

HON. MR. JUSTICE KELLY.

JANUARY 18TH, 1913.

RE OAG & ORDER OF CANADIAN HOME CIRCLES.

4 O. W. N. 643.

*Evidence—Presumption of Death—Absence for over Seven Years—
Diligent Enquiry—Insurance Moneys.*

KELLY, J., held, that where a man had not been heard of by his near relatives for over seven years, in spite of diligent enquiry, the presumption was that he was dead, and insurance upon his life should be paid to the beneficiaries thereof.

Hagerman v. Strong, 8 U. C. Q. B. 291, referred to.

Application made under sec. 165 of 2 Geo. V. ch. 33, for a declaration as to presumption of death of Benjamin Charlton Oag.

W. T. McMullen, for the applicant.

J. E. Jones, for the order.

HON. MR. JUSTICE KELLY:—A certificate, (No. 14177) for \$1,000, in the Order of Canadian Home Circles was issued to Benjamin Charlton Oag; his sister, Margaret Gunn of Houghton Centre in Ontario, is the beneficiary named therein. She is the only living member of his family; his step-mother, however, lives in Toronto.

From the time of his father's death in 1889, the insured made his home with his sister, and from about 1891 until 1904, he was in the habit of taking employment during the summer months sailing on the lakes, but spent every winter, except one, during that time at his sister's home.

In the spring of 1904, he went as usual to his employment on the water, and in that season was employed on the vessel Oregon on the great lakes. At the close of navigation in the fall of 1904, he received his discharge from the vessel at Chicago, and for a day or two in December, 1904, he was a guest at the Atlas hotel in that city. This was the last trace that has been obtained of him, for since that month neither his sister nor her husband, nor other friends of his, or those who knew him in his employment, have heard anything of him.

His step-mother says she has heard nothing of his whereabouts for the past eight years.