

SUTHERLAND, J.

JANUARY 24TH, 1919.

ST. ONGE v. L'UNION ST. JOSEPH DU CANADA.

Insurance (Life)—Benefit Society—Suspension of Member for Non-payment of Dues—Refusal of Application for Reinstatement—Notice to Member—Subsequent Payment and Receipt of Dues and Payment of Sick Benefits—Error and Inadvertence—Absence of Intention to Reinstate—Failure to Establish Waiver or Estoppel—Blamable Carelessness of Officers of Society—Repayment of Dues—Dismissal of Action Brought by Beneficiary after Death of Assured—Costs.

Action by the mother of Abraham St. Onge, deceased, to recover from the defendants the amount (\$1,000) of an insurance upon the life of the deceased, under a policy of the 21st June, 1911, in which the plaintiff was designated as beneficiary.

The action was tried without a jury at an Ottawa sittings.
 R. J. Slattery, for the plaintiff.
 H. St. Jacques, for the defendants.

SUTHERLAND, J., in a written judgment, after stating the facts, said that it was clear that, according to the terms of the defendants' code, the plaintiff's son, who died from tuberculosis on the 21st January, 1918, had made such default in payment of dues as properly caused his suspension and deprived him and his beneficiary of all benefits unless he were reinstated. He applied for reinstatement, his application was refused, and he was struck off the list of members. He was never thereafter, in any legal way or in accordance with any mode prescribed by the defendants' code, restored to membership. Having regard to the nature of the malady from which he was suffering when he was suspended and from which he died, it was hard to believe that he could have been restored to membership. There was cast upon those in authority, in a society such as the defendants,' a duty to all the members thereof to prevent the improper and unconstitutional reinstatement of a member who had been suspended.

Reference to *Wells v. Independent Order of Foresters* (1889), 17 O.R. 317; *Marantette v. L'Union St. Joseph du Canada* (1916), 11 O.W.N. 218; *Horton v. Provincial Provident Institution* (1888-9), 16 O.R. 382, 17 O.R. 361.

In the present case notice of the refusal to reinstate after suspension was definitely communicated to the suspended member, the plaintiff's son. He was not, at the time of his suspension or thereafter at any time up to the date of his death, in a position to