

CASUALTY REINSURANCE DISPUTE.

The already noted Tjader case bids fair to result in *une cause célèbre* indeed, in casualty insurance annals. As the New York correspondent of THE CHRONICLE intimated a week ago, a law suit may arise regarding the liability of the insuring company to its reinsurers.

Briefly the facts of the Tjader claim may be summarized as follows from the account given by The Standard, of Boston:

Tjader claimed to have been injured in a street car accident and received weekly indemnity amounting to \$6,500. Later, on the representation that he was threatened with permanent paralysis and liable to die at any time, the claim was settled on payment of a further sum of \$18,000, the policy being for \$50,000 and containing the usual double indemnity clause. The reinsuring companies do not question the propriety of the first payment of \$6,500, but as to the sum of \$18,000 paid in final settlement they maintain that the assured was willing to settle for \$5,000; that Edward Childs, who adjusted the claim and through whose representations the Casualty Company of America paid the larger amount was the agent of the company, and that, therefore, the company should refund to the reinsurers the sum of \$13,000, the difference between the amount paid and the sum for which the assured was willing to settle.

As a consequence of an investigation made of the case by the Casualty Company of America, following a newspaper item which indicated that Tjader's injuries were not so serious as claimed, the company secured a refund of \$6,500 and returned their *pro rata* amount to the reinsuring companies, less \$1,432.44 for expenses, which did not include the services of the officers and employees.

With regard to the balance of the overpayment, Mr. Spaulding states that no action has been instituted for its recovery, but that if the reinsuring companies so desire, his company will begin proceedings, providing the reinsuring companies will agree to pay their proportionate share of the expenses and of any judgment that may be recovered against the company. He maintains, however, that the company is not liable for the amount of the alleged fraud committed by Childs.

The position taken by Mr. Spaulding with the reinsuring companies is as follows:

"Your present contention—that you have the right to recover from us the balance of the moneys, is astounding and proposterous. If there were any sanction for the extraordinary attitude you take, it would deprive all insurers, in cases in which they are protected by reinsurance, from questioning the propriety of any settlement, after its consum-

mation, for fear that, if they, by their vigilance, should learn that a fraud had been committed they would be compelled to sustain loss equal to the amount of the fraud unearthed, and that their energy would inure only to the benefits of the reinsuring companies. Such a doctrine would place a heavy premium upon sloth, inactivity and the suppression of truth.

"All adjustments under accident policies are made through agents of corporations and for reinsuring companies to assert that in any case in which an assured pays to the agent of the insurer a portion of the moneys received by him, the insurer must pay over to the reinsurer the amount of such moneys, would invalidate settlements made in the best of faith, nullify the provisions of reinsuring contracts and involve insurance companies in unwholesome broils and entanglements."

**HAVE THEY COME TO THEIR "DEAD CENTRE."**

So long as applications for membership largely outnumber lapses and deaths, an assessment society may keep up its apparent progress. Once let there be a reversal of this condition, and upward movement gives way to downward. The loss in Canadian membership last year on the part of assessment orders reporting to the Dominion Government was marked. At the close of 1908 there were 130,143 certificates in force for \$130,124,884, as against 137,024 certificates for \$144,274,026 a year earlier—a loss of about 7,000 in membership. A much larger number of societies report to the Ontario Government than to the Dominion, and among them are some comparatively new orders that have yet to feel the stress and strain of aging. Still, all told, the membership in assessment life organizations reporting to the Ontario Registrar of Friendly Societies decreased from 1,008,352, to 1,008,154, or by about 100. Insurance represented by the certificates in Ontario and elsewhere decreased from \$1,406,340,043 to \$1,393,953,345, or by about \$12,000,000. Ontario membership decreased from 279,755 to 278,055, or by 1,700—showing that in the "banner province" itself, popular faith in assessmentism is waning in marked degree.

It will be remembered that during the last session of the legislature the Attorney-General was asked what steps, if any, were being taken by the Ontario Insurance Department to place fraternal societies on a sound financial basis. The reply was made that no compulsion was being exercised or contemplated in the matter, but that the department was keeping constantly before the societies the necessity for reform of premium rates. It is to be noted, however, that in 1890 the legislature stopped the further incorporation