

FIRE INSURANCE COMPANIES AND LEGISLATION

All-Canada Federation's Activities During the Past Year

Legislation, taxation, fire protection were among the various subjects discussed at the All-Canada Fire Insurance Federation's annual meeting at Ottawa. Mr. T. L. Morrisey, is the president of the association and Mr. C. D. Gaudet, K.C., acting secretary. The report of the executive is herewith appended:

"The supreme court has heard and is about to pronounce upon the constitutional principles underlying the right to legislate in insurance matters. The right of parliament to legislate in matters of insurance and particularly as to licensing of companies will be determined. At the hearing all the provinces were represented by counsel and your federation and the Canadian Manufacturers' Association were also permitted to state their cases. A decision is expected at the present sitting of the supreme court of Canada and should nothing unforeseen occur a final hearing before the privy council may be had in July of this year.

"In this connection it will no doubt be of interest for the members to know that a few days ago Mr. Justice White, of the supreme court of New Brunswick, held in a case of the Pacific Coast Fire Insurance Company vs. Hicks, that insurance contracts entered into with unlicensed companies provided they do not fall within the exception stated in section 139 of the act are illegal and absolutely void, that the effect of the Insurance Act is to render policies assessed by foreign unlicensed companies illegal and, therefore, unenforceable and void and the learned judge adds: 'I am quite clear in even an express stipulation of the company to raise the question of illegality as a defense would not avail in law to make the contract enforceable, for no court will lend its aid to enforce an illegal contract.'

Public Should Know.

"In view of this, it is felt that if the insuring public knew of the danger which they run in insuring in unlicensed companies as outlined in this decision, not only would no further risks be placed with them, but it is reasonable to expect that much of this insurance would be cancelled. Neither of the counsels representing the opposing parties contended that the Insurance Act was beyond the powers of parliament and Mr. Justice White, in coming to the conclusion which he has, naturally could not do so without assuming that the Act is *intra vires*.

"Your committee has endeavoured for some years to obtain the removal of a sub-section of section 298 of the Dominion Railway Act which has for effect to transfer the liability for loss by fire caused by locomotives of railway companies to insurance companies, whether railway companies are negligent or not. The minister of justice, while not inclined to take so serious a view of this section, has stated it as his opinion that if the section can be given this interpretation, the insurance companies have an undoubted grievance and that any ambiguity should be removed. We have lately been advised that the amendment, proposed by the committee, had been embodied in the draft bill which will be printed shortly and introduced in Parliament. The Lumber Insurance General Agency has taken an interest in this work and hopes favorably to interest the Canadian Lumbermen's Association and possibly the Canadian Manufacturers' Association. We should feel grateful for the assistance of any of the members in obtaining the repeal of this objectionable clause.

Heavy Taxes in Quebec.

"As a result of the courtesy extended by the minister of finance, the Federation is now in possession of the returns made by persons, firms or companies insuring in unlicensed companies and who have reported to the government. These returns have been tabulated and it is intended to have them printed shortly and forwarded to the members of the federation so as to facilitate their discovering those who violate the law by not making returns and having them penalized as provided by the statute.

"The somewhat startling returns obtained from the members of the Federation establishing that the companies pay in the province of Quebec taxes averaging double what they pay in all the other provinces united, have urged your committee to make a determined effort to obtain legislation from the Quebec legislature re-adjusting and reducing this excess of imports. With this object in view, the following bills were drafted and submitted through the proper channels, to the different ministers:

"Bill to force unlicensed companies to share in the tax of 1 per cent. in the City of Montreal. Bill to amend the Fire Commissioners Act, with a view of obliging unlicensed companies to share in its maintenance. Bill obliging companies to pay the registration fee of \$150.00 once and for all

instead of an annual tax of this amount as at present. Bill forcing unlicensed companies to pay the minimum tax of \$250.00 to the province. Bill abolishing or reducing municipal taxation.

"The City of Montreal has met our suggestions as to the first two bills in a fair spirit with the result that the legislation committee of its council recommended our amendments.

"Owing to the illness early in the session of the assistant attorney general, Mr. Lanctot, this and other measures had to be put aside but will be re-introduced next session with every chance of their being made law.

Fire Protection Bill.

"The several delegations which went to Quebec realized that the whole of the considerable programme undertaken could not be carried out and, therefore, concentrated their efforts on the abolition of municipal taxation, or at least a substantial reduction thereof. A bill with this object in view was accordingly introduced in the Quebec House, but owing to the lateness of the session and the serious opposition of the country members on the ground of their inopportunities of communicating with their constituents as to its bearing, it had to be withdrawn. The leading ministers who had pledged themselves to its support and vouched for its inclusion in the statutes, expressed their disappointment. The provincial treasurer wrote your committee expressing his disappointment and that of his colleagues and promising the re-introduction of this measure at the next session.

"The Honorable Mr. Taschereau, minister of public works, introduced a further measure, which had for object to provide for efficient fire equipment and education in the small towns and villages where serious losses have occurred. This fire protection bill was drawn on lines similar to the acts of Manitoba and other provinces and of many states of the Union. This measure has obtained the sanction of the lieutenant-governor and has become law, but nothing so far has been done to bring about its execution.

"Realizing, as no doubt we all do, that success in legislation is only obtained through infinite patience, the work above outlined will again be taken up early next session with a view of obtaining from the ministers, whose good faith we have no reason to doubt, the very legitimate concessions which we have demanded.

Unregistered Companies' Minimum Tax.

"In the province of Quebec, a tax of 1 per cent. and a minimum of \$250 is imposed, under the Commercial Corporations Tax Act, on all registered insurance companies doing business therein, the minimum being payable in advance. The attorney-general of the province has expressed it as his opinion that unregistered competitors are only liable to the tax of 1 per cent., thus being exempt from the minimum. The injustice of this law is apparent more particularly as it was formed with the stated object that it would effect an even distribution of rights and obligations between registered and unregistered companies. A company, a member of this Federation, on which a demand for the minimum tax in advance has been made, under this law, is willing to be a defendant in a test case and stated its intention to your committee which submits the matter for your consideration.

Enactments in Three Provinces.

"The province of Alberta at its last session passed a new insurance act embodying a resident agents' law and providing for a payment into the treasury of the province of 50 per cent. of all premiums paid to companies not registering under the act. The province of New Brunswick adopted statutory conditions based largely on the Nova Scotia conditions, but departing therefrom in several important particulars and in the opinion of our committee an effort should be made to have these conditions amended at the next session of the legislature. An Insurance Act was introduced into the Nova Scotia legislature last session. Its provisions were very fair and should have been acceptable to the companies registering under the laws of that province. But when it reached the Upper House an amendment which has been found so objectionable in other provinces, providing for the placing of business with companies not complying with the laws was introduced, whereupon the bill was withdrawn but may come up again next session.

"Legislation was carefully watched, bills scanned and submitted to your committee when found of importance.

"In view of the importance of the work now before us, particularly of the reference to the supreme court of Canada and its ultimate hearing before the privy council, a further small assessment is recommended.

"Feeling, as your committee does, that this Federation could accomplish so much while safe-guarding the public, for the joint interests of the companies by mutual co-operation, a recommendation is hereby made that the incoming committee make a special effort to get in closer touch with all its members, more particularly those who on account of distance are not in immediate touch with the executive, in order to meet their requirements, and to devise by practical measures the most effective way to obtain and maintain just and equitable laws."