which was not before within their power to insure, because it declares that the railway corporation who are made liable for loss have an insurable interest, and the insurance company, by virtue of their charter, may insure where an insurable interest exists. . . . Suppose the law were changed in Ontario, and it was declared that all railways having a charter from the province had an insurable interest in property along their lines, could it be said that in such a case an insurance company, who could not before the Act take such a risk, would not, on the amendment of the law, be entitled to take it; and does it make any difference that the law passed declaring the interest insurable is that of a foreign state where the property is situated? I think not. See Lindley's Law of Companies, 6th ed., p. 1226.

Defendants issue a policy upon such property as they may insure, in which plaintiffs have an insurable interest, and although that property happens to be in the State of Maine, and the interest is made insurable by the statute of that State, I am of opinion that the policy is a valid policy, and covers the risk intended to be covered, as evidenced by the policy of insurance in question.

Plaintiffs called one witness who is described as "insurance commissioner" in the employment of plaintiffs, who stated that plaintiffs desired to insure themselves against claims made by the owners of standing timber caused by sparks from plaintiffs' locomotives, and that their liability for said standing timber along their line through the State of Maine is a paramount liability, and that he thought in the present case they were insuring against that liability. On cross-examination, however, it appeared that the witness did not see any person connected with defendants in regard to the policy. He simply employed a broker, who transacted the business with defendants' agents at Montreal. I do not think evidence of this kind can in any way affect the rights of the parties as evidenced by the written instrument. The mistake, if there were one, was not mutual, and what the agent who effected the insurance may have thought cannot be material: Pollock's Law of Contracts, 7th ed., p. 485; Smith v. Hughes, L. R. 6 Q. B. 597, 603-7, 610.

It was further urged that the railway passes through a wooded country where the loss must chiefly be that of standing timber, but upon the trial it was shewn that there was more than $500,000 worth of property along the line that would fall within the class of property which defendants might insure under their statutory powers.