

ancing Act, 1881 does not seem to have been adopted in Ontario, and it is therefore possible that under the same circumstances a different conclusion might be reached in Ontario as to the right to set up the title derived from the first mortgagee.

**ADMINISTRATION—TRUSTEE CARRYING ON TRUST BUSINESS—TORT OF TRUSTEE
—DAMAGES—TRUSTEE, RIGHT OF, TO INDEMNITY—SUBROGATION**

In re Raybould, Raybould v. Turner (1900) 1 Ch. 199, discusses the right of a person who has recovered damages against a trustee for a tort involuntarily committed in carrying on a trust business, to have such damages paid out of the trust estate. The facts were that the trustee was carrying on his testator's colliery business for the benefit of the estate, and, in so doing, let down the surface of the land, and thereby injured the buildings on the adjoining land of a third party, for which the latter recovered a judgment for damages against the trustee. The plaintiff in that action now applied to be paid the amount of his judgment out of the testator's estate which was in course of administration. Byrne, J., held that he was entitled to be so paid, on the ground that the trustee himself had a right to indemnity out of the trust estate, the damages in question having arisen without any reckless or improper working of the mine on the trustee's part, and that the claimant should therefore be subrogated to the trustee's rights against the testator's estate.

**HUSBAND AND WIFE—TORT OF MARRIED WOMAN—HUSBAND, LIABILITY OF,
FOR TORT OF WIFE.**

Earle v. Kingscote (1900) 1 Ch. 203, is probably not an authority in Ontario to its fullest extent, having regard to the provisions of R.S.O. c. 163, s. 17, but is nevertheless useful, as showing what is the common law liability of a husband for his wife's torts. In this case, the plaintiff sued both husband and wife for damages for fraud committed by the wife under the following circumstances: In July, 1898, the female defendant requested the plaintiff to join her in the purchase of some shares, and requested the plaintiff to raise £2,000 towards the purchase money. This the plaintiff did, and paid it to the female defendant on her representing to the plaintiff that the shares had been purchased. The plaintiff then applied for particulars of the shares, which the female defendant refused to give, and the action was then commenced against the female