

at the Weekly Court, Ottawa. KELLY, J., in a written judgment, said that he could not—with safety to the interests of others interested in the estate—favourably entertain the plaintiff's application; and the motion must, therefore, be dismissed with costs. R. V. Sinclair, K.C., for the plaintiff. George McLaurin, for the defendant.

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RE RICHER—KELLY, J., IN CHAMBERS—JUNE 22.

*Death—Presumption—Absentee for Long Period—Owner of Land Expropriated for School Purposes—Compensation-money Paid into Court—Payment out to Heirs-at-Law of Absentee—Evidence of Possession—Limitations Act—Costs.*—Application by the brother and five sisters of Louis Zephir Richer, an absentee, for payment, out of the moneys paid into Court in this matter, to Henri Saint-Jacques, their solicitor in arbitration proceedings, of his costs of such proceedings, and for payment to themselves of the balance of such moneys, less the costs of this application. The application was heard, as in Chambers, at the Weekly Court, Ottawa. KELLY, J., in a written judgment, said that Louis Zephir Richer was the owner of land which was expropriated for school purposes. There was an arbitration to ascertain the proper amount of compensation, and the amount awarded was paid into Court. The application was made on the theory that, nothing having been heard of Louis since about the year 1862 (or 1865), he should be presumed to have died in such circumstances as constituted the applicants his sole heirs-at-law of the property. There was strong evidence of exhaustive efforts having been made in or about the year 1867, by the applicants and other members of his family then living, to ascertain his whereabouts and to determine whether or not he was then living, and that efforts to that end continued afterwards, but all without any result. On the return of the motion the learned Judge required evidence as to the possession of the property, and such evidence had now been submitted, showing that from 1865 until 1919 possession was in the applicants' father (now many years dead) and themselves—evidence which satisfied the learned Judge that, apart from the question whether Louis Zephir Richer was dead, his title to and interest in the property had, prior to the arbitration proceedings, vested, and then was, in the applicants. On the consent of the School Board or its solicitor being filed, payment might be made, out of the moneys in Court, of the applicants' solicitor's costs of the arbitration proceedings, after taxation thereof, on his filing an affidavit of non-payment;