

party was domiciled at the time of the marriage and cannot be effected by a subsequent change of domicile. Hence, parties married in England and afterwards adopting a domicile in this country are not subject to the *communauté de biens*. In the case of Brodie against Cowan decided in the Superior Court for the district of Montreal in April, 1852, the court in delivering its Judgment is reported to have said: "The declaration set out that the first marriage was contracted in Scotland, and that by the laws of that country a community was created between the parties; that the Plaintiff's father had rendered no account of that community after the death of his wife; that he had removed to Canada, and contracted a second marriage with the defendant; that afterwards he died, leaving her in possession of his estate, and that she was by law bound to render an account. In this case the difficulty arose from the absence of any proof of the nature of the Scotch law. The defendant had declared it to be different from ours but had not proved it. In such a case, the universal law, was, that the foreign law must be taken to be the same as our own. The Plaintiff's right to recover must therefore be determined by the law of Lower Canada. This gave her the right to demand the account which she sought."

Moveables or immoveables granted unconditionally to one of the conjuncts during marriage, by collaterals or strangers, fall into the community without any restriction and must consequently be divided upon the dissolution of the community. To obviate this, it should be stipulated in the marriage contract, that all that shall devolve to one of the conjuncts during marriage, by inheritance, donation or otherwise, shall be and shall remain the property of the party to whom it shall have so devolved. From what we have above said, it appears that the moveables which the conjuncts have at the time of the marriage fall into, that is, form part of the community; while, on the contrary, the immoveables, which they then have, do not. Again, the moveables they acquire during the marriage do fall into the community; while, of the immoveables which they acquire during that time, some do not fall into the community and some do: those they acquire by direct or collateral inheritance, or by donation in direct line, do not fall