As to the first defence, the learned Judge finds that on the 7th October, 1916, incendiarism was apprehended; that this danger was a circumstance material to be made known to the defendants to enable them to judge of the risk; and that it was not disclosed to the defendants by the application.

In the application, the question, "Is incendiarism threatened or apprehended?" was asked, and in the place for the answer a line was drawn thus——. This, the learned Judge considered, indicated that the question was not answered at all.

The application was signed by Gabel, but it was in blank, except that the amount of insurance sought was filled in. Gabel left Fallis, the insurance agent, to fill in the application and send it in, thus making Fallis for that purpose his (Gabel's) agent; Gabel was responsible for the answers made by Fallis, who was aware of the fear of incendiarism entertained by Gabel and of the reason for it, and who was an agent with large powers. It was Fallis's duty to disclose to the defendants the material facts which had been made known to him bearing on the apprehension of incendiarism. In this he failed. Who was to suffer for his failure?

Reference to Kinseley v. British America Assurance Co. (1900), 32 O.R. 376; Sinclair v. Canadian Mutual Fire Insurance Co. (1876), 40 U.C.R. 206, at p. 212.

Disclosure was essential, but the necessary disclosure could be effectively made dehors the answers in the printed form of application. Adequate disclosure was made to an agent of a high class. That was disclosure to the defendants, and any provision to the contrary in the conditions or in the application was unreasonable, and therefore ineffective. This ruling is based upon the facts of the case, and is not a general ruling that the last clause of the application—the usual one as to what forms the basis of the liability of the insurance company, and as to the agency for the applicant of the company's agent—is in all circumstances unreasonable.

Judgment for the plaintiffs for the amount of their claim with costs.