

A REBUILDING CASE IN COURT.

The conflagration in Toronto on 10th January, 1895, seriously damaged a warehouse on Wellington street, which was insured in the Commercial Union Assurance Company for \$10,000. The owner of the building claimed the full amount of the policy, which the company regarded was not justified, as the walls were left in such a condition as to be available in reconstructing the warehouse. The owners having refused to arbitrate, or accept anything less than the full amount of the policy, the company determined to avail itself of the right expressed in the policy to rebuild. This was done under the oversight of a competent architect. The work was also inspected every day by the husband of the owner, who, during its progress, made no objections to the materials or workmanship. When the building was complete, the owner commenced suit against the Commercial Union, to recover alleged damages from the work of reconstruction having been done so defectively. The case was heard before Mr. Justice Rose, whose judgment, as are his judgments as a rule, is admirably lucid, and free from needless repetitions of the details of evidence. He points out that as the work had been entered upon against the wish of the owner, "it was certain to be criticized and viewed in an ungenerous spirit," consequently it had been conducted with special care. The judge regarded the wholesale criticisms of the reconstruction work as showing a spirit which deprived those criticisms of much of their force, they were so far overdone as to be unreliable. He took up each item of objection one by one, and decided each one to have been unsustained by the evidence. The judgment was that the Commercial Union was within its rights in rebuilding the warehouse, and the building re-erected was, in all respects, as good as the one which it replaced. The wisdom of the course taken by the Company is shown by the work of restoring the burnt warehouse having cost only \$5,000, while the owners demanded \$10,000, the full amount of the policy, as compensation for the damage done by the fire. This case affords an impressive illustration of the protective value of the rebuilding, or replacing clause in a policy, as that is the only certain test of the amount of damage done by a fire, and no honest claim can be made for indemnity to cover a loss which is greater than will stand this test. Arising out of the same fire, a dispute arose over the amount to be assessed upon a sister of the plaintiff in the above case for work done by the Commercial Union in strengthening a party wall, one half of which abutted on the land of the defendant. This wall formed part of the building which the Company undertook to restore. Before doing so, it was found necessary to widen the party wall from 14 up to 15 inches in order to comply with a city by-law. One half the cost of this was to be paid by the defendant owner of the two inches by which the wall was extended upon her property. Considerable efforts were made to prove that the new wall was improperly built, that it deviated from the true line, that the assessed cost was excessive, etc. The regularity of the arbitrator's appointment was also attacked. Judgment

was given by Chief Justice Meredith in favor of the Commercial Union for the amount claimed, with costs to be paid by defendant. We have no desire to judge the motive of the parties in these two cases. But the evidence and the tenor of the Judge's remarks point to the probability, that the too common prejudice against insurance companies led to the litigation against the Commercial Union, the expectation being that this prejudice would override equity and justice. Both judges were most emphatic in pronouncing that the pleas adverse to the Company were unsustained by reliable evidence. It is very easy for an agent to hand over a cheque in payment of a fire claim, but rebuilding involves considerable trouble. The above case, however, shows how the Company's interests on some occasions call for this much more troublesome course to be taken.

FRIENDLY SOCIETIES AND STATE PENSIONS.

The movement promoted by the Hon. Mr. Chamberlain for a system of old age pensions is exciting great interest amongst the English friendly societies, whose judgment on this scheme will have considerable weight. The High Court, which is the annual Parliament of the Ancient Order of Foresters, recently condemned the proposal by a vote of 329 to 56, as inimical to friendly society interests. That society includes 719,643 male adults, with honorary and other members, making a total membership of 888,304, representing a population of some 3 to 4 millions. Its funds amount to \$28,085,000. Clearly a body to be reckoned with by political leaders if its interests are menaced. The vote of the High Court expresses the convictions of probably as intelligent and self-respecting body of men as could be selected from the artisans of any country, and who represent the views of the great bulk of their own class. The Independent Order of Oddfellows are less opposed to State pensions, as they consider it feasible to arrange them on a system not antagonistic to friendly societies. The Oddfellows, however, are not so essentially a working man's society as the Ancient Order of Foresters, as they comprise a very much larger percentage of small traders, store assistants, and others not strictly "working men," in the common acceptance of that often much abused phrase. The Foresters are especially, and very honorably, imbued with an intense repugnance to pauperism in any form, even to the extent of entertaining a strong feeling against the reception of eleemosynary aid by members when in distress. The dues paid by members to provide medical attendance for the sick, also a weekly allowance while disabled, and provision for funeral expenses, by no means cover the aid given to members and their families by this Society. Voluntary levies are constantly made in the Courts for charitable purposes, to meet special cases of need, so as to prevent any Forester or his family seeking, or accepting, outside help. The very genius of this Order puts it in opposition to State pensions. This is already on record in public documents, and it will come out in the evidence given before the Royal Commission on old age pensions. This spirit of personal independence, which is one of the noblest