Union Insurance Society of Canton, Limited

Mr. C. H. P. Hay, deputy general manager of the Union Insurance Society of Canton passed through Montreal on the 5th instant from the head office at Hong Kong, en route to England. He was accompanied by Mr. C. R. Drayton, manager for Canada as far as Quebec from which port he sailed for England. Mr. Hay proposes to visit Canada again in November on his return. He expressed himself as being much impressed with the great strides being made in the business of both the Union of Canton and British Traders since these Companies entered Canada, and looks forward to further expansion.

ASSENT TO SUBSEQUENT INSURANCE

If an insurance policy contains the usual clause that "The Company is not liable for loss if any subsequent insurance is effected in any other company unless and until the company assents thereto," and the insured effects insurance in another company without notifying the first company, and a loss occurs, and the first company by its general agent, knowing that the second insurance has been effected, appoints an adjuster with authority to settle with the insured, is the appointment of the adjuster under the above circumstance an assent on behalf of the first company to the subsequent insurance?

In the case of the National Benefit Insurance Company vs McCoy the Supreme Court of Canada said "Yes," holding that the appointing of the adjuster under the above circumstance and with knowledge of the subsequent insurance, is an assent which will bind the company.

The Court decided, first of all, that a general agent was authorized to assent to the subsequent insurance.

"I do not see how otherwise the business of the company could be carried on if the general agent could not give such an assent to subsequent insurance in another company as the condition in this case calls for. Such assent is not required by the condition to be in writting. Cases calling for it must constantly arise. If they have necessarily to be referred to the head office in London for the formal assent of the company, then much valuable time would be lost. It is a question peculiarly for the general agent whose knowledge must govern in any such case to say whether assent would be given or not. As general agent he has policies placed in his hands already signed by the company's officers in London and good only when countersigned by him," said the Court.

In holding that the appointing of the adjuster with authority to settle the loss, and with knowledge of the subsequent insurance, was an assent thereto, the court said:—

"The mere appointment of an adjuster to adjust the loss under the policy might not be sufficient to indicate any assent to subsequent insurance but in this case the evidence shewed specific authority given to the adjuster, by the general agent, to pay the assured in full settlement of her claim the company's proportion of the loss."

The reader, however, should compare with the McCoy case the case of the Western Assurance Company vs Doull. In this case the policy contained a provision that subsequent assurance would invalidate the policy unless notice in writing were given and such subsequent insurance endorsed on the first policy.

The insured effected further insurance and verbally notified the agent, but there was no endorsement, made on the policy, and, a loss having occurred, the damage was adjusted by the company's inspector, and neither he nor the agent made any objection to the subsequent insurance.

In this case the Supreme Court of Canada held, first, that the breach of the condition re subsequent insurance and endorsement thereof voided the policy.

"This subsequent insurance was not at once notified to the company in writting, nor was it endorsed on the policy in suit granted by the company or otherwise acknowledged in writting, in default whereof the policy thenceforth ceased and became of no effect," said the Court.

Second, that the agent, being a mere local agent and not a general agent as in the McCoy case, had no authority to waive the conditions of the policy. On this point the Court said:—

"The condition in the policy is one which must be complied with or waived. The company, by signing a condition of that kind, reserves to itself the right to withdraw the policy in case of further insurance. The question is one which cannot be decided by a mere local agent. He may receive the notice for transmission, but he cannot act on it, it must be brought to the notice of some person authorized by the company to continue the insurance after notice has been given them. It has been decided in a number of cases in England that a local agent has not such authority, and a mere notice to him, even in a case where he is acting for another company taking the further risk, has been held to be no notice to the company."