

introduced in the lower house a bill providing for national supervision of insurance as belonging to interstate commerce, the same as railways and national banks. The bill went to the appropriate committee, but was never reported back to the house for action.

INSURANCE AS INTER-STATE COMMERCE.

The agitation of the question has, however, continued, and early at the opening of the present Session of Congress, a bill, drawn by Col. Tyler, a lawyer of Washington, D.C., was introduced in the Senate by Senator Platt of Connecticut, consisting of twenty-one sections, the preamble of which declares insurance by companies transacting business in states other than the state where organized to be interstate commerce. The project has been and is being extensively discussed by all the insurance journals in the United States, some for and the majority against the bill, while the officials of the various insurance companies of all classes are about equally divided, apparently, as to the practicability of the proposed law. The objections rest, in the main, upon two grounds.

First, that the provision of the Federal constitution, which confers on Congress the power to regulate commerce as between the several states, cannot be construed to include insurance, which is not a commodity in a commercial sense. In direct proof of this, the decision of the Supreme Court of the United States, rendered, we believe, in 1868, in the case of *Paul* against the State of Virginia, is cited, in which it was held that insurance did not come under the provision of the constitution for the regulation of commerce between the States. The language of the Court on this point was as follows:—

The defect of the argument (of the companies) lies in the character of their business. Issuing a policy of insurance is not a transaction of commerce. The policies are simply contracts of indemnity against loss by fire, entered into between the corporations and the assured for a consideration paid by the latter. These contracts are not articles of commerce in any proper meaning of the word. They are not subjects of trade or barter offered in the market as something having an existence and value independent of the parties to them. They are not commodities to be shipped or forwarded from one state to another and then put up for sale.

Some other decisions of the Supreme Court have been made since of a similar tenor, though not involving exactly the same issues, but more particularly with reference to

THE STATUS OF AN INSURANCE CORPORATION

in a state other than where organized and chartered. It has been uniformly held that a company cannot exercise any of the functions or privileges conferred by its charter granted by a particular state, in any other state except by the consent of the latter, which may ordain the terms on which it shall be permitted to do business, if at all. It is argued by the objectors to national supervision that Congress cannot over-

ride this right of the individual State to admit or refuse admission to an insurance corporation of another State or specify the terms of admission.

On the other hand, the

ADVOCATES OF NATIONAL SUPERVISION

argue that a strictly technical construction of the Federal constitution ought not to prevail, and that insurance is practically a part of commerce, indispensable to it, and that any court may, for good reasons and in the light of added experience, reverse its own opinions. It is also argued that the general government has no more right under the constitution, strictly construed, to provide for the formation and supervision of the various "national banks" than it has to charter or to regulate insurance companies; and that the principle of "State rights" is preserved in the provisions of the Platt bill, which exempts from the regulation by the proposed national bureau of companies doing business only in their home States, or where chartered.

The second chief objection urged against national supervision is that disputes in the matter of jurisdiction are sure to arise between the States and the Federal Government, and for two or three or a half dozen years, pending authoritative decision by the courts, the companies will be "between the devil and the deep sea," and subject to annoyance beyond measure. To this it is replied that a test case can be made up early, upon the passing of the national supervision act, and a decision rendered by the United States Supreme Court which, with little delay, shall settle the question of authority under the act. As to the desirability of national supervision, provided a system can be devised which shall substitute regulation by a Government bureau for

THE MUTUALFARIOUS REGULATIONS

of forty-five separate States, there is, so far as we have observed, no differences of opinion, for the evils of the present separate State system are universally recognized, among which is the payment annually by the companies of several million dollars for license fees, taxation on premium receipts, and the like. The act introduced in the Senate by Senator Platt provides that no company transacting an interstate business and duly licensed therefor, by the national bureau, shall be subject to premium tax, license fees, etc., exacted by the several States.

We need not at present burden our readers with the specific provisions of the proposed act pending, which with some amendments, will provide for a systematic and effective inspection of companies and a sufficient regulation of their business as public corporations. The problem under the "State rights" features of the Government under which our neighbors live seems to be a somewhat knotty one as to how the exclusive Government control, manifestly so desirable, can be legally and effectively brought about. The outcome will be watched with a good deal of interest by our people on this side the line.