

cott's duty as committee or receiver, to carry on a controversy in the Orphans Court about the appointment of an administrator, and if he thought proper to do so, the estate is not to be burdened with the expenses attending it. Nor is it proper to charge the estate with the cost of a litigation about the appointment of a receiver. If other persons thought proper to carry on a controversy of that description, well and good, but they must do so at their own expense. The committee and receiver, so long as he fills those offices, will be, and has been, 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 out of his own pocket. He holds the office at the discretion of the court, and should a dispute arise in regard to the propriety of continuing him in it, or appointing some one in his stead, the controversy must be conducted by parties interested in the estate, and at their own expense.

If, to be sure, the official conduct of the committee is assailed, he may defend it, and if he does so successfully, the assailant will be made to pay the costs, but fees to counsel, even in that case, should not, as I apprehend, be thrown on the estate. But here Mr. Ellicott was unsuccessful. He was removed from the office of receiver, and hence it follows, he was wrong, in the judgment of the court, in resisting the application of the party who proceeded against him. To allow him to throw his counsel fees on the estate under such circumstances would, I think, be manifestly improper.

I am not aware of any objections of the parties which have not been considered and decided, and shall send the case to the Auditor to state accounts in pursuance of the views hereinbefore expressed.