criminality of the insured, the fact should be formally pleaded. For myself, I may say, that I should not consider any evidence, no matter how conclusive it might appear, on a plea so drawn. I also consider that the insurance is that of the father, although taken out in the names of the sons, and that the re-insurance is also that of the father. I also consider that as there was no notice of the re-insurance, as required by the conditions of the policy, the policy became inoperative, at all events so far as Farrar is concerned. But there was a stipulation in the policy "loss if any payable to Messrs. J. & H. Black, as mortgagees, to the extent of their claim," and it is now contended that although the policy is void as regards Farrar, the stipulation survives, and entitles the appellants, J. & H. Black, to recover to the extent of their interest. It is on this question I am unable to concur with the opinion of the majority of the Court. In England it seems this question has not arisen, probably owing to some difference in the way of dealing with the interests of mortgagees; but it has come up on several occasions in Ontario. It is to be regretted that the jurisprudence there is in a very unsettled state, and I have been unable to discover on which side the weight of authority leans. Had that appeared clearly it is not probable that I should have entered any dissent on this occasion. Two systems seem to divide opinion. By one the terms of the contract between the party claiming and the insurer are interpreted precisely in the same manner as we interpret the terms of any other contract. By the other the policy is treated as being transferred or assigned to the mortgagee in whatever terms the stipulation is couched, and whether the mortgagee becomes the insured or not. It will be at once perceived that these two systems lead to very different results, and I think the former is much more consonant with principle than the latter. The stipulation is plainly an undertaking to pay B out of the money coming to A if any there be. The other system is that of a fictitious assignment, the policy being held in trust for the original insurer, should the mortgage be paid off, or should there be a balance over. Whatever may be the practical convenience of the latter system, it is one hardly in accordance with the principles of our law, or indeed compatible with any sound principle. It alters the obligation of the insurer, and exposes him to perils which the contract he has entered into on its face, does not contemplate. I should, therefore, confirm the judgment on the simple motive that the policy being void there was no "loss," and therefore nothing coming to appellant.

MONK, J., also dissenting, concurred substantially in the above remarks of Mr. Justice Ramsay.

Sir A. A. DORION, C. J., said perhaps no more important case had come before the Court than this one. It affected the interests of all those who lend money on the security of real estate, and stipulate that the mortgagor shall insure the property and transfer the amount to the mortgagee for the purpose of securing the debt. If the doctrine of the minority were sustained, the insured might at any time destroy the security by some irregularity on his part. The Chief Justice proceeded to deliver an elaborate opinion, in which Sicotte and Tessier, JJ., concurred, reversing the judgment of the Court below. The grounds are in substance contained in the written judgment of the Court, for which alone we have space. It is as follows:—

"Considering that by a deed of the 14th day of February, 1874, George W. Farrar, one of the plaintiffs and appellant, and George H. Farrar and Lucius E. Farrar, hypothecated in favor of John Black and Henderson Black, the two other plaintiffs and appellants in this cause, a certain lot of land and buildings thereon situated in the town of St. John's, for the sum of $4,000 currency;

"And considering that in and by the said deed it was covenanted and agreed, that the said George W. Farrar and his co-debtors should cause the said real estate to be insured for $8,000 and should transfer the policy of such insurance to the said John Black and Henderson Black;

"And considering that in pursuance of said agreement the said George W. Farrar did, on the 3rd day of July, 1876, effect with the respondents an insurance on the said buildings for the sum of $1,800, for which the respondent issued an insurance policy on the said 3rd July, 1876, for said sum of $1,800, and that it is declared in the said policy that the loss if any shall be payable to J. & H. Black, (the said John & Henderson Black) as mortgagees to the extent of their claim;