

points out the importance in this case of a personal inspection, which he had made. Whether or not his conclusion upon this objection was affected by the inspection, does not, I think, appear; but, however that may be, while the finding is not in some respects entirely satisfactory, I am not convinced that it is erroneous. And I reach this conclusion with the less regret because the objection does not appear in the written notice of objections served by the appellants, which contains some 13 other objections. If it had, it is quite possible that further and more satisfactory explanations would have been forthcoming.

Upon the whole, the appeal, in my opinion, fails, and should be dismissed with costs.

JUNE 28TH, 1912.

SMITH v. EXCELSIOR LIFE INSURANCE CO.

Life Insurance—Policy — Condition — Breach — Assured Taking Employment on Railway without Permit—Knowledge of Agent of Insurance Company—Acceptance of Premiums by Company—Authority of Agent—Absence of Notice to or Knowledge of Company.

Appeal by the defendants from the judgment of BRITTON, J., ante 261.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

H. E. Rose, K.C., for the defendants.

John R. Logan, for the plaintiffs.

The judgment of the Court was delivered by GARROW, J.A.:—The action was brought upon an insurance policy issued by the defendants for \$1,000 upon the life of Charles F. Smith, payable to his mother, the plaintiff Zillah Smith. The policy is dated the 16th May, 1898. At that time, Charles F. Smith was a farmer. The policy contained a condition that, if, within two years from the date of the contract, the insured should, without a permit, engage in employment on a railway, the policy should be void and all payments made thereon should be forfeited to the company. The assured did, within the period of two years, engage in employment on a railway, by becoming a