Insurance Company by Conducting Defence for Insured Assumes Liability Even if Insured has Violated a Clause of Policy

An employer who conducted a laundry had taken out an insurance policy to indemnify him against accidents to his employees in his business. There was stipulation in the policy that the machinery should be guarded. While the policy was in force, an employee had her hand injured in a mangling machine that was not guarded. The insurance company entered into negotiations with the injured employee and paid her a sum of money in settlement of her claim, and later undertook the defence of an action brought by the employee against her employer. Judgment was given against the employer, and after paying the amount of the judgment he brought an action against the insurance company to recover the amount so paid under the policy. The company denied their liability and entered a counterclaim for the amounts they had paid under the policy and to their solicitor for defending the action brought against the plaintiff. In the trial court judgment was given against the plaintiff, the action was dismissed, and the counterclaim of the defendant company was allowed. The employer appealed against this judgment and the case was heard by the Court of Appeal of Saskatchewan. The plaintiff claimed that the stipulation in the policy that the machine should be guarded was waived by the company by entering into negotiations with the injured employee and paying her a sum on account of the accident, and further by taking charge of the defence in the subsequent action. It was held by the Court of Appeal that the defendants by continuing to defend the action after knowledge of the machinery being unguarded would lead the employer to beleive that they were assuming liability under the policy, and the defendants were estopped from denying that they had waived the conditions of the policy as to unguarded machinery.

The appeal was therefore allowed with costs, also the appeal as to the counterclaim. It was further pointed out in the judgment that the defendants could not recover from the plaintiff money paid to their solicitor, even if they were not liable under the policy, for money paid to a third person cannot be recovered as money paid under a mistake of facts. (*Saskatchewan—Parrot vs. Western Accident and Guarantee Insurance Company.*)

SUMMARY OF THE TRADE OF CANADA

	Twelve months ending September 1918	1919	1920
IMPORTS FOR CONSUMPTION	$	$	$
Dutiable goods. . . .	514,232,548	550,522,559	873,703,522
Free goods.	384,319,336	335,617,397	452,064,418
Total imports, mdse.	898,551,884	886,139,956	1,325,[illegible],949
Duty collected. . . .	1[illegible]4,869,499	158,435,970	211,426,267
EXPORTS.			
Canadian.	1,358,419,580	1,210,541,587	1,208,919,175
Foreign.	42,761,192	58,511,284	36,807,793
Total exports, mdse.	1,401,180,772	1,269,052,671	1,245,726,968