

which the insurance exists. They plead only a prior insurance in the Hand-in-Hand, not assented to, saying nothing about the Sun. The application proves notice to them of both, and it must be taken against them that this is the one they intended to assent to in the policy. . . . If there was also further insurance of \$4,000 (that is, \$8,000 in all), to which defendants' assent was not manifested, as required by the statutory condition, they have not pleaded that as a defence, nor would it be just to allow them now to set it up. It does not seem necessary that the particular company in which the prior insurance exists should be specified in the policy. The amount of such insurance was the important thing, and the application gave the necessary details. I am disposed also to agree that, if defendants did not intend to assent to the existing insurance for \$8,000 in all in the Hand-in-Hand and in the Sun, they were bound by the second statutory condition to point out in writing the particulars wherein the policy differed from the application: *Smith v. City of London Ins. Co.*, 14 A. R. at p. 330. . . .

2. The company's next defence arises under the second branch of the 8th condition, which declares that the company are not liable for the loss if any subsequent insurance is effected by any other company, *unless and until* the company (i.e., the former company) assent thereto, or unless the company do not dissent in writing within two weeks after receiving written notice of the intention or desire to effect the subsequent insurance, or do not dissent in writing after that time and before the subsequent or further insurance is effected.

The defendants rely upon two subsequent insurances effected by their insured, but not notified to or assented to by them, one in the London Mutual and the other in the Lancashire. These insurances were proved. As to the London Mutual, the plaintiff's answer is, that the Hand-in-Hand policy was cancelled, for what reason does not appear, and the London Mutual was merely taken in substitution for it.

There is some evidence that the policy in question was taken in substitution for the other. One was dropped or cancelled, and the other for a similar amount put on. There is no suggestion that the Hand-in-Hand Co. cancelled on the ground of fraud or doubtful character of the risk, and I do not see that the fact of the sum insured having been somewhat differently distributed in the later from what it was in the earlier policy, can affect the substance of the matter,