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I.—*Application of American Legislation to Assurance Companies in the United Kingdom.* By William John Hancock, Esq., F.I.A.

[Read Tuesday, 21st December, 1869.]

SINCE reading my paper on the Laws of New York and Massachusetts, in June last, events have occurred which have increased the public feeling on this subject. As evidence of this, I quote as follows from a leading article in the *Echo* of 10th October last:—

THE decision of Vice-Chancellor James places in a very strong light the pressing need which exists for special legislation providing for the control and supervision of Life Assurance Companies. For on what ground did the Vice-Chancellor dismiss the petition? So far as inquiry into the soundness or unsoundness of an office is concerned, the public must not turn to the Court of Chancery for aid. This is the net result of the recent episode in the question of Life Assurance. We have it now on all but the highest authority—and, looking at the reported cases, there can be little doubt that this decision would be confirmed by the Lord Chancellor—that a Company's inability to pay actual outstanding debts is all that can be taken into consideration in a Court of law. Under the fifth section, indeed, of the Act of Parliament, it is provided that if the Court is satisfied that it would be just and equitable to wind up a Company, it may make an order to that effect. How is this interpreted by the Vice-Chancellor? It would be just and equitable to wind up a Company if it was shown to be "commercially and absolutely insolvent," that is, as he goes on to explain, "if its assets are such and its existing liabilities are such as to make it reasonably certain that the existing and probable assets would be insufficient to meet existing liabilities." With "prudence or imprudence," or "future liabilities," with all the special and peculiar circumstances of Life Assurance, the Court had nothing to do. If a Life Assurance Company can keep its head above water—can live from hand to mouth—its life will not be suspended by the Court of Chancery. We are not now expressing an opinion one way or the other in regard to the Company. The decision was given on grounds independent of the soundness

or unsoundness of the Office That judgment throws much more light on the general question, it adds still greater urgency to our demand for the better security of Life Assurance. We have all along contended that it was absolutely essential to this end that there should be a publication of accounts going sufficiently into particulars as to make them capable of being regarded as a guide by reasonable and prudent men.

From this article it appears that in public opinion British law on the subject is not in a satisfactory state, and that no provision exists for the guidance of reasonable and prudent men in their dealings with Life Assurance Companies in the United Kingdom. Under these circumstances, one is naturally led to inquire whether the laws of other countries provide for the want which is thus felt in our own country.

Since writing my former paper, I have obtained a full copy of the laws of the States of New York and Massachusetts, and I now beg to state, for the information of this Society, how those laws deal with the solvency or insolvency of an Assurance Company; on which question, according to the *Echo*, we must not look to the English Court of Chancery for aid.

According to the Life Insurance Laws of the State of New York, of 1853, chap. 463, §17,

“It shall be the duty of the Superintendent of the Insurance Department, whenever he shall have good reason to suspect the correctness of any annual statement, or that the affairs of any Company making such statement are in an unsound condition, to cause an examination to be made into the affairs of any Insurance Company for the purposes named in this act”

It is then provided that the books are to be open for inspection and that the officers and agents may be examined on oath, and whenever the superintendent shall deem it for the interest of the public, the result of the investigation may be published in the paper in which State notices are directed to be inserted; and whenever it shall appear to the Superintendent that the assets of the company are insufficient to reinsure the outstanding risks, he shall communicate the fact to the Attorney-General, whose duty it shall be to apply to the Supreme Court for an order requiring the Company to show cause why its business shall not be closed. And in case it shall appear to the satisfaction of the court, that the assets and funds of the said company are not sufficient, the court shall decree the dissolution of the company and a distribution of its assets, including securities deposited with the superintendent. The 13th section of the same law provides that for such valuations the rate of interest assumed shall be four and a half per cent. per annum, and the rate of mortality shall be that established by the American Experience Table, as stated in the schedule to the act.

It therefore appears, in short, that according to British law, as laid down by the Vice-Chancellor, a Life Assurance Company is deemed solvent so long as it has assets in hand to meet all claims actually accrued due; while, according to New York law, as printed, a Life Assurance Company is only deemed solvent so long as it has assets which, according to a specified rate of interest and specified table of mortality, are sufficient to reinsure its outstanding risks—that is, in

other words, assets equal to the present value of all its policies in force.

It thus appears that this New York law meets the defect in the British law pointed out by a leading London journal. Therefore the history and details of those laws, framed and improved by the shrewd governors of the commercial centres of the United States, having in view the protection of their own interests, is well worthy of the study and consideration of their British cousins, more especially as American law is derived from and based on British law. It may therefore be of interest to the Society to have some further information on the subject.

It appears that legislation on the subject of Insurance Companies has occupied the attention of the State of New York for upwards of twenty years. Laws were passed in 1849, and were amended in 1851, again in 1853, and from time to time until May of the present year. These laws now provide that any number of persons, not less than thirteen, may join together to form a company. They must then file, in the office of the Superintendent of the Insurance Department, a declaration signed by each of the corporators, setting forth their intentions to form a company for the purposes named in the act, and comprising a copy of the charter they propose to adopt, the place where the company is to be located, and other specified particulars. This declaration is then to be submitted to the Attorney-General, to see that it is according to law. On receiving the Superintendent's certificate, the corporators are to publish for six weeks their intentions to organize such company in the papers in which state notices are inserted. They may then open books to receive subscriptions, and keep such books open until the amount required by the act is subscribed—that is, 100,000 dollars, and before the company commences business, the whole capital must be paid in and invested in stocks or treasury notes of the United States or State of New York, or in bonds and mortgages on improved unincumbered real estate within the State of New York, worth seventy-five per cent more than the amount lent thereon, exclusive of farm buildings thereon, or in such stocks or securities as are receivable by the Bank Department. The company must deposit with the Superintendent of the Insurance Department 100,000 dollars in similar securities, to be held for the security of the policyholders; but so long as the company is solvent, it may collect the interest or dividends, and vary the securities deposited. As soon as all these things are completed, the Superintendent will issue his certificate, which is then to be filed in the county clerk's office where the company is to be located. It is then at liberty to commence business and issue policies. The act then provides that funds and accumulations shall be invested in similar securities to those already mentioned, except that in the case of real estate it may be worth only fifty per cent. more than the sum lent, instead of seventy-five per cent. as in the case of the first 100,000 dollars. When once started, the company must make an annual statement on oath, showing

1. The number of policies issued during the year.
2. The amount of insurance effected thereby.

- 3 Amount of premiums received during the year.
- 4 Amount of interest and all other receipts, specifying the items.
- 5 Amount of losses paid during the year.
- 6 Amount of losses unpaid
- 7 Amount of expenses
- 8 Whole number of policies in force
- 9 Amount of liabilities or risks thereon, and of all other liabilities.
- 10 Amount of capital stock.
- 11 Amount of accumulation, specifying whether received upon life assurance, annuities, or how otherwise.
- 12 Amount of assets and manner in which they are invested, specifying the amount in real estate, on bond and mortgage, stocks, loans on stocks, premium notes, credits, or other securities.
- 13 Amount of dividend unpaid.
- 14 A tabular statement of policies in force for the whole term of life, showing how many thereof for each age of life, and for what amount at risk ; where issued or in force during the first year of the existence of the company , during the second year ; and so on up to the time of making such statement.
- 15 A tabular statement of the policies in force for a shorter period than the whole term of life, showing how many thereof for each age of life and for what amount of risk where issued or continued in force during the first year of the company's existence , during the second year , and so on up to the time of making such statement.

The law then provides that the Superintendent shall provide printed forms for the statements required ; that he shall arrange these statements in tabular forms or abstracts for his annual report to the legislature , and it shall be his duty, at least once in five years or annually in his discretion, to make valuations of all outstanding policies, additions thereto, unpaid dividends, and all other obligations of every American life insurance company transacting business in the State of New York ; and for this purpose he is to use the American Experience Table of mortality (a copy of which is in a schedule of the act) at four and a half per cent per annum as the rate of interest.

It is complained that the annual statements of insurance companies in this country exhibit such a want of uniformity, that prudent and sensible men find it hard to form an opinion on their relative merits. This want of uniformity is not confined to small items, but extends to the table of mortality and rate of interest used in their calculations and loading on their premiums, and even in the general statement of assets and liabilities. Some companies place their assets on the right hand, and their liabilities on the left hand, while others reverse this form of statement. It is no easy matter to comprehend the relative price of an article when quoted in British pounds, and American dollars, and French francs, nor is it easy to comprehend the relative degrees of heat when quoted according to the Fahrenheit, the Centigrade, and the Reaumur scale. How much more difficult must it be to understand the relative position of life insurance companies when different tables of mortality and different rates of interest are used ? How much it would add to public convenience if the assets and liabilities of all companies were reduced to or measured by the same standard ? This desirable object appears to be attained by the New York Life Insurance Laws.

There is another point in the New York law which this Society may think worthy of consideration. It is provided in the law of 1867,

cap. 708, that any life assurance company may deposit in the insurance department, in addition to the 100,000 dollars, a sum not less than 25,000 dollars. The Superintendent shall then issue to that company registered policies of insurance, or annuity bonds of such denominations and amounts as the company may require. Such policies and annuity bonds shall bear on their face the words, "This policy among a limited number secured by pledge of public stock, or bonds and mortgages," with the seal of the department, and shall be countersigned by the Superintendent or his authorized deputy. The act then provides that with regard to these policies the Superintendent shall charge to the company the net present value of these policies and annuity bonds, according to a specified table of mortality and rate of interest. The company is to make a half yearly return of the exact condition of these registered policies, and deposit with the Superintendent additional and similar securities to an amount equal to their increased value: the securities thus from time to time deposited to be held by the Superintendent until the liabilities under these registered policies and annuity bonds shall be to his satisfaction fully discharged, and the depositing company may withdraw any excess of securities above the net present value of its registered policies. This feature of the New York law seems to have been considered of such importance, that in an act passed 18th May, 1869 (New York Insurance Laws of 1869, cap. 902), it is provided that any company hereafter electing to make deposits for this purpose shall do so in respect of all policies thereafter issued, and not a portion of them only.

This Act also provides that if at any time the affairs of any Life Assurance Company, which has deposited securities under it, shall appear to the superintendent to be in such a condition as to render the issuing of additional policy or annuity bonds injurious to the public interest, he shall report that fact to the Attorney-General, who shall apply to the Supreme Court for an order requiring the company to show cause why its business should not be closed. If the court is satisfied that the assets and funds are insufficient, it shall issue an order restraining the company from further prosecuting its business, and shall also appoint a receiver of all the assets and credits of the said company, except those deposited in the Insurance Department. The Receiver shall, upon entering on his duties, appoint a competent actuary, approved of by the Superintendent, who shall make a careful investigation according to the standard fixed by the laws of New York, and if it shall be found that the securities deposited in the Insurance Department, and the assets and credits, including future premiums that will mature on the outstanding policies and other obligations, are sufficient under the laws of New York to pay all policies, annuities, and other obligations as may mature by the terms thereof, and legal costs and expenses incident to the business, the Receiver shall notify to the policy-holders, requiring them to pay him the future premiums. The Court may in its discretion direct the Receiver to reinsure all registered policies in some solvent company.

In case the report of the actuary shall show that the securities,

assets, credits, and premiums are not sufficient to pay all the policies, annuities and other obligations as they may mature in the terms thereof, the securities are to be sold and converted into money, and applied to the payment of the registered policy-holders, in the proportion of the net value of their policies respectively, and to the registered annuitants in proportion to the then present value of their respective annuities, as estimated by the legal standard for valuing insurance and annuity obligations within the state of New York. Any surplus after these payments is to be applied towards paying the just debts of the company. The act then goes on to provide how the company is to be managed if carried on by the Receiver, and also provides for an annual investigation by a competent actuary.

The Life Insurance Laws of Massachusetts are somewhat similar to those of New York, but are in some respects more stringent.

Section 4 of the General Laws provides that the commissioner shall visit and examine any insurance company incorporated in the State, when requested in writing by five or more persons, each of whom is a stockholder or creditor or pecuniarily interested in such company; and also when he deems an examination necessary. On such occasions he has full access to books and papers, and can examine the directors and officers on oath. The insurance companies doing business in the State must make annual returns to the commissioner on forms supplied by him. The insurance commissioner shall once a year calculate the existing value of all outstanding policies of Life Assurance, in companies authorized to do business in the State. In his annual report to the legislature he shall include an aggregate of the calculated value of all outstanding life policies.

Section 40 of General Laws provides that each insurance company in the State shall, once in five years, publish in some newspaper in the city of Boston, and also in some newspaper, if there is any, in the county where the company is established, a list of all dividends and balances which have remained unclaimed for two years or more, with the names of the persons to whose credit the dividends or balances stand, which publication shall be continued in three successive papers.

Section 87 provides that no policies shall be issued until the whole capital is paid in.

Section 146 provides that before any mutual life insurance company goes into operation, a guarantee capital of 100,000 dollars shall be paid in money and invested as specified by the laws. Subsequent sections provide for the rights of the holders of this guarantee stock (limiting their dividends to seven per cent.) and for the gradual redemption thereof.

The standard of value for outstanding policies adopted in Massachusetts differs somewhat from the New York standard—being the “Combined Experience” or “Actuaries’” table of mortality, with interest at 4 per cent.

Section 156 contains a provision which is well worthy of consideration. It is that no policy of insurance on life issued after 10th May,

1861, shall be forfeited or become void by non-payment of premiums thereon, any further than regards the right of the person insured therein to have it continued in force beyond a certain period to be determined as follows, to wit:—the net value of the policy when the premium becomes due, and is not paid, shall be ascertained according to the “Combined Experience” or “Actuaries’” rate of mortality, with interest at 4 per cent. per annum. From this net value any indebtedness to the company shall be deducted. Four-fifths of what remains shall be considered as a net single premium of a temporary insurance, and the term for which it will insure shall be determined according to the age of the person at the time of the lapse of premium. If the death of the life assured occur within the term of the temporary insurance covered by the value of the policy above mentioned, and if payment of premium be the only condition of the policy violated, the company shall be bound to pay the amount of the policy, less the amount at six per cent. per annum of the premiums forborne at the time of death; proof of death must be submitted within ninety days of decease.

Much has been written of late in the shape of leading articles and letters in newspapers, as to short methods of ascertaining the solvency of insurance companies—such as the reserve fund being so many times the annual income. It is well that the public should clearly understand that there is no such short cut. The proportions between this reserve fund and the annual income varies not only in different companies according to the age of the company, the ages of the lives insured, the modes in which the premiums are formed, and the rate at which the business increases, but it varies in the same company at different times. For instance, if a company remains for some years with a stationary income, the reserve fund will increase in proportion to the income; but if there be extensive and rapid increase of income in one or more years, then the reserve fund will not be so large in proportion to the income. Some companies’ tables are so framed as to attract old lives, and others are framed to attract young lives—so that there are really only two modes of ascertaining the solvency of a life assurance company.

1st. By valuing every policy—a work of no small labour.

2nd. By valuing the total sum assured at each age in each class of policy; then valuing the total premiums payable at each age in each class of policy; making allowance for expenses of management; and taking the difference as the total liability—a work though not so laborious as the first method, still requiring some labour and professional skill—then, in order to institute a fair comparison, it is further necessary to reduce the statements of each company to a common standard, as provided for in American legislation.

In its broadest view, life assurance may be considered as a means by which what would be a calamity to an individual is converted into a small charge on a community. Life assurance companies are the instruments by which this function is performed in the social economy.

Life assurance companies are, after all, the creatures of legislation. The earliest companies formed in England paid large sums to the

crown for the charters necessary to enable them to enter into the business. Since then increased facilities have been afforded for the formation of companies, especially by and since the passing of the Joint Stock Companies Act in 1844. It now appears that these increased facilities for the formation of life assurance companies have not been accompanied by sufficient provisions for the protection of the persons interested therein, either as policy holders or shareholders.

It is pretty evident from the introduction of Mr. Cave's bill in the last session of Parliament, and the events which have since occurred, that legislation will be attempted, if not carried through, in the next session of Parliament, for the protection of persons interested in life assurance companies. It is of the utmost importance that such legislation shall afford the most perfect protection to policyholders and shareholders—without at the same time any unnecessary interference with the individual freedom of management of individual companies.

I do not advocate the entire adoption of the American law on this subject, but he is a wise man who profits by his own experience; he is a happy man who profits by the experience of others; and he is a fool who profits by no experience at all. It so happens that from the state of society in a new country, formed to a great extent by immigration, attention was directed to this question sooner than in an old country, where the facilities for the formation of insurance companies are more recent. It is therefore of advantage in considering this question to profit by the experience of our American cousins. In the foregoing sketches of American law on this subject, I have selected such points as appeared to be of interest and importance in the discussion of this question.

II.—*The Utilization of the Reclaimable Waste Lands of Ireland.* By George Orme Malley, Esq., Q.C.

[Read Tuesday, 25th January, 1870]

THE title of this paper is so suggestive, that the greatest difficulty arises in endeavouring to arrange the topics which crowd upon the mind when proceeding to treat upon it. The idea is not new. It has occurred to many writers, has formed a portion of almost every comprehensive treatise which has been published on the Land Question in recent years, and has been referred to by every statesman who has ventured to prescribe for the wants of our country; yet I am compelled to observe that to the present time I have not discovered any author who has treated the matter in a practical manner, or who has presented the subject in such a form as to be capable of being grasped by the statesman or approved by the political economist in all its details. The theory is familiar to every advanced thinker, and to almost every newspaper editor; the practice has been tested