

WHAT IS A WAR RISK?

The recent English case of Ewing vs. the Employers' Liability Assurance Corporation, referred to in our issue of August 4th, is a particularly interesting one to accident companies, and accordingly we append a longer report of the case than was available a fortnight ago. The point at issue, it will be in recollection, is as to what constitutes a war risk under the accident policy in question.

By a policy of insurance dated October 12th, 1905, James Robert Ewing was insured with the defendants against death caused accidentally within the United Kingdom by violence due to any external and visible means in the sum of £1,000, with the benefit of certain bonuses. Such policy was subject to the following condition:—

This policy does not insure against death or disablement directly or indirectly caused by, arising from, or traceable to, any of the following:—Self-injury or suicide, intoxicating liquor, war invasion or civil commotion.

The deceased was an officer in the Reserve of Officers, and on September 30th, 1914, after the outbreak of war, he received a commission to be a captain in the Territorial Force, commanding a company of the Royal Sussex Regiment. As the Realm was in a state of war it became necessary to protect the South-Eastern Railway in and about Folkestone Junction by means of guards and sentries posted at various points along the line, and the duty of such protection was assigned by the military authorities to the deceased and his company. Such guards and sentries were visited by their officers at night, and it was the duty of Captain Ewing, as commanding officer, to visit them from time to time, and it was his practice to do so. To visit the guards and sentries it was necessary to walk alongside the rails of the railway. On the night of May 17th, 1915, Captain Ewing walked along the railway in the course of his duty to visit the guards and sentries, and he was accidentally killed by a train.

Before the arbitrator the plaintiff contended that the exception of "war" in the condition should be limited to cases of actual warfare acting physically in some way on the person of the assured to his detriment or injury, and that the words "directly or indirectly" did not apply to the words "arising out of or traceable to." The arbitrator held, subject to a case for the opinion of the Court, that the death was traceable to war, and he awarded that the plaintiff was not entitled to recover anything.

WAR THE INDIRECT CAUSE.

Mr. Justice Scrutton, after stating the facts and reading the material parts of the policy, said that the contention of the company was that though the death was caused accidentally by external violence the death was "indirectly caused by, arising from, or traceable to war." So far as it was a question of fact, the arbitrator found as fact that the death was traceable to war. The construction of the condition was not easy, and the discussion on the case might lead the company to amend its wording to make it clearer. In all policies of insurance it was necessary to bear in mind the rule that *causa proxima non remota spectatur*; the immediate cause of the accident was the material matter. Words in a policy which appeared to deal with remoter causes were still construed in accordance with this

universal maxim. In this policy the words "caused by or arising from" raised no difficulty. The words "traceable to" were very vague, but they would be construed strictly against the company in accordance with the ordinary maxim. The words "directly or indirectly" were more difficult and no authority had been cited to show how they should be construed. In his opinion they could not be reconciled with the maxim that the proximate cause only was to be regarded, and their effect was to throw them back to something behind the proximate cause. How far they could go back was a difficult problem; the line must be drawn somewhere; but he could not find any principle which would prevent the arbitrator from finding that war was the indirect cause of this accident. If war had merely caused Captain Ewing to be in a position of danger and his death had then been caused by something—by lightning, for instance—which had nothing to do with war, it might be that the cause of death would have been too remote. But here the deceased was in a place of special danger in the course of his military duties and was killed by a special danger prevailing at that place, and it was impossible to say that the arbitrator could not find as he did that the death was traceable to war. The appeal must therefore be dismissed.

WHO PAYS FOR FIRE WASTE?

One of the most effective fire prevention arguments used recently in Canada is contained in a folder issued by the London & Lancashire Fire. The folder takes as its text the statement that fire waste in Canada amounts to \$3 per capita per annum—the highest per capita fire waste in the world.

Now, \$3.00 per capita, proceeds the folder, may not seem much, but it means that every man, woman and child has to pay \$3.00 per year for fire waste. Every family of four pays \$12.00 a year—\$1.00 a month.

While we may imagine the Fire Insurance Companies pay this loss, such is not the case. We pay it—on our shoes, our clothes, our groceries, our carpets, our furniture. Take wool, for instance. Wool is insured in transit, it is insured in the warehouse, it is insured in the textile factories, it is insured in the clothing and departmental stores. All the way along, from the back of the sheep, wool carries a fire tax, and when we buy a piece of wool we pay that indirect tax concealed in the cost of the goods. He is a poor manufacturer these days who doesn't insure his goods, and who doesn't include his insurance premiums in their cost.

When we realize that we pay every year this tax, that we are paying (wasting) 5% interest on a \$420,000,000 investment (nearly our estimated 1916 war cost), we may read the reports of fires with less indifference—we may realize our individual responsibility—and when we do, a new era—of carefulness—may dawn, the fire waste be cut in half, the rates for insurance be lowered and the cost of living reduced.

Russian fire companies are now busy opening offices in London, England. Re-insurance business, which formerly went to German and Austrian companies, is probably an attraction, as well as direct writing.