

a question of law, but a question of fact which a jury must pass upon. Lord Justice Romer of the Court of Appeal made the following remarks in the course of his judgment: I desire to make some remarks upon the question of general importance raised in this case, with reference to the contract of insurance or guarantee. There are some contracts in which our courts require what is called *uberrima fides* to be shown by the person obtaining them. Of these, ordinary contracts of marine fire and life insurance are examples, and in each of them the person desiring to be insured must not in setting forth the risk to be insured against conceal any material fact known to him affecting the risk. On the other hand, ordinary contracts of guarantee are not among those requiring *uberrima fides* on the part of the creditor towards the surety. Mere non-communication to the surety by the creditor, of facts known to him affecting the risk to be undertaken by the surety, will not vitiate the contract unless there be fraud or misrepresentation, and misrepresentation undoubtedly might be made by concealment. But the difference between the two classes of contracts does not depend upon any essential difference between the word insurance and the word guarantee. There is no magic in the use of these words. The words to a great extent have the same meaning and effect, and many contracts, like the one in the case before us, may with equal propriety be called contracts of insurance or contracts of guarantee. Whether the contract be one requiring *uberrima fides* or not must depend upon its substantial character, and how it came to be effected. There is no hard and fast line to be drawn between contracts of insurance and contracts of guarantee for the purpose for which I am now considering them, and certainly the rule as to contracts of insurance is not limited as contended to the three forms of marine life and fire insurance. When contracts of insurance are considered, it will be seen that they have in common several features in their character, and the way they are effected, which distinguish them from ordinary contracts of guarantee. Contracts of insurance are generally matters of speculation, where the person desiring to be insured has means of knowledge as to the risk, and the insurer has not the means or has not the same means. The insured generally puts the risk before the insurer as a business transaction, and the insurer on the risk stated fixes a proper price to remunerate him for the risk to be undertaken. The insurer engages to pay the loss incurred by the insured in the event of certain specified contingencies occurring. On the other hand, contracts of guarantee are between persons who occupy the position of creditor, debtor and surety, and thereby the surety becomes bound to pay the debt or make good the default of the debtor. In general, the creditor does not himself go to the surety, or represent or explain to the surety the risk to be run. The surety often takes the position from motives of friendship to the debtor, and generally not as the result of any direct bargaining between him and the creditor,

or in consideration of any remuneration passing to him from the creditor. The risk undertaken is generally known to the surety, and the circumstances generally point to the view that, as between the creditor and the surety, it was contemplated and intended that the surety should take upon himself to ascertain exactly what risk he was running. 15 T. L. R. 297.

PERSONALS.

MR. THOS. E. KENNY, President, and Mr. E. L. Pease, General Manager, of the Merchants' Bank of Halifax, are in New York, where a branch of the bank has recently been established.

MR. GEORGE H. BURFORD, of The United States Life Insurance Company, in the City of New York, visited Montreal last week on business in connection with the company, of which he is the much respected and active President.

MR. J. J. KENNY, Vice-President and Managing Director of the Western Assurance Company, accompanied by Mrs. Kenny, sailed for England last week. A host of friends in all parts of Canada will join in wishing the popular administrator of the Western a pleasant holiday.

MR. F. X. ST. CHARLES, President of Banque d'Hochelaga, is, we are pleased to learn, not likely to sever his connection with that institution at present. The many friends of Mr. St. Charles, who is the only survivor of the founders of the bank, will be glad to hear that he has been prevailed upon to retain his position as its president.

Correspondence.

We do not hold ourselves responsible for views expressed by Correspondents

COMPULSORY VACCINATION IN THE ARMY AND NAVY.

To the Editor.

Sir:—The interesting allusion to re-vaccination in the *INSURANCE CHRONICLE* of March 10th reminds me that it must not be forgotten that, while vaccination is now optional in England and Wales, it is rigorously enforced in the Army and Navy, though it is not so well known that the results have been bitterly disappointing. Brigade Surgeon Nash, in his evidence before the Royal Commission (Q. 3559), admitted that vaccination and re-vaccination were "as perfect as endeavours can make it," and he did not know of any suggestion that could be made whereby the thoroughness of re-vaccination in the Army could be increased, yet he laid before the Commission a list of no fewer than 3,953 small-pox cases, with 391 deaths, for the years 1860-88. In Egypt, in 1889, there were 42 cases of small-pox amongst our soldiers with 6 deaths. Referring to which, Dr. Scott Tebb, M.A., in "A Century of Vaccination and What it Teaches" (London, Swan Sonnenschein), points out that "these, on the strength (3,431) give an attack-rate of 12,241, and a death-rate of 1,749 per million, the attack-rate being six times that of Leicester and five times that of Keighley, and the death-rate fifteen times that of Leicester and eight times that of Keighley in the recent epidemics in these notoriously unvaccinated