of consolidation of mortgages so as to enable him to apply the surplus on account of an overdue mortgage held by him upon other property (*d*).

4. Mortgage clause in insurance policy.

In the case of insurance effected by a mortgagor upon mortgaged property it is now a common practice in Canada to insert in or attach to the policy a so-called "mortgage clause," safeguarding the mortgagee against the danger of the policy being avoided by the act or neglect of the mortgagor, and conferring upon the insurer the right to be subrogated (*e*) to the rights and securities of the mortgagee in the event of the insurance company claiming that the policy is avoided as against the mortgagor.

The form of mortgage clause adopted by The Canadian Fire Underwriters' Association is as follows:—

> Policy No. . . . It is hereby provided and agreed that this insurance, as to the interest of the mortgagees only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the property insured, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy.
>
> It is further provided and agreed that the mortgagees shall at once notify said company of non-occupation or vacancy for over thirty days, or of any change of ownership or increased hazard that shall come to their knowledge; and that every increase of hazard, not permitted by the policy to the mortgagor or owner, shall be paid by the mortgagees on reasonable demand from the date such hazard existed, according to the established scale of rates, for the use of such increased hazard during the continuance of this insurance.
>
> It is also further provided and agreed that whenever the company shall pay the mortgagees any sum for loss under this policy, and shall claim that as to the mortgagor or owner no liability therefor existed, it shall at once be legally subrogated to all rights of the mortgagees under all the securities held as collateral to the mortgage debt, to the extent of such payment, or, at its option, the company may pay to the mortgagees the whole principal due or to grow due on the mortgage, with interest, and shall thereupon receive a full assignment and transfer of the mortgage, and all other securities held as collateral to the mortgage debt, but no such subrogation shall impair the rights of the mortgagees to recover the full amount of their claim.
>
> It is also further provided and agreed that in the event of the said property being further insured with this or any other office, on behalf of the owner or mortgagees, the company, except such other insurance when made by the mortgagor or owner shall prove invalid, shall only be liable for a ratable proportion of any loss or damage sustained.
>
> At the request of the assured, the loss, if any, under this policy is hereby made payable to ——— as ——— interest may appear, subject to the conditions of the above mortgage clause.

Mortgagees applied for a policy of insurance to be issued in the name of

(*d*) *Re Union Assurance Co.*, 1893, 23 O.R. 627.
(*e*) As to the right of subrogation, see also § 5, *infra*.