

not be seized upon to bolster up the rights, or claims, present or future, of such persons, to the property of the "supposed lunatic;" and must not be permitted to be made use of for any such ulterior purpose, much less to influence the conscience of the Court in dealing with the real question involved.

The real question involved is whether the supposed lunatic is a person of unsound mind and incapable of managing himself or his affairs; and that question is not to be solved in the interest, or for the benefit, of his wife or his heirs at law, but solely in his own, and in the public interests; and the firmer we close our eyes against the purposes and interests of those who are taking advantage of these proceedings to advance their own selfish ends, in the possession or distribution of the supposed lunatic's property, after his death, the more likely is right to be done.

The case is not one, or at all like, one, nor is it to be treated as one, of ordinary litigation between adverse litigants able to assert, and to take care of, their own interests. The jurisdiction involved in such a case is entirely different from that which is involved in this case. Under the statute law of this province "all the powers, jurisdiction, and authority of His Majesty over and in relation to the persons and estate of lunatics" is conferred upon the High Court of Justice for Ontario; and the word "lunatic" includes persons "of unsound mind:" 9 Edw. VII., ch. 37, sec. 3, and sec. 2 (e); and the power of His Majesty was based upon his position as *parens patriæ*; so that that jurisdiction which alone should be exercised in this case is of an essentially paternal character.

Under the statute to which I have referred, the High Court might exercise its jurisdiction without any trial in the ordinary sense; but it has power also, in case of reasonable doubt, to direct an issue to try the question, whether the alleged lunatic is a person of unsound mind and unable to manage his person or affairs, with or without a jury; the difference between the methods of determining the question being—apart from jury or no jury—a trial upon affidavits and a trial upon *viva voce* testimony; the jurisdiction being in each case, and under all circumstances, that of the High Court standing in the place of His Majesty as the act expressly provides.

In this case an issue was directed to be tried, not because of the right of anyone to such a trial, but solely for the