

CHAPTER XXIII.—INSURANCE.*

Insurance business is transacted in Canada by companies of the following classes: (1) companies incorporated under the laws of the Dominion of Canada or of the former "Province of Canada", (2) companies incorporated under the laws of the provinces of Canada, and (3) companies incorporated or formed under the laws of British and foreign countries. The word "companies", as here used, includes fraternal benefit societies and exchanges which transact the business of insurance. The Dominion Insurance Acts provide that companies of classes (1) and (3) above may not transact business anywhere in Canada unless registered† by the Dominion, but these Acts also provide that fire insurance on property in Canada may be effected in companies of class (3) even though not registered, if the insurance is effected without solicitation, advertising, or the use of the mails; and if an office is not maintained in Canada, though property to be insured may be inspected and losses may be adjusted. Insurance so effected is generally known as 'unlicensed insurance'. Companies of class (2) above may transact business in the province of incorporation, subject to compliance with the laws thereof, or in any other province subject to compliance with the laws thereof, or, on compliance with the Dominion laws, may be granted Dominion registration. Most of these companies limit their business to the province of incorporation or to one or more other provinces; a few only have been granted Dominion registration.

What has been said above implies that jurisdiction concerning insurance companies and insurance business is divided between the Dominion and the provinces. There have been many references to the courts and appeals to the Privy Council with a view to determining the respective legislative domains, both in respect of insurance legislation specifically and in respect of legislation affecting companies generally, including insurance companies. The latest Privy Council decision was handed down in 1931. It may now be taken as established that the Parliament of Canada may require companies formed or incorporated outside of Canada to obtain Dominion registration and to continue to be so registered as a condition of transacting business in Canada, and these companies may be required to make returns from time to time of their business and doings in Canada and to furnish evidence of their solvency. The powers of the Dominion go much further in reference to companies incorporated by the Parliament of Canada, but include all of the powers that may be exercised over companies formed or incorporated outside of Canada and registered by the Dominion. The Acts passed in 1932,‡ as since amended, implement the powers of the Dominion as determined by the Privy Council decisions.

The Dominion Acts under which companies are registered are administered by the Department of Insurance under the Minister of Finance. The chief officer of the Department of Insurance is the Superintendent of Insurance. The first Superintendent was appointed in 1875 as head of a newly created Insurance Branch of the Department of Finance. In 1910 the Insurance Branch was constituted into a separate Department, the Department of Insurance, under the Minister of Finance.

Precedent to obtaining first registration, in addition to filing certain documents, including a full and complete financial statement, a company must satisfy

*The statistics of Fire, Life, and Miscellaneous Insurance have been revised under the direction of G. D. Finlayson, Superintendent of Insurance, and those pertaining to Government Annuities (Section 4) under the direction of W. M. Dickson, Deputy Minister of Labour.

† Prior to 1932, the Dominion Insurance Acts provided for the "licensing" of companies; the Acts passed in 1932 provided for "registration". The change in terminology does not indicate any change in substance.

‡ The Canadian and British Insurance Companies Act, 1932 (22-23 Geo. V, c. 46). The Foreign Insurance Companies Act, 1932 (22-23 Geo. V, c. 47).