

absolutely conditionless, and may be violated in any and every way short of arson, and still be held to bind the company! That this monstrous despotism is actually perpetrated in our nineteenth century under what we fondly term a free and enlightened Government is proved beyond doubt by the late decision given by Chief Justice Harrison in the suit of "*Ulrich vs. the National Insurance Co.*"

We may as well state here that we have but little fault to find with the statutory conditions as conditions, and, with one or two slight alterations and additions, we frankly own that they are as a whole simpler and, therefore, superior to the conditions which have generally prevailed among the offices. But what we complain of is this vicious interference on the part of the Legislature in a private contract made between two parties who are presumed to be, in the eyes of the law, of sound mind and capable of managing their own affairs. To return to our former parallel, suppose an Act which stipulated that a merchant in Ontario should in future only sell for cash, and if he gave a month's credit to a customer such contract would be void! Yet is there any difference between this and what is being pursued in fire insurance by the Act we are now discussing? In the abstract we may approve heartily of cash transactions, but to enforce an arbitrary law in connection therewith is a clear infringement of the subject's liberty. Further, we contend that one bad point in this Act is its partial jurisdiction, being confined to Ontario alone, and we see no reason, if the Ontario Government is thus permitted to act independently of the Dominion Parliament in such a case, it could not equally enact a series of separate conditions for each county of the Province, making "confusion worse confounded"; nay, if our lawyers and politicians desire and have the power to become underwriters, what is to prevent their dictating the rates of premium to be charged for each class of risks?

We have endeavored to place this important subject before our readers in a plain light, for as the saying is, "a straw shows which way the wind blows," and we honestly avow that we have no desire to see the Canadians, instead of following the manly independence of the English system with little legislation and consequently few disputes, preferring the childish dependence of the United States citizens with their endless laws and litigations. If the latter is to be our doom, then some day we may expect that one of our noble politicians will make the grand discovery that the eyesight of those residing, for example, in the county

of York is as bad as that of the inhabitants of Virginia, who cannot be bound by any conditions on a policy unless the same be printed in large type; or, peradventure, some astute lawyer will decide that, so far as Simcoe County is concerned, the insurance offices have had it their own way long enough, and that henceforth (as in the State of Wisconsin) the amount of the policy shall in every case represent the value of the property insured, by which beautiful arrangement a man holding goods to the amount of \$7,000, upon which he has a policy for \$6,000, may sell and clear out the whole of his stock except \$100 one day, and a fire occurring the next, destroying the small balance on hand, he can claim the \$6,000 from the Insurance Company, and thus complete a highly profitable transaction! It may be argued by those who have advocated and passed this Act that there are potent reasons for it, but we venture to assert that those reasons resemble Gratiano's in the "*Merchant of Venice*," namely, "two grains of wheat hid in two bushels of chaff, you shall search all day till you find them, and when you have them they are not worth the search," whereas we have written to little purpose if we have not demonstrated to a portion of our readers at any rate the very grave objections to this legislative interference with the freedom of private contracts. Let us once give up that glorious liberty founded on *Magna Charta* and handed down to us by our forefathers, and Othello might well exclaim that we shall be as

"—One whose hand,
Like the base Judean, threw a pearl away,
Richer than all his tribe."

THE RAILWAY QUESTION.

Mr. Walter Shanly's report on the railway between Quebec and Montreal has been published, and is adverse to the *Bout de l'Isle* route, which in all probability will now be finally abandoned. No government would venture to make another change with such high authority in favour of the line adopted by the late Government. The next question is what will the municipalities do? It seems hardly possible to avoid legislation of some kind, and there ought to be no difficulty in framing a measure free from the objections taken to that proposed by the ex-ministers of Quebec. The duty of the Government and of the Legislature is to take means to ascertain, with as little delay as possible, the legal position of the municipalities. If they can be made to pay, most assuredly no indulgence should be shown to them, for there can be no doubt that the construction of the railway, as a public work of the Province,

was undertaken on the clear understanding that the municipal subscriptions would be available. If, however, from any cause, they cannot be held liable, *ex post facto* legislation should not be resorted to. Moreover the direct issue of bonds by the Government, sufficient for the completion of the road, will be the most economical mode of obtaining the money. This need not interfere in the least with the recovery from the municipalities of whatever amount may be due by them, indeed it may tend rather to facilitate arrangements. The only circumstance that need cause any uneasiness is the weak condition of the Government, owing to the equal division of parties. There is really no question of any great importance on which parties differ. The Legislative Council difficulty might be compromised, in some way, and, at all events, everything should give way to the adoption of a sound financial policy, and the speedy completion of the railway to the construction of which the Government is pledged. These are not questions on which party differences should arise, and it must be obvious that they require the formation of a strong and united Government, and the sinking of all merely personal disputes.

THE INSURANCE TAX.

The judgment of the Judicial committee of the Privy Council in the celebrated case between the Province of Quebec and the insurance companies has been pronounced, and is in accordance with that given by our own courts. The text of the judgment will be anxiously looked for, and it may be hoped that it will be so full as to prevent any similar errors in future. If it should merely deal with the special case of the insurance tax, we may still have conflicting opinions as to the meaning of the term "direct taxation." There can, we apprehend, be little doubt that the taxes recently proposed by the late administration in Quebec are open to the same objection as the insurance tax, and, if so, it is fortunate that we have escaped further litigation, and what will be found very inconvenient, the recouping of taxes which have been illegally collected. The amount of these taxes is variously stated, and the most reliable estimate that we have seen is \$200,000, a sum that cannot be very conveniently spared at present by the Quebec Treasury. In view of the decision which has been arrived at, and of the difficulty which is found in reducing expenses, it will in all probability become absolutely necessary for the Quebec Legislature to relieve the Treasury from many charges at the expense of the municipali-