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On Legislation as to Life Insurance and Life Insurance Companies.
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THE past session of Parliament has witnessed the passing of an Act for the regulation of Life Assurance Companies in the United Kingdom, which, while introducing great changes in the law, still stops very far short of the system of legislation which has been for several years in operation in a few of the United States of America, and which is warmly approved of and urgently recommended for adoption by some persons in this country. The present may therefore be considered a fitting time for reviewing what has been done and considering whether any further legislation is desirable, and if any, of what nature it should be.

The object aimed at by the American legislation may be briefly described as an attempt to secure the solvency of all Life Insurance*

* It will be noticed that I do not accept the distinction laid down by some authors as to the use of the words *assurance* and *insurance*, by which the former is restricted to life and the latter to fire risks. The more correct distinction I believe to be that a man *insures* the life of himself or of some other person, or his house, or his ships, or the fidelity of his servants; and that the Office *assures* to him in each of these cases a sum of money payable in certain contingencies. Hence the Office is called the *assuer*, or *assurers*, and the man *the assured*; while we may speak either of *the life assured*, or *the life insured*; also of *the sum assured*, or *the sum insured*; according as we take the

Companies doing business in the respective States, so that all the contracts of assurance entered into by them shall be duly fulfilled. The advocates of that legislation consider that the business of life assurance is a matter of such vast national importance that it must be put under very special and exceptional regulations. It is not to be tolerated, they urge, that a Life Insurance Company shall ever fail to meet its engagements, if that can possibly be prevented by legislative enactments. With this view, regulations have been made by the legislatures of some of the States, more especially Massachusetts and New York, which are believed to be effectual for the purpose. The general nature of these regulations is so well known that it is not necessary to spend time in describing them, and I will therefore at once proceed to give my reasons for believing

Firstly, That no legislative enactments whatever can succeed in absolutely securing the solvency of Life Insurance Companies ;

Secondly, That even if this could be done, it would be highly undesirable that it should be attempted.

First, then,—It is not possible for legislation to secure the solvency of Life Insurance Companies. It is, indeed, easy to provide, as has been long done in America, and as has been now done for the first time in England, that all Life Offices shall publish full and detailed accounts in a prescribed form, so that complete publicity is given to their income and expenditure, assets and accrued liabilities. It is also easy to provide that all Life Offices shall return sufficient particulars of all policies granted by them, to enable a skilled actuary to form his opinion as to the liability of each Office under its contracts. This is done in America ; but the Act lately passed in England does not go quite so far. But when all this has been done, the object aimed at is far from being attained. In the following remarks we will more particularly consider, for the sake of simplicity, the case of Mutual Insurance Companies ; but our conclusions will apply with the slight needful changes to the case of Proprietary Companies.

The insolvency of a Life Office may arise from any one or more of several causes, viz :—

1. From an excessive expenditure in obtaining or conducting the business.

point of view of the Office or of the individual. So also we may speak either of "Life Insurance" or of "Life Assurance" ; as, for instance, we may say that a man believes in the duty and advantage of life insurance, or that a certain Company finds the business of life assurance very profitable.

2. From the declaration of excessive bonuses, which the profits of the Office do not justify.

3. From loss on the investments.

4. From an excessive rate of mortality.

There seems little doubt that the system pursued in America will be effectual in preventing insolvency from the first of these causes. If the expenditure of an Office has been excessive for a number of years, so that the money which ought to be invested and accumulated to meet the liabilities, has been paid away to agents, or squandered in unproductive buildings, &c., it will be observable year by year in the Reports made by the Insurance Commissioner, that the Company is drawing nearer to insolvency as defined by the law; and at last a time will come when the Commissioner will declare the Company insolvent according to the standard prescribed by law, and order it to be wound up. If then the business has been in other respects well managed, that is to say, if the lives have been accepted with due care, and the investments realize their nominal amount, the Company on having its excessive expenditure forcibly put a stop to, can be either wound up so as to pay its policies, or the policies can be transferred to another Office without reduction, the latter being probably in all instances the preferable course.

Similar remarks apply to the insolvency of an Office caused by the declaration of excessive bonuses. If a bonus has been declared so large that in the opinion of the Commissioner, or more precisely, according to the legal standard of solvency, the resources of the Company do not admit of its being paid, the Commissioner might in this case also order the Company to be wound up; and still supposing the Company to have been in other respects well managed, the only loss that would under these circumstances be incurred would be the reduction of the bonus that had been improperly declared.

But if the insolvency has arisen from either of the other two causes above mentioned, the case is not so simple. If a portion of the assets that are absolutely essential to enable a Company to meet its liabilities, has been lost by injudicious investments, there will necessarily be a deficiency on the winding up of the Company; and the sums assured under the policies cannot be paid in full, and must be reduced, if all the loss is not to fall on those of the assured who may happen to live the longest. It might easily happen, or is at all events conceivable, that a Company might make a very fair show for many years in the Commissioner's

Reports, but that on being ordered to be wound up, a great part, or even the whole, of its securities might turn out unsatisfactory, and a great loss occur on their realization. In this case the Commissioner would be powerless to prevent loss to the assured, and his function would be restricted to stopping the business when insolvency could no longer be concealed, and shortening the career of the dishonest or incompetent managers. If the whole of the assets have not been dissipated, the wreck will be saved for the assured; but there can be no certainty that a total loss will be prevented. In order to meet this danger, it is clear that the powers of the Commissioner must be greatly increased. He must be authorized to sit in judgment on the securities held by the Company, and to decide which of them are admissible as assets against the liabilities, and which must be rejected. This has not been attempted in Massachusetts; but it is done in New York; and the Superintendent of the Insurance Department in that State accordingly issues from time to time a circular of the most inquisitorial character, requiring particulars as to the persons to whom loans have been granted, and the securities for them. If a security is considered unsatisfactory by the Superintendent; if, for instance, a loan has been granted on personal security, or a sum invested in commuting the commission payable to an agent; he strikes such security out of the list of assets, and requires the Company to have the full amount of the legal reserve for its liabilities invested in other securities approved by him. Even this, however, will be found on examination to be insufficient to prevent insolvency and loss to the assured; for managers of a speculative and sanguine turn of mind might easily succeed in working irremediable mischief, in the interval between two of the periodical inquiries of the Commissioner. To sum up, the powers given to the New York Superintendent, wide as they are, are still inadequate to prevent loss to the assured. At the same time it must be admitted that loss from improper investments is in general gradual, and therefore the chance of such loss is much diminished by the New York legislation. In order however entirely to remove the risk of loss from investments, it will be necessary to go still further, and provide that Life Insurance Companies shall invest their funds only on certain specified securities, as for instance, Government Stock, mortgages of freehold land, railway debentures, &c. When all this has been done, it will still be possible, if a Company is improperly managed, that it may incur losses which will render it insolvent. It may

have invested a large proportion of its funds in Government Stock at a high price, and be forced by a series of unfavourable years to sell a great portion of the stock at a sacrifice. Even in mortgages on apparently unexceptionable landed security, it sometimes turns out, after every care has been taken, that the title of the borrower is bad; and if a Company had invested a considerable portion of its money in such a security, it might very easily become insolvent. To guard against this danger, therefore, it would be necessary that the law should lay down regulations to provide what proportion of its funds an Office should invest in a single security. In fact, the further we trace the subject, the more minute we find must be the regulations; while however minute and exact they may be, we are forced to the conclusion that they cannot under all conceivable circumstances secure their object.

We now come to the last of the abovementioned causes of insolvency—an excessive mortality. On considering the matter, it very soon becomes evident that no amount of Government supervision can guard against the danger of insolvency from this cause. If the managers of a Company, whether from fraud or ignorance, have accepted proposals on unsound lives to a dangerous extent, insolvency is sure to occur; and when the Company is ordered by the Commissioner to be wound up, a reduction of the sums assured becomes inevitable. The same is the case if the Company has accepted at inadequate rates proposals on lives exposed to extra risks from residence or occupation. The mischief will probably not show itself for some years; but when the scrutiny of the Commissioner detects insolvency, it will be found impossible to wind up the Company, or transfer its business, without a heavy loss to many of the assured.

The above may suffice to establish the first of my propositions, that no amount of Government supervision can secure in all conceivable cases the solvency of all the Life Insurance Companies in a country. If, then, the Government desire to secure to persons wishing to insure their lives the certainty that their policies will be paid on becoming claims, the only means by which this can be done is that the Government shall itself undertake the business of life assurance, receiving and investing the premiums, and pledging the national credit for due payment of the policies. There are two ways in which this might be done. The Government might pursue the course which has long been pursued with reference to the sale of annuities, and which has been already adopted with respect to small insurances; that is to say, open a new Government Insurance

Office to compete with the existing Offices. If this were done, persons desiring Government security would be able to obtain it, while the business of the existing Companies would be left untouched, except that they would have a new competitor for the public favour. If the Government should consider this course desirable, I do not think any valid objection could be made to it; and probably there would be no opposition on the part of existing Companies, who would feel that in every respect, whether as regards the magnitude of the premiums charged, the facilities offered for the conduct of business, or the amount of profits returned to the assured, they would be able to offer more real and solid advantages than the Government. In fact, those who wished for Government security would have to pay for it, just as persons who desire Government security for their investments and purchase consols for that purpose, receive a smaller return on their investments than the holders of any other kind of property. Of course it would be essential that the business should pay its own expenses, so that the experiment should cause no direct loss to the nation. As regards the small assurances at present granted by the Government, I believe I shall be correct in saying that the above condition is not fulfilled; and as the experiment has now had a fair trial, it should seem that the time has arrived when the Government ought to acknowledge they have made a mistake, and retire from the business. Even as regards the grant of annuities, it appears to me very doubtful whether the Government does not carry on the business at a loss to the country. The rates charged are, it is true, deduced from the mortality experienced among Government annuitants in past years; but without urging that sanitary improvements have increased the average duration of life at the present time, I would simply point out that the rates in use were deduced from the total experience, without making allowance for the influence of the self-selection of the annuitants, and the consequent light mortality in the years immediately succeeding the grant of the annuity. For this reason, it would be very desirable that there should now be made a new investigation into the mortality of the Government annuitants, with the view of settling this important question, and ascertaining whether the country is a loser by the grant of annuities on the present terms.

The other course which might be pursued by the Government would be to undertake the business in the same way as they have done that of telegraphic communication, by buying up all the existing Companies compulsorily and obtaining a monopoly of the

business. There would probably be no objection made to this course on personal grounds, of course assuming that the managers would be pensioned off on full pay. But on every other ground such a course is much to be deprecated. There are many objections to the Government undertaking so complicated a business as the insurance of lives, which will be familiar to all students of political economy, and which are well summed up by Mr. J. Stuart Mill in the following passages.

“In all the more advanced communities, the great majority of things are worse done by the intervention of Government, than the individuals most interested in the matter would do them, or cause them to be done, if left to themselves. . . . Government by excluding or even by superseding individual agency either substitutes a less qualified instrumentality for one better qualified or at any rate substitutes its own mode of accomplishing the work for all the variety of modes which would be tried by a number of equally qualified persons aiming at the same end; a competition by many degrees more propitious to the progress of improvement than any uniformity of system.”

“The true reasons in favour of leaving to voluntary associations all such things as they are competent to perform, would exist in equal strength if it were certain that the work itself would be as well or better done by public officers. . . . the mischief of overloading the chief functionaries of government with demands on their attention, and diverting them from duties which they alone can discharge, to objects which can be sufficiently well obtained without them; the danger of unnecessarily swelling the direct power and indirect influence of government, and multiplying occasions of collision between its agents and private citizens; and the inexpediency of concentrating in a dominant bureaucracy, all the skill and experience in the management of large interests, and all the power of organized action, existing in the community; a practice which keeps the citizens in a relation to government like that of children to their guardians, and is a main cause of the inferior capacity for political life which has hitherto characterized the overgoverned countries of the Continent, whether with or without the forms of representative government.” *Principles of Political Economy*, Book v §§ 5 and 11.

I will only add to these a few objections which arise from the special nature of the business. First, let us consider the case of persons whose proposals for insurance might be declined by the supposed Government Life Office. At the present time, if a life is declined at one Office, there are one hundred others that may be applied to; and it is no uncommon thing for a life declined by one Office to be accepted by another at a special rate, sometimes, indeed, at the ordinary rate. But if all the existing Companies were bought up, and the formation of new ones forbidden, lives rejected by the Government would virtually have no chance of assuring at all. It would be clearly impossible to endeavour to

provide against this by allowing Companies to insure lives at special rates; for a Company might publish a very low scale of premiums as the ordinary one, that would be charged if it were permitted to grant insurances at the ordinary rate; and while professing to charge all persons an extra premium, might really insure them at rates lower than the Government. Again, it cannot be doubted that the rates charged by Government would exceed the average of those now charged; and thus the cost of insurance would be increased. Thus, then, those persons who would have been quite satisfied with the security offered by the Companies, would have to pay an increased premium, in order that others might obtain the security of Government for their policies. Thirdly, the existing Companies discharge a very useful public function in purchasing and making advances upon life interests and reversions; also in lending money on personal security; these transactions being generally mutually advantageous to the Companies and to their clients. The Government would certainly not undertake these classes of business; and if the Insurance Companies were bought up, the whole of it would be left to the Reversionary Companies and similar Societies. The demand for securities of this kind being thus very greatly reduced, while the supply remained the same, and any new Offices that might be started being precluded from making a profit as at present by the grant of life policies, it would naturally follow that much lower values would be given for the purchase of such property, and a much higher rate of interest charged for loans, and thus the venders* or borrowers would be greatly prejudiced by the supposed change. To sum up the whole, the baneful effects of allowing a monopoly of any business to a single institution, would probably be even more apparent in this case than in most others. In the case of the telegraphs already mentioned, the constant complaints which appear in the newspapers show that in that department the monopoly has been productive of much mischief; and even as regards the carriage and delivery of letters, it appears that the time has come when the Government monopoly ought to be no longer tolerated.

* As regards the spelling adopted here and subsequently, I submit that the analogy of other English words requires that a person who vends, should be called a *vender*; a person who invests, an *invester*; and a person who deposits, a *depositer*; just as we speak of a *seller*, a *lender*, or a *borrower*. The adoption of this spelling in these and other cases where it is applicable (as in the words *visiter*, *governer*, *directer*) would remove one of the many anomalies prevailing in the English language; and in comparison with this object, the argument from the derivation of the words appears quite futile. In fact, it should be the aim of every lover of his native language to efface as quickly as possible, rather than carefully perpetuate, every mark of the different sources from which the words he uses have been derived.

I now pass on to my second proposition, which is, that even if it were possible for Government, by making extremely minute regulations for the conduct of the business, and exercising a keen and constant supervision, to secure the solvency of the Life Offices, still it would be very undesirable on grounds of public policy that this should be done.

What would have been the history of life insurance up to the present time, if the modern notions of paternal supervision had prevailed when the Equitable Office was projected? It will be remembered that when the projecters applied to the Government for a charter, the law officers of the Crown represented that the project was so hazardous and unlikely to succeed that they could not advise the Crown to grant one. Nor was this decision so absurd as we may now be disposed to think it. The promoters of the Equitable were proposing to enter upon a new and untried speculation. The premiums they proposed to charge were greatly lower than those which had been hitherto charged by the few Offices granting assurances on lives; and although Dr. Price had well founded confidence in his calculations, it could not be expected that this would be shared by the law officers of the Crown. We cannot help thinking that the decision arrived at was an eminently proper one. The new venture was not forbidden. The sanguine promoters might start their novel Society at their own risk; but they should not receive the countenance and encouragement which the grant of a royal charter would imply. This, it appears to me, is a precedent that should be borne in mind and well considered at the present time.

I venture to lay down the general principle that it is to the advantage of the community at large that all commercial ventures, started in good faith, should be allowed a fair trial, however rash, and even hopeless, cautious men may think them. Then if the venture should turn out disastrously, and bring ruin on the promoters, still the general benefit to the community at large, far outweighs these losses. It is, in fact, impossible to say beforehand what speculations may succeed, and which will certainly fail; and if the Government consider that it is their duty to discourage speculations that appear to be rash and unlikely to succeed, there is the greatest probability, or even certainty, that many useful improvements will be prevented. In fact, an examination of the great improvements of modern times will prove that they have generally originated with sanguine men, who were considered by their contemporaries to be extremely rash, and who have, indeed, very frequently ruined themselves while benefiting the community.

Of course, in laying down these principles, we assume that it is no part of the duty of a Government to teach prudence to its subjects; nor to advise them as to the most advantageous or the safest way of employing either their money or their talents; nor to protect them from losses that may be caused by their errors of judgment. These are all propositions in political economy which it is here only necessary to state, and for the proof of which I may again refer to the standard works on political economy. As far as I can see, there is no reason why these principles should not be applied to the business of life assurance as well as to commercial enterprises of other kinds. I am aware that there are some persons who would regard the business of life assurance as standing on a different footing from all others, who would argue that life assurance is a trust and not a business; but to me these views appear quite untenable.

We have seen how strict and minute the regulations would have to be made, in the event of the Government of a country attempting, with any real prospect of ultimate success, to secure the solvency of the Life Offices in it. Those regulations would extend to the magnitude of the premiums to be charged, the manner of conducting the business, the securities in which the funds shall be invested, and the amount of the reserve to be made for the liabilities. In fact, we may say the Offices would be bound hand and foot. It is quite unnecessary to demonstrate that the existence of such regulations enforced by the Government would have the most powerful operation in preventing the introduction of possible improvements, and would in fact amount to prohibition of any radical alteration in the way of conducting the business. We thus arrive at the conclusion embodied in my second proposition, viz. that even if it were in the power of a Government to secure the solvency of the Life Offices under its control, the disadvantages of that course would be so great as to more than outweigh the benefits.

The life insurance legislation in the United States has certainly had the effect of checking improvements there; for there can be no doubt that, with the high rates of interest prevailing there and almost certain to prevail for many years to come, the cost price of insurance must be far less than in England, and the rates of premium ought certainly to be greatly reduced. It is probable that the only reason this has not already been done is to be found in the restrictions under which Life Insurance Companies have there been placed. Even in England we cannot at the present

time say with any certainty that life insurance has received its latest developments, whether as regards the premiums charged, or the general manner of conducting the business.

First, as regards the premiums charged. When we look at the very large bonuses divided by some Offices, it is scarcely possible to resist the conviction that the premiums charged by all Offices are greatly in excess of those necessary for the insurance of well selected lives, and that the means will some day be found of greatly reducing them consistently with safety. Such a reduction of premium might be justified either in consequence of the rate of mortality among the persons whose lives are assured being considerably less than that shown by the tables employed in the calculation of life assurance premiums, or by the fact of the Company being able permanently to realize a considerably higher rate of interest than the three or four percent now used in the calculation of the premiums.

If now a Company were projected to insure only unexceptionable lives, in fact, lives whose expectation, as far as can be judged, is greatly above the average, charging premiums considerably lower than those at present charged, would it not be clearly for the public interest that such an experiment should have a fair trial? Again, if the projectors of a new Company honestly believe that they have succeeded in elaborating a system by which funds collected in this country can be transmitted to the colonies or foreign countries, where the current rate of interest is very much higher than here, and there safely invested on good security at six, seven, or eight percent interest, is it not clearly for the advantage of the public that this experiment also should have a fair trial? Again, there is very little doubt that by judicious investments in foreign stocks, at least six or seven percent interest may be continuously realized with safety, after allowing for a proper sinking fund to provide against the loss of capital that may be considered as certain to arise sooner or later in these investments. If then a new Insurance Company were founded, with the avowed intention of investing its funds in this manner, can it be considered as falling within the legitimate province of Government to forbid the making of the experiment? In the case of such a Company, the occasional loss of capital that would cause serious inconvenience to an individual holding only one kind of stock, would be looked upon as one of the losses to be expected in the usual course of business; and the only question for consideration would be whether the excess in the rate of interest

is a sufficient equivalent for the risk of loss. The case is in fact exactly parallel to that of an ordinary insurance. An Insurance Company is willing to take upon itself, for a consideration, the risk which the individual considers it unwise to run, of loss in consequence of premature death, fire, or perils of the sea; and the only question in all these cases is whether the premium received by the Company is adequate to the risk.

Next, as regards the general scope of the business. At the present time, Life Insurance Companies from one point of view may be considered as receiving the investments of the public, and, on the average, returning them with interest on the occurrence of certain events. Under this aspect, life insurance is an investment; and I cannot help thinking that this aspect of life insurance has been too much lost sight of. For a man who has an income dependent upon his exertions and his life, there can certainly be no better investment for the benefit of his family than that afforded by life insurance. A man in this position will, however, of course wish to save and invest a portion of his income as a provision for himself in old age. At present, the Life Offices offer but small advantages in this respect. A man could buy a deferred annuity, but in doing so he will on the average obtain less than three percent interest on his money, which is a prospect far from tempting. He may also effect an endowment assurance instead of an ordinary assurance, but the premium then becomes so heavy that he must be very much indeed persuaded of the advantages of life insurance to avail himself of this method. Besides, the investor will greatly prefer that the investments he has made as a provision for his old age shall be available on the happening of any of the many contingencies in which he may be glad of ready money. Now it appears to me that Life Offices may very properly and usefully, and with advantage both to themselves and their supporters, extend their operations in this direction. It is, of course, out of the question for them to receive unlimited sums of money on deposit repayable at fixed notice. If they were to do this, they would infallibly, some day or other, find themselves exposed to the inconvenience that lately threatened several of the Railway Companies in this country, which, having borrowed large sums of money on debentures, found the greatest difficulty in getting the debentures renewed when they became payable. Similarly, the Life Offices would certainly find themselves called upon to repay large amounts to their depositors, which they would be either wholly unable to do, or only with the greatest inconvenience and loss. But the same

objection would not apply to their receiving money on deposit, to be repaid at the death of the investor, allowing interest at an agreed rate, which might either be fixed, or vary from time to time with the profits of the Company; and might either be payable half-yearly to the investor, or payable by way of compound interest together with the original deposit on his death. A prudent Office transacting this class of business would not pledge itself to return the deposits on demand during the life of the assured, even subject to a discount; but it would always be open to entertain applications of that kind; and if the state of its finances at any time rendered it undesirable to repay immediately all the sums which depositors might wish to withdraw, this state of things would only be temporary, and temporary advances could without difficulty be obtained from bankers on security of such deposit-policies. As a step in this direction, Life Offices might first of all receive deposits only from persons whose lives are insured with them, and only to the extent of the sum assured. This suggestion is not so revolutionary as it may at first sight appear, and is indeed only an extension of the principle of allowing reversionary bonuses to be surrendered for their cash value at any time, and of the making of loans on the security of policies within their value.

Assuming this kind of business to be undertaken by Life Offices, and some legal difficulties to be got over, I believe that Life Insurance Companies would be found to be extremely convenient agencies for the investment of trust monies. These are generally to be invested at interest during the life of a certain person, and on the death of that person to be realized and distributed. If these monies are not invested at the minimum interest in the public funds, inquiry has to be made for an eligible mortgage of the right amount, and if a mortgage is found otherwise suitable, it is constantly found either that the mortgager does not want the whole of the money which the trustees are prepared to lend, or that he wants rather more. If, however, the trust funds were placed in the hands of an Insurance Company on agreed terms as to interest, this difficulty would be entirely removed, the Company being able without the least inconvenience to themselves to advance the exact amount required by each mortgager. In addition, the interest payable by the Company would always be paid to the day, while borrowers are sometimes a good deal behindhand. If it should be held that such deposit policies come within the scope of the recently passed Married Women's Property Act, a very ready means would be afforded by them of making a

valid post-nuptial settlement of any amount of money on the depositer's wife and children.

There can be little doubt that the principle of association is in its infancy, and that it will be found applicable to many purposes to which it has not yet been applied. My subject leads me naturally to specify one class of business of practically unlimited extent, which I cannot doubt will be entered upon and actively prosecuted before many years are past. I refer to the formation of Societies on the mutual principle, whose business it shall be to receive the savings of the public and invest them in certain specified classes of securities, allowing the investor a rate of interest varying from time to time with the profits of the Society. The securities upon which such Societies will invest the funds of their members, may be, in one instance, house property and ground rents; in another, foreign railways; and in a third, the stocks of foreign Governments. There are many advantages to be gained by investments in such securities being made by a Society instead of by an individual; and when once such a Society shall have been established, and have gained public confidence by judicious management and complete publicity in its operations, its great convenience will probably be quickly recognized, and there will no doubt be a rush for the formation of similar Societies. There are probably many persons now investing their money in house property, who would be glad to receive a somewhat lower return on their money, in consideration of being relieved of all the trouble, anxiety, and uncertainty which attach to such investments. At the present time, the large Railway Companies in this country and in India have indirectly been agencies for the investment of the savings of the public. So long as large sums continue to be required for the completion of the Indian railways, the need for the Societies I have mentioned will not be urgently felt. Other Societies which have more directly, but to a limited extent only, fulfilled the same function, are the Building Societies and the Reversionary Interest Societies. It is a very old suggestion that Life Insurance Companies may properly transact the whole of the business at the present time transacted by the latter class of Companies, and as I have pointed out above, I believe they might with advantage and propriety go still further. But the extension of their operations in any of the directions suggested above would almost certainly be prevented by any legislation after the American pattern.

Any interference of Government with the business of life in-

insurance is an interference with the freedom of contract among its subjects, and ought therefore to be justified by very strong arguments. It cannot be said beforehand of all interference of this kind, that it is injurious; but each particular instance must be considered on its own merits, with the view of determining whether Government interference will produce on the whole more harm or good. It has been enacted by the recent Act, that no new Life Insurance Company shall be permitted to commence business until it has deposited £20,000 with the Government, which sum is to be repaid to the Company when its accumulations from premiums amount to £40,000. This provision is probably open to as little objection as any of the kind could be; but the policy of it seems to me extremely doubtful. How many Life Insurance Companies now flourishing have been started with a far much smaller amount of capital paid up, or even only subscribed! As regards Proprietary Life Insurance Companies, the provision merely seems to amount to this, that they shall not be allowed to carry on business unless they are of a certain magnitude; but as regards Mutual Insurance Companies, the provision is virtually prohibitory. The Act, besides thus restricting the formation of new Companies, has in several other important particulars placed restrictions on the freedom of contract. Any provisions of a Company's deed of settlement authorizing the amalgamation of the Company under certain conditions, are now entirely overruled by the provisions of the Act as to amalgamations. The propriety of this is, I think, unquestionable.

In some other respects the Act might with great advantage have placed additional restrictions on the freedom of contract, by forbidding the insertion in policies of some very common provisions as to the liability of the shareholders. There can, of course, be no reasonable objection to the common, but not universal, stipulation, that the liability of the shareholders shall be limited to the amount of the capital subscribed by them; but taking a strict view of matters, can anything be more unjust, and in fact dishonest, than the common stipulation that the liability of the shareholder shall entirely, and in all events, cease when the shares are transferred to a new holder? The consequence of this is, that a number of wealthy shareholders may start a Company, and obtain insurances on the faith of the large amount of capital subscribed by them; and after a few years, if they should have reason to believe that the Company is not prospering, they can under the above-mentioned stipulation transfer their shares to men of straw, thus effectually relieving themselves

of all further liability, and depriving the assured of the security on the faith of which they were induced to join the Company. It appears to me that it would greatly conduce to commercial morality, if it were enacted that notwithstanding any provisions of policies and deeds of settlement, the liability of shareholders in a Life Insurance Company shall continue until all contracts entered into or current while they were shareholders, have terminated. It is of course assumed that the new holder to whom the shares have been transferred would be primarily responsible, and that the original holder should be only liable in the event of the new holder being unable to pay up the subscribed amount of the shares.

Legislation may also, without being compulsory, exercise a most useful influence on the law of contracts, by providing for contingencies that are not provided for in the original contract. Thus with regard to life insurance, the law might very usefully prescribe a general form of policy, the conditions of which should prevail in all cases where there was no special contract to the contrary. It might then suffice to give the assured, instead of the long and complicated policies at present in use, a simple certificate that he has insured his life in such and such an Office, the conditions of the insurance being supplied by the parliamentary form. This is the principle of the Statute of Distribution, which makes a will for every man who has not made a will for himself; and it might be very usefully extended to a variety of other contracts, such as marriage settlements, leases, and the sale and purchase of property. In all these cases it might suffice for the purpose to make a short memorandum of the contract, leaving the usual lengthy covenants and provisions of various kinds to be supplied by the parliamentary forms.

I must now draw attention to the limitation I introduced above in arguing that new ventures should not be discouraged by the Government; namely, that they should be started in good faith. This condition is all-important, and no objection can properly be taken to any provision which is necessary for testing the good faith of the promoters of a new concern. No doubt many persons will consider that the deposit of £20,000 now required from new Life Insurance Companies is a proof of the good faith of the promoters; but I cannot myself agree in that opinion. It proceeds on the assumption that persons intending to defraud the public by means of a bubble Life Insurance Company will never be prepared to stake £20,000 themselves in the hope of making a much larger profit; nor be able to induce others to embark that amount; but

this is obviously not a safe assumption. The effect of the deposit is therefore simply that the swindling, if there is any, shall be on a large scale. The policy of the Government as regards new enterprises should be neither to foster nor discourage them; but it clearly falls within the duty of the Government to take every precaution to guard against their appealing to the public for support under false pretences. When the promoters of a new Company invite the public to become shareholders, they should be required to state in the most precise and distinct manner the exact nature of the business in which it is proposed to embark. They should not be allowed to keep out of sight important provisions as to the payment of promotion money, or, as was done in a recent well-known instance, to deceive intending shareholders as to the value of the assets transferred or the nature of the risks of the business to be undertaken. It may be gathered from that case, in which there was no technically fraudulent intent, that the provisions of the law as to false pretences, and misleading prospectuses, require to be made more comprehensive and more stringent.

Similarly, as regards the policyholders in Insurance Companies, I believe that the Government may properly, and indeed ought to insist on policyholders being furnished with such information as will enable them to ascertain the exact nature and extent of the security offered to them. It is unquestionably a fraud of the grossest character, for a Life Insurance Company to keep its doors open, holding itself out to the public as solvent, and inviting new insurances, for years after it has become hopelessly insolvent, as was done in a recent notorious case; and the only way to prevent this fraud being committed, is to require all Life Offices, without exception, to publish precise and detailed statements of their affairs. It is also in the nature of a fraud towards existing policyholders for the Company to continue its business under the circumstances supposed; for when it is clear that the assets will not suffice to pay all liabilities in full, it is certainly giving an unfair advantage to the old and invalid lives to continue to receive the premiums as formerly from the young and healthy policyholders, who continue to pay in the belief that the contracts made with them will be duly fulfilled. The claim of existing policyholders in a Company to full information as to its position is strengthened by the fact that they are not merely creditors, but to a certain extent partners in the Company. This is, of course, obvious as regards participating policyholders; and as regards the non-participating policyholders, it will be seen on consideration,

that the fulfilment of the contracts made with them must depend to a very great extent upon the success of the Company's trading. The abstract right of existing or intending policyholders in a Company to be informed as to its real position being admitted, it is extremely desirable that the extent of this right should be defined by law. It would be intolerable for every such person to be at liberty to enter the office of the Company and examine its books; and the obvious deduction is, that the Government should specify what particulars shall be published by each Company, and how their accuracy shall be verified. On the other hand, if a person interested in a Company, whether as a policyholder or a shareholder, wishes to inform himself as to the real position of the Company, this being a very legitimate wish, it is desirable on grounds of public policy that in the event of the managers being unwilling to give him the information he desires, he should not be left to fight the Company single-handed, but that the law should first define his rights, and then assist him to enforce them.

To sum up, the Government of a country may properly take steps to discourage and punish fraud and false pretences; and indeed there can be no more legitimate function of a Government. This is the true principle which must guide us in our present enquiries, and it admits of application far beyond the limits of our present subject, and may indeed be extended into every department of trade. To take a familiar illustration, the Government of this country does not attempt to regulate the price of bread, but it has provided that bread shall be sold by the pound. There is nothing to prevent any baker from charging as much or as little as he likes for the 4lb. loaf. He may on the one hand charge a higher price than his rivals in trade—say 8*d.* for the 4lb. loaf when other bakers are charging 7½*d.*; or he may undersell them, and charge only 6*d.*; but in the latter case, he must not reduce the weight. If he does this, he commits an offence against the law, and is liable to punishment. Unfortunately the punishment awarded to persons guilty of such fraud and false pretence in this country is far too light. Strict justice requires that there should be no distinction made between the thief who picks his neighbour's pocket and the dishonest tradesman who uses false weights and measures.

As regards the business of life assurance, the passing of the new Act is a great step in the direction of the policy I am now advocating. It is no longer allowed to Life Offices to point to their list of directors, who are all men of known integrity, in fact

all honourable men, and assure the public that their names are a sufficient guarantee that the affairs of the Company are honestly and judiciously managed. The veil is withdrawn for the first time from the operations of many ancient Companies, and the returns that are to be made as to the income and expenditure, assets and liabilities, will serve to enable the public whose support is courted to judge much more accurately than they could possibly have done hitherto, of the security offered by those Companies. Altho' the returns are not sufficient to enable the value of the liabilities of each Company to be rigorously estimated, yet they are quite sufficient to enable actuaries, and through them, the public, to judge of the stability and future prospects of the Life Offices of the country, on far surer grounds than were formerly available. Hitherto, when an actuary has been asked his opinion of certain Life Offices, all he could say was that he had no reason to doubt their solvency, but he really knew nothing of them but by popular repute, which is in most cases right, but is sometimes quite wrong. As regards other Offices, again, he could only say that he entertained grave doubts as to their solvency, but could give no conclusive proof that they were insolvent. In future, an actuary, when thus consulted, will be able to speak with more confidence and with greater plainness; and this cannot fail to be advantageous both to the public and to the well managed Offices. The sound Life Offices, which form the overwhelming majority, have nothing to fear, but on the contrary everything to gain from complete publicity, and it is to be expected that their prompt and strict compliance with the requirements of the Act will have the effect of increasing the confidence of the thinking part of the public in them and in the system of life insurance generally. In no business probably is publicity so desirable and so likely to produce good results as in life assurance, and the new Act will ensure a healthy publicity in future. From this point of view I think the passing of the new Act is a matter for unqualified congratulation.

In other respects, besides the publication of accounts, the Act will operate in the same direction. It provides that all Life Offices shall print and sell to policyholders their deeds of settlement. Thus policyholders will be able for the first time to ascertain with certainty the powers of the directors of the Offices in which they are insured, the nature of the investments in which their funds may be employed, with many other particulars of a like kind. They will also now learn the regulations of the Office as to the surrender value of policies, which is certainly a point on which the assured

have hitherto been kept far too much in the dark. There can be little doubt that a Life Insurance Company after making its return under the Sixth Schedule to the Act, and stating therein how it calculates the minimum surrender values of its policies, will be bound to allow values not less than those so calculated to all existing policyholders, and to all new policyholders who may join the Company before a new rule shall have been promulgated in a subsequent return. Thus, in fact, unless a Company chooses to guard itself very carefully in making the return, and to reserve to itself the right of altering its rule, the surrender values of policies will be in future a matter of strict contract. But I think still more may properly be done in the same direction. As suggested by Finanzrath Hopf in his paper read before the Institute last session, it might properly be made a part of the contract of life insurance, that the reserve made by the Company for its liability under each of its policies should not fall below a certain amount, calculated according to a rule made known beforehand. So also it might with great propriety be made a part of the contract, that the assurance fund of the Company should be invested in certain specified classes of securities and in no others.

We have seen that it is a fraud for a Life Insurance Company to keep its doors open and invite new insurances after it has become undoubtedly insolvent. So also we may remark, in passing, it is a fraud for a bank to continue its business in similar circumstances; and in both cases it should be made, if indeed it is not already, a criminal offence, for the business to be continued as usual when such a state of things has arisen. We have also seen that it falls within the province of the Government to discourage and punish fraud; and it therefore follows that it is one of the proper functions of the Government, either forcibly to put a stop to the business of the Company in the case supposed, or to afford the utmost facility to its creditors to prove insolvency against it, and have it wound up. It may be thought that in admitting this we admit the propriety of the American life insurance legislation; but this is not the case. The difficulty is, that whereas it is a comparatively easy matter to say when a bank is insolvent, it is by no means so easy to say when a Life Insurance Company is insolvent. Indeed, within very wide limits the solvency of a Life Insurance Company must be simply a matter of opinion. Supposing a Life Office to be liable under certain policies of insurance, issued at certain dates, and subject to certain premiums, the value of its liability thereunder admits of

being estimated in a variety of different ways; and the estimates made by different actuaries will in practice be found to differ very considerably, those estimates depending of course on the datums used in the valuation, viz., the rate of interest and the table of mortality; and it is impossible to say authoritatively which of such estimates is to be considered the correct one. All that can be said is, that assuming a certain rate of mortality will prevail in the future, and a certain rate of interest will be realized on the investments, and making a certain provision for future expenses of conducting the business, the liability of the Company is so much. What table of mortality, and what rate of interest, should be used in the calculations, or what allowance should be made for future expenses of the business, are all matters of opinion; and it is thus impossible to say that one particular estimate of the value of the liabilities is right and all others wrong. It is of course easy to find limits above and below which difference of opinion ceases, so that if a Company with known liabilities possesses a certain amount of assets, all actuaries will agree in saying that it is solvent, while on the other hand if it possesses less than a certain other amount of assets, all actuaries will agree in saying that it is insolvent. But, as stated above, these limits would be very wide; and if the Company possesses an intermediate amount of assets, probably some actuaries will say that in their opinion it is solvent, while others will say that in their opinion it is insolvent. The conclusion we arrive at therefore is, that the solvency of Life Insurance Companies being so much a matter of opinion, the Government cannot with propriety attempt to decide the question by laying down a legal standard of solvency. For the present, at all events, the Government should limit its action to requiring Life Offices to publish certain specified particulars, leaving all persons interested in each Office to form their own opinion as to its stability. This has been done by the passing of the new Act, and it now remains to be seen how this will work. I purposely abstain from all criticism of its details. Objections have been raised in some quarters to certain of the returns required to be made, on the grounds that they are both useless and inquisitorial; but it appears to me that it is unbecoming for the representatives of the Life Offices to indulge in such remarks. The public having by their representatives discussed and decided what returns would in their opinion secure the objects desired, it is both the duty and the interest of the Offices to comply cheerfully and unreservedly with the requirements of the Act, reserving any suggestions for its improvement until a suitable

opportunity shall arise. As regards the further step of fixing a legal standard of solvency, it is not to be denied that very strong arguments may be adduced in favor of it, or, at all events, of fixing a standard of insolvency, on reaching which a Company's operations shall be forcibly put a stop to. I hope shortly to return to this part of the subject, and to explain what would in my opinion be the most satisfactory practical manner of fixing such a standard, if it were on the whole thought desirable.

It will scarcely be necessary for me to add in conclusion, that I consider that the happy mean has been attained by the new Act. While it has greatly facilitated the exposure and suppression of unsound Companies, it throws (if we except the £20,000 deposit) the smallest possible impediments in the way of legitimate enterprise. The Government has, on the one hand, taken effectual measures to ensure that the public shall no longer be misled by false pretensions of solvency and prosperity, but shall be able to put all such pretensions to the test. On the other hand, it has avoided what I consider the cardinal error of the American system, namely, the attempt to secure the solvency of Life Offices. If persons, in the future, suffer loss in consequence of insuring in unsound Life Offices, they will have nobody to blame but themselves; and the Government will be quite free from the moral responsibility to make good that loss, which would certainly attach to it, if it held out to the public that it had taken steps to secure the solvency of the Life Offices of the country. I believe that the greatest good will result from the operation of the Act; and altho' experience may probably suggest improvements, they will, I believe, be in the details of the Act, and not in its principles.