not open to objection, provided the power to offer them to members is given by the statute.

The scheme, including the options, is recommended by the actuary and accepted by the trustees as being sound and reasonable. It would be a misfortune if the Court were to interfere with something which comes literally within the powers conferred by the Act, and forms part of a well thought-out and matured insurance scheme, upon the theory that no reserve fund equivalent to the present liability under paid-up policies exists. To enable a Court to come to that conclusion, it would be necessary to have it demonstrated beyond any reasonable doubt that the actuarial basis for the tables was incorrect, and that had not been done.

The appeal of the defendants as to the paid-up policies should be allowed with costs.

FIRST DIVISIONAL COURT. MAY 15TH, 1916.

COFFEY v. DIES.

Negligence—Collision of Motor Vehicles on Highway—Evidence—Rule of Road—No Reasonable Evidence of Negligence of Defendant, either Primary or Ultimate—Jury—Nonsuit.

Appeal by the defendant from the judgment at the trial, before a Judge of the County Court of the County of York and a jury, in favour of the plaintiff, in an action brought to recover damages said to have been caused to the plaintiff while riding on a motorcycle with side-seat attachment, on the Kingston Road, Toronto, by colliding with the motor vehicle of the defendant.

The appeal was heard by GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

A. A. Macdonald, for the appellant.

D. J. Coffey, for the plaintiff.

GARROW, J.A., read the judgment of the Court. He said that the sole question upon the appeal was, whether there was evidence upon which the jury, acting reasonably, could find, as they did, that, after the plaintiff's condition became apparent, the defendant could, by proper management of his machine, have avoided the collision.

It is found, in accordance with the evidence, that the plaintiff was at the time of the collision upon the wrong side of the highway. If he had not been, the accident would not have happened. According to the evidence, the plaintiff, when approaching the