

mortgage, lease or surrender of a lease of the whole or any part of said property on such terms and conditions as the Court may prescribe.

While it is not necessary to adopt the proceedings required by this section to enable the court to order a sale of a lunatic's property for the purpose of paying his expenses or for his support, when a sale is made for such purpose, there should be an application to the court showing the object and necessity of the sale, and something of record to show its purpose. Court held to have no power to ratify a sale for investment by reason of a failure to comply with this section; this section must be substantially complied with before a decree for sale or lease under secs. 119 and 120 can be passed. Under this section the guardian, committee or trustee of the *property* may apply for its sale, whereas under sec. 125, the trustee or committee of the *person and estate* must apply. An attempted sale held invalid. See note to sec. 125. *Rutledge v. Rutledge*, 118 Md. 556 (decided prior to the act of 1912, ch. 478).

This section has no application to a sale at the instance of a lunatic's committee for the purpose of paying taxes and the lunatic's board. History and object of this section. When this section applies. *Estate of Dorney*, 59 Md. 70 (decided prior to the act of 1894, ch. 221).

Prior to the act of 1894, ch. 221, to give the court jurisdiction to order a sale under sec. 119, there must have been a summons or order of publication. Effect of the act of 1894, ch. 221. *Willis v. Hodson*, 79 Md. 329.

Although the averments of a bill for the sale of a lunatic's real estate are not sufficient, a party not injured thereby cannot rely on such defect. *Wampler v. Wolfinger*, 13 Md. 345.

This section referred to in construing sec. 52—see notes thereto. *Tome v. Stump*, 89 Md. 269.

Cited but not construed in *Williams' Case*, 3 Bl. 192. *Campbell's Case*, 2 Bl. 224.

122.¹

An. Code, sec. 119. 1904, sec. 112. 1888, sec. 101. 1785, ch. 72, sec. 8. 1800, ch. 67, sec. 4. 1912, ch. 478.

123. No sale, mortgage, lease or surrender of a lease of the property, real or personal of a person *non compos mentis* shall be valid unless the same shall be reported to and confirmed by the Court.

This section construed in connection with sec. 52—see notes thereto: *Tome v. Stump*, 89 Md. 273.

This section referred to in construing secs. 121 and 125—see notes thereto. *Rutledge v. Rutledge*, 118 Md. 558 (decided prior to the act of 1912, ch. 478).

An. Code, sec. 120. 1904, sec. 113. 1888, sec. 102. 1828, ch. 26, secs. 4, 5.

124. The court may allow to the trustee, committee or other person charged with the care of the person or estate of any *non compos mentis*, any sum not exceeding ten per cent. on the income and expenditures of such *non compos mentis*, for the care and trouble of such trustee, or person so charged as aforesaid.

The trustee, etc., does not receive commissions on the fund which he pays over to the *non compos* when he is restored to reason, or to his representatives. It is only on the receipts and expenditures during the continuance of the trust that commissions are allowed. *Whyte v. Dimmock*, 55 Md. 455.

As to when costs, counsel fees and other expenditures will be allowed a committee, see *Colvin's Estate*, 4 Md. Ch. 126.

This section referred to in construing secs. 121 and 125—see notes thereto. *Rutledge v. Rutledge*, 118 Md. 554.

An. Code, sec. 121. 1904, sec. 114. 1888, sec. 103. 1800, ch. 67, sec. 2.

125. In all cases where a trustee has been appointed by the court for the management of the person and estate of a person *non compos mentis*,

¹ Through inadvertence no section was numbered 122.