

Contents

<i>Preface</i>	v
<i>Table of Cases</i>	ix
<i>Table of Statutes</i>	xii
1 What is Subrogation?	1
2 Subrogation to Trustee's Right of Indemnity	10
Nature of Trustee's Right of Indemnity	10
Right of Subrogation Solely Dependent on Existence and Extent of Trustee's Indemnity	18
Subsequent Misconduct by Trustee	24
Expenses Properly Incurred in Course of Execution of Trust	26
Right of Subrogation Exercisable even where Trustee neither Insolvent nor Bankrupt	28
Essentially Purposive Function of Right of Exoneration	29
Is Trustee entitled to Mortgage or Charge Right of Exoneration, as opposed to Right of Reimbursement?	44
Executor's Right of Indemnity when Trading with Testator's Assets	47
Trading with Testator's Assets for Sole Purpose of Winding Up Estate	47
Trading with Testator's Assets Beyond Period Reasonably Required for Winding Up Estate	49
3 Insurer's Right of Subrogation	68
Insurance Contracts are Contracts of Indemnity only	68
Doctrine of Subrogation a Necessary Incident of Contract of Indemnity	70
Situations where Insurer's Right of Subrogation Arises	73
(1) Where Insurer has purportedly indemnified Insured despite not having any Obligation to do so	74

(2) Where Insurer has indemnified Insured's Loss pursuant to Obligation to do so, but Insured has yet to enforce Right to Recover from Third Party	88
(3) Where Insurer has indemnified Insured pursuant to Obligation to do so, and Insured has already enforced Right of Recovery against Third Party	129
4 Payer's Right of Subrogation	138
Right of Subrogation of Person (other than Surety) who Discharges Third Party's Debt to Secured Creditor	139
Is <i>Boscawen v Bajwa</i> consistent with <i>Ghana Commercial Bank v Chandiram</i> ?	149
The Conceptually Recondite Reasoning in <i>Banque Financière de la Cité v Parc (Battersea) Ltd</i>	154
Right of Subrogation of Surety (ie a Guarantor) who Discharges Principal Debtor's Debt to Secured Creditor	161
5 Ultra Vires Borrowings – Lender's Right of Subrogation	175
General Principle	175
Statutory Prohibition Creating Ultra Vires Borrowing	182
Knowledge of Lender that Loan Ultra Vires	186
6 Third Party Payer with No Right of Subrogation	192
General Principle	192
Lender's Right of Subrogation to Vendor's Lien	203
The Principle in <i>Otter v Lord Vaux</i>	206
 <i>Index</i>	 209