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No. 5

HON. MR. JUSTICE SUTHERLAND

JUNE 12TH, 1912.

STRONG v. CROWN LIFE.
(AND THREE OTHER ACTIONS.)

3 O. W. N. 1377.

*Judgment—Erroneous Recital in Judgment Settled and Entered—
Motion to Vary—After Hearing of Appeal—Consolidation of
Actions.*

Application by defendants to strike out of formal judgment of trial Judge as settled in certain actions which had been consolidated after a great part of the evidence had been taken, a declaration that defendants had been given an opportunity to tender further evidence in the consolidated actions and had elected not to do so. Since the issuance of the order, 19 O. W. R. 901; 3 O. W. N. 481; 1 D. L. R. 111, the defendants had appealed to the Court of Appeal which had reserved judgment.

SUTHERLAND, J., refused to make any order under the circumstances.

F. E. Hodgins, K.C., for the defendants' application.

N. W. Rowell, K.C., and George Kerr, for the plaintiffs, contra.

HON. MR. JUSTICE SUTHERLAND:—Prior to the date when I handed out my written judgment herein an application was made on the part of the plaintiff for an order to consolidate each of the original actions herein with others in which the writs of summons for similar claims had been issued since the trial.

The point involved was whether the original actions were brought prematurely, and if so, what course it was proper in the circumstances to pursue under sec. 172 of the Insurance Act.

When counsel were present before me by appointment, I mentioned that if I made an order of consolidation the evidence already in would be treated as taken in the consoli-