the report of that case. The principles of *Wing* v. *Harvey* are those which rule throughout America. In England the courts draw distinctions, and it is hard to say if *Wing* v. *Harvey* would be approved.

In the case of the *British Industry Life Assurance Co.* v. *Ward*, vol. xxxiv, E. L. & E. R. of 1856, the respondent, as administrator of Ann Ward, brought a plaint in the St. Helen's County Court to recover £50 on a policy of insurance effected on her life in the defendants' office. Ann Ward had insured her life for the period of life in consideration of a premium of one shilling payable every week. At delivering the policy the agent of insurers delivered a card with it, upon which was this notice: "Any member allowing payments to fall more than four weeks in arrear will be excluded from all benefit." It was proved also that the agent said, as to premium, that "it would be sufficient if they were paid when he called for them." On the 2d of November, 1854, eleven weeks premiums were unpaid; but the agent called that day for them, and got them and marked the payment upon insured's card. Ann Ward died on the 11th of November. Afterwards the agent announced her death to the head office and remitted the premium. The directors disapproved of his act immediately, and caused the money to be tendered back. The defence was that default had been made in the payment of the premium for eleven weeks, whereby the policy, according to one of the rules contained in the deed, was forfeited. The default, it was contended, had been waived by the agent of the defendants, who had power to negotiate policies for them, having accepted the premium after the default. The learned judge was of this opinion, and gave judgment for the plaintiff, but, at the defendants' desire, stated a case for the Court of Appeal. For the appellant it was contended that the case stated no evidence showing the agent to have authority to waive the rule rendering the company's policies void if the premium was in arrear more than four weeks. For the respondent it was urged that if the court could see any evidence to support the judge's decision, they would do so. Mr. Justice Cresswell said it was a question of fact, which must be found upon some evidence, and there must be some evidence showing the agent's authority to waive the rule. The learned counsel for the respondent having admitted he could show none, the court reversed the judgment. Judgment for a nonsuit. Had the directors not acted at once, had they kept the money, their conduct would have been evidence of ratification of the agent's act, and so the plaintiff would have recovered. This case is not at variance with the anterior one. Time and the conduct of the principals in all these cases are very important. Lord Eldon's doctrine in McMorran's case is good.

Suppose the insured had proved that the agent had previously done exactly in like way, and the company had received his remittances without objection. In such case authority might be inferred, *semble*, in the agent to act so afterwards.

Dalloz, Rec. per., 1854, 1st part, page 366. Mode of acting (conduct) of an insurance company *rendre quérable* only premium stipulated *portable* by policy; and see 2nd part, page 166.

Usage of a company, though its policies state premiums to be *portable*, with a clause that without *mise en demeure* the insurance shall be in suspense until payment of any premium due) to go and take premiums at the domicile of the assured after their falling due, and sometimes before, may make the premium *quérable*, "de portable qu'elle était." Dalloz, Rec. per., 1st part.

*Mise en demeure* is necessary to resolve the contract of insurance where the premium is simply stated *portable*. (Note 2.)

§ 303. *Reports of agents.*

The production of reports of the agents of insurance companies by whom the insurance was effected, before the policy, may be compelled by the insured; but the reports of insurers' officers after the fire are confidential.[1]

In *Baker* v. *London & S. W. R. Co.*[2] reports and letters of agents were held admissible if the agents have placed themselves in communication with both parties. Generally an agent sent to make enquiries can't be made

[1] *Grant* v. *The Ætna Ins. Co.* So held also in England: *Wolley* v. *Pole*, 32 L. J. C. P. Bunyon, Fire Insurance, p. 207.

[2] L. R. 3 Q. B. Rep. A. D. 1867.