

COSTS.

See LUNATIC LUNACY, 1.

TRUSTEES, &c., 2.

COUNSEL FEES.

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1. The first allowance is for costs of the commission, which includes legal costs with counsel fees paid by the petitioner in conducting the inquiry of lunacy, under which the party is found to be a lunatic, these are all allowed unless excluded by a previous order of the court. *Estate of Rachel Colvin*, 126.
2. Fees paid to counsel for conducting a controversy, as to whether the lunacy did or did not commence at an earlier date than the filing of the petition cannot be allowed out of the estate, they must be paid by the parties who carried it on. *Ib.*
3. Counsel fees paid for services rendered in litigating the question who should be appointed committee, will not be allowed out of the estate; if the parties interested differ, and choose to litigate this point, they must do so at their own expense. *Ib.*
4. Fees paid for legal services rendered, the committee, in the discharge of his duty as such, in defending and protecting the estate of the lunatic, are proper and fair allowances. *Ib.*
5. Costs and counsel fees paid by the committee and receiver, in carrying on a controversy in the Orphans Court after the death of the lunatic in regard to the appointment of an administrator, cannot be allowed out of the estate. *Ib.*
6. The estate cannot be charged with the cost of a litigation about the appointment of a receiver, the parties carrying on such a controversy must do so at their own expense. *Ib.*
7. The committee and receiver holds his office at the discretion of the court, and if a dispute arise in regard to the propriety of continuing him in it, or appointing some one in his stead, it must be conducted by the parties at their own expense. *Ib.*
8. If the official conduct of the committee be assailed, he may defend it, and if he does so successfully, the assailant will be made to pay costs, but fees to counsel, even in that case, should not be thrown upon the estate. *Ib.*
9. The committee will be allowed all proper and reasonable fees paid to counsel for advice and assistance in the discharge of his duty, and in aiding him to preserve and defend the estate, but beyond this he cannot go; if he chooses to carry on a litigation for his office, he must pay the costs himself. *Ib.*
10. Where trustees are entitled to costs out of the fund, they will be taxed as between solicitor and client, and if a trustee finds it necessary to employ counsel as to the proper management of the estate, he will be allowed such reasonable fees as he may have paid, but counsel fees paid by the successful party, in a contest as to who shall administer the trust, will not be allowed out of the fund. *McKim vs. Handy*, 228.