

this second proceeding. I have not formed any opinion on this point, and I have not found any authority on the question.

Mr. Justin relied on *Regina ex rel. Grant v. Coleman*, 7 A. R. 619, and what is said at p. 626. But it does not seem decisive. Could not another relator have moved after the dismissal of the first motion? To hold otherwise, even after an apparent dismissal on the merits, would open the door to collusive proceedings taken really in a respondent's interest in order to anticipate and prevent a bona fide attack. If the matter goes further, it will still be open to the respondent to raise this objection.

LATCHFORD, J.

MARCH 1ST, 1909.

WEEKLY COURT.

RE CRYSLER.

*Will—Construction—Direction to Set apart Fixed Sum to be Realised out of Lands—Sale of Lands in Lifetime—Direction in Respect of that Event—Direction as to Balance of Proceeds of Sale—Sum Realised Less than Sum Fixed.*

Application on behalf of the executors of the late Eunice Jane Crysler, of Port Hope, for an order determining certain questions arising on the construction of her will.

W. E. Middleton, K.C., for the executors.

D. G. M. Galbraith, for Mabel Smith Lockhart.

H. A. Ward, Port Hope, for W. A. Bletcher and other legatees.

M. C. Cameron, for infant children of Anna F. Seeley.

LATCHFORD, J.:—The testatrix by her will, dated 20th April, 1906, devised certain real property in the city of Kingston to her executors, upon trust to sell and convert the same into money, and from and out of the proceeds to set apart and invest the sum of \$2,000, and to pay the net income thereof to her sister Charlotte E. Hunt during her life. After the death of Charlotte E. Hunt, the trustees were to stand possessed of the \$2,000, and the investments representing that sum, for two nieces of the tes-