pro rata division made of through freight so handled; but that is a very different thing from "obtaining running powers." A very proper stipulation finds place in the memorandum of the reconstruction scheme, *i.e*, that the bonds are not to bear interest until a certificate is issued by a Government Commissioner that the road has been properly built and kept up. This is only fair to the contributing municipalities.

UNJUST INSURANCE CLAIMS.

We have ever been unsparing of insurance companies who have sought to shield themselves from loss by resorting to the technical defences afforded by conditions of questionable justice. While we consider such devices as inexcusable, it is quite a different matter to say that every claim made against a company should be paid. It is as much the duty of every honest company to resist unjust and fraudulent claims, as it is to abstain from opposing *bona fide* ones. No doubt the difficulties with which companies resisting claims on the ground of fraud have to contend are very serious. This is frequently urged as a justification for resorting to all sorts of defences in cases where fraud is suspected. Apart from the other objections to this it should be remembered, that such a course is calculated to alienate still further the sympathy of the public and the courts, the lack of which insurers so frequently deplore. These difficulties make it the more praiseworthy when fraudulent claims are successfully resisted on their merits, and entitle the defendants to the thanks of the public as well as of other companies.

A recent case of this class is *Summers vs., The Commercial Union Assurance Co.*, a suit in the Court of Common Pleas for Ontario. The defendants resisted the claim chiefly on two grounds: 1st, that the person who issued the interim receipt was not the agent of the company; and 2nd. That the plaintiff had been guilty of fraud in procuring the receipt. The court overruling the finding of a Middlesex county jury before whom the case was tried, decided both these points in favor of the company. The first point may be disposed of with a few words so far as one present object is concerned. It appears the receipt was issued by one Smith on one of the company's forms, but without the knowledge of the head agents in Canada, who had never heard of the insurance until the claim papers were sent them. It was contended that Smith had acted under the authority of the company's local agent at London, which the local agent denied, though it was admitted that Smith had been permitted to canvas for risks on behalf of the local agent. The court held that even if all the evidence tendered by the plaintiff on this point were believed, the company was not liable for a local agent had no authority to appoint another person to sign receipts so as to bind the company.

On the other point it was shewn that the property covered by the alleged insurance of twelve hundred dollars was a flour mill situated on property purchased by the London Water Works for the purposes of that company. The only interest which the plaintiff had in it was that he had agreed with the water works company to buy the mill for four hundred and seventy dollars, the same to be removed by him within a limited time. The mill was never worked by the plaintiff nor was it in working order so far as appeared by the evidence.

The answer given in the application to the question as to how the property to be insured was occupied, was "as a custom flour mill (water)". In answer to another question it was stated that the machinery ran true. To the query whether an engineer was employed, the answer was "none employed (water mill)". As to disposal of ashes it was said they were "thrown in river". Throughout the application the answers were given in the same manner, leading any one who read it to suppose that the mill was a going concern, The value of the property was represented as sixteen hundred dollars. The court held this to constitute such fraud as to vitiate any policy, Mr. Justice Galt, remarking that he had never known of a more unjust claim being made against any company.

BOOTH *vs* PHŒNIX MUTUAL ASSURANCE COMPANY.

This is an action in the Court of Queen's Bench for Ontario, on an interim or provisional receipt issued by C. T. Brown, the local agent in Barrie of the Phœnix Mutual Insurance Co. This receipt was issued on the strength of an application describing the property desired to be insured as owned by Mr. Booth and his wife. The receipt was made conditional on the approval of the directors of the Company, but provided that the property should be deemed to be insured under the receipt for 40 days unless notice of disapproval were in the meantime given. The policy when issued was to be for three years. The property being destroyed by fire before the expiration of the forty days, payment was demanded and refused, whereupon the suit was brought.

Among the defences set up were the two following:—first, that the insured had no interest in the property; and second, that by the terms of the receipt the interim insurance was to be deemed to be subject to all the conditions contained in the ordinary policies of the company; which conditions required among other things, a full disclosure of all incumbrances existing against the property. This, it was contended, the plaintiffs had not made, there being a mortgage in favor of one Boys on the land for $250 which was not referred to in the application.

On the trial which took place at the Barrie Fall Assizes it appeared that the applicant, in answer to the question as to incumbrances, had replied by saying "mortgage $1000." As a matter of fact there were two mortgages on the property; the first being to the Canada Permanent Building Society, on which there was due at the time of the application about $740, and the second to Mr. Boys for $250. It further appeared that, subject to these mortgages the land had by an assignment absolute in form, been transferred to one Ardagh. This was shewn, however, to be a conveyance really upon trust, with power to Mr. Ardagh to sell the land and apply the proceeds to pay a debt due to himself and certain other debts, and to hand the balance back. The fact that Ardagh had an interest in the land was disclosed in the applicant's answer to another question; and it further appeared that both the local agent and the head office were aware of the transfer to Mr. Ardagh before the giving of the receipt.

The Jury having been dispensed with, and the conclusion of the hearing having been adjourned to Toronto, a verdict was given in plaintiff's favor for the amount claimed. The company then brought the case before the full court, where after argument and consideration the learned judges unanimously sustained the original finding. An application by the defendants to be allowed to amend their pleadings so as to raise further technical points was refused, the Court considering the company entitled to no sympathy. In conclusion Chief Justice Hagarty remarked that insurance companies had gone to such lengths in framing extraordinary defences to claims which they dare not call dishonest, that he considered it no hardship to hold them strictly to proof of these defences in the shape in which they were pleaded.

ANOTHER ONTARIO MUTUAL FIRE COMPANY CLOSED.

A month ago we noticed the closing, by Order-in Council, of the business of the "Imperial Hand-in-Hand Insurance Co., of Ottawa. Another weak company, the Empire Mutual Fire, of this city, was, after examination by the Ontario Inspector of Insurance, gazetted on Saturday last. Its assets being "insufficient to justify the continuance of business," and it being considered "unsafe for the public to effect insurance with it," the company is prohibited by Order-in-Council from doing any further business. We have no doubt that this order was necessary and right. It is, of course, an ignoble ending for a highly-titled concern, which, if we remember rightly was heralded some sixteen months ago as promising "cheap insurance, perfect security and prompt payment of claims." Having an apparently unquenchable thirst for organizing mutuals, the moving spirit at the inception of both the suspended 'EMPIRE' and the defunct 'RELIANCE' will very probably proceed to organize another Mutual Fire Company, taking, say, the 'WORLD' for his title this time. We can discover no reason however, why, having failed in founding a decently safe company in 1878 or 1877, he will succeed in doing so in 1880. Those gentlemen who have been already beguiled into temporary belief in his own abilities and his companies' possibilities will not, we venture to say, be found upon his future boards of directors.