

## LEGAL DECISIONS IN INSURANCE CASES.

COMPILED BY

MESSRS. MONK AND RAYNES, ADVOCATBS, MONTREAL

SUPERIOR COURT, MONTREAL.

ROSS *et al. es qual. vs.* WORTHINGTON.

In this case, which was briefly noticed in our April number, His Honor Judge Mathieu, in holding that a reduction of the capital stock by the means proposed and carried out by Mr. Goff was illegal and *ultra vires*, decided also that the amounts paid at that time by the shareholders to Goff to entitle them to a quarter of their shares fully paid up (amounting to 15 per cent. on the shares held by them) must be credited to them on the calls, inasmuch as these amounts went to the benefit of the Company : and only gave judgment for the amount demanded, less the sum so paid to Goff.

COURT OF REVIEW, QUEBEC.

HOCHELAGA MUTUAL INSURANCE COMPANY *vs.* GIROUARD *et al.*

HELD.—The cancellation of a policy by a Mutual Insurance Company is sufficient ground to defeat an action brought against the policyholder for a call made one month after the cancellation, unless it be shown that the call was made to meet losses anterior to the cancellation.

COMMON PLEAS DIVISION, ONTARIO.

RUSSELL *vs.* THE CANADA LIFE INSURANCE COMPANY.

By the terms of the policy in this case, the declaration signed by the assured, and the relative papers, were made the basis of the contract : with the proviso, that in case of any fraudulent or wilfully untrue material allegation being contained in said declaration, or if it thereafter appeared that any material information had been wilfully withheld, or that any of the matters set forth had not been truly and fairly stated, then the policy should be void.

The application contained a number of questions and answers, and at the foot was the declaration above mentioned, whereby the assured declared that, to the best of his knowledge and belief, the foregoing statements and other particulars were true, and that if any untrue averment had been intentionally made in the declaration, or in the replies to the Company's medical adviser in connection therewith, the policy should be void.

The question as to name and residence of usual medical adviser attending, and for what serious illness had he attended him, the assured untruly answered, "none"; and to the question by the medical adviser, "as to what other diseases or personal injury and from whom have you required professional assistance, and how long is it since you required such assistance," he untruly answered "none."

Held that the answers to the questions were warranties, and by reason of their untruth the policy was void.

COURT OF APPEALS, ONTARIO.

NEILL *vs.* UNION MUTUAL LIFE INSURANCE COMPANY.

One of the stipulations of the Life Policy in this case was that if any of the premiums should not be paid at the time limited therefor, the consideration of the contract between the Company and the assured should be deemed to have failed and the Company released from liability thereunder.

Another stipulation provided that if an overdue premium was received, it would be upon the express understanding and condition that the party was in good health, and if this fact was not the case, then the policy should not be put in force by the receipt of the money.

In this case a cheque had been given for the quarterly premium, with a request to hold it for a short time as there were no funds ; subsequently it was presented on several occasions but without payment.

On the 21st October funds were provided but as it was after banking hours before the agent was informed of the fact, the cheque was not presented, and the receipts had been returned by the agent. That night the assured was killed.

Held, confirming the judgment of the Court below [45 U. C. R., 593], that the policy lapsed the day after the premium became due, that payment alone could then revive it, and the facts did not establish payment or anything dispensing with it.

CHANCERY DIVISION, ONTARIO.

MCALL *vs.* CANADA FARMERS MUTUAL INSURANCE COMPANY.

A simple contract creditor of a Joint Stock Company cannot obtain an interim order appointing a receiver of the assets of the Company on the ground that the Company is insolvent, or has made an assignment of its assets.

## SOCIETY NOTES AND ITEMS.

**A Relic.**—On the house 217 Lagauchetière street, Montreal, is a house plate of the Athenæum Fire Insurance Office.

**Two French Insurance Agents** have been sentenced to one month's imprisonment for traducing a rival company. This is a practical way of getting rid of such fellows.

**In answer to communications** respecting the re-publication of articles contained in INSURANCE SOCIETY, we have to state that we shall be ready to supply them in pamphlet or leaflet form, whenever required, if the orders are sent in promptly and for sufficient numbers of any one reprint.

**Mr. James Atkin**, so long and favourably known as the Montreal City Agent of the Canada Life Assurance Co., has been appointed as Agent of the Sun Life Insurance Company, at Winnipeg, where we have no doubt he will corner lots of good premiums.

**A British Insurance Company** in its report for 1881 says :—

The Directors have deemed it advisable to advertise the Company extensively, and as the results secured by this publicity being considered satisfactory, it is intended to continue the same policy.

**Mr. F. C. Ireland**, having large interests elsewhere, has resigned the Montreal agency of the North American Life Insurance Company, and Mr. Thomas Simpson has been appointed in his stead. Mr. Simpson's experience and his large circle of acquaintances and friends will doubtless make his agency one of the foremost in the Province.

**Over anxious for business.**—A man in the town of Chatham Ont. who had resisted all the persuasions of the several Insurance Agents of that town awoke one night to find that an incendiary had set fire to his house,—the promptness of the Fire Department saved the house with little damage.—A few nights after, two attempts were made to set fire to the same man's stable, yet we find an Agent ready and willing to place one of his confiding Companies on the risk, as he believes that the Companies only exist for the purpose of taking risks.

**A positive Special Agent** says that cotton thoroughly saturated with oil will not spontaneously take fire, but that combustion is sure to follow when the sharp, spirally twisted, and crooked fibre of the cotton absorbs a small quantity of any variety of oil and minutely subdivides its particles. He says this cotton reminds him of a stylish wedding, when the bride's cards appeared with the family coat of arms and the ancient motto of her ancestors, "peratus et volens." If the bride was "ready and willing" for the ceremony, surely he knows greasy cotton is ready for a fire. In his homely words : "Everything that sweats will burn spontaneously."