distinct terms, as the plaintiffs contended. But the proposal in writing was, by mistake, made in different terms. The agent in London communicated this proposal with its erroneous terms. Upon this the V. C. proceeds to say: "To that proposal which was not the real agreement the Edinburgh directors assented, and what is sought to be reformed is the memorandum which was signed by the Edinburgh agent and adopted by the Board as that which constituted the agreement. That Edinburgh manager is now sought to be made to sign under the decree of the Court as having agreed to it, a certain stipulation of which he never heard. It seems quite enough to say that an agreement means that both contracting parties are of one mind. Here one of the contracting parties to the instrument which is now sought to be reformed confessedly never heard of that which is said to be the real agreement. The result, upon the whole, is plain that the agent in London agreed to something which he never communicated to his principals. The agent in London communicated that which was a mistaken proposal. The plaintiff who made the agreement with the London agent never intended to be bound by the stipulation, which he himself proved is a mistaken form. The result is that there is no agreement at all." He afterwards points out that the agreement sought to be rectified is that which was made by the managers in Edinburgh, just as the instrument sought to be reformed here is the policy made by the head manager in Toronto. The parallelism between the two cases is so plain that commentary is superfluous. Although I have not taken into consideration in arriving at a decision the mode of procedure followed in this case, I cannot help observing that it appears to me highly inconvenient and anomalous. The plaintiff sues upon a policy as a perfect and complete instrument, under which he is entitled to certain rights. Then in the same action he is permitted to say:—"That is all a mistake. The instrument on which I am suing is not the real contract, which is something else." Elastic as are our present rules of pleading, they cannot be stretched to the length of sanctioning such a record. In the words of Wood, V. C.:—"No single instance has been produced in which a plaintiff bringing forward a document on which he founds his right, has been allowed to say that the instrument which he himself produces to the Court, does not express the real agreement into which he has entered."

I venture to think that the principles which underlie the judgment I have formed in this case are neither harsh nor unreasonable. It is the duty of Courts to give effect to the rights of Insurance Companies, as well as to protect the just interests of the assured. This is a mere truism, and perhaps, on that account, is in danger of sometimes being treated with neglect. It may be reasonable and proper to hold a Company bound even by loose dealings with, or informal notices to a local agent authorized to grant *interim* receipts, so far as may be necessary to support the *interim* assurance. The Company has accredited him to the public as their representative for the purpose of making those temporary insurances, and for that purpose he may fairly be treated as the full equivalent of the Company. But when a Company has taken every precaution to limit his powers to that extent, when they do their best to secure correct statements in writing from applicants, when they endeavor to make it be understood that it is upon the faith of these statements, and not upon any conversations with, or notice to, their agent, they intend to act there seems to be no injustice or harshness in requiring applicants to use some degree of caution. If a Company is to be held bound after a loss has occurred to alter a policy, which they have deliberately issued in strict accordance with the terms of the written application, containing all the information their governing body had for the exercise of their judgment, simply because their local agent knew and did not communicate some material circumstances, it is almost equivalent to transferring to the agent the power of issuing the policy. In other business transactions men ordinarily scrutinize with care the terms of important contracts. In the case of insurance contracts inattention seems to be the rule. No doubt this arises in some degree from the length and complexity frequently characterizing policies. But it is to be remembered that Courts of Equity demand reasonable vigilance. In the words of James, V.C.:—"Men must be careful if they wish to protect themselves, and it is not for this Court to relieve them from the consequences of their own carelessness."

I think the appeal should be allowed, but as the company incurred no risk after the 20th February when the short date policy was presumably received by the plaintiff, there should be an order for the return to him of $ , being 4-5th of the premium, and as to costs, I think justice will be done by following the course taken in Fowler's case and awarding none to either party.

BURTON, J.—I agree with the learned Chief-Justice, that although the issues on this record are most inartificially framed, presenting claims of a wholly inconsistent character, the substantial question presented for determination is whether a case has been made for a reformation of the contract; and giving full effect to the Vice-Chancellor's view of the evidence, I am unable to discover any grounds upon which, according to the rules of equity, as I understand them, such relief can be granted.

Had the policy been executed and delivered to the plaintiff, and retained by him for any length of time before the fire, and he had, under such circumstances, brought an action