

DIVISIONAL COURT.

JUNE 2ND, 1910.

\*THOMPSON v. COURT HARMONY OF THE ANCIENT  
ORDER OF FORESTERS.

*Benefit Society—Sick Benefits—Refusal of Claim—Certificate of  
Medical Officer—Domestic Tribunals—Interference by Court—  
Jurisdiction—Erroneous Certificate—"Legal Fraud."*

Appeal by the defendants from the judgment of the County Court of York in favour of the plaintiff in an action by a member of the defendant Court to recover \$168 for sick benefits.

The defendants investigated the claim of the plaintiff and found against it, upon the certificate of Dr. Pyne, their own medical officer, who said that the plaintiff's illness was due to alcoholism, a cause which was excluded by the defendants' rules. Another physician was called in by the plaintiff, who certified that his illness was not due to alcoholism, but to another cause, but the defendants did not alter their finding against the plaintiff.

The action was then brought in the County Court, and at the trial evidence was given of a conflicting and contradictory nature as to the cause of the illness, which evidence was not before the defendants when they investigated.

The County Court Judge agreed that the defendants could not pay in the face of Dr. Pyne's certificate, which, under the direction of the general law of the defendants, they decided to act upon. He found that the medical certificate was given honestly, but erroneously, as to alcoholism having caused the plaintiff's illness, and therefore, though not intentionally fraudulent, it amounted to a legal fraud, and upon this ground held that his jurisdiction was not ousted. He found that the plaintiff appealed to all the series of appellate tribunals of the Order, but that they did not investigate or call any witnesses or give the plaintiff an opportunity to appear before them and give evidence as to the merits of his case, but simply reached their own conclusions upon the medical certificate.

The County Court Judge gave judgment for the plaintiff for \$160 and costs.

The appeal was heard by BOYD, C., MAGEE and LATCHFORD, JJ.

\* This case will be reported in the Ontario Law Reports.