

applicant appealed to a Divisional Court, and upon the hearing of the appeal the Court directed further evidence to be adduced, which was done. And the members of the Court also personally examined the alleged lunatic at his home, and upon the whole material thus obtained allowed the appeal, and made the order now complained of.

The direction that further evidence should be given came apparently from the Court, and, while acquiesced in by counsel for the applicant, was opposed by counsel for Michael Fraser, who also opposed the further examination of the alleged lunatic by the Court.

Middleton, J., a member of the Divisional Court, in his judgment said, "Upon the appeal coming before us we thought that at the hearing, the real issue before the Court had not been sufficiently kept in mind, and that evidence essential to the determination of the sole question before the Court—'Is Michael Fraser of unsound mind and incapable of managing himself or his affairs'—had not been given . . .

"The evidence which we thought should have been given was:—

1. That of Dr. McGill, the medical man who had attended Fraser for a long time prior to his marriage, and who had also attended the deceased brother John.

2. That of Mr. Finlayson, who for many years had been Mr. Fraser's solicitor, and who had seen him almost daily from the time of his brother's death till the marriage.

3. That of Robert Irwin, who was an intimate friend of many years, and had been a business confidant of both brothers and was along with Michael, executor of John's estate. Against these three men, charges were freely made by counsel representing Mr. Fraser and his wife, with, so far as we could see, no foundation in the evidence."

4. That of Mrs. Fraser. She would, we thought, be able to explain how Mr. Fraser's affairs had actually been managed after the marriage, and also be able to explain the circumstances surrounding the marriage itself.

5. The bankers having custody of Fraser's funds, so that we might see how they had been dealt with.

6. Some of those who were responsible for the marriage, so as to ascertain if Fraser entered into the married state with any apparent appreciation of what he was doing."

"Had the litigation been between the McCormacks and Mr. Fraser, they would have had the right to present the case as they chose, and the Court would have been bound to