subsequent insurance is effected by any other company unless and until the company assents thereto, or unless the company does not dissent in writing within 2 weeks after receiving written notice of the intention or desire to effect the subsequent insurance, or does not dissent in writing after that time and before the subsequent or further insurance is effected." On 4th September the company wrote their New Liskeard agent that they would issue a policy on their interim certificate 10166 at 3 per cent.; and it is to be remembered that they had themselves had an insurance under that receipt for 30 days. I think that this point is entirely covered by the decision of the Court of Appeal in Mutchmor v. Waterloo Mutual Fire Insurance Co., 4 O. L. R. 606, 1 O. W. R. 667. And I cannot see that it makes any difference that in the Mutchmor case the former insurance, for which the subsequent insurance was taken in substitution, was in another company than that consenting, while in the present case the former insurance is in the very company itself. I think this defence fails.

As regards the defence of prior insurance undisclosed, this seems to have been under a mistake of fact as to the company. When Graydon went out to New Liskeard and saw the plaintiff, he (Graydon) told him (the plaintiff) that the mortgagees had an insurance upon the property for $400 in the Norwich Union Fire Insurance Company sufficient to cover their claim under a mortgage. Accordingly, in the pro forma proofs of loss, the other insurance on the property was mentioned as $1,400. This was the first that the plaintiff knew of any insurance put on by any one but himself, but he accepted the statement of Graydon. In the proofs of loss put in afterwards, he placed the other insurance at the sum put on by himself, viz., $1,000.

It was thought at the trial that there had been this insurance in the Norwich Union, and I gave leave, upon terms that the Equity company should abandon all objection to the Union Bank being added as a party ab initio, that the facts as to this prior insurance should be proved on affidavits, or by joint statement of counsel. Such a statement is now put in. From it, it appears that there was no insurance in the Norwich Union, but an insurance for $400 was placed in the Union Assurance Society on the property, December, 1905, in the name of A. & A., New Liskeard, apparently the original mortgagees—that the society were notified by the mortgagees of the fire on 5th September, and paid $374.59