

by virtue of Rule 938(d); and further, if the widow had resided abroad for a year and was resident abroad when the application for payment in was launched, the order might be made under 62 Vict. c. 15, s. 3 (O.)

Order of MABEE, J., affirmed.

Middleton, for the widow. Raney, for James Moneypenny.

DIVISION COURT, COUNTY OF LANARK.

Senkler, Co. J.] ANDERSON v. CHURCHILL. [Nov. 6, 1906.

Friendly society—Non-payment of dues—Suspension—Payment by secretary for member—Implied request—Recovery back—Subrogation.

In this case the plaintiff was financial secretary of the Perth Lodge of the Ancient Order of United Workmen and was the officer to whom the members of the lodge were required to pay their dues and assessments. The defendant was a member of the lodge. The defendant failed to make payment of his dues and assessments for the months of May, June, July and August, of 1905, but the plaintiff remitted the payments for the four months to the Grand Lodge, reporting the defendant suspended in September of 1905. This action was to recover the amount paid by the plaintiff for the defendant's dues and assessments for the four months.

It was established that according to the constitution of the society, the mere fact of non-payment for one month would without any formal notice by the member operate as a suspension from the society. It was shewn that the defendant had upon a former occasion requested the plaintiff to carry him for a month and had afterwards paid his arrears. It was also shewn that the defendant did not pay his assessment for April, 1905, until after the 1st May

Held, 1. That as the defendant had upon a former occasion requested the plaintiff to keep him in good standing, the onus was on the defendant to shew that he had revoked what was an implied request to keep him in good standing.

2. That although the plaintiff had in the first instance re-