

## DISSOLUTION OF THE COMMUNITY.

The community is dissolved by the death of one of the conjuncts or by the judgment of separation as to property duly executed or by a judgment of separation as to person, which latter carries with it separation as to property.

The widow after the death of her husband may renounce the community, and by so doing will avoid all liability with respect to the debts due by the community at the time of her husband's death, provided she make a good and faithful inventory of the property of the community. (1) The wife who has joined in any obligation with her husband as *commune en biens* may nevertheless be bound as regards such obligation, for the article of the *coutume* which exempts the wife renouncing the community from paying the debts of the community, refers only to debts contracted by the husband as head of the community but she has recourse against the representatives of the husband. The liberty to renounce extends to the heirs and other representatives of the wife, if the community be dissolved by her death. The renunciation must be made by deed before notaries, and duly enregistered. If the parties have been separated by a judgment of the court, it has been held (2) that that judgment cannot be set aside by a mere notarial act. The judgment which is in these words show the reasons upon which it is founded.\*

"The said respondent having, in pursuance of the said judgment, (of separation de biens) and for the purpose of carrying it into execution, duly renounced to the said community which existed between her and her husband the appellant, the same could not be legally re-established but by an authentic act or agreement by and between the said parties, passed before notaries to that effect, homologated by the said court which had pronounced the said *separation de biens*, and made public by the due enregistration thereof in the *Greffe* of the tribunal, where such sentence had been pronounced, and considering that no such

(1) C. P. Art. 237. (2) Court of Appeals, Bender Appellant, and Jacobs Respondent, 1 Revue de Leg. 326.

\* Sir James Stuart, the President of that Court, and acknowledged to be the first lawyer in Lower Canada, dissented from that judgment.