

trix in equal shares. As to the balance of the proceeds of the sale and conversion, the trustees were to stand possessed thereof for the benefit of all the children of said nieces.

The will then proceeds: "In the event of my selling my said house and land during my lifetime, my trustees shall, out of my ready moneys and investments for money, set aside and invest, as hereinbefore directed, the sum of \$2,000, as a portion of the said proceeds of such sale, and pay the net income thereof to my said sister Charlotte E. Hunt during her natural life, and shall pay over a sum equal to the balance of the said proceeds of such sale in equal shares and proportions to all the children then living, equally amongst themselves, of my said two nieces Florence Ellen Smith and Anna F. Seeley: and upon the death of my said sister Charlotte E. Hunt, my trustees shall stand possessed of the said sum of \$2,000 for my said two nieces Florence Ellen Smith and Anna F. Seeley, in equal shares and proportions, as their absolute property."

The property in Kingston was sold by the testatrix before the date on which the will was made, and the purchase money paid over at Kingston to the agent there of the testatrix. The sale appears to have been completed on or before 22nd March, 1906, when the conveyance to the purchaser was registered, but possession was not to be given until 1st May, 1906. The property was subject to a mortgage, amounting, with interest and costs of discharge, to \$1,021.02, and the amount realised on the sale was but \$1,941.48, after the agent's commission of \$62.50 had been deducted. The draftsman of the will of 20th April was not aware that the property had been previously sold. The testatrix, however, must then have known of the deed which she had executed previously, on 20th March. I think, however, that on 20th April she regarded the sale as not completed, owing to the fact, established upon the application before me, that possession was not to be given until 1st May. The sale to which she referred in paragraph 5 of the will relates to the property in Kingston beyond question, and to no other property. The proceeds of the sale had not been remitted to her, but had been invested in mortgages by her agent at Kingston. The only statement from him appearing in evidence bears date 17th December, 1907, about a week subsequent to the death of the testatrix. Mrs. Crysler may properly, under the circumstances, have regarded the sale as incomplete. That she did so regard it is, I think, clear