

REBECCA OWINGS' CASE.

LUNATICS.—CHARGE UPON LANDS.

A person who is actually *non compos mentis*, but who has not been found to be so under a writ *de lunatico inquirendo*, may be permitted to sue, as co-plaintiff, with another; who may be treated as his committee, and required to give bond to account for any money directed to be paid to him for the use of the lunatic. (a)

The granting of a writ *de lunatico inquirendo* is, in some measure, discretionary with the Chancellor; and may be dispensed with for good cause for the benefit of the lunatic.

Although the Court cannot dispose of the person, or estate of a citizen who is a lunatic, without his having been found to be so by a regular inquisition; yet it may, under particular circumstances, extend its protection to his person or estate, without any such previous inquest. (b)

A charge of an annual sum upon lands, for the support of a lunatic, though not a rent, is an incumbrance, following the estate, the prompt payment of which may be enforced, either as against the person, or personal property of the holder, or by putting a receiver upon the estate.

This bill was filed on the 3rd of September, 1819, in Baltimore County Court, by Rebecca Owings and John Cromwell and Urath his wife, against William Owings, to recover an annual sum of money given to Rebecca, by the will of her father. After the defendant had answered, and testimony had been taken, the case was removed to this Court, under the Act of 1824, ch. 196; and the papers were filed here, on the 9th of February, 1827. Some time after which it was brought before the Court; and, on the 9th of June, 1827, the case was referred to the auditor to state an account of the amount then due to Rebecca Owings. The auditor made and filed his report accordingly, on the 14th of June. The circumstances of the case are sufficiently stated by the Chancellor, in delivering his opinion.

BLAND, C., 15th June, 1827.—This case standing ready for hearing, the solicitors of the plaintiffs having been heard, and no counsel appearing for the defendant, the proceedings were read and considered.

It appears, that the late Samuel Owings left, at the time of his death, a large estate, consisting of real and personal property; and, *among others of his children who survived him, are
291 two of the plaintiffs, Rebecca and Urath, and the defendant William. His daughter Rebecca being unable, by reason of

(a) As to suits against lunatics, see *Stigers v. Brent*, 50 Md. 214.

(b) Cited in *Greenwade v. Greenwade*, 43 Md. 316.