

THE LAW OF RE-INSURANCES.

Re-insurance is merely insurance applied in a special way, and to cover, in whole or in part, a particular risk already assumed. A policy of insurance being once signed, the underwriters are bound by the terms of it; nor can they be released from their contract without the consent of the insured. But if an underwriter repent of what he has done; if he has incautiously bound himself to a greater amount than he may be able to discharge, he may shift all, or part of it, from himself to other insurers, by causing a re-insurance to be made on the same risk, upon the best terms he can, and the new insurers will be responsible to him in case of loss to the amount of the re-insurance. But they will be answerable to him only, and not to the original insured, who can have no remedy against them in case of loss, even though the original insurer becomes insolvent, because there is no priority of contract between them and the original assured. If, therefore, the original insurer fail, so that the original insured received only a dividend, however small, the re-insurer can gain nothing by this, but must pay full amount of loss to the original insurer. Re-insurance is a contract of insurance by which the original insurer becomes himself assured in respect of the same subject, upon the same risks, and under the same conditions as are expressed in the original policy.

In all cases of re-insurance, whatever may be their ground, the re-insured stands, as to his insurers, in the same relation in which the original insured stands to him. The re-insurers may make the same defence against him which he could make against the original insured. They may have defences against him which he could not have against the original insured. If, for example, the original insured was perfectly honest in obtaining his insurance and his insurers obtained re-insurance by fraud, concealment, or misrepresentation, this would be a good defence against them; and if an insurer, when applying for re-insurance, withholds such knowledge as he possesses in reference to the character of the party insured, or any circumstances of the case, and the information would be material to the risk or to the amount of the premium charged, the concealment would avoid the policy of re-insurance. This has been held in the case of fire insurance, and we have no doubt that the same principle would be held applicable to a case of marine insurance. But if the original insured obtained his insurance fraudulently, and his insurers obtained their re-insurance honestly, the re-insurers may defend against the re-insured on the ground that he had a good defence on the original insured, and consequently was at no risk, and had no insurable interest. In such case, the re-insurer would defend against the claim of the original insured, or might leave it to the re-insurers to defend in their name. If the re-insured defended against the claim of the original insured, on reasonable grounds, and were unsuccessful, the re-insurers would pay to them not only what they had to pay on their own policy, but the cost and expenses of the defence; unless the re-insurers had withheld their sanction, either expressly or by implication. The re-insurer is not bound to pay his insured, and found his claim on

the actual payment, before he can call upon the re-insurer. For if the re-insured be insolvent, and pay but a small dividend on their policy, they have still a claim on the re-insurers for the whole amount for which they are re-insured — this amount being measured by the risks which the re-insurers assume.—The Review.

UNLICENSED COMPANIES PROHIBITED FROM OPERATING IN NOVA SCOTIA.

Very commendable steps are being taken in Nova Scotia to prohibit any company, unless under license from the Provincial Government, from doing business within the Province.

We understand that legislation is now under consideration by the Nova Scotia Legislature to the above effect. Under this legislation no person acting under behalf of an insurance company will be permitted to solicit or accept any insurance risk, or deliver any interim receipt or policy of insurance, or receive any premium or carry any business of insurance, or inspect any risk, or adjust any risk, or do anything else relating to the insurance business except when duly licensed.

The above refers to all kinds of insurance. Dealing more specifically with fire insurance is another piece of legislation under which every fire insurance policy in respect of any property situate in Nova Scotia must be signed by an agent resident in Nova Scotia at the time the contract is made, and the insurer shall be deemed to have no such agent at the time contract is made unless before that time the insurer has filed with the Government an appointment of said agent.

After the coming into effect of this legislation both the government, people and the local insurance men will be adequately protected. The government will be able to collect taxes on all insurance premiums. The people will have the assurance that they can collect their insurance money or know the reason why; for if an insurer having no agent in the province fails to settle, the insured is put to all the extra trouble and expense of taking legal action outside the province and perhaps outside the country. The companies doing business within the province and contributing to the provincial revenue are not made to suffer the disadvantage of that one per cent., which is a fixed charge, and to which extent, at least, an outsider may now cut in order to get business.

The Chronicle commends the above legislation to the Governments of each Province in Canada; any other arrangement is not thorough and fair to an agent established within the Province representing the regularly licensed companies upon whom falls the burden of numerous taxes and other expenses.

If the Government wants to conserve its food supplies it should insist upon fire protection, instead of trying to bluff the insurance companies to increase their lines by threat of government competition. Fire insurance will not restore the burned necessities.