

companies, and the plaintiffs were not compensated for their loss. The defendant placed the insurance with five companies, and the plaintiffs paid the amount of the premiums to the defendants. The policies were sent to the defendant and by him handed over to the plaintiffs, who for some time assumed that everything was in a satisfactory position. The money was not directly paid by the defendant to the insurance companies, but credit was given therefor by the companies in accordance with an understanding between the defendant and them and others through whom they dealt. The case was not one where there was any dishonest attempt to appropriate money; the course of dealing was in accordance with the well-understood relationship of all the parties—not including the plaintiffs. MIDDLETON, J., said that an agent who receives money to be paid for his principal has no authority to set this off against a debt due from the payee to him. His duty is to pay; but, if the payee assents to the set-off, it becomes payment. There is no necessity for the form of handing over the money and then handing it back. The assent to the set-off dispenses with this. Here the set-off was assented to by the agent of the insurance companies, and the amount of each premium was carried into the running accounts between the parties. The insurance companies parted with the policies, being content to carry the premiums into the running account between the different agents and sub-agents. The plaintiffs having paid the premiums and the policies having been delivered, they were, in the circumstances, valid policies, and the defendant had been guilty of no default. Action dismissed with costs. F. Arnoldi, K.C., for the plaintiffs. C. A. Moss, for the defendant.

---

MOORE V. CANADIAN ORDER OF FORESTERS—MIDDLETON, J., IN CHAMBERS—SEPT. 26.

*Jury Notice—Striking out—Judge in Chambers.*]—Motion by the defendant to strike out the jury notice. The learned Judge said that if he were presiding at the trial, he would not hesitate to strike out this jury notice; and KELLY, J., who was to be the trial Judge, agreed with this view. Order made striking out the jury notice. Costs in the cause. Grayson Smith, for the defendants. E. F. Raney, for the plaintiff.