

in evidence and the facts stated therein being taken as proved. In that record were the answers to questions by the jury to the effect that the risk in the Quebec Insurance Co.'s policy did not attach until it was approved by the head office, and that the first knowledge T. had of acceptance by that company of his application was the receipt of a letter from the head office two days after the destruction of the insured property. On the argument of the present appeal, counsel for the company contended that T. was estopped by his admission in the declaration from claiming that there was no other insurance under the last mentioned condition, and that the notice required in the condition of the policy of the Commercial Union distinguished the present from that case, and the decision mentioned above did not govern.

Held, that from the course pursued at the trial the claim that T. was estopped could not prevail.

Held, also, that the condition in this case was substantially the same as that in the Commercial Union policy, and the question of avoidance of the policy for other insurance without consent indorsed is concluded by the former decision of the Court. Appeal dismissed with costs.

Leighton McCarthy, for appellant. *Pugsley*, K.C., Atty.-Gen., New Brunswick, and *Masters*, K.C., for respondent.

Province of Ontario.

HIGH COURT OF JUSTICE

Falconbridge, C.J., Street, J.]

[June 13.]

RENÉ Z. GAGNON.

Summary conviction—Prior conviction for same offence—Reception thereof in evidence by justices—Second conviction invalid.

The defendant on the information and complaint of one Angus Macdonald, had been convicted by two justices of the peace in and for the United Counties of Stormont, Dundas and Glengarry, for having on the 3rd day of February, A.D. 1901, at the Village of Alexandria, unlawfully sold liquor without the license therefor by law required, and fined \$100 and costs, the maximum penalty authorized by the statute. At the hearing before the magistrates he produced in bar of the prosecution then being conducted, a conviction by two other justices of the United Counties, following a charge laid against him by the License Inspector, which alleged that he did at the Village of Alexandria, on the 1st and 25th days of February, A.D. 1901, and on each and every day between the said dates, unlawfully sell liquor without the license therefor by law required. The justices having declined to treat such prior conviction as relieving him from the