

PRINCIPLES OF INSURANCE LEGISLATION

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Principles of Insurance Legislation by Miles Menander Dawson

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MILES MENANDER DAWSON

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BY
MILES MENANDER DAWSON

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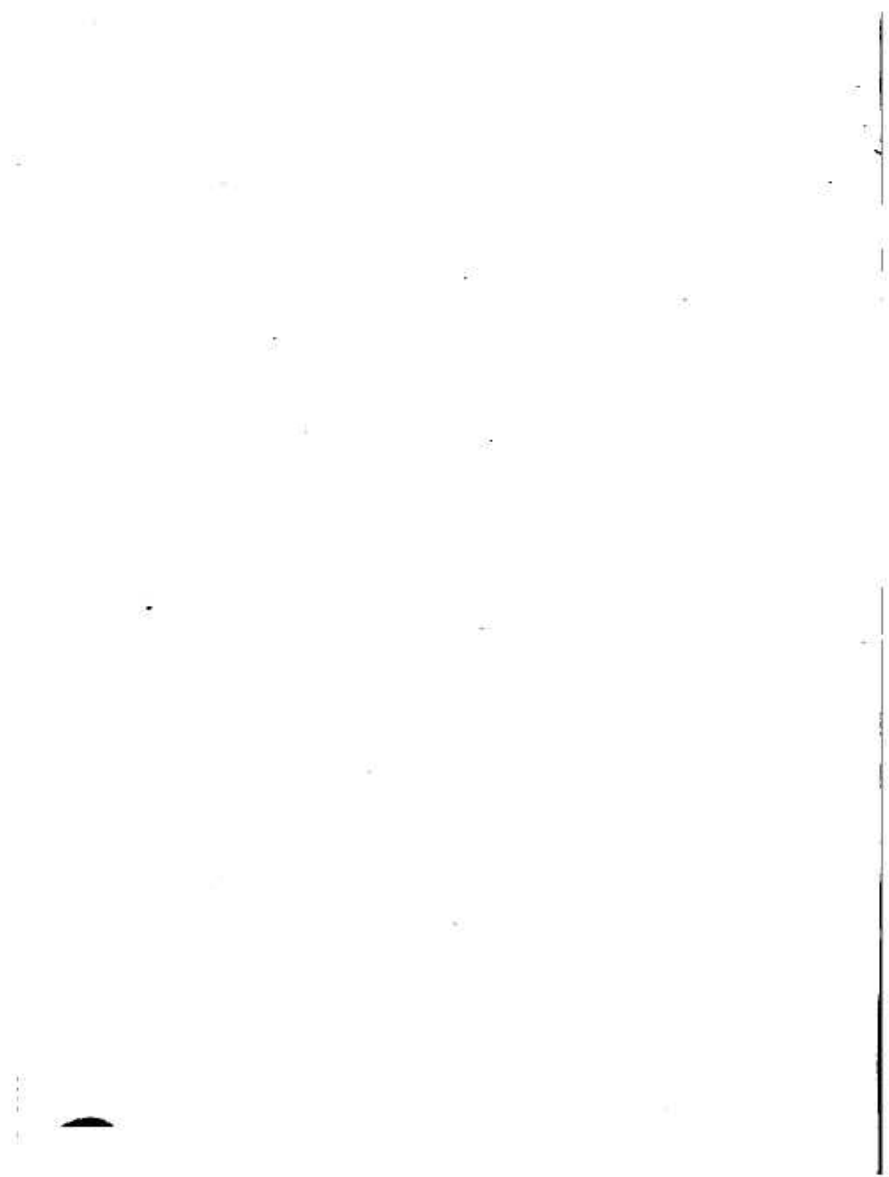
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THE NATURE AND SCOPE OF INSURANCE.

Insurance is the equalization of fortune. The definition may sound like a mere commonplace; but it is no such thing. The line of demarcation is just there. Insurance prevents those inequalities, which are induced by misfortunes to individuals, by spreading the loss over a larger surface, by dividing it among a larger number; by this very means also, the inequalities, caused by the good fortune of individuals, are sensibly reduced by their contributions to cover the common loss, by their premium payments. The kinship between insurance and gambling is close; they both deal with the science of average, applied to chance. And so far as that science is concerned, aside from the hazard arising from men's conscious efforts to gain which is known as the moral hazard, there is no distinction whether a company bets you that your house will not burn or that your neighbor's house will not burn.

But there is a difference, nevertheless, between those two transactions. The difference is that in the former case you have nothing to gain; you are merely striving to avoid loss or, more accurately, to share the risk of loss, common to such property. In the latter case, on the contrary, you will not only lose if the house of your neighbor does not burn, but you will also gain if his

house does burn. The latter transaction is, therefore, pure gambling, undertaken only for purposes of gain without giving an equivalent; its tendency would be to increase the inequalities of men's conditions, to magnify instead of modify the inequalities imposed by the chances of nature and society. The former transaction is, instead, pure insurance, undertaken only for the purpose of escaping instead of incurring a hazard; its tendency is to minimize the invidious inequalities which mere chance and not desert occasions. And beneath all this, at the very bottom of economics and sociology, lies the distinction of public policy, the distinction between that which makes men foes preying upon one another and that which makes them allies, co-operating with each other, between competitive isolation and solidarity.

The very first office of insurance legislation, then, should be to make this distinction clearly. The basis upon which the distinction must be predicated, is that of insurable interest, of indemnity. It is the business of the State to permit and to encourage the co-operation of its citizens in applying the laws of average to those chances which they are by exigencies already existing and beyond their control compelled to take, for the purpose of distributing the loss. It is the business of the State to discourage and prohibit all enterprises which apply the laws of average to create chances and by hopes of great gains tempt inconsiderate persons to increase the necessary hazards of life. Broadly and generally speaking, all honestly managed institutions of the former sort should be fostered by legislation; and, without exception, every concern of the latter stripe should be put down.

We are yet in the infancy of insurance which is, more than all other modern inventions, the child of our modern civilization. Its development is both toward more perfect form in fields already occupied and toward increased

comprehensiveness, covering ever fresh fields. It is, itself, a practical outgrowth of a doctrine which was for a long time relegated to sentimental moralizing and deemed utterly impracticable. That doctrine took its most simple and perfect form in the command: "Bear ye one another's burdens." For centuries, this was interpreted by persons to mean: "Bear ye others' burdens," and did not convey to the mind the idea of a lighter but, instead, the idea of a heavier burden. It remained for our hard-headed age to evolve from the true meaning of the command a system which knits men together for purposes of mutual burden-bearing to a degree which was absolutely unknown in the days of mere sentimentalizing about brotherhood. At the same time the autonomy of the individual is preserved and, indeed, protected; the sense of security makes him more a man and more capable of independent labor. The scope of bearing others' burdens instead of sharing all burdens, is sensibly lessened and almost the complete abolition of the humiliation of charity may one day be expected from the extension of the principles of insurance into practice in all fields where there is loss and the risk of loss which overwhelms the individual.

The fields already occupied or being occupied fall naturally and easily into general classes or divisions. First, among these, is insurance against those misfortunes which directly touch the person in his own body or occasion loss to another person because of his death. In this group would be included all forms of personal accident, health, old age and other permanent disability and life insurance. For convenience's sake and because it accurately designates the class, let this group be known as Personal Insurance.

Next in order of nearness to the individual is insurance against loss of property possessed by him, through mis-