Anderson v. *Fitzgerald* was a case of false representations (two) by the insured. The policy was void from the beginning.

The true principle is stated in Smith's Mercantile Law (8th ed., p. 405). If the description be substantially correct, and a more ample description or more accurate description would not have varied the premium, the error is not material.

In the case of *Gouinlock* v. *The Manufacturers & Merchants' Mut. Ins. Co. of Canada*,[1] the question was put, For what purposes occupied? The answer was, "Dwelling, &." This was held to mean "*et cetera*," and a drinking saloon was held covered. Yet the Ontario statute orders insurance to be of no force if the insured describe the subjects insured otherwise than they really are.

Where the policy required certain facts to be stated in the application by the assured, and these are made known to the company's agent, who omits to reduce them to writing, the company is liable.[2]

In the case of *Universal Non-Tariff Fire Ins. Co.* and *Forbes'* claim,[3] an insurance agent in Glasgow for a London company, to whom the assured applied for insurance with the Universal Non-Tariff Company (which agent represented himself as agent for the company), inspected the buildings proposed for insurance. The insurance agent was an agent for several companies, and he received a commission from the Universal Non-Tariff Company on Forbes' insurance. Forbes paid to him and got a policy from him. The company denied his being their agent, and styled him a correspondent. He inspected the buildings, and sent particulars to the head office. Misdescription was pleaded, too. The buildings were described as built of brick and slated. One, insured for £200, was not burnt, however. It was covered with tarred felt. Forbes never signed any representation about the roofs, but the company's agent alone did so, and it was put in the policy. It was held by Malins, V. Ch., that the misdescription was not material, and even if it were so, it was made by the company's agent, and Forbes was not to be considered responsible for it.

In *Rohrback* v. *Germania F. Ins. Co.*[1] there was a condition that any person, other than the assured, who may have procured this insurance to be taken, shall be deemed the agent of the assured, and not of the company under any circumstances. The assured made application to the company's agent who filled up the application, and the insured signed. Held, that the agent was agent only of the insured.

A condition was contained in a policy, that if an agent of the company fill up the application he shall be held to have done so as agent of the applicant, and not of the company. A misdescription was held fatal, and the above condition was held not unreasonable nor against the Ontario statute.[2]

§ 204. *Declaration of intention affecting risk.*

Language in a policy declaring intention to do or omit an act which materially affects the risk, its extent, or nature, is sometimes to be treated as involving an engagement to do or omit such act.[3]

The insurance was on a factory. Plaintiff answered the question "During what hours is the factory worked?" as follows: "We run the cards, pickers, etc., day and night; the rest only twelve hours daily. We only intend running nights until we get more cards, etc., which are making. We shall not run nights over four months." Held, an agreement to cease running upon receiving the cards.

But the insurers may be estopped from setting up a breach of warranty, or a misre-

[1] 43 Q. B. R., Ontario.

[2] *Commercial Ins. Co.* v. *Spaukneble*, 4 Am. Rep. Illinois case of 1869.

Is not *Parsons* v. *Bignold*, 15 L. T. (N. S.) Chancery, to the same effect?

[3] Law Rep. 19 Eq. (A. D. 1875); Bennett's Insurance Cases, vol. 5.

[1] 62 N. Y., 5 Bennett's F. Ins. Cases, p. 744.

[2] *Sowden* v. *Standard Ins. Co.*, 44 Q. B. R., Ont., p. 95 (A. D. 1879).

[3] *Bilbrough* v. *Metropolis Ins. Co.*, 5 Duer's Rep., N. Y., 1856. This can be maintained only by reason of an express promise being seen, says Flanders.

Per Hoffman, J.—*Murdock* v. *Chenango Mut. Ins. Co.* has gone far to dissipate the error of Ch. Walworth in *Alston's* case, and of Wilde, J., in *Bryant* v. *Oc an Ins. Co.* In *Murdock's* case, There will be a stone chimney built, was in the application, which was a warranty under condition of policy. The insured lost. *Alston's* case is cited (and *Bryant's*, too) without disapproval, p. 254. See § 297, where Gray, J., supports the *Bryant* case.