

Johnston, in her own handwriting, was in October, 1905. I have no faith in the letters written by the husband's "nephew" or the typewritten letters. It was not stated in evidence, that I remember, whether Mrs. Johnston was known to be rheumatic. There is no evidence of any person seeing Mrs. Johnston later than towards the end of 1905—but there is amazingly little evidence of any kind upon this point. For the purpose of dealing with her estate, seven years' unexplained absence and silence raises an inference of death of which the next of kin can avail themselves. Of course, in the absence of actual evidence of death, they must wait the full seven years. The inference may be always growing or ripening, but it is never ripe until every moment of the seven years has run. . . . No one can administer, then, until the seven years have gone by; the three years during which the personal representative retains the estate begin at the end of the seven years; and at the end of this period; subject to statutory exceptions, the estate vests in the heirs-at-law.

The plaintiff claims the property in question as devisee of her sister Mrs. Johnston, under a will dated and executed on the 15th December, 1897, and she commenced this action on the 14th March, 1912. At that time, her sister had been lost track of for something over six years. Leo H. Johnston had also disappeared, and had not been heard of since the autumn of 1908. The officials who are blameable for his escape from custody suggest, argue in fact, that he must be dead. There is no evidence that he is dead, and, of course, no presumption that he is dead has yet arisen. I have no idea that he committed suicide. . . . I am very far from sure that the last has been heard of Mr. Johnston. At all events, if either side desired to establish Johnston's death, and I am not sure that either party did, I have only to say that what has been shewn does not satisfy me that he is dead.

Coming back then to the plaintiff's claim as devisee. The will was revoked by the marriage of the testatrix on the 15th June, 1905, as above stated, and the plaintiff fails.

Alternatively, the plaintiff claims as an heiress-at-law and as assignee of four other heirs and heiress-at-law of her sister; and if, as I have found, the defendant cannot protect himself as a *bonâ fide* purchaser for value under the power of attorney, he claims that he is, at all events, entitled to hold the one-half share of the property which descended to Leo H. Johnston from his wife; and to this the plaintiff rejoins that Johnston did not inherit anything, because, as the plaintiff alleges, he murdered his wife.