and, except in as far as, if at all, this covenant is qualified by the 10th condition, defendants would be liable to make good the loss to the extent of the insurable interest of plaintiffs in the property, whatever the nature of that interest might happen to be.

Defendants had notice through their agents of the real interest of plaintiffs in the property insured; and it was, I think, therefore, their duty to have indorsed on the policy the necessary statement as to it, or at all events they are estopped from setting up the 10th condition to defeat plaintiffs' claim.

There is nothing to shew that the agents had not the necessary authority to make the indorsement on the policy required by the 10th condition; they were the general agents at Ottawa of defendants, and their authority, as described by one of them, was wide enough, as it appears to me, to cover the doing of such an act, on behalf of their principals.

If I am right in this view, I am unable to see why defendants should be permitted to avail themselves of the failure of their agents to do this, and thereby make the policy a real security to plaintiffs, instead of being, if the contention of defendants is well founded, a worthless piece of paper —and, indeed, worse than that, something to lead plaintiffs to believe that they had the security against loss by fire which they had applied for and for which they had paid their money, when in truth they had not.

There is another ground also upon which, in my opinion, plaintiffs were entitled to succeed.

Their application was, as has already been said, an oral one, and, if the policy gives them a contract different from that for which they applied, as it does if defendants' contention is well founded, I do not see why plaintiffs may not invoke the provisions of the 2nd statutory condition to prevent defendants from setting up the provisions of the 10th condition. . . .

The 2nd statutory condition is as follows: "After application for insurance it shall be deemed that any policy sent to the assured is intended to be in accordance with the terms of the application, unless the company point out in writing the particulars wherein the policy differs from the application."

I see no reason for confining the operation of this condition to a written application, and there is no injustice done to the insurer, if he chooses not to require the application to be made in writing, and to trust to its being correctly enunciated by his agent, in holding him bound by the application that has in fact been made to his agent. He has the