premium is paid, though the policy may be delivered.

The mode of payment of the premium is immaterial if it be accepted by the company or its agent, and no special mode provided for. It is generally considered that where the insured has money to his credit with the insurers that that must be exhausted, before the policy can be declared forfeited for non-payment. Thus, if there exists a sufficient reserve value to cover a year or half-year's premium, or if there are any dividends due the insured, they should be applied to the liquidation of his maturing premiums in the absence of any contrary arrangement or debt to the company. The sickness of the insured is no ground for avoiding the forfeiture of a life policy, in case of non-payment of premiums; and insanity is not an excuse for non-payment of premiums.

WARRANTIES AND REPRESENTATIONS.

The insurers, it may be assumed, prior to the contract are entirely ignorant of the premises upon which it may be founded, and must depend for them upon the assured. His statements are therefore the basis upon which the contract proceeds: and their truth as to material points is essential to its validity. Not only must the party proposing the insurance abstain from making any deceptive representation, but he must observe the utmost degree of good faith, *uberrima fides*. Some companies grant policies which are declared to be incontestable or unchallengeable from date of issue, or which become so after lapse of a fixed period. An unintentional mistatement of age is usually exempted as a ground for dispute.

A warranty, in the law of insurance, is a statement or stipulation inserted or referred to in, and made a part of the policy, upon the truth or performance of which, on the part of the insured, the validity of the contract depends. It is a first principle in the law of insurance, on all occasions, that where a representation is material, it must be complied with; if immaterial, that immateriality may be enquired into and shown; but, if there is a warranty, it is part of the contract that the matter is such as it is represented to be; therefore, the materiality or immateriality of a representation which is warranted signifies nothing. The only question is as to the mere fact. When it is agreed in any contract of insurance that a particular statement shall form the basis of the policy, the truth of that statement becomes material and is warranted.

Warranties must be distinguished from representations. A representation is not a part of the contract, but is collateral thereto; while warranty is a part of the contract. Since warranties must be literally fulfilled, they are not favored, and the courts, when there is room for construction, invariably manifest a strong reluctance to regard any statement made by the insured as a warranty, unless such was the obvious purpose of the parties to the contract. One general rule in determining whether the particular statement does or does not constitute a warranty is that the warranty must be embraced in the policy itself. Thus where warranties are contained in the application, they are always construed as representations, unless by the express provision of the policy the application is made a part thereof.

The language in an insurance policy being that of the insurer, it is uniformly held in accordance with a well settled rule of construction, that it is to be construed most strongly against the insurer. Warranties will not be extended to include anything not necessarily implied in their terms. When a warranty is that the answers made by the assured to questions are true, the warranty is limited by and cannot be extended beyond the answers given.

MATERIAL REPRESENTATION.

In order to be material, a representation need not necessarily be of facts relating directly to the risk. If the applicant makes false statements as to some incidental matters, as for example concerning his pecuniary means, or his social or business relations, from which an inference can be drawn as to the propriety of accepting or declining the risk, they will avoid the policy, provided the jury, for it is a question of fact to be left to a jury, find that the insurer was influenced by them, or, in other words, that they were material elements in the making of the contract.

CONCEALMENT.

Concealment is the designed and intentional withholding of any fact material to the risk, which the assured, in honesty and good faith, ought to communicate to the underwriter; mere silence on the part of the assured, especially as to some matter of fact which he does not consider it important for the underwriter to know, is not to be considered as such concealment—*Aliud est celare, aliud est tacere*—And every such fact, untruly asserted or *wrongfully suppressed*, must be regarded as material, the knowledge or ignorance of which would naturally influence the judgment of the underwriter in making the contract at all or in estimating the degree and character of the risk or in fixing the rate of the premium. The English cases hold to the principle that an applicant is bound to disclose a fact material to the risk, even though no specific enquiry is made on that subject. The American cases, however, are not in entire accord, although the weight of authority seems to be in favour of the English rule.

APPLICATION.

The first step in practice towards effecting an insurance is, to make a formal statement in writing of certain facts relating to the age and health of the person whose life is to be assured, and which are ordinarily, and in all cases, esteemed essential to be communicated. This statement is called *the declaration*.

AGE.

The question of age is so material that a false statement in regard to it will be fatal, whether regarded as a representation or a warranty. But where an agent in writing in the age makes a miscalculation, and where the applicant is an ignorant man and the agent computes it and states it falsely, the company is bound to pay. A provision in the policy that "in case the age of the insured shall "have been understated by mistake, the sum in-"sured will be reduced to the amount the premium "would pay for at the true age," precludes the insurance company from asserting the understatement as a breach of warranty, and its remedy is to ask that the sum insured be reduced accordingly.

(To be continued in next issue.)