LEGAL DECISIONS IN INSURANCE CASES.

COMPILED BY

MESSRS. MONK & RAYNES, ADVOCATES,

MONTREAL.

SUPREME COURT OF CANADA.

NEILL *v.* THE TRAVELERS' INSURANCE CO.

Life Insurance—Voluntary exposure to unnecessary danger.

The Plaintiff (Appellant) brought an action upon a policy of insurance effected by the Respondent upon the life of her deceased husband, J. Neill, who met his death during the currency of the policy, from being run over by a railway train upon one of the lines of the Northern Railway running through the Company's station at Toronto. In answer to the Plaintiff's claim the Respondent set up, amongst other defences, a condition of the policy whereby no claim should be made thereunder when the death or injury might have happened "in consequence of voluntary "exposure to unnecessary danger, hazard, or perilous adven-"ture." The uncontradicted evidence was that the deceased was killed by the train while he was driving alone on a dark night in the Company's yard amongst a network of railway tracks at Toronto, at a place where there was no roadway for carriages, but it was not shown why, or for what purpose, he was there.

Held, affirming the judgment of the Court below, (7 App. R. 570—2 C. L. T. 543) that the undisputed facts showed that the deceased came to his death "in consequence of voluntary exposure to unnecessary danger," and therefore Respondents were entitled to a non-suit.

COMMON PLEAS DIVISION—ONTARIO.

CAMERON *v.* CANADA FIRE & MARINE INSURANCE CO.

Insurance—Proofs of loss—Delivered as soon as possible after fire—Actual cash value of property—Property outside of Ontario—R. S. O. Cap. 162.

Held—The Fire Insurance Policy Act, R. S. O. cap 162 does not apply to property outside of Ontario.

This was an action on a policy of insurance against fire. By one of the conditions of the policy it was provided that the proofs of loss should be delivered as soon as possible after the fire. The fire occurred on the 17th September, 1881, and the proofs of loss were not delivered until middle of May, 1882, when they were objected to and returned to the insured, who re-delivered them in the same condition in the month of July following. The only reason given for not delivering them sooner was that it was not convenient to do so.

Held—That the condition was not complied with. Another condition required that the proofs of the loss or damage were to be estimated according to the actual value of the property, *i.e.*, what it could actually have been sold for in cash at the time of the loss, and that the affidavit should state the actual cash value of the property. In the printed form of proofs of loss which was used the words "actual cash value" were struck out, and a statement substituted giving the cost of replacing the whole property destroyed, and the cost of the property in 1880, a year previous to the insurance being effected.

Held—That this was not a compliance with the conditions, and under these circumstances there could be no recovery on the policy.

CHANCERY DIVISION—ONTARIO.

CLARKE *v.* THE UNION FIRE INSURANCE COMPANY.

Contract of Insurance—Lex Loci Contractus—Agency.

The Defendants signed and sealed policies in blank and sent them to an agent in New York, who, on effecting an insurance, filled up and issued them. The policy in this case was delivered 8th August, 1880, the fire occurred 10th August, and the premium was paid 11th August, by cheque, which cheque was accepted by the New York agent and forwarded to Toronto to the Company's head office, but was returned by the Company and refused.

On an attempt to prove a claim under the policy in the master's office, it was contended that the filling up and the issuing of the policy in New York brought the contract within the laws of the State of New York, or that the acceptance by the agent there (which was a cheque payable to the order of the Company) would bind the Company; but the master held that the contract was made in Toronto, where the policy was signed and sealed.

Held, on appeal from the master, that his ruling was right. that the contract was governed by the law of Ontario, that the law defining the insurer's engagements is that of the place where the corporation has its seat; that the agent in New York had no authority to bind the Company by any contract not in accordance with the policy sued on, and that he had no power to settle disputed matters, as they had to be referred to the principal, whose place of business was in Ontario.

United States Life Insurance Company.—Mr. J. W. Molson has been appointed manager for Canada of this Company.—Mr. Molson was formerly Inspector for the Molsons Bank, of which his father was at one time president, and his grandfather its founder and first president. The Molson family are well known throughout the Dominion and we are sure the appointment will prove a satisfactory one for the company. The United States Life has a good record for square and honorable transactions, is well managed, sound and trustworthy. In our next issue we shall give some more details with reference to this company.