FIRE INSURANCES AND SUBROGATION.

It is well settled that a policy of fire insurance is a contract of indemnity, and that the insurer on making good the loss is entitled to stand in the place of the insured. If, therefore, at a subsequent time the person insured receives from another source compensation for the loss which he has sustained, the insurer can recover from him any sum which he may have received in excess of the actual amount of the loss. Thus if a landlord insures against fire by a policy which covers gas explosions, and the tenant's covenant to repair contains an exception for the case of fire only, the insurers can recover the amount of the insurance money from the landlord in the event of the demised premises being damaged by gas and of the tenant reinstating them in pursuance of his covenant. And in *Castellain* v. *Preston* the Court of Appeal held that the doctrine of subrogation as between insurers and insured is applicable in its largest possible form; in the words of Lord Esher, 'the underwriter is entitled to the advantage of every right of the assured, whether such right consists in contract fulfilled or unfulfilled, or in remedy for tort capable of being insisted on or already insisted on, or in any other right, whether by way of condition or otherwise, legal or equitable, which can be or has been exercised or has accrued, and whether such right could or could not be enforced by the insurer in the name of the assured, by the exercise or acquiring of which right or condition the loss against which the assured is insured can be or has been diminished.' This definition seems at first sight sufficiently extensive, though Lord Esher guarded himself by saying that, if it is not so, he must have omitted to state something which ought to have been stated. And it must now be supplemented by the corollary that the insurer is entitled to recover from the insured the full value of any rights or remedies against third parties which the insured has renounced, and to which, but for such renunciation, the insurer would have a right to be subrogated. This seems to be the result of the recent case of *The West of England Fire Insurance Company* v. *Isaacs*, in which the company recovered the amount which they had paid to the defendant in respect of damage by fire to a warehouse of which he was tenant; the defendant having for his own reasons released his landlord from a covenant to make good such damage, and thereby having deprived the company of their right of subrogation.—*Law Journal* (London).