

The matter was very important to the insured, who was then 70 years old, and had paid all premiums for 13 years; should he live 7 years more, the first annuity would be payable.

These circumstances, combined with greatly increased assessments and an unexpected demand for \$147.18, accompanied by the two proposals from defendants, one to lend him the \$147.18 and the other to abandon his annuity benefits, would reasonably lead him to believe that no forfeiture of that portion of the benefits in respect to which he had made all payments would be exacted pending his election, and that at most he might forfeit the annuity benefits only if he failed to elect before the day appointed for the payment of annuity call No. 10. He is informed by defendants that his mortuary benefits may be continued independently of the annuity benefits, which they are the first to suggest abandoning.

I think the effect of the circumstances and defendants' proposal was to estop them from exacting a forfeiture of his mortuary rights, in the absence of any intimation by defendants that, notwithstanding the pendency of negotiations opened by them, a forfeiture of all his rights would follow if he did not within 30 days pay the \$2.24, a payment which he would not require to make at all if he should adopt one of defendants' proposals.

It appears that a portion of call No. 10 is made up of \$1.22 for interest on the \$147.18, and it may be that neither of these calls is within the terms of the certificate, or otherwise authorized by the insured, in which case defendants would not be entitled to insist upon forfeiture for non-payment.

A forfeiture not being favourably regarded by courts of justice, strict proof is required from him who asserts it.

As pointed out before, neither annuity call No. 10, nor the assessment for the \$147.18, appears to be according to the tables indorsed upon the certificate, and no direct evidence was put in at the trial shewing by what authority these assessments were made.

Being of opinion that there was no forfeiture, it follows that no representations or warranties made by the insured