

*Subrogation—Erroneous noting of deed by Registrar—Conflict between written and printed clauses.*

Held:—1. That where subrogation is given by the terms of a deed, the erroneous noting of the deed by the Registrar as a discharge, and the granting by him of erroneous certificates, cannot prejudice the party subrogated.

2. That where two clauses in a deed conflict,—the one written and the other printed, the written clause should have effect, as more likely to contain the real intention of the parties.—*Desrosiers & Lamb, Dorion, Ch. J., Tessier, Cross, Church, J.J., April 7, 1888.*

### THE LAW OF DIVORCE.

The Tudor-Hart divorce case is of special interest, for while a divorce was granted by Legislative Act, a *séparation de corps* had been previously refused by the Superior Court of Quebec, the province in which the parties reside. It must be remembered that while the wife was precluded from giving her evidence in the provincial court, her statement was received by the Senate. The following speech of the Hon. J. J. C. Abbott, Q. C., on the motion for the third reading of the Bill, in the Senate, 9th May, explains very clearly the grounds upon which the Senate came to the relief of Mrs. Hart:—

I did not really intend to address the House on this subject, believing that every gentleman present, having read the evidence and acquainted himself thoroughly with the facts, would be competent to arrive at a conclusion on this subject, and would require no advice, or assistance, or argument from me to aid him in taking the right course; but I feel that I should not give my vote in the face of statements which have been made respecting this case and respecting the law applicable to it, without explaining the position which I hold, and in doing that I must necessarily review, as briefly as I can, the facts of the case, and enquire what is the law which governs this House in respect to matters of this description. While I listened to my hon. friend from Amherst, and my hon. friend from Lunenburg, I could not help wondering whether the amiable and mild-tempered

young gentleman, who never did any harm but go out in the evening occasionally to play a game of whist, can be the man referred to in this evidence! A large portion of the arguments of my hon. friends from Amherst and Lunenburg was directed to prove, or to try to convince the House that the report, which I presume everybody here has read who is going to pronounce an opinion on it, established that he was kind and amiable and affectionate to his wife; that there was nothing wrong with this young man at all, except that he occasionally went out in the evenings to a very respectable club to play a rubber of whist, and that it is the poor woman who is to blame for the whole of it—she is hypochondriacal, on the verge of lunacy, as one hon. gentleman said; and more fitted to be treated as a lunatic than as a sane person; that she, by her coolness, bad temper and sourness towards her husband, drove him from the house; and that he was therefore perfectly justified, within eight months of his marriage, in leaving her to herself night after night, coming home sometimes even as late as 8 o'clock in the morning, and forgetting altogether the duties which he owed to her. We have heard a good deal about justification—that he was perfectly justified in all this, because at some period or other (which is not proved in this evidence) she became melancholy, sad, and to some extent unsociable, and to some extent quick of temper. Was this before she was treated in this manner by her husband or afterwards? Hon. gentlemen all assume that she was a person of this description when he married her; then why did he marry her? He was perfectly right, because she had money; the man was not to blame for marrying a woman he did not love, because she had money, and he was not to blame for practically deserting her, because she turned out not to have a good temper. He was a most amiable man, and never did anything blameable. Was this the same person who told her that he was a thorough blackguard and did not wish to be different, that his life just suited him, and that she had done the only thing that she could in leaving him? Can this be the same man? Can this kind and amiable husband be the same man who, on one occasion at