

THE MASTER IN CHAMBERS, in a written judgment, said that he thought it clear that under the Act respecting Benevolent Provident and other Societies, R.S.O. 1897 ch. 211, sec. 12, the defendant's pension could not be attached. Section 12 provides that money payable to a member of the society shall be free from all claims by creditors of such member. The Act was repealed by the Ontario Companies Act, 7 Edw. VII. ch. 34, but the corporate existence of the society and all rights and privileges of the members were expressly preserved. See *Slein v. Slein* (1903), 7 O.L.R. 67. Application dismissed with costs.

The plaintiff appealed from the order of the Master.

The appeal was heard by MIDDLETON, J., in Chambers. The same counsel appeared.

MIDDLETON, J., in a written judgment, said that under sec. 12 of R.S.O. 1897 ch. 211, all moneys payable to a member of a society such as the garnishee-society are to be free from all claims by the creditors of the member.

*Slein v. Slein*, 7 O.L.R. 67, shews that this provision is fatal to the plaintiff's claim, unless, as was contended, the effect of the repealing Act is to change the situation.

This repealing Act is now found as sec. 33 of the Insurance Act, R.S.O. 1914 ch. 183, and it expressly provides not only for the continued existence of the society, but also that, while no new insurance may be undertaken, the repeal shall not impair or affect "the rights and privileges of the members."

The right to hold money payable by virtue of membership free from attachment by a creditor is thus preserved. It may be called a pension or an annuity, but this does not advance the matter. It is money which is payable by a society and which is made immune from attachment by statute. Probably the author of the Act intended to foster saving and providence by this provision, and had not present to his mind the case of an annuitant unwilling to maintain his wife.

The appeal must be dismissed, but the defendant should have no costs.