

There are nevertheless some cases in which the wife may validly contract without the authorization of the husband, viz: when a wife has the separate enjoyment of her property, (1) either by virtue of her marriage contract or by a judgment of a competent court, in this case she can contract without the authorization of her husband, as far as respects the administration of her property and the disposal of her revenues. 2nd. When the wife is *marchande publique*, that is, carries on a business not that of her husband, she is deemed to have his implied, and is not required to obtain the express authorization of her husband, in matters connected with that business. (2) 3rd. When the husband is civilly dead, and has thus lost his conjugal authority. 4th. When the wife has obliged herself to get her husband out of prison. (3) 5th. When she contracts with her husband in those cases allowed by law as the *don mutuel* (mutual gift); his being a counter-party to the contract is a sufficient authorization.

The husband, in the absence of any contrary covenant in the contract of marriage, has the enjoyment of all the property of his wife, as well of that which she had before the marriage, as that which she acquires under whatever title during the marriage, unless the grantor has given them upon the express condition that they shall not be under the control of the husband; he has therefore the right to all the fruits and revenues, ordinary as well as extraordinary.

Although the husband has the unlimited enjoyment of the property of his wife, he cannot nevertheless, sell this right, or his creditors could not have the same sold, because it belongs to him in his sole quality of husband, (4) and only as long as the marriage exists, and for the purpose of supporting the family. Such right on the part of the husband is confined to the administration of the property and the perception of its revenues, but he cannot alienate and hypothecate, or otherwise incumber it, without her consent. (5)

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(1) C. P. Art. 234. (2) C. P. Art. 234. (3) Pothier, "Puissance du Mari," p. 469. (4) Domat, 1 t. 9 Art. 3. (5) C. P. Art. 226.