claim based thereon should be valid. There was no breach of the first condition, but there was of the second; and, in respect of this, the defendants claimed immunity from liability. It was, however, contended that the notice of "accident and injury," which, under the terms of the policy, was to be an immediate written notice, was also the "affirmative proof of death," which, if not furnished, "within 13 months from the time of such accident" was to make the claim invalid.

Held, that this notice did not satisfy the second requirement as to "affirmative proof" of death within 13 months. One thing was to be done immediately, the other, a very different one, was to be done within 13 months. If the one or the other were the same it was not necessary to give different periods within which each was to be done and provide for the doing of different things in each.

MEREDITH, J.A., who delivered the judgment of the court said: "There is, in my opinion, no reasonable evidence of any waiver of this condition. The correspondence regarding the proofs began with a distinct statement by the appellants that it was without prejudice, and throughout, with the exception of one letter, this position was expressly declared and maintained. We ought not to strain at every gnat in the insurers' way, and swallow every sort of camel that stands in the insured's way, to success in an action such as this.

The agreement which the parties chose to make must be held binding upon them, and upon each, respectively, alike, in the absence of any ground of legal or statutable defence, or of equitable relief such as fraud or mistake. I am quite unaware of any ground, statutable or otherwise, for making a new contract between the parties by eliminating the condition in question, and giving relief upon the contract in question thus emasculated. To treat the condition as a forfeiture which any court can, in its discretion, ignore, would be to create a revolution in the law of contracts of insurance; and it would be an extraordinary thing that it should be left until this late day to discover that the courts had such power. A condition requiring proof of loss under a contract of insurance is a reasonable, and almost, if not quite, a universal one; and one which is necessary for the prevention of fraud as well as for the speedy adjustment and payment of claims. The legislature has taken great pains to regulate contracts of insurance and to prevent unjust and unreasonable conditions being imposed; but has not prohibited conditions requir-