

ORDER OF BUSINESS

CONTINUED

NOTICES OF UNEMPLOYED BROTHERS

We have already stated, speaking of the Business Committee, that members who know that there are vacancies to be filled should make it known to said committee, and members out of employment, and who desire work, should also notify the Business committee. Under this order of business is the proper time for so doing.

In times of prosperity, says a contemporary, one numbers many friends; it is not always so in times of trial and adversity. Selfishness oftentimes veils itself under the outside appearance of friendship. But the Word of God is summing human nature and dying crucified to save the guilty man; destroyed the throne of selfishness among his own people. He established the reign of perfect love which his Church endeavors to maintain among Catholics, and extend throughout the world. Imitating its Divine Founder, the Church has particular delicate intentions, an all maternal care for orphans to whom it opens asylums, for sick people whom it shelters into hospices, for the poor and destitute for whom it nurses constantly an anxiety of a mother in its heart. To accomplish more efficiently its great social work, the Church multiplies its agents, and to day that the labor question imposes threatening problems which alone it can solve peaceably, it creates, organizes, inspires and gives rise to powerful associations which unite in their midst all men of good will, desirous to promote the reign of our Lord Jesus Christ on business grounds and in the midst of social relations.

The C. M. B. A. is one of these powerful associations and hence its aim to help unemployed brethren. Do not forget it, brothers. That is the time when true fraternity and thorough mutual assistance should come in. Let us help each other.

UNFINISHED BUSINESS

Anything left over at a previous meeting comes under this heading.

NEW BUSINESS.

This order explains itself.

PAYMENT OF DUES AND ASSESSMENTS.

Under this heading we wish to remind members to carefully read Section 1, S. 9, 10 and 11 of our constitution in order to become acquainted with the regulations regarding assessments.

GOOD OF THE ASSOCIATION.

At this order the Committee on the good of the association should be the first to take floor and report.

This order opens an immense field for the activity of the branch. Now, any member may suggest anything he thinks in the best interests of the C. M. B. A.

FINANCIAL SECRETARY'S REPORT OF RECEIPTS.

Here the duty of the Financial Secretary is to read aloud the amount received in each fund, separately, stating from whom received, and the amount received from each.

Then he reads aloud the names of the members who have not paid their assessments and are to be reported suspended for non payment and any one present who wishes to pay for any one of said members may do so or a resolution may be passed, carried by a two third vote, to draw on the general fund of the branch to pay for any or all said members.

What has been said under order No. 5 may well apply here also regarding members out of employment.

RECORDING SECRETARY'S REPORT OF ORDERS PAID AND TREASURER'S REPORT OF ASSESSMENTS.

This order explains itself. However we wish to remind members that now is the time to make interpellations regarding remittance of assessments, etc., to the Grand Council.

CLOSE IN DEFORM

Should always be according to the ceremonial

LEGAL DIGEST OF INSURANCE CASES.

Attention is drawn to the following changes in the Law of Insurance introduced by the Act of last session, 63 Vic. c. 17. Section 26 apparently overrules *Wooley vs. The Victoria Mutual Fire Insurance Company*, decided by Mr. Justice Meredith in 1897. This rather unexpected decision (reported in 26 A. R. 321) held that notwithstanding the fact that the policyholder failed to make payment within the thirty days' grace allowed for the payment of the fixed premium, nevertheless he was still enabled to recover in the absence of an express condition in the policy. The proviso to sec. 124 of the Insurance Act was held to be merely enabling and not of itself sufficient to forfeit the insurance. This proviso has therefore been repealed and the following substituted: "Provided, that non-payment of any of the fixed payments subsequent to the first shall forfeit the insurance if such fixed payment shall remain unpaid after thirty days' notice of the fixed payment due, or to become due, has been mailed to the person by whom the fixed payment is payable, directed to his post-office address as given in his original application, or otherwise, in writing to the Company."

Section 27 extends the application of the provisions of sec. 149 of the Insurance Act as to the effect of innocent misrepresentation of age. By the Common Law a mis-statement of the age of the assured, although innocently made, rendered the policy void. (*Attorney-General v. Rys*, L. R. 9 Chy. App. 397.)

To remedy this hardship the act 52 vic. c. 32 was passed, the provisions of which are now embodied in the Ontario Insurance Act. By that enactment the policy instead of being wholly void is merely to be reduced according to the scale of net annual premiums contained in the H. M. 4 1/2 per cent. table. This relief was not however in terms made retrospective and the Court of Appeal was therefore in *Cerri v. Ancient Order of Foresters* (reported in 25 A. R. 30) reluctantly compelled to hold that these provisions did not extend to a contract made before the passing of the Act and that such a contract was accordingly void for misrepresentation. Now by sec. 27 of 63 Vic. c. 17 the following subsection is added to section 149 of the Insurance Act:

(c) "This section shall apply not only to any future application for or contract of insurance, but also to any application heretofore taken and to any contract heretofore made."

*Cerri v. A. O. F.* is, therefore, no longer law and sec. 149 will now apply to all contracts of insurance no matter when made.

A mistake which crept into the Insurance Act during the revision of 1897 with respect to the position of an intended wife as beneficiary has been

corrected by sec. 28. By the act which originally introduced the provisions as to insurance for the benefit of a fiancée viz. 53 Vic. c. 17, s. 28 as it was amended that where such insurance was effected but the intended marriage did not take place then— "all questions arising on such contract shall be determined as if this act had not been passed. The words "this act" meant of course the Statute of 1897 and the effect in such case was that questions arising under the contract were to be determined according to the Insurance Act in consolidation the words were allowed to remain unaltered with the result that "this act" came to mean the Insurance Act itself so that the unfortunate man was left to his common Law rights only. In other words the nomination of the intended wife as beneficiary was irrevocable even though she might have married some one else.

By the recent act 63 Vic. c. 17, s. 28 the words "as if this Act had not been passed" are struck out and in their places are substituted the words "as in the case of a beneficiary not belonging to the preferred class."

*Shaver v. I. O. F.* decided by MacMahon, J. in April of this year is therefore overruled as to this point by this act and an affianced wife is now in no better position than other beneficiaries not in the preferred class.

NON-PAYMENT OF NOTE FOR PREMIUM—RENEWAL ON REPRESENTATION OF GOOD HEALTH.

In *Puffer v. Temperance and General Life Insurance Company of North America* the plaintiff brought action on a policy which contained a condition avoiding it on non-payment at maturity of any promissory note taken for any premium, but which allowed a renewal by a new application upon assurance that the person was in good health. The evidence at the trial showed that a note for premium had not been paid at maturity and that a renewal had been granted by the Company upon a representation by the deceased that he was in good health the Company being in ignorance of his ill-health. *Ferguson J.*, the trial judge, therefore dismissed the action and this decision has been affirmed by the Divisional Court on May 17th, 1900.

PROOFS OF DEATH—ABSENCE FOR UPWARDS OF SEVEN YEARS.

In October, 1881, William Pott took out an endowment certificate in the Canadian Order of Foresters payable to his wife, Ellen Pott, as beneficiary, who brought this action. On 3rd February, 1891, assured went to Detroit in search of work, and during that month corresponded regularly with his wife. At the end of that month he disappeared, leaving his effects at his boarding house, and was never heard from or seen again. Plaintiff continued the payments under the certificate until February, 1899, when she brought this action. The proofs of death tendered the company were as follows:—(1) Proof that assured was a member of the Order in good standing at time of claim, made out by verified statements from the officers of his Court; (2) plaintiff's affidavit as to the facts known to her; (3) declaration by father as to assured's age; (4) declaration by father and sister of assured as to his disappearance and their belief of his death. Plaintiff produced the certificate and also tendered indemnity by way of a bond with sufficient sureties in the amount of the policy conditioned for repayment of the money on its being

shown to have been wrongfully paid to her. It was held, affirming the decision of the learned trial judge, that such proof of death at the expiration of seven years from his disappearance had been given and that it then lay upon defendants to show that his death resulted from some cause exonerating them from liability, such as intoxication or the like which they had not done. On the question of costs it was held following the decision of *Glasgow Life Ins. Co. v. N. S. S.*

that as defendants had all the evidence brought to their knowledge before trial, as well as a bond tendered them, and that as the policy would lapse by the plaintiff's ceasing to pay further assessments on receipt of the amount of the certificate, the defendants had acted unreasonably in refusing to pay, and should therefore bear the costs of the suit; their contention that they were entitled to a judicial declaration as to Pott's death or to have letters of administration taken out by plaintiff not being sustained. Judgment for plaintiff with costs. *Pott v. Canadian Order of Foresters*, May 17th, 1900. This case seems to follow the English decision in *Williams v. Scottish Widows Fund*, 1 F. L. R. 20.

NON-PAYMENT OF NOTE FOR PREMIUM—RENEWAL ON REPRESENTATION OF GOOD HEALTH.

*Ekhardt v. Lancashire Insurance Co.*—The Court of Appeal on May 17th handed out judgment in the well known case which has been before the Court since 1897. Shortly stated, the question involved is whether a variation of the statutory conditions so as to require 10 per cent. insurance was such a condition as is, in the language of the Insurance Act, "just and reasonable" to be exacted by the Company. In the Court below it was held by Meredith, C. J., 25 A. R. 30, that the condition was a reasonable one. "The plaintiff had the option of being insured without the clause if they chose to pay a higher rate of premium, they were satisfied to take the lower rate and in consideration of it, to limit the amount of the insurer's liability to them." The Court of Appeal—*Burton, C. J. O.*, and *Moss, J. A.*, dissenting has affirmed this view holding the co-insurance clause not unreasonable and therefore valid.

METHOD OF VALUATION OF DAMAGE IN STOCK BY FIRE.

In *East v. Waterloo Mutual Ins. Co.* and *East v. Economical Ins. Co.* decided in the Single Court, Street, J., May 12th, 1899. It has been held that the proper method of valuing damage to a stock by fire the insurance companies admitting their liability but disputing the amount only was for the witnesses, independently of one another, to estimate broadly the percentage of injury to each class of goods, allowing for the necessary reduction of their selling value by exposure, for a considerable time, to smoke, dirt and water, and not, as was pretended by the companies, by assuming that the goods retained their original value less 2 1/2 to 3 per cent for "smoke damage," and merely allowing, in addition, for such goods as could be seen to have sustained damage.—*The Bulletin*.

The Per Capita Tax, Intimation Tax and Supervising Medical Examiner's Fees for the quarter ending June 30th, 1900, are now due and should be paid without delay. Officers of branches that have not yet remitted to the Grand Secretary the amount due therefor are requested to read Sections 60, 147 and 148 of constitution and comply with same.