

THE DOMINION COUNCIL OF }
 ROYAL TEMPLARS OF TEM- } APPELLANT;
 PERANCE (DEFENDANT) }

1901
 *Oct. 1.
 ———

AND

JOSEPH HARGROVE (PLAINTIFF).....RESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

Appeal—Special leave—60 & 61 V. c. 34, s. 1 (e).

Special leave to appeal from a judgment of the Court of Appeal for Ontario under 60 & 61 Vict. ch. 34, sec. 1 (e) will not be granted where the questions involved are not of public importance and the judgment of the Court of Appeal appears to be well founded.

MOTION for special leave to appeal from a judgment of the Court of Appeal for Ontario (1) affirming the judgment of the Divisional Court in favour of the plaintiff.

The plaintiff was a member of the Order of Royal Templars of Temperance and held a benefit certificate which entitled him on becoming seventy years old, or being totally disabled, to receive a sum based on the membership of the Order provided he had fulfilled the conditions of his membership. In an action to recover the amounts due under this certificate the defence was that plaintiff had incorrectly stated his age in applying for admission to the order, and that he had not observed certain conditions which, however, were not set out nor referred to in the certificate. The plaintiff succeeded in all the courts below and the amount recovered being less than \$1,000 defendant

*PRESENT:—Sir Henry Strong C.J. and Taschereau, Gwynne, Sedgewick, Girouard and Davies JJ.

(1) 2 Ont. L. R. 79, 126.

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applied to the Supreme Court for special leave to appeal from the final judgment.

Hogg K.C. for the motion.

Sinclair contra.

The judgment of the court was delivered by :

THE CHIEF JUSTICE (Oral).—We must refuse this application. The case cannot be distinguished from *Fisher v. Fisher* (1) which we must follow. Even if we were not bound by that decision the appeal should still be refused. It raises no question of public importance and the judgment appealed from appears to be sound, two principles always considered by the Judicial Committee of the Privy Council as grounds for refusing an application for leave to appeal.

Motion refused with costs.

Solicitors for the appellant: *Gallagher & Bull.*

Solicitors for the respondent: *Washington & Beasler.*