

I see no ground to disturb the finding that the company are liable to pay the amount of the "interim receipt" policy and costs of action. The company should also pay the plaintiff half the costs of the appeal—this division of appeal costs because the insured and the agent join in opposing the appeal.

But, as to the agent, I think the appeal should be allowed with costs, and that he should pay as damages \$80 (for extra risk) and the amount of the taxed costs of the action of both the insured and the defendant company.

I have no reason to doubt that the company would have reinsured the risk to the extent of \$1,000 if they had been aware that they were legally responsible for the \$2,000 insurance. The company had so reinsured as to the earlier policy on this property, when it was operated by the present plaintiff, and would have done so again. But I do not see my way to charge this as damages on the agent, because the company might have acted so to protect, had they not been in error as to the expiry of the interim receipt in thirty days.

If an officer of the Court combines a variety of engagements, acting as agent of an insurance company and also acting for the owner and lessees of property to be insured, and is also a mortgagee of the property, the mortgage being assigned to another, and then gets matters so mixed up that he gives the insurance company to understand that the insurance is for the benefit of a new concern which has purchased the plant and property from the owner, whereas the real transaction is that the lessees insure in the name of the owner for the benefit of the mortgagee—given this situation, the knowledge of which is confined to the solicitor, who is also the original mortgagee and the insurance agent, and not communicated to the company till after the fire, it is little wonder that an investigation in the Court is called for and is needed before the tangle is cleared up—and, even as it is, is not satisfactorily cleared up.

Nor is the situation simplified by the insurance agent acting as solicitor and chief witness in this suit for the plaintiff, a stranger to the insurance company.

That the Court has ample power to order payment of costs by a third party and to deal with him in this respect as a defendant, is shewn by *Hornby v. Cardwell*, 8 Q.B.D. 329; *Piller v. Roberts*, 21 Ch. D. 198, 201; *Edison and Swan United Electric Light Co. v. Holland*, 41 Ch. D. 28, 34; and many other cases.