

CORRESPONDENCE.

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

PRESUMPTION OF LIFE LIMITATION (SCOTLAND) ACT 1891.

SIR,—I have to draw the attention of members of the Faculty to the case of *Murray v. Chalmers* reported in 1913 1 *Scots Law Times*, p. 223.

This was a petition presented under the Presumption of Life Limitation (Scotland) Act 1891 to have it found—that a certain Robert Chalmers was to be presumed to have died on 16th November 1911, seven years after the last date on which it was alleged that he was known to be alive. The petitioner was a Mr. Murray who on 16th November 1898 bought *inter alia* a policy of assurance on the life of the said Robert Chalmers. The Lord Ordinary (Hunter) dismissed the petition.

As regards the sum under the policy of assurance the Lord Ordinary said “There has been no intimation to the insurance company, and Section 11 of the Act of 1891 provides ‘This Act shall not apply to any claim against the insurers under a policy of assurance upon the life of any person who has disappeared, and the person or persons claiming under such policy shall be required in any question with the insurers to prove the death of the person whose life is insured in the same manner as if this Act had not been passed.’ The effect of that clause appears to me to deprive any finding of the Court under the Act of any force in giving any one any right to the sum payable under a policy of insurance over the absentee’s life and to take away the interest, and therefore the title, which the person entitled to the sum under such policy of insurance would otherwise have had under Section 3 of the Act. I do not think it avails the petitioner to say that insurance companies are in the habit of paying over sums assured over the lives of absent persons upon a finding of the Court under the Act. These companies are just as much entitled to do so without any finding at all. The petitioner to justify his application must bring himself within one or other of the categories of persons entitled to bring a petition under the Act, and as in my opinion he fails to do so, I shall sustain the respondents’ plea of no title and dismiss the petition.”—I am, Sir, Yours, etc.,

JOHN L. WARK.

EDINBURGH, 27th December 1913.