pation of marriage. The deed recited that a marriage was intended shortly to be solemnised between J. N., the grantor, and M. C. T., the intended wife, etc., and witnessed that, in consideration of the said intended marriage and solemnisation and consummation thereof and of the covenants and conditions thereinafter contained and of the sum of one dollar, J. N. did grant unto J. T., the father of the intended wife, his heirs and assigns for ever, the lands in question, to have and to hold unto J. T., his heirs and assigns, unto and to the use of J. N., his heirs and assigns, until the solemnisation of the marriage, and from and after the solemnisation thereof unto and to the uses of M. C. T., her heirs and assigns, for her own sole and separate use and benefit for ever and as her separate estate and property and free and clear from all estate etc. of J. N. The marriage was solemnised, and the wife went into possession and had ever since continued in possession and in receipt of the rents and profits, and no question had ever been raised in respect of her title. The husband died; the wife remarried; and contracted to sell the land. The purchaser's objection was that, because the grant was to J. T., his heirs and assigns for ever, nothing passed to M. C. T.; that no trust was created; and that the instrument was ineffective to convey any estate to the vendor.

The purchaser relied upon Langlois v. Lesperance (1892), 22 O.R. 682; but the learned Judge thought that case distinguishable.

Under the Statute of Uses, immediately upon the marriage the uses, by the operation of the statute, became merged in the legal estate; and that is so whether designated in the instrument as a use or a trust. To prevent the legal estate being executed in the cestui que trust, it is necessary to vest in the trustee not only the ancient common law fee, but also the primary use, as by conveying or devising "to the trustee and his heirs to the use of the trustee and his heirs:" Lewin on Trusts, 12th ed., pp. 5, 233.

The fact that the grant is for the wife's separate use does not prevent the operation of the statute: Williams v. Waters (1845), 14 M. & W. 166.

The use need not be executed the moment the conveyance is made, but may go into operation upon some future contingency, as where a marriage is contemplated: Halsbury's Laws of England, vol. 24, paras. 501, 506; Gilbert on Uses and Trusts, 3rd ed., pp. 184, 185, note (9).

Declaration that the objection is not well taken, and that, as against it, the vendor has a good title in fee simple.

No order as to costs.