this fact ought to be conclusively determined by the grant so long as it remains unrevoked; and it seems to be contrary to sound principle to go behind the grant and inquire into the right of the de facto administrator to obtain the grant. But the reasoning of Idington, J., would equally exclude the doctrine of relation back in favour of a person entitled to obtain a grant of administration, but not obtaining it until after suit, so far as an action under the Fatal Accidents Act is concerned.

Doyle v. *Flint Glass Co.* was subsequently appealed to the Divisional Court, and that Court, while reversing the judgment of Idington, J., did not in terms overrule his decision that the doctrine of relation back did not apply, but directed the issue, whether or not the plaintiff was in fact the widow of the deceased to be tried, which, if found in her favour, it was said would validate the proceedings ab initio, and if found against her would result in the dismissal of the action altogether apart from the question of relation back of the grant of administration. But as we have already pointed out, according to the reasoning of Idington, J., the letters obtained pendente lite could not relate back in favour of the plaintiff in this case even if she were rightfully entitled to them.

In *Dini* v. *Fauquier*, not yet reported, the precise point in question in *Doyle* v. *Flint Glass Co.* was again under consideration of the Divisional Court (Falconbridge, C.J.K.B., and Street and Britton, JJ.). In that case Idington, J., following his previous ruling in the *Doyle* case, dismissed the action. But there was the further circumstance in the *Dini* case, that the plaintiff had before action applied for the grant and had obtained an order therefor, though the letters were not actually issued until after the action had commenced. In that case the Divisional Court considered that the distinction which Idington, J., had drawn as to the rights of an administrator suing under the Fatal Accidents Act was not well founded, and reversed his decision, both on the ground that the letters related back to the commencement of the action, and also on the ground that there had been an actual adjudication of the plaintiff's right to the grant before action. The result of this decision is, we take it, not only to overrule *Doyle* v. *Flint Glass Co.*, 7 O.L.R. 747, but also *Chard* v. *Rae*, 18 Ont. 371; because in the *Dini* case also the question of the running of a Statute of Limitations was involved, and the action would have been too late unless the letters related back to the commencement