

with reservations having reference to ulterior questions not now necessary to be adverted to.

The question, and the only question now to be considered, respects the person or persons who shall be appointed committee of the person and estate of the lunatic, and this question, though it cannot in any way affect the rights of the parties who may, upon the death of the lunatic, succeed to or be entitled to her estate, has been discussed with an earnestness and ability which show how deep an interest they take in it.

Whatever may be the true origin of the jurisdiction of the Chancery Court in England, over the estates and persons of idiots and lunatics, it is certain that the authority of the Court of Chancery in this State, to take charge of their estates and persons, is now derived from the 6th section of the Act of 1785, ch. 72, which confers upon the Chancellor full power and authority in all cases to superintend, direct, and govern their affairs and concerns, both as to the care of their persons, and management of their estates, and to appoint a committee, trustee or trustees, for such persons, and to make such orders and decrees respecting their persons and estates, as to him may seem proper.

The power of appointment is necessarily a discretionary one, and it is thought cannot be reviewed by any other Court, though it would be manifestly improper for the Chancellor to exercise it arbitrarily or capriciously, and without having any regard to the lunatic, or the wishes or recommendation of those who may be presumed to be interested in the estate, or to feel an interest in his or her person. And accordingly, though it most frequently happens that the committee is appointed on the nomination of the person who sues out the commission of lunacy, a *caveat* may be entered against the person so nominated, and when this is done, the recommendations of the parties interested will be considered, and proof taken to aid the Court in making a selection. This is the established practice, and the propriety of it is apparent.

Though in this State it is more usual to appoint the same person committee of the person and estate, the cases are not