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TORONTO, CAN. FRIDAY, MAY 2, 1873

FIRE INSURANCE LITIGATION.

It is a fact to be regretted that in Toronto and many other parts of Ontario, a good deal of feeling adverse to the fire insurance companies exists amongst the mercantile community. This may be traced in some degree to the large advance in fire insurance rates; but seems attributable partly to dissatisfaction with the treatment that the assured have received in various cases of late. We have met with merchants who were free to charge the companies indiscriminately with being litigious, suspicious and obstructive in dealing with claims. In support of this statement the official returns are pointed to, which show a total of resisted losses at the end of 1872 amounting to \$68,600 against \$25,529 at the end of the previous year, the increase being \$43,071. It is also noticed that losses held in suspense have risen from \$140,903 to \$359,828, being \$218,925 in excess of the figures of 1871. The charge is a grave and sweeping one, and having on its face a certain amount of truth, deserves to be candidly investigated.

Looking at the figures showing the operations of the companies during the past few years, it is easy to see that there is nothing to inspire them with an abounding spirit of liberality; but there is no connection whatever between liberality and the payment of just claims. The question is not whether the companies are liberal or whether they have made or lost money, but are they honest and straightforward? Do they fulfil their contracts and honor their obligations? Among private individuals it often

happens that one who has manifested all the traits of honesty while travelling the highway of prosperity, becomes an arrant rogue when in the slough of adversity. To be honest for honesty's sake and to be honest for policy's sake, are very different matters according to the moral code. To pay debts freely when the treasury is full; and to repudiate claims, and resort to tricks and strategy to evade payment merely because profits have been small and specie is low, are not uncommon developments of a moral condition that cannot be too deeply deplored, or too strongly reprobated. Have the insurance companies betrayed their participation in this human weakness? Are they less willing to pay because they have made no money? Though many are prepared to answer these questions in the affirmative, we are not yet among the number. Nor do we propose now or at any other time to attempt the job of whitewashing the companies, individually or in the aggregate. Let them stand in public opinion just as the facts place them.

There are many and weighty reasons why an insurance company should not pay losses with undue haste. Where there is clearly room for suspicion, companies ought not, even at the risk of inflicting unintentional injury on an innocent party, to pay a claim without due deliberation. It ought to be understood that the destruction of property by fire is a loss, perhaps a calamity, to all concerned. It is no part of the theory of fire insurance to enable the holders of policies to escape loss; the intention is to merely mitigate its severity by the company assuming for a consideration a portion of the risk. It is contrary to the principles of insurance to leave the insured without an interest in the property covered, amounting to a considerable per centage of the whole value. We know that this principle is often set aside to the great injury of the companies and the public; and that, perhaps, is the reason why misapprehension exists as to the duty of companies. To pay fraudulent claims would be to set a premium on rascality; it would prove to be a sowing of the wind to reap soon an overwhelming whirlwind of incendiarism. It is unfortunate that in guarding against this danger unjust suspicions are sometimes indulged in, and even detectives set on the track of innocent men. These things might occur under the most well-intentioned administration of a company's affairs. But while this is the case we are not certain that all the companies are blameless in this regard. We know of a few cases, which we shall not here specify in detail, that are well calculated to create the belief that the companies concerned are not disposed to

pay up if evasion is possible. It is a pity where there is so much high-minded and honorable dealing, that these cases should arise to tarnish the good name which it must be the wish of managers, as it is their interest, to cultivate. Particular individuals, too, in the employ of companies, have shown themselves obstructive so often as to lay them open to have that charged as one of their characteristics.

We do not think the mode often adopted of settling or adjusting losses either scientific or equitable. These settlements are often much more smart than honest. The practice commonly is to demand first from the claimant a sworn statement of his claim; that is all right. When this is presented instead of ascertaining how it agrees with the actual loss, he is often asked, "What is the least you will take and settle?" Before the answer is given all the weak points of the claimant's case, technical and otherwise, are elaborated by the wily adjuster until the party is half convinced that he is pretty much at the mercy of the company. He names a low figure for the sake of immediate settlement. Then the adjuster expresses his willingness to pay so much; which, of course, is much less than the claim. Then a scene of bantering commences, which is either ended on the spot by a compromise or renewed on a future occasion till the result is reached. Such proceedings are not only unbusiness-like but simply disgraceful; and no respectable company should be a party to them. The claim should be appraised in a disinterested manner and in accordance with recognized rules, and the amount so ascertained should be honorably paid over as a just debt without abatement. Of course, if there is an appearance of fraud, payment ought to be withheld till that point is satisfactorily settled. Where a difference arises as to the amount of a claim there can be no doubt that a resort to arbitration is the true method of settlement.

It is a question how far the frequent over-statement of claims by the assured is due to the practice just pointed out. That it has an evil tendency in this direction there is every reason to believe.

It is satisfactory to know that the great majority of the fire insurance companies doing business in Canada mean to pay their losses honorably and in full; some of them have never had a single law-suit in this country; others have had none, except where there was a pretty clear case of intended fraud. That a few of them are not unwilling sometimes to take an improper advantage we shall not pretend to deny. We regard such a policy as being liable to all the objections we have urged against it,