v. *North*, 3 Code Rep. 9 (1850): *Steinberg* v. *Lasker*, 50 How. Pr. 432. The Code of Civil Procedure, in defining "personal injury," includes under that head, libel, slander, "or other actionable injury to the person." § 3343, subd. 9. It is well settled that a husband can maintain an action against a third person for enticing away his wife, and depriving him of her comfort, aid and society. *Hutcheson* v. *Peck*, 5 Johns. 196; *Barnes* v. *Allen*, 1 Abb. Dec. 111. The basis of the action is the loss of *consortium*, or the right of the husband to the conjugal society of his wife. It is not necessary that there should be proof of any pecuniary loss in order to sustain the action. *Hermance* v. *James*, 32 How. Pr. 142; *Rinehart* v. *Bills*, 82 Mo. 534. Loss of services is not essential, but is merely matter of aggravation, and need not be alleged or proved. *Bigaouette* v. *Paulet*, 134 Mass. 125. According to the following cases, a wife can maintain an action, in her own name and for her own benefit, against one who entices her husband from her, alienates his affection, and deprives her of his society. *Jaynes* v. *Jaynes*, 39 Hun, 40; *Breiman* v. *Paasch*, 7 Abb. N. C. 249; *Baker* v. *Baker*, 16 id. 293; *Warner* v. *Miller*, 17 id. 221; *Churchill* v. *Lewis*, id. 226; *Simmons* v. *Simmons*, 4 N. Y. Supp. 221. There appears to be no reported decision in this State, holding that such an action will not lie, except *Van Arnam* v. *Ayers*, 67 Barb. 544. That case was decided at Special Term, in 1877, and the learned justice who wrote the opinion therein, as a member of the General Term when the case now under consideration was affirmed, concurred in the result, and stated that, owing to recent authorities, he thought the right of action should be upheld. Some of the cases rest mainly upon the statute already alluded to, and sustain the action upon the theory that enticing away the wife is such an injury to the personal rights of the husband as to amount to an injury to the person, while others proceed upon the ground that the loss of *consortium* is an injury to property, in the broad sense of that word, "which includes things not tangible or visible, and applies to whatever is exclusively one's own." *Jaynes* v. *Jaynes*, *supra*, sustains the action upon either ground, although prominence is given to the latter. Several of the cases justify the action generally, without allusion to any statute.

If the wrong in question is an injury to property simply, it would not abate upon the death of the plaintiff, but could be revived in the name of the personal representatives, a consequence which suggests the precarious nature of that basis for the action. *Cregin* v. *Railroad Co.*, 75 N. Y. 192: 83 id. 595. In other States the rule varies. In Ohio and Kansas, recovery by the wife is permitted, while in Indiana the right has thus far been denied, but by a court so evenly divided in opinion as to leave the ultimate rule in that State uncertain. *Clark* v. *Harlan*, 1 Cin. R. 418; *Westlake* v. *Westlake*, 34 Ohio St. 621; *Mehrhoff* v. *Mehrhoff*, 26 Fed. Rep. 13; *Logan* v. *Logan*, 77 Ind. 558. In England the point does not appear to have been directly passed upon, but in one case the judges approached it so nearly, and differed so widely in their discussions that it is cited as an authority on both sides of the question. *Lynch* v. *Knight*, 9 H. L. Cas. 577. The lord chancellor (Campbell), in delivering the leading opinion said: "If it can be shown that there is presented to us a concurrence of loss and injury from the act complained of, we are bound to say that this action lies. Nor can I allow that the loss of *consortium* or conjugal society can give a cause of action to the husband alone." Lord Cranworth was strongly inclined to think that this view was correct, but did not feel called upon to express a decided opinion, as it was agreed that the judgment of the court should be placed upon another ground. Lords Brougham and Wensleydale thought that the action would not lie. In that case, it is to be observed, the husband joined the wife in bringing the action, "for conformity," as there was no enabling statute authorizing her to sue in her own name.

While this action was tried, decided at the General Term, and argued in this court upon the theory that the Acts of 1860 and 1862, concerning the rights and liabilities of husband and wife, were still in force, in fact they have no application, because the sections heretofore regarded as applicable were