policy; as subsidiary thereto, and for the convenience of the person proposing to insure, immediate protection is granted to him. The practice of issuing interim notes must have been well known, and apt words might have been found by the legislature to describe them if they had been intended to be included in the Act. It may have been thought that it would be a clog upon the business of insurance, and would place difficulties in the way of obtaining these interim protection notes, if companies were obliged to prepare them with all the fulness and formalities which the Act requires in the case of policies.

Their Lordships, therefore, are disposed to come to the conclusion that the interim note in question is not a policy of insurance within the meaning of the Act. If in any case it should appear that an interim note or any like instrument was intended by the parties to be the complete and final contract of insurance, and that this shape was given to the instrument for the purpose of evading the Act, the present decision would not be opposed to the instrument being treated as a policy of insurance; the ground of their present decision being that the interim note in this case is what it professes to be, preliminary only to the issuing of another instrument, viz., a policy, which the parties *bona fide* intended should be issued.

These interim protection notes, given by fire insurance companies, bear an analogy to the "slips," commonly used in case of marine insurance, preliminary to the issuing of policies. The slip contains the heads of the contract, and is in itself a contract of insurance, though by the statute law of England, passed for revenue purposes, it could not, until the recent Act of 23 Vict., c. 23, be looked at by a court of law for any purpose. Since that Act, it may, for some purposes, be given in evidence. In a case in the Court of Queen's Bench in England, in which the nature and effect of these slips came under discussion, Mr. Justice Blackburn says, "As the slip is clearly a contract for marine insurance, and as clearly is not a policy, it is, by virtue of these enactments, not valid, that is, not enforceable at law or in equity; but it may be given in evidence wherever it is, though not valid, material."

What then are the conditions of the contract which is the subject of this action? The interim note contains a proposal by the Respondent to effect an insurance on the Company's "usual terms and conditions," and the interim insurance is made subject to these conditions. If the contract of the parties had come to be executed, the Company would perform it by issuing a policy, subject to their own conditions, if they could legally do so. Indeed, if the assured so required, it would be obligatory on them to perform it in this manner. In the view their Lordships take of the Act in question, the Company might, conformably with its enactments, issue a policy with their own conditions, provided that care was taken to print the statutory conditions, and show the variations from and the additions to them which their own conditions present, in the manner prescribed. They think that it ought to be presumed that the Company would thus perform their contract when they came to issue a policy; and this being so, that their own conditions ought to be read into the interim contract to the extent to which they might lawfully be made a part of the policy when issued, by following the directions of the statute, subject always to the statutable condition that they should be held to be just and reasonable by the Court or Judge.

For these reasons, their Lordships think that the judgment of the Court of Queen's Bench discharging the Appellants' rule for setting aside the verdict for the Plaintiffs, and the judgments affirming it, ought to be reversed, but their Lordships do not see their way to decide the question which now arises, and was not determined by the Judge who tried the action, or by any of the Courts in Canada, whether the Company's condition with respect to the quantity of gunpowder kept in the building containing the property insured is just and reasonable. They think the rule Nisi should be kept open, and the action remitted to the Court of Queen's Bench in order to the trial of this question, with a direction that the rule be disposed of according to the decision that may be come to upon it, and they will humbly advise Her Majesty to this effect.

The Appellants, though successful on other points, having failed on the important question of the validity of the Ontario Statute, on which special leave to appeal from the judgment of the Supreme Court was granted by this Board,