LEGAL DECISIONS.

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On the 26th March last the Judge heard counsel in argument upon the effect of these findings by the jury. Counsel for the plaintiff asked for judgment on the jury's findings, saying that with the exception of one answer those findings were in the plaintiff's favour, and that all the points contested in these two trials had been determined in her favour. The exception was the finding that Mr. Smith had suffered from an illness of consequence in December, 1911, prior to the insurance, the illness being a breakdown. Counsel contended that the only ground of defence to the claim was proof of mis-statement of fact. He suggested that the view of the jury that the illness was one of consequence did not make Mr. Smith's statement a false one within the terms of the insurance proposal.

Counsel for the defendants, in applying for judgment for the company, relied on the statement of the assured that he had no illness of consequence as being a material untrue statement which avoided the policy.

Mr. Justice McCardie reserved judgment, which he delivered on the 10th April, when he said that this was the only life policy disputed by the defendants within the past 25 years, and he desired to say that in his view they were amply justified in requiring the question of liability to be determined in a Court of law. The policy provided that the proposal and declaration should form the basis of the contract, and the proposal contained, among others, the following questions:

What illnesses have you suffered? Answer.—None of consequence.—Do you ordinarily enjoy good health? Answer.—Yes.—Are you now, and have you always been, of sober and temperate habits? Answer.—Yes.

The proposer made a declaration as to the truth of these answers. The defence relied on two main points—(a) that the answers were untrue, and (b) that Smith had failed to disclose that he suffered from heart trouble and from insomnia, and that he was addicted to veronal. Among the questions put to the jury was one as follows:—"Was Smith, prior to December 12, 1916, of sober and temperate habits? Answer.—Yes." He had allowed that question, but he thought that the words "sober and temperate" must receive such an interpretation as would be placed upon them by ordinary men of intelligence and knowledge of the world, and he had no doubt that they referred only to the use and abuse of alcohol, and not to the use of veronal or other drugs. They were inappropriate to the "drug habit." If express information as to such habit was required, a further question of a distinct character should be added to the proposal form; otherwise insurance companies must rely on the rule of law which required the disclosure of all material facts known to the proposer which might lead the insurer to refuse the risk or to demand a higher premium. The effect of the jury's answers was to negative the plea of the defendants with respect to (a) insomnia; (b) the use of veronal; and (c) heart trouble. The defendants, however, claimed judgment by reason of the answer to the first question. This question was, "Had Smith suffered from any illness of consequence prior to December 12, 1916?" The answer was, "Yes, in 1911." It was contended that the plaintiff was entitled to judgment in spite of that answer. It was urged that the question in the proposal form, "What illnesses have you suffered?" was ambiguous, and that the answer of Smith could not be relied upon by the defendants, as it expressed an opinion only in reply to a question alleged to be obscurely framed. In his Lordship's view that contention of the plaintiff failed. The word "illness" had not been judicially defined. It must be construed in a fair business manner, and must ever be a question of degree. In November, 1911, Smith lay in a critical condition through an overdose of veronal. His relatives were sent for; Dr. Esler attended him for about a fortnight, and regarded his illness as serious. The jury clearly accepted this view of the matter. He (Mr. Justice McCardie) agreed with the jury, and it followed that the proposal contained a statement which was substantially incorrect; hence, as the warranty of truth was broken, the policy became void, and judgment must be entered for defendants.

As to the costs, counsel for the defendants offered to leave the question of costs to his (the Judge's) discretion; but the plaintiff's counsel required him to deal with the question of costs on a strict technical footing. The question was, did the points raised by the questions left to the jury raise separate issues? If so, the plaintiff would be entitled to the costs of the issues on which she succeeded. His Lordship said that, in his opinion, the whole question would some day need to receive a clear and final formulation in the Court of Appeal. In the present case he had come to the conclusion that all the questions left to the jury went to the validity of the policy, and were not separate and independent matters, but branches of one head of reference—namely, that the policy was avoided by mis-statement and non-disclosure. As the defendants had proved a substantial mis-statement they succeeded on the issue raised in the case. He must decide that no separate issues existed, and judgment would therefore be for the defendants, with costs.

BRITISH AMERICA ASSURANCE COMPANY APPOINTMENT.

Mr. W. B. Meikle, vice-president and general manager of the British America Assurance, informs us that Mr. W. H. Martin, who has been in charge of the United States loss department of the British America Assurance Company for several years, has been appointed assistant secretary by the directors of the company. Mr. Martin is also in charge of the United States loss department of the Western of Toronto.

"You don't dissipate, do you?" asked the physician sternly of the little, worried-looking man who was about to take an examination for life insurance. "You're not a fast liver or anything of that sort, are you?"

The little man hesitated a moment, looked a bit frightened and then piped out: "Well, I sometimes chew a little gum."