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RIDDELL, J.

NOVEMBER 16TH, 1906.

TRIAL.

ZILLIAX v. INDEPENDENT ORDER OF FORESTERS.

Benefit Society—Rights of Member—Action for Declaration of Rights—Domestic Tribunal—Failure to Resort to—Submission to Jurisdiction—Refusal of Court to Entertain Action—Costs.

Action for a declaration of the rights of plaintiff as a member of the defendant society.

C. R. McKeown, Orangeville, for plaintiff.

W. H. Hunter, for defendants.

RIDDELL, J.:—The plaintiff was a member of the Independent Order of Foresters, in the beneficiary or insurance branch. A dispute arising as to his right to continue to be such member, a body of officials of the Order decided against him. An appeal is provided for by the constitution, by which plaintiff is admittedly bound; such appeal being to the Grand Lodge. Plaintiff did not appeal, but, instead of appealing, brought this action for a declaration and other relief. Defendants do not dispute the jurisdiction of the Court, but appear to be willing that the rights of plaintiff should be determined in this action.

Unless this position taken by defendants makes a difference, I am bound to dismiss the action: *Essery v. Court Pride of the Dominion*, 2 O. R. 596; *Dale v. Weston Lodge*, 24 A. R. 351.