

motion must be dismissed. Costs to the appellants in any event of the appeal." D. O'Connell, for the plaintiffs. W. C. Chisholm, K.C., for the defendants.

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GARTHORNE v. WICKERSON—FALCONBRIDGE, C.J.K.B.—JUNE 13.

*Representation of Heirs and Next of Kin—Order for—Application to Vary—Service by Mailing.*]—Motion for an order for representation of heirs-at-law and next of kin. FALCONBRIDGE, C.J.K.B., made an order striking out the defendants other than the defendant Mabel Wickerson, and declaring that the plaintiffs sufficiently represent the heirs-at-law and next of kin of Agnes Garthorne, deceased, and that the judgment upon the trial of the action shall bind them as though they were parties thereto. It was also ordered that a copy of the order for representation, together with a copy of the statement of claim, should be within one week mailed to each of the heirs and next of kin by registered letter, postage prepaid, at their present addresses, and that any of the said heirs or next of kin not content to be so represented might apply to be made parties to this action, or to vary this order, at any time within two months from the mailing of the said copies. The action is not to be entered for trial for ten weeks from the mailing of the said copies. The learned Chief Justice said that he had arrived at this solution of the matter without reference to the letters from other next of kin or heirs-at-law which he had called for, and which were handed to him by Mr. Bartlett. These letters had been sealed up in an envelope, unread, and would be returned to him in the same condition. P. H. Bartlett, for the plaintiffs. J. B. McKillop, for the defendant Mabel Wickerson.

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KENNEDY v. KENNEDY—DIVISIONAL COURT—JUNE 13.

*Will—Construction—Direction to Apply Fund for Maintenance of Residence—Provision for Distribution of Fund if Residence Sold—Executory Interest of Distributee—Rule against Perpetuities.*]—Appeal by the plaintiff from the judgment of LATCHFORD, J., ante 625. This appeal has already been disposed of, so far as questions of practice are concerned (see ante 1173), but the plaintiff was allowed to make her argument upon the law when Foxwell v. Kennedy came on to be argued. See ante 1174.