PROTECTIVE ENACTMENT AFFECTING LIFE POLICIES.

"An Act to consolidate and amend the law to secure to wives and children the benefit of Insurances on the lives of their husbands and parents."

This is the title of a bill introduced this session in the Quebec Legislature. As it is an Act of almost universal interest, our columns cannot be better occupied than by drawing public attention to the leading features thereof.

In the first place, it may not be inappropriate to take notice in passing of the question of constitutionality in connection therewith, as some doubt has been expressed on this score by some of the Insurance fraternity, but that can be very easily removed. The Act has no direct bearing upon Insurance Companies, as has the obnoxious License Act of the Quebec Legislature—the constitutionality of which is at present being tested in the courts; but upon the disposition of the money or property secured or realized under Life Insurance policies, and, as such, it comes under Provincial Jurisdiction as per "The British North American Act, 1867," sections 92, item 13, "property and civil rights in the Province."

The object of the Act is to secure to wives and children the benefit of insurances upon the lives of their husbands and parents *against the claim of creditors in case of insolvency.*

The original act was passed by the Canadian Parliament in 1865, and the framer thereof is deserving of much credit for the boon thereby conferred on the public; but Rome was not built in a day, no more could such an important act be perfected at once, and it is almost needless to say that this act in particular was very imperfect. The defects were so far rectified by the Legislature of Quebec, Vic. 32, cap. 39, and Vic. 33, cap. 21; but many contingencies still remained unprovided for, and it will now be our aim to point out the chief of these, and to show how they have been provided for under the new bill.

As indicated by the title, the former acts will be abrogated entirely, and the whole will be consolidated into one complete act. Mr. Wurtele, the framer of the bill, has acted very wisely in adopting this course, in place of tinkering up the old acts. Indeed he appears to have treated the whole subjec in a masterly and exhaustive manner.

The first amendment in order to be noticed is the extension of the benefits of the act to women who may be in business and who desire to make a provision for their children. They, it must be admitted, are no less entitled to it than men, but in the former acts although the word "parents" is made use of in the titles yet throughout the act reference is made to males only. Inferentially perhaps females might be supposed to be included, but it is extremely doubtful if such a construction could be sustained.

Under the former acts questions frequently arose as to whether endowment policies or limited payment policies came under the scope thereof, *nothing definite* being mentioned with reference thereto. It is now provided that endowment policies issued for the benefit of wife and children only (whether the endowment period be survived or not) shall be fully protected, but endowments payable to the wife or children in the event of previous death only, and to the party whose life is insured, in the event of the endowment period being survived, shall become the property of the estate should the policy mature within one year from the date of the person's becoming insolvent. This is a very important and very wise provision, as it leaves a person, while solvent, quite unfettered as to the kind of policy he may choose, while, if the amount insured should ultimately come to himself under the circumstances mentioned, it becomes the property of the estate. It is likewise provided in case of ordinary policies reverting, by the predecease of the beneficiaries, to the insured, that they shall in like manner become the property of the creditors. And in order to guard against persons while verging on insolvency taking advantage of their creditors by effecting an ordinary or endowment insurance by a single payment or by payments extending over less than ten years, it is provided that such policies shall not be protected, should the person become insolvent within two years from the date of effecting the insurance.

The original act set forth that "It shall "be lawful within one year after the pass-"ing of this act, for any person by writing "endorsed upon or attached to any policy "of insurance on his life which may have "been *effected before the passing of this* "*act* to declare such policy to be for the "benefit of his wife and children" etc., and by the amendment, Vic. 32. cap, 39, the limitation of one year was removed, and such policies, *i. e., policies issued before the passing of the act of* 1865, could be so endorsed "at any time." This was very good, so far as it went, but it falls very far short of the mark, and it has left a large number of policies issued since 1865 wholly unprovided for. For, while it was quite competent at any time to take out new policies directly in favor of wife and children, yet it was not competent for policies taken out since that date, which were not at once issued in favor of wife and children, to be afterwards brought under the operation of the act, and many unmarried men, hundreds or thousands perhaps, have taken out policies since 1865, and afterwards, upon being married, have endorsed them over in favor of wife and family, under the impression that the amendment under Vic. 32, Cap. 39, covered such cases; but this is a mistake, and it might not be discovered till too late, that such policies are not secured from the claims of creditors. The present act rectifies this defect, and at same time its action is made retrospective, in order to bring the cases referred to within its scope.

Under the amending Act, Vict. 33, Cap. 21, Sec. , it is provided that "It shall be "lawful for a party who has effected such "assurance, or may make such declaration "as aforesaid, at any time or times there-"after, or by any deed or writing notified "to the company, or by his last will and "testament, to revoke the direction as to "any one or more of the parties originally "intended to be benefited, and to declare "in the manner above mentioned that "such policy shall be for the benefit of "*one or more of the parties originally* "*named*, to the exclusion of the other or "others of them, and the insurance "moneys shall be payable to or for the "benefit of the parties so named in such "writing, or will, instead of as originally "intended." This also stops short of the mark, in so far that it does not admit of the benefits being extended beyond any of the parties *originally* named, whereas circumstances may frequently arise under which it becomes necessary to exclude all of those originally intended to be benefited, and to transfer the benefits to other members of the family. For example, a parent, say a widower, may have originally specified two of his children, whom, at the time, he considered stood most in need of pecuniary aid in case of his death; after the lapse of years, however, and owing to change of circumstances, other members of the family (perhaps unborn at the time of the original allocation) may stand in greater need. But, unfortunately, while he can exclude either of the two originally named, and transfer the whole benefit to the other, it is not competent for him to substitute any of the other members of the family or his second wife, should he be again married, in place of the one excluded, or to the exclusion of both, if need be. This has been so rectified under the new bill that a person may at any time alter or revoke by