wasted, or if one of his own head takes so much upon himself, (see Selby v. Jackson, 7 Beav. 192,) in this case he is but bailiff of him who is *non compos mentis*, and shall be accountable as bailiff, and all that a bailiff may do, he may do, and not otherwise.[1]

But though the King may in England grant the custody of the body and the profits of the estate during the life of the idiot without account, except for necessaries, since the Revolution the surplus profits of the estate have always been granted by the Crown to some of the idiot's family, see the charge of Mr. afterwards Baron Smith in the matter of the Earl of Ely, 1 Ridgew. P. C. 517, App. No. 1. It is observed by Kilty, Rep. 216, that the prerogative or right under cap. 9 attached to the proprietor and to the State without any express declaration, so far as it respected the custody of the *idiot* and his lands, but *without taking the profits*, and that the custody is, as in England, entrusted to the Chancellor, which was the case before it was expressly given by the Act of 1785, ch. 72, sec. 6.[2] It is also held here that the person and property of one in dotage may be protected by the Court of Chancery, though not declared a lunatic,[3] and such a person or an imbecile adult may sue there by his next friend, Owings' case, 1 Bl. 373, 375, and see Light v. Light, 25 Beav. 248.[4]

Rules in lunacy.—The rules in lunacy[5] are derived from these Statutes, the first and paramount one being to provide for the personal care and com-

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[1] Lunacy did not give the English Court of Chancery jurisdiction over the person or estate of a lunatic until inquisition found. Hamilton v. Traber, 78 Md. 26. See this case for a discussion of these two Statutes and of the origin of the jurisdiction of the court of chancery over the matter. See also *In re* Sefton, (1898) 2 Ch. 378.

[2] Code 1911, Art. 16, sec. 114.

[3] Greenwade v. Greenwade, 43 Md. 313; Hamilton v. Traber, 78 Md. 26, 29.

[4] **Suits against lunatics.**—A lunatic may be sued at law for a debt contracted when sane. He is also liable in a civil action for a tort. A lunatic defendant of full age properly defends by attorney, as the law presumes him of sufficient capacity for that purpose—at least until inquisition found. He is capable of assenting to the trial of his case by the court without a jury. Royston v. Horner, 75 Md. 557, 567; Stigers v. Brent, 50 Md. 214; Cross v. Kent, 32 Md. 581. Cf. Berry v. Skinner, 30 Md. 567.

[5] **Presumption of sanity.**—The term *non compos mentis* embraces not only lunatics and idiots but all persons of unsound mind; but neither the common law, nor the provisions of the Code, furnish a test of insanity. Before inquisition found an alleged lunatic is presumed to be sane, but after inquisition found, the finding of the jury is *prima facie* evidence of continuing incapacity, and to warrant the discharge of the committee there must be clear proof of restoration to reason. Johnson v. Trust Co., 104 Md. 460; Greenwade v. Greenwade, 43 Md. 313. See Code 1911, Art. 16, sec. 123. That the maxim "once insane, presumed to be always insane" is not, however, an unqualified one, see Turner v. Rusk, 53 Md. 65.

Lunatic should be notified of inquisition—Right of appeal.—The general rule is that in execution of a writ *de lunatico inquirendo* the alleged