CORRESPONDENCE.

To the Editor of the Transactions of the Faculty of Actuaries.

Unintimated Assignations of Policies of Assurance.

Sir,—I beg to draw attention to the case of *Rae* (*Paul's Trustee*) v. *Paul*, reported in 1912 2 *Scots Law Times*, p. 61. This action was brought by the trustee on the sequestrated estate of the deceased George Brodie Paul, against Mr. Paul's widow, who was the sole trustee acting under the ante-nuptial contract of marriage between her and her said husband. The pursuer sought declarator that three policies of insurance in favour of Mr. Paul on his own life were his property at the time of his death and formed part of his sequestrated estate. The policies in question had been assigned in 1882 by Mr. Paul to his marriage-contract trustees, but the assignation had not been intimated to the insurance companies during his lifetime, or prior to the date of sequestration of his estates. Mr. Paul had also assigned these policies along with certain other policies to the Bank of Scotland in security of advances made to him. It was said that the Bank after paying Mr. Paul's indebtedness to them would hold a reversion larger than the amount of the proceeds of the policies, and the question raised in the action was, who was entitled to that reversion. Mrs. Paul alleged that her husband had undertaken to make the assignation to his marriage-contract trustees effectual, and that she relied on his doing so, but that he fraudulently refrained from intimating the assignation in order to use the policies as a fund of credit for himself. She had accordingly intimated to the Bank that they were only entitled to retain the proceeds of the policies, in so far as the other securities held by them against her husband's obligations were insufficient, and that she was entitled to the reversion as trustee under the marriage contract.

The pursuer maintained that Mrs. Paul's statements were irrelevant, and asked for decree. The Lord Ordinary (Hunter) expressed the

opinion that the defender would not have been entitled to succeed if the assignation had not been rendered effectual because of her own failure to complete it by intimation, or even because of non-fulfilment by the bankrupt of an ordinary personal obligation. But he thought the case was different where there were allegations of breach of duty and fraud, and that a trustee in bankruptcy was not entitled to enlarge the estate for distribution by adopting a fraud on the part of the bankrupt. He accordingly allowed the defender before answer a proof of her averments of breach of duty and fraud. The action was shortly afterwards settled.

The case is only of importance as showing that there may be circumstances in which an unintimated assignation may be held to be effectual as in a question with the person who had a duty to intimate. It does not directly affect the question of the position of the debtor in the obligation assigned, who is only bound to make payment to an assignee, of whose right he has notice. But if the debtor is faced with a claim such as was made to the Bank by Mrs. Paul the case shows he would not be in safety to pay elsewhere,—I am, etc., JOHN L. WARK.

EDINBURGH, 27*th November* 1912.

COMBINED ENDOWMENT POLICY AND POLICY UNDER THE MARRIED WOMENS' POLICIES OF ASSURANCE ACT.

SIR,—The case of *Chrystal's Trustee* v. *Chrystal*, reported 1912 *S.C.* 1003; 49 *S.L.R.* 726; 1912, 1 *S.L.T.* 500, appears to me to be of special interest to the Faculty.

This was a special case raised to determine the right to the proceeds of two insurance policies on the life of David Chrystal effected in 1894 with the Equitable Life Assurance Society of the United States. By the terms of each policy the Society agreed to make one or other of the following payments to the assured, viz., (1) a payment of £1136 as at 18th August, 1914, the date of maturity of the policies, with surplus then to be apportioned; (2) the surplus in cash and £1000 at the end of ten years from said date or at prior death, paying interest at five per cent. per annum on the sum of the annual premiums paid; (3) conversion of the surplus into an annuity to increase the annual income on the policy and payment of £1000 after ten years or at prior death with interest as above; (4) conversion of the policy and surplus into an annuity for life. The policies further provided that, in the event of the death of the said David Chrystal before the expiration of twenty years from the date thereof and while the policies were in force, the Society would pay £1000 to his wife, Eliza Augusta Smith or Chrystal, if living, and if not, then to the said David Chrystal's executors, administrators or assigns.

Attached to each policy was a list of privileges guaranteed to the assured. One of these was a provision that if after having been in force for three years the policy should lapse from non-payment of premium it should have a surrender value in non-participating paid-up assurance for as many twentieths of the sum assured as annual premiums paid, provided that surrender were made within six months after default in payment of the premium. This paid-up policy would mature at the same time as the original policy or might be extended for a further period of ten years or until prior death. If thus extended the paid-up policy would be entitled annually to as many twentieth parts of the income guaranteed under the original policy as annual premiums had been paid.

David Chrystal died on 19th January 1911, insolvent, and his estates were afterwards sequestrated. The proceeds of the policies were claimed by his trustee in bankruptcy and also by his widow. The special case