CORRESPONDENCE.

Re POLICIES FOR THE BENEFIT OF MARRIED WOMEN.

To the Editor of the Journal of the Institute of Actuaries.

SIR,—In delivering judgment in the case of *Robb* v. *Watson* (*J.I.A.*, xlv, p. 70) Ross, J., said, "The point is not covered by authority. The learned authors of the principal text-books do not seem to be in agreement on the question." Might I observe, with all due respect, that the learned judges who have given decisions on points raised in connection with policies issued under the Married Women's Acts have shown a wide difference of opinion as to the exact construction to be placed on the words of the Acts.

The decision, for instance, in the above-mentioned case of *Robb* v. *Watson* appears (as Mr. Barrand points out) to be in conflict with views previously expressed in a somewhat similar case. Again, if it be fair to compare a decision under the English Married Women's Property Acts with one given under the Married Women's Policies of Assurance (Scotland) Act, 1880, there is food for thought in the judgment given in the case of *Robb* v. *Watson* as compared with that in the cases of "Scottish Life Assurance Company *v.* John Donald, Ltd." (see *J.I.A.*, xli, p. 182) and "Edinburgh Life Assurance Company *v.* James Balderston and others" (see *J.I.A.*, xliv, p. 288).

Mr. Barrand points out that the terms of the policy in "Robb *v.* Watson" were somewhat unusual (the sum assured being stated therein to be payable to the executors, administrators or assigns of

the defendant) and that the counsel for the plaintiff relied to a certain extent upon this fact. It appears, however, from the extracts given by Mr. Barrand of the judgment, that the learned judge himself based his decision on the sections of the 1870 Act without calling attention to the unusual form of the policy. In the course of his judgment he said, "Can the husband, then, surrender the Policy? Certainly not; the trust prevents him. Can he deal with the interest that is his, subject to the trust? I think he can."

It is instructive, I think, to compare this view with that expressed in the above-mentioned case of *Scottish Life Insurance Company* v. *John Donald Limited*, when the Lord Ordinary gave it as his opinion that the effect of an assignation to a creditor of the husband (even when the wife concurred) was to defeat the trust because it did the very things which the statute forbids, *i.e.*, it treated the Policy as subject to the husband's control, as forming part of his estate, and as available for the benefit of his creditors.

The provision that the Policy shall not, so long as any object of the trust remains, be subject to the control of the husband or his creditors, or form part of his estate, appears in both the English Acts as well as in the Scots Act of 1880, although it is true that in the last-named Act, the provision is strengthened by the addition of the words, "(the Policy) shall not be revocable as a donation or reducible on any ground of excess or insolvency."

I think it will be admitted generally that the wording of the three Acts leaves much to be desired, although I may, perhaps, be permitted to remark that the Scots Act appears to give the best provision (of the three Acts) for what was undoubtedly their main object, namely, to safeguard the wife against her husband's creditors.

Dr. A. E. Sprague has compiled a table showing "generally the parties who can deal with a Settlement Policy in the ordinary form" (*T.F.A.*, Vol. II. p. 360). This table was compiled from "various legal decisions and opinions of counsel and solicitors," and it is an excellent guide as to the procedure to be adopted in the case of a claim by death or surrender, a loan or an alteration to a paid-up assurance. It seems to me, however, that the time is ripe for fresh legislation on the subject, and in any amending or repealing Act, I would suggest that *inter alia* the conditions should be clearly laid down under which a policy effected by a husband for the benefit of his wife (the most usual form of policy) could be dealt with by way of assignment, surrender, or alteration to a paid-up policy.

In conclusion might I respectfully suggest that the Institute of Actuaries and the Faculty of Actuaries should take joint action in bringing before the authorities the necessity of an enquiry into the present condition of the law relating to policies of life assurance for the benefit of married women, with a view to making alterations therein.

Yours faithfully,

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