

**Writ—Procedure—Adjudication.**

The respondent is entitled to notice of the proceedings, and to be present before the jury, save in exceptional cases. *Royal Arcanum v. Nicholson*, 104 Md. 472. And see *Campbell's Case*, 2 Bl. 209.

An appeal lies under art. 5, sec. 30, from a decree ratifying an inquisition of lunacy. There is no statute prescribing the method by which the mental capacity of a person is to be ascertained; such procedure remains as it existed, independently of statute, under the English practice. *Ex parte, Bristol*, 115 Md. 618.

The jurisdiction of equity to issue writs *de lunatico* is not confined to cases in which such persons are residents of, or have property in, the state. When alleged lunatic should have notice of the proceedings; effect of lack of notice. Origin of jurisdiction of equity over insane persons and their estates. Committees. *Bliss v. Bliss*, 133 Md. 71.

The writ *de lunatico inquirendo* should be directed to county in which the respondent resides, or, if he is a non-resident, to county in which he last resided or in which the principal part of his estate lies. *Campbell's Case*, 2 Bl. 217.

The jurisdiction of equity under this section depends upon the party being *non compos*. Such jurisdiction cannot be exercised without the precautions required by law. *Greenwade v. Greenwade*, 43 Md. 315.

The term "*non compos mentis*," defined. Where a person is originally adjudged insane, the burden is on him subsequently to prove sanity. *Johnson v. Safe Deposit Co.*, 104 Md. 467; *Greenwade v. Greenwade*, 43 Md. 315.

**Person and Estate.**

The powers of equity under this and the following sections are very broad and comprehensive, although a sale, lease or mortgage of a *non compos* by his committee is safeguarded by a number of provisions. The fact that the court did not authorize the committee to make a lease, or if it did, the informal execution of it or failure to recite the fact in the lease, would not justify a second recovery of the rents and profits. Powers of a committee appointed in this state over property in another state. *Wilmer v. Phila. & Reading C. & I. Co.*, 130 Md. 675.

While the language of this section is broad, subsequent sections prescribe the necessary steps preliminary to the sale of the property of lunatics. This section referred to in construing secs. 129 and 132—see notes thereto. *Rutledge v. Rutledge*, 118 Md. 556; *In re Paca*, 140 Md. 50.

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. 127—see notes thereto. *Hamilton v. Traber*, 78 Md. 32.

This section referred to in construing secs. 129 and 132—see notes thereto. *Estate of Dorney*, 59 Md. 69.

This section quoted—see notes to sec. 169. *In re Paca*, 140 Md. 50.

Cited but not construed in *Williams' Case*, 3 Bl. 192; *In re Rickells' Estate*, 158 Md. 661.

**Cross references.**

As to non-resident *non compos*, see sec. 138.

As to specific performance against non-resident *non compos*, see sec. 140.

As to the jurisdiction of equity to decree relative to mortgaged property owned by *non compos*, see sec. 107.

As to the jurisdiction of equity to decree relative to property of a *non compos* which is subject to a contract, see sec. 108.

*Re. sale of real estate of a non compos to save personalty*, see sec. 109.

*Re. procedure upon bill of review in the interest of non compos*, see sec. 200.

As to how *non compos* should answer and sue, see secs. 168 and 169.

No decree *pro confesso* may pass against insane defendants—see sec. 225.

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