The plaintiffs had insured in seven companies under policies for various sums, amounting in all to $15,000. The defendant company's policy was for $1,500. A fire occurred upon the premises occupied by the plaintiffs on the 16th December, 1916. The plaintiffs alleged that they sustained damage to the extent of upwards of $7,000; the proportionate share which they claimed from the defendant company was $699.76.

The action was transferred from the County Court of the County of York to the Supreme Court of Ontario—it was said to be a test case.

The action was tried without a jury at Toronto.

A. C. McMaster and F. J. Hughes, for the plaintiffs.

Hamilton Cassels, K.C., and R. S. Cassels, K.C., for the defendant company.

SUTHERLAND, J., in a written judgment, after setting out the facts, said that the policy read, "on stock of jewellery, manufactured, unmanufactured, and in process thereof, and materials not more hazardous, including precious stones and gold." He could not think that "pearls and half-pearls" were not included in and covered by the term "precious stones," nor that they could properly be considered as materials of a more hazardous character than other precious stones.

The learned Judge was not able to come to the conclusion that keeping the stones in parcels tied up and deposited in a cupboard was not taking ordinary and reasonable care.

The evidence in support of the plaintiffs' claim at the sum sued for was not satisfactory. There could not have been as large a stock of stones on hand at the time of the fire as was asserted by the plaintiffs.

Upon the item of the claim "stones" the finding must be that the amount on hand at the time of the fire did not represent more than $2,500 in value. But the stock which was on hand had increased in value, between the time it was purchased and the time of the fire, to the extent of 30 per cent. The total loss under this item of the claim should be fixed at $3,105.48, in place of $6,312.44 as claimed.

On the whole evidence, it could not be said that the plaintiffs were guilty of fraud in exaggerating their claim. Their inability to make from their books and papers a proper statement of their actual loss, and their desire to make a claim large enough to cover all possible loss, had led them to place too high a value on their chattels: Adams v. Glen Falls Insurance Co. (1916), 37 O.L.R. 1, 16.