at an end. Then why tell him anything?

Other Courts are less consistent, but more nearly correct, when they declare that—

If the company contemplated the forfeiture of the policy because of the non-payment of the premium, it should at once have so declared, plainly and unconditionally (b).

Such language (notwithstanding the misuse of the word "forfeiture") rightly assumes that the breach has no effect upon the policy, and that its termination is the result of the company's election. That being so, the necessity for a declaration by the company is obvious. If the breach ended the policy, then, as I have said, the company could have nothing to communicate to the assured, for he knew of the breach and of its legal effect.

(a) *Titus v. Glen Falls, etc.*, 1880, 81 N.Y. 419; 8 Abb. N.C. 315. Approved in *Cannon v. Home, etc.*, 1881, 53 Wis., 594; 11 N.W. 11. And see *Phenix, etc. v. Stevenson*, 1879, 78 Ky. 161; 8 Ins. L.J. 927; *Smith v. St. Paul, etc.*, 1882, 3 Dak. 82; 13 N.W. 355; *Schimp v. Cedar Rapids, etc.*, 1888, 124 Ill. 357; 16 N.E. 229; *Queen, etc. v. Young*, 1888, 86 Ala. 431; 5 So. 116; *Armstrong v. Agricultural, etc.*, 1892, 130 N.Y. 564; 29 N.E. 991; *Petit v. German, etc.*, 1898, 98 Fed. 803; *Banholzer v. N.Y., etc.*, 1898, 74 Minn. 397, 77 N.W. 295; *Parker v. Bankers, etc.*, 1899, 86 Ill. App. 326; *Manhattan, etc. v. Savage's Adm'r*, 1901, 23 Ky. 483, 63 S.W. 279.

(b) *U.S. v. Lesser*, 1899, 126 Ala. 585; 28 So. 646; *Pollock v. German, etc.*, 1901, 127 Mich. 460, 86 N.W. 1; 17.