

doctrine. For *Nedby v. Nedby*, the case cited as correctly laying down the law as to the burden of proof where undue influence by a husband is alleged, is the very case relied on by the present Master of the Rolls (when Mr. Justice Cozens-Hardy) in *Barron v. Williams*, 81 L.T. Rep. 321, (1893) 2 Ch., at p. 585, as a definite authority for these propositions: "The relation of husband and wife is not one of those to which the doctrine of *Huguenin v. Baseley* applies. In other words, there is no presumption that a voluntary deed executed by a wife in favour of her husband, and prepared by the husband's solicitor, is invalid." This statement of the law has since been approved both in the High Court and in the Court of Appeal: see *Bank of Africa v. Cohen*, 100 L.T. Rep. 916, (1909) 2 Ch., at p. 135; and *Howes v. Bishop*, 100 L.T. Rep. 826, (1909) 2 K.B. 390. In the latter case it was also pointed out that the statement to the contrary—that *Huguenin v. Baseley* does apply to husband and wife—made by Lord Penzance in *Parfitt v. Lawless*, 27 L.T. Rep. 215, 2 P. & D., at p. 468, is a mere dictum. The authority of *Parfitt v. Lawless* on this point (much relied on by text-writers) may therefore now be considered to be exploded. Another matter that calls for notice is that it was particularly pointed out by Mr. Justice Idington (the dissenting judge in *Stuart v. Bank of Montreal*, who declined to acquiesce in the supposed doctrine of *Cox v. Adams*) that the present-day Married Women's Property Acts are quite inconsistent with the theory that applies *Huguenin v. Baseley* to husband and wife. This point was also touched on by Lord Justice Farwell in the course of the argument in *Howes v. Bishop* (p. 394): "I do not see how, at any rate since the Married Women's Property Act, 1882, the rule in *Huguenin v. Baseley* can be said to cover the relation of husband and wife." These statements of the law made by Mr. Justice Idington in the Supreme Court of Canada in the present case and by Lord Justice Farwell in the Court of Appeal in *Howes v. Bishop* are in accord with the views of the Judicial Committee in *Bank of Montreal v. Stuart*. The authority for saying that a transaction by a married woman with her husband cannot now be impeached solely on the ground