

"In any action for wages by domestics or farm servants, in the absence of written proof, the master may offer his oath as to the conditions of the engagement and as to the fact of the payment, accompanied by a detailed statement; but such oath may be refuted in the same manner as any other testimony."

Right of the master in actions for wages by domestics.

C A P . X I I I .

An act to consolidate and amend the law to secure to wives and children the benefit of assurances on the lives of their husbands and parents.

[Assented to 20th July, 1878.]

WHEREAS it is expedient to encourage insurance on the lives of husbands and parents for the benefit of their wives and children, and to consolidate and amend the statutes relating to the same; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

Preamble.

1. The act of the late province of Canada, twenty-ninth Victoria, chapter seventeen, and the acts of this province, thirty-second Victoria, chapter thirty-nine and thirty-third Victoria, chapter twenty-one, are repealed; except always as regards assignments made or rights accrued before, and actions and proceedings pending in any court, at the time of the coming into force of this act, with respect to all which said assignments, rights, actions, and proceedings, the said acts shall remain in force and continue to apply.

Acts of C. 29 Vict., c. 17, and 32 Vict., c. 39, and 33 Vict., c. 21 of Q., repealed.

Restrictions.

2. It shall be lawful for any husband to insure his life for the benefit of his wife; or for the benefit of his wife and their children generally; or for the benefit of his wife and his, her and their children generally; or for the benefit of his wife and his or her children generally; or for the benefit of his wife and one or more of his, of her, or of their children; and for any father or any mother to insure his or her life for the benefit of his or of her children or of one or more of them.

Power of the husband to insure his life for the benefit of his wife and children.

3. Such insurance may be effected either for the whole term of the life of the person whose life is insured, or for any definite period; and the sum insured may be made payable upon the death of such person, or upon his or her surviving a specified period not less than ten years.

How insurance is effected.

When the premium is payable.

4. The premium for such insurance may be payable during the whole life of the person whose life is insured, or during any period not less than ten years ; and the same may be paid by yearly, half yearly, quarterly or monthly payments.

Appropriation of the policy.

5. It shall also be lawful for any husband to appropriate any policy of insurance held by himself on his life for the benefit of his wife ; or for the benefit of his wife and their children generally ; or for the benefit of his wife and his, her and their children generally ; or for the benefit of his wife and his or her children generally ; or for the benefit of his wife and one or more of his or her or of their children ; and for any father or any mother to appropriate any policy of insurance held by himself on his life, or by herself on her life, for the benefit of his or of her children, or of one or more of them.

How such appropriation is made.

6. Such appropriation shall be made by a declaration in writing endorsed upon, or referring and attached to the policy appropriated. A duplicate of the declaration must be filed with the company which issued the policy, and a note of the filing of such duplicate must be endorsed by the company on the policy or on the declaration.

Married woman does not want husband's authorization.

7. Such insurance may be effected and such declaration of appropriation may be made by a married woman without the authorization of her husband.

If the insurance is for the benefit of several persons.

8. When the insurance is effected, or the appropriation is made for the benefit of more than one person, the husband, father or mother whose life is insured may, in the application and policy, or in the declaration of appropriation, apportion the amount of the insurance money as he or she may deem proper.

When no apportionment is made.

9. When no apportionment is made, the parties interested shall share the insurance money as follows : if for the benefit of a wife and the children issue of her marriage with the person whose life is insured, one half for her and the other half for their children, who will sub-divide equally ;—if for the benefit of a wife and her children, one half for the wife and the other half for her children, (whether issue of the same or of different marriages), who will sub-divide equally ;—if for the benefit of a wife and her husband's children, one half for the wife and the other half for the children of her husband, (whether issue of the same or of different marriages,) who will sub-divide equally ; if for the benefit of a wife and

her husband's and her own children, one half for the wife and the other half for his children and for her children, (whether issue of their or of other marriages), such children sub-dividing equally; if for the benefit of a wife and one or more children specified by name, one half for the wife and the other half for such child, or for such children, who will sub-divide equally;—if for the benefit of children only generally, equally between the children of the parent whose life was insured, whether issue of the same or different marriages; and if for the benefit of several children specified by name, equally between them.

10. When any child specified by name or included generally, predeceases the person whose life is insured, the descendants of such predeceased child will take his or her share by representation. When a child predeceases the insured.

11. When the insurance is effected or the appropriation is made without apportionment in favor of several children, whether it be jointly with a wife or in favor of children alone, if any of such children predecease the person whose life is insured, without issue, accretion takes place in favor of the surviving children. When the insurance effected or appropriation made without apportionment, is in favor of a wife and a child or children, if the wife predeceases her husband, accretion takes place in favor of the child or children; and if the child or all the children predecease the husband, accretion takes place in favor of the wife. If no apportionment is made.

12. It shall nevertheless be lawful for any party who has effected an insurance or who has appropriated a policy of insurance, for the benefit of a wife or of a wife and child or children, or of a child or children only as hereinabove provided, at any time and from time to time thereafter, to revoke the benefit conferred by such insurance or appropriation, either as to one or more or as to all of the persons intended to be benefited; and to declare in the revocation, that the policy shall be for the benefit only of the persons not excluded by the revocation, or for the benefit of such persons not excluded jointly with another or others or entirely for the benefit of another or others not originally named or benefited. Such other or others must be a person or persons for whose benefit an insurance may be effected or appropriated under the provisions of this act. Benefit may be revoked.

13. Such revocation may be made either by an instrument to be attached to the policy and of which a dupli- Revocation, how made.

cate must be filed with the company, which issued the policy and a note of the filing of such duplicate must be endorsed by the company on the policy or on the instrument retained or by will, of which, after the party's death, an authentic copy must be signified upon the company. In default of such duplicate being filed or of such copy being signified, the company will be validly discharged by paying the insurance money according to the terms and directions of the policy or of the declaration, or of a previous revocation.

When the benefit reverts to the insured.

14. The benefit of the policy shall revert to the insured when the child for whose benefit it was effected or appropriated or the surviving child for whose benefit solely it exists, dies without issue, before him or her ; or when the wife for whose benefit solely it exists either by the policy, appropriation or revocation, or by accretion, predeceases her husband with or without issue ; and the benefit of any share in an apportionment shall likewise revert to the insured when the child to whom it was apportioned, dies without issue before the insured parent, or when the wife to whom it was apportioned, predeceases her husband with or without issue.

Right of the insured in such case.

15. When a policy reverts to the insured in whole or for a share or shares, the insured may deal with such policy, or share, or shares as if the insurance had been effected and been always held for his or her own benefit.

How insurance for the benefit of a wife and children is payable.

16. The insurance effected or appropriated for the benefit of a wife, or of a wife and child or children, or of a child or children only may be made payable by the application and policy or by the declaration of appropriation or by a revocation either to the party or parties benefited or to any other person or persons as trustee or trustees for the party or parties benefited.

If trustees are not appointed in the policy.

17. When no trustee or trustees is or are appointed by the application and policy or by the declaration of appropriation or by a revocation, it shall be lawful for any person whose life is insured, by an instrument to be attached to the policy and of which a duplicate must be filed with the company which issued the policy and its filing be noted by the company upon the instrument retained, or by will, of which (after the testator's death) an authentic copy must be signified upon the company, to appoint a person or persons as trustee or trustees for the party or parties benefited, or for any of them.

Payment of the policy if the insured

18. When the person whose life is insured, shall die without having appointed a trustee or trustees for any

minor child or children benefited or for any person or persons benefited otherwise incapable of exercising his, or her, or their rights, the payment of the insurance money coming to such minor child or children or person or persons otherwise incapable of exercising his, or her, or their rights, shall be made to the executor or executors of such insured person, who shall be the trustee or trustees of such minor child or children, or person or persons otherwise incapable of exercising his, or her, or their rights. In case the trustee or trustees or the executor or executors should refuse to accept, or in case the person whose life is insured should die intestate, the payment shall be made to the tutor of such minor child or children or to the curator of such person or persons otherwise incapable of exercising his, or her, or their rights. In case the trustee or trustees of a person or persons in the exercise of his, her, or their rights should refuse to accept, the payment shall be made to such benefited person or persons, himself, herself, or themselves.

predeceases
without ap-
pointing
trustees, &c.

If trustees or
executors
refuse to ac-
cept, or if
insured dies
intestate.

19. The payment made to any benefited person or persons not incapable of exercising his, her or their rights, to any trustee or trustees, to any executor or executors, or to any tutor or curator, shall be a valid and sufficient discharge to the insurance company for the insurance money so paid ; and the company shall not be bound to see to the investment of the money, or be liable for the subsequent mis-application thereof by any trustee or trustees, executor or executors, tutor or curator.

Discharge of
the com-
panies.

20. The trustee or trustees shall pay over the insurance money received for persons in the exercise of their rights to such persons at once, if no conditions have been imposed by the insured in and by the policy itself, by the declaration of appropriation or by the terms contained in a deed of revocation ; if conditions have been imposed, the trustee or trustees shall carry out the trust and administer and pay over the insurance money in accordance with its provisions. The insurance money received by any trustee or trustees, executor or executors, tutor or curator for persons in minority or otherwise incapable of exercising their rights, shall be invested by the party or parties receiving it, in dominion or provincial stock or debentures, or in municipal stock or debentures, or on first privilege or hypothec upon real estate with power, however, to such trustee or trustees, executor or executors, tutor or curator from time to time to alter, vary and transpose the investments held.

Payment of
the policy by
trustees,
executors, &c.

Investments
in certain
cases.

Management
of the insur-
ance money.

21. All or any part of the annual income arising from the investment of the insurance money may be applied towards the maintenance and education of such minor child or children, or towards the maintenance of such person or persons otherwise incapable of exercising his or her or their rights, as the trustee or trustees, executor or executors, tutor or curator may think fit ; and when all the said annual income is not so applied, the surplus shall be capitalized and invested in the same manner as the insurance money received.

Transfer of
the invest-
ments.

22. The investment shall be transferred by the trustee or trustees, executor or executors or tutor or curator ;—in the case of a minor, to himself or herself when he or she attains majority, unless conditions have been imposed, in which case the investments shall only be transferred in accordance with such conditions ;—and in the case of a person otherwise incapable of exercising his or her rights, to himself or herself when he or she regains their exercise, or to his, or her heirs when he or she dies without regaining their exercise, unless conditions have been imposed, in which case they shall be carried out.

Power to
advance
insurance
money to
minors, in
certain cases.

It shall, nevertheless, be lawful, should the trustee or trustees, executor or executors, or tutor think fit, to advance the insurance money, or to dispose of the investments and advance the proceeds to any minor child during his or her minority, for the establishment, advancement or preferment in the world, or for the settlement in marriage of such child.

Insured in-
capable to
meet the
premiums.

23. If a person who has effected or appropriated an insurance for the benefit of a wife, or of a wife and child or children or of a child and children only, shall find himself or herself unable to continue to meet the premiums, it shall be lawful for him or her to surrender the policy to the company, which granted the same, and to accept, in lieu thereof, a paid-up policy for such sum as the premiums paid may represent, and for the company to accept such surrender and grant such paid-up policy, payable at the time and in the manner and for the benefit of the person or persons mentioned on the original policy, and the share of each person, when more than one are benefited, will then be proportionately reduced.

Insurance
with profits.

24. Any person having effected the insurance with profits may either receive the same for his own benefit or may from time to time either apply the same in payment or reduction of premiums, or direct them to be

added to the insurance money ; and the share of each person when more than one are benefited, will, in the last case, be proportionately increased. Profits accruing after a policy has been paid up, may be received by the insured, for his own benefit, or may be added to the insurance money ; and the share of each person when more than one are benefited, will then also be proportionately increased.

25. It shall also be lawful for any person who has effected or appropriated an insurance for the benefit of a wife, or of a wife and child or children, or of a child or children only, and who finds himself or herself unable to continue to meet the premiums, from time to time to borrow, on the security of the policy, such sum as may be necessary to keep the policy in force ; and the loans shall be evidenced by a writing, of which a duplicate must be filed with the company which issued the policy and noted by the company on the duplicate retained by the lender. Such loans shall be secured by privilege on the policy and the company shall retain a sufficient amount to pay them from the insurance money. If such loans be paid before the death of the insured, the acquittance shall be filed with the company.

Power to borrow upon the security of the policy.

26. Policies effected or appropriated for the benefit of a wife, or of a wife and child or children, or of a child or children only, shall be exempt from attachment for debts due either by the insured or by the persons benefited, and shall be unassignable by either of such parties ; and the insurance-money, while in the hands of the company, shall be free from and be unattachable for the debts either of the insured or of the persons benefited, and shall be paid according to the terms of such policies, or of any declaration of appropriation, or of any revocation relating to the same. Such exemption shall not apply to any policy or to any share or shares of a policy, which may have reverted to and be held by the insured.

Policies, exempt from attachment.

27. The insurance money shall not be deemed to be derived from the succession of or community of property with the person whose life was insured ; and its receipt by any person benefited shall not constitute an acceptance of the succession of such person, or of any community of property which existed with such person.

Insurance money shall not be deemed to be derived from succession, &c.

28. If, however, it shall be proved that all or any of the premiums were paid, at a time when the person whose life was insured was insolvent, in fraud of the rights of creditors, such creditors shall be entitled to recover and

If premiums are paid at the time when the insured is insolvent.

to receive out of the insurance money, an amount equal to the premiums so paid : and in such case, the share of each person, when more than one are benefited, will be proportionately reduced.

Interpretation.

29. Nothing contained in this act shall be held or construed to restrict or interfere with any right otherwise allowed by law to any person to effect or transfer a policy for the benefit of a wife or children ; nor shall apply to insurance made in favor of or transferred to any wife under her marriage contract.

C A P . X I V .

An Act further to amend the several acts incorporating the city of Quebec and to raise a further loan.

[Assented to 20th July, 1878.]

Preamble.

WHEREAS the corporation of the city of Quebec have, by their petition, prayed that amendments be made to the several acts incorporating the said city of Quebec, and to raise a further loan, and whereas it is expedient to grant their prayer ; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

Power to issue bonds.

1. For the purpose of meeting the floating and other debts in Schedule A, to this act annexed, and for no other purpose whatever, it shall be lawful for the said corporation, in addition to the amount already authorized to be issued by the divers acts incorporating the said city of Quebec, to issue bonds payable in this province or elsewhere in such sums not less than one hundred

Restriction.

dollars each as shall be thought expedient, but so as that the whole amount of such bonds shall not exceed five

Date of payment and interest.

hundred thousand dollars ; such bonds shall be payable in thirty years after the date thereof with interest at a rate not exceeding six per cent per annum ; bearers shall have the same remedy and the like recourse, for the recovery of the principal and interest thereon, as provided by the acts of incorporation of the said city and their amendments ; the payment of the said bonds and interest thereon to be

Security

secured by a sinking fund of one per cent, to be taken from and out of the annual revenue and funds of the city, which said sum of money the city treasurer shall keep apart from all other moneys for the ends aforesaid, and the said treasurer shall invest the sums, thus set apart