

that the testator had not bound himself to them by any contract whatever.

Whereupon it is *decreed*, that the bill of complaint be, and the same is hereby dismissed with costs, to be taxed by the register.

REBECCA OWINGS' CASE.

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.

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.

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 3d 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.

15th June, 1827.—BLAND, Chancellor.—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,