

low, that the counsel employed by them are to be paid out of the estate. The counsel fees referred to in the book of practice before mentioned, are fees paid by the petitioner in conducting the inquisition of lunacy under which the party is found to be a lunatic. In this case the petition for the writ *de lunatico inquirendo* was filed by Richard C. Warford, and not by Elisha Warford, the person upon whose recommendation, with others, Ellicott was appointed committee of the estate. The former has preferred no claim for an allowance, and the latter is entitled to none for legal services rendered in litigating the question of a proper person to be appointed. The law designates no person who shall be appointed committee, and, therefore, it is unlike the case of *Young ex parte*, 8 Gill, 285, where it was decided that an administrator, whose right to administer was successfully established, would be allowed for counsel fees. Upon this principle, the vouchers, Nos. 151 and 152, were properly rejected by the Auditor. It has been already stated, that the petition upon which the writ to inquire into the lunacy of Miss Colvin issued, was filed by Richard C. Warford, and that Elisha Warford and his associates interposed, not for the purpose of disputing her lunacy, but to show that it commenced at a period anterior to the time found by the jury, and the great mass of evidence contained in the record was directed to that point. The voucher No. 151, upon its face shows that it was for services rendered to Elisha Warford and his associates in that part of the controversy. It is apparent from the voucher, that the money was paid for services rendered upon the petition of *Elisha Warford and others against Richard C. Warford and another*, and had reference to the question which they were litigating respecting the period of the commencement of the lunacy of Rachel Colvin. The commission of lunacy which issued on the petition of Richard C. Warford had already been executed when Elisha Warford and others interposed, by their petition, and objected to the inquisition, because it did not carry the lunacy back to an earlier period. Surely costs incurred in a controversy of this nature cannot be regarded as costs of the commission. Voucher No. 152, appears to be for legal services