

his children for *aliments*: that is, he sues his two daughters and their husbands; and they call their two brothers into the case. The only points are, what will suffice to support this poor old man, and what are the means of the defendants? for they are to pay each according to his means. These two new defendants are proved to be very poor; and, indeed, it is always a very difficult thing to do justice in these cases, for though a *habitant* may be able and willing to share his house and his table with his father, he is not always able to find money. These two defendants, the two Dumoulin, however, do not bring themselves within the Article 171 by showing that they are unable to pay an alimentary pension. The plaintiff has a small pension of \$20 as an old militiaman, and the children evidently cannot agree how much each is to contribute. I will make no difference between them. There is actually evidence that \$3 a month is sufficient to be contributed by all of them together, and one of the Dumoulin in fact took the old man into his house sooner than contribute 50c. a month. Judgment for \$1 against each.

Prevost & Co. for plaintiff.

Quimet, Quimet & Nantel, for defendants.

VEZINA V. LEFEBVRE et vir.

Femme Séparée—Authority to contract for her business.

JOHNSON, J. The plaintiff as having bought the outstanding debts due to a bankrupt estate, sues the defendant, Dame Hermine Lefebvre, and describes her in the writ as a *femme séparée de biens et ci-devant marchande publique*. Her husband is also joined in the action for the purpose of authorizing her. The object of the action is to recover some \$1,021, afterwards reduced by a retraxit, and alleged to be due under dealings between the female defendant and the insolvent. The plea is that she never was a *marchande publique*, and never was engaged in any business for which the two notes which form part of the claim against her could have been given, but that her husband, on the contrary, carried on the business, and got the goods; and the notes were obtained by false pretences. This is a pretty sweeping sort of defence; but it is perfectly conclusive, if it is true. The declaration is not in

the strict form that we used formerly to exact; but it is intelligible. She is sued by the description in the writ of "*Hermine Lefebvre ci-devant marchande publique et actuellement bourgeoise*." Then the declaration does not say in express terms that she was a *marchande publique* when she bought; but only that among the accounts due to this insolvent estate, and which the present plaintiff has a right to collect, is one against this lady for merchandise and effects sold and delivered by Guillemette the insolvent, or consigned to her for the purposes of her commerce, and which she has promised to pay. If she had been sued alone in the quality of *marchande publique*, and wished to deny it, she ought to have done so by an exception *à la forme*; but she is not sued as a *marchande publique* now, but only as a *femme séparée*, and with her husband along with her to authorize her; and it is only meant that she contracted as a *marchande publique* at the time she had these dealings, which she properly denies by a plea to the merits. I think the allegation in the declaration, that she got these goods for her trade, must be held to be sufficient under our system, and the only question will be one of evidence. There has been a very long *enquête*, but principally about matters not properly in issue, such as the means used to acquire the plaintiff's title to this account, and the amount paid, and so on. There are also one or two facts, such as the circumstances under which the store at St. Henri and the business at Kamouraska were carried on, that require attention; but the result, I have no hesitation in saying, ought to be in favor of the plaintiff. The proof carries no conviction to my mind that the dealings of Guillemette were with the husband, and not with the wife; on the contrary, it only serves to show me how difficult it is to make such a thing appear plausible. As to the principle of law applicable to the case, when a wife carries on business as *marchande publique*, and is at the same time *commune en biens*, the husband is of course liable as well as she, and that is the principle deducible from the articles 234, 235 and 236 of the Custom of Paris, and not as was erroneously argued, that in the case of a *séparation de biens*, as there is here, the husband's meddling with her separate business would impair her liability. Besides these considerations, there is distinct proof of a promise by the female defendant to pay the whole debt in weekly in-