

fits than another Bill which is before the House. They are here stated to be net profits. I think that in all Bills of this kind, it should be made clear that the policy-holder shall be entitled to share in all the profits of the company instead of a portion of the profits; because the insurance companies resort to so many devices to put away their money, which is really earned from the policy-holders, that the participating policy-holder does not share in the profits in the proportion that he should. That is clearly the case in the Canada Life Bill, and I take it that it will be the same in this case. If this company, like the Canada Life, were to set apart a certain portion of the earnings every year as a reserve to strengthen the company, that money would really come from the policy-holders, and would be a portion of the profits in which they would have no share at all. It seems to me that there should be a clear and definite statement of what is meant by the distribution of profits as between the policy-holders and the stock holders.

Mr. FIELDING. The provisions of this Bill follow precisely the same lines as those of other Bills of similar character, and I would suggest to my hon. friend whether, if he wishes to press his view, he might more properly do so in connection with the general Bill, so that if there be an amendment made, it will apply to all.

Mr. SPROULE. If I were sure that there would be a general Act passed this session, and that it would contain a clause providing for this, I would have no objection; but it is because of the knowledge I have of the operations of insurance companies and of the difficulties that have arisen in the past on account of the ambiguity of the clauses relating to profits as between policy-holders and stock holders, that I mention the matter. When we were dealing with the Canada Life Bill, the solicitor of the company said that it was a very far-reaching Bill. If the law as declared by Sir Robert Finlay with regard to the Canada Life prevails, and were not corrected by parliament, it would affect every life insurance company in the country doing business on the participating policy plan, and the participating policy-holder would properly demand and would be entitled to receive a much larger share of the profits than he has received heretofore. If we allow the provision before us, which has led to this difficulty, it seems to me that we shall be perpetuating something which has been declared to be very defective and not understandable, and I think we should take the earliest opportunity to make it so understandable and clear as to make it impossible for either the public or the companies or their agents to misunderstand it.

Mr. J. A. CURRIE. I think it would be entirely contrary to the spirit of the British

North America Act, and the jurisdiction of this parliament over civil contracts to have any further clauses of this kind included in insurance company charters. I think that a plain provision that the directors would have the power to make such a division of the profits with the participating policy-holders as they might from time to time deem necessary, is all the power we should give them. But in this clause we undertake to limit the division of profits to the profits arising from the moneys of the participating policy-holders, and then we further limit the amount the participating policy-holders shall receive. The insurance agent, in canvassing, can make all kinds of representations to the party he wants to insure. He can represent to him that he is to receive a far greater amount than he possibly can receive under this legislation. The party canvassed takes out a policy believing in these representations. He does not find any provision in the policy or contract itself defining what portion of the profit he is to receive but he believes that it is in the company's charter. Then the innocent insurer who has taken out a policy expecting to get a profit of 90 per cent of the whole profits of the company finds, after he has paid in premiums the requisite number of years, that all he is entitled to is only 90 per cent of the profits on his own money. This is all the return he gets for paying in a heavier premium than the ordinary insurance. It strikes me that in every insurance policy, the proportionate amount of profit to accrue to the policyholder should be clearly stated. As far as this Bill is concerned, we have no more right to limit the amount of profit the policy holder is to receive on the participating policy plan than we would have the right in a marriage contract to limit the amount which the wife is entitled to receive out of the profits of a marriage contract in her husband's property, and declare that she shall not receive more than say 10 per cent. For that reason I would ask that the Bill be held over and be referred back to the Minister of Justice for his opinion as to the legality of that clause. In my opinion there is good ground for considering it an infringement of civil rights since it limits the right to contract.

Hon. W. S. FIELDING (Minister of Finance). This clause has been in our insurance charters many years, and no question has ever been raised as to the constitutional power of parliament to enact it. Whatever opinion there may be regarding the wisdom of so distributing the profits, no question has been raised as to the constitutional authority of parliament on the matter. Unless the hon. gentleman has reason to think it is advisable, we ought not to treat this Bill differently from Bills of a similar character.