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THE INDIAN INSURANCE ACT 1938

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It appears from the *Journal* Index that, as regards Indian insurance, contributions to the *Journal* have been almost entirely concerned with various aspects of mortality in India. Apart from matters relating to mortality, the latest reference in the *Journal* was in 1912 when the Indian Life Assurance Companies Act, then lately passed, was printed with prefatory notes by Mr A. T. Winter. It seems appropriate that we should give some consideration to the new Act repealing the Act of 1912.

The Indian Insurance Act (Act IV of 1938) was introduced into the Legislative Assembly on 26 January 1937. It was immediately circulated for opinion, prior to its consideration by a Select Committee of the Assembly in Simla, in August 1937. After very lengthy discussions in the Legislative Assembly and subsequently in the Council of State, which were remarkable for the interest and keenness shown by members in the details of the measure, it was passed on 17 February 1938 and received the Governor-General's assent on 26 February. It comes into force on a date yet to be announced.

Before considering the provisions of the Act, it will be useful to review briefly the position of insurance in India, and the situation which led to legislation being introduced.

Prior to 1912, India had no legislation regulating insurance. In that year the Indian Life Assurance Companies Act and the Provident Insurance Societies Act (Acts VI and V of 1912) were passed, dealing with life assurance only. The Indian Insurance Companies Act was passed in 1928. This amended the Indian Life Assurance Companies Act of 1912 in certain particulars and made provision for the collection of statistical information concerning insurance business other than life business.

Life assurance in India dates back to the widows' funds established about a century ago by missionaries in Madras and elsewhere. The oldest Indian proprietary company transacting ordinary life assurance was founded in 1874. Others still existing were founded between 1892 and 1896. The Swadeshi movement about 1906–7 produced in the following years a crop of new Indian companies, a large proportion of which, however, survived only a few years. It was, no doubt, due to this development that the Indian Act of 1912, which closely followed the lines of the British Assurance Companies Act, 1909, was passed. This Act was appreciably stronger than the British Act, the Government being given power to appoint inspectors to examine the affairs of a company in certain circumstances.

One of the most striking features of Indian insurance has been the remarkable growth of the number of Indian companies in recent years. The number of Indian insurance companies transacting life business in 1913 was 36 and this had increased to 57 by 1926 and to 89 by 1931. Since then the growth has been even more striking as is shown by the following figures of the number of companies constituted in India which are subject to the provisions of the Acts of 1912 and 1928:

Year	No. of Indian companies transacting life business only	No. of Indian companies transacting life business and other classes	No. of Indian companies transacting non-life business only	Total no. of Indian insurance companies
1926	42	15	(Not available)	
1931	71	18	19	108
1936	165	36	16	217

These figures show that the abnormal increase in the number of Indian insurance companies has been confined to companies transacting life business.

Turning to the non-Indian companies it is interesting to note that they have been operating in India for over a hundred years, their earliest business in India being fire and marine insurance. One British office established an agency in India in 1825 and most of the United Kingdom companies now carrying on business in India commenced business there over 50 years ago. The numbers

corresponding to those given above in respect of Indian companies are as follows:

Year	No. of non-Indian companies transacting life business only	No. of non-Indian companies transacting life business and other classes	No. of non-Indian companies transacting non-life business only	Total no. of non-Indian insurance companies operating in Ind
1926	5	18	(Not available)	
1931	9	15	125	149
1936	11	13	125	149

It is clear that the great rush of new flotations of Indian companies, particularly on the life side, was not accompanied by any increase in the number of non-Indian companies transacting business in India.

One result of this rush of flotations in the life field was a marked rise in acquisition costs, and sound standards of underwriting and management were too frequently abandoned in the scramble for business. The revenue accounts of Indian life companies for the year 1935 show that the average expense ratio was 31%. When it is remembered that the old-established Indian companies, transacting the bulk of the business, showed expense ratios much below this figure, it will be understood that many of the new companies were obtaining business at excessive cost. Some of the accounts indeed show expense ratios exceeding 100%, and more than half the life companies (excluding newly-formed companies) exceed a ratio of 50%. Other evidences of the lack of firm management appeared in the weak reserve position of many companies and in the unwise investment policy adopted in many cases.

In his Report in the *Government Year Book for 1934*, the Actuary to the Government of India observed:

> The advent of a large number of new companies has resulted in intensifying the struggle for existence and forcing up expenses to uneconomic levels;

and added:

> Most of the companies under 20 years' standing have not yet secured a footing and the indiscriminate flotation of new life assurance companies will not be conducive to the best interests of the enterprise in India, especially in view of the fact that more than 80 companies have been established in the last five years.

Although the above remarks apply to a very large number of Indian companies, and particularly to those recently formed, they should not be taken as applying to all Indian companies. Many of these have been long established, and under capable management are transacting a large and prosperous business on sound lines.

It had long been recognized that the position was unsatisfactory and that Government action was necessary to protect the public. As long ago as 1924 the Indian Government drafted a Bill to amend the 1912 Act. This however was shelved pending the Report of the Clauson Committee sitting in England about that time. The 1928 Act was little more than a stop-gap measure as it was thought advisable to await the United Kingdom legislation which was expected to follow shortly after the publication of the Clauson Committee's Report.

However, as time passed and there was no early prospect of the introduction of such a Bill in Parliament here and as the position of insurance in India was becoming increasingly serious, the Indian Government decided in 1936 that immediate legislation was necessary. Mr Susil C. Sen, a well-known Calcutta solicitor who had taken a prominent part in the recent revision of the Indian Companies Act, was appointed as a special officer to report on what amendments were necessary in the insurance laws of India. His Report was duly presented and considered by an Advisory Committee, which was appointed by the Indian Government from representatives of all branches of insurance in India, and presided over by the Law Member of the Governor-General's Executive Council, Sir N. N. Sircar, K.C.S.I. It should be noted that the Committee considered only such questions arising out of the Report as were referred to it by Government. It was not required to advise on the shape of the proposed Bill and indeed certain provisions of the Act as finally passed (e.g. limitation of commission, incontestability of life policies) were not discussed by the Committee as proposals.

During the sittings of the Advisory Committee and afterwards in the Legislature, most determined efforts were made in certain quarters in India to secure that any legislation would be strongly protective in character and so framed as to encourage Indian companies at the expense of non-Indian (including British and Dominion) insurers; and great pressure was exerted on the Govern-

ment to this end. These efforts were perhaps more strongly pressed in respect of the non-life branch, although it was the position regarding life business more particularly that led to the introduction of legislation.

Immediately following the conclusion of the meetings of the Advisory Committee, the Government drafted a Bill which was introduced in the Legislative Assembly by the Law Member of the Government.

It is interesting to record the constitution of the Assembly through which the Bill passed. The voting strength of the parties was:

Congress Party	44
Congress National Party	10
Democratic Party	10
Independent Party	16
No Party	24
European Group	10
Government Nominated Officials	26
Total	140

The Bill was debated with the greatest keenness by the Assembly; and interest in it was not confined to the Legislature, or to insurance interests. It was made an issue of the greatest public importance, and was regarded as the most controversial measure that had been before the Assembly. Evidence of this was provided by the eagerness with which members put down amendments, in all numbering close on 1500.

As the Government could rely on the votes of the Nominated Officials only, it was due to the outstanding personal efforts of the Law Member, who piloted the measure through the Legislative Assembly and the Council of State, that the Bill passed without too drastic modification through an Assembly in which the Government was opposed by a majority of votes. The European Group did all that was possible in assisting and co-operating with the Law Member in his endeavour to secure a reasonable and workable Act, acceptable to Indian and non-Indian insurers, whilst protecting the insuring public. His task was difficult in the face of strong nationalist sentiment determined on discrimination against non-Indian insurers (both United Kingdom and non-United Kingdom). The

House was more strongly nationalist in sentiment during the debates on this Bill than it had ever showed itself previously.

INDIAN AND NON-INDIAN COMPANIES

In considering the provisions of the Act as they affect respectively Indian companies, United Kingdom companies and other non-Indian companies generally, it is necessary to bear in mind the constitutional position. The Government of India Act, 1935, contained provisions intended to prevent discrimination against United Kingdom nationals in future legislation in India. Any Bill passing through the Indian legislature which might be interpreted as involving such discrimination would, instead of receiving the Governor-General's assent, be reserved for consideration by Government in this country. Specific provisions in Indian legislation imposing discriminatory conditions on United Kingdom companies are therefore not merely ineffective, but may prevent a Bill from becoming law. Section 113 of the Government of India Act prescribes that United Kingdom companies are to be "deemed to comply" with so much of any law as imposes restrictive conditions on non-Indian companies operating in India. Thus United Kingdom companies are in effect "deemed to be" Indian companies and so are safeguarded against provisions in any legislation discriminating against non-Indians. Unfortunately, the 1935 Act is a British statute and, as such, protects United Kingdom companies only, and its provisions were not available to protect companies of the self-governing Dominions or of other countries.

Early in the discussions on the Insurance Bill in the Indian Assembly, the Government made it clear that it would take care not to embody in the Bill any provision which might raise any question under Section 113 of the Government of India Act, and thereby, in effect, place the Bill in jeopardy when passed by the Indian Legislature.

The Insurance Bill was the first measure regulating a leading Indian industry to come before the Legislature since the Government of India Act was passed in 1935, and the nationalist section of the Assembly made great efforts in acrimonious debates to test the efficacy of the anti-discrimination sections of the 1935 Act and, by proposing amendments to the Insurance Act, to place

non-Indian insurers at a disadvantage as compared with Indian companies. The Government successfully resisted these attempts. There is no reason to doubt that, but for the Government of India Act, British companies would have been subjected to severe discriminatory treatment and it is probable that even severer discrimination would have been directed against other non-Indian companies.

NATURE AND SCOPE OF ACT

The Act as finally passed was a great deal more than a mere amendment of the 1912 and 1928 Acts. If the two alternative policies of Government regulation of insurance can be described as:

(1) Minimum of Government interference with the maximum of publicity (on the British plan)

or (2) Government control and supervision (on the Canadian system),

then it may be said that the Act, while adhering broadly to the British plan followed in the earlier Acts, on many important points provides for Government control to an extent similar to that contained in the Canadian statutes.

Where British practice is followed, the Act is clearly influenced by the draft Insurance Undertakings Bill appended to the Report of the Clauson Committee. Elsewhere, it equally clearly shows the influence of the Canadian Acts.

The points of special interest and importance in the Act relate to:

(1) Deposits.
(2) The creation of a Superintendency of Insurance with wide powers of supervision, regulation and control.
(3) Maintenance of assets and restriction of investment powers.
(4) Prohibition of rebating, restriction of commission rates and licensing of agents.
(5) Power to adopt reciprocal measures in the case of companies of non-Indian origin.
(6) Assignments and nominations.
(7) Certain special provisions dealing with incontestability of policies; and representation of policyholders on Boards of Directors.
(8) Returns required under the Act.

The Act, in certain provisions affecting life assurance, amends the contractual relationship between the insurer and the insured. The sections of the Act which concern the investment of assets, representation of policyholders on Boards of Directors and incontestability of policies are obviously adapted from the Canadian Acts. An important section of the Act defines the legal position in respect of assignments and nominations of life policies.

DEPOSITS

The deposits prescribed (section 7) are, briefly, as follows:

(1)	Life insurance only transacted	Rs. 200,000
(2)	Fire insurance only transacted	150,000
(3)	Marine insurance only transacted	150,000
(4)	Accident and Miscellaneous insurance only transacted, including Workmen's Compensation and Motor insurance	150,000
(5)	All classes transacted	450,000
(6)	All classes transacted excluding life insurance	350,000

The section also prescribes the deposit for all other combinations of classes of business. The deposit made in respect of life business is not to be available to meet any liabilities of the insurer other than those arising under its life contracts.

The deposits may be in cash or "approved securities" which include Indian Government Rupee or Sterling securities, Indian Provincial or Municipal securities and Indian Port Trust securities. They may be paid in annual instalments over a period of years. The number of instalments is 1, 2, 4, 7 or 10 depending on the class of business written, country of origin of the insurer or its date of incorporation. The first instalment must be paid before any application for registration and in most cases the second on 1 January 1939. It was hoped at the time the Act was passed that it would be brought into force before the end of 1938. The fact that it will not be operative until some time after 1 January 1939 will necessitate the introduction of an amending Bill if only to correct this position.

It is satisfactory to note that the Government was able to adhere to the view that the primary purpose of deposits is to prevent insurers with inadequate financial resources, or speculative con-

cerns, from commencing business and not to provide security deposits for policyholders, and that attempts to impose scales of deposits upon non-Indian insurers in excess of those required from Indian insurers failed. In these circumstances it is regrettable that the period allowed for the payment of the deposits by instalments is not uniform for all companies instead of being shortened in the case of non-Indian companies of some countries of origin.

The Government were not responsive to any proposal to return the deposit to insurers of adequate financial standing, say, when the fund exceeds a specified amount, on the lines of the provision of the British Act of 1870 and as recently recommended by the Cassel Committee 1937, nor to proposals that subsidiary companies, whose contracts are guaranteed by their parent company, should be relieved of the obligation to make deposits. Such proposals would in effect have appeared to favour non-Indian companies, and were therefore unattractive to the Assembly. So far as is known, no Indian company has any subsidiary, though this position may be changed in the future.

SUPERINTENDENT OF INSURANCE

One of the outstanding features of the Act is the provision for the appointment by the Central Government of an officer, who must be a qualified actuary, as Superintendent of Insurance charged with the supervision of all insurance companies and also of provident societies, taking over the latter duties from the Registrars under the Provident Societies Act of 1912. All annual and quinquennial returns under the Act are to be made to him in the prescribed form, and he is given wide powers of rejection of incomplete or inaccurate returns, of inspection of books, etc. and examination of officials. He can appoint an actuary to investigate independently the position of a company, and can apply to Court for a winding-up order under discretionary powers. By Section 114, the Central Government may make rules to carry out the purposes of the Act generally. Safeguards against the arbitrary use of his power are however embodied in the Act.

Bearing in mind the very unsatisfactory financial condition of many companies operating in India, there is no doubt that the institution of a Superintendency can be justified in the public

interest. The powers vested in the Superintendent are drastic and exceed those prescribed by the Assurance Companies Act, 1909, and the Assurance Companies (Winding-up) Acts, 1933–35, in this country. It may be questioned whether, if the powers given in the 1912 Act had been used promptly at the first indications of mismanagement, the granting of such drastic powers as those of this Act would have been necessary. However this may be, it is clear that the provisions of the Act involve a substantial departure from a policy of freedom and publicity, and their administration will be watched with close interest.

INVESTMENTS

It should be noted at the outset that, apart from deposits, the Act imposes no restriction on investments in respect of insurance business other than life business; and this applies to Indian and non-Indian companies alike.

As regards life business, Indian and United Kingdom companies must invest, and hold invested, assets equal to not less than 55% of their Indian liability in specified classes of securities as follows:

(*a*) 25% in Indian Government Rupee securities.

(*b*) Not less than 30% in Indian Government Rupee or Sterling securities, Indian Provincial or Municipal securities, Indian Port Trusts or securities of, or guaranteed as to principal and interest by, the United Kingdom.

All other companies must invest, and hold invested, in the names of approved trustees resident in British India, 100% of their Indian liability in India as follows:

(*a*) $33\frac{1}{3}$% in Indian Government Rupee securities.

(*b*) $66\frac{2}{3}$% in securities as in (*b*) above.

For all companies the investment regulation is related to the amount of the net liability after deducting:

(1) deposits with the Indian Government in respect of life business; and

(2) loans on life policies.

Insurers who are carrying on business at the commencement of the Act are given four years in which to comply with these investment requirements, provided that of the total amount required

to be invested in specified classes of securities, not less than one-fourth will be so invested before the expiry of one year, not less than one-half before the expiry of two years, and not less than three-fourths before the expiry of three years from the commencement of the Act.

The Act does not specifically require that these assets must form part of the assets of the life fund.

The Act requires the separation of accounts, in terms very similar to those of the Assurance Companies Act, 1909, and of the draft Insurance Undertakings Bill. There is no specific provision, however, that the life assurance fund need not be separately invested, such as appears in Section 3 of the Assurance Companies Act, 1909. This question of a separate fund and separate assets for the Indian business is however referred to later when the Returns to be made under the Act are dealt with.

The restrictions on investments, particularly as regards companies other than Indian and United Kingdom companies, seem unnecessarily severe and cramping. Although this section of the Act was strongly influenced by the wording of the Canadian Acts, the latter allow foreign companies a wider choice of investments. It is regrettable that the Indian Government could not see its way to avoid any restrictions on the liberty of insurers in the matter of investments. Prudent insurers regard it as their duty to invest their funds, as they spread their liabilities, in such a way as to provide the most complete security under all imaginable circumstances, and it is desirable that they be permitted complete freedom in the matter of investments. No doubt the Government considered that the unorthodox and lax investment practices of many Indian companies should be stopped in the interests of the public, but the Dominion companies are amongst those most severely restricted, and it was admitted by those in charge of the Bill that the business of the Dominion offices had been conducted on sound lines. It was argued that protection must be provided for Indian policyholders against companies withdrawing from India, in certain events such as war, for example, but this argument hardly applies to the Dominion offices.

The compulsory investment in Government securities is objectionable. As explained above, a substantial proportion of the net life liabilities must be represented by investments in Govern-

ment Rupee securities in which there is a comparatively limited market. Many companies will be compelled to increase their holdings and as a result the market prices of these securities will tend to be artificially enhanced. The principle of compulsion involved is wrong, and, applied to the extent to which it is in this Act, seems prejudicial to the interests of the life policyholders.

Some Indian companies already transact business outside British India, and many others in the course of normal growth will no doubt do so. This natural development is not made easy by such discriminatory and restrictive measures, which invite retaliation. It is hoped that in a few years, when these restrictions have achieved the purpose of improving the standard of investments of the life funds of those Indian companies against whom the sections are mainly directed, the Government will reconsider the position and that they will see their way to return to the sound principle of allowing freedom to insurers to invest the life funds as they consider proper in the best interests of the security and profit of their policyholders generally. The wide powers of control vested in the Superintendent by this Act should be sufficient by themselves to prevent unsound practices.

PROHIBITION OF REBATING. RESTRICTION OF COMMISSION LICENSING OF AGENTS

Reference has been made to the difficulties created in India through the high acquisition costs in life assurance. Too heavy working costs have, however, not been confined to life business but have affected all branches of insurance. Continually rising rates of commission, in particular, have contributed to the increase of costs to uneconomic levels. The high rates of commission have brought in their train the mischief of rebating part of the commission to the insured. This practice was not confined to any one section of insurance business, but appears to have been particularly marked in non-life branches.

The Act fixes maximum rates of commission for life business and other classes of business as follows:

Life business: 40% of the first year's premium.
5% of renewal premiums.

New insurers, however, may increase these rates for the first ten years of their business to:

55% of the first year's premium.
6% of renewal premiums.

Any other class: 15% of the premium.

Restriction of commission was accepted by the Assembly only after vigorous opposition by those speaking on behalf of the younger and newer Indian life companies who argued that these companies would be in a difficult position in competition with the well-established companies, and consequently special maximum rates for the first ten years are prescribed for new companies transacting life business. As high commission rates have been largely responsible for the difficulties of life business in India, especially in the case of newly-established companies, it is very doubtful whether the concession is justified; but possibly the exigencies of the political position affected the question. There will be practical difficulties in the way of any company entitled to this concession when it comes to reduce its commission terms on the expiry of the ten years. In the case of a long-established non-Indian company commencing life business in India the special terms apparently do not apply to the first ten years of its operations in India.

It was no doubt thought that, owing to the restriction of the commission rates payable to a reasonable figure, agents will in future have less inducement to rebate part of their commission to the insured. The intention is fortified by the express prohibition of rebating, which becomes an offence under the Act punishable by fine. To assist in controlling agents and in stopping rebating each agent must be licensed.

It is however permissible for insurers to employ persons as Chief Agents whose remuneration is not restricted. Such persons and insurers employing agents direct must keep a register of their licensed agents and may not pay any commission or other remuneration "for soliciting or procuring" insurance business to anyone but a licensed agent.

It may be explained that many insurance companies in India, in addition to, or in lieu of, a system of Branch Offices, have an organization which consists of Chief Agents in the main centres. These Chief Agents obtain business through sub-agents or canvassers appointed by the Chief Agents themselves. Some of the

Chief Agents are important firms employing canvassers and maintaining large offices. The Act does not require that Chief Agents employing licensed agents should themselves be licensed. It would be very difficult to prescribe what must be the commission payable in the widely varying circumstances of such cases, for the Chief Agent, through his sub-agent, does much more than canvass for business and in many cases performs much of the work of a Branch Office including the issue of the policy. Though the wording of the Act is sufficiently clear on this matter, the intention was explained during the debates, the Law Member saying in reply to a suggestion that Chief Agents, if they were to be outside the Act, should be defined:

> We are defining positively the man who is to be included, and anybody who is not a canvasser goes out of the section, whether you call him the Chief Agent or the Special Agent.

Chief Agents are however included in the sections prohibiting rebating.

These provisions of the Act should, if they are observed by all insurers and agents, effect a much-needed improvement in a situation which was deteriorating rapidly. Provisions restricting remuneration and prohibiting rebating are, however, difficult to enforce. It is to be hoped that all insurers will, in their own interest, loyally support this attempt to improve the condition of the industry in such a vital matter. It rests largely with insurers themselves to ensure that these provisions are effective.

RECIPROCAL ACTION AGAINST NON-INDIAN COMPANIES

Section 62 of the Act provides that where an Indian company operating in a foreign country is required, as a condition of carrying on insurance business therein, to comply with any special requirement, whether as to the keeping of deposits or assets in that country or otherwise, which is not imposed on insurers of that country under the Indian Act, the Government must impose reciprocal conditions. Section 3 (3) gives power to apply retaliatory action so far as to refuse registration for carrying on business in India.

These provisions demonstrate the intensely nationalist feeling of the Legislative Assembly during the debates. In the Bill as

first drafted the power to retaliate was permissive, but despite all argument, the Assembly insisted that it should be mandatory on the Superintendent. It would be well to recognize that this power is a weapon which the Indian legislature is firmly determined to maintain. It applies to the United Kingdom as well as to other countries, as Section 113 of the Government of India Act, 1935, permits reciprocal action if the United Kingdom were to pass legislation which discriminated in any way against Indian companies wishing to operate in this country. (See Section 113 (1) proviso.)

During the debates, a great deal was heard of the attitude of certain countries in prohibiting or making difficult the entry of Indians or the holding of land by Indians; but the Law Member said:

> I would like this House to realize that although under this Bill there is full power of retaliation so far as India is concerned against non-Indians this power of retaliation is confined to insurance law only. As a matter of fact notices were given of some amendments for discriminating against countries where there are any laws unfavourable to Indians: for instance, it was said that America has immigration laws, Canada has got certain laws, South Africa has got certain laws, which discriminate against Indians and therefore that ought to be a ground for putting them in difficulties so far as their insurance business here is concerned. The Bill makes it perfectly clear that retaliation is limited to the matter of conditions relating to insurance which prevail in foreign countries. For instance, America cannot be hit because American immigration laws, or laws relating to acquisition of domicile, or holding of property, discriminate against Indians.

ASSIGNMENTS OF LIFE POLICIES

The sections of the Act dealing with assignments raise a great many questions of importance, and full consideration of the legal and practical points involved would require almost a paper to itself. It is impossible to deal with them comprehensively here.

Prior to this Act, the law relating to assignments was contained in Sections 130 *et seq.* of the Indian Transfer of Property Act governing the transfer of all actionable rights. This was based on English law, but it differed in two important particulars:

(1) It provided that an assignment was complete and effectual upon the execution of the instrument and that thereupon all rights and remedies vested in the assignee, whether notice was given or not.

(2) It did not recognize equitable assignments. English law has long recognized such assignments and since the Policies of Assurance Act, 1867, a person entitled in equity to a policy can sue in his own name, provided he has given notice to the company. That Act did not deal with methods of transfer; it merely conferred a right to sue upon a person already entitled in equity. The Transfer of Property Act prescribed a method of transfer and in a leading case, decided by the Privy Council (reported in Vol. 40 of *Indian Appeals*, p. 24), it was held that the method prescribed (i.e. by a document in writing signed by the transferor) was the only method by which actionable rights could be transferred in India. Consequently, equitable assignments as known to English law confer no rights on an assignee in India.

The effect of the law referred to in (1) can be illustrated by an example. *A*, by a separate instrument, assigns his life policy to *B*, retaining the policy in his possession. Later, *A* transfers his policy to a bank as security for a loan, delivering the policy over to the bank. *B* is entitled to priority over the bank, although the latter had no knowledge of the earlier assignment by *A*, and had obtained possession of the policy. If, instead of borrowing from a bank, *A* had obtained a loan from an insurance company, the position of the company would have been the same, even though *B* had failed to give notice to the company.

Section 38 is included in the Act in order to rectify this position. Although broadly it has the same effect as the English Act of 1867, it does not follow the wording of that Act, owing, it was explained, to the differences between the law in India and England making it impossible to incorporate anything relating to the English law of equitable assignments.

The decision in Vol. 40 of *Indian Appeals* is embodied in subsection (1) of Section 38. No assignment is recognized unless it is in writing and signed by the assignor or his duly authorized agent and attested by at least one witness.

In subsection (2) the law regarding notice is set out. An assignment is not operative against an insurer and confers no right to sue until the assignee (or assignor) gives notice to the insurer at his principal place of business in India.

Subsection (3) provides that where there are successive assignments the priorities are decided by the dates of delivery of notice,

irrespective of the dates of the assignments. This subsection thus largely removes for the future the difficulties that banks and insurance companies have experienced due to the defect in the existing law illustrated in the example given above.

It should be noted that this subsection states that the date of delivery of notice is to regulate the priority of all claims under a transfer or assignment "as between persons interested in the policy". These words seem to indicate that not only is priority determined as regards recognition by the insurer but also as between the other parties interested in the policy *inter se*. If this is the effect, the position is materially different from that in this country following the Policies of Assurance Act, 1867. It is doubtful whether this is the intention of the subsection, having regard to the wording of subsection (2) which states that the assignment shall be complete and effectual upon its execution, and also to the provision in subsection (5) that the assignee takes "subject to all liabilities and equities" of the assignor.

Under subsection (4) the insurer must maintain a register of assignments and must give (if requested and for a fee) a written acknowledgment of notice.

Subsection (5) provides that from the date of receipt of notice the insurer shall recognize the assignee as the only person entitled to benefit under the policy, subject to all liabilities and equities to which the assignor was subject at the time of the assignment. This is in strong contrast with English practice, as it seems (though the matter is not free from doubt) to necessitate an inspection of the actual deed of assignment in every case when recording notice. Otherwise, there would be considerable risk in recognizing the assignee named in the notice as the only person entitled to the benefits under the policy.

Apparently, in future a company granting a loan on the security of one of its policies should, to comply with subsection (1), take a formal assignment of the policy, and, to preserve its priority under subsection (3), should record notice of such assignment.

In India conditional assignments are very common, particularly of endowment assurance policies. They are usually transfers securing the policy moneys to the wife of the assured only if the assured dies before the date of maturity of the policy; otherwise the policy moneys are payable to the assured at maturity. Prior to

this Act, companies had been advised that such assignments did not come within the provisions of Section 130 of the Transfer of Property Act and that the policy remained vested in the assured, though payment was sometimes made to the wife if the assured died before the date of maturity. By Section 38 (7) of the Insurance Act these conditional assignments are specifically validated, even in cases in which custom having the force of law in India (e.g. Mohammedan law) rules to the contrary. The position of the company in having to recognize the assignee under a conditional assignment as the only person entitled to benefit under the policy after date of notice is still unsatisfactory.

The provisions have no retrospective effect (subsection 6); and this is intended as a safeguard of transfers made before this Act.

The Act deals only with assignments of life policies. Assignments of fire and marine policies remain governed by the Transfer of Property Act, Section 135.

The section of the Act dealing with assignments removes many of the difficulties and defects of the law as it formerly stood, and in particular greatly improves the position of banks and insurance companies who hold policies as security for loans. There still remain obscurities in the position, some of them arising out of the wording of the Act itself.

NOMINATIONS

Under the Act a nominee is given a statutory right to receive the policy moneys when the policy matures for payment, and at the time of the passing of the Act it was explained that this was intended to avoid the difficulties, delays and expense of obtaining grants of representation. The effect of a nomination differs from that of an assignment in that while under the latter the title to the policy and the right to all moneys payable thereunder rest in the assignee, under a nomination the title remains in the assured, who can cancel or change the nomination by assignment or by will or by fresh nomination.

The nomination, to be effective, must be either (1) incorporated in the text of the policy as issued, or (2) endorsed on the policy by the policyholder and communicated to the insurer and registered by him in his books.

The fact that a formal assignment cancels any previous nomination is a further reason for insurance companies taking an assignment when granting a loan on a policy.

The Act states that a nomination may be cancelled or changed by a will at any time before the policy matures for payment. Difficulty will arise as there is no obligation to give notice to the insurer of the making of such a will. It is believed that payment by the insurer to the nominee would be protected provided the insurer had received no intimation of the cancellation of the nomination by will or otherwise, but the point is not free from doubt in the absence of specific provision to that effect. If, however, the insurer is not protected, it would be unsafe to pay a nominee and the object of the section will not be achieved.

In subsection (1) it is stated that the nomination may be made when the policy is effected or at any time before it matures for payment. If a nomination in favour of a wife is incorporated in the policy as issued, it appears to raise the question whether the policy is not thereby brought within the scope of the Married Women's Property Act in India. Under that Act a statutory trust is created in favour of the wife when the policy is expressed on the face of it to be for her benefit. If it is not intended to issue the policy under the Married Women's Property Act the nomination should be effected by endorsement of the policy after it is issued.

Subsection (7) expressly states that the provisions of the Act regarding nominations shall not apply to any life policy issued under the Married Women's Property Act. The position of a nominee differs from that of a beneficiary under the latter Act who acquires, to the extent of the interest created under the Married Women's Property Act, an indefeasible right in the policy.

It is not possible here to discuss the many legal points that are raised by the section. It seems probable that there will be many instances in which a nomination, instead of simplifying the claim settlement, will provide an added complication.

INCONTESTABILITY OF LIFE POLICIES

The Act provides (Section 45) that no life policy effected before the commencement of the Act shall after two years from its commencement, and no policy effected after the commencement of the

Act shall after two years from the date of the policy, be "called in question" on the ground of any inaccurate or false statement by the proposer in the proposal form or medical report unless the insurer shows that such statement was (1) inaccurate or false, (2) on a material matter, (3) fraudulently made, and (4) known to be false by the policyholder at the time of making it. The section is obviously based on similar provisions appearing in the Canadian statutes.

The company is thus debarred, in certain circumstances, from questioning the validity of the policy on the ground of a false statement made in the proposal or medical report. Contracts of life assurance have always been regarded as contracts *uberrimae fidei*; but this section of the Act appears to modify this position. At least it permits of an interpretation very favourable to the assured. It is unfair to the insurer that the section should be applied retrospectively to cover mis-statement of age in proposals made before the commencement of the Act, for on the error being discovered after death he will be prevented from rectifying the matter unless fraudulent intent is proved, which will generally be impossible. It must be remembered that authentic proof of age in India is in very many cases a difficult matter. There should be provision made to allow an innocent mistake to be rectified. In this particular, the Canadian section is inoffensive as it makes express exception of those cases in which age has been wrongly stated. Insurers in India can, in future, insist on proof of age at the outset, or at least within the first two years; but the inequity regarding policies issued before the commencement of the Act remains and is not removed by allowing a two years' interval after the commencement of the Act, as the insured may fail to produce any evidence of age during that time.

REPRESENTATION OF POLICYHOLDERS ON BOARDS OF DIRECTORS

In the case of an Indian company carrying on life insurance, not less than one-fourth of the number of directors of the company must be representatives of policyholders of the company elected in a manner to be prescribed by Rules (Section 48).

In the Canadian Act a similar provision appears, the proportion of policyholders' directors being fixed at one-third of the whole number.

The section is not restricted in its terms to companies carrying on life business only. Where life business is transacted along with other classes of business it is not stated whether the life policy-holders' directors are to participate in the control of the non-life business. Apparently they will have full directorial powers and responsibility. The section does not apply to non-Indian companies.

RETURNS REQUIRED UNDER THE ACT

The Act requires that every insurer shall make to the Superintendent an annual return of a Balance Sheet (First Schedule), a Profit and Loss Account (Second Schedule) and a Revenue Account for each class of business (Third Schedule); and once at least in every five years shall submit an actuarial abstract (Fourth Schedule) of a valuation of the life business of the insurer in the prescribed form. Appended to the valuation abstract there must be a statement of the insurer's Life business in force on the valuation date in the form set out in the Fifth Schedule.

These schedules follow the forms of schedule and the regulations for their preparation set out in the draft Insurance Undertakings Bill appended to the Report of the Clauson Committee, 1927.

The separate classes of business for which separate revenue accounts and funds must be maintained are (1) Life, (2) Marine, (3) Fire, (4) Accident and Miscellaneous including Workmen's Compensation and Motor Car insurance.

The returns are to be made by all insurers, Indian and non-Indian. Certain non-Indian insurers, who are required in their country of origin to make Government returns of substantially the same nature as those prescribed in this Act, will furnish under Section 16, in place of the full returns called for under the Act, copies of the returns made to the Government of their country of origin supplemented by additional information in respect of their Indian business as follows:

(*a*) A statement showing the assets held in India.

(*b*) A revenue account in the prescribed form. In the Life account every item, and in the other accounts, certain items of outgo and income, must be divided under the respective headings "Business within India" and "Business out of India".

(*c*) An abstract of the valuation report in respect of all life business in India, prepared in the form prescribed in the Fourth Schedule.

(*d*) A declaration in a form to be prescribed by Rule stating that, with the exception of sums received on capital account, all amounts received by an insurer directly or indirectly whether from his Head Office or from any other source outside India are shown in the revenue account.

It is expected that United Kingdom and Dominion companies as well as companies of several other countries will come within the category of offices making returns under Section 16.

A similar modification of the full requirements was included in the 1912 Act which permitted companies making returns to the Board of Trade here to submit in India copies of those returns in place of the returns prescribed in the Schedules appended to the 1912 Act.

The 1928 Act required all companies to submit annual statements in respect of their life business showing (1) new business, (2) total business in force, (3) claims, each item being sub-divided according to business in India and out of India. In respect of non-life business a similar statement showing the premium income and claims was required, these figures also being sub-divided between business in India and out of India. A classified summary of Indian assets was also called for.

When it came before the Assembly the Insurance Bill contained Schedules following closely the scheme of returns appended to the Insurance Undertakings Bill. Despite the comprehensive nature of the Clauson Schedules the Government were forced under pressure to include in the Schedules to the Act an annual statement of gross premium income and, in respect of life business, statements similar to those referred to in the previous paragraph together with a statement showing the change in the business in force over the year and a classified statement of the policies lapsing in the year.

The additional statements of gross premium income, of new and total life business (Form DD), of the change of life business in force (Form DDD) and the classified statement of lapses (Form DDDD) are called for in Part I (i.e. Regulations) of the Third Schedule. These additions were made by amendment of Part I of

the Third Schedule. Non-Indian insurers coming within the scope of Section 16 are required to make the separate return in respect of their Indian life business in accordance with Part II of the Third Schedule. It therefore appears that these insurers submitting the modified returns under Section 16 will not have to submit the above statements although statements in Form DDD and Form DDDD are called for when an actuarial report and abstract (Fourth Schedule) are submitted. It is not clear whether these two forms when submitted under the Fourth Schedule are to relate to one financial year (which would be strictly in accordance with the form) or to the period covered by the Consolidated Revenue Account.

Schedules to the Act as finally passed are thus a composite affair and include some returns not contained in the Schedules to the Clauson Bill. It is regrettable that anything was added in the way of further analysis of the life business statements to the already very searching and complete requirements of the Clauson Schedules which give all the information needed by the public, or by the Government for purposes of supervision. The needless multiplication of forms and returns adds to the expenses of conducting business, and the reduction of expense rates is one of the objects aimed at in the Act.

It will be seen that amongst the returns required from all companies (including those which come under the special terms of Section 16) is a separate valuation of the life business in India. The furnishing of the valuation abstract will necessitate the maintenance of a separate fund in respect of a company's Indian business and showing quinquennially the surplus on the Indian business separately. This requirement also was not part of the original proposal of the Government but was likewise forced on them by the opposition in the Assembly.

There seems no argument based on the interests of the public which justifies this alteration. It is the surplus earned by the whole of the life fund of an insurer which is important and which should be disclosed. It is actuarially unsound to require any insurer (Indian or non-Indian) to show the results of the working of its business sub-divided into relatively small sections. Such sectional results are liable to be misleading and are open to deliberate misinterpretation. The amount of business done in India by some non-

Indian companies is very small, and a separate valuation of such business may for this reason alone show wide fluctuations in the results of successive valuation periods. The publication of such results relating to a part only of the whole business affords no information of any real value to the insuring public in the choice of an insurer, nor to the Superintendent in his task of supervising and restraining insurers with inadequate resources. A separate declaration of bonus in respect of the Indian section of an insurer's life business is not required by the Act and the section of the Assembly responsible for the amendment requiring the separation of the Indian life fund affirmed that this was not the intention. On this point the Law Member made the following statement in the closing stages of the debate in the Legislative Assembly:

> There is no occasion for any fear that under this law they (i.e. the non-Indian companies) will be compelled to have regard only to their Indian life fund, which may happen to be small in some cases, for payment of bonus.

The prescribed form of balance sheet (Form A) is in columnar form, and this form taken in conjunction with Section 11 appears to enforce on all Indian companies a segregation of life assets, and on non-Indian companies a segregation of life assets in respect of their Indian business. But, as has been mentioned, certain non-Indian companies will furnish, in place of the full returns called for under the Act, copies of the returns made to their own Government, together with some supplementary returns including a revenue account in respect of Indian life business. Such companies are not therefore required to submit Form A, and will thus not have to segregate assets representing the Indian life fund which they must show in the Revenue Account. They are left, therefore, in the position that they must keep a separate life fund in respect of their Indian business but are not required to segregate assets to that fund, although certain assets must be held by the companies in accordance with Section 27. The Act, therefore, stops some way short of requiring complete separation of the Indian life business of a company.

One of the Schedules to the Act differs altogether from the corresponding Schedule of the Clauson Bill. The Sixth Schedule contains the Rule as to the valuation of the liabilities of an insurer

in insolvency or liquidation. The corresponding Schedule in the Clauson Bill provided that the valuation of life policies should in all cases be by a gross premium valuation. This method can give sound values in a winding-up for the purpose of amalgamation with another company or for estimating the prospective share of the shareholders in the business. But, if the liabilities in a winding-up are being estimated not for such purposes but with a view to a cash distribution of assets amongst policyholders, the negative values resulting in a gross premium valuation present a difficulty, and make the method less suitable than the net premium method. The Sixth Schedule of the Indian Act does not prescribe either method. It leaves the method of valuation and also the basis of valuation to be determined by an actuary appointed by the Court, who is required to take into account the purpose for which the valuation is to be made in the winding-up.

As regards current policies other than life policies, the liability is to be ascertained on the basis of the proportionate premium for the unexpired risk.

OTHER PROVISIONS

Payment of money into Court. Section 47 of the Act provides that where, on a life policy maturing for payment, there are conflicting claims to the sum assured or there is insufficiency of proof of title, and the insurer is in consequence unable to obtain a satisfactory discharge, the insurer must within nine months but not before six months after the date of the maturing of the policy for payment apply to pay the policy moneys into Court. When the prescribed conditions exist, it is obligatory on the part of the insurer to make the application, and failure to comply is punishable as an offence under the Act.

This provision is based on the Life Assurance (Payment into Court) Act, 1896, the main differences being (1) that there is no limitation of time in the English Act, and (2) that resort to the machinery of the English Act is not compulsory. Companies in India, both Indian and non-Indian, had for some time been pressing for something on the lines of the 1896 Act.

The section speaks of "the date of maturing of the policy" but the section must be read as applying not only to endowment

assurances. It is probable however that the procedure of the section is not to be used in the case of surrenders.

It is not clear whether the section will apply retrospectively to claims arising before the date of commencement of the Act, i.e. to claims due for more than six months but less than nine months at that date. It seems reasonable that the machinery of the section should be applied in such cases.

Provident Societies. Brief mention should be made of the large part of the Act containing provisions for the complete regulation and control of Indian provident societies. A large number of these societies are in existence and were previously regulated by the Provident Societies Act, 1912. This Act was more or less based on the English Friendly Societies Acts, though narrower in scope. Unlike insurance companies, which come under the supervision of the Central Government, the provident societies were under the supervision of their respective Provincial Governments, but under the 1938 Act they are brought under the control of the Superintendent of Insurance.

As regards management the position of provident societies has been, apparently, much worse than that of Indian life companies, and there was obvious need for drastic action by the Government to stop abuses, and indeed to end the career of some of the societies.

The provisions of the Act follow broadly those applicable to insurance companies and are certainly not less severe. It seems probable that many of the societies will go out of existence, at least as independent concerns.

Lloyd's. The operations of Lloyd's in India are brought within the scope of the Act, the definition of insurer including any person who in British India has a standing contract with Lloyd's underwriters to issue cover notes or other documents granting insurance cover to others on behalf of the underwriters. Such an insurer is deemed to have complied with the deposit provision if a deposit of an amount 1½ times that applicable to a company is made by or on behalf of the underwriters who are members of the Society of Lloyd's. As regards returns, by Section 115 the prescribed forms may be altered so as to adapt them to the special requirements of Lloyd's business.

"*Carrying on business in British India.*" Obscurities are left by

the Act owing to the absence of any definition as to what is "carrying on business in British India". It is doubtful whether the canvassing for proposals in India on behalf of a non-Indian company which has no place of business in India would be held to be carrying on business in India, though the canvasser would probably have to be licensed. There is also the question of the position of a company which ceases to transact any new life business but maintains an office for the collection of life renewal premiums only.

In the absence of any definition in the Act, it should be made clear by Rules or otherwise that it is the transaction of new business by contracts issued in India through an office in India that determines whether business is being carried on.

These questions are among the points on which the Superintendent may make Rules under Section 114, and it is hoped that when issued these will make the position clear, and absolve an office which no longer transacts new life business in India from complying with provisions of the Act regarding deposits, investments and returns so far as they relate to its life business, even if it continues to transact other forms of insurance.

Provisions as to lapsing of life policies. By Section 50 an insurer must, within three months of the lapsing of a life policy, give notice to the policyholder informing him of the options available to him.

Section 113 provides that, if premiums have been paid for three years under a policy where a definite number of premiums is payable, the policy shall acquire a surrender value and shall not lapse notwithstanding any contract to the contrary, but shall be kept in force to the extent of its paid-up value. An "explanation" appended to this section fixes the paid-up value as the amount bearing the same proportion to the total sum assured as the total of the premiums paid bears to the total of the premiums payable. Policies containing a non-forfeiture clause automatically applying the surrender value to maintain the policy in force are excluded from the operation of this section, as are also term policies and contingent assurances, policies of small paid-up value, and those cases in which, after the default, the parties agree in writing on other terms.

Apparently Section 50 applies in cases in which Section 113 is inapplicable. In the latter section the "explanation", in referring to the proportion, speaks of "the total of the premiums already paid"

and "the total of the premiums payable" where it was probably intended to refer to the total number of years' premiums already paid, and the total number payable. The sections are not clear. It is not expressly provided that surrender values after three years are to be endorsed on the policy, and although Section 113 provides that policies must be non-participating after conversion, it is not stated how bonuses already attaching must be dealt with thereafter. Apparently agreement to revive the policy and restore it to its original amount must be in writing.

CONCLUSION

The necessity for new insurance legislation in India had been universally recognised. The Act contains many imperfections, but it is hoped that at least those which are of a non-controversial nature will be removed in the amending Bill which is now under consideration. The Act does represent a determined effort to establish the business on a sounder basis, and, with wise administration, it should enable insurance in India to make progress on the right lines.

Anyone who is aware of the conditions at present obtaining in many life companies in India and who remembers the history of life assurance in this country, especially the improvement following the passing of the Life Assurance Companies Act of 1870, must hope that a similar improvement will be seen in India following the passing of this Act. It may not be out of place to express the opinion that this will largely depend upon the development in India of an actuarial profession adequate in numbers and strength. Fully qualified actuaries are very few indeed in India at present. In this respect life assurance was more fortunately placed in this country in 1870 than it is in India to-day. It seems to an observer that any great improvement in the standard of life insurance business depends in the long run at least as much upon strong professional action as upon legislative enactments however wisely planned and administered.

I wish to thank those colleagues who have assisted me in preparing this paper and in particular Mr J. C. Lang and Mr W. W. H. Rider, F.I.A., for many valuable suggestions.

ABSTRACT OF THE DISCUSSION

Mr R. W. Sturgeon, in introducing his paper, said that it contained no reference to whatever might be in any amending Bill. Since the paper had been printed an amending Bill had been introduced into the Indian Legislature: it dealt only with drafting points, and cleared up some of the ambiguities in the original Act. It might, of course, be extensively altered before it passed through the Legislature. It provided that in the case of insurers incorporated before, or carrying on the business of insurance in British India before, the 27 January 1937, the second instalment of the deposit must be paid not later than four months after the commencement of the Act. It also provided that notice to an insurer of an assignment or transfer is not complete unless the relative deed or a certified copy of it is produced. The Amending Bill also made it unnecessary for a company to give notice to itself when making a loan on security of a policy.

The unsatisfactory provision that the assignee under a conditional assignment must be recognized by the insurer as the only person entitled to benefit, had been made much more satisfactory by a clause in the Amending Bill. The difficulties arising when a nomination is cancelled by a subsequent will of which the company had no notice, had been cleared up by the Amending Bill and protection had been given to the insurer. With regard to the doubt whether canvassing for business in India on behalf of a non-Indian company which had no place of business in India would be considered as carrying on business under the Act, the Amending Bill had made it clear that such business would be within the scope of the Act. Finally, regarding the suggestion that a non-Indian company that had ceased to write new life assurance business in India should not be treated as transacting life assurance business in India, a clause had been inserted which provided that where a non-Indian insurer had, prior to the commencement of the Act, ceased to write new business in any class, the provisions of the Act shall not apply to the insurer in relation to the existing business of that class.

Mr H. G. Jones, in opening the discussion, referred to the spate of insurance legislation which seemed to exist at the present time in every country in the world, and said it was difficult to think of any State with pretensions to civilization that was not considering insurance legislation, in some cases for no better reason than that the State in question wanted to make clear those same pretensions! In India, however, other considerations obtained, and there was real need for the Act. The author had recorded the tremendous number of new companies which had been established in the past few years, and had also indicated the unsatisfactory methods of obtaining business which some of those companies had adopted. Such facts left no doubt that further control was necessary. In dealing with the powers of the Superintendent, the author had suggested that if the provisions of the 1912 Act had been more freely carried out, the

present position might not have arisen. Whether that were so or not, the fact remained that the position had arisen, and it seemed evident that nothing but fresh powers would avail to deal with it. It also seemed that satisfactory action would not be taken unless responsibility were placed in one pair of hands.

The author had referred to ambiguities which were present in the Act. He supposed there never had been an Act of Parliament without some flaws of drafting, and he believed it was commonly admitted that the most frequent cause of ambiguities or obscurity was the presence of amendments which were put in during the course of debate, especially in the later stages. The author had stated that nearly 1500 amendments were put down. The majority were, presumably, not accepted, but many of them were. The Government had had to get a very technical Bill through a keenly interested House, but that interest did not imply efficiency or expert knowledge, and he thought that even those who had not had the author's advantage of being on the spot when the Act was discussed would realize the difficulty of the Government's task. In such circumstances it caused no surprise to find that the Amending Bill, which was introduced to deal with one particular point, namely the date of the second instalment of the deposit, had to deal also with drafting points in over thirty sections of the Act. If that Amending Bill had not been kept solely to "non-controversial" matters, a considerably greater part of the Act must have come under consideration in the same way.

The provision regarding investments was perhaps the least satisfactory feature of the Act. In the case of Dominion and foreign companies, 100% of the liabilities must be covered by investments in a limited field. In the case of the United Kingdom companies that percentage had been diminished, not from any love for those companies, but purely as a result of the constitutional position which put the United Kingdom companies in the same position as the Indian. The author had pointed out that the compulsory investment of a large part of the liabilities in Indian Government Rupee securities, for which there was only a limited market, must raise the price of those securities and react on the interests of the insured themselves, and the same thing was probably true to a less extent in respect of the class of approved securities. The mere fact that the funds must be invested in a certain way prevented full scope for investment skill and it was that skill which maintained the interest yield and helped a company to show good results. When the percentage of liabilities to be so invested was raised to 100%, and it was remembered that that 100% did not include real property, so that any real estate held by the companies must be held in addition to their full reserves, it could be seen how unreasonable the investment provision was. The author had made reference to the possibility that the Indian companies themselves would suffer from retaliation owing to that provision. Already Ceylon and the Straits Settlements, for example, had introduced legislation discriminating against foreign companies. Such legislation was not yet in full force, but the danger signal had been seen. Unfortunately, it was doubtful whether it would induce any alteration of opinion among the Indians.

As had been stated, there was a provision for prohibition of rebating, restriction of commission rates and licensing of agents. In conducting insurance abroad, it was often necessary to pay commission on a scale which would be considered quite unreasonable in the United Kingdom. In India the position in that respect was perhaps not so bad as in some other countries, but there was no doubt that the provision for limitation of commissions would be quite a useful thing, provided it could be made effective. The licensing requirements should assist in making it effective. Nevertheless, difficulties had already arisen with regard to such questions as the definition of an agent. The Law Member had indicated that only the canvasser was to be regarded as subject to the licensing provision. But, as was well known, opinions expressed by members of the Government when an Act was being passed would not bind judges, or even the Government themselves, in the interpretation of the Act, and he believed that the Superintendent had expressed an opinion, possibly with authority, that whenever a policy was effected the man who was in touch with the public must be licensed. In other words, every clerk who might hand a policy over the counter would have to be licensed. If that were true, it did seem unreasonable.

In the United Kingdom nominations were unusual in "Ordinary Branch" practice but they arose in the Industrial Branches and in the Friendly Societies. In India there was probably far more insurance of small sums by "Ordinary Branch" companies than in the United Kingdom, and it seemed that the provision for nomination met a real need, although, no doubt, numerous legal questions were involved.

He could not say whether it would be held in court that the section of the Act relating to incontestability of life policies would override an agreement to modify the sum assured in the event of a mis-statement of the age of the life assured. It had been generally agreed that it would, and he believed it was the intention of the Assembly that correction of a mis-statement of age would not be allowed. That was most unsatisfactory, although perhaps there was some comfort in the fact that the evidence of age now obtained in India was often so poor that the position could not be much worse.

At the end of the paper the author had commented upon the separate life assurance fund for India which was required by the returns, and had quoted the statement of the Law Member that there was no occasion for any fear that the non-Indian companies would be compelled to have regard only to their Indian life fund, which might happen to be small in some cases, for payment of bonus. In the first place there was again the question whether the Law Member's statement would bind the Government, but, apart from that, even though the action of the Government might be irreproachable, it would not prevent Indians, particularly those of a nationalist turn of mind, from making irresponsible propaganda out of the material provided by such returns. He was afraid there was nothing that could be done, but there did seem cause for concern as to the use which might be made of those figures, which, as the author had shown, might often be quite unsound as a guide to the real position of the companies in India.

Mr J. Murray Laing, in a written communication, observed that the author had called attention to the significance of the provision that after two years from the commencement of the Act, or the date of the policy, an office is debarred from relying upon the answers in the proposal as the basis of the contract, unless it can prove fraud, and had expressed the view that that provision had been copied from the Canadian statutes. It was unnecessary to go so far afield as Canada to find a precedent, since in the Industrial Assurance Act, 1923, Section 20, a similar provision appeared for the first time in this country, subject however to the redeeming feature that mis-statements in regard to age could be rectified at any time after the issue of the policy. Further, in the Insurance Act, 1936, relating to Southern Ireland, it was provided (*inter alia*) in Section 61 that where a proposal for an industrial assurance policy is filled in wholly or partly by a person employed by the company to which the proposal is made, and a mis-statement, which is not fraudulent, has been made in some material particular by the proposer, the validity of the policy may not be questioned on the ground of such mis-statement (if that particular mis-statement is filled in by the person so employed) save only that validity may be questioned if the mis-statement relate to the state of health at the date of the proposal, and the question is raised within two years from the date of the issue of the policy. Section 64 of the same Act also provided that every policy of industrial assurance issued after the commencement of the Act shall be deemed to be made on the terms that the age, at the date of issue, of the life proposed is admitted by the company issuing the policy, and accordingly the policy may not be invalidated or questioned on the ground of incorrect statement of age, except that the company may, within twelve months of the date of receipt of the proposal, adjust the terms of the policy to conform to the true age of the life assured.

There was, however, little doubt that the suggestion of incontestability after two years arose as long ago as the year 1908, when, in the case of Joel *v.* Law Union, where a question of non-disclosure arose, Mr Justice Fletcher Moulton, after pointing out that a contract of life assurance is one *uberrimae fidei*, observed:

"Insurers are thus in the highly favourable position that they are entitled not only to *bona fides* on the part of the applicant, but also to full disclosure of all knowledge possessed by the applicant that is material to the risk. And in my opinion they would have been wise if they had contented themselves with this. Unfortunately, the desire to make themselves doubly secure has made them depart widely from this position by requiring the assured to agree that the accuracy, and not only the *bona fides*, of his answers to various questions put to him by them or on their behalf shall be a condition of the validity of the policy. This might be reasonable in some matters, such as the age and parentage of the applicant, or information as to matters connected with his family history, which he must know as facts. *Or it might be justifiable to stipulate that these conditions should obtain for a reasonable time—say during two years**—during which the company might verify the accuracy of the statements which by hypothesis have been made *bona fide* by the applicant. But insurance

* Italics by Mr J. Murray Laing.

companies have pushed the practice far beyond these limits, and have made the correctness of statements of matters wholly beyond his knowledge, and which can at best be only statements of opinion or belief, conditions of the validity of the policy."

Mr T. F. Swift said that the prompt settlement of claims was of such practical importance that many people might regret the complicated nature of Sections 38 and 39 of the Act. Those responsible for the administration of life assurance business would not for ever be able to treat those sections as matters entirely for the lawyers; the lawyers would not bear the brunt of competing claims and of the bad advertisement involved in litigation. Moreover, unfortunately, counsel would differ widely, and until the obscurities referred to by the author had been made clear by judicial decision, there might prove to be little substance in what the author had called the greatly improved position of offices and banks which held policies as security.

In the interests of all parties it was generally admitted that the assignee of a policy should be subject to prior equities of which he had knowledge at the date of his assignment. Subsection (5), however, required that the assignee should take subject to all the liabilities and equities of the assignor, presumably irrespective of whether the assignee had notice of them. That seemed particularly unsatisfactory when it was remembered that Subsection (2) provided in effect that an assignment was to be complete against the assignor, though not against the office, although no notice should have been served. Hence it seemed very doubtful whether the office as lender was in any better position than any other lender. In that respect, Subsection (5) followed very closely Section 132 of the Transfer of Property Act, 1882, and it would be interesting to know, therefore, why the author thought that the position of banks and possibly of offices as lenders had been so much improved.

Further, as the author had pointed out, the new Act did not deal satisfactorily with the question of the conditional assignments, which were so frequent in India. Nothing had been suggested in the Act as to the position of those conditional assignments already in existence, and authorities in India to-day did not seem even yet agreed as to the meaning of the 1882 Act, as, in the opinion of many, Section 130 had to be read in conjunction with Section 31. The view taken by Mr Dutt in his book on *The Law and Practice of Life Assurance in India* was that the conditional assignee could already give a valid receipt. The law relating to those assignments and to assignments generally was of such fundamental importance in the business of life assurance that he thought it must be a matter of some regret that an opportunity had not been taken of putting the law in India into what could be felt to be a more satisfactory state.

Mr J. C. Lang (a visitor) said that in considering insurance legislation it was desirable that technical considerations should take precedence of political ends, but that was not the case in India. There, as in other parts of the world, nationalism was very much to the forefront. It was no easy

matter to obtain agreement with so many taking a hand in the shaping of the Act; and, but for very able work by the Law Member, a much more unsatisfactory measure might have emerged. He sometimes thought that insufficient appreciation had been given to the way in which Mr Susil Sen had sifted out what was material from the welter of opinion placed before him. Mr Sen's report, which was well worth studying, gave an outline of the history of events leading up to the legislation and a very capable and unbiased indication of the problems which had to be faced.

In the discussions, Indian interests were matched against non-Indian, and amongst Indians the large company and the small company did not always see eye to eye. The case advocated from the side with which he was associated was stated in the memorandum put forward by the Insurance Legislation Joint Committee, and that memorandum indicated a desire for legislation which would be sound in principle and suitable for all insurers, Indian and non-Indian alike.

The chief need for legislation was in connexion with life assurance, as the author had said and, it might be added, in connexion with the business of provident societies. It was decided, however, to bring in all classes of insurance. That was perhaps a justifiable decision, but looking back on the complications it had caused, he was inclined to the opinion that it would have been better had life assurance been kept separate from the other classes of insurance. The nature of the contracts was different; one generally ran for years, and the other rarely extended beyond twelve months. Different degrees of security were therefore looked for. Experience in India had shown that to try to deal with them together was not wholly satisfactory.

With regard to the view that the Act went somewhat further than was desirable in introducing Government control and interference and that the influence of Canadian legislation on the Act was to be regretted, it was necessary to bear in mind Indian conditions. In England the desire was for "maximum publicity and minimum interference". Publicity, however, presupposed a certain amount of technical knowledge which was lacking in India, especially among the smaller policyholders who formed the majority. He was sure that that consideration had influenced the Government in introducing a greater measure of control. The control was to be under the direction of a qualified actuary, and he was inclined to the view that that was all to the good. The appointment of an actuary from the Home Government Actuary's Department boded well for the success of the post of Superintendent of Insurance; with the backing and goodwill of his professional brethren, which would certainly be afforded, the appointment of an actuary in that way would, in his opinion, prove to be a sound move.

So far as investments were concerned, the situation had to be faced in the interests of a badly informed public. It was dangerous to allow companies to continue the investment policy which some had thought fit to follow. He was certain that that view had influenced the Government, and, of course, what applied to Indians had also to apply to non-Indians. Non-Indians could safely continue to have as free a hand concerning

investments as was the case in England, but it was not possible to contract them out.

He attributed the influence of Canadian legislation upon the Indian Act to the publicity which had been given to the extent of control in force in Canada. That publicity was not of recent date. The Indian Government had taken opinion some years ago whether Government control should be adopted in India. The Bill, which was put forward by Mr Jamnedas Mehta, closely followed the Canadian Act, and that Bill was not proceeded with on the understanding that the Government would introduce legislation, and that in doing so particular consideration would be given to the suggestions which had been made by Mr Jamnedas Mehta and others of like mind.

What had been aimed at was something on the lines of the Clauson Bill, but he was afraid that the delay in proceeding with the recommendations of that committee had detracted from their acceptance in India as a model. In considering the Act it was not sufficient to say that because this or that principle had been accepted in England it would be accepted in India. Indians sought to be their own masters and to decide their own destinies, and on the whole he thought that they had not made such a bad job of insurance legislation.

Mr A. R. Barrand regretted that there was nothing which he could usefully add; the matter was so fresh to him that he could hardly criticize the paper in any way. The only thought in his mind on the subject, after a very slight acquaintance with India, was how the Act was going to be administered. He called to mind the words of Pope, "Whate'er is best administered is best", and he was of opinion that a great deal depended upon the men who were going to administer the Act in question. Those with a slight knowledge of India knew that a great deal depended upon the character of the men who would have the conduct of the Act, and until more was known about that side of the matter it was difficult to express any opinion with regard to it.

Mr W. F. Gardner said that the author had strongly deprecated those requirements which led to disclosing the results of the working of the Indian section of a non-Indian insurance business. So far as small territories were concerned, where no one office could expect to have a large volume of business, either absolutely or relatively, he was sure that there would be whole-hearted agreement with that view. India, on the other hand, was a great country, and he found it not unreasonable that those who were responsible for supervision should at least know the working results of the business. As the author himself had pointed out, the results could be shown over a period of five years, so that certain of the inequalities would be evened out. The Superintendent would no doubt apply many criteria in his supervision of the insurance business in India, and not the least important of those would be whether the business was resulting in a profit or not. He did not altogether share the apprehensions of the author and of the opener with regard to misleading statements which might be

made as to the results of non-Indian offices doing business in India. He was aware of the position and he appreciated that there was a danger, but he thought that insurance offices were inured to statements of that character. The fallacy of comparing, for instance, revenue claims with revenue premiums continued to be indulged in in the most exalted places.

The author had recorded that a separate declaration of bonus in respect of business in India was not required by the Act. It was comforting, in spite of what the opener had said, to know the opinion of the Law Member on that point, but he would like to emphasize—as he had done some years ago, when he submitted a paper on overseas matters—that in his opinion, although any statutory instruction in that respect was most undesirable, it was of the first importance to offices transacting business in various countries that they should, if necessary, be able to make separate and different declarations of bonus for any of those territories. That was, he thought, highly desirable, in order to cope with wide divergencies from what was anticipated, whether occasioned by mortality, interest, taxation or discriminatory legislation.

Mr I. Barnett remarked that in the case of a company with which he had been connected, whenever a loan was granted on a policy, the transaction was entered in the assignment record in just the same way as any other notice received, and to his mind that was a very good practice. In India a policy was dealt with usually not by a separate deed but by endorsement, but when the company made a loan on the security of the policy very commonly the company itself did so by separate deed, so that the policy was not marked. It was necessary to visualize the average Indian looking at that policy and seeing a number of endorsements upon it and thinking that they disclosed the whole story. It might be said that it was necessary to make enquiries, but if an Indian knew the usual way in which a policy was dealt with he might not think it necessary to enquire of the company. It was suggested that the company should endorse the policy or mark it in some way so as to conform to Indian practice; possibly there might be an endorsement to the effect that the company was holding the policy as security for a loan, so that there would be a complete record of title.

Mr E. Wm. Phillips, in closing the discussion, said that he did not share the author's view that if the United Kingdom companies had not been safeguarded by the 1935 Act still worse things might have befallen the Dominion companies. His own view was that but for the 1935 Act the United Kingdom companies would have found themselves in exactly the same position as the Dominion companies.

The author had emphasized that the Act was not merely a series of regulations applied to the conduct of insurance in India, but was in addition a manifestation of intense nationalism containing wide retaliatory powers. The author had given a list of eight points of special interest and importance and had prefaced them with the words: "Where British practice is followed, the Act is clearly influenced by the draft Insurance

Undertakings Bill appended to the Report of the Clauson Committee. Elsewhere, it equally clearly shows the influence of the Canadian Acts." Those who were familiar only with English law would notice at once that many of the points had not come from English law and might imagine that they had come from the Canadian Acts. That was not the case. There was, for example, the restriction of commission rates. He would not discuss whether restriction of commission rates was a good or a bad thing, but it certainly had not come from the Canadian Acts. Many of the other points were not found in the Dominion law, although some were in provincial Acts. Many of the provisions which might be found in the Canadian Acts might also be found in other Acts before they were ever incorporated in the Canadian Acts.

One thing which would not be found in the Canadian Acts was the crushing restriction upon investments. Every Canadian company operating in Canada must, in respect of its business in Canada, keep two-thirds of its investments in Canadian securities, but that did not apply to a non-Canadian company operating in Canada which had to keep its investments there and to subject them to trustees but was given a wide range of investments. Again, Indian companies and Australian companies were all treated as British under the Canadian Acts. There were two Dominion Acts in Canada, the Canadian and British Insurance Companies' Act, and the Foreign Insurance Companies' Act. Indian companies came under the former, but even the latter enabled a foreign company—and "foreign" meant foreign to the Empire—to make its deposits in bonds or stocks guaranteed by the government of the country of origin, so that a French company, for example, registering in Canada, could make its deposit in French Government stock. He was sure that the author would agree with him that, as regards investments, there was at the present time nothing whatever in the Canadian Acts which remotely affected even an alien company to a tithe of the extent that the Indian Act would soon affect every British company, except those domiciled in the British Isles.

There was one point upon which it was easy to become confused, and that was the effect of the 1935 Act on the Indian Insurance Act, or any other Act passed in India. As he understood the 1935 Act, it said that the Indian Legislature had to treat English companies as though they were Indian companies, either under Indian law or British law, and, if English companies were not treated as though they were Indian companies then they were deemed to be Indian companies for the purpose of the Act. That had nothing whatever to do with differences in the English law as they might apply to English companies and Indian companies. It had nothing whatever to do with any question of discrimination in England. He did not think that it was necessary to look at the English law as affecting English companies at all; all that mattered was, what was the law in England as concerned Indian companies, and then the Indian law as applied to English companies could not go further unless that Indian law applied to Indian companies also.

The author was to be congratulated upon the foresight with which in writing the paper he had anticipated what changes would take place in the

Act. Over and over again in the paper it would be found that the author had expected things to happen which in fact would happen if the Amending Bill became law substantially in its present form. It was only on p. 177, where the author had ventured to express an opinion as to what would be a good criterion of whether business was being "carried on" in India, that the Amending Bill had falsified his prophecy.

The new legislation had reduced the earning power of all companies—it did not apply only to Dominion companies—by introducing artificiality into the investment situation, and sooner or later that must increase the cost of insurance. It also tended to lessen stability by cutting out that diversification which was the very root principle of good investment policy. It discriminated against certain classes of company to such a degree as to render them almost non-competitive. Looking at it broadly, he submitted that that was bad for the industry and bad for the country. He was permitted to say that one large company with very big interests in India had calculated that its current surplus earnings would be reduced by 15% if all its investments were put into such a strait jacket, notwithstanding that the general investment situation was at the moment a difficult one, and its surplus earnings in an independent and free investment market would be reduced by about 25% if the same restrictions were applied.

There was also the important point, already made by the opener, that before the Act had had time to come into force other countries were seeking to retaliate upon Indian companies, and incidentally were probably going to hurt a good many companies besides the Indian companies against whom retaliation was apparently sought.

His association with Canada compelled him, on a short view, to regard the Act as a piece of devastating legislation. However, he appreciated that the short view was not the only one. A visitor to the Library of Congress at Washington would find a glass case, and with his eye right against the glass, could see a black mark which might perhaps be the letter "W". Standing a little farther away, he could see more than one letter, and might even be able to make out a few words, starting: "When, in the course of human events, it becomes necessary...." Going still farther away, he would no longer be able to read the words but would see only a document, blotched all over with yellow stains, as well it might be, because for years it was thought to be of no particular value, and was hawked round the United States of America and shown at fairs as a penny peep-show. It was the Declaration of Independence. As a matter of fact, it was not a very important document; it was the independence that was important, or, perhaps still more important, the spirit moving the people which led to the independence. As with the Declaration of Independence, so also with this piece of legislation; the onlooker's view of it naturally depended very much upon where he stood. Moreover, in time, it might perhaps prove not to have quite the same purpose as at first appeared. He had read somewhere that the British Empire was going to get bigger at first and then afterwards was going to crumble away. All other empires had crumbled away, and therefore the British Empire would crumble away. If the British Empire did not crumble away, might it not be, among

other things, because of its elasticity and the opportunity given to its various components to expand and reform themselves along their own lines; and would it not be churlish for anyone connected with the great Dominion of Canada, which in its time had had to deal with difficulties of its own, to be too critical of his Indian cousins now that they were beginning to use their powers of legislation? It was very difficult indeed for the Dominion companies to comply with the restrictions imposed by the present somewhat exuberant and early attempt of India to utilize its legislative powers. They might well say that in present circumstances it was impossible for them to stay in India, but he very much hoped that a method would be found which would enable them to do so.

The President (Col. H. J. P. Oakley), in proposing a vote of thanks to the author, said that not only the Institute but the profession generally was under a deep debt of gratitude to the author for his valuable work. The author was called upon by the insurance profession in Great Britain and at very short notice went to India, not once but twice, and at times of the year when it was considered undesirable for a European first to go to that climate. The author had watched the Bill most carefully there, and the information which he had obtained had been of the utmost value to the profession since his return. He had always endeavoured in every possible way to give actuaries the benefit of his knowledge and experience, and that evening he had submitted a paper which would be an exceedingly useful addition to the proceedings of the Institute.

There were just two points to which he would like to refer. One related to that part of the Act which concerned the assignment of policies. Disappointment had been expressed at the way in which the clause had been framed, but he thought that on the whole there was reason for congratulation that the matter had been dealt with in the Act, for, five years ago, many would remember a case which then arose which put one of the banks in a very awkward position. He would like to take the opportunity of paying tribute to the Indian exchange banks for the way in which they collaborated with the life offices in England, which he thought had considerable influence in bringing about the clause in question in the Act.

His second point referred to one of the author's final remarks, in which he said that fully qualified actuaries were very few indeed in India at present. That was so, but every effort was being made to increase their number. At the moment there were 5 Fellows of the Institute of Indian nationality, 17 Associates and 292 Students, while during 1938 there were 69 new applicants. He did not think that men in India need be alarmed at the proportions of those figures, because they were not very different from those customary in England; the great disparity between entrants and the finished article was well known. The Institute would afford every possible facility, and he was certain that the Actuarial Tuition Service, which was now in full being, would prove of immense advantage to Indian actuarial students, especially as the correspondence course was so complete and, he believed, proving so effective.

Life assurance was a great factor in the life of any people, and because it was a great factor it could be a factor for good or for evil. It was in danger of becoming a factor for evil in India owing to the enormous growth of mushroom companies, and he thought that the Act would help to improve the position so much that there was every reason to hope that, as the years went by, life assurance would prove a factor for great good in the lives of the people of India.

Mr R. W. Sturgeon, in reply, remarked that the opener had referred to the spate of foreign legislation, and anyone who saw the succession of Bills coming forward in various parts of the world might have grounds for suspecting that the practice was to construct a Bill by taking provisions from Acts passed in other parts of the world, and to use the most restrictive provisions available on any point where discrimination against foreign companies was possible He agreed with the opener's remarks regarding the danger to non-Indian companies that the separate returns of Indian business would be used, and used unfairly, to bolster up a case for protective legislation.

Mr Murray Laing had referred to certain statutes of Great Britain and of Ireland as containing clauses similar to the clause in the Indian Act dealing with incontestability. As a matter of record, however, it was in fact the Canadian statutes that had been taken as the basis for the clause in the Indian Act.

Mr Swift had referred to the uncertainty still prevailing with regard to the settlement of claims. Undoubtedly there was some obscurity still left in the Act on those matters and there was much that many would wish to see in the Act. Yet there was cause for satisfaction that there was so much that was helpful; the definite provision that the date of receipt of notice determined the priority of claims was at any rate a satisfactory step forward from the point of view of the companies.

Mr Swift had also referred to the position of the office as lender, but in that connexion the words in Section 38 (3) "shall regulate the priority of all claims as between persons interested in the policy" should not be overlooked. As regards conditional assignments he drew Mr Swift's attention to the provision in the Amending Bill altering the wording of Section 38 (5) of the principal Act, thus improving the position from the companies' point of view, at any rate as regards future assignments of that character.

He would like to associate himself with Mr Lang's tribute to Mr Susil Sen and the ability and fairness of his Report.

He was not sure that he could agree with Mr Phillips in the interpretation which he had placed on the anti-discrimination sections of the Government of India Act of 1935. If he understood Mr Phillips correctly he seemed to consider that differential treatment of Indians under British legislation was irrelevant in the interpretation of those sections; but in the author's opinion, as the law stood, the position was that if the law of the United Kingdom differentiated between Indian companies operating here and Home companies, to the disadvantage of the former, then British

companies could be similarly discriminated against in India, and to that extent would lose the protection of the anti-discrimination clauses of the Government of India Act; or more briefly, the protection to British companies in India depended upon the corresponding freedom from discrimination against Indians in the United Kingdom.

It was not, of course, surprising that a good deal had been heard in the discussion concerning the harsh investment provisions applicable to the Dominion companies, and there must be general sympathy with the protests which had been made. He did not think that he need add anything to the expression of opinion given in the paper except to say that he thought it was, from the point of view of the non-Indian companies and having regard to the nationalism shown in the Legislative Assembly, unfortunate that the members of that Assembly could find so much in other Acts in various parts of the world, both within and without the British Empire, which could be used, with some modification, as a basis for discriminatory treatment of non-Indian companies.

Sir William Elderton wrote, shortly after the meeting, as follows:

So far as Indian life assurance is concerned, supervision and the control of investments and the limitation of commission are necessary to prevent insurance companies from failing and to help companies to improve their position. Anyone knowing Indian conditions will admit this, and will agree that if legislation is required to this end it must also be enacted in respect of non-Indian companies. Such a course is not unreasonable in legislation and it is hard to see any other that could have been adopted as a practical proposition. Moreover, well-informed Indian opinion, while wishing Indian companies to provide increasingly Indian insurance for India, appreciates that very few Indian companies provide such good benefits as the older and stronger British and Dominion companies doing business in that country. From the Indian point of view, therefore, there is something of a dilemma—India should have the best life assurance available but cannot yet provide it herself. Bearing the facts in mind and looking at the matter sympathetically, is it not natural that people with a strongly nationalist point of view should ask whether the Indian business of British and Dominion companies is earning the bonuses paid? The obvious answer is, of course, that no company seeks business which does not produce its proper share of profits. The comparison for a branch in any country must be with the business elsewhere of the same dates of entry, and it must always be borne in mind that a valuation balance sheet of a company's life business in a particular country may not be a true measure of the profit-earning capacity of such business, as the position may be obscured by the heavy initial expenses of new business. This applies especially in the case of India where so much of the business on the books is of relatively short duration. Again it does not seem to me to be the function of any life assurance company to run risks in foreign exchange, and if a company of English origin does business in another currency it should have funds available in that currency to meet its claims. This is not always enforced by law and English law does not demand it of

Dominion or foreign companies doing business in England, but, as it is a proper precaution, generally adopted by Dominion companies doing business in England and English companies doing business elsewhere, I do not think objection need be raised to such legislative provision by India.

India still needs the life assurance provided by British and Dominion companies: it needs their example of stringent reserves, safe investments and low expenses, and if India learns from that example she will be able to provide an increasing amount of good life assurance for her own people. She must also provide a much larger body of fully qualified actuaries with an actuarial conscience and actuarial ideals: this will help her not only in life assurance but with her provident societies, many of which are distressingly unsatisfactory. All this reform will need time, but I believe that it will come and that the present legislation will help.