

This section contemplates any surplus belonging to the lunatic being in the hands of his committee. Trustee should state a full and proper account. *Ex parte Nicholas*, 142 Md. 614.

Although the court cannot dispose of the person or estate of a citizen without his having been adjudicated insane, yet under certain circumstances, the court will protect both, prior to such adjudication. *Owings' Case*, 1 Bl. 290.

#### Generally.

The matter of the appointment of a committee is within the discretion of the equity court, and no appeal lies; considerations which should influence that discretion. Sometimes the lunatic's person may be committed to one party, and his property to another. *Colvin's Estate*, 3 Md. Ch. 278. And see *Morgan's Case*, 3 Bl. 332; *Boarman's Case*, 2 Bl. 89.

The death of a lunatic terminates the office of the committee, and the equity court will order the estate passed over to the decedent's representatives. *Cain v. Warford*, 3 Md. 461; *Colvin's Estate*, 3 Md. Ch. 278.

This section does not prevent a lunatic from being sued at law, and judgment being entered against him. *Stigers v. Brent*, 50 Md. 220. And see *Tomlinson v. Devore*, 1 Gill, 347.

History of this section. This section referred to in construing sec. 119—see notes thereto. *Hamilton v. Traber*, 78 Md. 32.

This section referred to in construing secs. 121 and 125—see notes thereto. *Estate of Dorney*, 59 Md. 69.

This section quoted—see notes to sec. 162. *In re Paca*, 140 Md. 50.

Cited but not construed in *Williams' Case*, 3 Bl. 192.

#### Cross references.

As to non-resident *non compos*, see sec. 131.

As to specific performance against non-resident *non compos*, see sec. 133.

As to the jurisdiction of equity to decree relative to mortgaged property owned by *non compos*, see sec. 102.

As to the jurisdiction of equity to decree relative to property of a *non compos* which is subject to a contract, see sec. 103.

*Re. sale of real estate of a non compos to save personalty*, see sec. 104.

*Re. procedure upon bill of review in the interest of non compos*, see sec. 194.

As to how *non compos* should answer and sue, see secs. 161 and 162.

No decree *pro confesso* may pass against insane defendants—see sec. 219.

As to lunatics and insane persons, see also arts. 44 and 59.

As to the provision of the law where a *non compos* is entitled to an election, see art. 46, sec. 23. See also art. 46, sec. 21.

And see sec. 127, and art. 59, sec. 21.

An. Code, sec. 115. 1904, sec. 108. 1888, sec. 97. 1785, ch. 72, sec. 6.

**118.** On the application of any creditor of a person *non compos mentis*, the court may decree a sale of the real or personal estate of such *non compos mentis*, or such part thereof as may be necessary to pay the claim of such creditor, if the court is satisfied of the justice of the claim, and that there is no other means of paying the same.

As the lunatic himself cannot, after inquisition found, contract a debt, the claims of the creditors referred to in this section must exist before the inquisition, or may consist of liens on his property. See note to sec. 121. *Rutledge v. Rutledge*, 118 Md. 556.

An. Code, sec. 116. 1904, sec. 109. 1888, sec. 98. 1790, ch. 60, sec. 2. 1800, ch. 67, sec. 3. 1819, ch. 144, sec. 1. 1828, ch. 26. 1829, ch. 222. 1894, ch. 221.

**119.** The court which may have appointed a guardian, committee or trustee of the property of a person *non compos mentis* may, upon the application of such guardian, committee or trustee, without any process or order of publication, order or decree the sale of any real, leasehold or personal property to which such person *non compos mentis* may be entitled and