

The defendant company's contract was to the effect that the assured, to the extent of \$800, should suffer no loss or damage, that is, the company would indemnify him in respect of loss or damage by fire to his building to the extent of \$800. Having, before the fire, parted with all interest in the building, he suffered no loss or damage by its destruction, and therefore had no claim for indemnity, and was not entitled to maintain this action. Nor did the plaintiff stand in any better position than the assured. By the terms of the company's assent to the assignment of the policy to Pulford, with loss payable to Griffin, the latter became entitled simply to intercept for his own benefit moneys otherwise recoverable by Pulford; and, inasmuch as Pulford, having sustained no loss, could not recover, neither could Griffin, whose title was derived from Pulford, nor could the plaintiff, whose title was derived from Griffin.

The appeal should be dismissed with costs.

SUTHERLAND, J., agreed with MULOCK, C.J. Ex.

RIDDELL, J., agreed in the result, for reasons stated in writing.

KELLY, J., also agreed in the result, for reasons stated in writing.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

DECEMBER 20TH, 1918.

*TEMISKAMING TELEPHONE CO. LIMITED v.
TOWN OF COBALT.

Telephone Company—Powers of—Right to Maintain Poles and Wires in Streets of Town—Company Incorporated in 1905 by Letters Patent Issued under Ontario Companies Act—Agreement with Town Corporation—Permission to Use Streets—Monopoly for Five Years—Municipal Act, 1903, secs. 331, 559—6 Edw. VII. ch. 34, sec. 20.

Appeal by the plaintiff company from the judgment of MIDDLETON, J., 42 O.L.R. 385, 14 O.W.N. 35.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL, LATCHFORD, SUTHERLAND, and KELLY, JJ.

I. F. Hellmuth, K.C., for the appellant company.

H. H. Dewart, K.C., and W. N. Tilley, K.C., for the defendant town corporation, respondent.