learned Judges of the Supreme Court held that he was bound as amounting to a declaration that he was domiciled there.

Mr. Justice Taschereau, one of those two Judges, in his judgment says :—

"By representing to his wife, as he must be held to have done by the *acte de mariage*, that his domicile was at Quebec when he married, Wadsworth guaranteed to her, contracted with her in law, that she would be *commune en biens* with him. Now, could he have been admitted in his lifetime, under any circumstances, in an action *en séparation de biens*, for instance, to contend that this declaration as to his domicile was a false one, or, in other words, that he had induced his wife to marry him under false pretences or representations? Would he have been received so to invoke his own fraud in order to deprive his wife of her share of the community? Undoubtedly not. Well, who is the appellant here? Clearly, purely and simply, the representative of Wadsworth, the warrantor of his deeds, entitled to what he himself would have been entitled to, but to nothing more. How can she then invoke Wadsworth's fraud to deprive the respondents of their share of this community? And when she does so when she avails herself of Wadsworth's fraud, is she not then herself, in the eyes of the law, committing a fraud?"

He added,—

"This is a very important case, not only for the parties thereto on account of the large amount involved, but also for the public at large. It involves an intricate question of international law, which, as pointed out by the learned Chief Justice of the Court of Queen's Bench, may hereafter often arise in this country. We expect in the near future from the United Kingdom, and in fact from all Europe, a large immigration, and evidently cases like the present one must eventually with us become more frequent. But further than that, a principle of not less importance for the Province of Quebec is at stake, that is, whether the rules of the French law as to evidence are to govern such cases or not. For the appellants, in the course of a most able and elaborate argument, have failed to cite a case from France in which it has been held that a different *coutume* than the one settled by the *acte de mariage* can be invoked to defeat a wife's claims or her heirs."

It was in consequence of the latter portion of this judgment, which was referred to in the petition for special leave to appeal to Her Majesty in Council, that the leave to appeal was granted. In discussing the case in the Courts below, as well as in the arguments of counsel before their Lordships, the Civil Code of Lower Canada has been referred to as containing the law upon the subject, for, although the Code was not in existence at the time of the marriage, it is admitted that it correctly expresses the law as it then existed, so far as this case is concerned.

Article 1260 of the Code provides that, if no covenants have been made, or if the contrary has not been stipulated, the consorts are presumed to have subjected themselves to the general laws and customs of the country, and particularly to the legal community of property, but this Article is subject to Article 6, which provides that moveable property is governed by the law of the domicile of the owner, and that persons domiciled out of Lower Canada are, as to their status and capacity, subject to the laws of their country. Even if this were not expressed, it is clear that the Legislature of Quebec could not have intended to alter the international law of domicile. Much confusion has arisen from the use of the word domicile in two different senses. Sir Robert Phillimore, in his work on the Law of Domicile, page 17, remarked, and in their Lordships' opinion correctly so, that "it might have been more correct to "have limited the use of the word domicile "to that which was the principal domicile, "and to have designated simply as residences "the other kinds of domicile; but a contrary "practice has prevailed, and the neglect to "distinguish between the different subjects "to which the law of domicile is applicable "has been the chief source of the errors that "have occasionally prevailed on this subject." He refers to the *discours* pronounced by M. Malherbe on the introduction of the law of domicile into the Code Civil. "Chaque individu ne peut avoir qu'un domicile quoiqu'il puisse avoir plusieurs résidences;" also to *Mallas* v. *Mallas*, 1 Robertson's Ecclesiastical