Street, J.] IN RE CURRY AND WATSON'S SETTLEMENT. [June 14.

*Settled Estates Act—Leave to mortgage—Express declaration to contrary in settlement.*

This was an application by the trustees of a settled estate under R.S.O. 1897, c. 71, for leave to mortgage the estate for the purpose of building, the existing buildings having been destroyed by fire. The settlement contained a clause that the trustees might "Sell, but not mortgage, the trust property or any part thereof."

*Held*, that this clause of the settlement was not an express declaration that the lands should not be mortgaged within the meaning of sec. 37 of the Settled Estates Act; and merely meant that the power of sale given to the trustee was not to be construed as including a power to mortgage.

*W. H. Blake*, K.C., for applicant. *Harcourt*, for infants.

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Boyd, C.] STANLEY *v.* HAYES. [June 15.

*Lunacy—Civil liability of lunatic—Trespass to property.*

Under the Common law, a lunatic is civilly liable to make compensation in damages to persons injured by his acts, though being incapable of criminal intent he is not liable to indictment and punishment. In this case, however, where the defendant had burnt a barn, and lunacy was set up, the evidence went to show that while not responsible, it may be, to the extent of an ordinary man, he was not utterly unconscious that he was doing wrong.

*Held*, therefore, that the defendant was liable at least to the extent of the damage done, taken, however, at rather a low than a high estimate.

*R. Robertson*, for plaintiff. *F. J. Palmer*, for defendant.

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Trial—Britton, J.] [June 15.

ELGIN LOAN AND SAVINGS CO. *v.* ORCHARD.

*Fraudulent conveyance—Voluntary deed—Creditors.*

A grantor in January, 1903, believing himself to be in perfectly solvent circumstances made a voluntary conveyance of property to his daughter. At the time he made the conveyance he owed the plaintiffs $6,150. He died in August, 1903, when $5,000 still remained due to the plaintiffs and the deceased left no property out of which the amount could be realized. The plaintiffs now claimed to have the conveyance set aside or decreed subject to the payment of the deceased's debts. At the time of his death the deceased had 345 shares of stock in the plaintiff company, which failed on June 15, 1903. At the time of the impeached conveyance the deceased also owned other property to the value of over $4,000. At the time the debt to the plaintiffs was incurred the stock of the company was regarded both by the deceased and the company as ample security for their claim