

Case No. 2,164.

BURKE et al. v. WHEATON.

[3 Cranch, C. C. 341.]¹

Circuit Court, District of Columbia.

Oct. Term, 1828.

INSANE PERSONS—ADJUDICATION—APPOINTMENT OF COMMITTEE.

1. The court will appoint a committee here to take care of the property of a person found lunatic in Maryland.
2. The mode of ascertaining the lunacy is by a writ in nature of a writ de lunatico inquirendo.

This was a petition to the court to appoint a committee of the estate of Major Wheaton, who was found lunatic in Baltimore; there being property in this county. The court will take notice of the proceedings of a foreign court finding a party lunatic. *Ex parte Lewis*, 1 Ves. Sr. 298. In *Ex parte Gillam*, 2 Ves. Jr. 587, the solicitor-general said, "For he had been found lunatic by a competent jurisdiction in the country in which he was. Lord Thurlow thought that a sufficient ground to consider him a lunatic; the country, which is alone the judge, having found him so." Lord Chancellor: "That distinction I think a very sound one; for the personal capacity, in general, is regulated by the law of the country." The reason why, in New York, a foreign inquisition is not sufficient, is, that the statute only authorizes the chancellor to appoint committees for those who should be found lunatic by that court.

THE COURT (THRUSTON, Circuit Judge absent,) appointed Dr. Laurie, committee. The act of Maryland, 1785, c. 72, § 6, authorizes the chancellor to superintend the affairs of lunatics, and to appoint a committee, &c, but does not direct the mode of ascertaining who are lunatics. This must be done by a writ in the nature of a writ de lunatico inquirendo, which issues by order of the court upon affidavit.

¹ [Reported by Hon. William Cranch, Chief Judge.]