

Province of Manitoba.

KING'S BENCH.

Killam, C.J.] *WHITLA v. MANITOBA ASSURANCE CO.* [Jan. 10.
*Fire insurance—Condition as to other insurance without consent—Interim
 receipt—Estoppel.*

The defence in this case rested mainly on the subsequent insurance on the same property alleged to have been effected by Bourque in the Royal Insurance Co., as set forth in the report of the preceding case, without the consent or knowledge of the Manitoba Co., thus rendering the insurance void according to one of the conditions of their policy. The learned judge found, as reported in that case, that Bourque had effected no binding insurance with the Royal Co.

Held, that the condition was not broken.

Held, also, that neither the making of a claim by Bourque for the subsequent insurance, his putting in of proofs of loss thereunder, nor the bringing of an action thereon, created any estoppel in this action, and Bourque's statement in his proofs of loss sent in to defendants that "there was no other insurance on the property at the time of the fire excepting a policy in the Royal Insurance for \$3,000," did not prevent him from shewing that the insurance in the Royal was never completed so as to bind it. Bourque and the plaintiffs were placed in such a position that they had to claim for both insurances, for, if they elected to claim from one company only, they ran the risk of losing the one from which they could recover, and it should be held that they were entitled to recover from the present defendants, if, as a matter of fact, there was no subsequent binding contract for concurrent insurance. An erroneous claim that there was cannot change the fact. Verdict for plaintiffs with costs.

Haggart, K.C., and *Whitla*, for plaintiffs. *Tupper*, K.C., and *Phippen*, for defendants.

Province of British Columbia.

SUPREME COURT.

Full Court.] *KETTLE RIVER MINES v. BLEASDELL.* [Mar. 20, 1901.
Appeal—Security for costs—Practice.

Appeal called on before the Full Court on 20th March, 1901. On 16th March an order had been made for security for costs of the appeal, but not providing for a stay of proceedings. Counsel for respondent