

- I. *On the First Parliamentary Committee on Insurance; with Remarks illustrative of other facts connected with the History of Insurance.*
- II. *A Review of some Recommendations of the Select Committee of the House of Commons on Assurance Associations, 1853.*

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[I., concluded from page 131 ; II., *vide* page 324, *post.*]

THE preceding were the last two petitions which had to be reported on. The petitioners for the Forfeited Estates project were advised, but not at the right time, that their existing Act gave them the powers they were petitioning for. Upon this advice they offered to waive further proceedings ; but this was disallowed, as the Attorney General elicited, in his examination of Case Billingsley, that the petition had been delivered at the Council Office without the privity of a great number of those who were mentioned in it, and that Mr. Billingsley had the authority of a small number of them only, to desire to withdraw it. The substance of the Attorney General's final judgment was, that the petitioners had by their Act power to purchase lands, but that such power was limited to the purpose for which the Corporation was erected ; and that the transaction which had taken place in respect of the subscription for granting annuities and life assurances was foreign to the ends of the incorporation, of a "very dangerous tendency, and highly in derogation of the royal prerogative"; and for which reason the Corporation was liable to prosecution.

A caveat against the petition was entered by the Corporation of the Amicable Society; and on being heard against this and the Hallet scheme, they submitted that a second charter, which must necessarily interfere with them, should not be granted.

In urging this plea, the Amicable had to say something of their own history; and it may be useful to quote that portion of their statement which has reference to it, and particularly for the better information of some foreign readers of the *Assurance Magazine*, because it is evident, from many instances within knowledge, that foreign writers on insurance subjects generally give the *Amicable* the credit of having been the first Society established for granting what is properly known and intended by the term "a life insurance"—*i. e.*, the guarantee, by an insurer, of a fixed sum payable upon the decease of a given life, in consideration of the payment by the insured of a premium regulated according to the *age* of the life. But the *Amicable* Corporation was not invested with the power of granting insurances at rates of premium calculated according to *age*, until after 30th October, 1807;* nor was it empowered to grant an insurance for a fixed sum until after so recent a period as the 8th May, 1845.†

Without entering into details of the changes in plan which about a century and a half of time necessitated, the account of its establishment, given by the Amicable on the occasion first referred to, is sufficient to show that on its original formation it was not a Life Insurance Society, but a Benefit Institution for the creation of a corporate purse, by means of the contributions of members all subscribing a like annual sum, and settled portions of the contents of which purse were to be divided from year to year, and in equal proportion, between the representatives of those contributors who might happen to die within each business year for the time being.

The statement of the Amicable in 1720 was as follows:—

"That they were a Corporation created by letters patent, 5 *Annæ Regiæ*, which did constitute a number of persons, not exceeding two thousand, to be a body politick, with power to purchase lands not exceeding the yearly value of two thousand pounds, and to raise a joint stock for the use and relief of widows and orphans, in the manner and under the regulations therein mentioned": and "That the members of the Corporation of the Amicable Society for a perpetual Assurance Office did begin to act under their said charter in the year 1706, and have continued to act ever since; and the directors for the time being have admitted members, granted

* *Vide* the *fourth* of its six charters,—viz., of the above date, 48 Geo. III.

† *Vide* "An Act to enable the Corporation of the Amicable Society for a perpetual Assurance Office to lend Money upon Mortgage for the purpose of Investment, and also to confer other powers upon the said Society"—8 Vicr., *cap.* viii.

policies on lives, and improved their joint stock at interest on Government securities and otherwise, which now amounts to £50,000 or thereabouts; and that the said Corporation have made annual dividends to the claimants of the members of the said Corporation who have died in each year since the charter was obtained, according to the directions thereof; and that in the year 1710, and ever since, the said Corporation hath divided £10,000 per annum amongst the claimants; and that in the year 1707, or 1708, several persons endeavoured to get another charter for insurance on lives, but that the same was stopped at the Great Seal, on hearing counsel for the said Amicable Society for a perpetual Insurance Office."

Attorney General Lechmere concluded his laborious task of reporting on the various petitions by stating, in reference to the last on the list—viz., the Hallet Insurance scheme*—that he was of opinion it was not advisable for his Majesty "to erect any such Incorporation as is therein desired."

On the 27th April, 1720—that is, five weeks after the date of the Attorney General's report—Mr. Hungerford reported from the Committee to the House of Commons. The report included reference to twenty-two projects for fisheries, insurance, &c., and amongst these figures a Cornhill scheme for insurance of goods from thieves and robbers, not unlike a plan advertised in the London papers in December, 1853.

This *second* Report of the Parliamentary Committee is in the Journals of the House (*vide* pp. 341 and 351, volume xix., reprint of 1803). It was also reprinted, at least as far as relates to the portions relating to insurance, by Sir Frederick Morton Eden, in his pamphlet *On the Policy and Expediency of granting Insurance Charters*.† This reprint did not, however, include the *first* or fully detailed *SPECIAL Report of the Committee*, which was not inserted in the Journals, but was printed separately by order of the House of Commons, under the terms of their resolution of 18 March, 1719 (*i. e.*, 1720 N. S.)

There is no doubt that the *Special Report* (printed by Tonson, and extending over some 80 folio pages of minute and personal details), however dry and uninteresting, except to a very few, it may now be, was full of interest and point at the period when it appeared, viz., during the excitement engendered by the South Sea bubble. The number of copies printed was probably small; these,

* *Vide ante*, and p. 130.

† Privately printed, London, November, 1806, small 8vo., pp. 80. Sir F. M. Eden, Bart., was the first chairman of the Globe Insurance Company, and author of the learned and remarkable work entitled *The State of the Poor; or, an History of the Labouring Classes in England from the Conquest to the present period*, &c. 3 vols., quarto. London, 1797. For further particulars respecting his labours as regards insurance matters, *vide* subsequent remarks, *passim*, and Appendix to the present article, No. II.

from various causes, would be very liable to destruction, which will sufficiently account for the rarity of the document at the present day.*

Resuming our consideration of the proceedings of the Committee, it will be observed that their final resolutions (put upon the records of the House) were only two in number. The first of these had reference to the undertaking proposed to be carried on under the name of the "British Fishery," which it was resolved would be productive of certain good results, and highly deserved encouragement. The House resolved to postpone this, and the *second* resolution of the Committee was then read a second time; and it was resolved, *nemine contradicente*—

"That the House do agree with the Committee in the said resolution, that for some time last past several large subscriptions having been made by great numbers of persons in the City of London, to carry on public undertakings, upon which the subscribers have paid in small proportions of their respective subscriptions, though amounting in the whole to great sums of money; and that the subscribers having acted as corporate bodies, without any legal authority for their so doing, and thereby drawn in several unwary persons into unwarrantable undertakings; the said practices manifestly tend to the prejudice of the public trade and commerce of the kingdom.

"ORDERED,—That leave be given to bring in a Bill to restrain the extravagant and unwarrantable practice of raising money by voluntary subscriptions, for carrying on projects dangerous to the trade and subjects of this kingdom; and that Mr. Secretary Craggs, Mr. Walpole, Mr. Comptroller, Mr. Chancellor of the Exchequer, and Mr. Hungerford, do prepare and bring in the same."

The Government used great expedition in carrying the Bill through its various stages.† It passed through the Commons in eleven days, and through the House of Lords and the process of obtaining the royal assent in as many more, becoming law in the Act 6 Geo. I., cap. xviii., the title of which is—"An Act for better securing certain powers and privileges intended to be granted by his Majesty by two Charters for Assurance of Ships and Merchandizes at Sea, and for lending Money upon Bottomry; and for restraining several extravagant and unwarrantable practices therein mentioned."

The preamble of this Act contains an almost verbal repetition of the views of former legislation on the nature and advantages of marine insurance. It proceeds to aver, that it had been found by experience that much ruin and impoverishment had ensued from

* The only copy I have met with is the one in my own possession, which has been the most important source of reference for many of the facts reviewed in this article.

† *Vide* Journals of the House of Commons, vol. xix. of reprint of 1803, pp. 355, 357, 358, 361, 365, 366, 368.

particular persons (*i. e.*, private underwriters) becoming bankrupts, or failing to comply with their policies—that if two several and distinct Corporations, with a competent joint stock to each belonging, were erected for assurance of ships, goods, &c., and likewise exclusive of such Societies or partnerships as now are or may hereafter be entered into for that purpose) several merchants or traders, who adventure their estates in such ships, goods, &c., would think it much safer for them to depend on the policies or assurances of either of those two Corporations so to be erected and established, than on the policies or assurances of private or particular persons.

The occasional failure of private underwriters had certainly been established in evidence before the Parliamentary Committee; but although the Government alleged this as one reason for the establishment of Insurance Corporations, the business of private underwriting was not further interfered with; and the preamble of the Act adds, “that such merchants or adventurers as shall hereafter be minded to agree for assurance of their ships, goods, or merchandizes with private or particular persons, may still be at liberty so to do according to their own option or choice.”

The Government of 1720 did not in any way foster the establishment of Insurance Companies, *without at the same time taking ample guarantees for the fulfilment of the engagements which such Companies might enter on.* Their former Attorney General (Lechmere) had, perhaps with over-caution, advised that only one of the petitioning bodies should be incorporated. The Crown, influenced by the support which two separate and apparently equally respectable bodies of petitioners had obtained, granted two charters. On the other hand, the Crown was more cautious as respects the amount of capital to be raised; for whilst the Attorney General had been of opinion that the capital of the one Corporation he recommended should be of less amount than its proposed £1,200,000, the Crown decided on giving the two Corporations power to raise a capital stock of £1,500,000 each.

It will be recollected, that the third and final recommendation of the Attorney General was that the Corporation *should not be made in any way exclusive of others.** The Crown, however, dic-

* The Select Committee of the House of Commons on Marine Insurance which sat in the session of 1810—and whose Report, dated 18 April, 1810, was ordered by the House of Commons to be reprinted, 11 May, 1824—examined thirty-six gentlemen, including representatives of the chartered Companies, merchants, brokers, and others interested in the business, and resolved, that it was their opinion “That the exclusive privilege for marine insurance of the two chartered Companies should be repealed, saving their charters and their powers and privileges in all other respects, and that leave should be given to bring in a Bill for this purpose.”

tated otherwise; and it would probably have been ruled to be unconstitutional to discuss the principle whether an exclusive privilege should be granted, when the charters to be issued upon its prerogative were to be *bought* by the petitioners. Money was wanted, and we may reasonably suppose that at the period it would not have been paid except for a monopoly.

The twenty-nine clauses of the Act 6 Geo. I., cap. xviii., include the various heads of the charters granted to the Royal Exchange and London Assurance Corporations, and declare that after the 24th June, 1720, all undertakings tending to the prejudice of trade, and all subscriptions, &c. thereto, or presuming to act as corporate bodies without legal authority, and all acting under obsolete charters, &c., shall be deemed illegal and void, public nuisances, "and moreover, shall incur and sustain any further pains, penalties, and forfeitures, as were ordained and provided by the Statute of Provision and *Præmunire* made in the sixteenth year of the reign of King Richard the Second."

As the whole tenor of the Act 6 Geo. I., cap. xviii., is of much importance in the history of insurance, and as many of the readers of the *Assurance Magazine* will be glad to have an outline of it before them, I annex, with an occasional note or two, the following abstract of the contents of its clauses, as printed in its margin in the original:—

"I. His Majesty may grant charters to two distinct Companies for assurance of ships, and for lending money on bottomry.

"To have perpetual succession, but subject to redemption.

"They may choose their own governors, &c.

"The first governor, &c. to be appointed by his Majesty; to continue in their places for three years, &c.

"To have a common sale.

"May purchase lands to the value of £1,000 per annum.

"May sue or be sued.

"II. Each of the Corporations to pay into the Exchequer £300,000, for discharging the debts of the civil list.

"Times of payment.*

"III. On failure of payment at the times of payment, Corporation may be sued.

"Ten per cent. damages, with full costs of suit.†

"On non-payment for thirty days, Corporation may be determined.

"IV. Each Corporation to provide a sufficient stock to answer all demands on their policies.

"On neglect may be sued, &c.

* The whole was to be paid within ten months from the date of the charters. Particulars as to the default in this respect on the part of the Corporations are contained in Sir F. Eden's pamphlet.

† This means ten per cent., in addition to the instalments of the £300,000 in default.

"V. Each Corporation to raise a capital stock not exceeding £1,500,000.*

"VI. How the capital stock shall be raised.

"All subscribers entitled to a share in the capital stock.

"VII. Corporation may raise calls of money from their members, in proportion to their stocks.

"Penalty for not answering calls.

"VIII. Each Corporation may take up money under their common seal, to advance money on parliamentary securities.

"The bonds or obligations granted by the Corporations not chargeable with stamp duty.

"IX. Shares in the Corporations transferable and devisable.

"Stock a personal estate, and to go to the executors.

"X. Stock not to be taxed.

"Governors, &c. may be members of Parliament, &c.†

"XI. His Majesty may empower them by charter to make bye-laws, &c.

"XII. During the two Corporations, no other Societies may assure ships or lend money on bottomry.

"Penalty for assuring after 24th June, 1720.

"Penalty for lending money upon bottomry.

"XIII. Forging the common seal of the Corporations, or any policy, &c., felony.

"XIV. None may be governor, &c. of both Corporations at the same time, or purchase stock in both Corporations: penalty.

"XV. On three years' notice at any time within thirty-one years, on payment of the £300,000, the Corporations may be determined by Parliament.

"XVI. Afterwards, if the Corporations are judged inconvenient, his Majesty may determine them.

"XVII. No other like Corporations grantable.

"XVIII. After 24th June, 1720, all undertakings tending to the prejudice of trade, and all subscriptions, &c. thereto, or presuming to act as corporate bodies without legal authority, and all acting under obsolete charters, &c., shall be demed illegal and void.

* The power here given was not fully acted upon, the paid-up capital of the Royal Exchange Office being at the present time (1854) £689,220, stock, and that of the London Assurance £425,000 (*vide* Wetenhall's Stock List).

† This is an imperfect definition of the clause, which contains a more important feature, viz. (using the words of the Act):—"And that no person which shall be governor, director, or other officer of either of the said Corporations to be erected as aforesaid, shall for that cause only be disabled from being a member of Parliament, nor shall in respect of such share or shares be or be adjudged liable to be a bankrupt within the intent and meaning of all or any the statutes made against or concerning bankrupts; and that no stock in the said respective Corporations shall be subject or liable to any foreign attachment by the Custom of London or otherwise, any law or statute to the contrary notwithstanding." It is only reference to the charters that would show whether similar exemptions from the bankruptcy statutes apply to stockholders who are not governors, directors, or other officers; but it is remarkable that the above clause was not worded in a more inclusive manner. As an example of a much more precise and *general* exemption in an Act of Parliament as to an insurance charter, *vide* the 14th section in the Act 39 Geo. III. (1799), usually called the "Globe Charter Act," but which was not eventually acted upon, exempting *all* members of the projected Corporation, to which that Act empowered the King to give a charter, from any liability to the statutes respecting bankrupts which could otherwise arise by reason of their being members of the Corporation. Respecting the Act just referred to, *vide post*, p. 315.

"XIX. All such undertakings deemed public nuisances, and shall incur a *præmunire*.

"XX. How merchants or traders may have their remedy against the undertakers.

"XXI. Penalty on brokers buying or selling shares in such undertakings.

"XXII. Not to extend to undertakings settled before 24th June, 1718.

"XXIII. Nor to prejudice the two Corporations hereby erected.

"XXIV. Or the South Sea Company.

"XXV. Nor to restrain the carrying on of any home or foreign trade in partnership.

"XXVI. *South Sea* and *East India* Companies may advance money on bottomry to their captains, &c.

"XXVII. Not to extend to Corporations formerly created, or to any subscriptions to be made to the capital of the *South Sea*.

"XXVIII. Salvo for *East India* Company's privileges.

"XXIX. Companies not to lend money to the Crown but on credit of Acts of Parliament, under penalty."

Sir Frederick Eden included in his pamphlet (before referred to) very full particulars of the subsequent history of the charters granted under the above Act. We have space for but one extract :

(Page 21).—"The insurance charters were scarcely granted, when they became liable to forfeiture. The Act had provided that the consideration to be paid into the exchequer should be discharged by instalments in the following manner, namely :—

£100,000 within one	} calendar month after the date of the charter ; i.e., before	} { the 22nd July, 1720 ; the 22nd Sept., 1720 ; the 22nd Nov., 1720 ; the 22nd Feb., 1721 ; the 22nd April, 1721 :
50,000 within three		
50,000 within five		
50,000 within eight		
50,000 within ten		

that on non-payment for thirty days of any of the instalments, the Corporation might be determined. Both Companies failed in their engagements with the public; and, acting by concert even in their failure, they each paid into the exchequer, previously to the session of 1720–1, the sum only of £111,250, or little more than one third of the stipulated consideration; and it was stated that they were not able to fulfil their contract with Government "by reason of the great pressure on public credit, and the great losses they had suffered by failure of the *South Sea* scheme." (*See* the 7th Geo. I., c. 27, § 26, and the petitions from the Royal Exchange and London Assurance against the *Globe* charter in 1799 and 1806.—*Commons Journals*.) That they adventured very deeply in that speculation, there can be little doubt; and it is extremely probable, from the consideration of dates and circumstances connected with the application to Parliament, that they expected (as a witness before the Committee of the House of Commons expressed himself respecting the Royal Exchange undertaking) "to get a great estate at once by blowing up their stock"; and as the principal managers of the two Insurance Companies were deeply concerned in the *South Sea* Company, we may reasonably suspect that investments in their

stock were the source contemplated from which the bonus to his Majesty's Civil Government was to flow. It has already been mentioned, that the reports of the Attorney General on the proposed charters were dated in March, and that the two Companies were incorporated on the 22nd June, 1720. It was precisely in this interval that South Sea stock rose to 800 per cent.; and soon after Midsummer, though it fell (as was supposed, in consequence of the writs of *scire facias* having been issued against the various unchartered projects then afloat), it was raised, by the promise of splendid dividends, to nearly 1000. In August it fell; and in September, the time for paying the second instalment of £50,000, the bubble burst. On this bubble the Insurance Corporations were raised; and on its bursting they could not discharge their debt to the Crown. The business, too, of insurance at that period was unfavourable to them. It is stated in Postlethwayt's Dictionary, that "in consequence of the loss of twelve Jamaica ships in the month of October, 1720, the London Assurance stock (on which only ten per cent. was paid at first, and which had risen to 160 per cent.—*i. e.*, sixteen times the capital actually subscribed) fell in that month to 60; and, other losses happening soon after, to 15 and even 12 per cent.; and towards the close of that year, this promising Company scarcely existed, but in the complaints made by proprietors against their directors."

By their second charters, of 1721, the two Corporations were released from all liability in respect of the further contributions in default, upon making up their total payments to £150,000 each—that is, to half the amounts originally contemplated.

Between the years 1721 and 1761 the extent of their fire and marine insurance business was considerable, but such was far from being the case as regards *life* insurance. An affidavit made by Mr. Savage in 1761 set forth that the Royal Exchange Assurance, from the time of its commencement to that date (*i. e.*, in a period of about 40 years), had received for life insurance premiums only £10,915. 2s. 2d., and had disbursed in losses on life policies £8,263. 17s. 8d. These premiums were for what are termed short-period risks, insured against for generally a year or lesser period. Taking this element into account, the above receipt of premium shows that the gross *sum insured* on the average of years was not more than £5,000 per annum or thereabout, being half the amount which Life Companies have now been for many years in the habit of insuring on a single life. There is no ground for assuming that the business of the other Corporation was more extensive; in fact, although there were at this period several Associations in activity for the grant of insurances of survivorship *annuities* to widows, and of deferred *annuities* for old age—and the history of which Associations, their quarrels, competitions, and downfall, may be seen in the writings of Dale, Dr. Price, and others—nevertheless, there is no doubt that the insurance of a *sum* payable at death was, at the time we are referring

to, a contract very rarely entered upon, either by the commercial or other classes of the community; and we may take it as established, that no plan of life insurance, in its proper form of development as an assured provision of a fixed minimum amount of money payable at death, whenever that may occur—the risk thus extending from the date of the insurance being effected, up to the expiration of the *whole term* of life—had been contemplated by a Company or Society, or had been considered by any legislature in Europe, prior to the year 1760, when discussions ensued in England preliminary to the formation of the Equitable Society in 1762. Without entering into the details of the establishment of that Society (and which are pretty well known, although the name of its working promoter, Edward Rowe Mores, is but seldom associated, as it ought to be, with Dodson and Price), it will be necessary to note, for the information of some readers of this *Magazine*, that the *Equitable* was the first Society that granted policies, and for the whole term of life, at rates of premium graduated according to the varying mortality computed as in expectation at the different ages of the lives insured. Thus the principles which guide modern plans of insurance were established. This was the great step in advance—the foundation on which so vast a superstructure has since been raised.

The Attorney and Solicitor General reported on the 14th July, 1761, upon the petition for a charter for the Equitable. Their Report has been reprinted, but without any comment or explanatory remark, in the first volume of the *Assurance Magazine*.* It was also inserted by Sir Frederick Eden in his pamphlet, and prefaced by these remarks:—

(Page 51.) “As a precedent, this Report is entitled to all the respect we are accustomed to pay to legal authority; but when judicial officers, in communicating their decisions to the public, condescend to state the reasons on which they are founded, it becomes the right of every person interested in the examination to inquire how far these reasons, whether of law, of fact, or of policy and expediency, are incontrovertible. Readers who are not ravished with the whistling of a name, and who do not admit infallibility to be attached to the signatures of *Pratt* and *Yorke*, will not find in this Report those proofs of sound argument, acute legal learning, or constitutional knowledge, which distinguished the first of these eminent men a few years after, in his judgment on the question of general warrants; or which had distinguished the latter of them, a few years before, in his *Treatise on the Law of Forfeiture*.”

Eden then gives in detail the reasons for his conclusions. It seems to me, however, that on weighing the for and against on

* *Vide* page 89 of the *second* Number.

both sides of the argument, the impression will not be so very adverse.

The petitioners for a charter for the *Equitable* had proposed "to raise a capital by investing the premiums, together with a small additional sum of forty shillings to be deposited by every person insured, to answer all losses; and by way of further security, to oblige every person insured to become a member of the Corporation, and to declare or covenant that he will bear his proportion upon any call, if the premiums and deposits should prove deficient."

The Attorney and Solicitor General considered this proposed manner of raising a capital to be "a fatal objection"; and expressed their conviction, "that whatever else may be hazardous, the capital or fund to answer losses ought to be certain, and liable to no casualty." In the general truth of the latter opinion, and in the undoubted desirability of the certainty of capital in proprietary Insurance Companies, Sir Frederick Eden's writings and course of action prove him to have fully coincided: but his strictures on Pratt and Yorke were principally based on his views of the total inapplicability of their remarks to the case of the *Equitable* or to any mutual or *contribution* Society whose insured are mutual insurers of each other; the profit and the loss, whatever they may be, being their own, and their fortunes mutually pledged to make good all deficiencies in meeting liabilities.

When Eden criticized Pratt and Yorke's Report, it would seem that he did not sufficiently reflect on the fact of that Report having been written before even the infancy of the modern system and practice of life insurance. The *Equitable*, as already stated, was the first to try the experiment of whole-term life insurances upon premiums calculated according to the ages of the insured; but the scheme was only *in embryo* when the Attorney General and Solicitor General had to report on it, and consequently they had not the advantages which Eden possessed, when, writing in 1806, he passed a high and justly merited eulogium on the *Equitable*, basing the same upon his knowledge of the results experienced in the more than 40 years' practice of that Society since the date of the Report in question.

Although in the Report there are manifestly some blunders in expression, and some palpable, but, considering all circumstances, excusable mistakes about tables of mortality, &c., on the whole, it may be viewed as neither derogating from the fame of its authors, nor as unjustified in its conclusions, when we have in mind the total

want at its date of any available experience in the business of life insurance except in its most imperfect form, and that in aggravation of this want the Attorney General and Solicitor General had no proof, except something which took the shape of a negative one, of the possibility of profit from what were then professedly low rates of premium: besides, it was not certified to them that persons would become members of the Equitable in numbers sufficient to constitute an amount of contribution in entrance money, &c. large enough to form a capital, or to ensure the reasonable chance of success, from the association of the combined risk and fortune of a class considerable in magnitude and in means. It was not obvious to them that the Society had not been got up for the undue advantage of those members of more advanced ages whose decease would first entail the payment of claims, and leave the youngest lives and longest insured to participate ultimately in the diminishing benefits of a deficient treasury, as has been the friendless lot of too many members of so-called Friendly Societies. These were but a few of the points of the experiment which must have seemed doubtful, and were really quite enough to warrant the caution of the Crown lawyers, even though they had been in their time, and with its experience, as deeply versed in political economy as was Sir Frederick Eden with the accumulated experience of his laborious studies and indefatigable industry in that branch of science.

Passing from these subjects of disputation, this much is certain, that the Report of the Attorney General and Solicitor General in 1761 is valuable as a precedent expressive of the then settled views of the law officers of the Crown upon the necessity for paid-up capital in the case of all Insurance Companies.

These views were participated in by the first legislative council of a foreign country which had to entertain a scheme for life insurance. The particulars which prove this, are contained in the *Arrêt du Conseil d'Etat du Roi,* du 3 Novembre, 1787, qui autorise à perpétuité l'établissement des assurances sur la vie, avec privilège exclusif pendant quinze années*. One of the most prominent observations in this edict is the paragraph in which, with reference to the guarantees which should be afforded, it is stated—

“Sa Majesté a d'ailleurs été informée que la concurrence devint funeste à ces sortes d'établissements, dans les pays où ils y furent livrés à leur origine : leur succès, en effet, ne peut être plus efficacement assuré que par la prompte réunion d'une multitude de chances ; mais, quoique ces assu-

* Louis XVI.

rances doivent être calculées de manière à tirer leur solidité complète de la réunion des chances, elle a cru qu'il seroit utile *de soumettre ceux qui seroient chargés de cet Etablissement à une finance considérable, dans laquelle chacun des assurés ait un gage authentique des engagements pris avec lui.*"

A knowledge of the circumstances out of which arose the edict from which the above is quoted, is essential to the student of the history and progress of insurance. Any notice of the edict, except a casual slight reference by one or two French authors, has been entirely wanting. I have, in the hope of supplying this defect, made a translation from the original, and annexed it to the present paper, with an explanatory note (*vide* Appendix, No. 1, p. 349, *post*).

The British legislature soon had another opportunity of expressing its decided opinion regarding the question of capital of Life Insurance Offices, and of the distinction to be drawn between really paid-up and partially paid-up (or subscribed) capital. This cannot be better described than in the words of Sir F. Eden:—

"In the year 1789 a Bill was introduced into Parliament, to incorporate one hundred gentlemen by the name of 'The Westminster Society for granting and purchasing Annuities and Insurances upon Lives and Survivorships,' with a joint stock of £300,000, to be paid in shares of £3,000 each, on which the sum of £1,000 was to be paid within twenty-one days after the first general meeting of proprietors, and the remainder at such times as it should be called for. It was further provided by the Bill that £100,000 should be immediately invested in the Three per Cent. Consolidated Bank Annuities, and the further sum of £10,000 in the like manner annually, until the full sum of £200,000 of Three per Cent. Consolidated Bank Annuities should be purchased; that this fund should not be alienated without the authority of Parliament; and that the Society should not divide more than their net profits. The Amicable Assurance opposed this Bill; and the arguments of their counsel, Mr. Graham, against it, and of the present Attorney General in its favour, are reported in Debrett's *Collection of Debates* (*Parliamentary Register*, vol. xxv., p. 566). The principal objection to it was, that its capital, professing to be £300,000, would in reality be no more than £100,000; and it is remarkable that one of the arguments used on this head strongly applies against all unincorporated Offices—namely, 'that the capital held out might prove a fallacy, if not properly guarded against; since the subscribers, from insolvency and various other incidental chances in life, though perfectly solvent at present, might not be able to advance the second and third thousand pounds when called on; and in that case the real capital would be no more than the one hundred thousand pounds.' The Bill passed the Commons, but was thrown out in the Lords upon the motion of the Chancellor (Lord Thurlow), who, among other objections, stated that in his opinion the capital proposed to be raised was not a sufficient security for the public" (*vide* Debrett, vol. xxvi., p. 290)."

The Westminster Society, thus failing in the endeavour to

obtain a charter, was established three years after—*i. e.*, in 1792—by the usual plan of a deed of settlement, and parliamentary consideration of insurance matters was not called for further until the lapse of a few more years, when an important occasion occurred for their discussion.

In April, 1799, Sir Frederick Eden, and twenty other gentlemen of parliamentary and commercial influence, presented to Mr. Pitt, then Chancellor of the Exchequer and Premier, a memorial containing the particulars of the plan of a new chartered Insurance Office, to be called “The Globe or General Insurance Office,” and to be instituted for the following purposes:—

“I. For insurances against fire, for assurances on lives, for granting annuities, endowments for children, and provision for widows and old age, upon the payment of specific sums or periodical subscriptions.

“II. For providing for the widows and children of the clergy, by periodical subscriptions and donations from such clergymen as choose to avail themselves of the benefits of this institution, and from others, as shall be regulated by charter. (This fund to be administered by the Office under the control and superintendence of respectable members of the Church, or of such officer as they shall appoint.)

“III. For assisting and improving Friendly Societies. For this purpose the Office will agree to receive such funds as Benefit Clubs may entrust to it; to allow interest thereon, not exceeding five per cent.; to keep a running account with the treasurers of such clubs, and to faithfully administer such contributions and donations as the masters and employers of servants and labourers shall deposit, periodically or otherwise, at the Office, on account of Friendly Societies, or for other charitable purposes. To Friendly Societies connected with the Office, the following advantages will arise:—Relief, on equitable principles, to persons of all ages and occupations; the removal of that restraint on personal liberty which Friendly Societies in general impose on their members, by confining the benefits they hold out to persons residing within a certain district. Members of Societies connected with the Office will be enabled to transfer their interest from one club to another, to proportion their periodical subscriptions to their respective wants and abilities, and to contribute specific payments or periodical subscriptions.

“IV. For promoting industry and frugality among the labouring classes, by enabling them or their employers to deposit, peri-

odically or otherwise, at the Office, such sums or proportion of their earnings as they shall think proper, for which interest at a rate not exceeding five per cent. will be allowed ; and the engagements of the Office made payable one month after sight."

The memorialists then submitted that, to enable them to carry these objects into execution, his Majesty should be empowered by Act to grant a charter, and that by such Act "they should be authorized to raise a capital stock not less than half a million sterling, nor more than one million."

The memorialists then agree, "that in case the said capital stock shall be raised, £300,000, part thereof, shall be laid out in the purchase of the land tax on houses, in such manner as shall be directed by the said Act ; and that one half of the net profits of the Institution, after paying all expenses and an annual dividend of five per cent. to the proprietors, shall be laid out in the same manner : provided, that in the purchase of the land tax upon houses the Office shall receive all the advantages to which owners of land are entitled by the Act for the redemption of the land tax ; and provided, that the Office shall not be required to lay out more of their profits than £700,000 in such purchase."

The memorial concludes by submitting that it would greatly tend to the encouragement of the Institution and the benefit of the public, if the bills, bonds, and other securities, to be given or received by the Office on account of Friendly Societies, the fund for providing for the widows and children of the clergy, and on account of deposits made at the Office for the benefit of the labouring classes and other charitable purposes, were exempted from the duties chargeable by the Stamp Acts on such instruments.

The *whole* of the preceding plan received the sanction of Mr. Pitt, and a letter from the Lords of the Treasury, signifying their approval, was addressed to Sir Frederick Eden under the date of 10th May, 1799. On the 5th June following, a petition was presented to the House of Commons for leave to present a petition for incorporating the Globe Insurance Office ; the petition was then presented and read, and a Committee was appointed to consider, examine, and report. The report was read the next day, and leave was given to Mr. Wilberforce Bird, Mr. Williams, and the Lord Mayor, to prepare and bring in a Bill. The Bill was presented, 13th June, and read a first time, and on the 17th June was read a second time and committed. On the latter day, a petition against it from the Amicable Society was read. On the 25th June

Mr. Wilberforce Bird reported the Bill from the Committee, with amendments. These amendments were agreed to, and added to the Bill, but did not however interfere with its main objects. The only alteration in its course worth referring to is, that whilst no definition of the time within which deposits should be reimbursable was given in the Globe Bill, and although it was still a question whether the deposit class contemplated in the project came within the scope of the Bank Act, it was finally deemed expedient that the Globe should include the limiting clause, that all deposits made by individuals should not be payable by the Corporation at a less period than *six* calendar months from the time such deposits should have been made. This clause was accordingly inserted in the Globe Act, and did away with the probability, (though, as it turned out, it did not obviate the possibility,) of the Bank of England viewing the deposit class as an infraction of the 9th section of their Act of 6 *Queen Anne*, c. 22, and which runs thus—"It shall not be lawful for any body politick or corporate whatsoever, erected or to be erected, other than the said Governor and Company of the Bank of England, or for other persons whatsoever united or to be united in covenants or partnership, exceeding the number of six persons, in that part of Great Britain called England, to borrow, owe, or take up any sum or sums of money on their bills or notes payable at demand, or at any less time than *six months* from the borrowing thereof."

On the 26th June, 1799, the petition of the London Assurance against the Globe Bill was read. On the 1st July, upon the order of the day for resuming the adjourned proceedings on the third reading of the ingrossed Bill, several amendments were made by the House to the Bill, and it was "Resolved—That the Bill do pass, &c." On the 12th July, it was reported to the House of Commons that the Lords agreed to the Bill; and on the same day, prior to the speech at the close of the session, the royal assent was given to the "*Act (39 George III., c. 83) for enabling His Majesty to incorporate, by Charter, a Company to be called 'The Globe Insurance Company,' for Insurance on Lives, and against Loss or Damage by Fire, and for other purposes therein mentioned.*"

This Act is a very comprehensive and important specimen of insurance legislation. Our limits will only allow of the briefest sketch of its general import. On the one hand, extensive powers were to be given under it to the Company, with the view of most

fully carrying out the objects submitted in the original memorial of its projectors,* which, it will be recollected, instead of being confined to the ordinary branches of business, viz., the grant of fire and life insurances and annuities, were intended also to assist Friendly Societies, charitable and benevolent institutions, clergymen's widows and children's funds, and depositors among the industrious classes and others.†

The only other advantage, besides the authorization to carry on such business and trusts under royal charter, was to consist in the security to its subscribers or proprietary from any personal responsibility beyond the amount of their shares in the paid-up capital stock of the Corporation.

This being the sum of the advantage to the Company, it will be interesting to observe, on the other hand, what were the benefits which the Company, in its turn, offered to the public and the Government.

1. No exclusive privilege was asked for by the Company—its founder, Sir F. Eden, having uniformly held and expressed the most enlightened and liberal views against monopoly.

2. As the guarantee of the good faith of its intentions, and as a permanently available security for the liabilities it proposed to undertake, the Company was to have a real capital stock of not less than £500,000, nor more than £1,000,000, the whole of which was to be paid up within two years and a half from the date of incorporation.

3. The provisions of the Act set forth in the completest manner the method and principles of the administration of the Company, and its transactions were annually to be submitted to the review of Parliament.

4. The peculiar advantages which the public finances would gain, from the conditions of the Globe Charter Act rendering it imperative that £300,000 should, within three calendar months of the capital of the Company being raised, be invested in the purchase of land tax upon houses, and that one half of the net profits arising to the Corporation, after payment of five per cent. to the proprietors on the capital stock, and of all salaries and other expenses, should be laid out in the purchase of land tax, until the sum of £700,000 were thus invested.

5. The public advantages which would have accrued from the

* Quoted in a previous part of this paper, p. 313.

† In addition to the treasurership of the funds of such Societies and classes, the Act extended its operation to the funds of Tontine Societies and other institutions for granting future advantages.

part of the project which related to Friendly Societies, and to the reception of the deposits of the industrious classes, repayable at the expiration of a period not less than six months. The subject of Friendly Societies is so closely allied and identical with that of insurance, that it is an equally appropriate theme for discussion in the pages of this *Magazine*. On this particular head I am glad to be able to annex an extract, from an original minute before me, of Sir F. Eden's exact words on the subject,* and which are important as those of the person best acquainted in his day with the then position of Friendly Societies.

He observes as follows :—

“The national importance and utility of the last two branches of business proposed to be carried on by the Company, it is hoped, will be readily admitted.

“With respect to Friendly Societies, the giving effect to their operation is a measure of the soundest policy. These Societies however, in themselves, are confessedly inadequate for the purposes which they have in view, and are therefore not generally encouraged by the labouring classes. It is conceived that an Office, permanent, solid and respectable, and possessing the best means of collecting those mathematical data by which the allowances of Benefit Clubs should be regulated, may render these institutions more popular, and their advantages less equivocal.

“It is proposed that the Company shall receive deposits as low as five shillings, for which interest at a rate not exceeding ——— will be allowed, and that such deposits should be payable after six months. A small fee will be required on registration, and a deposit may at any time be converted into an annuity or insurance.

“This branch of business, it is conceived, will be, particularly in the metropolis, highly conducive to frugality, order, and morality. A place of safe custody at which a proportion of the earnings of labour may be deposited, periodically or otherwise, will be of great consequence to servants. Deposits made by them will be regarded by their employers as an additional security for good behaviour and character.

“ “That this deposit class is of itself not likely to prove a lucrative concern to the Company is sufficiently obvious, for, it is believed, no instance can be produced of any set of persons having ever attempted in this kingdom to set up a bank at which deposits should be payable at a period not less than six months after they were received. The benefit which the Company will derive will arise from an extension of connection and an increase of various branches of insurances, such as endowments for children and provision for widows and old age,” &c.

The charter, leave to grant which was given under the Act of

* Eden devoted much time, trouble, and expense in procuring statistical and other details on the position of these and other Societies affecting the welfare of the poor and labouring classes. There is an interesting chapter on Friendly Societies, in his great work on the poor referred to in a previous note of the present paper. I have somewhere seen the remarks that work contains on the early origin of these Societies, and his own comment and translated passages of Hickee's *Thesaurus*, misquoted, and without acknowledgment.

Parliament we have been considering, has never been granted. I mention this because, although it may be a fact known to many readers of this *Magazine*, there are others, and particularly its foreign subscribers, to whom the circumstance of the projected charter is unknown, or else is even mistaken as having led to an actual incorporation of the Company (and of which mistake we have an example in a very recent English work) — such an impression having no doubt arisen from reference to some writers on insurance and commerce who have alluded to the Globe Charter Act of Parliament without mention of the subsequent proceedings on it, and which extended over a period of nearly eight years (1799–1806). As brief an outline as will contain the facts of the case is all that can now be generally interesting.

The petition to the King to grant a charter in the terms of the Act was referred, by the Duke of Portland's minute of 23rd July, 1799, to the consideration of the Attorney and Solicitor General (Sir John Mitford and Sir William Grant). These law officers did not report until the 4th December following, and then the purport of their report was to raise objections to the charter, unless a new Act were passed imposing penalties if the Company should exceed the powers granted them by charter.

It seemed to the projectors of the Globe, that additional clauses, subjecting the charter to forfeiture in such case, would meet these objections without the necessity for another Act of Parliament; and on the 17th December they petitioned the King accordingly, and the matter was referred to a Committee of the Privy Council.

A great many of the above referred to objections were quite untenable when the test of argument was applied to them. I annex two specimens of the objections and of the substance of the answers offered.

OBJECTION. "The Act has required that the Company shall employ £300,000 in the purchase of land tax, but it contains no provision to prevent the immediate resale of the land tax so purchased; and it appears to us that if the Company shall be permitted to sell at a discount, they may greatly injure the sale of the land tax, as they are by the Act authorized to purchase at the same price as the landowners. It seems to us, therefore, important that they should be prohibited to sell any land tax for less than the price paid for it, &c."

Answer. "The petitioners think no injury can arise to the public from their exercising the power granted them by the Globe Act of selling their land tax if they should think proper. N.B. The land tax they are to purchase must be land tax on houses, which is not a very marketable commodity, and not likely to be purchased from them by any persons but the owners of the houses."

Sir F. Eden's personal opinion on this objection was even more decidedly worded. He considered that "yes" might be answered to the objection,

"If it is expected that *strangers* will ever purchase under the present terms; but who will ever buy land tax from the Globe except owners of land? and how will their buying their own land tax injure the general sale? Is it not desirable that the Company should be enabled to sell them land tax, and thus take it out of the market for ever? Instead of restraining us from reselling, would it not be more politic to pass an Act to enable us to buy as much land tax on houses (and even land tax) as we pleased, upon the same terms as owners? It is much more probable that such a power would act as a *stimulus* to the landholder, than that any person unconnected with the property out of which the land tax issues could be so enamoured of it as to purchase under present terms."*

OBJECTION.—"The Governor and Company of the Bank of England, and the private bankers, having objected to the proposed charter, under an apprehension that it would enable the Company to act as a bank, the petitioners have stated to us that they disclaim all intention of so acting, and have declared themselves willing to submit to any restrictions in this respect. To effect this purpose, and particularly to prevent the interference of the proposed Company with the charter of the Bank, we think it will be necessary to prohibit their acting in any manner whatsoever as a bank, except in receiving deposits according to the express words of the Act, and to make their evasively acting as a bank for all purposes, which it seems to us may easily be done under the terms of the Act. Without some more specific prohibition, it seems to us that penalties ought to be imposed on the directors, cashiers, and officers of the Company who shall discount any bills or answer any draught in respect of any deposit before the expiration of six months from the date of the deposit, on any pretence whatsoever; but this also appears to us to require the sanction of Parliament to effect.

Reply of the Petitioners.—"Will not forfeiture of the charter be a sufficient penalty? The branch of deposits, payable at six months with interest, was introduced for the express purpose of benefiting the industrious classes; and it is conceived that (in the metropolis more particularly) it will prove highly conducive to frugality, order, and morality. A place of safe custody at which a proportion of the earnings of labour may be deposited, periodically or otherwise, will provide (what no Institution has yet provided) an equivalent for the use of small sums, either in the shape of interest or in the shape of a provision either for superannuation or widowhood. Such an Institution will prove an useful instrument of police, and probably mend both the condition and morals of servants; deposits made by them will be regarded by their employers as an additional security for good behaviour and character. This class does not interfere with the Bank charter nor with the business of any banker whatever."

An amended charter was then drawn up: the newly appointed Attorney and Solicitor General (Sir Edward Law and Mr. Spencer

* The "land tax," which by an Act of Parliament passed in the previous session was made *perpetual*, was purchasable at twenty years' purchase, or five per cent.; but at the time of the proposal of the Globe charter, the British Funds gave six per cent. to the purchaser, and, rallying in price soon afterwards, still gave five per cent. nearly, for some years. (F. H.)

Perceval) were requested to report, which, after many deliberations and hearing of petitioners for and against the charter, ended in their report of 8th February, 1802. This addresses itself mainly to the explanation of the conclusion "that the terms on which the petitioners are now content to take the charter will remove all those objections mentioned in the report of Sir John Mitford and Sir William Grant, upon which their opinion of the necessity of further application to Parliament seems to have been founded." The explanation of the reasons for this favourable opinion comprises an elaborate inquiry into each of the ten heads of objection just referred to. There is one point which may be referred to here. We have before noticed the singular exception which the law officers took as to the £300,000 to be invested in the purchase of land tax. Doubts had been raised by them whether such an investment could be considered part of the guaranteeing fund, which the Globe Charter Act had stipulated should be "ready money or shares of parliamentary stocks or public funds." The Globe petitioners were prepared to plead that the purchase of land tax came within the purview of that definition; and that a public fund or a share in a parliamentary stock, being a right of the public creditor to an annuity or a certain portion of the public taxes, and distinguishable from a right to any specific principle from any fund whatever, this equally applied to the land tax, which, having been made perpetual, was as much a public fund as the Three per cent. Consolidated or Reduced *Annuities*.

Notwithstanding the soundness of this proposition, it does not appear to have been sufficiently convincing to the law officers; with the view, therefore, of removing all question, the Globe petitioners offered that a clause should be inserted in their amended draft charter, providing that, over and above the capital agreed to be invested in the purchase of £300,000 land tax, an additional capital of £500,000 should be invested in the funds;" and that if, upon occasion, it should become necessary for the Company to resort to this capital for the payment of their debts, and any part thereof should have been so applied, it shall be unlawful for them to make any dividends amongst the proprietors till such capital of £500,000 shall have been reinstated."

This offer for the enlargement and permanency of the funded capital quite satisfied Sir E. Law and Mr. Perceval, and they introduced provisions for the purpose into the draft of the charter which they laid before the Privy Council. But the Privy Council had unforeseen difficulties to deal with, in respect of the constitu-

tional question whether a charter, granted under an Act of Parliament authorizing the grant of a royal charter for *specific purposes*, could be amended or altered by the *omission* of any of those purposes. This had special reference to the omission of the deposit plan. I have already referred to the objection of the Bank of England and bankers to this part of the original proposed charter, have quoted Sir John Mitford and Sir W. Grant's idea of the necessity for further parliamentary interference, and mentioned the offer made by the Globe petitioners to entirely waive this part of their plan. We must now refer to the report of Sir E. Law and Mr. Perceval to the Privy Council; and it will be seen that they expressed themselves in most decided terms in favour of the Globe petitioners. The following are their words on the subject :—

“The ground of this objection appears to us to be fully and effectually removed by an offer on the part of the petitioners to relinquish all claim on their part to be incorporated for the purposes which have excited this jealousy on the part of the Bank of England and the private bankers, and to be expressly restrained from ‘receiving deposits of the funds belonging to and acting as trustees thereof for Benefit or Friendly Societies, and other charitable and benevolent institutions; and for making provisions for the widows and children of the clergy, and for clergymen; and for the receiving deposits from or on account of the members of the industrious classes of society, and others;’ and from acting as a bank in the same or in any other respect or capacity whatsoever, upon pain of dissolution; which penalty, together with the criminal responsibility which the individual members would incur by presuming to act as a Corporation for any purposes other than those which are immediately authorized by their charter of incorporation, or, at any rate, for purposes expressly forbidden by their charter, appears to us sufficient to obviate the objection on this head.”

On the 21st January, 1803, a Committee of the Lords of the Privy Council* took into consideration the petition for the amended charter. Counsel stated the readiness of the petitioners to accept any amendments or restrictions which the Bank of England might deem advisable to introduce in the draft charter. The approval of the law officers of the Crown to the amendments proposed by the Bank was signified. The Solicitor of the Bank of England stated the willingness of that Corporation to withdraw their caveat against granting the amended charter. Counsel made a like proposition as regarded the caveat of the bankers of London and Westminster. The question of petitions for and against had, however, now to give place to the difficulties—insuperable, as it appeared—arising out of the proposed amendments in the purposes of the charter,

* Present.—The Lord President, Lord Glenbervie, Mr. Chancellor of the Exchequer, Sir William Wynn, Sir William Scott, and Mr. Corry.

omission of any of which purposes gave rise, as has been before observed, to constitutional questions; and the final result was, that the Privy Council, in March, 1803, stated that it was "not expedient" to grant the proposed (amended) charter.

The Globe Insurance, consequently on this termination of the charter proceedings, was established under a deed of settlement of 2nd June, 1803, and has been further empowered under its special Acts of Parliament, 47 Geo. III., c. 30; 47 Geo. III., Sess. 2., c. 87; 49 Geo. III., c. 123; and 7 Vict., c. 39. Although not incorporated, its founders determined that it should not for that reason deviate from the principle with which it was projected—viz., of offering the fullest possible security for the maintenance of its engagements. It was therefore instituted for all the branches, except the one for deposits, contemplated in the Charter Act. Its capital was fixed at £1,000,000 sterling: the whole of this sum was fully paid up within the first three years from the date of its institution; and when it is borne in mind that this was effected during a most eventful war period, and when investments in the English Funds yielded five per cent., no stronger proof can be required of the full public appreciation of the advantages of the employment of real capital in the business of insurance.

As early as 1802, Sir F. Eden made an elaborate estimate of the amount of property insurable from *fire* in Great Britain and Ireland. His calculation then was, that £601,975,000 represented the approximate insurable property in 1801, whilst about £233,000,000 only were then insured; and that there was at that period room and need for more Joint Stock Companies, but without exclusive privileges.

Attempts at estimation of the insurable property in other countries have sometimes been made—for instance, for France by Baron Dupin; but these do not, like that of Eden, state the method and statistical authorities on which they are based. A quotation of the details of Eden's estimate would, I am sure, give the readers of this *Magazine* a high opinion of the careful manner in which he considered insurance subjects. Being, however, desirous of quoting from his writings an entire specimen which would be more nearly connected with the matters referred to in the present article, I have preferred to include in the Appendix (*vide App., No. II., post*), his remarks on personal and unlimited responsibility. These remarks include so masterly an exposition of the peculiar inferiority of such security to that afforded by real and permanent capital, in insurance business, that their publication at the present moment, when

it is again a question for the legislature, may prove useful ; and even if not, there need be no excuse for furthering the wider dissemination of the eloquent and able arguments submitted by Sir F. Eden in his discussion of the way in which statesmen should deal with that question.

On the subject of the amount of property insured in its ratio to the amount insurable, it was shown that in 1803 the aggregate sum insured in Great Britain against sea risk was about £100,000,000, but that this amount was not half the sum insurable ; and under the circumstances, as to this and other branches of insurance, and, further, with the view of affording the security so necessary in the case of grants of life annuities (a branch of business in which the Government are themselves competitors), the Globe Insurance Company presented to the Government, in 1806, a memorial setting forth some of the facts above referred to, and stating their desire to be incorporated for *marine*, fire, and life insurances, and for granting and purchasing annuities, in consideration of which they expressed themselves to be "willing to raise a capital not less than one million and not exceeding two millions, such part thereof to be invested in the public Funds as the legislature may direct ; and that one hundred thousand pounds, part of such capital, shall be paid into the receipt of his Majesty's Exchequer within three calendar months after the Act for incorporating the proposed Company shall have received the royal assent."

The Lords of the Treasury approved of the terms of this plan, and signified, by letter, their opinion that it would be proper to submit an Act to the consideration of Parliament, and that the portion of the capital to be invested in the Funds should be not less than one million Three per Cent. stock.

A Bill, the draft of which was approved by the Counsel of the Privy Council as well as by the Treasury, was brought before the Commons. It proceeded to a second reading, and this was debated, and carried by 74 against 20,* and the Bill referred to a Committee in usual course ; it was, however, too late in the Session to proceed further, the Committee adjourned *sine die*, and the matter was not brought before the notice of the House at any subsequent Session.

Sir Frederick Eden did not survive to 1810, otherwise he would have seen the full realization of his ideas on the subject of non-

* Sir Theophilus Metcalfe, Deputy Chairman of the Globe Insurance, moved the second reading, supported by Chancellor of the Exchequer Lord Henry Petty (the present Marquis of Lansdowne), Mr. Alderman Combe, Mr. Paull, and Mr. Alexander ; and opposed by Sir John Anderson, Sir W. Curtis, Mr. Grenfell, and Sir C. Price, on the ground that the Bill would be an infringement upon the rights of the London and Royal Exchange Assurance Corporations. All the above spoke on the occasion.

exclusive charters, and the justice of his protests, borne out by the recommendations of the Committee of the House of Commons in April, 1810, and these finally led to the Act passed in June, 1824 (5 Geo. IV., c. 114), and which repeals so much of the Act 6 Geo. I., c. 18, as restrains any other Corporation than those in the Act named, and any Societies or Partnerships, from effecting marine insurances and lending money on bottomry.*

In drawing to a close the preceding review of various circumstances connected with the past history of insurance legislation, the present time, in which we are in expectation of the introduction of a new Insurance Bill being brought forward by Government as soon as the Report of the Commission upon the general law of Joint Stock Companies shall have been presented, offers an appropriate occasion for considering what are the essential points of difference between past and recent legislation on Insurance institutions. No further preface is perhaps required to the following :—

REVIEW OF SOME RECOMMENDATIONS OF THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON ASSURANCE ASSOCIATIONS, 1853.

The facts which have been adduced will have shown that formerly the main object was uniformly the devising of such regulations as were suited to secure a real assured guarantee that the savings of the prudent and provident classes of the community should not be ultimately endangered. Acting under such a view, no parliamentary sanction or appearance of approval was ever given, except to such projects as were to be supported by ample and real capital, so as to place as far beyond doubt as possible not alone the *intention* of the insurers to have forthcoming the material guarantee for the fulfilment of the contracts they enter upon, but also to afford, at the very outset, the tangible and convertible security of capitalists; so that, if loss occurred, it might fall in the first instance upon those undertaking the administration of the contracts, and participating in the advantages which may in the beginning have accrued therefrom. This implied no more than that the possessors of capital are its legitimate guardians, and the most proper of trustees for the protection of the capital of others. Impressed with a practical view of

* An Act of the following year, 1825 (6 Geo. IV., c. 19), repealed the Act of 6 Geo. I., c. 18 (the heads of which Act, commonly called the Bubble Act, have been recited in a previous part of the present article, page 305), so far as to substitute the dealings and judgments of the common law for the liability to and extreme penalties of the statute of *præmunire*, happily never revived in any other enactment.

his nature, and not entirely confiding in that utopian development of perfectibility which would entrust the charge, liabilities, or profits of the trade in money to those who are unable or unwilling to risk any of that commodity themselves, the legislature, by their "Act to regulate Joint Stock Banks in England" (5th September, 1844), laid down very salutary rules, which, so far as concerns the question of capital, prevent any Joint Stock Banking Company in England commencing business until a capital of *at least* one hundred thousand pounds has been subscribed for in shares of £100 each, the deed of partnership fully executed, and, which is most important, the sum of *fifty thousand pounds*, or one half of any larger capital, *really paid up*, and such paid-up capital rendered *permanent* by the provision that it shall not be lawful for the Company to repay any part of the sum so paid up, without leave of the Lords of the Committee of Privy Council for Trade and Plantations.

But on the selfsame day that this cautious enactment took effect, an Act deserving a diametrically opposite character was passed, containing no effectual regulations either as to the amount of capital and its permanency, or as to the guarantees to be afforded of the general *bona fides* of the members of partnerships, joint stock, and mutual Societies, established for other purposes than those of banking.

This Act (7 & 8 Victoriæ, c. 110), for the registration, incorporation, and regulation of Joint Stock Companies—so runs the title—affected a much wider range of undertakings than the Joint Stock Banking Act passed on the same date, for it concerns every partnership of more than 25 members, every Life, Fire, Marine, Casualty, and Annuity Society, and every Friendly Society insuring a sum exceeding £200 on one life—always excepting Companies empowered by statute or charter, or authorized by statute or letters patent, to sue and be sued in the name of some officer or person.

Insurance Companies, with the exception of those acting under special Acts of Parliament or charters, were thus most prominently adduced by the legislature as amongst the kind of Society coming under the category of those general partnerships in which enterprise is the primary, and capital the secondary, recommendation.

This was a change indeed from the spirit of all legislation on the subject of insurance antecedent to June, 1844. Previously to that date, the responsibilities involved in an insurance contract had always been made matter for grave and careful consideration; and the guarantees to be required from those embarking in the business of insurance had been as cautiously deliberated on, and their

necessity inculcated, in, relatively, as decided a way as in the business of banking. Parliament, in its dealings with insurance matters, had hitherto (as has been sufficiently shown in the facts referred to in the foregoing pages) acted on such a principle, and had admitted it by the precedents of earlier times, when (referring to life insurance alone) risks were only taken by insurers for terms not exceeding one year, renewable only *de anno in annum*, on fresh approval of the life insured. In regard to limited risks of that nature, a more exceptional case than in other trusts of limited duration did not perhaps arise; but the same remark does not apply to the more modern practice of life insurance, and of which there is but half a century's active experience, for there the acceptance by an Insurance Company of one annual premium for a *whole term of life* policy, entails upon the Company liabilities of trusteeship, as far as respects the fulfilment of the contract, which may possibly last 80 or more years; and this does not mean that the liability is an *accruing* one from year to year, in which each space of time will only involve its own specific liability, but implies far more. It being the practice, and arising out of the very necessity of the case, to charge an equated constant rate, instead of an annually increasing contribution for the policy effected at the outset for the whole term of life, it follows, from the process of calculation, that in the first payment to the insurer of an annual premium, as well as in each subsequent like payment, there is included a portion of the future premium not only for the current year, but for each future ensuing year, received in hand and in advance, for *reservation, accumulation*, and permanent *trusteeship* during periods of time, which, in the case of young lives insured, may last four-score years or more.

The public are generally too little aware of these elements of the proper practice of life insurance, to attach to them the importance which they will in the end command; and the legislation of 1844, which, as far as respects insurance, "leaves individuals to take care of themselves, while it affects to watch over their interests," contributed to the formation of mistaken ideas on the part of the public as to the principles involved in insurance contracts being of as ephemeral and as speculative a nature as those of many of the thousand and one kinds of undertaking which may be carried out by partnerships without the predication of length of years as their condition.

The Select Committee of the House of Commons on Assurance Associations, which sat last year, have in their Report of 16th

August, 1853, affirmed the necessity of permanent capital, in contradistinction from the legislation of 1844, which ignored it. The words, however, in which that Committee state that the capital is to "be considered in the double light of a test of *bonâ fide* intentions on the part of the promoters, and of a security for the liabilities of the Company at the early stage of existence," whilst they are calculated to be of some use, are not particularly appropriate to the exigencies of the case, combined as they are with prefatory remarks to the effect that only such check should be interposed for the security of the public (*query*, the insured?), and of the Companies themselves, as will give a reasonable guarantee of such intentions. If permanency of intentions be the main point to be dealt with, why is reference made to the capital being a security for the liabilities of the Company at the *early* stage of its existence? Apart from the seeming paradox in these words—and from the graver question, as to whether the amount of the guaranteeing capital recommended by the Committee is in any way sufficient—there is no doubt that, if the above-quoted words of the Report be introduced into an Act of Parliament, they will be taken as a convenient precedent for saying that the retention of the proposed minimum capital, and which (to use the words of the Report) "shall be invested in the public Funds, under such regulations as Parliament may deem fit to enact," would be an arbitrary proceeding if enforced in the *middle* and *advancing* stages of the existence of Companies. The periods of existence just mentioned are more essentially those, in which the enlarged scope of operation, the accrued liabilities, and the effect of the laws of mortality acting upon masses of lives of advanced ages, and of the rate of interest realizable upon investments, require, to say the very least, greater care and larger available means both of reserve and of power to meet liabilities, than in the first years of the establishment of Insurance institutions. *Caveat emptor*, if their early existence is to be the sole crucial test: it may suit the intentions of promoters, but will it realize the hopes of the insured?

The Select Committee of 1853 have recommended the reversal of the insurance legislation of 1844; and there is reason for congratulation at the decided opinion they have expressed,

"That the business of Assurance Companies differs so much from ordinary business, that it will be advisable to repeal all the provisions of the Joint Stock Companies Act so far as they relate to Assurance Societies, and to deal with them in a separate Act."

In reverting, however, to the principle which dictated former

legislation—viz., the necessity for real capital—the recommendation of the Committee fixes upon so small a *minimum* sum, that it may well be doubted whether its amount (£10,000) is not wholly disproportioned to the magnitude of the operations embraced in the ordinary business of English Insurance Companies.

It should be observed that the Report states,

“Your Committee feel that perhaps the most important part of their inquiry is that which refers to the precautions which should be hereafter adopted with regard to the formation of new Companies. On the one hand, your Committee feel that the ground hitherto occupied by these useful institutions has been comparatively limited, and that their application is capable of a great extension, not only in the higher and middle classes of society, but also among the humbler classes, to whom it has recently been very considerably applied; and that it is therefore very important that no check or impediment should be placed in the way of the further extension of this enterprise, not absolutely needful for the security of the public.”

The subject here referred to in the Report is certainly very important to all those who are concerned in the prospects for the future of existing Companies, as well as in those of new Offices to be hereafter formed. Something like a definite idea of the extent of the interests involved may be gained from a few brief facts.

1. There are, as nearly as possible, 200 *Life* Insurance Offices in their full state of activity at the present time, and the aggregate amount of the sums insured by them on lives cannot be estimated at a less sum than one hundred and fifty millions pounds sterling.

2. There are about 140 more Offices, now only provisionally registered, and out of which number we are justified in assuming, that some 50, more or less, will shortly attain to complete registration.

3. The number of Life Insurance Companies likely to be in existence prior to the earliest period at which any fresh statute regulating insurance can be passed may thus be approximatively taken at 250.

4. Although the total of the *nominal* subscribed capitals of Life Insurance Companies can be ascertained, this is not the case as regards the actually *paid-up* proportions of such capitals possessed by the different Companies. There are, however, data which indicate that the average guaranteeing capital in a paid-up form, of the proprietary Companies established prior to the Registration Act of 1844, is upwards of one hundred thousand pounds for each Company. As regards the proprietary Life Offices established since the Act of 1844, there is reason for assuming that their paid-up capital is on the average below ten thousand pounds for each; and

this small sum has, in the case of several of the Companies, ceased to exist in point of fact, if the proper reserve for liabilities incurred be deducted from the funds presently in hand.

In respect of the general question as to capital employed in insurance business, there are certain practical views which bear upon its solution much more forcibly than the theoretical purisms which are sometimes urged on this point. It will be well to inquire what would be the comparative effects, if the average capital of the 250 established, or about to be established, Offices, were £50,000 for each Company. This would make up an aggregate capital of £12,500,000. The state of investment applicable to funds of this description may be taken as producing an average rate of four per cent. interest, and the average dividends they pay as at five per cent. There is consequently a difference of, say, one per cent., or £125,000 per annum, for remuneration for the risks incurred by proprietary shareholders. On the other hand, the very circumstance of the combination of means, exertions, and connections of the proprietary, bring to the general capital and business, advantages, which, in pecuniary as well as in other respects, are cheaply paid at £125,000 per annum. In such a view of the case it might fairly be contended that the asserted burden of capital is, speaking generally, an imaginary and not a real subject for complaint.

With the above limitations, let it be for the moment assumed that the charge implied in the possession and retention of the above amount of capital is to be taken as an absolute one of £125,000; then let it be required to ascertain how it compares with the other necessary expenditure inseparable from insurance business. The average expenses of conducting Companies cannot be taken at a more moderate amount than £3,000 per annum for each Company, irrespective of charges for agency commission. Such an estimate corresponds with the view taken in vol. iii. p. 217 of this *Magazine*, where it is stated, in an article by the Editor—

“An influential board is very important, and an establishment of some pretension is all but essential. Experience has pretty well proved, that these and all the other adjuncts of a respectable Society can scarcely be got together and maintained at a less charge than three thousand pounds per annum, so that the income from annual premiums must be at least thirty thousand pounds per annum before the annual charge can be reduced to ten per cent.—a sufficiently heavy deduction, it will be admitted.”

The annual charge for 250 Companies, at the rate just referred to, would thus amount to £750,000; and the pressure of such a sum on their resources would consequently be really six

times as heavy as that arising, in the way before pointed out, from the possession of £12,500,000 of guaranteeing capital; and when allowance is made for the advantages in the way of business arising out of the *permanent* influence of capital, it may fairly be asserted that the providing of the remuneration for its guarantee bears but a very small ratio to, and an easily to be supported proportion of, the current expenses of Life Insurance Offices.

The Select Committee have recorded their "opinion that no new Company shall be admitted to complete registration until a capital shall have been subscribed, and actually paid up, of at least ten thousand pounds, and which shall be invested in the public Funds, under such regulations as Parliament may deem fit to enact." One of these regulations would clearly have to be a provision for the permanence of the capital under some such Government control as in the case of the Act for Banking Companies. The important features of this recommendation of the Committee should be separately considered.

1. The Committee do not mention any provision as to the amount to be paid up on each *share* into which the capital is to be divided, so that it would be as competent for a promoter of a new Company to have the capital subscribed for in ten thousand shares of one pound each, as in two hundred shares of fifty pounds each. Whilst this latitude would be allowed in subdivision of the risk of the individual proprietor, no limit would be imposed as to the extent of liabilities which the collective proprietary might guarantee, as far as capital is concerned, with the £10,000 paid up. For example: a proprietary of one thousand shareholders, holding an average of £10 each, or a proprietary of fifty shareholders holding an average of £200 each, might either insure sums on lives to the extent of one hundred thousand pounds or to the extent of ten millions or any larger sum.

If so low a *minimum* amount as £10,000 of guaranteeing capital were fixed upon, surely some sliding scale (say, at so much increase for so much insured) would be desirable; and there need not be much fear of attaining too high a *maximum*, seeing that the possibility is very remote of many Companies which now exist obtaining and maintaining any such exceedingly large amount of business as to make the progressive guarantee inconvenient.

The inconveniences which, whilst the law of partnership remains as it is, arise from not fixing on a *minimum* amount being paid up on each share, are too obvious to require further notice. In the Act regulating Banking Companies these were effectually

provided against ; and the arguments in favour of the precautions there taken equally apply to the case of Insurance Companies.

2. The Committee do not recommend the investment of the guarantee capital of £10,000 in any other way except imperatively in the public Funds.

The *rationale* of this would appear at once to proceed as a necessary consequence of the difficulty of finding investments of any other satisfactory kind for such *small amounts* for each Company, and to lead to a direct conclusion as to the impolicy and proportionately great expensiveness of such a course. Its inconveniences can easily be proved. The peace of the world being now disturbed, violent effects upon, and fluctuations in prices of, securities, must be expected as the normal state of things. Where then will be the permanency of the minimum capital of £10,000 ? It may be invested in Consols at the price of 92, and, when needed for realization to meet liabilities, may sell at 50 or 60, as was the case in former times of war. Say this is the case with Company A, and that its capital of £10,000 is, when needed, exposed to these unfortunate circumstances, and the Consols, which were invested at 92, sold at 55. The depreciation of 37 per £100, Consols, is here equal to a depreciation of about 40 per cent. on the above investment, so that the guaranteeing capital which the insured have to look to is £6,000 instead of £10,000. Then take the case of Company B, and let precisely the reverse conditions apply. Here the £10,000 capital is invested in Consols at 55, and when wanted is sold at 92. The investment thus produces nearly £17,000, money. So much the better for the creditors : but take the instance in which Company B may not require its affairs to be wound up, and has honourably and prudently conducted them for a considerable number of years, say as a country Office established in some market town, and that a rival Company, C, starts in the same town. Under the statement of the Committee as to the need for capital in the *early* years of the establishment of a Company, the Office B would have a right to say, We are in an advancing period of our existence, but Company C is but just commencing business ; why then should an amount of Consols which is worth £17,000 be required in deposit from us, whilst only £10,000 worth is required from the new Company ?

There is another inconvenience arising from the investment in the public Funds of the entire guarantee capitals of a large number of Companies—viz., that such kinds of investment yielding on

the average about 1 per cent. less interest than investments in other securities, the additional burden (if capital can be called such) on the finances of the Company would amount to a very considerable sum.

Our legislature might advantageously consider the practice of the State of New York in regard to this point. It will be seen on reference to the law of that State—passed 10th April, 1849,* entitled “An Act to provide for the Incorporation of Insurance Companies”—that ample power is given for investments being made on first class mortgages instead of in public funds; and this power is fully affirmed by the subsequent Act of the same State passed 8th April, 1851. Had the capital to be provided by each New York Company been fixed at £10,000, it would doubtless have been found unadvisable to recommend such an option; but the American law does not deal with so comparatively insignificant a sum. No Life Insurance Company whatever, be it of native or of foreign origin, can transact business in the State of New York without a *paid-up* capital of one hundred thousand dollars (*i. e.*, £25,000), invested in funded securities or “mortgages on unencumbered improved real estate situate within that State, and worth at least 50 per cent. more than the amount of the mortgage thereon.” Whilst it is very questionable whether such a provision can be justified in regard to its operation on foreign Insurance Offices—the term ‘foreign’ here meaning not only Companies whose head quarters are out of America, but also Companies belonging to any of the other States of the Union—it is at the same time observable, that even larger guarantees are required in the case of Companies instituted in the State of New York itself.

The New York law of 1851 is printed at full length in the *Appendix* to the Report from the Parliamentary Committee of last year, but only an extract is given from the seventh section of the law of 1849. There are, however, some important items in the latter law which have not been brought to the particular notice of the Select Committee, in reference to the amount of paid-up capital which it is thought expedient to provide for. On collation of the Act of 1849 with that of 1851, so as to make the proper allowance for the portions of the former repealed by the latter Act, it will be observed that the following conditions apply respecting capital:—

No Joint Stock Company organized for life, fire, or marine insurance in the city and county of New York and county of King’s can have a smaller capital than one hundred and fifty thousand dollars (£37,500) paid up.

* Seventy-second Session, c. 308.

No Joint Stock Company established in any other county of the State, nor incorporated by any foreign Government, can have a less capital invested in the State of New York than one hundred thousand dollars (£25,000).

“No mutual Marine or Fire Insurance Company can commence business, if located in the city of New York or county of King’s, until agreements have been entered into for insurance with at least one hundred applicants; the *premiums* on which, if it be marine, shall amount to three hundred thousand dollars (£75,000), or, if it be fire or inland navigation, to two hundred thousand dollars (£50,000), and notes have been received in advance for the premiums on such risks, payable at the end of or within twelve months from date thereof, which notes shall be considered a part of the capital stock and shall be deemed valid, and shall be negotiable and collectable for the purpose of paying any losses which may accrue or otherwise.”

Companies on the mutual plan belonging to other States, &c., must have similar agreements and provisions for premiums amounting to one hundred thousand dollars (£25,000).

“No Company formed for doing the business of life or health insurance on the plan of mutual insurance shall commence business until a cash capital of one hundred thousand dollars (£25,000) shall have been paid in and actually invested, either in the stocks of the incorporated cities of the State of New York, the stocks of the State or of the United States, or in bonds and mortgages on cultivated farms worth double the amount for which the same is mortgaged; the value of the land to be appraised by three disinterested commissioners, appointed by the first Judge of the county where such Company is to be located. Farm buildings to form no part of the valuation.”

The foregoing extracts will show how necessary the possession of capital by mutual Societies is considered by the New York legislature. In tracing the principles and precedents in this respect in our own country, it should be observed that the original idea of a mutual Society was very different from what it now is. A mutual Society used to be considered as a contribution Society: for instance, in the deed of settlement of the Equitable Society* (*vide* its clause 18) every person making assurance becomes a member, liable during the whole term of the assurance to bear and pay his or her part or share and proportion of any sum of money which during such term, by virtue of the regulations of the deed and its bye-laws, may be imposed on or called for from the members of the said Society, in proportion to their several interests therein.” But the Equitable Society, it would seem, stands alone in this provision, which makes it really a mutually guaranteeing and responsible Society; and it appears that in regard to all other mutual

* Enrolled in the Court of King’s Bench, Hilary Term, 1765.

Societies the rights of the members are perforce restricted to the funds in hand, and that the definition of the Report from the Select Committee of 1853 is the true explanation of their status, viz., "Mutual Assurance Companies, where the claims of the assured are confined to the funds of the Society." It is just worthy of consideration, whether the words 'mutual fund,' instead of 'mutual Company,' or 'Society,' is not the proper designation of such a guarantee, limited to resources in hand.

As far as respects the usefulness of capital or of liability to contributions to meet losses, in the case of mutual Societies, one fact may be worth many arguments. I refer particularly to the case of the Mutual Fire Insurance Society of Montreal. This Society (one of high respectability), in the great fire in the city of Montreal, which took place in the months of June and July, 1852, incurred losses to the extent of nearly eighty-five thousand pounds, and every member was called upon for a very heavy contribution to make up that loss; whilst if it had been constituted as a mutual fund, with no liability beyond the sum in hand, the greatest distress and confusion would have occurred amongst the claimants on such a fund.

The foregoing abstract will have shown that the law of the leading State of the Union demands really paid-up capital of, on the average, more than three times as large an amount as was recommended by the English Parliamentary Committee of 1853, and that, in addition to this, there are precautions in the New York Act which virtually increase that proportionate excess, by confining the authority to act under such capital to one branch only of the business of insurance; whilst, in the absence of any contrary statement in the recommendations of the Parliamentary Committee, it is left indeterminate whether one capital of £10,000 is intended as the *minimum* on which to allow a British Company to effect insurances in two, three, or more branches of the business—viz., fire, life, annuities, &c.

Thus in America it is deemed necessary to take a guaranteeing paid-up capital of £25,000 to £37,500,* for each branch of business transacted by an individual Company, and to impose stringent regulations for the permanency of such capital. These enactments, be it observed, were made subsequent to our legislation of 1844, which took no effectual precautions as to capital; and they certainly did not originate on the score of the extent of insurance business being greater than on this side the Atlantic, for the statis-

* i.e., 100,000 dols. to 150,000 dols.

tical statements already published in this *Magazine* show it to be vastly inferior.* It would appear that the laws of 1849 and 1851 arose from the circumstance of American jurists foreseeing in time the evil results which would flow from the abuse of the "*laissez faire, laissez passer*" principle, in such important contracts as those of insurance; and therefore determining to take the reasonable precautions calculated to improve the security of those valuable adjuncts to public and private economy, to give confidence in their stability, and to bar as much as possible the hazard of their retrogression.

The same practical reasons apply in as full a general degree to the case of the insurance institutions of this country, and in a greater special degree from the larger extension of their sphere of activity, and of their amount of sums insured; and last, but not least, from their setting the example in life insurance matters to the rest of the world.

Upon these and other grounds, some of which have been referred to in the previous portions of this paper, it appears to me that of the various sums which have been suggested as the capital for future Companies, the amount of fifty thousand pounds, as the minimum proportion of paid-up capital, has the best reasons in its favour. This amount of capital ought to be required for each branch of business transacted by the individual Company. The sum of twenty-five pounds, at least, should be paid up on each share constituting the capital, and the whole might be under the control of the Privy Council for Trade, as in the case of the capital of Banking Companies; and it would be advantageous if no larger an amount than £10,000 were absolutely required to be invested in the funds, as the remainder might then be advanced on mortgage and confer the double benefit of saving to the proprietors of capital and of advantage to landholders.

The greater part of the opposition which such a project encounters is from the fear of some presently existing Companies with smaller capitals being obliged to fall in with such an enactment, and finding difficulties in the way of obtaining the additional amount required. Retroactive legislation is perhaps to be deprecated, even if it went no further than to enact that £10,000 capital should be made up by all Societies. Something of the opposition also depends on an admission that the public would prefer those Companies possessing the minimum amount of capital required in a law on insurance: and, as respects the small minority who go so

* Vide *Assurance Magazine*, vols. i., ii., and iii., &c.

far as to say that £50,000 is a ridiculously large amount of capital for an Insurance Company, they may live to see proof unmistakable of their error; and, in the meanwhile, a compact may be made in the words of the maxim, "he shall laugh the best, who laughs the last."

The Select Parliamentary Committee of 1853 have recommended an annual registration of statistics, and a quinquennial registration of accounts and valuations; but so long as there is such great diversity of treatment of assurance accounts—so long as some Companies put down as credits the same items of liabilities which other Companies properly charge as debits—so long as different rates of interest are assumed in these valuations—there will be reason to anticipate no good results from such a recommendation, and the evils which the Committee themselves complain of as having been the effect of the Act of 1844 in this respect will be increased rather than diminished, and the same endless discussions will ensue; for, the more carefully and prudently a Company calculates its liabilities, the more necessary will it be for it to show that other Companies, who by different methods underestimate their comparative liabilities, by computing them in such a manner, as to rate of interest, &c., as to anticipate their profits and pretend to a much larger divisible profit at the time being, are not justified in so doing, if comparison on such grounds is to be instituted.

These discussions would be inevitable, because, if such underestimates of liability be left without gloss or comment, the public, wrongly deeming, from the more favourable appearance of things created by the underestimates referred to, that the Companies who have made them are in a more flourishing state than those Companies acting with greater caution, and maintaining a larger reserve, though showing a less present surplus, would in such case patronize the incautious to the detriment of the prudent Offices.

If, as in France, there were only five Life Insurance Companies in England, and each of these had similar statutes, conditions of insurance, and scales of premium, (as is the case in the French Offices), then one could understand the possibility of a law meeting the *desideratum* by requiring all valuations to be made at uniform rates of interest and mortality. If, as in America, there were a comparatively open field for the introduction of new principles of commercial regulation, it would be more easy to bring Offices under the working of such a system. Although this is, to a certain extent, practicable in the United States, there is notwithstanding, even there, a great want of power to effectually carry out

such an object; and the careful inquirer will find that, notwithstanding the apparent complication of the machinery employed by legislative enactments as to the publication of accounts by Offices in the United States, its efficacy is by no means admitted. Some good illustrations of this will be found in the following extracts from an article on insurance which appeared about two years ago in an American periodical of reputation :—

“By some Companies in this country (*New York*) policies are carefully estimated, and assets balanced against matured liabilities, yearly. By others there is reason to believe that the liabilities have been rudely and *lumpingly* guessed at; and by *some* others still, it is probable no such estimation has been made or attempted in one way or another. As the principal executive officer of one Company lately expressed to the writer of this article his doubt as to the possibility of ‘fixing a value to an uncertainty,’ meaning by an ‘uncertainty’ a life policy, it is pretty certain that *that* Company gets on without calculating its policies.

“Massachusetts has for several years required of Insurance Companies chartered in other States, and doing business within her limits, a statement of their affairs, to be sworn to, and lodged with the Secretary of State—but, unfortunately, *such* a statement as was conclusive of nothing in the case of Life Insurance Companies. It got merely a sort of puff advertisement, the figures of which indeed might all be true enough, and yet the Company be worthless. Her last legislature has passed a more stringent enactment, and in it required a return of the real liability of the Company as well as its assets. It is curious however to observe, and it argues the imperfect acquaintance with this subject which prevails, that this Act not only requires a return of the aggregate value of the policies on the first of July each year, but also the *present value of the future premiums* at the same date! This latter return, having nothing to balance against it, is of no significance whatever to the public,” &c. &c.

Without the exact terms of the insurance laws of the different States in the Union were compared, it would be difficult to say whether all the remarks in the above extract apply to their full extent; but they will sufficiently show that there is no general confidence created by the regulations as to publicity; and in a country like America, where there is such a wide range for the fluctuations of the rate of interest between that assumed in calculations for future years and the diminishing rate which may be realized eventually, there is the more reason to fear that the accounts published are often open to more serious objections than those above taken.

Reverting to England, it will be perceived that the Committee of 1853 refer to the ill results of the legislation of 1844 as respects accounts or statistics.

In a previous part of the present paper the words were cited of

a member of Parliament, who, referring to the same point, stated that "in the case of Life Insurance Companies a striking instance occurs of the indifference with which the law leaves individuals to take care of themselves, whilst it affects to watch over their interests."

The remainder of Mr. Warner's published remarks on the subject are as follows:—

"The vast sums invested in these Companies, and the eager competition among them, render it very desirable that persons intending to insure should have some means of ascertaining the real position of the Companies, and estimating their probable solvency. The law appears to recognize this necessity by enforcing the publication of an annual balance-sheet.* A moment's reflection will show that such a balance-sheet is totally worthless, and only calculated to mislead both insurers and shareholders. It appears to contain all the transactions of the Company, but the information really required is withheld. If anything is to be known of the position of the Company, it can only be by the publication of a periodical statement, containing not merely their cash transactions, but an estimate of their liabilities founded on the actual value of the policies existing at the date of the account. This would not, perhaps, require to be made out so often as every year; but it must be evident that the publication of any accounts without this information is worse than useless."

It is certainly true, that statistics without accounts, or accounts without statistics, are each generally of little use, and sometimes worse than useless; but even if both are given together, will not the identical result obtain, unless both statistics and accounts are published in the most minute and searching detail; otherwise, what shall we have except deductions from erroneous, incomplete, or studiously defective premises? or, even supposing the premises to be complete, what comparative value is to be attached to deductions which, from various inherent causes, such as the different rates of interest employed, the greater or lesser margin added to the normal premiums, the varying age, conditions, deeds of settlement or Acts of Parliament, &c. of the Offices, are arrived at upon principles which are not analogous either as respects the primary bases of computation, or as respects the degrees of prudence and of honesty which have dictated them? It is tolerably patent to all, that such differences as are here referred to are observed in many of the published accounts (so styled) which are open to the public eye. But such published accounts usually come short of the detail which can satisfy that part of the public who desire to form an accurate opinion or to arrive at real and positive information as to

* This may have been the intention, but it certainly was not the performance, of the Act of 1844.—F. H.

the relative position of Companies, even putting aside the question of what the personal responsibility of the shareholders may be worth; and it is a well known fact, that some of the worst possible specimens of such accounts are published as if they were recommendations to the insuring public.

Publication is thus no absolute test of *bona fides*; and, if unity of system were possible, even then it would be doubtful whether elaborate annual statements of the complicated affairs of hundreds of Companies would be either understood or much cared for, except as giving fertile field for as profitless debate as would be the case if private marine insurance underwriters, at Lloyds or elsewhere, were required to keep public ledgers and statistical abstracts, so that the insured, however trifling might be the risk he wanted protection against, might abandon those underwriters who had suffered severely in any particular circle of storms, and rather patronize those underwriters whose adventures might appear to have been attended with better fortune up to the time being.

The credit of bankers, carrying on their business with *sufficient capital*, has hitherto been found the better recommendation to their customers than any impracticable attempt to give general publicity to all their affairs: and in considering the question of the regulations to be established in the case of Joint Stock Banks, it is well known how decided were the impressions of the late Sir Robert Peel and others, on the subject, not only of the impossibility of devising any form of account which would not in the end be found wanting, but also of the unadvisability of even requiring such a form; and the consequent determination was, that the only province of Government in the matter was to take all possible precaution that those embarking in a branch of business formed directly out of the wants of capital, should permanently maintain an adequate amount of capital, as the test of their practical qualifications to become the guardians of the capital of others and to participate in the advantages, as well as guarantee the risks, of that guardianship.

In concluding these remarks on the several points of inquiry embraced in the Select Committee's Report, there remain four subjects which are of prominent importance. The following are the words of the Report, which we may arrange in the following sections for facility of reference in the subsequent observations upon them:—

§ 1. "That the ground hitherto occupied by these useful institutions has been comparatively limited.

§ 2. "That their application is capable of a great extension, not only

in the higher and middle classes of society, but also among the humbler classes, to whom it has recently been very considerably applied.

§ 3. "That it is therefore very important that no check or impediment should be placed in the way of the further extension of this enterprise, not absolutely needful for the security of the public.

§ 4. "It has been brought to the attention of your Committee, that the business of Assurance Offices is becoming every year of a more varied character. This your Committee regard as the necessary result of the advancement of the science on which it is based."

The statements above quoted are, in obvious intention, meant to affirm conclusions which, for the purpose of more extended inquiry, may be put in the form of these four propositions: viz.—

No. 1. That the public are not availing themselves, as much as they should be expected to do, of the advantages of insurance, comparatively with the opportunities afforded them, and with their means of profiting thereby.

No. 2. That there is immediate room and desirability for the formation of more new Companies.

No. 3. That the extension of the "enterprise," by formation of new Companies, should be fostered and made as easy as possible.

No. 4. That the varied novelties which Life Insurance Offices offer to intending insurers are really scientific discoveries, deserving of public patronage, and progressive towards further improvement.

It will be convenient to examine the preceding propositions in their reverse order.

As to the last (No. 4), if Life Offices only are in question, there is no doubt that the only important, universally useful plan which has been practically in favour during nearly a century, is the grant of whole term policies at fixed rates of premium equitably graduated according to age. Advancement in the science and practice of insurance, as well as a wider range of statistical information, has certainly been attained in recent years, and a great deal still remains to be learnt; but it can scarcely be contended that this has much to do with the extension of life insurance among the million. There is always, of course, a certain portion of the public which is captivated by the vaunted advantages of wonderful new tables, based on exclusive information, and got up regardless of expense. Then, again, specially calculated combinations of new kinds of options are very much in vogue, and give a kind of *brio* to advertisements and circulars. Prodigious results, too, are estimated to accrue from the novel plan of advertising for lives rejected by other Companies to present themselves for acceptance. It is not to be denied that all these novelties attract something of a *clientèle*

in the early existence of Companies ; and when some Offices in the march of competition engage to apply portions of their profits (always in prospect) to the relief of all the extraordinary ills the insurers with them are heirs to, so that the possessor of a policy, however small, "can never come to want"—when, in fine, we thus see the name of philanthropy paraded as the guiding genius of a commercial scheme—then is it time to inquire whether these are the proofs of advancement, or of a condition which deserves a different character.

The ordinary form of policy for the whole term of life will continue to be the staple of the business of all Life Insurance Offices, and no alleged new discoveries or applications of life insurance are likely to take its place. The Select Committee, in the paragraphs of their Report which refer to the subject of the varied character of the business of insurance, call attention to a circumstance which shows that too varied a character of business does not always carry with it a recommendation ; viz. (*vide* Report, page 7) — "But there is a class of business which some Offices have undertaken, viz., that of receiving deposits of money at interest, which appears to your Committee totally inconsistent with the business of life assurance."

There are distinct precedents, in the opinions at an earlier period of the law officers of the Crown, showing that any scheme which mixes the functions of a Bank of Deposit with those of an Insurance Company used to be reprehended. It is important that such precedents should be again affirmed, notwithstanding there is not now the same reason for the Bank of England or Banking Companies or firms addressing interpellations to Government on this subject, as was formerly done when different conditions from at present regulated the banking business.

It is much to be regretted that the Select Committee did not, at this part of their Report, refer to another point which should be inconsistent with the business of life insurance, viz., the allowance of *excessively* high rates of commission—a malpractice which is known to be a growing evil, and which may materially injure the prospects of all life insurance business, if it be allowed to go on in a heedless race of competition. The Annuity Act (17 Geo. III., c. xxvi., sec. 7) laid down some very stringent regulations limiting the rate of commission on consideration money paid for annuities; and although a larger limit is safe in the case of life insurance premiums, there is also a *maximum* which ought not to be exceeded in it.

Passing to the next proposition (No. 3), viz.—That the extension of the enterprise by formation of new Companies should be fostered and made as easy as possible. This is so directly a corollary from the two propositions Nos. 1 and 2, and is so entirely dependent for its affirmation upon whether it be shown that there is room for new Companies, or probability of their success consensually with the success of the many new Companies already in existence, that it may appropriately be considered at the same time as the two first propositions, an examination of which will close the present article.

It will be desirable here to repeat the terms of the propositions just referred to:—

No. 2. That there is immediate room and desirability for the formation of more new Companies.

No. 1. That the public are not availing themselves, as much as they should be expected to do, of the advantages of insurance, comparatively with the opportunities afforded them, and with their means of profiting thereby.

It should be kept in mind that the conclusions of the Select Committee were, “that the ground hitherto occupied by the Insurance Companies is comparatively limited,” “capable of great extension,” and that the “further extension of this enterprise” is therefore very desirable. These are the expressions in brief; the words have been given at full length in other parts of the foregoing remarks.

Although the Select Committee observed that they felt “that perhaps the most important part of their inquiry is that which refers to the precautions which should be hereafter adopted with regard to the formation of new Companies,” it is clearly shown, by the conclusions above referred to, that they leant towards the idea of there being a vast present field for the extension of life insurance in Great Britain, such a field as could be profitably and beneficially worked in by a greatly increased number of labourers beyond those now employed—and that the degree of public benefit would be in some measure proportionate to the augmentation in the number, as well as to the extent of the operations, of life insurance underwriters.

To arrive at well grounded conclusions on this head, we must endeavour to obtain an approximate view of the extent to which the field for life insurance is already occupied. The year 1851, having been made a year in which many countries took a census of their population, will be a convenient period for an estimate of the

comparative degree in which life insurance is patronized by the three leading nationalities of Europe—viz., British, French, and German.

The sum insured on lives in Great Britain and Ireland may be taken as about one hundred and fifty millions in 1851; that in Germany, at eight millions; and that in France, at one million sterling.

The proportion borne by the sum insured to the whole population of Great Britain and Ireland may thus be estimated at *five pounds eight shillings and six pence* as the average sum insured, in its ratio to each individual of the population.

For Germany (including the countries not in the Zollverein) the ratio was not more than *two shillings and six pence* to each individual.

For France the ratio was scarcely *six pence* to each individual.

The figures 1, 5, and 217, will therefore nearly represent the relative proportions; *i. e.*, Great Britain and Ireland, *comparatively to population*, having 217 times as large a life business as France, and 43 times as large a business as Germany.

In order to ascertain whether the business of life insurance in the United Kingdom is of such small proportions as to confirm the conclusion of the Report, that “the ground hitherto occupied is comparatively limited,” let the various bearings of the circumstance of a sum insured amounting in the aggregate to say one hundred and fifty millions (and which is believed to be not far from the truth) be first considered. This amount of life insurance requires payment by the assured of about £4,500,000 of premium annually. This can scarcely be called a limited field of operation, when, comparing it with the whole receipts for property and income tax under the three schedules in 1853, it is found to be but a little more than one million short of the collection for that tax.

We will revert to the consideration of the question in a financial sense, when we have examined it a little further in a statistical point of view.

In estimates of such a kind, only probable statistics can be employed; but criticism will have no right to complain so long as the figures quoted in support of any argument are stated at a minimum, rather than at the maximum which would give the argument greater force.

It has been before stated that there are 200 Life Insurance Offices in activity, and 50 more which will probably be established

before any fresh legislation on insurance is likely to take place. These 250 Companies will, on the average, have about 100 agents each : total, 25,000 agents. The same Companies will, on the average, have about 100 persons attached to each of them, either in the shape of directors, officials, professional men, solicitors, brokers, members of mutual Societies acting as agents, &c. This makes up another 25,000, and gives a grand total of 50,000 individuals acting as agents.

Next let us consider what field of operation each particular item of this agency numerically possesses. It will suffice to consider what is the proportion which the 50,000 agencies bear to the proportion of insurable male lives in the United Kingdom. The ages between 15 and 70 are all that come within the scope of such an inquiry. The male population of Great Britain and Ireland, at all ages, as per census of 1851, was 12,254,163. To arrive at the proportionate population at ages between the ages of 15 and 70, if we take the indications of a general life table as a sufficiently near approximation for the whole kingdom, we get 5,400,000 as the aggregate number living at such ages.* Only a few people out of the number who belong to the Friendly Societies can also afford to effect policies with Life Insurance Companies. There are said to have been between twenty and thirty thousand Friendly Societies in existence in 1851. We must therefore deduct at least one million for the number of male members between the ages of 15 and 70. This reduces the field for the Insurance Companies to about 4,400,000 souls (male lives); from which deducting, say 400,000 for the lives already insured in Insurance Companies, we have 4,000,000 left as the aggregate net number, or 80 individuals only to each of the 50,000 insurance agents. Eighty persons being thus the average field for the exertions of each agent, let it be recollected that this small number among which insurances are to be sought includes all those who are in the extremes and means of poverty and affluence—of hard destroying labour, and of complete immunity from toil—of robust health, and *in articulo mortis*. Then let it be considered what various reasons and shades of reasons render life insurance often impracticable or unresorted to—such, for instance, as the case of the sick, whose lives cannot be insured; the poor, who have no means to insure with; the rich, who have sometimes

* In confining the preceding estimate to male lives, it may be observed that the proportion of insurances on female lives is always a small branch of business, and confined to such narrow limits as not to add much to the numerical estimate as to the field for insurance.

neither cause nor wish to insure; the careless and improvident, who will not insure when they ought to do so, &c., &c.

After careful reflection on these points, the reader will perhaps fully admit that there is a vast deduction to be made, from the small extent of the field shown to exist for insurance, comparatively to the number of already existing Offices, to the number of agents, and to the number of persons already interested in practically furthering the extension of the business. These facts would appear to so completely establish that the Select Parliamentary Committee of 1853 have mistakenly come to the conclusion as to there being a wide field open for the spread of life insurance, that it is scarcely requisite to show that, were it otherwise and the field larger, the number of Companies would still require to be kept concentrated, so that the business of insurance might not be so infinitesimally divided as at length to belie its very principle of being the association of large numbers, calculated thereby to prevent the extreme fluctuations of chance pervading small numbers exposed to a law of average, which, uncertain in a small surface of risks, becomes relatively certain and assured when working on a large mass of cases in which that law can obtain its needful development.

“But,” some will observe, “the population is increasing rapidly; the field for life insurance is also widely enlarging.” Is this so certain? Is it not the recorded fact, that emigration for the last few years has removed nearly one thousand persons *per day* from this country, and has included in that number a large proportion of hale insurable lives? With the involvements of the state of war into which we are now thrown, who is to estimate what drain may take place upon our adult male population, to supply the army and navy and the greatly increased demands which battle and disease will bring with them in foreign service? The population of the second metropolis in Europe decreased by no less than 3 per cent. in the quinquennial period 1846 to 1851; and similar checks and diminutions of our own adult population, may, as in the case of the general population of Ireland in the decennial period 1841 to 1851, also take place. The dearthness of the necessaries of life will not render insurance more resorted to, nor more profitable, and the observation of the Select Committee as to the extension of insurance to the “humbler classes” will on this score be the more difficult of realization; besides which, these classes generally prefer resort to Friendly Societies, as being more appropriate to their wants, these being rather in the direction of succour for them-

selves in sickness, want of work, and old age, than in that of making a provision for their heirs, by small life insurances, which, unless effected in some privileged Offices, become, when a claim arises, liable to probate duty or to the nearly as large expenses of administration. Independent of this, it is a very doubtful question whether it would repay Insurance Companies to grant large numbers of policies upon the lives of the humbler classes, if in that designation are to be included lives employed in extremely unhealthy and hazardous occupations, living in unhealthy cellars and in low localities, rife with fever and with the various influences inimical to life which have been so vividly portrayed in the Reports of the General Board of Health.

We have now finally to pass to a few financial considerations. Let the total number of Offices to be taken as the basis of an approximate estimate be, as before, 250. If these Offices are collectively to carry on a range of business about equal to the present sum insured, *i. e.*, one hundred and fifty millions, the average sum insured would be only £600,000 to each Office. This would represent an annual receipt from premium of £18,000, on the average. But current expenses of management, irrespective of preliminary expenses and agents' commissions, would, as also before explained, be at the very least £3,000 per annum, or nearly 17 per cent. of the £18,000 for each Company. An extract has before been given* from an article in this *Magazine*, which inculcated the great desirability of such expenses not amounting to more than 10 per cent. on premiums. To bring about such a result, the average sum insured in each of 250 Offices should be £1,000,000; the corresponding annual premium would then be about £30,000, and the expenses referred to just 10 per cent. This would be possibly obtainable by the aggregate gross sum insured augmenting from 150 millions to 250 millions, and the annual premiums receivable, from $4\frac{1}{2}$ millions to $7\frac{1}{2}$ millions. Different opinions may exist as to the number of years required to lead to an additional one hundred millions in the sum insured, and an additional three millions in the annual future receipt from premiums; but sufficient reasons have been adduced to show what obstacles are in the way of such a result being arrived at in life insurance business for many years to come. There are a great many other circumstances which corroborate the latter view, and these are well known to those who have a practical and large acquaintance with the details of the business, but need not be more particularly referred to in an article of a general character like the present.

* Vide page 329, *ante*.

Let it however be assumed, for the moment, that the before-mentioned amount of increase may probably be attained in a short number of years. Even then, such a result could not be obtained in so beneficial a manner to the public by the creation of more new Companies, as by the increased amount of business being transacted by already existing Offices. By the word 'public' is here meant not only the insuring public, but also the insurers, the existing Offices, whose interests and the various ramifications of their influence belong so largely to the public, and have so large and long-standing a claim upon public support. Practical experience is showing that there is a reaction even now beginning to take place from those halcyon views as to the possibility of the almost indefinite multiplication of Offices, which views were so much encouraged by the Act of 1844, and by some peculiar anticipations as to the rate of interest and progress of things commercial and political, which have since not been realized.

Admit, however, for the moment, that one hundred fresh Life Offices should be started, whilst (by slow degrees, it would be found) the sums insured were growing up to an extra one hundred millions, and the premiums to an extra annual receipt of three millions, above the figures at which they may now respectively be taken. Under these circumstances, and keeping in view the limitations which have been before explained as belonging to the subject, it would be difficult to maintain that the public would be the gainers. One hundred new Companies would soon cost an additional £300,000 per annum of ordinary current expenses, exclusive of preliminary and agency expenses. The competition of the new Companies, within so restricted a field as has been shown to exist, would render a larger proportionate outlay necessary on the part of already existing Companies. Take the additional charge at only £500 per annum for each, and this would amount to £125,000 per annum for 250 Companies; so that the annual increased charge for subdividing a proportionately small amount of increasing business amongst 350 instead of 250 Companies may be estimated to entail an almost entirely unprofitable charge on the public of £425,000 per annum—viz., £300,000 for the 100 new Companies, and £125,000 for the increased expenses of 250 existing Companies. The effect, assuming the total business of life insurance to increase to the sum of 250 millions sterling, would be as follows—with 250 Companies, the ratio of expenses, as explained, could be reduced to about 10 per cent.; whilst with 350 Companies in existence it would probably amount in the aggregate to 15 $\frac{2}{3}$ per cent., or £1,175,000 out of £7,500,000 of annual

premiums. This is one view of the case, when we allow for the possibility, within a reasonably short number of years, of the increase of the business to its above assumed proportions; but take the other view, in which it may be assumed that, for various sufficient reasons, the sum insured will not for a considerable number of years exceed its present amount of, say, one hundred and fifty millions insured, producing four and a half millions of annual premium. Here it is quite possible that expenses should still remain as high as the figures above quoted for the joint action of 350 Companies. The results would then be, that instead of the ratio of expenses amounting to $16\frac{2}{3}$ per cent. with 250 Companies, they would, with 350 Companies, amount to 26 per cent., viz., to £1,175,000, instead of £750,000 out of £4,500,000 of annual premium.

Thus, in either event, the expense to the public would be heavily increased, without corresponding benefit, to say nothing of the further expense for *capital*, if such be really a charge, for many who zealously protest that it is so, would have no objection to the increase—(although without sufficient field of operation)—of one hundred or any greater number of new Companies without any capital, or with capital of a merely nominal small amount; notwithstanding the annual charge for current expenses would cost the public more than six times the annual charge which the possession of a permanent guaranteeing capital of fifty thousand pounds for each Company might, by some, be considered as entailing, although its possession may, more fairly, be considered to afford such substantial advantages as to be deserving of the character of a benefit, and not in any respect of a burden, to either insurers or insured.

In concluding this article, it is necessary for me to observe that, long as it is, it does not profess to enter into all the arguments which the subject admits of. All that has been attempted is, to convey, however inadequately and imperfectly, something of the convictions of the writer upon points, regarding which, it is the duty of all who are interested in the progress of insurance to contribute such observations as they may consider called for under its present circumstances, viewing them in a manner apart from the spirit of mere controversy, and with the sole wish of aiding a practical consideration of subjects which have their peculiar difficulties, and which it is therefore the more important should be decided on by legislative measures generally satisfactory to the important interests involved.

APPENDIX, No. 1.*

SKETCH OF THE EARLY HISTORY OF LIFE INSURANCE IN FRANCE, WITH
TRANSLATION OF THE "ARRET DU ROI LOUIS XVI." PREFIXED.

*Decree of the King's Council of State, of the 3rd November, 1787, authorizing
in perpetuity the Institution for Assurances upon Life, with an exclusive
privilege for fifteen years :—*

"THE KING, having had a report made to him as to the nature and principles of different establishments founded in Europe, under the name of *Assurances upon Life*, has observed that they possess valuable advantages; that if naturalized in France, they would be of great utility; that a considerable number of individuals of both sexes and of all ages would find therein a facility for insuring upon their lives, or for terms of their lives, rents or capital sums, either for themselves during old age, or, after them, in favour of the survivors to whom they would wish to leave resources or benefactions; that these descriptions of insurances, if fixed at a moderate and equitably arbitrated rate, would release from the usury which is too common the sale of every kind of capital and of annuity, or would extend enjoyment of them to survivors; that, finally, these various combinations, usefully binding the present to the future, would reanimate those feelings of affection and of reciprocal interest which make the happiness of society and augment its strength. These united considerations have convinced his Majesty of the usefulness of an Establishment for Assurances upon Life, and have decided him not to defer it any longer. But the more the advantages of it have appeared precious, the more it has seemed important to his Majesty to make those advantages secure. His Majesty might have abandoned the matter to the different Companies which have presented themselves; but under existing circumstances, he would have feared, by multiplying the Companies, to open a new course to a false and pernicious business which it is needful to repress.

"His Majesty has, moreover, been informed that competition became *hurtful* to this kind of institution, in those countries where they were exposed to it at their foundation: their success, in fact, cannot be more efficaciously assured than by the prompt uniting of a multitude of chances; and, although these insurances should be calculated so as to derive their complete security from the union of chances, the King has thought it useful to submit those who will be charged with the conduct of this Establishment to a considerable financial engagement, in which each of the insured will have an authentic guarantee of the contracts entered into with him. Neither has his Majesty deemed that the utility to his finances, which he might derive, at present and in future, from this Establishment, should be neglected. Finally, in order to conciliate all interests with the precautions which may establish confidence, he has judged it to be expedient to confide to a public and enlightened administration, like that of his good city of Paris, the *surveillance* of this establishment, and to authorize it to concede, in the name of his Majesty, the exercise of this privilege to the Company for Insurances against Fire, established by decree of the Sixth November last, which Company has already presented its submission in that respect, and to which alone his Majesty purposes granting, during fifteen years, the exercise of the said privilege. This *surveillance*, whilst it will preserve to individual interest the activity which is necessary to it, will leave nothing to be feared on the score of any doubtful, reprehensible, or hazardous speculation; and the known zeal of the administrators of the city of Paris for all that interests the good of the State and the service of his Majesty will be further stimulated by his Majesty's disposition to apply the profit resulting from the said Establishment to the particular expenses of the city of Paris, which were or should be borne by the Royal Treasury.

*(*Vide ante*, page 312.)

"Wishing to provide for which—having seen the said submission, *signed* DE GÉSMES—having seen the requisition of the Procurator of the King and City, and the official deliberation dated twenty-fifth October last—having heard the report of the *Sieur* LAMBERT, Councillor of State and Ordinary to the Royal Council of Finances and Commerce, Comptroller General of the Finances; the KING, in Council, has ordered and orders as follows:—

(The thirteen conditions of the concession are then given. A summary of their contents will suffice.)

"1. The concession was to be perpetual, but not exclusive, except for the first fifteen years.

"2. The town of Paris to have perpetual right of inspection, and the King to be represented at boards, &c. by a Special Commissioner.

"3. The capital to be *eight millions of livres*, in addition to the eight millions raised as the capital of the fire insurance branch.

"4. The sixteen millions were to be paid in at the Hotel de Ville—four millions to be invested in '*effets royaux*,' to be chosen by the Company, and the remaining twelve millions in acknowledgments of the Royal Treasury. Interest upon the latter to be paid to the Company every six months, at the rate of five per cent.

"5. The sixteen millions to remain in deposit in an iron chest at the Hotel de Ville, shut with three different keys; one key to remain there, the second in the hands of the cashier of the Company, and the third in the hands of one of the managers.

"6. Eight millions out of the sixteen to form the fire insurance guarantee, and the remaining eight millions to remain the guarantee of the life assurances, until perfect fulfilment of the engagements entered into by the Company.

"7. In case of the Company being obliged to have recourse to its capital, it is bound to replace all the money taken from it within a month at latest, and by call or otherwise; the intention being that the capital should be permanent, and that the Company should, when called upon, prove it to the appointed Commissioner.

"8. The prospectus, policy forms, calculations, &c., to be approved by the King.

"9. The bye-laws and rules for administration to be similarly approved.

"10. A net fourth of the profits to be ceded to the town of Paris.

"11. Foreigners to be allowed to insure without payment of the *droit d'aubaine*.

"12. Style of the Company, and right to have a common seal.

"13. The *Prevôt des Marchands et Echevins* of Paris to take cognizance of all the suits arising out of the business of the Company, to the exclusion of all courts and judges, save appeal to the Council."

On the faith of the above concession the *Compagnie Royale d'Assurances sur la Vie* was about to commence its business operations, when a competitor arose to attack its privileges. Feuchere, Lafarge, and others, had been instrumental in creating a "*Chambre d'accumulation de Capitaux et d'Intérêts composés*," which the King authorized by *Arrêt* of the 5th April, 1788. The respective interpellations and replies of those interested in the respective Companies were submitted to the Council of State. At their sitting at Versailles, 27 July, 1788, an *Arrêt* was signed, explaining that the *Compagnie Royale* was intended to have the exclusive monopoly for fifteen years of all insurances for fixed sums or annuities deferred on survivorship, but that this was not to apply to accumulation or

other projects of the kind contemplated by the *Chambre d'Accumulation*, nor to the grant of immediate annuities, for which branches the privilege was not to be exclusive. On the other hand, Feuchere and all others were expressly forbidden from entering into contracts which concerned insurance business.

On the same day another royal *Arrêt* appeared, separating the fire and life insurance branches of the Company in respect of the capital and business, but leaving each under the representation of *De Gesmes*.

Material alterations were also made as to the investment of the greater portion of the capital of sixteen millions which had to be raised, and of which it appears that one half had already been lodged at the Hotel de Ville. Twelve millions of *livres*, which under Condition 4 of the first concession, before recited, were to be invested in obligations of the Royal Treasury at five per cent. interest, were, instead of this, to be reimbursed by the State, by the grant of life annuities at ten per cent. on the capital, upon the lives of such nominees as the Company might choose.*

The Company, in a supplement to its prospectus, includes some observations which would make it appear that they were not, on the whole, dissatisfied with this arrangement as an indemnification for the injury they had suffered from delay. The prospectus extends far beyond the usual limits of such documents, and comprises 112 quarto pages, exclusive of supplementary additions. Notwithstanding its length, it is a very readable and instructive production—is written with considerable talent, and the examples it gives of the various applications of which insurance is capable, are well chosen and expressed. The progress of England in the science of insurance is specially referred to—its experience appealed to, and its principles approved. In fact, the tables, conditions, and principles of the *Compagnie Royale* were avowedly derived from English sources. The rates of premium were from 5 to 10 per cent. higher than those originally required by the *Equitable Society*. Some hearty encomiums are passed upon Dr. Price: for example—

* How much of the capital was finally paid up and invested cannot easily be traced. The Company and the State may both have made profits from confiscation of shares on which instalments were not paid up. In my copy of the *Arrêt* of 27 July, 1788, there is a manuscript extract from the *Journal de Paris du Vendredi, 8 Août, 1788*, which runs thus:—"Compagnie Royale d'Assurances sur Vie. Jugement de MM. les Prevôts des Marchands et Echevins de la ville de Paris, qui homologue deux délibérations de la Compagnie Royale d'Assurances sur la Vie, et ordonne la vente des reconnaissances de portions d'intérêts des actionnaires et souscripteurs qui seront en retard des paiements de l'appel et de la souscription, et n'y auront pas satisfait au 15 de ce mois pour tout délai."

“Ce citoyen respectable, auquel on doit d’avoir mis au grand jour la doctrine des assurances sur vie, n’avoit d’autre intérêt à éclairer les Sociétés qui entreprenoient ces assurances, que son amour du bien public. Il leur conseille de calculer attentivement leurs primes, de ne pas craindre de les établir sur un pied qui leur soit avantageux; en un mot, il leur recommande de la manière la plus forte, de ne point compromettre leur succès; et de modifier toujours le calcul exact des mathématiques par celui de la prudence.

“Les observations du Docteur Price ont guidé la Compagnie. Elle s’est convaincue que si, en Angleterre, les vrais calculs, sur lesquels reposent la solidité des assurances, ont enfin prévalu, ce n’est cependant qu’après un combat de rivalité, qui a long-temps retardé l’utilité des assurances, et fait un grand nombre de victimes.”

If we do not go so far as to characterize the prospectus, as, in the words of a French writer of much discrimination, “*une pièce d’une extrême valeur historique*,” it should at least have honourable notice in any bibliography of insurance.

The *Compagnie Royale* was soon doomed to annihilation. As to the extent of the business it transacted there are conflicting statements—some to the effect that little was done, others that the five years’ existence of this establishment “lui suffirent pour faire des affaires brillantes.”

De Gesmes had fixed his rates of premium at rather a high rate. He was justified however in doing so, inasmuch as the mortality amongst insured lives was yet an experiment to be tried, and he had reason to believe that the results would not be so favourable as in England.

These tables of premiums were written down, certainly with more of party spirit than of justice; obloquy was heaped on *De Gesmes* and the other projectors of the scheme, as sordid speculators, who had got up the Company with no intention beyond that of enriching themselves at the bursting of the alleged bubble. But was it really so? The proofs are wanting; and until they are made plain, we should hesitate in coinciding with the impression which may be gathered from some authors, as to *De Gesmes*, the promoter and manager of the two Companies,* being deserving of enduring stigma and disgrace. Until facts to the contrary are before us, it is just an open question whether *De Gesmes* was either more or less than one of the innocent victims of a revolutionary period. The Companies he projected, and himself and his fellow managers, were soon publicly arraigned by so redoubtable an adversary as *Mirabeau*, who poured against them all the fervid torrent of his rhetoric, in the long pamphlet

* The concessions for both Companies were granted to *De Gesmes*. The name of M. *E. Claviere* appears at the end of the prospectus of the Life Company as the *Administrateur Gérant*.

entitled "*Suite de la Dénonciation de l'Agiotage.*"* In the *Memoires de Mirabeau* it is stated:—

"L'objet apparent de cette brochure est de signaler de nouveau les manœuvres de plus en plus actives des agioteurs, qui portent à des prix entièrement fictifs les actions d'une multitude d'Établissements dont les principes sont imaginaires ou illégaux, et dont le monopole est ruineux pour les industries loyaux. L'auteur s'attache surtout à la *Compagnie d'Assurance sur la Vie*, et défend contre elle la *Chambre d'Accumulation* qui n'émet pas d'actions, qui ne demande pas des privilèges, qui se borne à offrir les moyens de convertir en capitaux les prestations pécuniaires les plus minimes, avec l'*accumulation* progressive et constante qui résulte de l'action des intérêts composés.

"Il se récrie encore une fois contre les *privilèges exclusifs*, injuste dans leurs causes, abusifs dans leurs vues, funestes dans leurs effets," and so on.

The Count de Mirabeau's eloquence was not on this occasion either that of the Tribune or of the disinterested pleader.† He wished to inculcate the mutual advantages of the *Chambre d'Accumulation*, &c., which was afterwards established, though the Constituent Assembly of 1791 refused its approbation, under the title of the *Caisse d'Epargne et de Bienfaisance*. Originally, that is shortly after the projection of the *Compagnie Royale* in 1787, it would appear that its intended title was the *Tontine Viagère et d'Amortissement*. When it came before the *Constituante*, Lafarge, under the protection of *Mirabeau*, had incorporated with the scheme of *Feucheres*, (the royal *Arrêt* concerning which, has been before referred to,) a much more extensive Tontine survivorship plan, and which was puffed as combining the advantages of savings' banks and mutual insurance.

The scheme at length got the derisive name of the *Tontine des Immortels*, and turned out to be one of the most barefaced delusions ever palmed on the public. Large in all its professions, promising enormous and impossible benefits, it made a parade of its accounts, and had the singular audacity to publish that its calculations were approved by the Academy of Sciences, although that illustrious body had formally declared them to be wrong. Notwithstanding all this, the scheme took vastly with the public. The self consumption which was in the very germ of the Society's plan had not time to develop itself before the ruin of the national finances ensued,

* This appeared in 8vo., 1788, pp. 80, with the epigraph of "*De salute publicæ nil desperandum.*"

† "Enfin, il était sollicité vivement par Pinchaud, dont les intérêts étaient fortement engagés dans ceux de la Chambre d'Accumulation (*Mem. de Mirabeau*, Vol. V.). And, referring to the subsequent defence of the Chambre d'Accumulation, at the sitting of the Constituent Assembly of 3 March, 1791, *Dr. Gouraud* observes, "Mirabeau eut le triste courage de mettre sous la protection de son éloquence le désastreux projet."

and the *Caisse Lafarge* (as the Association is generally termed) shared in their fate; and it does not appear from history what proportion, if any, of the 66 millions of francs belonging to the depositors in this *Caisse*, ever got back to those unfortunate individuals.

It is generally considered, that the remembrance of the distress and distrust occasioned by the failure of the plans of the two Societies whose histories are sketched in the preceding remarks has been, down to the most recent times, a prominent cause of the want of success of life insurance in France, inasmuch as all calculations depending on life insurance or survivorship contingencies were invariably, at the commencement of this century and to a very considerable extent until the most recent period, indiscriminately supposed to be fraught with the same errors as the absurd professions of the *Tontine Lafarge*, or liable to lead to as unsatisfactory results as was the lot of the *Compagnie Royale* of 1787 to 1791, notwithstanding the mishaps of the latter were not those arising from the rates of premium or calculations, but were only owing to fortuitous circumstances.

It is only since 1819 that a new Life Insurance Company was started in France; and now, after the lapse of 35 more years, there are but five existing Life Insurance Companies;—I refer here to what are called “*Sociétés anonymes assurant à primes fixes.*” These are the *Générale*, *Nationale*, *Union*, *Phénix*, and *Caisse Paternelle*. Only a short time ago there were six other Companies—the *Urbaine*, *France*, *Providence*, *Soleil*, *Aigle*, and *Mélusine*; but all these, according to a statement published but a few months since, have given up the business of life insurance, and have voluntarily put their affairs into liquidation. “*Ainsi donc la France,*” says M. Claude Merger, “*avec ses trente-cinq millions d’habitans, n’a que cinq Compagnies d’Assurances, pendant que l’Angleterre en a plus de deux cents, qui toutes font un chiffre énorme d’affaires!*”

The whole amount of the sums payable at death of persons insured by the French Life Insurance Companies probably does not amount to one million pounds sterling, and the largest number of policies are for short period risks, or renewable only for a very limited term. There are, it is true, policies amounting to nearly 20 million pounds sterling insured by the *Associations Tontinières* for deferred annuities and endowments payable in lifetime; and according to the official Government returns for 31 December, 1853, there was a total sum received, up to that date, of about £7,430,000, and about £338,000 of *Rentes sur l’Etat* had been

purchased since the establishment of these Associations, which are, however, merely "investment or Tontine clubs,"—and life insurance, as understood and applied by us in England, has scarcely any existence in France. There were always prejudices in that country against life insurance. These originated in the hyper-orthodox dogmas of the older jurists, some of which have already been referred to in my former paper,—(inserted in this *Magazine*,)—on the Early History of Insurance. The effect of these adverse notions appears never to have been effectually removed; and whilst fire insurance is at present resorted to in France to a greater extent than in any other country, it is still an enigma for her economists to solve, why no real progress worthy of mention has hitherto been made in life insurance; and although many reasons for this might be advanced, in addition to those which they have occasionally brought forward on this point, the conviction remains that none are entirely satisfactory in accounting for this anomaly.

APPENDIX, No. II.*

ON PERSONAL AND UNLIMITED RESPONSIBILITY. BY SIR F. M. EDEN, BART.,
FIRST CHAIRMAN OF THE GLOBE INSURANCE COMPANY.

THE principles of political economy are so well understood in this country, that, in applications to Parliament on subjects of commerce, the parties may reasonably expect that a very general attention will be paid to remedy by new laws the inconveniences which may be proved to have arisen from existing regulations. Indeed the welfare of society requires that the disposition to improve should be combined with the disposition to preserve; and a well constituted legislature will, whilst it pays a due reverence to the stored wisdom of antiquity, ever endeavour in its enactments to accompany the progress of civilization. The old English adage, *nolumus leges mutari*, in its literal meaning, unexplained by circumstances, must be deemed only to be a relic of pure barbarism: considered as the emphatic declaration of "barons bold," determined to resist monarchical encroachments on their feudal rights, it may impress us with a high opinion of the sturdy inflexibility of our forefathers; but it can only be held to be practicably admirable, in being limited to signify a resolution of strenuously resisting all innovations on such constitutional principles and constitutional laws as are essential to freedom. In matters of trade, the "form and pressure" of the time must be consulted; and in this country we fortunately possess a legislature peculiarly well adapted, from the diversified interests of the individuals composing it, to correct the impediments which the defective codes of ancient times may now present to the various complex operations of increasing wealth and extended commerce. Nor does it derogate from this most important function of Parliament to admit that human industry will, in almost every possible sphere of its exertion, thrive best uncontrolled by laws which shall prescribe its course and direction. Such interference, it may be admitted, is unnecessary; yet still, as property itself is the creature of law, it is indispensable that the various rights of property claimed and exercised in a state of society should be clearly regulated and defined; and among them the

* (*Vide* page 322, *ante*.)

title to property by contract is not the least important. Trade must be regulated by law, because it cannot be carried on without the sanction of legal penalties to enforce the fulfilment of those obligations which are entered into by individuals in their dealings with each other.

Of these penalties, the principal is personal responsibility, which may well be called the *Magna Charta* of sellers. This responsibility—which everyone engaged in trade is under—to make good his contracts at the risk of his fortune and even at the risk of personal liberty, is necessary to enable individuals and partnerships to obtain that credit without which commercial dealings would be too circumscribed to provide for the wants of mankind. If it were requisite that a merchant, in order to carry on business, should pay ready money, pawn goods, or mortgage land, for all the articles he wished to purchase, his capital ought to be equal to his outstanding speculations. It is, however, well known that the risks of a fair trader may, in common prudence, extend beyond this limit. The merchant of Britain may, as well as the merchant of Venice, Antonio, be “sufficient, though his means are in supposition”; and he may, in various cases, be fully justified, on commercial principles, even in the eyes of those who are his creditors, if he reasons as the same Antonio permits his friend Bassanio to do :

“In my school days, when I had lost one shaft,
I shot his fellow of the selfsame flight
The selfsame way, with more advised watch,
To find the other, forth ; by vent’ring both,
I oft found both.”

In dealings thus carried on, the credit that is given by one party is necessarily associated with and protected by the personal responsibility of the other. But the foundation of such credit is an adequate knowledge of the circumstances of the person to whom credit is given. Those who accept personal responsibility as their guarantee, ought to possess satisfactory information respecting the integrity, the abilities, and the property of those who contract with them. It however very frequently happens that, notwithstanding the various opportunities which occur in the commercial world of studying the state of a trader, confidence in his moral character is misplaced, the talents which he possesses are overrated, and the opulence ascribed to him exists only in the imagination of his creditors. The knowledge, however, of all these points is a necessary branch of the business of everyone who expects to prosper in trade; and it is, to a considerable extent, attainable with respect to single traders and partnerships composed (as they usually are) of a few individuals. In the ordinary course of trade, the credit given by the seller is either given by one trader to another, whom he has the means of knowing, or to a consumer, whose habits of life and situation are even less susceptible of disguise than the condition of a merchant. But in dealings with a numerous body of insurers, credit is given by the buyer; and the various classes of society who are interested in preserving their property by insurance, cannot be supposed to possess the means of appreciating the solvency of the different partners. Though in effecting an insurance they give, in fact, credit to the insurer, they seldom look beyond the premium required, and the names, or at most the character, rank, and substance of the managers, and affix little value to the general liability of property which is not exclusively pledged to them and to the personal responsibility of individuals with whose names they are unacquainted.

There is another material difference between insurance and other commercial adventures. The general dealings of traders do not often extend beyond very limited periods; they are usually of a nature to be adjusted and wound up within a few months, or, at farthest, within a very few years. Peculiar circumstances indeed occur in every branch of commerce to interfere with the general system, but these peculiar circumstances form the exception, and not the rule. Credit is rarely intended to be given to a distant period; and personal responsibility, from its very nature, is ill calculated to provide for remote contingencies. Such objects are seldom attempted to be secured on the personal

responsibility of individual traders, but are usually effected by the investment of disposable funds (as in the case of marriage and other family settlements), or by dealings with public bodies or long established partnerships. The unfitness of personal responsibility to guarantee contracts of life insurance on events, which may in many instances remain undetermined during the life of the responsible party, has in all probability occasioned the whole, or nearly the whole, of this business to be transferred from individual to associated insurers. In marine insurance, the risk in most instances being of a nature to be determined within a period that is short when compared with the ordinary term of human existence, personal responsibility, however inadequate it may prove in particular cases, is not objectionable on the particular ground of inapplicability to provide for distant hazards. But it may be said that although distant hazards cannot be adequately provided for by individual insurers, they may by associated individuals, whose numbers confer perpetuity on the partnership. It is undoubtedly true that, in thus attempting to acquire the principal attribute of a corporation, a private partnership can conveniently enter into speculations of uncertain and probably long duration; but it will be seen, from noticing two principal qualities which a joint stock fund may possess, and which must be wanting in a personal responsibility fund, that in the business of insurance stronger probabilities of security are afforded by the former than by the latter (only probabilities, indeed, by either): for certainty is not compatible with trade; and in insurance, as in all other dealings, the doctrine of chances, founded on reasonable probabilities, must operate.

1. *The joint stock fund is susceptible of regulations, by which its amount may be periodically ascertained and made known, not only to its proprietors, but to its customers.* Its accounts can be subjected to an undisguised publicity. On the contrary, the amount of a personal responsibility fund never can be known. *Omne ignotum pro magifico* seems to be the principle on which it asserts a claim to confidence. It will appear greater or less to its customers according to their extent of information respecting the property, talents, and character of the persons constituting the partnership. Insurance Societies, indeed, may, as easily as corporations, ascertain the value of their outstanding risks by periodical investigations; they may publish an annual account (though it is believed no Office in Great Britain does so) of their receipts and payments; but, unless they were enabled to annex to such account a correct statement of the particular dealings, outstanding risks, debts, credits, and stocks of the individuals concerned in the Society, the account of their personal responsibility fund would be incomplete.

2. *The joint stock fund of an Insurance Corporation is peculiarly answerable for their contracts; it is exclusively appropriated to their use, and cannot be affected by the private dealings of the individuals composing the body corporate.* Quite the reverse is the case with partnership Societies. Their accumulated funds, current receipts, and credits, are answerable for their individual contracts. The personal responsibility under which the members exercise their particular dealings, and which they carry into the society as its fairest feature, upon the same principle that it gives the customers of the Society an interest in a fund that is pledged to the customers of the individual, gives the latter a title to it likewise.

The unchartered Offices have contended, with a natural *esprit du corps*, that the personal responsibility of the proprietors of an Insurance Office is a better security for the performance of its engagements than a capital actually raised and vested in real or Government securities. It may be answered that personal responsibility is the capital of pennyless adventurers. On this fund a long list of individual insurers, in ephemeral succession, without either skill, character or capital, has been consigned to bankruptcy. On this fund many unchartered Offices were opened during the last century, and failed. The proprietors of some of the partnership Societies, it is possible, may collectively possess a capital of several millions, but it may be disposed of by the reverses of the individual proprietors in trade, and in various other ways, before the risks insured against

accrue. The public, therefore, is not completely secured by the unlimited responsibility of private property :

—“Puncto quod mobilis horæ,
Nunc prece, nunc pretio, nunc vi, nunc sorte supremâ,
Permutet dominos, et cedat in altera jura.”*

Personal responsibility in trade is well adapted to a state of society in which traffic can be carried on by individuals or partnerships composed of a few individuals; but in the extended operations of mercantile adventure, which are the natural consequence of national improvement, new modes of forming contracts become necessary. For purposes which require a very great capital, and which consequently cannot easily be transacted by individuals, the legislative principle of representation is introduced into trade, and the interests of the various persons concerned are placed under the management of trustees. In such cases, no doubt, all the parties who profit by the dealings are responsible for the losses of the firm; and if those parties can be discovered, they are amenable, both in purse and in person, on their trustees proving insolvent. But if, as has already been observed, the principle of personal responsibility presupposes the inquiry, or at least the power of making inquiry, into the means of those to whom credit is given, it certainly cannot be said that a person, dealing with traders who are trustees for others unknown to him, is much influenced in his dealings with them by those unknown persons being personally responsible. Far more convenient is it that a known fund should be substituted for unknown responsibility, when the firm, on whose responsibility the customer is to rest, becomes very numerous; and that a large association should not be deterred from entering into trade from the inconvenience they would experience, under the common law, in attempting to enforce their contracts. Sensible of the reasonableness of alteration in this respect, the legislature of Ireland, by an Act passed in 1782, commonly called the Sleeping Partner Act, authorized persons vesting a certain capital in a partnership fund to exonerate themselves from further responsibility; and empowered partnerships, however numerous, complying with the provisions of this Act, to sue and be sued by a corporate name. The British legislature has not, indeed, gone to the extent of altering the old obligations attached to contracts by any general law, but in various important cases, respecting dealings proposed to be undertaken by a numerous body, royal or parliamentary authority has, by the creation of corporations, companies, or trusts, placed the administration of their concerns under the management of directors, commissioners, or trustees, and substituted a known fund (deemed adequate for the undertaking) in the room of unknown unlimited personal responsibility. Not only the Bank, India, and Hudson's Bay Companies, but the various road trusts, fisheries, canal, dock, and other trading Companies incorporated by Act of Parliament, are instances of the opinion of the legislature, that the establishment of joint stock funds in great trading concerns is beneficial to the public. The three first corporations above mentioned (the Bank, India Company, and Hudson's Bay Company), it is true, possess another character—a character, however, which is not essential to a corporate body. They are monopolies. But the question of policy and expediency, with respect to the creation of a joint stock Company, is not connected with the question of monopoly. That must rest on very different grounds than the general qualities of a joint stock fund, and can be justified only by the paramount utility of the business which is to be the object of the monopoly, and the improbability that a corporation without exclusive privileges will be equally useful. Monopolies (to confine the observation to extinct monopolies) have certainly been injurious to the public; and, as most of the accounts of ancient corporations are accounts of pernicious monopolies, superficial reasoners have inadvertently concluded that all joint stock Companies, even those that have no exclusive privileges (establishments comparatively of modern date), must be detrimental to the public in preventing that competition in trade

* Horace.

which is essential for their interest, although the obvious effect of creating non-exclusive Companies, in addition to existing traders, is to add to the assortment of dealers which the public possesses, and consequently to increase their chances of benefit from competition. But if the ill effect of monopolies were a reason against establishing corporations, it would be a reason against tolerating partnerships, or even single traders; for the instances of individual monopolies* are far more numerous than those of exclusive Companies. The annals of Elizabeth and of her successors, down to the Revolution, furnish abundant proof of the misapplication of the prerogative in favouring particular traders; and if the practice had been continued, England, the seat of riches, of arts, and commerce, would (as Mr. Hume remarks) have contained as little industry as Morocco.†

The question, therefore, of policy and expediency, is not affected by the history of monopoly; and upon this question Adam Smith, who certainly entertained no prejudices in favour of corporations, deserves to be attended to. He says that "The value of the risk, either from fire, or from loss by sea, or by capture" (and he might, with great truth, have added the risk of life insurance), "though it cannot, perhaps, be calculated very exactly, admits, however, of such a gross estimation as renders it in some degree reducible to strict order and method. The trade of insurance, therefore, may be carried on successfully by a joint stock Company without any exclusive privilege. To render such an establishment perfectly reasonable, with the circumstance of being reducible to strict rule and method, two other circumstances ought to concur. First, it ought to appear, with the clearest evidence, that the undertaking is of greater and more general utility than the greater part of common trades; and, secondly, that it requires a greater capital than can easily be collected into a private copartnery. If a moderate capital were sufficient, the great utility of the undertaking would not be a sufficient reason for establishing a joint stock Company, because in this case the demand for what was to produce would readily and easily be supplied by private adventurers. In the four trades above mentioned" (the banking trade, the trade of insurance, the trade of making and maintaining a navigable canal, and the similar trade of supplying a city with water), "both these circumstances occur. The trade of insurance," he adds, "gives great security to the fortunes of private people, and, by dividing among a great many that loss which would ruin an individual, makes it fall light and easy upon the whole society. In order to give this security, however, it is necessary that the insurers should have a very large capital. Before the establishment of the two joint stock Companies in London, a list, it is said, was laid before the Attorney General of one hundred and fifty private insurers who had failed in the course of a few years."‡

* Authorized either directly by patents for exclusive trade, or indirectly by the dispensing power of the Crown, which was discovered to be a very efficient mode of enacting monopolies. When the statutes laid the manufacturer of any particular commodity under restrictions, the Sovereign, by exempting one person from the laws, gave him in effect the monopoly of that commodity.

† *Reign of Elizabeth, c. 7.*

‡ *Smith's Wealth of Nations* (5th Edition), iii. 146-148.