

quire that the suit which had been begun should be reinstated, and now prosecuted with as little delay as may be to a final decision upon its merits, as prayed by the petition. 1 *Coll. Idiots*, 80; *Holman v. Holman*, 3 *Desau.* 210.

The order for dismissing it was given before the return of the commission for taking testimony; and, as it would seem, before all the testimony, pertinent to the matter and within reach of the parties, had been taken. For it appears, that some of the proofs collected under the petition might be brought to bear upon the principal case. I therefore deem it improper at this stage of the **373** \*proceedings more fully to explain the reasons which have brought me to the conclusion, that the case should be reinstated, lest, in doing so, I might be supposed to intimate any opinion which should be reserved until the final hearing.

It is not my intention to say anything as to the commencement of the decline of the mental energy of the plaintiff; or to speak of the lucid intellectual efforts she may be now capable of making; but, although it does not appear to be altogether settled according to the English authorities, that a writ in the nature of a writ *de lunatico inquirendo* can be issued against any one who is merely in a state of dotage; *Leving v. Caverly*, *Proc. Cha.* 229; *Wall's Case*, cited 3 *Atk.* 173; *Ridgeway v. Darwin*, 8 *Ves.* 66; *Ex parte Cranmer*, 12 *Ves.* 446; *In re Holmes*, 4 *Russ.* 182; 2 *Mad. Chan.* 732; I deem it proper to observe, that from the proofs of the present condition of the plaintiff's mental faculties, I shall regard her as completely under the especial protection of the Court as she can be, short of her being formally placed under its guardianship by a regular course of judicial proceeding. *Donegal's Case*, 2 *Ves.* 408; *Wartnaby v. Wartnaby*, *Jac. Rep.* 377; *Whitehorn v. Hines*, 1 *Mun.* 557; 1 *Coll. Idiots*, 65, 67. I shall expect, that she shall be subjected to no manner of improper restraint, or disagreeable influence, not indispensably necessary for her welfare. If necessary, and it should be asked, the rents and profits of the property in controversy may be applied, under the direction of the Court, to her support and benefit, until a final decree can be had. And as an imbecile adult may be permitted to sue here by his next friend; 1 *Mont. Dig.* 39; I shall allow this suit to be henceforward conducted by the solicitors, by whom it was instituted, in the name of this plaintiff; subject, however, to the control of the Court, should there be any occasion for its interference. *Chambers v. Donaldson*, 9 *East*, 471; *Horner v. Marshall*, 5 *Mun.* 466. (g)

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(g) *ROTHWELL v. BOUSHELL*.—In this case the bill stated, that John Boushell the defendant was deranged and incapable of managing his affairs, and prayed, that a guardian *ad litem* might be appointed to answer for him, &c. Afterwards the plaintiff by petition stated, that a writ *de lunatico inquirendo* had, some time since, issued, upon which it had been found and returned,