LEGAL DECISIONS IN INSURANCE CASES.

SUPERIOR COURT, MONTREAL.

THE SUN MUTUAL LIFE INSURANCE CO. vs. BELAND.

Policy of Life Insurance.—Alleged Error.—Parol Evidence.

This was an action for amount of a premium note for $160, *being Defendant's premium on an insurance on his life for* $5000, *payable at death, and the premiums were payable during* 20 *years if he lived so long.*

The Defendant pleaded error in the contract, alleging that he agreed for a policy payable at death or in 20 *years.*

The Defendant was allowed to produce parol evidence of his intention in the matter, which ruling was favourably commented upon by the Court of Review."

In the Superior Court judgment was given in favour of the Plaintiff, the Court saying that inasmuch as the Defendant had the benefit of the Insurance for a year he must pay for it, and holding that the burden of proof was upon him to disprove the consideration given for the note.

The Court of Review reversed this judgment on the evidence, holding that there was error in the contract. The remarks of the learned Judge with reference to the Agency system are well worth reproducing:

"It may not be out of place to remark that in a country like "this, where there are many persons who do not understand a "word of English, agents, who are naturally (and I do not mean "to say improperly) eager for commissions in this sort of business, "ought to be very cautious about making themselves well under-"stood. There are systems of Insurance that are sufficiently "complicated to require long attention even from those who "understand the language in which they are set forth, before they "can be sufficiently understood."

COURT OF QUEEN'S BENCH, MONTREAL.

IN APPEAL.

WILLEY AND THE MUTUAL FIRE INSURANCE COMPANY OF THE COUNTIES OF STANSTEAD AND SHERBROOKE.

This was an action for $1400, *amount of an insurance on buildings insured under two policies issued by Respondents in favour of one W. W. Paige, who transferred them to Appellant. The buildings were destroyed by fire on the* 13*th November*, 1877.

The Respondents pleaded, *inter alia*, that on the 11th March, 1876, a writ of attachment in Insolvency had issued against Paige, addressed to T. Wood, Official Assignee; that Wood was vested with the property until the 10th April, 1877, when he transferred it to S. W. Wiggin, the creditors' assignee, who on the 10th September following transferred it with the consent of the creditors to C. J. Paige and H. W. Austin; that on the same day Austin transferred his *half share* to C. J. Paige. They also alleged that in addition to this the property was sold for taxes to A. H. Moore, on the 5th March, 1877; that during all this time Paige refused to pay the premiums and assessments accruing under the policies, whereby they became null and void.

On this contestation the Superior Court dismissed Appellant's action, giving in addition other reasons, which, however, the Court of Queen's Bench did not think it necessary to take into consideration when confirming the judgment.

Dorion, C. J. * * * * * In a Mutual Fire Insurance Company, the party insured becomes a partner or member of the Company. He is bound to give security for the payment of certain guarantee notes, and the property insured is subject to a hypothec for any calls which may be made on such notes. In case of an assignment of the policy, unless the transferee assumes the liabilities of the transferor and is accepted as a partner by the Company, he remains a mere assignee to the rights which the transferor may become entitled to claim, and in case of loss he can only exercise such claims as the transferor could have exercised if no transfer had been made of the policy. Now it is evident that W. W. Paige, having ceased to have a title to the property, could not claim from Respondents the amount insured under the two policies mentioned in the pleadings, even if he had not transferred them to the Appellant. The Appellant is therefore debarred from such claim, and the judgment of the Superior Court must be confirmed.

ONTARIO REPORTS.

NATIONAL INSURANCE CO. vs. EGLESON.

Partnership—Subscription for Stock.—Notice of Calls.

The defendants as partners had been appointed agents of the Plaintiffs on the condition that they should acquire and hold 200 shares of their stock.

They were accordingly entered in the stock register of the Company for that number of shares under the partnership name of "Egleson & Cluff," and 200 shares of the original stock allotted to them, and the usual certificate sent. They did not, however, formally subscribe for the stock.

A draft upon the firm for the prior call was accepted and paid as arranged with the Defendant Cluff.

Subsequently Egleson wrote to the Plaintiffs for information as to the position of the "stock subscribed for by them," signing the letter "J. Egleson, senior partner," &c., and stating that he was about to retire from the firm.

Held, in an action for calls, that the Defendants were liable, and could not be heard to say that they had not subscribed for the stock.

RECENT AMERICAN DECISIONS.

SUPREME COURT OF PENNSYLVANIA.

HAGAMANN vs. ALLEMANIA FIRE INS. CO.

Alienation.

The policy in this case contained a condition that "If the "property be sold or transferred, or any change take place in title "or possession, whether by legal process or judicial decree or "voluntary transfer or conveyance," it should be void.

It was endorsed, "Loss, if any, payable to L. Thompson, mortgagee."

The mortgagee foreclosed the mortgage and bought the property in at sheriff's sale on November 3rd, 1873, and on the 15th of the same month the sheriff executed a deed to him therefor; on the 7th of the following month the fire took place which destroyed the property.

Held, that the policy was avoided by the sale.

SUPREME COURT OF LOUISIANA.

STOCKTON *vs.* FIREMEN'S INS. CO.

Application.—Acceptance necessary to complete Contract—Power of soliciting Agent.

A general Insurance Agent, with authority to solicit and receive applications for insurance, has no power to accept such applications and bind his principals by stating to the Applicant that the risk attached at a certain moment.

Per Curiam. To convert a proposition by one party to another into a contract, it is not sufficient to show strong probability that it was or would have been accepted under certain circumstances. Acceptance, actual, final and irrevocable, must be proved.

SUPREME COURT OF PENNSYLVANIA.

FRANKLIN FIRE INS. CO. *vs.* KEPLER.

Vacant premises.—Temporary Absence.

The policy contained this condition: "This policy will not "cover unoccupied buildings (unless insured as such), and if the "premises insured shall be vacated without the consent of this "Company endorsed hereon * * * * * this "policy shall cease and determine."

Held, that the temporary absence of the insured from the premises, leaving them for the time unoccupied, was not a breach of the conditions of the policy.

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