

KELLY, J.

MAY 27TH, 1916.

RE BROMLEY.

*Deed—Settlement of Property—Application to Court to Confirm—
Doubt as to Capacity of Settlor—Lunacy Act, R.S.O. 1914 ch.
68, sec. 37.*

Petition for an order confirming the appointment of the petitioners as trustees under a deed said to have been made by John Bromley and empowering them to administer his estate on the terms and in the manner set out in the deed. The application was professedly made pursuant to sec. 37 of the Lunacy Act, R.S.O. 1914 ch. 68.

The petition was heard at the Ottawa Weekly Court.

H. D. McCormick, for the petitioners.

G. F. Henderson, K.C., for the sons and daughters of John Bromley.

KELLY, J., in a written opinion, said that the deed was dated the 4th April, 1916; and the grantor's wife and four children, all of whom, as stated, were of full age at that date, were parties to it. In effect the deed was a settlement and disposal of the estate of the grantor; it gave the trustees power to do certain specified acts in the management thereof and to settle and compromise claims against the grantor; it provided for the maintenance and support of the grantor and his wife and of the latter during her widowhood, subject to which the estate was disposed of, on the death of the grantor, among his children in the manner therein set forth.

The petitioners and some of the children seemed to entertain doubts of the grantor's disposing capacity, and sought to overcome any difficulty that might arise in consequence thereof by obtaining the Court's confirmation of the deed.

If the grantor was, at the time of the execution of the deed, of disposing capacity, no confirmation would be necessary; if he lacked that capacity, and his condition brought him within the class of persons for the management and administration of whose estate and affairs sec. 37 made provision, the petitioners were asking something beyond the power of the Court to grant.

The application should be dismissed without costs; the dismissal to be without prejudice to any other application the petitioners or the other parties might be advised to make under the terms of the Act.