

Recent Legal Decisions.

MARINE INSURANCE—EFFECT OF GENERAL CLAUSE.—An insurance policy on a steamer and her machinery specified among the risks insured against "all the perils, losses, and misfortunes that have or shall come to the hurt, detriment or damage of the aforesaid subject matter of insurance or any part thereof." The donkey-engine on the steamer was employed in the ordinary course of navigation in pumping water into the boilers, and in consequence of a screw valve which should have been open being accidentally or negligently closed, the water was forced into the air chamber of the donkey-engine which was split open. The English Court of Appeal held (Hamilton vs. Thames and Mersey Insurance Company) that the injury was a peril insured against under the general words of the policy.

FIRE INSURANCE—ELECTION TO REBUILD.—A policy of insurance provided that the insurance company should pay the loss within sixty days after the proof of loss, or might within fifteen days after the proof of loss notify the insured of its intention to rebuild or repair the premises insured. A fire occurred, and nine days thereafter and after the agent of the company had appraised the loss, the mortgagee of the property insured to whom the insurance was payable began to repair the premises. The repairs, it appeared, were reasonable and necessary to protect the property from further damage. The Supreme Judicial Court of Massachusetts held (Eliot Five Cents Savings Bank vs. Commercial Union Assurance Company), that under the circumstances the insurance company was deprived of its right to elect to rebuild or repair the premises.

CERTIFICATE OF DEPOSIT — FRAUDULENT INDORSEMENT.—The United States Circuit Court for the District of Nebraska lately decided that the indorsement of a certificate of deposit by an insane person in whose favor it is drawn, the indorsement having been obtained by fraud carried no title even to an innocent purchaser, Anglo California Bank vs. Ames, reported in the Chicago Legal News. The court said, in giving judgement. "Does the plaintiff, as a bona fide purchaser, occupy any better position than the wrong-doer from whom it purchased? Doubtless it is entitled to all the protection given to such a purchaser of negotiable paper, but such protection does not extend to an indorsement like this. There was no valid contract of indorsement created by defendant's signature on the back of the paper. It was no better than a signature written in a state of somnambulism, or even than a forgery. No negligence is imputable, for one who is incapable of prudence cannot be guilty of negligence nor can there be an estoppel. He who is legally disabled to act cannot be estopped from denying that he has acted. An estoppel creates no power; and while in favor of a bona fide purchaser inquiry is denied as to equities between prior parties, yet such protection does not cut off inquiry into the contractual capacity of those parties. Such at least is the better doctrine, although it must be conceded that there are authorities to the contrary, especially in the English courts."

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