tions of the policy as to further insurances, and the suit resolved itself substantially into a question of the plaintiff's right to have the policy reformed by endorsing thereon the insurance in the Gore Mutual.

Chief Justice Moss in his judgment said,—"The plaintiff's right to recover being dependent on his right to a reformation of the instrument, the question is whether he can, consistently with the established doctrines of equity, obtain that relief. I take it that the principles upon which the Court acts are clear and well defined. They have been amply illustrated and explained in modern cases, but they were long since enunciated with considerable precision. Before the Court will assume to rectify an instrument it must be satisfied beyond all reasonable doubt that there was a common intention, different from the expressed intention and a common mistaken supposition *that it was correctly expressed. It is essential* that clear proof should be adduced of a real agreement between the parties different from the written agreement. If it appears that the instrument was executed under a common mistake as to its contents, but no real agreement had ever been concluded between the parties, there may be rescission but there is no foundation for rectification. *In order that a decree* for reforming the instrument may be made the plaintiff must prove that not only by mistake the written agreement does not correctly represent the real agreement, but that there was a mutual binding assent by him and the other party to a complete agreement.

His Lordship, after quoting from authorities *on these points, says,—These authorities* leave no room for uncertainty as to the principles upon which this remedial equity should be administered. Let us endeavor to apply them to the facts of this case. The plaintiff is bound to prove clearly that there was a real agreement between him and the defendants, different from that expressed in the policy. He must show that there was a mutual assent to the terms which he says should be expressed in the policy. In order to succeed he must show that there was an assent by the Company to the insertion in the policy of the existence of the $1,000 insurance in the Gore Mutual; or, to put it in the broadest and most liberal manner for the plaintiff, an agreement mutually assented to that he should be insured from the 6th February until the 6th April, notwithstanding the existence of this other insurance. Now, when did the Company enter into such an agreement? How or by whom was their assent given to any such term? The answer given is, by the agent, Suter. But this seems to me to rest on an entire misapprehension of his functions, either actual or assumed. He neither had nor pretended to have authority to give the Company's assent to any contract of insurance for two months. He did not undertake, either expressly or impliedly, that the policy should be issued in a certain form or embody certain terms for he did not undertake that a policy should be issued at all. The plaintiff did not suppose that in what took place between him and Suter, the latter was binding the Company to such a contract as that which he now seeks to enforce. He knew that Suter was not assuming to do more than to forward his application for the consideration of the Board, and to insure him until he was advised of the result, or for thirty days at most. He was perfectly well aware that the proposal to which the Board was asked to assent was his written application, and his own statement, already quoted, shows that he was fully alive to the importance of the application containing correct information as to existing insurances. Conceding that the evidence establishes with sufficient clearness that Suter had notice of the fact that the particular property in question was insured in the Gore Mutual, that does not advance the plaintiff's case. His knowledge of that fact would not create a contract of the Company which neither he nor the plaintiff supposed was being made. Notice to him might reasonably and justly be treated as notice to the Company for the purposes of any contract which he was then, as agent, making on behalf of the Company; but *I cannot perceive how it can import a term into* a contract which was not to be made through him, but which, to the knowledge of the plaintiff, was outside and beyond his functions. Then, if the assent was not given by Suter it was never given, for it is clear that the authorities at the head office had no idea of the existence of the other insurance. If Suter did not, no one on behalf of *the defendants did, agree to in*sure the plaintiff for two months notwithstanding the other insurance. On the 19th of February, when the Board agreed to insure the plaintiff for that period, they acted upon the written application and upon it alone. It appears that it was after some hesitation they accepted the risk. The Court is not at liberty to assume that it would have been accepted had the Board been aware of the additional insurance. Indeed, this case appears to me to involve precisely the same considerations as led Sir John Stuart to refuse relief in Fowler v. Scottish Equitable, 28 L. J., ch. 225.

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 with 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 to be understood that it is upon the faith of these statements, and not upon any conversation 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 careless sness.'

Judge Burton also gave judgment, expressing the opinion that the appeal should be allowed. Mr. Billington will appeal the case to the Supreme Court.

THE LIFE INSURANCE QUESTION.

(CONCLUDED)

Every enterprise felt the consuming stimulus of fever; fictitious wealth abounded, creating imaginary wants; all goods, insurance among them, came into extraordinary demand; and vast sums of nominal money flowed into the treasuries of the companies. They were invested with greater care than any similar part of the wealth of the country, invested, indeed, so that when the bubble burst, when the wild waste of extravagance and war was counted up, and the funds of other corporations and other men dwindled away, these remained, substantially, dollar for dollar, accumulating interest upon their nominal value. But all men who borrowed of them the price of insurance, agreeing to repay it in annual premiums, like those who borrowed upon other pledges, were required, as the currency recovered value, to pay more and more real money. Thousands, in the flush of the nation's dream of wealth, bought more insurance on this form of credit than they need when real values are restored; thousands bought more than they can pay for. The annual premium income of the companies is more than $83,000,000; for every fall of ten per cent. in the price of gold, more than $8,000,000 are added to the actual payments upon these annuities of policy-holders. Many of them, contracted for when the currency dollar was worth forty cents, are daily called for when it is worth ninety-five cents. The real amount payable is thus multiplied just at the time when trade is unsettled and industry most distressed; when the people are awakened to a sense of poverty and are least able to pay—a state of things clearly foreseen by every economist from the day the legal-tender act was passed, but in spite of their demonstrated foresight and earnest protest, forced upon the country by timid politicians, because it afforded them for a few years an ostrich-like escape from facing the truth of the situation. To throw blame for these disasters upon the companies, that is, upon the policy-holders who are able and willing to remain and bear the burden of the change, or on their