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Regulation of Agents, Brokers and Adjustors*

Agency System is More Suitable for Canada Than the Branch Office System of the United Kingdom Would Be—Several Defects, However, in the System Itself—Some Abuses in Its Practice—Proposed Legislation and Regulations for Control by License

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IF any part of insurance business could be simply and easily explained in operation, one would naturally expect the relation of the agent to the company and to the public to be that part; and if supervision and regulation of any part of the insurance business were easy, surely the regulation of the agent should rest on principles easily explicable.

I must, therefore, express in advance my opinion that the interrelation of agent, company and public is one of the most intricate problems to which I have ever given consideration, and the principles and application of governmental supervision are most difficult to explain. To others than insurance men I find it almost impossible to make clear the final incidence of any factor of influence applied at any point of this triangle. Therefore I offer the conclusions indicated in this paper with a good deal of hesitation and reserve. I submit them rather as an argument for analysis than as the final dictum of authority.

In the preparation of this paper I have not found it possible to deal with the relation of the agent to the company in the various classes of insurance, including life, fire, and the various forms of casualty and guarantee insurance. It was apparent that to attempt to do so will lead to confusion and prevent the logical development of conclusions. I have undertaken, therefore, to consider only the fire agent in detail, and there will be much of what I say that is not applicable in any degree or only in a modified form to the case of the life insurance agent or of the agent for a casualty or guarantee company. I will ask you, therefore, in the application of the principles to which I refer to consider only the fire insurance agent.

The Branch Office System

The agency system of representation of insurance companies occupies a very different status in Canada and the United States than it does in Great Britain. In each case this is due to the natural development of the business. In England it was formerly the rule that every contract of insurance required to be erected under the seal and signed by the hand of the chief executive officers of the company. The company was not bound and the risk was not covered until the application for insurance had been received and passed on by the head office of the company and the contract duly executed and delivered. The agent of the company, therefore, was a mere solicitor of business and held no authority to bind his company. A later development was that contracts were signed and executed in advance and placed in the hands of the clerks at the counters of the insurance company's offices, and it became a particular matter for ad-

vertisement and recommendation of an insurance company that it was able to issue a policy of insurance "while you wait."

The next step was the institution of branch offices of the companies in large centres of population, and the delegation of similar authority to these branch offices to issue policies which bound the company without the necessity of reference to head office. The position of the agent of the company, however, remained the same—that of a mere solicitor of business. The general system in vogue in Great Britain may, therefore, be characterized as the branch office system, as distinct from the agency system, as we find it in Canada. These branch offices provide in every part of the United Kingdom reasonably accessible service stations for insurance.

There are, of course, large firms of insurance brokers in England which do not represent any individual company. The business of these brokers is confined almost exclusively to large lines of insurance, and they do not endeavor to secure the ordinary risk.

Rebating is Not Prevented

The amount of the commission which is paid to an agent in Great Britain is effectively regulated by the rules of the associated tariff companies. 15% is the standard rate of commission on ordinary risks, and the rate is less on large lines.

Any person, whatever, may be appointed an agent and receive the commission on insurance brought to the company's office. The rule of the tariff companies is that all agents must be appointed by minute of the board of directors of the companies, but this has become a mere formality, and I am informed that the practice is to submit at each meeting of the board a long list of agents for authorization, which in the ordinary case are not even read, but are inserted formally in the minutes of the board. By this practice any person who can bring a risk to the office of the company is permitted to collect the commission on that risk, whether he is an ordinary agent, a clerk or officer in the employ of the assured, or the assured himself.

There is no anti-rebate law which effectively prevents the payment of commission to the assured, or to someone on his behalf. The result is, that the rate of premium in respect of a risk, may be said to be the rate net to the company, and that rate is, in fact, available either to the assured or his agent on application. The assured whose insurance is placed through the agent or broker pays the insurance company's net rate plus the broker's commission. The broker's commission, therefore, represents in effect a bargain between himself and the assured, and not between the company and the broker.

*An address before the conference of provincial insurance superintendents, Winnipeg, October, 4-7, 1920.