

CORRESPONDENCE.

THE LIFE ASSURANCE COMPANIES ACTS, 1870 to 1872.

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

SIR,—By the provisions of the Statute Law Revision (No. 2) Act, 1893 (56 and 57 Vict., ch. 54), a large number of enactments, specified in a lengthy Schedule appended to the Act, have been repealed in whole or in part. It is not, I think, generally known that, amongst the enactments of which portions are so repealed by the Act of 1893, are included the Life Assurance Companies Acts of 1870 and 1872.

The preamble of the Act of 1893 recites as follows :

“Whereas it is expedient that certain enactments which may be regarded as spent, or have ceased to be in force otherwise than by express specific repeal by Parliament, or have, by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed”, &c., &c.

Section 1 of the Act, after enacting the repeal, in whole or in

part, of the statutes specified in the Schedule to the Act, provides (*inter alia*) that—

“The repeal of any words or expressions of enactment described in the said schedule shall not affect the binding force, operation, or construction of any statute, or of any part of a statute, whether as respects the past or future”

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“and this Act shall not affect the validity, invalidity, effect, or consequences of anything already done or suffered,—or any existing status or capacity,—or any right, title, obligation, or liability, already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof,—or any release or discharge of or from any debt, penalty, obligation, liability, claim, or demand,—or any indemnity,—or the proof of any past act or thing;”

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It would thus appear that the intention of the Act was to remove unnecessary words of recital or enactment, without thereby affecting the existing statute Law.

The portions of the Life Assurance Companies Acts dealt with are indicated in the extracts below, within square brackets :

LIFE ASSURANCE COMPANIES ACT, 1870.

(33 & 34 Vict., ch. 61.)

[Be it enacted by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:]

* * * * *

5. [From and after the passing of this Act] every company shall, at the expiration of each financial year of such company, prepare a statement of its revenue account for such year, and of its balance sheet at the close of such year, in the forms respectively contained in the first and second schedules to this Act.

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LIFE ASSURANCE COMPANIES ACT, 1872.

(35 & 36 Vict., ch. 41.)

[Be it enacted by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal,

and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. Whereas by the provisions of the “ Life Assurance Companies Acts, 1870 and 1871 ”, a life assurance company is required to pay a sum of money into the Court of Chancery by way of deposit, and the certificate of incorporation of such company is not to be issued unless such deposit has been made, and such deposit is to be returned to the company as soon as its life assurance fund amounts to the sum therein mentioned ; and doubts have arisen as to the construction of the said provisions, and it is expedient to remove such doubts ; be it therefore enacted as follows :]

The said deposit may be made, &c., &c.

* * * * *

2. Whereas by Section four of the Life Assurance Companies Act, 1870, it is enacted that “ In the case of a company established after “ the passing of this Act, transacting other business besides that of “ life assurance, a separate account shall be kept of all receipts in “ respect of the life assurance and annuity contracts of the company, “ and the said receipts shall be carried to and form a separate fund, “ to be called the life assurance fund of the company, and such fund “ shall be as absolutely the security of the life policy and annuity “ holders as though it belonged to a company carrying on no other “ business than that of life assurance, and shall not be liable for any “ contracts of the company for which it would not have been liable “ had the business of the company been only that of life assurance ; ” [and further provisions were made by the same section, with respect to the application of the above recited part of the said section to existing companies, and doubts have arisen with respect to the construction of the said provisions, and it is expedient to remove such doubts ;] be it therefore enacted,

That the portion of Section four of the Life Assurance Companies Act, 1870, above recited shall apply to every Company established before the passing of that Act, provided that the Life Assurance Companies Act, 1870, and this Act shall not diminish the liability of the life assurance fund for any contracts of the company entered into before the passing of the Life Assurance Companies Act, 1870.

* * * * *

It will be remembered that the “ further provisions ” (referred to in the above clause within square brackets) of section 4 of the Act of 1870, run as follows :

. . . and in respect to all existing companies, the exemption of the life assurance fund from liability for other obligations than to its life policyholders shall have reference only to the contracts entered into after the passing of this Act, unless by the constitution of the company such exemption already exists: Provided always, that this section shall not apply to any contracts made by any existing company by the terms of whose deed of settlement the whole of the profits of all the business are paid exclusively to the life policyholders, and on the face of which contracts the liability of the assured distinctly appears.

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It will be seen that the words and clauses omitted from the Act of 1870 are unimportant.

As regards the words deleted from the opening sections of the Act of 1872, it will be remarked that the Act, as modified, now commences with the words "The *said* deposit . . ."

Section 2 of the 1872 Act, taken with section 4 of the 1870 Act, has often been the subject of discussion (v. *J.I.A.*, xvi, 3; xxix, 501; xxxiv, 583, 584), and the interpretation of these sections does not seem to have been made any clearer by the omission from the former section of the words of recital printed above in square brackets, which perhaps threw a little light upon the intentions of the framers of this section.

Whether the omission of these words from section 2 of the Act of 1872 can affect the force and construction of that section, and of section 4 of the Act of 1870, must be a question for the lawyers; but we may, perhaps, conclude (as I have said) that it was certainly not the intention of the framers of the Act of 1893 so to affect the law. Upon the other hand, the words omitted would hardly come under the qualifying provisions of section 1 of the Act of 1893 (quoted above) as "words or expressions of enactment", being rather words or expressions of *recital*.

I am, Sir,

Yours obediently,

THOMAS G. ACKLAND.

15 December 1899.