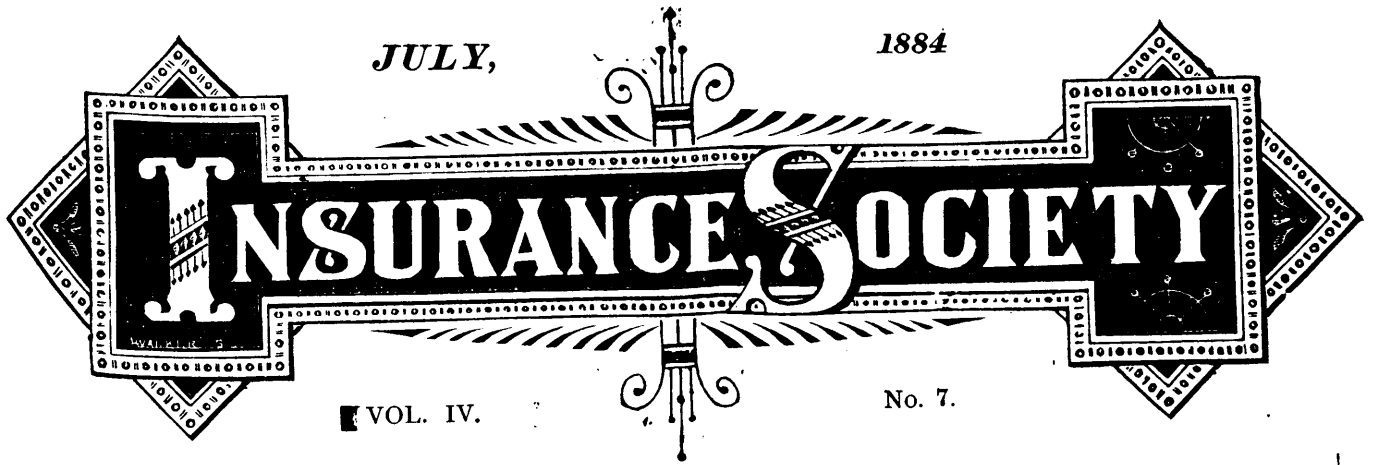


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A little more than a year ago, we congratulated ourselves and our subscribers on the result of the attempt of the License Inspector to collect the amounts due under the obnoxious Tax Act of 1882, from the various Banks, and ventured to prophesy that the actions against the Insurance Companies and other Corporations would meet with the same fate. Judge Jette's decision in these cases however, which we publish to-day, shows that even Judges do not always agree, and is another example of the glorious uncertainty of the law. He having decided in direct opposition to Judge Rainville's judgment that the tax in question is a "direct" tax, there existing no intermediary between the Corporations taxed and the Taxing Power; and that it is in the nature of a royalty exacted by reason of the exercise of a profession or business, and as such essentially within the power and among the attributes of the Provincial Government.

All the other points raised by the Defendants in the 40 cases adjudged, were most carefully and ably dealt with, as a glance at the judgment will show; but in view of the fact that this decision, as well as that of Judge Rainville, has been taken to appeal, we do not think it necessary or expedient to discuss it at length, but prefer to wait to see how the higher Court will deal with two such contrary judgments.

CONTRIBUTION IN FIRE UNDERWRITING.

PART IV.

In closing our III article upon this interesting subject, in the June issue, we said: "Hence it is apparent that the division of compound policies of the second phase (in the ratio of the losses) is but a mode of arriving at an equitable method for a basis of contribution with co-insurers, specific or compound, and cannot be used to the injury of the insured or of co-insurers."

This raises the question: "What is an equitable method for a basis of contribution among co-insurers under non-concurrent policies?" A problem, by the way, that has taxed the skill and ingenuity of fire underwriters "tyme out of minde," nor has it yet been solved to the satisfaction of all parties.

The fixed conditions or "axioms" under which the distribution of contributive liability among co-insurers, whether concurrent or non-concurrent, are to be made, may be summed up in the following:

- 1st. Indemnity: The insurance contract is one of indemnity under every circumstance.
- 2nd. No arrangement of the clauses of the policy shall be used to the disadvantage of the insured; he must be paid, and the dispute, if any, be settled between the Underwriters.
- 3rd. The insured cannot be called upon to bear any portion of his own loss either as self-insurer or co-insurer, while any of his insurance, compound or specific, remains unapplied to the full extent of its liability, except where the policy may be made subject to average or other limitation by specific stipulation in the contract.
- 4th. All co-insurers shall be bound with equal certainty, and in the same sense, upon the same loss.
- 5th. The contribution clause is operative only between co-insuring Companies, in cases of double or concurrent insurances, and then pro-rata only so far as they may be, or can be made concurrent.
- 6th. No one policy can take precedence in claiming contribution from or at the expense of co-insurers upon the same loss.
- 7th. When the amount of the general loss exceeds the sum of concurrent insurances, the principle of pro-rata apportionment is not applicable.

8th. The insured can recover from no Company more than its ratable proportion of an accrued general loss; but where direct contribution among co-insurers fails to meet the full indemnity, the insured can call upon any unexhausted insurance to fill up the deficiency; if more than one policy remain unexhausted they must contribute their ratable quotas to the deficiency.

Such are the equitable underlying principles that must dominate in all methods of apportioning insurances, or contributions to losses under the fire policy; the insured must be paid for all honest losses within his insurance; and at the same time co-insurers must bear their respective quotas, and