

Such claims of creditors as were received were paid, all the property turned into money, and the accounts passed by the Surrogate Court of the county of Carleton. By that Court also the administrators were allowed their commission. The deceased left a widow; and two sisters and a brother also put in a claim as next of kin. Before the distribution of the assets, by accident the solicitor for the administrators learned, from inquiry following a casual remark of one of the beneficiaries, that the deceased had had another brother. Further inquiry elicited the information that this brother had left Canada in 1876, without, so far as can be discovered, stating where he was going; that not long afterwards it was heard by one of his sisters that he was in Oregon; that an aunt had heard about 1895 that he was dead; and that no word had been received from him by any of his friends, so far as is known, although diligent inquiry has been made from persons who would be likely to have heard from him. Moreover, his father died about 1882, leaving some property, in which he would have an interest if he were alive, but diligent inquiry at that time did not result in finding him. No one had ever heard of his marrying.

There is a small sum amounting to \$156.43, to which, were he alive, he would be entitled. The administrators ask the opinion of the Court as to their proper course in the premises.

I think that, in view of the advertisement and the failure on the part of the brother to make any claim, he would be barred if he were hereafter to make any claim.

Our statute R. S. O. 1897 ch. 129, sec. 38, is the same as the English statute 22 & 23 Vict. ch. 35, sec. 29, and that is considered in *Newton v. Sherry*, 1 C. P. D. 246. In that case the Court held that the statute in referring to "creditors and others" intended to cover next of kin; and that the statute is applicable to claims for distributive shares of the assets as well as to claims for debts and demands in the nature of debts.

Then is the advertisement sufficient? No doubt, if the administrators had any reason to believe that the brother was living in any particular part of the world, or if they had any reason to believe that deceased had left children, they should have advertised where the children might reasonably be expected to be living. But here there was no reason to believe either that he was living or that he had ever married; the estate was a very small one; and I do not