

to the enforcement or compliance with said condition, conditions or terms, and that it shall be the duty of the State's Attorney aforesaid, after notice to him of disregard or non-compliance of such corporation with said condition, conditions or terms, to proceed as aforesaid, unless said grantor or donor be living, or unless a relative of said testator or of a deceased grantor or donor shall file and *bona fide* prosecute such bill or bills, and that the costs and expenses of such proceedings shall be borne by said corporation.

An. Code, sec. 113. 1908, ch. 101.

116. Nothing contained in the two preceding sections is intended as, or shall be taken to be, an interpretation of existing law.

### Non Compos Mentis.

An. Code, sec. 114. 1904, sec. 107. 1888, sec. 96. 1785, ch. 72, sec. 6. 1815, ch. 163.

117. The court shall have full power and authority, in all cases, to superintend and direct the affairs of persons *non compos mentis*, both as to the care of their persons and the management of their estates, and may appoint a committee, or a trustee or trustees for such persons, and may make such orders and decrees respecting their persons and estates as to the court may seem proper.

#### Writ—Procedure—Adjudication.

The respondent is entitled to notice of the proceedings, and to be present before the jury, save in exceptional cases. *Royal Arcanum v. Nicholson*, 104 Md. 472. And see *Campbell's Case*, 2 Bl. 209.

An appeal lies under art. 5, sec. 30, from a decree ratifying an inquisition of lunacy. There is no statute prescribing the method by which the mental capacity of a person is to be ascertained; such procedure remains as it existed, independently of statute, under the English practice. *Ex parte Bristol*, 115 Md. 618.

The jurisdiction of equity to issue writs *de lunatico* is not confined to cases in which such persons are residents of, or have property in, the state. When alleged lunatic should have notice of the proceedings; effect of lack of notice. Origin of jurisdiction of equity over insane persons and their estates. Committees. *Bliss v. Bliss*, 133 Md. 71.

The writ *de lunatico inquirendo* should be directed to county in which the respondent resides, or, if he is a non-resident, to county in which he last resided or in which the principal part of his estate lies. *Campbell's Case*, 2 Bl. 217.

The jurisdiction of equity under this section depends upon the party being *non compos*. Such jurisdiction cannot be exercised without the precautions required by law. *Greenwade v. Greenwade*, 43 Md. 315.

The term "*non compos mentis*," defined. Where a person is originally adjudged insane, the burden is on him subsequently to prove sanity. *Johnson v. Safe Deposit Co.*, 104 Md. 467; *Greenwade v. Greenwade*, 43 Md. 315.

#### Person and Estate.

The powers of equity under this and the following sections are very broad and comprehensive, although a sale, lease or mortgage of the estate of a *non compos* by his committee is safeguarded by a number of provisions. The fact that the court did not authorize the committee to make a lease, or if it did, the informal execution of it or failure to recite the fact in the lease, would not justify a second recovery of the rents and profits. Powers of a committee appointed in this state over property in another state. *Wilmer v. Phila. & Reading C. & I. Co.*, 130 Md. 675.

While the language of this section is broad, subsequent sections prescribe the necessary steps preliminary to the sale of the property of lunatics. This section referred to in construing secs. 121 and 125—see notes thereto. *Rutledge v. Rutledge*, 118 Md. 556; *In re Paca*, 140 Md. 50.