

be differences of opinion as to the details of the contract. It has been a provision in several of the great railway enterprises in the United States, and among others in that of the Northern Pacific, that a portion of the subsidy should be in a grant of lands, and yet this is one of the objections constantly raised against the Canadian Pacific Company. As to the terms of the contract, the opponents of the Company differ most widely, some of them maintaining that they are far too liberal to the contractors, while others again insist that the undertaking will involve all concerned in it in ruin. Our belief is that it is the interest of Canada that those who have undertaken to complete this gigantic work should have all the success which they must have anticipated. As to the cry of monopoly, there is ample protection against unreasonable rates of freight in the power of the Government to regulate them. The fact is, that all the cry about monopoly is raised by the friends of rival lines which are favored by the Northern Pacific Company, which will spare no effort to effect the ruin of the Canadian Company.

INSOLVENT LEGISLATION.—SHOULD DOWER BE ABOLISHED?

(COMMUNICATED.)

In the JOURNAL OF COMMERCE a short time since, in calling attention to the injustice often done to creditors by an insolvent trader, by reason of the contingent claim which his wife is able to make to dower upon his real estate, it was suggested that it might be to the advantage of the commercial community if the dower right of married women were altogether abolished. The subject certainly demands careful consideration, for it must be conceded that frauds have been frequently practiced upon creditors by unscrupulous debtors investing in real estate the money that should have been divided among their creditors, and thus charging the property with an incumbrance which prevented the creditors from realizing anything but a small percentage of its value upon a sale.

To this it may be answered that public laws for the general welfare are always liable in their operation to abuse and evasion, and that the fact of fraud being proved, like any other fact, there is a remedy at law more or less adequate. It must further be borne in mind that marriage—the union of one man and one woman in a companionship for life—is one of the most important institutions of civilized society, and that every Government where Christianity has sway has

ostered and protected such a union by legal enactment, and by imposing obligations upon each. Upon the husband is imposed the obligation to provide for his wife and children, so that in the event of his death they should not be reduced to a state of misery and want. To guard against the improvidence of the husband in the administration of the property of the conjugal partnership, legislators were early led to pass laws giving the wife dower or a life interest in the real estate of her husband, of which she could not be deprived either by her husband or by his creditors.

By French law, which prevails in the Province of Quebec, there are two descriptions of dower, the legal or *customary* and the conventional or *prefix*. The first is that which the law, independently of any agreement, established upon the real property of the husband in favor of the wife as *usufructuary* (and of the children as owners), and it consists of the life interest in one-half of the real estate which belonged to the husband at the time of his marriage and of one-half of the real estate which may descend to him during marriage from his father or mother or other ascendants. The conventional or *prefix dower* is that which the parties have themselves fixed and settled upon before marriage, and takes the place of the legal or customary dower. The provision as to dower which the parties themselves make, being substituted for the legal dower, which is the provision which the foresight of the law makes, with the like security and protection attached. For the protection of these rights she has a first hypothec or mortgage on the real estate of her husband, but subject to the condition of registration, by means of which only can the right to dower be preserved, so that a search instituted at the proper Registration Office would enable the prudent merchant to ascertain what the wife's rights were in the property of her husband, and he could govern himself accordingly.

Under English law the dower right—or one-third life interest—of the wife attaches immediately on the acquisition of any real property by the husband without registration. It is also well settled both by French and English law that ante-nuptial agreements made between husband and wife, giving the wife an interest in the husband's property, cannot be impeached after the marriage by the husband's creditors, although, under the latest English Dower Act, the husband can sell his real property free of the incumbrance of his wife's dower, still if he does not so dispose of it before

his insolvency his creditors must take it, subject to the dower.

The Provincial Legislatures have by the Constitutional Act of Confederation the exclusive power of legislating upon marriage and civil rights in the Provinces; this is, however, subject to the exercise of a permanent authority conferred upon the Federal Parliament, for it has been settled by the Privy Council that a Federal Act on Bankruptcy can override and control all Provincial laws in conflict therewith, and interfere with civil rights and rights of property standing in the way of the operation of such a general Dominion Act.

The late English Bankrupt Act, and also the Dominion Insolvent Act of 1875, provided for the valuation and discharge of all contingent claims against the insolvent, if the Court found it to be for the interest of the creditors that these claims should not remain open. Under this provision the claim of dower, and all contingent claims of the wife of the insolvent under the marriage contract, could be valued and discharged. The decisions under the English Bankrupt Act were more favorable than those of our own Courts in making an allowance to the wife for such contingent claims. But while it appears reasonable that the rights of the wife, in the contingency of her surviving her husband, should be protected, it is but just to creditors that any Federal Bankrupt law again enacted should contain a provision that no dower right shall attach to the real estate of an insolvent if acquired by him within one year previous to the institution against him of proceedings in bankruptcy. Such an Act should also provide absolutely for the valuation of all contingent claims against the insolvent, in order that his estate might be sold without being burdened by any lien or incumbrance whatever. However difficult the problem may be to save the rights of creditors and at the same time protect the interests of the wife and children of the insolvent, it can only be solved by a Federal Bankrupt.

THE GOVERNMENT LOTTERY.

The announcement informally made in the columns of the English organ of the Quebec Government, that the Premier, Mr. Chapleau, had, in an interview with a reporter of the paper, declared that the Government viewed with favor a project for a lottery on a very extensive scale, which had been submitted to it by two Roman Catholic priests, has taken the public by surprise. We fell assured that the general feeling among the English-