

# The New Dominion Insurance Act of 1917

**Important Amendments and changes made in last session of Dominion Government reviewed for this Journal by Mr. William Thompson, British Columbia and Alberta manager of the London and Lancashire Fire Insurance Company.**

For many years there has been doubt as to the jurisdiction of Dominion and Provincial Governments in regard to insurance in Canada.

The questionings were, however, brought to a focus in the case "John Deere Plow Company, versus the Province of British Columbia."

In order to finally settle the matter, the issue was submitted to the Judicial Committee of the Privy Council, viz:

(1) Is it within the powers of the Dominion Government of Canada by legislation to impose upon an insurance company incorporated in one of the Provinces, and authorised by license of the Government of that and other Provinces to transact business in those Provinces, an incapacity to do so without a licence from the Dominion Government?

(2.) Is it within the powers of the Dominion Government of Canada to require an insurance company incorporated by a foreign state to take out a licence from the Dominion Minister even where the company desires to transact business only within the limits of a single Province?

No, said the Judicial Committee of the Privy Council on the 24th of February, 1916, in answer to the first question; having regard to the provisions of the British North America Act, such legislation is ultra vires of the Dominion Parliament.

Yes, said the Judicial Committee in answer to the second question; the Dominion Parliament might, by properly framed legislation, validly impose such a restriction.

"The properly framed legislation" was soon enacted—the opportunity being also taken to amend old clauses, and include new ones in the revised Act, all tending to a more effective control of the insurance situation, which became law on the 24th of September, 1917.

Briefly, the principal changes are:

## Explosion.

Owing to the exigencies of war, explosion insurance which formerly covered damage caused by the explosion of natural or other gas, is now extended to loss "caused by bombardment, invasion, insurrection, riot, civil war, or commotion or military or usurped power."

## Provincially Incorporated Companies.

The Act provides for the licensing of a Canadian Company incorporated under Provincial Law, but such Company is not subject automatically to the provisions of the new law, but may voluntarily obtain a license, if it so wishes, to carry on business in any two or more Provinces in the Dominion.

When licensed under the Dominion Act, five years time is given to Provincial Companies in which to dispose of any assets, not conforming to the requirements of the Act.

## Classes of Business.

Companies may write not more than six of the following classes of insurance, viz:- Fire, accident, automobile bond, burglary, credit, explosion, guarantee, hail, inland transportation, plate glass, sickness, sprinkler leakage, steam boiler, tornado and weather.

One or more additional classes, but not exceeding ten in all, whether in above list or not, may be authorised—life insurance being excluded.

Any British or foreign company, with a wholly unimpaired capital, having charter powers to accept a greater number of classes, may, subject to the Treasury Boards requirements being compiled with, be deemed eligible for such license; and any British Company having an impaired

capital, now operating under Provincial licenses only, shall be eligible for a Dominion license, but they must, within one year dated from the passing of this Act, comply with its provisions; subject to an excess deposit of not exceeding \$200,000.

## Deposits.

Companies writing life, and companies writing fire insurance, are required to deposit \$50,000.

If a license for only one or more Provinces be granted, the Treasury Board may accept less than \$50,000.

## Advertising.

A new clause has been inserted making it necessary to clearly show the capital paid up, in connection with any advertisement, or statement, in regard to the capital subscribed, or capital authorised, and surplus of the company.

## Reinsurance of an Insolvent Company.

Several new clauses give the superintendent power to deal with a company whose assets are insufficient to cover its liabilities—the Minister now having authority to issue a conditional license in order to give a company time to reinsure its portfolio; but new business is not to be undertaken.

The liquidator of an insolvent company may, without the consent of the policy-holders, arrange for reinsurance of its business, subject to the approval of the Court that appointed the liquidator, and the Treasury Board.

## Rebates.

It is now a penal offence for a person to receive as well as a person to pay, or offer to pay, a rebate on a fire insurance premium.

## Life Companies.

The scope of operations is extended to allow of payment of total and permanent disability caused by accident, or sickness.

A Canadian Life Company must first get the permission from the Minister before amalgamating or reinsuring with another office.

Life Company Directors and agents are included with trustees and officers, salary agreements with whom shall not be for longer than five years.

Canadian Life Companies may in future, purchase company debentures where regular dividends on preferred, or common stocks have been paid for at least five years immediately preceding.

Life policies, upon which loans have been made, shall, on application, be returned to the insured, duly endorsed.

## Duplication of Interests Prohibited.

Under a new clause it is provided that after the passage of the Act, a Canadian Company, other than life, shall not invest in, or lend its funds on the security of the shares of any other company transacting similar classes of business.

## Investments.

Companies' investments shall be in the corporate name, directors and officials are debarred from receiving any monetary consideration, directly or indirectly, on account or any loan, deposit, purchase or sale.

## Disposal of Unauthorised Investments.

Any Canadian Company may be requested by the Superintendent to dispose of any assets, acquired after the passing of, and not authorised by, this Act, within sixty days, any resultant financial loss to be made good by the directors.

Written protest to be sent to the Superintendent by