

cept in regard to the insurance effected with the North American Mutual Fire Insurance Company):—The North American company did not give any notice of cancellation, but, after proofs of loss were sent to it, it denied liability on the ground that the premium was never paid to it, and that it was, as the company understood, never paid to the appellant's "brokers, C. E. Ring & Company," and on the further ground that it was not liable because of the appellant's default in paying an assessment made on the company's policy-holders, which, according to the terms of the policy, rendered it void.

The proper conclusion upon the evidence is, I think, that each of the companies looked to its agent as its debtor for the amount of these premiums, and not to the insured; and that it was only when the premiums had not in fact been paid to the agent that he was entitled to have the amount of them credited to him.

I agree with the finding of my brother Middleton that as between Ring & Company and the appellant, the premiums had been paid in all of the four cases, and it follows that the payment by Ring & Company to the companies by which he was charged with the premiums was an absolute payment, discharging the appellant from liability to pay them, unless the decided cases require us to hold that the transactions between these companies and Ring & Company were "*res inter alios*" and cannot be taken advantage of by the appellant.

In the case of the Security company, the premium was never received by Pettibone & Company; and, therefore, when that fact became known to the company, that firm was entitled to be credited with the amount of the premium which had been charged to it, and the premium was therefore never paid to the company; and it had the right, for that reason, to repudiate liability on the policy.

Not only was this the case, but Ring did not pay the premium to Woodcock & Company, nor did Woodcock & Company pay it to Pettibone & Company.

Except in the case of the Security company policy, it is clear, I think, that no question would ever have arisen as to the non-payment of the premiums but for the intervention of Ring, and it was entirely owing to his intervention that the companies took the position that the premiums were not paid, and assumed on that ground to cancel their policies. The policies had been on foot for several months before Ring intervened, and during that time all parties treated them as valid and subsisting, and it