

cap. 29, which states that the period of imprisonment in pursuance of any sentence shall commence on and from the day of passing such sentence.

St. Pierre, for Petitioner, urged that as the warrant covered a period extending beyond the original six months it was bad *in toto*, the sentence being indivisible.

S. Cross, for the Crown, urged that in any case the commitment was good for the rest of the original period of six months, and that the petitioner could not be prejudiced by the refusal of a *habeas corpus* at the present time, as she could again apply when the six months had expired.

Cross, J., without going further into the merits of the case, held that under 32-33 Vic., cap. 31, sec. 71, as amended by 33 Vic., cap. 27, sec. 2, the commitment was good at any rate for the balance of the original period of six months from the date of the sentence.

The petitioner, afterwards, on the 12th April, when the six months had expired, applied for and obtained her release (before MONK, J.) under sec. 91 of the 32-33 Vic., cap. 29.

St. Pierre, for petitioner.

S. Cross, for the Crown.

COURT OF REVIEW.

MONTREAL, February 28, 1883.

SICOTTE, J., TORRANCE, J., RAINVILLE, J.

FRANCIS et al. es qual. v. BOUSQUET et al.

Husband and wife—Liability of wife.

By a contract of marriage the intending husband made a donation to his intended wife of the usufruct of certain immovable property. The donation was made on the condition that she should pay to his vendors the amount of a mortgage representing a portion of the price of the property, and if the intending husband died without paying another mortgage of \$2,000 created by him upon the said property and his succession was insufficient to pay it, the wife was also to pay whatever balance might be required, but she should be entitled to be reimbursed by his heirs, upon the expiration of the usufruct, for all sums paid. The wife took possession of the property after her marriage, and borrowed money thereon with the authority of her husband, with which the mortgages above mentioned were paid

off. Held, that the wife was personally liable for the amount so borrowed, although in the deed of obligation and mortgage given therefor she and her husband and the curator to the substitution created under the marriage contract, were all described as the "party of the first part," and the money was acknowledged to have been received and was promised to be repaid by the "party of the first part," and the mortgage securing payment was by the same party, and although the husband was described as acting *in his own name*, and to authorize his wife,—it being proved to the satisfaction of the Court that the money borrowed was applied to the discharge of the mortgages. The fact that the husband's vendors acknowledged, by the same deed of obligation, that they received the amount due them from the "party of the first part," and that the other hypothecary creditor by a separate deed acknowledged to have received his debt from the husband, and that there was no subrogation by either of these creditors in favor of the wife, was held not to affect the wife's personal responsibility, seeing that the evidence established that these creditors were really paid by the money so borrowed.

Abbott, Tait & Abbotts for plaintiffs.

Roy & Boutillier for defendants.

SUPERIOR COURT.

MONTREAL, March 7, 1883.

Before LORANGER, J.

BROWN v. MAGOR.

Procedure—Delay—Foreclosure.

The action was returned on the 16th of February. The defendant appeared on the 17th. On the 26th (the 25th being Sunday), plea was demanded, and on the 2nd March the defendant was foreclosed, and the plaintiff inscribed for *enquête ex parte*.

The defendant now moved to have the foreclosure and inscription removed, and that he be allowed to file his plea (produced with his motion). He submitted that the plea had been demanded before the expiration of the eight days from day of appearance.

The Court set aside the foreclosure and inscription, and allowed the plea to be filed, with costs against the plaintiff.

Cressé & Cressé for plaintiff.

L. N. Benjamin for defendant.