

LEGAL POINTERS FOR THE LIFE AGENT.

(Charles Ruby, Secretary Mutual Life of Canada at C. L. U. A. Convention.)

Just as the ancient injunction to love the neighbor as one's-self worked out on the civil plane in a past decade in the dictum that honesty is the best policy, so it has seeped through the business world of to-day and makes its appearance in the recognition that "service"—the kind that includes a real consideration of the interests of others—is an essential factor to genuine success. The life insurance field man who aims to give efficient service must be in a position to intelligently inform his patrons not only in their circumstances and needs, but also in regard to the effect of various dispositions of the benefits arising out of the contract and other points of insurance law which may affect them.

GENERAL IGNORANCE OF LEGAL POINTS.

Experience shows that the thought is quite general among the holders of life insurance contracts that so long as a policy has not been assigned, the assured is free to deal with it as he may see fit, regardless of any beneficiary appointment that may have been made. The idea seems to prevail that the appointment of a beneficiary is of the same nature as a legacy, namely, that it becomes effective only upon the death of the donor and is subject to his control in similar manner to a testamentary disposition. This lack of knowledge on the part of policyholders of the statutory provisions and restrictions affecting life insurance policies is frequently the cause of disappointment and in some cases of serious inconvenience. Such unhappy conditions might be largely avoided if the soliciting agent were in a position to intelligently advise an applicant in regard to legislative enactments. This paper has been prepared with the object of affording field men in concise form a fairly complete working knowledge of the laws of the various provinces bearing upon those matters with which, in the pursuit of their high calling, it is desirable in furtherance of the interests of all concerned that they should be familiar.

PROVINCIAL LEGISLATION.

Each of the provinces has legislation in regard to the business of life insurance; but the two older Provinces—Ontario and Quebec—to which statement must now be added the Province of Saskatchewan, are the only ones that have dealt with the matter in more or less complete form. As the Ontario Insurance Act appears to have been used as a basis for the insurance laws of the other provinces (with the exception of Quebec), the Ontario Act, bearing upon the points it is considered desirable to deal with in this paper, will be treated in more or less detail, and the enactments of the other provinces will be dealt with chiefly in regard to their variation from the Ontario Act.

ONTARIO LAW.

Section 155 of the Act stipulates that every contract of insurance, "if signed, countersigned, issued or delivered in Ontario, or committed to the Post Office or any carrier, messenger or agent, to be delivered or handed over to the assured, his assignee or agent in Ontario shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys

payable under the contract shall be paid at the office of the chief officer or agent in Ontario of the insuring corporation, in lawful money of Canada."

It is further stated that this provision shall have effect notwithstanding any agreement, condition or stipulation to the contrary in policies. With two exceptions, all the provinces of the Dominion have statutory provisions of similar import.

WHAT LAW GOVERNS.

One of the knotty questions that sometimes arise in dealing with life insurance policies is the matter of what law governs. It is to be noted that the provision quoted above states that "the contract shall be construed, etc." This does not mean that all questions arising in connection with a life insurance policy, contracted for in Ontario, are to be governed by the Ontario law, for it has been laid down that the construction of the contract does not include the determination of the status or rights of the beneficiaries thereunder, the latter being considered incidents of the contract, but not a part of the contract proper between the insurer and the assured. Owing to this distinction, difficult questions sometimes arise. If, for example, the assured under a contract made and delivered in Ontario subsequently become a resident of another province and desires to revoke or change a beneficiary appointment, and the laws of the two provinces in that respect are not uniform, the question arises as to which law prevails. While the matter has not been completely settled by court decisions thus far, the weight of opinion seems to indicate that, generally speaking, the law where the insurance contract was made will govern so far as the construction of the contract is concerned, but that the status and rights of the beneficiaries, and the rights of the assured in appointing or changing beneficiaries, will be determined by the law of the place of domicile.

INSURABLE INTEREST.

The Act provides in Section 169: "It shall be necessary for the validity of a contract of insurance that the beneficiary under it—if he is not the person on whose life the insurance is effected, or the parent, or bona fide donee, grantee or assignee, or a person entitled under the will of such person, or by operation of law—shall have at the date of the contract a pecuniary interest in the duration of the life or other subject insured."

The question of "insurable interest" is one about which there has always existed considerable haziness. One cannot procure valid insurance on the life of another if he has no interest in such life. In the main, the insurable interest consists of an interest appreciable in money.

When a person is insuring a life other than his own, and for his own benefit, it is his "insurable interest" which he is insuring, and hence where no insurable interest exists there can be no valid insurance contract. The courts have decided that such interest must be something more than an expectation or anxiety arising out of the life insured. There must be a vested interest in the life.

The result of authorities has been stated thus: "No person has an insurable interest in the life of another unless he would in reasonable probability suffer a pecuniary loss or fail to make a pecuniary gain by the other's death, or in some jurisdictions, unless in the discharge of some understanding he has spent money or is about to spend money for the other's support or advantage."