DANGER OF PLACING INSURANCE WITH UNLICENSED COMPANIES.

The question of the assured dealing with unlicensed Companies with the hope of saving money thereby, is clearly shown to be a fallacy, in at least one case, by a recent important decision of the Supreme Court in the United States, in the case of A. Davis & Son, Limited, Kingston, Ont., against the Russian Transport & Insurance Company. The facts appear to be that the Messrs. Davis in order presumably to get insurance at a lower rate, than that quoted by regular licensed Companies placed portion of their insurance with the Russian Transport Company, not licensed to operate. A fire occurred in August, 1914, since which time the matter of payment of the loss has been before the United States Courts. And a decision was rendered this month against the Plaintiff.

The brokers of A. Davis & Son, Limited, undertook to replace certain insurance obtained from the Russian Transport & Insurance Company by obtaining insurance in other companies. After binders had been obtained from other companies, but before the Russian's policy had been returned for cancellation, a loss occurred. The insured retained the binders obtained from the other companies and collected from the other companies and then brought suit on the Russian company's policy.

The Court held that, although the broker had no express authority to cancel the policy, the insured by retaining the binders and collecting the insurance from the other companies had ratified the act of the broker in replacing the policy of the Russian company and thereby cancelled its policy. Another very interesting and important point decided in this case is, that the insured must show that proof of loss was received by the company within sixty days after the loss, and that it was not sufficient to show that proof of loss was mailed to the company forty-six days after the loss, as there was no proof that the letter was delivered at any particular time.

Mr. William B. Ellison, a well known and eminent New York lawyer, counsel for the assured in the case, when spoken to regarding the decision said:—

"The very recently decided case of A. Davis & Son, Ltd., against the Russian Transport & Insurance Company by the Appellate Division of the Supreme Court in this department, should be an object lesson to brokers who handle this class of business, and to the assured who are led to accept this class of alleged protection.

"The Russian Transport & Insurance Company in the case referred to, was organized under the laws of Russia, with its head office at Petrograd, and it was doing business in this State through what it pleased itself to call a 'Correspondent.' When fire occurred, a proper proof of loss was duly mailed to the company at its head office at Petrograd in a post-paid wrapper with the ordinary return card upon it and registered. This was done forty-two days after the fire. The letter was never returned by the assured, nor was there any proof offered that it was not duly received. There was no authorized agent of the company in this State or elsewhere in this country, so far as was known. On the contrary, the company's answer denied that it was doing business within the State through a duly authorized agent.

"On these facts the court held that the mailing of the proof of loss raised no presumption of its receipt under the circumstances, and the complaint was dismissed for failure to perform the conditions precedent of the policy in that regard. The Appellate Division fully sustains the ruling of the Trail Court. The law, therefore, as now apparently settled, leaves the burden upon the assured to prove the actual receipt of a proof of loss by a foreign non-admitted company, and the right of the assured to recover is dependent upon his ability to prove that fact. Under conditions now existing in Europe, such proof is almost impossible to secure, and the consequent danger of dealing with such companies is made quite apparent.

"Certain it is that the insuring public should not be left exposed to the conditions found to exist in the Davis case.

"The Legislature, in my opinion, should act in the matter, or companies like the defendent in the Davis case, should be effectively barred from the transaction of business within the State, and 'correspondents' and others of like ilk, should be made to father all policies issued through them in case of loss. There are provisions now in the law regarding the transaction of business by non-admitted companies, and it would seem to me to be but just to our own people to see that those provisions are strictly observed."