THE CANADIAN INSURANCE ACT: IMPORTANT CONSTITUTIONAL ISSUE

There is now before the Judicial Committee of the Privy Council, the important appeal by the Dominion Government from the judgment of the Supreme Court of Canada in the matter of a reference of certain questions relating to the Insurance Act of 1910. The questions raise a constitutional issue which is of great practical importance to the insurance companies transacting business in Canada.

The following were the questions submitted by the Dominion Government to the Supreme Court with a view to determining whether the Federal Parliament has the right of insurance jurisdiction in insurance matters in Canada or whether the British North America Act places the jurisdiction over insurance matters with the provinces:—

"1. Are Sections 4 and 70 of the Insurance Act, 1910, or any or what part or parts of the said Sections *ultra vires* of the Parliament of Canada?

"2. Does Section 4 of the Insurance Act, 1910, operate to prohibit an Insurance Company incorporated by a Foreign State from carrying on the business of Insurance within Canada if such Company do not hold a License from the Minister under the said Act, and if such carrying on of the business is confined to a single Province?

Section 4 of the Act reads as follows:

"In Canada, except as otherwise provided by this Act, no company or underwriters or other person shall solicit or accept any risk, or issue or deliver any receipt or policy of insurance, or grant any annuity on a life or lives, or collect or receive any premium, or inspect any risk, or adjust any loss, or carry on any business of insurance, or prosecute or maintain any suit, action, or proceeding, or file any claim in insolvency relating to such business, unless it be done by or on behalf of a company or underwriters holding a license from the Minister."

Section 70 imposes certain penalties for offences under Section 4 and otherwise, and the Supreme Court of Canada, by a majority, decided that the two Sections were *ultra vires.* To the second question the majority answered:—"It would do so if *intra vires.*"

THE LEGAL ARGUMENTS.

The appeal before the Judicial Committee of the Privy Council was opened on December 8th. A large number, both of Canadian and English counsel represented respectively, the Dominion Government; all the provinces except, apparently Manitoba and Prince Edward Island; the Canadian Manufacturers' Association; the All-Canada Fire Insurance Federation, and other parties. For the Insurance Federation, Mr. Upjohn, K.C. (of the English bar), Mr. R. B. Bennett, K.C., and Mr. Charles Gaudet, K.C., appeared.

From the law reports in the London Times, now to hand, we make the following summary of the arguments submitted:—

Mr. Newcombe, K.C., for the Dominion of Canada, argued that the business of insurance was a "trade," and in reply to Lord Haldane, said his contention was that under the British North America Act, the Dominion had power to regulate the whole business of insurance, but made an exception in the case of provincial companies. The provinces could not license for the purposes of regulation.

Mr. Upjohn, K.C., for the All-Canada Fire Insurance Federation, drew attention to the limited character of the points of reference. The substance of the reference was whether it was within the power of the Dominion to make a general regulation respecting the business of insurance. Such an enactment was a regulation of trade and commerce. As to the question whether insurance business was "a trade," there were scores of decisions. Insurance, moreover, was a trade within the Bankruptcy Act, and a century ago it was held that to insure enemy goods was to trade with the enemy. Mr. Upjohn said that the insurance business had reached such dimensions that it was properly a matter of Dominion concern and came within section 91 of the Act.

For the provinces, Sir Robert Finlay, K.C. contended that the fact that insurance, unlike banking, was not treated by itself in the British North America Act was decisive against the meaning now sought to be put upon the words of the statute. A conclusion in favor of the Dominion could not be arrived at without upsetting and over-ruling the authorities.

Mr. Geoffrion, K.C. for the provinces, said that the Dominion Parliament could put on restrictions but could not impose conditions which conflicted with the law of insurance in any province. Each province had full control of the property in civil rights within its own limits.

The arguments were concluded on December 14th.

MR. A. G. RAMSAY.

Mr. Alexander Gillespie Ramsay, formerly president of the Canada Life Assurance Company, passed away at his home in Toronto on December 20th at the advanced age of 85 years.

Since his resignation of the presidency of the Canada Life in 1899, Mr. Ramsay had been living in retirement and his work and personality were but little known to the younger insurance men of the Dominion. But to those of an older generation his death severs a remarkable link with the past of Canadian life insurance.

Mr. Ramsay may be described as one of the great pioneers of life insurance in Canada. Born in Scotland in 1830, in early life he was secretary of the Scottish Amicable Life of Glasgow and in 1859 came to Canada, where he became associated with the Canada Life as manager. In 1875 he was appointed president and managing director of the Company, a position which he continued to hold until his retirement in 1899, he being succeeded in the presidency by the late Senator Cox. Thus the whole of Mr. Ramsay's 40 years of active business life in Canada were devoted primarily to the one Company. Mr. Ramsay was always held in the highest respect and esteem by policyholders and enjoyed the genuine affection of everyone associated with the life business throughout the Dominion.

An agent lost a client because he would not prove beyond a reasonable doubt that, if he lived, he would realize six per cent. compound interest on his investment. Thus there are men who will not protect even their families unless they can have a big profit on it.—*Canada Life.*