

municate, the date might be assumed to be somewhat early, though not at the very beginning of the seven years; but here the proof is largely the failure of any result from the defendants' advertising and inquiry. When coupled with the previous silence, I do not think the plaintiff has established that the death took place before the date of payment of any of the premiums accruing before action. Even if that would entitle her to recover any of them back, they were not paid negligently or under mistake, but voluntarily with full knowledge of the doubt as to their being payable at all.

I allow the defendants' application to plead the Statute of Limitations to the claim for return of premiums, although it is, on my findings, unnecessary.

I do not allow the application to plead, as to the claim on the policies, that the death did not occur within 18 months. The plea would be an invalid one. The statute does not say that an action must be brought within 12 or 18 months, but that it may be so brought notwithstanding anything to the contrary in the contract. It was intended to prevent companies by their policies insisting upon actions being brought within unreasonably short periods. As no time is mentioned in these policies, the Act does not apply.

The judgment will declare that William J. Somerville should be and is legally presumed to be dead before the 25th March, 1908, but that the defendants had not received reasonably sufficient proof before action; and the action will be dismissed with costs, but without prejudice to another action.

If the defendants desire, before judgment is entered, to make an application in Chambers for a declaration of the presumption of death under sec. 148, sub-sec. 3, of the Ontario Insurance Act, as amended by 7 Edw. VII. ch. 36, sec. 3, so as to obtain the protection of that enactment, it may be done.

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GREAT WEST LIFE ASSURANCE CO. v. SHIELDS—MASTER IN CHAMBERS—MAY 27.

*Discovery—Production of Documents — Action on Foreign Judgment—Fraud—Absence of Particulars.*]—Motion by the defendant for a better affidavit on production of documents from the plaintiffs. The action was upon a foreign judgment: see ante 393. In the affidavit filed no document was mentioned but an exemplification of the judgment sued on. When this document was looked at, it seemed to imply that all the books of the plain-