

of her business, and his creditors have no right to claim from her, by garnishment, the value of such services. *Ct. Frank v. Lafrenne and Riopelle*, Q. R. 32 S. C. 438. *Excelsior Life Insurance Co. v. Dely and Coutts*, 35 Que. S. C. 232.

**Husband's authority**—*Consorts' residence*—*Domicil of fact established by wife alone*—*Husband's right to be admitted and to live therein*—*Husband's remedy when wife refuses to allow him to live with her.*—The consort's residence is subject to the provisions of the law contained in Arts. 173, 174 and 175 C. C., from which the husband's authority springs. Paragraph 1 of Art. 83 C. C. which prescribes one domicil for the consorts applies equally to a domicil of fact and to the legal domicil. Hence, the wife separate as to property who, in her husband's absence, opens and conducts a boarding-house, where she has her domicil of fact, thereby establishes a domicil for her husband, who, upon his return, has the right to live there with her and, in the event of her refusal, to enter and live there with force.—In addition, the husband, in case the wife refuses to submit has a remedy by action to have it declared that his wife has lost and forfeited all her rights to gifts of movable and immovable property provided for in the marriage contract and have her condemned to pay him the value thereof. *Robinson v. Gore* (1909), 38 Que. S. C. 97.

**Judgment against husband**—*Property standing in name of wife*—*Fraudulent scheme*—*Fraud on creditors*—*Liquor license*—*Asset*—*Action to set aside fraudulent conveyance*—*Parties*—*Judgment debtor*—*Trustee*—*Cestui que trust*—*Gift*—*Evidence*—*Earnings in business*—*False representations*—*Action brought against wrong person*—*Depositions on examination of judgment debtor*—*Admissibility*.—Where a conveyance is attacked as fraudulent under 13 Eliz. c. 5, it must be shown that debt of the grantor was in existence at the time of the conveyance, or that a scheme had then been entered into to defraud possible subsequent creditors. A license, under the Liquor License Ordinance, is not an asset available to creditors, and the fact that it stood in the name of the husband (the grantor), while the property and business was in the name of the wife, is not a badge of fraud.—To constitute a fraudulent scheme on creditors, the debts anticipated must be such as would probably arise out of the conduct of the business.—*Semble*, (a) that in an action to set aside a fraudulent conveyance the grantor is a necessary party; (b) that in an action to declare a party a trustee for another person the *cestui que trust* is a necessary party.—*Held*, that, in the absence of fraud, a husband can make a valid gift or gifts to his wife, from time to time, of the earnings and profits of a business afterwards claimed by the wife as her separate estate, although the husband may have been allowed to interfere in the management of the business.—*Held*, that an action is not maintainable based on alleged false representations whereby a person is induced to sue the wrong defendant, and, for the time being, to forego his remedy against the party really liable. There is no precedent for such an action.—*Held*, that an examination of a judgment debtor under Rule 380 cannot be given in evidence against a third party (even

an alleged transferee from the judgment debtor), who was not present, and had no opportunity of cross-examining, notwithstanding s.s. (43). *Clinton v. Sellers*, 7 W. L. R. 615, 1 Alta. L. R. 135.

**Land purchased by husband**—*Conveyance taken in name of wife*—*Gift or settlement*—*Intention*—*Evidence*—*Improvidence*—*Undue influence*—*Want of independent advice*—*Reformation of conveyance*—*Intention of settlor*—*Life estate*. *Jarvis v. Jarvis*, 8 O. W. R. 902, 10 O. W. R. 831.

**Lease of husband's property made by wife**—*Action by wife for rent*—*Amendment on trial by joining husband as plaintiff*—*Jurisdiction to make amendment*—*Practice*.—Action by wife for rent and for goods sold and delivered. At trial it appeared that real and personal property belonged to her husband then living.—*Held*, on appeal, that there was no power under P. E. I. C. L. P. Act to add husband as a plaintiff and nonsuit entered. *Mooney v. McDonald*, 7 E. L. R. 221.

**Loan inter se**—*Bona fides*—*Prohibition of Art. 1265, C. C.*—*Husband acting as agent of wife*—*Rights and remedies*.—The prohibition of Art. 1265, C. C., against a husband or wife during the marriage advantaging the other by an act *inter vivos* forbids every transaction whereby one advantage or enriches the other to his or her own detriment or to the decrease of his or her estate, but it does not hinder one from borrowing money from the other in good faith, and a loan so made imports a valid contract to repay the sum borrowed.—2. The fact that one of them has lent money to the other, in the absence of evidence indicating fraud, cannot taint the transaction with fraud as having been made in contravention of the prohibition of Art. 1265.—3. The law does not forbid the husband to act gratuitously as the agent of his wife, separate as to property, in the purchase and sale by her of immovables or in the management of her immovables, and purchases so made, when they are true and actual, and do not withdraw anything from the property of the husband to his detriment or that of his creditors, do not come under the prohibition of Art. 1265.—4. If the husband or wife has illegally benefited the other during the marriage, what has been so given may be recovered; if it is an immovable that has been given, it may be retaken; but when it is money, the husband or wife and his or her heirs and assigns have against the other, or his or her heirs only an action for restitution of the sum given. *Dery v. Paradis*, 21 C. L. T. 47, 10 Que. K. B. 227.

**Loan or gift**—*Statute of Limitations*—*Executors and administrators*—*Right of retainer*—*Devolution of Estates Act*.—In 1876 Mary Starr advanced by way of loan or gift to her husband the purchase money of certain land, which was accordingly conveyed to him. On his death in 1893 he devised the land to Mary Starr and one of his sons in equal shares. In 1901 she obtained an order for partition or sale of so much of the land as had been theretofore sold, and a sale of such residue of the land being made, she filed a claim upon the proceeds as a creditor for the amount originally advanced by her to purchase the land as above mentioned.—*Held*, that, even assuming that such money

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