LEGAL DECISIONS.

LIABILITIES OF SLEEPING CAR COMPANIES.

Pullman Car Co. v. Pollock, Sup. Ct., Texas.

The facts in this case are briefly as follows: A passenger, P., deposited his valise in the smoking-room of the sleeping car, the porter of which knew of its deposit there. P. stepped out of the car at one of the stations to send a telegram, on his return to the car, the door of which he found open, and the porter absent, and his valise missing. He sued the car company for its value, consisting of ordinary travelling property, and recovered judgment in the trial court. The company carried the case to the Supreme Court of the State, where the judgment was affirmed. The Court, in its opinion, say:—

"While a sleeping-car company is not liable as a common carrier or as an inn-keeper, yet it is its clear duty to use reasonable care to guard the passengers from theft, and if, through want of such care, the personal effects of the passenger, such as he might reasonably carry with him, are stolen, the company is liable therefor. Such a rule is required by public policy, and by the true interests of both the passenger and the company; and the decided weight of authority supports it. The facts that a railroad company to whose train a sleeping-car may be attached may not own such car, or control its internal arrangement, and that same may be under the control of a company which does own and operate such car, and that the main compensation for transportation may be paid to the company to whose train the sleeping-car is attached, do not deprive the company so owning and operating the sleeping-car of the character of a passenger carrier; for the contract of such a company is not only that the passenger may sit and sleep in the car during the journey for which he contracts, but it goes further, and binds the owner of such car to transport the passenger in it, or some like carriage to his place of destination, the passenger having paid the fare demanded by both companies."

DEATH BY INHALING GAS.

U.S. Mut. Accident Ass. v. Newman, S.C.A., Va., Dec., 1887.

Policy clause provided that "no recovery could be had upon the policy, unless it was established by clear and positive proof that the death of the insured was "caused by external, violent and accidental means;" or where death was the result of taking "poison, or by contact with poisonous substances." The insured died from inhaling coal gas. The trial court refused to instruct the jury that inhaling coal gas was taking poison, if they believed coal gas to be a poisonous substance which, when inhaled, destroyed life. Held by the court to be no error and that what constitutes "external and visible signs" of an injury is a question of fact for the jury. Also, that words excepting the company from liability, where there is a question of intent, should be construed most strongly against the insurance company.

PAYMENT OF PREMIUM.

Home Ins. Co., N.Y. v. Gilman Ex., S.C., Ind., Sep., 1887.

The delivery of a policy acknowledging payment of premium, concludes the company from denying payment for the mere purpose of defeating the insurance, though it is only *prima facie* evidence in a suit to collect the premium.

Cash payment of premium may be waived by an agent authorized to deliver the policy, notwithstanding a provision therein to the contrary.

Credit to the company for the premium in the agent's account or credit by the agent to the insured; or payment to the agent is sufficient payment.

An agreement by such agent to credit the insured with payment in settlement of a personal indebtedness is valid, in absence of fraud.

PAYMENT OF OVERDUE PREMIUMS.

Unell v. Hartford Life and Annuity Ins. Co., U.S.C.C. Dist. Me.

When a life policy provides that payment of premiums should be made on a given day or days, and that, in default of such payment at the time specified, the policy shall be void, but the company issuing the policy afterwards pursues a practice of accepting premiums after the time of payment specified in the policy, without insisting upon the forfeiture, then such practice of receiving premiums overdue operates as a waiver of the right of forfeiture.

A receipt for an overdue premium contained the following condition: "It being understood that the receipt by this company of payments after date due is only on condition that the member is alive, and in good health, at the date of such receipts."

Held: That such receipt, even though it be for an assessment paid after it was due, does not tend to show a waiver by the company of its right of forfeiture for non-payment of dues at maturity, except in the event that the assured is alive and in good health when payment is tendered.

LIABILITY OF AGENTS NOT OBEYING ORDERS.

Washington F. & M. v. Chesebro, U.S.C.C. Dist. Conn., Sept., 1887.

Upon receiving report of an insurance, the company wrote to the agent, "Please remove us at once of the risk. The property in itself and the exposure to the same, would make it prohibited with us. Let us have policy by return mail." Agent replied that he thought the company was mistaken as to the character of the risk, etc., and that he was holding it subject to the company's order, and would return the policy if desired. The company reiterated the order for its return, and the agent returned the policy, which had not yet been delivered to insured; but the contract had been made binding, but he failed to notify the insured of the cancellation prior to the fire which occurred a few hours after.

Held: That the agent was liable to the company for a loss incurred through his delay in obeying imperative orders to cancel.

OTHER INSURANCE "VALID OR OTHERWISE."

Jugg v. Hartford Insurance Co., S.C. North Carolina, Oct., 1887.

The policy provided that it "should be void in case of other insurance, whether 'valid or otherwise,' either at the time of its issue or at any other time during its continuance." Insured took out two other policies, containing the same provisions, without notice to the first company.

Held: The fact that they (the other policies) were invalidated by the orginal policy did not affect the forfeiture clause in that policy, which prohibited such insurance, whether valid or not.

COMPROMISE OF LOSS CLAIM: FRAUD CHARGED.

Home Insurance Co., N.Y., v. Howard, S.C. Ind., Sept., 1887.

The plaintiff, in Court below, claimed that he had been induced to compromise his loss claim, and to consent to a surrender and cancellation of the policy by misrepresentation.

Held: No action at law to recover upon the policy could be maintained, until the contract of settlement and cancellation had been rescinded by an offer to return the consideration received for it, where the company denied that any liability existed on account of the policy.

Held: An action might lie to rescind the compromise by offering in the complaint to restore what was received, if so adjudged; or a suit for damages might be instituted against those liable for the deception that induced the compromise.

Fires in Hotels in the United States.—The *Chronicle*, New York, gives for the three years ending with 1886, a table of fire losses in hotels in the States, shewing the aggregate loss of property $11,520,000. Aggregate insurance loss, $5,986,695. The causes of fires were, unknown 636 cases; due to exposure, 481 cases, cases outside of exposure, 374; total cases, 1,491.

The apparent chief cause of fires aside from exposure, is incendiarism, of which 121 cases were reported; the next cause was defective flues, of which 114 cases are reported; explosions of lamps 22; of natural gas, 3; of oil stoves, 2; of gas, 2; of gasoline, 1; total from explosions, 30. The remaining cases being mostly few each from various causes. A twelve years' record of the number of hotel fires shows an average annual burning of 403, or more than 1 and 1-10 of one per day.