

ANGLIN, J.

JULY 16TH, 1904.

CHAMBERS.

RE CONNELL.

*Lunatic—Petition for Declaration—Evidence—Interests of Alleged Lunatic.*

Petition for an order declaring Thomas Connell a person of unsound mind.

W. E. Middleton, for petitioner.

G. H. Watson, K.C., for the lunatic.

ANGLIN, J.—Martin Connell, a brother of the alleged lunatic, petitions to have him declared a person of unsound mind and for the appointment of a committee of his person and estate. Upon the argument, counsel for the petitioner pressed for an order directing the trial of an issue to determine the question of Thomas Connell's sanity or insanity. Mr. Watson, on the other hand, urged that the petition should be dismissed upon the material now before the Court. Neither counsel favoured the idea of having the alleged lunatic examined by a physician to be appointed by the Court. Unless, upon the present material, I should think it proper to direct the issue he desires, Mr. Middleton requested an enlargement to enable him to cross-examine the deponents who have made affidavits in opposition to the petition. Finally both counsel agreed in requesting me to read the material filed and to make such order or direction as I should deem proper, Mr. Middleton, however, not waiving his request for an enlargement.

I have read all the affidavits. Thomas Connell is an old man about 80 years of age, suffering from the effects of a recent stroke of paralysis. There may be some doubt as to his sanity and as to his ability to manage his own business. Upon the present material the weight of testimony upon the question seems against the petitioner. If I thought it in the interest of Thomas Connell to do so, I should direct further inquiry either by the trial of an issue or examination by independent physicians. I do not think I should do either.

Mr. Middleton candidly stated that the danger against which the petitioner seeks to guard is some disposition of his brother's property in the interest of other members of the