

unfrequent, in which the person of the lunatic is intrusted to one committee, and his estate to another; and this practice prevails elsewhere, and is sometimes, from peculiar circumstances, eminently proper. 2 *Story's Eq. Sec.* 1364. In this case, it unfortunately happens that the parties interested in the estate of the lunatic, that is, those who in case of her dying intestate would succeed to it, differ very widely and irreconcilably in regard to the person to whom the management of it should be confided, and it becomes the duty of the Court, therefore, to make a selection from the persons recommended, and in doing so, it must be understood that no imputation is intended to be cast upon the party whose claims to fulfil this office may not prevail. The Court must examine the materials brought before it, as a guide to its discretion, and having done so, and made a selection upon the principle which obtains in this and analogous cases, it would be a forced and unreasonable conclusion, to infer that the party whose pretensions are overlooked, or set aside in favor of another, is deemed by this Court unworthy of its confidence.

Confining our attention to those who would, in case of the death of the lunatic at this time, intestate, be entitled to her estate, it is clear, other things being equal, that the appointment, so far as the property is concerned, should be conferred on Benjamin H. Ellicott, as, conceding that the recommendation of him by Ann Hudutt, has been withdrawn, there will still be found a larger interest uniting in his favor, than of either of the other persons. If a majority of the parties in interest do not concur in his recommendation, a considerable plurality certainly does, and this circumstance unquestionably is entitled to much weight.

Sensible, it is presumed, of the influence of this consideration, the petitioner, Richard C. Warford, brings to the notice of the Court two wills, executed by the lunatic, the first in the year 1845, and the last in the year 1848, by either of which the largest portion of her estate is devised and bequeathed to him; and these wills, it is insisted, are fit to be considered, either as indicative of his interest in the estate, or of the con-