

# New Jersey Court of Errors and Appeals

## NEW JERSEY PREROGATIVE COURT.

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In the matter of the commissions  
to be allowed to the guardians  
of Ruth Joyce Cook, Edmund  
Dunham Cook, George Rea  
Cook, 3d, and Margaret Eva  
Cook, minors, upon the dis-  
charge of Henry Palmer, one  
of the guardians of said  
minors. } On Appeal  
from Mercer  
County Or-  
phans' Court.

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MARGARET P. HEWITT, Remain-  
ing Guardian, }  
Appellant,  
and  
HENRY PALMER, Guardian, }  
Respondent.

## PETITION OF APPEAL.

To the Prerogative Court of New Jersey, or Ed- 30  
win Robert Walker, Ordinary:

The petition of Margaret P. Hewitt, remaining guardian of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, the appellant in the above stated cause, respectfully shows that your petitioner finds herself aggrieved by an order or decree made by the Mercer County Orphans' Court, bearing date the fifth day of February, nineteen hundred and eighteen,

and entered on the ninth day of February, nineteen hundred and eighteen, in the above stated matter fixing the allowance of commissions to the guardians on principal and income and counsel fee to counsel, and made on the application of the said respondent, in this respect, to wit:

That all and every part of said order or decree is erroneous in that the allowances made therein are excessive.

- 10 Your petitioner therefore prays that said order or decree of said Orphans' Court may in all respects be reversed and set aside and that your petitioner may have such other and further relief in the premises as to this Honorable Court shall seem meet.

LINTON SATTERTHWAITE,

WILLIAM B. GOURLEY, by Linton Satterthwaite,

- 20 Proctors and of Counsel with Appellant.

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Service of a copy of the within Petition of Appeal acknowledged this 14th day of May, 1918.

FRANK S. KATZENBACH, JR.

Proctor of Respondent.

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STATE OF NEW JERSEY, }  
COUNTY OF MERCER. } ss.

I, Samuel H. Bullock, Surrogate of the County of Mercer, in the state of New Jersey, and ex-officio Clerk of the Orphans' Court of said county and state, do hereby certify that the annexed is a true copy of Petition for discharge, &c., Rule to show cause, Acknowledgment of service, Order discharging guardian, Order fixing commissions,

Fourth Account of Guardians, and Notice of Appeal, in the matter of the guardianship of Ruth Joyce Cook, Edmund Cook, George Rea Cook, 3d, and Margaret Eva Cook, minors, as the same remain of record in my office.

[SEAL] IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this twenty-fourth day of June, A. D. one thousand nine hundred and eighteen. 10

SAMUEL H. BULLOCK,  
Surrogate and ex-officio Clerk of the Orphans' Court.

MERCER COUNTY ORPHANS' COURT.

In the matter of the guardianship of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook. } 20

PETITION.

To the Orphans' Court of the County of Mercer:  
The petition of Henry Palmer, of Langhorne, in the County of Bucks and State of Pennsylvania, respectfully shows: 30

I. That on the twenty-fourth day of February, A. D. one thousand nine hundred and eleven, your petitioner, together with Margaret P. Hewitt (formerly Margaret P. Cook), and George R. Cook was appointed by orders of this Court bearing date on said last mentioned date, guardians of the person and property of Charlotte Cook, Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook.

2. That your petitioner, together with the said Margaret P. Hewitt and George R. Cook, duly qualified as guardians of the person and property of the said Charlotte Cook, Ruth Joyce Cook, Edward Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, by entering into bonds to the Ordinary of the State of New Jersey, with sureties approved by this Court, and thereupon entered upon the discharge of their duties as guardians.

10 3. That your petitioner and the said Margaret P. Hewitt and George R. Cook, guardians as aforesaid, duly filed in this Court their First Account, showing the administration of their guardianship from the date of their appointment to the first day of November, nineteen hundred and twelve.

20 4. That George R. Cook, one of the said guardians, on November twenty-second, nineteen hundred and twelve, filed in this Court his petition praying to be relieved and discharged from his duties as said guardian; that thereupon such proceedings were had that by an order of this Court bearing date on December sixth, nineteen hundred and twelve, the letters of guardianship of the person and property of the said Charlotte Cook, Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, were revoked as of the date of November first, nineteen hundred and twelve, and that the guardianship of the first person and property of the said  
30 Charlotte Cook, Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, were committed as of said date to the said Margaret P. Hewitt and your petitioner, upon entering into bond to the Ordinary of the State of New Jersey for the amount mentioned in said order.

5. That the said Margaret P. Hewitt and your petitioner duly qualified as the guardians of the person and property of the said Charlotte Cook,

Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, by entering into the bonds to the Ordinary of the State of New Jersey with surety approved by this Court, and thereupon entered upon the discharge of their duties as guardians.

6. That the said Margaret P. Hewitt and your petitioner subsequently filed accounts known as First, Second and Third Accounts, which were duly audited, advertised for settlement and approved. 10

7. That on February eleventh, nineteen hundred and sixteen, Charlotte Cook, one of said minors, arrived at the age of twenty-one years, and received as of said date the corpus of her estate; that subsequently by petition certain questions relating to the Third Account of said guardians and the commissions allowed to the said Margaret P. Hewitt and your petitioner as guardians as aforesaid were raised in this Court and are still pending. 20

8. That your petitioner is desirous of being relieved from his duties as one of the guardians of the said Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, and discharged as guardian as aforesaid.

9. That your petitioner has informed his co-guardian, the said Margaret P. Hewitt, of his desire to be discharged as one of the guardians of the person and property of the said Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, and has requested the said, Margaret P. Hewitt, to join with your petitioner in the filing of an account at this time as guardians; that the said Margaret P. Hewitt has refused to join in said account, assigning as her reason therefor that the matters hereinabove mentioned with reference to the Third Account, and the commissions to be allowed to the said Margaret P. Hewitt, and your petitioner as 30

guardians of the said Charlotte Cook have not as yet been finally determined; that your petitioner feels that it is not necessary for him to await the decision of these questions to be relieved from the said duties and discharged as a guardian of said minors; that your petitioner has prepared and herewith submits his account of said guardianship from the foot of the Third Account of said guardians to the date of July twentieth, nineteen hundred and seventeen.

- 10 Wherefore your petitioner prays that an order may be made by this Court releasing and discharging your petitioner as one of the guardians of the person and property of the said Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, as of the date of July twentieth, nineteen hundred and seventeen, and that the commissions of your petitioner as said guardian be fixed and allowed by this Court, and  
 20 your petitioner as in duty bound will ever pray,  
 &c.

HENRY PALMER,

Petitioner.

Dated Trenton, New Jersey, July 20, 1917.

STATE OF NEW JERSEY, }  
 COUNTY OF MERCER. }ss.

- 30 Henry Palmer, being duly sworn upon his oath, according to law deposes and says that he is the petitioner in the foregoing petition named and that the matters and things therein contained are true to the best of his knowledge and belief.

HENRY PALMER.

Sworn and subscribed to this 20th day of July,  
 A. D. 1917, before me.

EDWARD L. KATZENBACH,

M. C. C. of N. J.

MERCER COUNTY ORPHANS' COURT.

In the matter of the guardianship of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, Minors.	}	On Petition.
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RULE TO SHOW CAUSE.

Application having been made by Henry Palmer by petition setting forth that he is one of the guardians of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, minors, appointed by this Court, and that he is desirous of being discharged as said guardian, and of having this Court fix and determine the commissions to which he is entitled; and that Margaret P. Hewitt is a co-guardian of said minors. 10

And it is further appearing that the said Margarte P. Hewitt is the mother and next of kin of said Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook. 20

It is, on this 17th day of August. ORDERED that the said Margaret P. Hewitt, guardian as aforesaid, show cause before this Court on the 28th day of September, 1917, at ten A. M., at the Court House in the City of Trenton, why the said Henry Palmer should not be discharged from his said office of guardian as aforesaid, and his commissions as said guardian fixed and allowed by this Court. 30

It is further ordered that a true but uncertified copy of this rule and said petition be served upon the said Margaret P. Hewitt, either personally or by leaving the same at her residence with a member of her family over fourteen years of age, or served upon her solicitor, within five days from the date hereof.

ERWIN E. MARSHALL,  
Judge.

## MERCER COUNTY ORPHANS' COURT.

In the matter of the guardianship of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, Minors. } On Petition.

## ACKNOWLEDGMENT OF SERVICE.

10 Service of the rule to show cause allowed in the above matter, dated August 17th, 1917, and returnable September 28th, 1917, upon Margaret P. Hewitt, on August 20th, 1917, is hereby acknowledged by

LINTON SATTERTHWAITE,  
Solicitor for Margaret P. Hewitt.

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## MERCER COUNTY ORPHANS' COURT.

In the matter of the guardianship of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, Minors. } On petition of guardian for discharge.

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## ORDER DISCHARGING GUARDIAN.

It appearing from the petition of Henry Palmer, filed herein, that the said Henry Palmer is with Margaret P. Hewitt one of the guardians of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eve Cook, minors, and that said petitioner prays that he may be relieved and discharged from the further performance of his duties as said co-guardian; and it appearing that due notice of this application has

been given to Margaret P. Hewitt, as co-guardian and as the mother and next of kin of said Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, being all the parties interested in said estate, according to the rule to show cause allowed herein on August 17th, 1917, and the Court having examined into the matter and it appearing that there is sufficient reason for the discharge of the said Henry Palmer as co-guardian, it is, thereupon, on this 28th day of September, 1917, on motion of Frank S. Katzenback, Jr., proctor for the said Henry Palmer, and in the presence of Linton Satterthwaite, proctor for the said Margaret P. Hewitt, ORDERED that the said Henry Palmer be and is hereby relieved and discharged from the further performance of the duties of his said office, except accounting for and paying over the moneys and assets received by him by virtue of his said office.

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ERWIN E. MARSHALL,  
Judge.

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Consent is given to the making of the foregoing order.

LINTON SATTERTHWAITE,  
Proctor for Margaret P. Hewitt, Guardian.

## MERCER COUNTY ORPHANS' COURT.

10 In the matter of the com-  
missions to be allowed to the  
guardians of Ruth Joyce  
Cook, Edmund Dunham  
Cook, George Rea Cook, 3d,  
and Margaret Eva Cook,  
minors, upon the discharge of  
Henry Palmer, one of the  
guardians of said minors.

## ORDER FIXING COMMISSIONS.

Application having been made by Henry Pal-  
mer, co-guardian with Margaret P. Hewitt, of  
Ruth Joyce Cook, Edmund Dunham Cook,  
George Rea Cook, 3d, and Margaret Eva Cook,  
minors for his discharge from the further per-  
formance of the duties of his said guardianship;  
and

20 By order of this Court made September 28th,  
1917, the said Henry Palmer having been relieved  
and discharged from the further performance of  
the duties of his office, except accounting for and  
paying over the assets received by him by virtue  
of his said office; and

30 Application having been made to this Court  
for allowance to the said Henry Palmer and Mar-  
garet P. Hewitt, as guardians, as aforesaid, for  
their services to September 28th, 1917, out of the  
corpus of the estate of the said minors; and

The Court having heard the argumets of Lin-  
ton Satterthwaite and William B. Gourley,  
proctors and counsel for Margaret P. Hewitt, and  
of Frank S. Katzenbach, Jr., proctor and counsel  
for Henry Palmer and having considered the  
same; it is on this fifth day of February, A. D.  
1918,

ORDERED that the said Margaret P. Hewitt and  
Henry Palmer, as guardians aforesaid be allowed

and paid out of the corpus of the estate of Ruth Joyce Cook, minor for their services to September 28th 1917, the sum of Two Thousand Eight Hundred Ninety-nine Dollars and Sixty-one cents (\$2,899.61); out of the corpus of the estate of Edmund Dunham Cook, minor, for their services to September 28th, 1917, the sum of Two Thousand Three Hundred Forty Dollars and Two Cents (\$2,340.02), out of the corpus of the estate of George Rea Cook, 3d, minor, for their services 10 to September 28th, 1917, the sum of Two Thousand Fifty-nine Dollars and Twenty-three Cents (\$2,059.23); out of the corpus of the estate of Margaret Eva Cook, minor for their services to September 28th, 1917, the sum of One Thousand Eight Hundred Eighty-five Dollars and Twenty-one Cents, (\$1,885.21); and it is further

ORDERED that out of the commissions so allowed, there be paid to Henry Palmer, three-fifths (3-5) thereof, and to Margaret P. Hewitt two-fifths 20 (2-5) thereof; that is to say, to Henry Palmer the sum of Five Thousand Five Hundred Ten Dollars and Forty-two Cents (\$5,510.42) and to Margaret P. Hewitt, the sum of Three Thousand Six Hundred Seventy-three Dollars and Sixty-three Cents (\$3,673.63); it is further

ORDERED that Frank S. Katzenbach, Jr., proctor for the said guardians, Margaret P. Hewitt and Henry Palmer, be allowed and paid out of the corpus of the estate of Ruth Joyce Cook, minor, 30 the sum of Three Hundred Dollars (\$300.); out of the estate of Edmund Dunham Cook, minor, the sum of Three Hundred Dollars (\$300.); out of the estate of George Rea Cook, 3d, minor, the sum of Three Hundred Dollars (\$300.); out of the estate of Margaret Eva Cook, minor, the sum of Three Hundred Dollars (\$300.).

ERWIN E. MARSHALL,

Judge.

## MERCER COUNTY ORPHANS' COURT.

In the matter of the guardianship of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, Minors.

## ACCOUNT.

- 10 The fourth account of Margaret P. Hewitt and Henry Palmer, guardians of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, minors.  
These accountants charge themselves:

Dr.

	1916,		
	Feb. 11,	To amount of securities and cash on hand as per account allowed February 11, 1916. ....	\$578,006.86
20			
	1916,	Amounts received from principal and income as follows:	
			Principal. Income.
	Feb. 29,	To interest, Bernard Tobish,	\$67.50
	Mar. 1,	To interest, City of Newark,	90.00
30	Mar. 1,	To interest, County of Union, .....	90.00
	Mar. 1,	To interest, Town of West New York, .....	200.00
	Mar. 6,	To dividend, Mercer Trust Co., .....	36.00
	Mar. 6,	To dividend, Trenton Auxiliary Fire Alarm Co.,...	84.00
	Mar. 13,	To cash, George W. Warren, payment of mortgage, .....	\$4,000.00

Mar. 13,	To cash, Accrued interest on Geo. W. Warren mort- gage, .....	42.22	
Mar. 22,	To interest, Daniel A. Du- gan, .....	500.00	
Mar. 29,	To interest, George Oberg- fell, Sr., .....	94.50	
Mar. 29,	To interest, George Oberg- fell, Sr., .....	94.50	10
Apr. 3,	To dividend, Mechanics National Bank, .....	10.00	
Apr. 3,	To interest, County of Cape May, .....	200.00	
Apr. 3,	To interest, Lehigh Valley Terminal Rwy. Co., .....	100.00	
Apr. 3,	To interest, Cleveland Short Line Rwy. Co., .....	180.00	
Apr. 19,	To interest, Solomon Slo- ninsky, .....	168.75	20
Apr. 24,	To dividend, Cook's Lino- leum Co., .....	12,560.00	
May 2,	To interest, Frederick Bar- low, .....	800.00	
May 3,	To interest, Charles B. Kennedy, .....	112.50	
May 5,	To dividend, The Trenton Trust & Safe Deposit co.,	72.00	
May 16,	To interest, Jacob King,...	375.00	
May 31,	To interest, Frank F. Fox,	100.00	30
May 31,	To interest, Lizzie Ondy,..	135.00	
June 1,	To interest, Grace C. Brock,	250.00	
June 1,	To interest, Church of the Holy Cross, .....	729.17	
June 2,	To interest, Mary L. Cort,	125.00	
June 3,	To interest, Warren E. Try- on, .....	100.00	
June 7,	To interest, Neptune Town- ship, County of Mon- mouth, .....	200.00	

	June 7,	To interest, City of Jersey City, .....	180.00
	June 14,	To interest, Center Town- ship, County of Camden,	200.00
	June 14,	To interest, Borough of Paulsboro, .....	275.00
	June 17,	To interest, Combination Rubber Co., .....	750.00
10	June 20,	To interest, Newton A. K. Bugbee, .....	175.00
	June 21,	To interest, Est. of Thomas Cadwalader, .....	100.00
	June 22,	To interest, Board of Gov- ernors, Tiger Inn Co., ..	250.00
	June 26,	To interest, Henry Wirt- schafter, .....	350.00
	June 30,	To interest, City of Pleas- antville, .....	100.00
20	June 30,	To interest, Middlesex County, .....	85.00
	June 30,	To interest, County of Hud- son, .....	90.00
	June 30,	To interest, County of Ber- gen, .....	225.00
	June 30,	To interest, City of Phila- delphia, .....	70.00
	June 30,	To interest, Central Rrd. of N. J., .....	400.00
30	July 10,	To dividend, Trent Theatre Bldg. Co., .....	98.00
	July 10,	To interest, H. Haveson, ..	425.00
	July 11,	To dividend, Mechanics Bank, .....	12.00
	July 18,	To dividend, Stephen Ball- ard Rubber Company, ..	628.00
	June 21,	To interest, Solomon Slo- ninsky .....	168.75
	June 29,	To dividend, Cook's Lino- leum Co., .....	12,560.00

June 31,	To stock dividend Stephen Ballard Rubber Co., for 8 shares, at par, .....	800.00	
Aug. 1,	To interest, Borough of Audubon .....	220.00	
Aug. 1,	To interest, City of Ocean City, .....	100.00	
July 1,	To interest, on deposits, ...	177.35	
Aug. 1,	To interest, Josiah Harmar,	75.00	
Aug. 1,	To interest, Samuel B. Shankman, .....	125.00	10
Aug. 4,	To interest, Donato & Lucia Pierro, .....	42.50	
Aug. 7,	To dividend, Acme Rubber Co., .....	294.00	
Aug. 7,	To dividend, Acme Rubber Co., .....	954.00	
Aug. 18,	To dividend, Mercer Trust Co., .....	36.00	
Aug. 22,	To cash, Sale of 165 shares Stephen Ballard Rubber Co. stock to Cook's Linoleum Co., \$20,625., being inventoried at ..\$16,500. Sold for excess over inventory of .....	4,125.00	20
Aug. 26,	To dividend, Hamilton Rubber Co., .....	2,112.00	
Aug. 28,	To interest, Bernard Tobish, .....	67.50	30
Aug. 31,	To interest, George Obergefell, Sr., .....	189.00	
Sept. 1,	To interest, County of Union, .....	90.00	
Sept. 1,	To interest, City of Newark,	90.00	
Sept. 1,	To interest, Town of West New York, .....	200.00	
Sept. 8,	To interest, Sarah Louise Smith, .....		
	To February 1, 1915, .....	100.00	

	To August 1, 1915, . . . . .	100.00
	To February 1, 1916, . . . . .	100.00
	To August 1, 1916, . . . . .	100.00
Sept. 22,	To interest, Daniel A. Dugan, . . . . .	500.00
Sept. 30,	To interest, Cleveland Short Line, Railway, . . . . .	180.00
Sept. 30,	To interest, Lehigh Valley Terminal Railway Co., . . . . .	100.00
10 Sept. 30,	To interest, Cape May County, . . . . .	200.00
Oct. 5,	To dividend, Mechanics National Bank, . . . . .	12.00
Oct. 14,	To interest, E. C. Hill, . . . . .	125.00
Oct. 21,	To interest, Solomon Sloninsky, . . . . .	168.75
Oct. 26,	To interest, John Duncan, . . . . .	90.00
Nov. 1,	To interest, Charles B. Kennedy, . . . . .	112.50
20 Nov. 4,	To interest, Frederick Barlow, . . . . .	800.00
Nov. 6,	To dividend, The Trenton Trust & Safe Deposit Co., . . . . .	72.00
Nov. 16,	To interest, Jacob King, . . . . .	375.00
Nov. 27,	To interest, Frank F. Fox, . . . . .	100.00
Nov. 28,	To interest, Mrs. Lizzie Ondy, . . . . .	135.00
Nov. 29,	To interest, City of Jersey City, . . . . .	180.00
30 Nov. 29,	To interest, Center Township, County of Camden, . . . . .	200.00
Nov. 29,	To interest, Neptune Township, County of Monmouth, . . . . .	200.00
Nov. 29,	To interest, Morris & Essex Rd. Co., . . . . .	140.00
Dec. 1,	To interest, Mrs. Mary L. Cort, . . . . .	125.00
Dec. 2,	To interest, Church of the Holy Cross, . . . . .	725.00

Dec. 5,	To interest, Grace C. Brock,	250.00	
Dec. 7,	To interest, Warren E. Tryon, on, .....	100.00	
Dec. 14,	To interest, Newton A. K. Bugbee, .....	175.00	
Dec. 14,	To interest, Borough of Paulsboro, .....	275.00	
Dec. 18,	To interest, Combination Rubber Co., .....	750.00	
Dec. 26,	To interest, Henry Wirtschafter, .....	350.00	10
Dec. 30,	To interest, Atlantic & Charlotte Railway Co., .....	200.00	
Dec. 30,	To interest, Baltimore & Ohio Rrd. Co., .....	140.00	
Dec. 30,	To interest, Central Rrd. of N. J., .....	400.00	
Dec. 30,	To interest, City of Philadelphia, .....	70.00	
Dec. 30,	To interest, County of Bergen, N. J., .....	225.00	20
Dec. 30,	To interest, County of Hudson, .....	90.00	
Dec. 30,	To interest, County of Middlesex, .....	85.00	
Dec. 30,	To interest, Northern Pacific Railway Company, ..	80.00	
Dec. 30,	To interest, City of Pleasantville, .....	100.00	
Dec. 30,	To interest, Tiger Inn, ....	250.00	30
1917.			
Jan. 2,	To interest, Cadwalader estates, .....	100.00	
Jan. 2,	To interest, On deposits, ...	216.04	
Jan. 6,	To dividend, Mechanics Bank, .....	12.00	
Jan. 10,	To dividend, Trenton Theatre Bldg. Co., .....	98.00	
Jan. 10,	To dividend, Trenton Theatre Bldg. Co., .....	28.00	
	extra dividend,		

	Jan. 15, To interest, Harry Haveson,	425.00
	Jan. 22, To interest, Solomon Sloninsky, .....	168.75
	Jan. 24, To dividend, Tonawanda Terminal Land Co., ....	26.40
	Jan. 31, To interest, Borough of Audubon, .....	220.00
	Jan. 31, To interest, City of Ocean City, .....	100.00
10	Jan. 31, To interest, Pennsylvania Railroad Co., .....	270.00
	Jan. 31, To interest, Donato Pierro,	42.50
	Feb. 1, To interest, William S. Kuhn, .....	100.00
	Feb. 1, To interest, S. B. Shankman,	125.00
	Feb. 6, To interest, Josiah Harmer,	75.00
	Feb. 23, To dividend, Mercer Trust Company, .....	36.00
20	Feb. 27, To interest, Bernard Tobish,	67.50
	Mar. 2, To interest, County of Union, N. J., .....	90.00
	Mar. 2, To interest, Town of West New York, .....	200.00
	Mar. 2, To interest, George Obergefell, Sr., .....	94.50
	Mar. 2, To interest, George Obergefell, Sr., .....	94.50
	Mar. 5, To dividend, Trenton Auxiliary Fire Alarm Co.,....	60.00
30	Mar. 15, To interest, City of Newark,	90.00
	Mar. 23, To interest, Daniel H. Dugan, .....	500.00
	Mar. 31, To interest, Atchinson, Topeka & Santa Fe Rwy. Co., .....	160.00
	Mar. 31, To interest, Cape May County, .....	200.00
	Mar. 31, To interest, Cleveland Short Line Rwy. Co., .....	180.00

Mar. 31, To interest, Lehigh Valley Terminal Rwy. Co., .....	100.00	
Mar. 31, To interest, Northern Pacific Rwy. Co., .....	80.00	
Apr. 2, To cash, John Duncan, payment of mortgage, \$3,000.		
Apr. 2, To accrued interest on John Duncan mortgage, .....	81.00	
Apr. 4, To interest, E. C. Hill, .....	125.00	10
Apr. 4, To dividend, Mechanics Bank, .....	12.00	
Apr. 10, To interest, I. Michaelson,	168.75	
Apr. 10, To cash, I. Michaelson, payment on mortgage, \$500.		
Apr. 30, To dividend, Cook's Linoleum Company, .....	6,280.00	
May 2, To interest, Frederick Barlow, .....	800.00	
May 2, To cash, B. Tobish, payment on mortgage, ..\$1,200.00		20
May 3, To interest, Charles B. Kennedy, .....	112.50	
May 5, To dividend, The Trenton Trust & Safe Deposit Co.,	72.00	
May 15, To interest, Catherine S. Humphrey .....	125.00	
May 15, To interest, Jacob King, ...	375.00	
May 24, To interest, Lizzie Ondy, ..	135.00	
May 26, To interest, Frank F. Fox, ..	100.00	30
May 31, To interest, Monmouth County, .....	200.00	
May 31, To interest, Morris & Essex Railroad Co., .....	140.00	
May 31, To interest, Camden County School Bonds, .....	200.00	
May 31, To interest, City of Jersey City, .....	180.00	
June 2, To interest, Church of the Holy Cross, .....	725.00	

	June 2, To cash, Church of the Holy Cross, payment on principal of mortgage, \$1,000.00	
	June 6, To interest, Warren E. Tryon, .....	100.00
	June 13, To interest, Mrs Mary L. Cort, .....	125.00
	June 14, To interest, Borough of Paulsboro, .....	275.00
10	June 19, To interest, Newton A. K. Bugbee, .....	175.00
	June 19, To interest, Combination Rubber Co., .....	750.00
	June 25, To interest, Henry Wirtschafter, .....	350.00
	June 27, To interest, Tiger Inn, ....	250.00
	June 27, To cash, Tiger Inn, payment on principal of mortgage, .....\$2,000.00	
20	June 27, To interest, Estate of Thomas Cadwalader ...	100.00
	June 30, To dividend, The Trenton Trust Co., Red Cross dividend, .....	12.00
	June 30, To dividend, The Mercer Trust Co., Red Cross dividend, .....	12.00
	June 30, To interest, Atlantic & Charlotte Air Line Rwy. Co.,	200.00
30	June 30, To interest, Baltimore & Ohio Rrd. Co., .....	140.00
	June 30, To interest, Central Rd. of N. J., .....	400.00
	June 30, To interest, City of Phila...	70.00
	June 30, To interest, County of Bergen, .....	225.00
	June 30, To interest, County of Hudson, .....	90.00
	June 30, To interest, County of Middlesex, .....	85.00

June 30, To interest, Northern Pacific Rwy. Co., .....	80.00	
June 30, To interest, City of Pleasantville, N. J., .....	100.00	
July 2, To dividend, Mechanics National Bank, .....	12.00	
July 2, To interest, Harry Haveson, .....	425.00	
July 2, To interest, Nelson L. Petty, .....	200.00	
July 2, To interest, On deposits, ...	134.90	10
July 10, To dividend, Trenton Theatre Bldg. Co., .....	98.00	
July 12, To interest, Mrs. Grace C. Brock, .....	250.00	
July 16, To dividend, Mechanics Bank, Red Cross dividend, .....	2.00	
July 20, To interest, Solomon Sloninsky, .....	162.00	
	\$28,200.00	\$71,448.83 20

These accountants pray allowance:

Cr.

	Disbursements out of principal	Disbursements out of income
1916		
Mar. 1, By cash for Paul L. Cort mortgage, .....\$5,000.00		30
Mar. 1, By cash interest on same, ...		62.50
Mar. 1, By cash for Newton A. K. Bugbee, mtg. (John A. Hartpence), ...\$7,000.00		
Mar. 1, By cash interest on same, ...		71.94
Mar. 13, By cash County Clerk, for recording assignments of above mortgages, .....		1.50

	Apr. 18, By cash The Trenton Trust & Safe Deposit Co., pre- mium on bond, . . . . .	200.00
	Apr. 18, By cash for Ida E. Austin mortgage (Now John Duncan), . . . . . \$3,000.00	
	May 1, By cash Margaret P. Hewitt, allowance for children, .	1,125.00
10	May 1, By cash The Trenton Trust & Safe Deposit Co., ser- vices as agent, . . . . .	125.00
	Aug. 4, By cash Margaret P. Hewitt, allowance for children, .	1,125.00
	Aug. 14, By cash Robert Glendinning & Co., for \$8,000. Balti- more & Ohio Rrd. Prior Lien 3½s @ 92¾ . . . . . . . . . . \$7,420.00	
	Aug. 14, By cash, Interest on same, . .	33.44
20	Aug. 14, By cash Commissions, R. Glendinning & Co., . . . . .	10.00
	Aug. 14, By cash Robert Glendinning & Co., for \$6,000. Penna. Rrd. Consolidated 4½s @ 104⅝, . . . . . \$6,277.50	
	Aug. 14, By cash Interest on same,	9.75
	Aug. 14, By cash commissions, R. Glendinning & Co., . . . . .	7.50
30	Aug. 21, Commissions, R. Glendin- & Co., for \$6,000. Penna. Rrd. Consolidated 4½s @ 104⅝, . . . . . \$6,277.50	
	Aug. 21, By cash Interest on same, . .	15.00
	commissions, R. Glendin- ning & Co., . . . . .	7.50
	Aug. 26, By cash Robert Glendinning & Co., for \$8,000. At- lanta & Charlotte Air Line Rwy. 5s @ 101, . . . . . . . . . . \$8,080.00	

Aug. 26, Interest on same, . . . . .	60.00	
Aug. 29, By cash Dominick Brothers & Co. for \$8,000. Morris & Essex Rrd. 1st. Ref. 3½s @ 86½, ..\$6,920.00		
Aug. 29, By cash Dominick Brothers & Co. for interest on \$8,000. Morris & Essex Rrd. 1st Ref. 3½s, . . . . .	69.22	10
Postage and insurance on above bonds, . . . . .	1.04	
Sept. 8, By cash The Trenton Trust & Safe Deposit Company, rent of box to August 1, 1917, . . . . .	20.00	
Oct. 6, By cash Robert Glendinning & Co., for \$8,000. North- ern Pacific 4s, \$7,440.00 Interest on same, . . . . .	4.44	20
Commissions, R. Glendin- ning & Co., . . . . .	10.00	
Nov. 1, By cash Robert Glendinning & Co., for \$8,000. Atch- inson Topeka & Santa Fe General 4s, @ 94¼, . . . . . . . . . . \$7,540.00		
Interest on same, . . . . .	26.67	
Commissions, R. Glend- inning & Co., . . . . .	10.00	30
Nov. 2, By cash Margaret P. Hewitt, for allowance, . . . . .	1,125.00	
Nov. 2, By cash The Trenton Trust & Safe Deposit Co., services as agent, . . . . .	125.00	
Nov. 15, For Catherine S. Hum- phrey, mortgage, \$5,000.		
1917.		
Jan. 2, By cash Nelson L. Petty, for mortgage loan, \$8,000.00		

	Feb. 1, By cash Margaret P. Hewitt, for allowance, . . . . .	1,125.00
	May 8, By cash Margaret P. Hewitt, for allowance, . . . . .	1,125.00
	May 8, By cash The Trenton Trust & Safe Deposit Co., ser- vices rendered to May 1st,	125.00
	July 2, By cash The Trenton Trust & Safe Deposit Co., for \$8,000. Liberty Bonds of the United States \$8,000.	
10	July 2, By cash The Trenton Trust & Safe Deposit Co., accru- ed interest on above bonds,	12.19
		<hr/>
		\$85,955.00
		<hr/>
	Amount brought forward . . . . .	\$256,274.60
20	To December 1937, . . . . .	8,305.03
	8,000 Town of West New York, County of Hudson, Fund- ing bonds, due March 1, 1930, . . . . .	8,250.99
	4,000 Lehigh Valley Terminal Railway Co., bonds, due 1941, . . . . .	4,375.00
	8,000 County of Cape May Road Improvement bonds, due October 1, 1945, . . . . .	8,520.00
30	4,000 City of Pleasantville School bonds, due Jan. 1, 1950,	4,260.00
	10,000 County of Bergen Road Im- provement bonds, due July 1, 1931, . . . . .	10,340.08
	10,000 Borough of Paulsboro Board of Education bonds, . . . . .	11,135.36
	8,000 Baltimore & Ohio Rrd. Co., prior Lien 3½% Gold bonds, . . . . .	7,420.00

12,000	Pennsylvania Rrd. Co., 4½% Consolidated Mortgage Bonds, principal due 1960, .....	12,555.00	
8,000	Atlantic & Charlotte Air Line Rwy. 1st Mortgage Thirty-year 5% Gold bonds, Principal due 1944	8,880.00	
8,000	Morris & Essex Rrd. Co., 1st Ref. Gold Mortgage 3½% Bonds, principal due 2000, .....	6,920.00	10
8,000	Northern Pacific Railway Prior Line Rwy. & Land Grant Gold Bonds, 4% principal due Jan. 1, 1997,	7,440.00	
8,000	Atchinson, Topeka & Santa Fe. Gen. 4% 100 yr. coupon bonds, principal due 1995, .....	7,540.00	20
8,000	Bonds of the Liberty Loan of the United States, ....	8,000.00	
		<hr/>	
		\$369,416.86	

## SCHEDULE.

## STOCKS AND BONDS.

	Inventory value.	30
208 shares Acme Rubber Manufacturing Company @ ...	\$28,913.07	
1,256 shares Cook's Linoleum Co. @ .....	99,684.83	
264 shares Hamilton Rubber Manufacturing Co. @ ...	41,905.72	
4 shares Mechanics National Bank @ .....	500.00	
12 shares Mercer Trust Co. @ ..	1,800.00	

	12 shares The Trenton Trust & Safe Deposit Company @	2,880.00
	1,736 shares Faling Land Company, (no value) .....	
	528 shares Tonawanda Terminal Land Company, (no value)	
	8 shares Franklin Land & Imp. Co., (no value) .....	
	56 shares Indian Valley Mines, (no value) .....	
10	12 shares Trenton Auxiliary Fire Alarm Co. @ .....	1,200.00
	28 shares Trenton Theatre Build- ing Company @ .....	3,920.00
	\$16,000. Central R. R. of N. J. bonds, due July 1, 1987, ..	18,520.00
	4,000 County of Hudson, 4½% New County Building Bonds, due Jan. 1, 1953,	4,147.00
20	4,000 County of Union, 4½% Bridge Bonds, due Sept. 1, 1937, .....	4,147.00
	4,000 City of Philadelphia, Pa., 3½% bonds, lot of 1904, principal due 1934 ....	3,715.78
	8,000 City of Jersey City Re- funding bonds, due June 1, 1953, .....	8,070.00
	8,000 Borough of Audubon, 5½% Sewer bonds, due August 1, 1943, .....	8,577.60
30	8,000 Cleveland Short Line Rail- way Co., 50 year 1st mortgage 4½% bonds,	7,600.00
	4,000 City of Ocean City, 5% Funding bonds, .....	4,242.00
	8,000 Township of Neptune, 5% Sewer bonds, due Dec. 1948, .....	8,380.00

4,000 Middlesex County, State of New Jersey, Court House bonds, 4½% due July 1934, .....	3,869.20	
4,000 City of Newark Funding bonds, 4½% due 1944,	4,202.40	
8,000 School District of Centre Township, County of Camden, expiring Dec. 1, 1921, .....		10

BONDS AND MORTGAGES.

Margaret M. Martinette, (Wm. S. Keihn) .....	\$4,000.00	
Harry Haveson, .....	17,000.00	
F. F. Fox, .....	4,000.00	
L. Cohen, (L. Ondy) .....	5,400.00	20
Jacob King .....	15,000.00	
B. Tobish, .....	1,500.00	
Solomon Sloninsky, .....	12,000.00	
Margaret M. Martinette, (Cadwal- ader) .....	4,000.00	
D. A. Dugan, .....	20,000.00	
W. E. Tryon, .....	4,000.00	
Church of the Holy Cross, .....	28,000.00	
Charles B. Kennedy, .....	4,500.00	
Combination Rubber Mfg. Co., ...	25,000.00	30
Frederick Barlow, .....	32,000.00	
Donato Pierro, .....	1,700.00	
Josiah Harmer, .....	3,000.00	
W. G. Wright, (Kennin & Com- pton) .....	7,000.00	
E. C. Hill, .....	5,000.00	
Tiger Inn, .....	8,000.00	
Samuel Prior, (Shankman) .....	5,000.00	
Henry Wirtschafter, .....	14,000.00	
Grace C. Brock .....	10,000.00	

	Bond of John A. Hartpence to The Trenton Trust & Safe Deposit Co., Executor, &c., dated November 20, 1912, secured by mortgage between the same parties and recorded in Book 210, of mortgages, pages 476, &c., Mercer County, Newton A. K. Bugbee, owner, . . .	7,000.00
10	Bond of John H. Scudder to The Trenton Trust & Safe Deposit Company, dated November 14, 1905, for \$7,000. (now reduced to \$5,000.) secured by mortgage between the same parties and recorded in Book 152 of mortgages, pages 391, &c., Mercer County, Mary L. Cort, owner, . . . . .	5,000.00
20	Bond of Catherine S. and Harold P. Humphrey to Robert W. Howell, dated July 15, 1916, for \$5,000., secured by mortgage between the same parties and recorded in Book 243, pages 325, &c., of Mortgages, Mercer County, . . . . .	5,000.00
30	Bond of Nelson L. Petty and Marilda P. Petty to Margaret P. Hewitt and Henry Palmer, Gdns., dated December 19, 1916, for \$8,000., secured by mortgage between the same parties and recorded in Book 248 of Mortgages, pages 108 Mercer County, . . . . .	8,000.00
	Total . . . . .	<u>\$255,100.00</u>

SUMMARY.

Amount of income received, .....	\$71,448.83	
Amount of income disbursed, .....	6,632.69	
	<hr/>	
Balance of income, .....	\$64,816.14	
Balance as per account allowed Feb. 11, 1916, consisting of cash and securities, .....	\$578,006.86	10
	<hr/>	
	\$642,823.00	
	<hr/>	
Value of securities and cash in hands of guardians,		
Stocks and bonds, ..	\$369,416.86	
Bonds and mortgages,	255,100.00	
Cash on hand, .....	18,306.14	
	<hr/>	
	\$642,823.00	20
	<hr/>	
	\$64,816.14	
From the above mentioned balance of income the following items are to be deducted:—		
Cost of this accounting, advg. mailing notice, proofs, discharge of Henry Palmer, guardian, &c., .....	\$104.42	30
Frank S. Katzenback, Jr., counsel fee allowed by Court, .....	\$200.00	
Commissions on income, \$71,448.83 @ 5% .....	\$3,572.44	
Less amount paid Trenton Trust & Safe Deposit Co. as shown in this account, .....	\$375.00	
	<hr/>	
	\$3,197.44	

To be divided between guardians,  
as follows, to wit:—

3-5 thereof to Henry Palmer.

\$1,918.46

2-5 thereof to Margaret P. Hewitt,

\$1,278.98    \$3,197.44    3,501.86

Leaving balance of income, . . . \$61,314.28

10

STATE OF NEW JERSEY, }  
COUNTY OF MERCER. } ss.

Henry Palmer, co-guardian with Margaret P. Hewitt of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, minors, being duly sworn according to law, on his oath deposes and says that the foregoing account is in all things just and true both as to the  
20 charge and discharge thereof, according to the best of his knowledge and belief.

HENRY PALMER,

Sworn and subscribed before me this 20th day of July, A. D. 1917.

FRANK S. KATZENBACH, JR.,  
Master in Chancery of New Jersey.

30

Filed August 21, A. D. 1917.

To the Judge of the Orphans' Court of the County of Mercer:

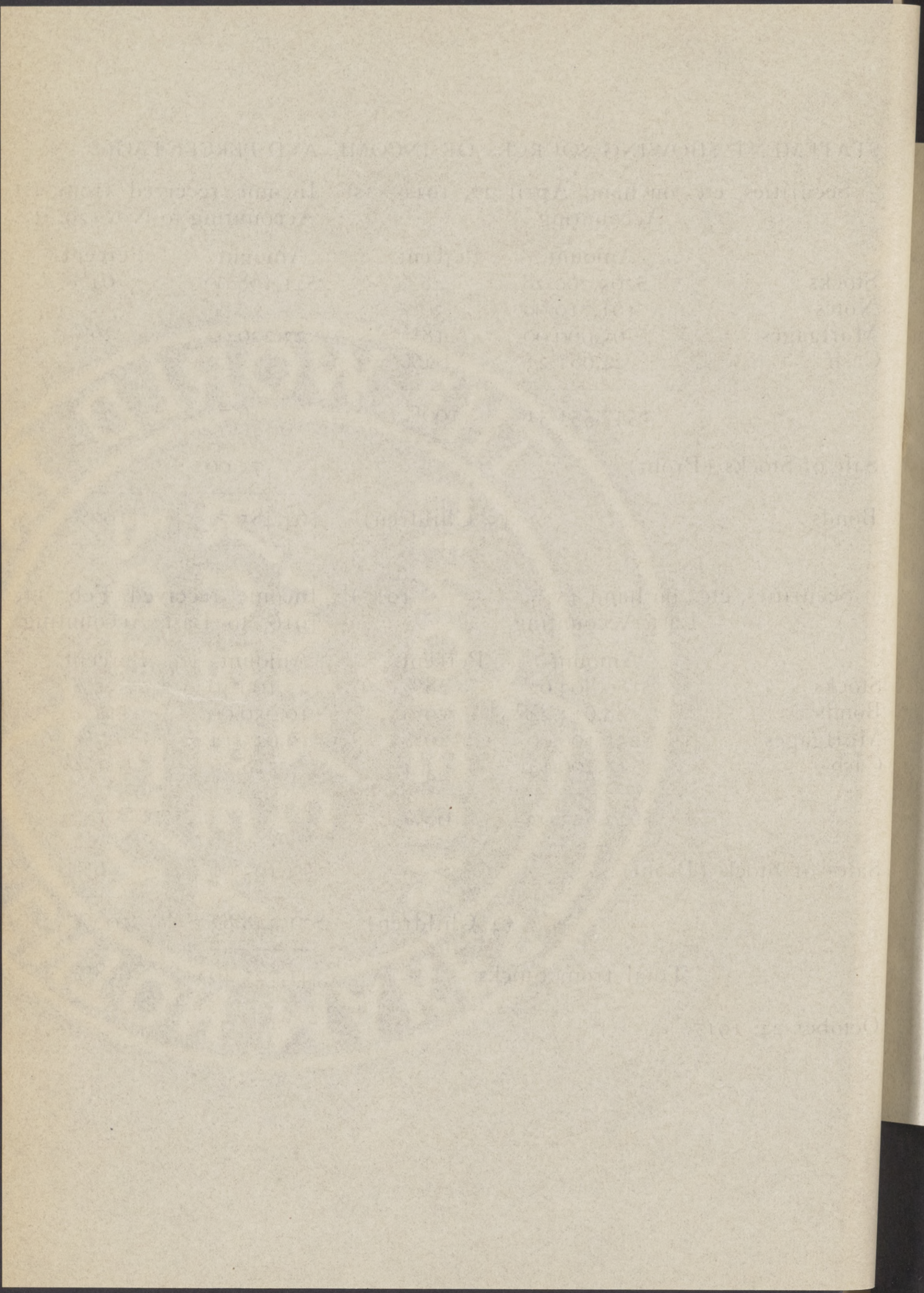
The above account being by me audited and stated, I now report the same to the Clerk for settlement and allowance.

SAMUEL H. BULLOCK,  
Surrogate.

STATEMENT SHOWING SOURCES OF INCOME AND PERCENTAGES.

Securities, etc. on hand April 27, 1911—1st Accounting.			Income received from 1st Accounting to Nov. 29, '12.	
	Amount	Percent.	Amount	Percent.
Stocks .....	\$265,260.28	48%	\$41,168.00	64%
Notes .....	161,710.00	30%		
Mortgages .....	95,900.00	18%	23,226.02	36%
Cash .....	24,681.23	4%		
	<hr/>	<hr/>		
	\$547,551.51	100%	16.72	
Sale of Stocks (Profit)			<hr/>	<hr/>
			75.00	
Bonds		(5 Children)	<hr/>	<hr/>
			\$64,485.74	100%
			<hr/>	<hr/>
Securities, etc., on hand ( Last Accounting.			Income received Feb. 11, 1916, to Last Accounting.	
	Amount	Percent.	Amount	Percent.
Stocks .....	\$180,803.62	28%	\$37,100.40	52%
Bonds .....	188,613.24	29%	10,050.00	14%
Mortgages .....	255,100.00	40%	19,645.14	27%
Cash .....	18,306.14	3%	528.29	1%
	<hr/>	<hr/>		
	\$642,823.00	100%		
Sales of Stock (Profit)			<hr/>	<hr/>
		(4 Children)	4,125.00	6%
			<hr/>	<hr/>
			\$71,448.83	100%
			<hr/>	<hr/>
Total from Stocks.			\$41,225.40	58%
			<hr/>	<hr/>

October 24, 1917.



STATEMENT SHOWING TIME EACH GUARDIAN SERVED IN RELATION TO ENTIRE TIME OF GUARDIANSHIP TO SEPTEMBER 28, 1917.

Name	Date of Birth	End of Trust	Duration of Trust	Percent of Whole Time 51 224-365	3 Guardians April 27, 1911 to October 31, 1912		2 Guardians October 31, 1912 to September 28, 1917		Total 3 Guardians and 2 Guardians		End of Trust—Balance Sept. 28, 1917, to end of each Trust.	
					Yrs.	% of each Trust	Yrs.	% of each Trust	Yrs.	% of each Trust	Yrs.	% of each Trust
Miss R. J. Cook	Aug. 3, 1897	Aug. 3, 1918	7 101-365 yrs.	14.10	1 187-365	20.79	4 332-365	67.47	6 154-365	88.26	3 12-365	11.74
Mr. E. D. Cook	May 5, 1902	May 5, 1923	12 8-365 yrs.	23.29	1 187-365	12.58	4 332-365	40.84	6 154-365	53.42	5 219-365	46.58
Mr. G. R. Cook, 3d	Dec. 24, 1903	Dec. 24, 1924	13 241-365 yrs.	26.47	1 187-365	11.07	4 332-365	35.94	6 154-365	47.01	7 87-365	52.99
Miss M. E. Cook	Dec. 22, 1908	Dec 22, 1929	18 239-365 yrs.	36.14	1 187-365	8.11	4 332-365	26.32	6 154-365	34.43	12 85-365	65.57
			51 224-365 yrs.	100.00	6 18-365	11.72	19 233-365	38.04	25 251-365	49.76	25 338-365	50.24

3 Guardians served 23.55% of time to September 28, 1917.

2 Guardians served 76.45% of time to September 28, 1917.

No.	Name	Address	City	State
1	John D. Cook	123 Main St	Chicago	Ill.
2	Wm. H. ...	456 ...	...	...
3	...	...	...	...
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MERCER COUNTY ORPHANS' COURT.

January Term, 1918.

In the matter of Margaret P. Hewitt and Henry Palmer, guardians of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d, and Margaret Eva Cook, minors.	}	10
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ACCOUNT.

The account of the above-named guardians being reported to the Court, duly audited and stated by the Surrogate, and it appearing, by proof, that due notice of presenting the same to the Court at this time for settlement and allowance has been duly given, as required by law, and no exceptions being made thereto, the Court do thereupon allow the same in all things as reported by the Surrogate. 20

Done in Open Court, February 15th, A. D. 1918.

ERWIN E. MARSHALL,  
Judge.

Recorded in Book 29 of Accounts, page 240, &c.

## MERCER COUNTY ORPHANS' COURT.

10 In the matter of the commissions  
to be allowed to the guardians  
of Ruth Joyce Cook, Edmund  
Dunham Cook, George Rea  
Cook, 3d, and Margaret Eva  
Cook, minors, upon the dis-  
charge of Henry Palmer, one  
of the guardians of said min-  
ors.

## NOTICE OF APPEAL.

20 Take notice that Margaret P. Hewitt, remain-  
ing guardian of Ruth Joyce Cook, Edmund Dun-  
ham Cook, George Rea Cook, 3d, and Margaret  
Eva Cook demands an appeal to the Prerogative  
Court of New Jersey, from the order and all parts  
thereof made by the Orphans' Court of Mercer  
County in the above-stated matter, bearing date  
the fifth day of February, nineteen hundred and  
eighteen, and entered in said Orphans' Court on  
the ninth day of February, nineteen hundred and  
eighteen.

Yours respectfully,

LINTON SATTERTHWAITE,  
WILLIAM B. GOURLEY,

30 Proctors of Margaret P. Hewitt, re-  
maining guardian of Ruth Joyce Cook, Ed-  
mund Dunham Cook, George Rea Cook,  
3d, and Margaret Eva Cook, minors.

To Henry Palmer, guardian, or Frank S. Katzen-  
bach, Jr., his Proctor, or to whom it may con-  
cern.

Service of a copy of the foregoing notice of  
appeal acknowledged this 29th day of April, 1918.

FRANK S. KATZENBACH, JR.,  
Proctor of Henry Palmer, Guardian.

## NEW JERSEY PREROGATIVE COURT.

In the matter of the commissions  
to be allowed to the guardians  
of Ruth Joyce Cook, Edmund  
Dunham Cook, George Rea  
Cook, 3d, and Margaret Eva  
Cook, minors, upon the dis-  
charge of Henry Palmer, one  
of the guardians of said min-  
ors.

On Appeal  
from Mercer  
County Or-  
phans' Court.

10

MARGARET P. HEWITT, Remain-  
ing Guardian,

Appellant,

AND

HENRY PALMER, Guardian,  
Respondent.

Answer to Peti-  
tion of Ap-  
peal.

20

The answer of Henry Palmer, Respondent, to  
the Petition of Appeal of Margaret P. Hewitt,  
Remaining Guardian, Appellant.

I. This respondent answering, admits the mak-  
ing of the order or decree by the Mercer County  
Orphans' Court, bearing date the 5th day of Feb-  
ruary, 1918, in the above stated matter, and re-  
ferred to in the Appellant's Petition of Appeal  
filed herein.

30

II. This respondent is advised, believes and sub-  
mits that the said order or decree complained of  
by the Appellant is just and lawful, and this res-  
pondent denies that the proceedings, order or de-  
cree, or any parts thereof, are erroneous, improper  
or illegal, or that the allowances therein made are  
excessive, and alleges that said order or decree is  
legal proper and correct, and the allowances there-  
in made are fair, just and reasonable.

III. This respondent, therefore, prays that the said Petition of Appeal may be dismissed with costs.

FRANK S. KATZENBACH, JR.,  
Proctor for and of counsel with the Respondent.

NEW JERSEY PREROGATIVE COURT.

10 In the matter of the commissions }  
to be allowed to the guardians }  
of Ruth Joyce Cook, Edmund }  
Dunham Cook, George Rea }  
Cook, 3d, and Margaret Eva }  
Cook, minors, upon the dis- }  
charge of Henry Palmer, one }  
of the guardians of said min- }  
ors. }

On Appeal  
from Mercer  
County Or-  
phans' Court.

20 MARGARET P. HEWITT, Remain- }  
ing Guardian, }  
Appellant, }  
AND }  
HENRY PALMER, Guardian, }  
Respondent. }

ORDER OF REFERENCE.

30 Application having been made for an order of  
reference in the above stated matter;

It is, on this ninth day of July, A. D. 1918, on  
motion of Linton Satterthwaite, proctor of appell-  
ant, proctor of respondent consenting thereto,  
Ordered that the above-stated matter be referred  
to Hon. John H. Backes, Vice Ordinary, to hear  
the same and advise the Ordinary what order or  
decree should be made thereon.

E. R. WALKER,  
Ordinary.

Consent is given to the making of the foregoing order.

FRANK S. KATZENBACH, JR.,  
Proctor of Respondent.

ENDORSED:

“Filed July 9, 1918,

THOMAS F. MARTIN,  
Register.”

## NEW JERSEY PREROGATIVE COURT.

IN THE MATTER OF COM-  
MISSIONS TO BE ALLOWED TO  
THE GUARDIANS OF RUTH  
JOYCE COOK, ET ALS.

## TESTIMONY.

10 Testimony taken in the above-stated cause, in the State House, Trenton, N. J., on Wednesday, July 31, 1918, at 10:30 o'clock in the forenoon;  
Before: HON. JOHN H. BACKES,  
Vice-Ordinary.

## Appearances—

Messrs. LINTON SATTERTHWAITE and WILLIAM  
B. GOURLEY, for Appellants;  
20 FRANK S. KATZENBACH, JR., for Re-  
spondent.

HENRY PALMER, a witness produced on behalf of the Respondents, being duly sworn according to law, testifies as follows:

## DIRECT EXAMINATION.

BY MR. KATZENBACH:

30 Q. Mr. Palmer, your full name is Henry Palmer, and you reside at Langhorne, Pa?  
A. Yes sir.  
Q. And what relation do you bear to Mrs. Charles E. Hewitt?  
A. Mrs. Hewitt is my sister-in-law; sister of my wife.  
Q. And the children of Edmund D. Cook, were your nieces and nephews?  
A. Nieces and nephews, yes.

Q. You recall approximately, the date of the death of Edmund D. Cook?

A. In 1908, and I think the forepart of April.

Q. You have known Mr. Edmund D. Cook for that length of time?

A. I have known him very intimately for many years.

Q. Do you know who were the administrators of the Estate of Mr. Cook?

A. Yes, Mrs. Cook and Mr. George R. Cook.

Q. During the progress of the administration of that estate, were you spoken to by anyone with reference to becoming a guardian for the five children of Mr. Edmund D. Cook?

A. During the administration of the estate, at the solicitation of Mrs. Cook, I was induced to become a guardian.

Q. When were you first appointed guardian of the five children?

A. I was appointed in February, 1911.

Q. Prior to your appointment as guardian, had any matter been taken up with you with reference to the investments that had been left by Mr. Edmund D. Cook, as to whether it would be advisable or not to change the form of investment of his property?

A. Yes, I had been consulted by Mrs. Cook and brought into consultation with Mrs. Cook and Mr. George Cook, in reference to selling a portion of the stocks of the manufacturing companies, and I was asked to assist in investing a portion of that money that was received, in mortgages, just before my appointment as guardian, and from the fact that I was to be a guardian I was asked to take part in it then, which I, of course, willingly did.

Q. Now, who were present at these conferences with reference to the advisability of selling stocks of the manufacturing enterprises, in which Mr. Edmund D. Cook was interested?

A. Mrs. Cook, George Cook, and we consulted with you.

Q. That was on a number of occasions.

A. On a number of occasions, yes.

Q. What manufacturing enterprises was Mr. Edmund D. Cook interested in?

10 A. In the Cook Linoleum Company, which was originally the Trenton Oilcloth & Linoleum Company; The Acme Rubber Manufacturing Company, the Standard Inlay Manufacturing Company, Hamilton Rubber Company and the Steam DeLaval Selling Company. They were the principal holdings of his estate.

Q. Now approximately, what was the amount of Mr. Edmund D. Cook's estate?

A. About \$750,000.

Q. And approximately how much of this sum was turned over to you and your co-guardians at the close of the administration of the estate?

20 A. About \$547,000.

Q. Can you tell approximately what amount of stocks in these manufacturing corporations were sold just prior to your appointment as guardian?

A. I can't give you that exact.

Q. Well, just approximately?

A. Approximately, I think about \$160,000. just prior to the appointment of the guardians.

Q. Were those stocks sold for cash or did you take the obligations of the purchases?

30 A. We took notes for the bulk of it; took the notes and held the stock as collateral security, carried those notes along for a time, paid off in installments, finally entirely paid.

Q. Mr. George R. Cook continued as a co-guardian up to what date? You can refresh your recollection.

A. The first account of the guardians, which was filed upon the return to George Cook.

Q. It was as of the date November 1, 1912, was it not?

A. Yes, but no date on back. November 1, 1912.

Q. Now these monies that had been realized from the sale of manufacturing stocks were invested by guardians in what manner?

A. Invested during that period almost altogether in first mortgages, bond and mortgages. At the time of the filing of this account, we still held \$96,900.00 worth of notes, which were still unpaid, and we had invested \$230,000.00 in first mortgages. 10

Q. There were no mortgages of any amount that were held by Mr. Edmund D. Cook during his lifetime, were there?

A. Not any.

Q. You had invested up to November 1, 1912, \$230,000. in first mortgages. Will you state how those investments were made, what your method was with reference to the making of those investments? 20

A. Out of the \$230.00.00 worth of mortgages, about 80,000.00 were invested before the estate was turned over to the guardians. I assisted in those mortgages and consultations with Mrs. Cook and George Cook in the placing of those mortgages. The Balance of them were invested after the guardians took charge. The procedure in investing the mortgages has always been that we would go—in the first place had to find the mortgages, find the property that was offered, go and inspect them, and the ones that we approved, of course, would be submitted to Mrs. Cook for her approval, and they would be finally taken. 30

Q. In making these investments, did Mrs. Cook go with you to inspect the properties?

A. I don't remember Mrs. Cook going to inspect but one or two properties before the mortgages were taken.

Q. What property do you recall that Mrs. Hewitt went to see?

A. I know distinctly that Mrs. Hewitt went with me to inspect the Slavonic Catholic Church property before we took that mortgage. I don't recall her going to inspect any other mortgage before it was taken.

Q. Now did Mr. George R. Cook, during the guardianship, go with you on all these occasions?

A. All of these mortgages which were purchased while he was guardian, he inspected the property with the exception of two cases. The  
10 two mortgages taken in Pennsylvania he did not.

Q. Those mortgages which were taken after these inspections were made by him?

A. Inspected by me.

Q. Did you inspect many properties prior to making these investments, where no mortgages were taken?

A. Yes, a great many. I inspected a great many properties we did not take mortgages on. I would  
20 not have the faintest idea how many, but I looked at a lot of property in the last six and a half years.

Q. Did you take mortgages upon property that had not yet been completed, in some instances?

A. Yes; we did in one or two cases.

Q. And in those cases, to whom would the money be paid temporarily, and then turned over to the mortgagors upon the production of the necessary releases and documents?

A. In that case the money, I think, was paid  
30 over to you.

Q. Were the titles of these properties examined by counsel?

A. Yes every one of them.

Q. And who was the counsel that acted in that behalf?

A. You were the counsel.

Q. You say that on November 1, 1912, there were \$96,000.00 of the secured notes of different parties?

A. I think \$86,000.00.

Q. Well, those were the parties to whom the stocks had been sold, were they not?

A. Yes, \$869,000.00.

Q. Between the time of your appointment as guardian—that is the commencement of that—and November 1, 1912, were there very considerable sums paid on these notes which were also invested by the guardians in the shape of mortgages on bonds? Go over some of the items.

A. Yes, there were. On April 27th, Mr. W. S. Hancock paid on account \$6,500.00; June 23rd, Mr. Gummere paid on account \$28,000.; June 23rd, Mr. Connelly paid on account \$600.00; July 19, Mr. Service paid \$5,050.00; Mr. Blodget \$5,050.00; George R. Cook \$3,150.00, but never had a note for this at all. Cook Linoleum Company paid \$4,050.00, Mr. Beekman paid 3,750.00, Cook Linoleum Company paid again November 9th, \$8,100.00; January 19, 1912, Mr. Hamill paid on account \$8,500.00; July 27, 1912, Mr. Brampton paid on account \$2,000. I think that is all the payments. 10 20

Q. Now then, on November 1, 1912, there were all these notes, \$86,000.00, that were unpaid. Was that \$86,000.00 subsequently paid by these gentlemen?

A. Yes, entirely paid.

Q. And was that money invested by the guardians?

A. Yes. 30

Q. Now, Mr. George R. Cook retired as a guardian on November 1st, or thereabouts, 1912. Was there any allowance made to Mrs. Hewitt and yourself on account of principal at that time?

A. Nothing.

Q. Was there any allowance made to George R. Cook on principal?

A. No.

Q. Did Mr. George R. Cook accept anything

in the form of commissions on income from the estates of the minors?

A. He did not. When he served notice that he was going to retire as a guardian, he said that he would not accept any commission; that the commission that was due him should be turned back towards the expenses. He said his retirement would necessitate considerable expense, and he would remit his commissions, which he did.

10 Q. Now then, did the amount of commissions remitted by Mr. George R. Cook exceed the expenses of his retirement?

A. I think they did. They more than exceeded it.

Q. Now then, there were stocks still held, and are still held, by the guardians in some of these manufacturing enterprises, are there not?

A. Yes, a considerable amount.

20 Q. Mr. Palmer, take up—what was the first account filed; named as guardian with Mrs. Hewitt, you have filed how many accounts?

A. Four.

Q. Four other accounts.

A. Five accounts altogether.

Q. Now, then, in each of these other accounts, are there large sums of money in the way of principal shown to have been received by the guardians?

A. Yes, a considerable amount.

30 Q. When was the second account filed?

A. Second account was filed in October, 1913.

Q. That was just about a year after Mr. George R. Cook's retirement?

A. Yes.

Q. During that year, how much of principal had you received?

A. The gross amount of principal received during that year was, December 24, \$18,000.00; January 22, \$30,000.00; May 2, 1913, 1,500.00.

Q. In fact, you might give the total of the prin-

cipal received during that period of the second account.

A. I can find it; I thing \$57,000 received from principal in that account.

Q. And that was from November 1, 1912, to October, 1913. Now, did you, as guardian, invest that money?

A. Yes.

Q. And was it invested in bonds and mortgages? 10

A. Bonds and mortgages and in municipal bonds, and some railroad bonds.

Q. What was your course of conduct with reference to the purchase of railroad bonds and municipal bonds?

A. The railroad bonds and municipal bonds lists were gotten in a great many cases from Mr. Hewitt in New York, and in other cases by you in Philadelphia, and they were—all those lists were submitted to me, and I would select the ones that seemed desirable as far as I was concerned, and I would in turn submit it back to Mr. Hewitt, who was representing Mrs. Hewitt at that time, and the bonds were purchased in that way. Part of them were purchased from New York and part from Philadelphia. 20

Q. With reference as to whether the investment was legal under the laws of New Jersey, etc., was there any action taken by you? 30

A. I always submitted them to the counsel for the guardians, practically all investments, because I never felt that I could afford to make investments any way else. All the mortgages were. Of course, the papers were all—everyone of them—turned over to the guardians' counsel, and the railroad bonds particularly were all submitted to counsel, as to their legality.

Q. During the entire period of approximately six and one-half years that you were guardian, how

often did you come to Trenton, and how much time did you take up?

A. I can't tell you exactly how often; I know I came a great deal. I am satisfied that I came on an average of once a week; some times I came oftener. I took up a great deal of time. Perhaps I took up more time than I needed to.

10 Q. With reference to the stocks held in manufacturing corporations with which Mr. Edmund D. Cook had been identified, what did you do with reference to keeping posted as to the affairs and conditions of those corporations?

A. I called at the offices of these corporations quite frequently, always aimed to attend the meetings; attended the stockholders' meetings, and did the best I could to familiarize myself with the financial statements. The only way you could get this statement was to go to the stockholders' meetings.

20 Q. Why was that?

A. Because they never allowed any statement to go outside the office.

Q. Did you attend all stockholders' meetings of these various corporations, as long as the guardians held any stock in them?

A. I think I did.

Q. And did Mrs. Hewitt attend with you, or did you attend alone?

30 A. No, Mrs. Hewitt never attended.

Q. After the meetings of these corporations, and while the financial statement was fresh in your mind, what did you make it a course of conduct to do, with reference to conferring with anyone as regarding the condition of the corporations, etc.?

A. I think in every case, after those meetings, I made it a point to call at your office and go over the matter with you, and very generally made it a point to see Mrs. Hewitt.

Q. Did you, while guardian, sell the stocks of

any of these corporations that Mr. Cook had been identified with?

A. Yes, we did.

Q. Stocks of what corporations did you close out entirely during your period of guardianship?

A. We closed out netirely the Stephen Ballard Company, and the Standard Inlaid Manufacturing Company.

Q. The proceeds of the sales of those stocks were invested in the same way you have testified the other investments were made? 10

A. The same way. We invested all the funds in the same manner.

Q. With reference to those sales of stock and the advisability of those sales, with whom did you consult?

A. I always consulted Mrs. Hewitt; always consulted counsel also.

Q. Were there any of the affairs of these corporations that you thought should be gone into that you failed to go into to the best of your ability? 20

A. No, there was not.

Q. Taking in the point of time during the six and one-half years, what would you say that you had averaged here in Trenton in looking after these investments?

A. I should say on an average I was in Trenton at least once a week. I could almost tell exactly if I had known that would be called for, because I kept a diary, and every time I came to Trenton I would jot it down, but can't tell you exactly, but would say about once a week. 30

Q. Were all your traveling expenses charged up to the estate?

A. No, absolutely not.

Q. And with reference to some clerical work which you stated had been done by the Trust Company; were those charges always taken out of the income commissions of the guardians?

A. They were not in the first accounts. They were in the last two accounts, I think. After Mr. Cook retired from the guardianship, I made arrangements with the Trenton Trust and Safe Deposit Company to act as bookkeeper.

Q. And that was for the convenience of having people stop in there to pay interest on their mortgages?

A. Yes. We kept all our funds there, and for that service we paid them \$250.00 a year.

10 Q. When you came to Trenton each time, would you go to the Trust Company and go over the accounts of the guardians at the Trust Company?

A. I always did.

Q. And also the accounts of the Trust Company?

A. Yes.

20 Q. Did Mrs. Hewitt, or not, accompany you on those occasions?

A. No, she did not.

Q. That work was all done by you?

A. That was all done by me. I would meet Mrs. Hewitt there about once a year to go over and check up securities, when we filed an account.

Q. Did Mrs. Hewitt, during these six and a half years, spend any considerable portion of time away from Trenton?

30 A. Yes, she spent considerable time away. She was usually away in the summer time, somewhere for a time, and very apt to be away during the winter.

Q. Well, there were occasions when she was away for substantially all of the winter, were there not?

A. Yes, there were.

Q. During the periods when Mrs. Hewitt was not in Trenton, so you could see her and make your reports to her, did you conduct any correspondence with Mrs. Hewitt or Mr. Hewitt?

A. Yes, a great deal of correspondence.

Q. And that correspondence would be on what subjects?

A. On the subjects of investments. I tried to make it my business to keep in touch with investments all the time, to the best of my ability. Of course, if I had anything that I had inspected, or any mortgage, it was always submitted to Mrs. Hewitt. I usually did that by letter. I have a number of copies of letters.

10

Q. These letters were written whereabouts?

A. Written in my office at Langhorne.

Q. Dictated by you?

A. Yes.

Q. And there were never any charges, of course, made against the estate for any clerical help in your office?

A. Oh, no.

Q. Now, was the correspondence on many of these investments quite voluminous?

20

A. Yes, some of them.

Q. During the period of your guardianship, was there ever anything lost in interest on any of these investments?

A. No, there was not.

Q. And was there anything ever lost in the way of principal?

A. No. I might say we had some trouble with one mortgage, but we got it straightened up. Had to put it in the attorney's hands. The property was advertised to be sold for taxes; we found it out, got our attorney to take charge of it, and we redeemed it for the taxes. Started foreclosure proceedings, but the property in the meantime was sold.

30

Q. Will you take up the three accounts and state how much of principal was received during that period of the three accounts, and what was invested?

BY THE COURT:

Q. You mean re-invested, or accumulation of profit; principal paid in, and re-invested?

A. Yes, principal paid in and re-invested.

Q. Just give the total?

A. Amount of principal received by the three accounts is \$45,114.00.

10 Q. Now, in connection with the investment of property, will you state whether or not the principal was closely invested, so that at no time were there very large sums in bank?

A. Yes, invested pretty closely. Did not allow the funds to remain idle any longer than we could help.

Q. Will you take up the fourth account and show how much of principal was re-invested during the period of the fourth account? Principal received during period of the fourth account?

20 A. \$93,831.58.

Q. That was re-invested by the guardians along the same lines you have testified to?

A. All investments, yes.

Q. These accounts approximately were filed every year, were they not?

A. We aimed to file an account every year.

Q. And you filed five accounts during the period of six years?

A. Sometimes lapped over about six months.

30 Q. During the period of the fifth account, what was the amount of principal received?

A. \$28,200.

Q. And that was invested in the same way?

A. Same way.

Q. Mr. Palmer, was the income of these estates more than sufficient to meet the maintenance of the wards?

A. Yes, a great deal more than sufficient.

Q. Will you take up the first account, and state what amount of income was received during the

period of the first account in excess of the amounts expended?

A. Balance of income in the first account was \$48,589.20.

Q. Was that all re-invested?

A. Yes.

Q. Now will you take up the second account in the same way?

A. Balance of income in second account was \$42,957.40.

Q. Was that all re-invested in the same way? 10

A. Yes.

Q. Take up the third account. State what surplus income was during the period of third account?

A. Surplus income in third account was \$42,494.88.

Q. And that was invested in the same way?

A. All invested in the same way.

Q. Take up the fourth account, and state surplus income. 20

A. Balance of income in fourth account, \$40,760.30.

Q. Now the balance of income in the fifth account?

A. \$64,816.14.

Q. Just state in a general way how it is that income from the principal was so large?

A. The large surplus of income in this last account, for instance, they were made up generally 30 from the large profits received.

BY THE COURT:

Q. Dividends from the industrial company; they exceeded by far five or six per cent. annually.

A. Yes, they did.

Q. As an illustration, during the last account, what dividends were received in percentages from Cook Linoleum Company?

A. I think there were four dividends of 5 per cent. each during the period of this account.

Q. And the account ran between what dates?

A. This ran from February, 1916, to August, 1917; that was a year and a half.

10 Q. Then this large surplus of income was due to the fact that there was only paid for the care and maintenance of the children by order of the Mercer County Orphans' Court, how much each year?

A. \$6,500 a year until Miss Charlotte became of age, and was reduced \$2,000.

Q. \$6,500 for all?

BY THE COURT:

Q. What was done with it?

A. This money was paid to Mrs. Hewitt.

Q. The \$6,500 a year?

20 A. Paid for the care and maintenance of the children.

Q. That was the amount that had been agreed upon, was it not, and made an order of the court?

A. Yes.

30 Q. Now, Mr. Palmer, will you take up the last and fifth account, and state what is the total amount that was in the hands of the guardians during the period of the—at the end of the fifth account?

A. \$642,823.00.

Q. That was the estate of the four younger children?

A. Of the four children.

Q. That was the amount left after the deduction of Miss Charlotte Cook, now Mrs. Bigelow's, estate?

A. Yes.

Q. So that during the six and a half years of your guardianship, the principal of the estate had

increased from approximately \$436,000.00 to \$642,000.00. Is that correct?

A. That is correct.

Q. Or, in other words, an increase of \$206,000 during that period of six and a half years.

A. Yes.

Q. You entered into bond for the faithful discharge of your duties as a guardian, in what amount?

10

A. In the amount of \$500,000.00.

Q. And they were divided into four bonds?

A. They were divided into five bonds.

Q. Five bonds of \$100,000 each, is that your recollection, or four? Well, they were divided into different bonds, were they not?

A. They were divided into different bonds.

Q. And total amount was \$500,000?

A. \$500,000 or more.

20

BY THE COURT:

Q. Were they several suretyships, or joint suretyships?

A. Several suretyships and one surety.

Q. And the surety on all of these bonds was what?

A. The Trenton Trust & Safe Deposit Company.

Q. And the Trenton Trust & Safe Deposit Company, in the contract of suretyship, had to countersign all of the checks in connection with the management of the estate, did it not? 30

A. No, I don't think there was any arrangement by which they had to countersign the checks.

BY THE COURT:

Q. No joint control?

A. The checks were signed by the two guard-

ians. All the funds and all the securities were kept at the Trust Company.

Q. Well, you did advise the Trust Company of every check that was drawn?

A. Yes.

Q. Have you stated, as far as you are able, the pains, trouble and risk which you undertook as one of the guardians of these estates?

10 A. As far as I am able; yes.

Q. And in the application to the Orphans' Court, was the matter of your commission left solely without any suggestion on your part as to what it should be?

A. Entirely so.

THE COURT—I want to know whether there was any testimony taken in the Orphans' Court as to the value of the services of the guardian? What had the court before it other than the affidavit that is produced here?

20

MR. KATZENBACH—A statement of the services of each were rendered at the time; made by counsel to the judge at the time.

#### CROSS-EXAMINATION.

BY MR. GOURLEY:

Q. You were appointed in February, 1911?

A. Yes.

30

Q. At that time George Cook was associated with you?

A. He was, yes.

Q. He was more familiar than you with these securities, I think?

A. With the manufacturing; yes, decidedly so.

Q. He was associated with this manufacturing concern, the stock of which is still held by the estate.

A. He was.

Q. Was it George Cook who sold this block of stock to Mr. Hewitt and others?

A. Yes, George Cook.

Q. What was done before your appointment in February, 1911, or afterwards?

A. Part of it was sold before my appointment.

Q. How much of that stock was sold before your appointment?

A. I can't tell you that. I can't remember; part of it was sold before and part shortly afterwards. 10

Q. Was it sold for cash?

A. No; a majority of it was sold for notes.

Q. The notes were taken with stock as security?

A. Stock as security.

Q. And stock held by the estate?

A. Yes.

Q. And later by guardian?

A. Yes.

Q. Did you sell any stock of this character at all to anybody? 20

A. Yes.

Q. Go on.

A. After my appointment as guardian, we sold some of the Cook Linoleum stock, and sold all of the Standard Inlaid Manufacturing Company, and sold the Stephen Ballard stock.

Q. Amounting in value to what?

A. I can't tell you the exact amount of that, unless I refer back to the accounts. I would say approximately from \$75,000.00 to \$100,000.00. 30

Q. Did George Cook negotiate that sale?

A. Yes, he had considerable to do with it.

Q. He was the one who did it actually, Mr. Palmer?

A. Yes, he had a good deal to do with it, because the bulk of that, in fact all of that stock, was sold to people that were connected with George Cook.

Q. Notes were taken in the same way?

A. Notes were taken in the same way.

Q. And those notes, which you have spoken of, were notes taken in that way?

A. Yes.

Q. And they were paid from time to time by makers of the notes?

A. From time to time.

Q. You holding the stock as security?

10 A. Yes.

Q. So that completes that transaction. Now, outside of that transaction, Mr. Palmer, what amount of the original corpus of the estate have you changed; speak broadly?

A. I think at the filing of this last account we held about \$180,000.00 of the original holdings.

Q. Why, that is the value of this stock you hold now. I am speaking of the stock of the linoleum companies.

20 A. We hold, at the present time, \$28,913.07 of the Acme Rubber Company; Cook Linoleum Company, \$99,684.00; Hamilton Rubber Company, \$41,905.00. That is all we hold in the manufacturing concerns.

Q. Those were the original holdings of the estate?

30 A. They were the original holdings of the estate. Totals, \$170,502.00. But in addition to that, the estate still holds some of the original holdings, made up of the Mechanics National Bank, \$500.00; Mercer Trust Company, \$1,800; Trenton Trust & Safe Deposit Company, \$2,880; Trenton Auxiliary Fire Alarm, \$1,200; Trenton Theatre Building Company, \$3,920. That makes approximately, I think, \$180,000 of the original holdings.

Q. You are speaking now of the original holdings of \$438,000, the aggregate?

A. Yes.

Q. The amount of income per year was ap-

proximately how much? About what during the term of the running of these accounts?

A. Ran from \$55,000 up to \$75,000.

Q. There was only paid, however, from that income the amount necessary to support the children, about \$6,500 for five children?

A. Yes, and the cost of the bonds and the book-keeping.

Q. Well, that was not much in excess of that, whatever it was in the account?

10

A. Yes.

Q. Now there is \$2,000 less now; amount of allowance about \$4,500?

A. Amount of allowance, I think, is \$4,500.

Q. So that the difference between \$4,500 and \$55,000 was the surplus income?

A. Surplus income.

Q. You invested that, of course?

A. Yes.

Q. Is it from that source that you say you have increased this estate from \$400,000-odd to \$600,000-odd?

20

A. That has considerable to do with it, I think.

Q. Can you give us any instance where you have increased the body of this estate by any act of yours?

A. I would not attempt to do that.

Q. There has been no losses?

A. No losses.

Q. And no gains, except income?

30

A. I don't claim there has been any, occasioned through any act of mine.

Q. Whatever amounts there were are overcome by small losses?

A. Yes, they more than balance; more gain than loss, I think more gain than there is loss.

Q. In all, any appreciable amount?

A. Well, I would say there was considerable gain over the inventoried value of the stock.

Q. I mean due to your activity?

A. No, I don't claim that.

Q. What has the Trust Company to do with aiding you in managing this estate? What were their duties?

10 A. Their duties were to keep our books for us, our accounts. During the term of George Cook's guardianship the account was kept by one of his men, Mr. Connelly. When Mr. Cook gave up the guardianship, of which I was very sorry, I arranged with the Trust Company to do that small work that that man was doing out there.

Q. They were the sureties on the bond?

A. They were the sureties on the bond.

Q.—I understand the practice is that the various mortgagors, on whose property you hold these mortgages, come into the Trust Company and pay their interest?

A. Yes.

20 Q. And take the receipt of the Trust Company for such payment?

A. Yes.

Q. Then the Trust Company would credit to your account that payment?

A. Exactly.

Q. So this thing went on that way, and all you would know about it was when you came around once a week and looked at the account and received their statement?

30 A. Yes, I suppose so; when someone would not pay their mortgage interest I sometimes would have to write a letter.

Q. Didn't they write letters?

A. I think so.

Q. And didn't they look out for taxes unpaid?

A. Usually.

Q. You did not do that; did you make any inquiry about that?

A. Yes, I made inquiry.

Q. You inquired from them?

A. Yes, it was part of their duty to advise me.

Q. You never went to the municipal office or City Hall to look up the list of mortgages you had?

A. No, I did not.

Q. Nor did you ask the mortgagors to bring you receipted bills for the taxes paid?

A. No, I did not.

Q. When the money would accumulate to such sums as you would like to further invest, did the Trust Company suggest the form of the investment? 10

A. Not at all.

Q. Do you mean these bonds were bought wholly on your knowledge. The Trust Company never suggested or advised as to any investment? Did you consult with them as to the form of the investment?

A. I consulted with them lots of times about the mortgages.

Q. Didn't they place, as it is called, a number 20 of these mortgages?

A. No. I should say they did not. We got some mortgages through the Trust Company.

Q. Didn't you buy some mortgages from them?

A. We bought some mortgages from them.

Q. How many?

A. I don't believe I can answer that question. The first lot of mortgages that were bought, I think, were bought by the administrator, and they were bought from the Trust Company and turned 30 over to you.

Q. Turned over to us? You continued that practice in part, of buying mortgages from the Trust Company?

A. We bought very few mortgages after that from the Trust Company; we would have been glad enough to buy them, but they did not have the securities that we wanted.

Q. In amount? In volume you mean?

A. Yes, or that we considered desirable.

Q. What was the amount of the mortgage that you took over from the administrator?

A. I think about \$80,000.

Q. What is the amount of mortgages to-day?

A. \$250,000.

Q. Real estate mortgages?

A. Yes.

Q. On Trenton property?

10 A. Not all on Trenton property.

Q. Mainly, I mean?

A. The bulk.

Q. What portion of that sum is outside Trenton?

A. About \$23,000 over in Pennsylvania.

Q. There is no objection to first lien deed in Pennsylvania, real estate mortgage?

A. That is what I was advised; no objection.

Q. Well, anything else?

20 A. Outside of the city of Trenton, I suppose we have possibly \$15,000 or \$20,000.

Q. What have you changed in the character of these mortgages during the last account, from February, 1916, to July, 1917?

A. Very little change in the mortgages.

Q. In the territory covered by these, you have had nothing whatever to do with them; I mean no serious work about them?

A. No, not in the change of mortgages.

30 Q. And you collected your interest in the way indicated?

A. Yes.

Q. Of the sum that you mention as being turned over by the administrators, amounting to about \$80,000, I think you said, how many mortgages did you have for that amount?

A. That was made up of these mortgages, but we haven't them all now; two paid off.

Q. What is the amount of those that you have now; of those original mortgages?

A. Combination Rubber Mfg. Co., \$25,000, and that was listed as B Hoff mortgage, \$32,000.

Q. They still stand?

A. Listed as Martinette mortgage, \$4,500.

Q. Reduced to \$4,000? Lee mortgage of \$12,000, that has been paid off.

A. Yes.

Q. These mortgages you state were passed on by your counsel, the validity of the lien?

A. Yes.

10

Q. Well, was that not paid for by the mortgagor?

A. No.

Q. Was counsel, for his services for such loans, paid by the mortgagor?

A. No, he was not; to my knowledge.

Q. Can you give us the amount of the original corpus of the estate of these four children that you have re-invested? Does it amount to about \$99,000? Is that approximately correct?

20

A. I think not, because the original corpus was \$436,000, and of the original holdings we only have about \$180,000 at the present time.

Q. That is stock you are speaking about. You read from these accounts in answer to Mr. Katzenbach's question as to the amount of principal and income. Do you know that these accounts show the income incorporated with the principal?

A. Well, I don't think they do, not in the manner in which we keep our accounts.

30

Q. At any rate you are reading from the accounts as presented here, these various accounts?

A. Yes.

Q. And you are depending upon the accuracy of that footing in giving your answer?

A. Yes.

Q. You have not made any analysis of the thing yourself to determine the proportion of the original investment that was re-invested?

A. No, I have not.

Q. Nor have you made any analysis of the amount of principal received each year from the original corpus, except as you have answered it from these reports?

A. No, I have not

Q. You wrote to Mrs. Hewitt, you say, a number of times in reference to the condition of the estate?

A. Yes.

10 Q. You wrote from your office in Pennsylvania?

A. Yes.

Q. Did those letters require reply?

A. Well, some of them did.

Q. You said it was voluminous, or your counsel did. Was the reply also voluminous?

A. No.

20 Q. Was she equally as prolific a writer as you were, I want to know?

A. I think so.

Q. Did you call at her house from time to time, on these weekly visits?

A. From time to time.

Q. When occasion required her counsel and advice?

A. Yes.

Q. And she consulted with you?

A. Yes.

30 Q. She went over the thing with you?

A. Yes.

Q. You agreed upon the plan of account?

A. Yes.

Q. All harmonious?

A. Yes.

Q. But you took no step without her solicitation?

A. I took no final step without notifying her. I would not take the responsibility, of course, without her approval.

Q. But whatever course you finally took, was satisfactory to her?

A. Satisfactory to her.

Q. But some suggestions of yours were not always satisfactory to her?

A. No, I think they were not all.

Q. In other words, you suggested buying more oil-cloth stock?

A. That is true.

Q. She suggested buying Liberty Bonds, and you would not agree with it first? 10

A. We bought them.

Q. She had rather a hard time with you to get you to do it. The original notion came from her, didn't it?

A. I don't know whether it came from her or Mr. Hewitt.

Q. And you have received how much money on these various accounts? I mean broadly now, again. 20

A. I can't tell without referring to accounts.

Q. On the first account the sum of \$3,224.24 were allowed?

A. Allowed as commission.

Q. Is that approximately right?

A. Yes, that is approximately so.

Q. And on second account \$2,673.50?

A. Yes, I can say so.

Q. And on third account \$2,651.55?

A. Yes. 30

Q. And on the fourth account \$2,942.58?

A. Yes, I should say so.

Q. Making, exclusive of the present allowance, the sum of \$11,491.88? That is about right?

A. I would say so.

Q. Then there is now in the present account for income the sum of about \$3,572.44?

A. Yes.

Q. Broadly speaking, altogether an allowance

of \$15,000 to the present time, without regard to this obligation of commission of the guardians?

A. I would say so.

Q. Of that sum, Mr. George R. Cook received \$1,000, or one-third of the first allowance, which he returned back to the estate?

A. Yes.

Q. Except that, all that sum has been paid except the present allowance on income?

10 A. Yes.

Q. The bonds that this last account shows in existence—what proportion of those bonds were purchased by Mrs. Hewitt and what by you—I mean suggested?

A. I can't tell you that.

Q. I show you a list here which I have made out of bonds purchased by Mrs. Hewitt and bonds purchased by you, and ask you to look at it and tell me whether any inaccuracy is in that?

20 A. I see no inaccuracy in the list as you have prepared it. Of course, as to the bonds purchased by Mrs. Hewitt and bonds purchased by me, why we never separated them in that way. They were always purchased in about the same way, whether they would be bought in New York or Philadelphia. Those were the ones actually bought for us by Mr. Hewitt.

Q. And would the suggestion of the purchase come from Mr. Hewitt?

30 A. Not in every case.

Q. Then the list is not right?

A. Yes.

List offered in evidence and marked Exhibit D-1 for identification.

Q. At the time of the 1912 account, when Mr. Cook was discharged, you and Mrs. Hewitt were reappointed guardians?

A. We were, yes.

Q. But your account was closed at that time?

A. All the guardians were discharged and others were appointed.

Q. You had filed your account up to that time. Did you then claim any money, or Mr. Cook claim anything, on corpus of the estate at that time?

A. No, he did not.

Q. Was any suggestion made by Mr. Cook or anyone that there was a claim upon the corpus of the estate then, when you were in?

A. There was not.

10

Q. This application of yours now embraced the period before your discharge from the first appointment?

A. Yes it does.

Q. It does not take into connection at all Mr. Cook's activity as guardian?

A. It does not.

Q. You were allowed 5 per cent. on the income at that time?

A. We were.

20

Q. Your period of service ended when—the last account was dated July or August?

A. I was discharged in September.

Q. But your account was presented to the court in July, wasn't it?

A. The account was made up in July.

Q. And these accounts by you, weren't they made up by the Trust Company?

A. They were made up by Mr. Petty and myself in the Trust Company office.

30

Q. Mr. Petty is the Trust Company officer?

A. He is. Mr. Petty is the man that had charge of our work for us.

Q. In the form presented here, it was made up by him?

A. Yes.

Q. And kept in the receiving account of which he had charge in the bank?

A. I don't think it was exactly the form they used in their bank.

Q. Did you take any interest in the estate after July; take any active part in the estate after July?

A. I think not; very little.

Q. So that your activity ended in July?

A. Yes.

Q. Your discharge was July 20th. Then it was a period from December, 1912, to July, 1917?

A. Approximately, yes.

10 Q. In some of the stocks sold—the Ballard stock—there was an excess obtained over the inventoried price of four or five thousand dollars?

A. Yes, I forget the exact amount.

Q. That surplus was put in as income in your account?

A. Yes.

Q. And you, of course, kept your 5 per cent. on that?

A. Yes.

20 Account of December 6, 1912, and account of February, 1911, offered in evidence.

MRS CHARLES E. HEWITT, a witness produced on behalf of the appellants, being duly sworn according to law, testifies as follows:

#### DIRECT EXAMINATION.

BY MR. GOURLEY:

30 Q. Mrs. Hewitt, are you one of the guardians of these four children?

A. I am.

Q. And you are the mother?

A. Yes.

Q. You were appointed in 1911 originally; then later in 1912, and continued until the present time?

A. Yes.

Q. Are you the sole guardian at the present time?

A. Yes; I am now.

Q. Will you tell us in a general way, Mrs. Hewitt, how you kept yourself informed about the securities of the estate?

A. I didn't go to any of the meetings at all, but I asked Mr. George R. Cook, Mr. Beekman and different men who have stock in the different concerns, and tried to keep myself generally informed that way.

Q. Your former husband's relatives are interested still in the business? 10

A. Yes, they are.

Q. Did you in any way, from them or other channels, obtain knowledge of the business of these companies?

A. Through them I did.

Q. From that information were you satisfied to allow the stocks to remain?

A. Yes, satisfied.

Q. About these bonds and mortgages, what did you do about them; examining properties or passing upon their values? 20

A. To look at the mortgages, I went with Mr. Palmer on one or two occasions—I think twice. I also inquired of different real estate men as to the value of properties.

Q. When were you married to your present husband?

A. September 29, 1912.

Q. Well, what did you do in the way of investing the surplus money obtained from the estate, in bonds? 30

A. Mr. Hewitt bought a great many of them, and some of them Mr. Palmer bought.

Q. Would he consult with you from time to time about them?

A. Yes.

Q. How frequently had you to visit the Trust Company?

A. Well, not very frequently. I should say about once a month, probably.

Q. What report did they make to you, Mrs. Hewitt, about the condition of the estate or receipt of the mortgage interest?

A. Each month I received a statement from the Trenton Trust Company, which I scrutinized carefully.

10 Q. What did you do about re-investing the moneys? Was there any particular amount that you had to have in order to re-invest? Was there any understanding of any kind?

A. When I considered there was too large a surplus in the bank, I called Mr. Palmer's attention to it several times, sometimes Mr. Hewitt's, and we considered together the thing best to do with it; how to invest it.

Q. Were any investments made without your consent or approval?

20 A. Not any.

Q. During this time, had you occasion to correspond with Mr. Palmer about affairs?

A. Yes.

Q. Had you any disagreement; I mean, rather, did you accord with him about buying stocks, always?

A. I think always. I think one or two, probably, were not what I thought were best.

Q. What were they?

30 A. One was the Liberty Loan.

Q. Were there any differences about some of the Oilcloth stock?

A. Yes, some there, too.

Q. What was his attitude about that?

A. Mr. Palmer thought it would be well to invest some of the surplus in more stock of the Cook Linoleum Company, and I did not.

Q. That was not done, then?

A. It was not done.

Q. What about the mortgages? Had you oc-

casation to pass on them, disapprove some of those loans, or were they always satisfactory to you?

A. I think most of them were satisfactory to me.

Q. You have taken entire charge of the children?

A. Entire charge of the children.

Q. And the maintenance of them? Mr. Palmer had nothing to do with that?

A. Nothing at all.

10

Q. The youngest children are boarding?

A. Not at present, but they have been.

Q. All that is arranged by you?

A. Only one went to boarding school, and I arranged about that.

Q. Whatever was done in relation to that was done by you?

A. Entirely.

Q. Mr. Palmer took no active part in that?

20

A. None at all.

#### CROSS EXAMINATION.

BY MR. KATZENBACH:

Q. Originally you were desirous that Mr. Cook's estate should not be so largely invested in stocks of manufacturing enterprises, were you not?

A. Yes.

Q. And as a result of those conferences with Mr. George R. Cook, Mr. Palmer and myself, the stocks, to some extent, were sold?

30

A. Some of them.

A. And the moneys invested in mortgages and in railroad bonds, municipal bonds?

A. Yes.

Q. Now, with reference to the investments in mortgages, you remember on one or two occasions of going with Mr. Palmer?

A. Yes.

Q. As a general thing, Mr. Palmer went along to inspect the property?

A. I don't know that.

Q. You don't know that; but of all of the mortgages that you hold, you can only remember one or two?

A. Two, I think.

Q. Where you went to inspect the properties?

10 A. Yes.

Q. How often did you go to the Trust Company in connection with the administration of this trust?

A. Well, about once a month, I should say about once a month.

Q. And after any of the meetings of the stockholders of these various corporations, did Mr. Palmer come and talk to you about what transpired?

A. I don't think so.

20 Q. Do you remember, or not?

A. No.

Q. And you never attended any of the meetings personally?

A. No.

Q. And have you no knowledge of how frequently Mr. Palmer may have consulted counsel with reference to all of these affairs.

A. No.

30 Q. And you have no knowledge as to how frequently Mr. Palmer came to Trenton, provided he didn't see you on that particular occasion, did you?

A. No.

Q. You did spend most of the summers outside of Trenton, as Mr. Palmer testified?

A. Four summers I did; two summers I did not.

Q. And you have been out of the city during some of the winters?

A. Yes.

Q. And that necessitated more infrequent in-

terviews, of course, with Mr. Palmer, and more letter-writing?

A. No, because I was at the shore during the summer and came up whenever Mr. Palmer wished to consult with me about anything.

Q. Then there were no letters written to the shore?

A. There might have been some asking me to come up.

Q. None with reference to this matter? 10

A. No.

Q. Well, you have spent some of the time during the winter out of Trenton?

A. About three weeks at a time, except once when we went to California,

Q. And you did spend one winter in New York, did you not?

A. Yes, I came to Trenton on an average of once a week or two weeks all winter. 20

Q. Now, of course, there was no investment made, naturally, except what Mr. Palmer and yourself agreed upon?

A. No.

Q. And you say there was never any disagreement except with reference to the purchase of stock of the Cook Linoleum Company, that you disapproved of the purchase of, and which was not purchased?

A. Yes. 30

Q. The guardians invested in Liberty Bonds, did they not, and felt that they were justified in doing it?

A. Yes, they did.

Q. And that was done jointly and by joint check, was it not; generally it was so done?

A. Yes, had to be.

Q. There was not any disagreement regarding that matter?

A. No disagreement; Mr. Palmer did not ap-

prove of it, but he did finally come around and agree.

Q. Now, so far as the care of the children is concerned, why, of course, you did not want Mr. Palmer to participate in that, did you? You never asked him to do anything with reference to the education of your children?

A. No.

10 Q. Did you and Mr. Palmer ever consult regarding the education of the children?

A. No.

CHARLES E. HEWITT, a witness produced on behalf of the Appellants, being duly sworn according to law, testifies as follows:

#### DIRECT EXAMINATION.

BY MR. GOURLEY:

20 Q. Mr. Hewitt, you are the husband of the last witness, Mrs. Hewitt?

A. I am.

Q. You are secretary of the Ringwood Company?

A. Yes, Treasurer and Secretary.

Q. That is a very large company?

A. Yes.

30 Q. You are the nephew of the late Abram S. Hewitt?

A. Yes.

Q. Have you aided your wife, Mrs. Hewitt, in the suggestion of the purchase of the securities of the estate of which she is guardian?

A. I have.

Q. I show you that list that has been handed in, and marked D-1, and ask you if those bonds were purchased by Mrs. Hewitt from your suggestion?

A. Yes, after consultation in each case with Mrs. Hewitt.

Q. What is your practice in that respect? How are these purchases made?

A. Usually when there were funds to invest and Mrs. Hewitt would speak about it, I telephoned or communicated with bond-houses in New York, asking them to make suggestions, and also decided what I thought was best, and consulted both Mrs. Hewitt and Mr. Palmer.

Q. That covered a period of how long?

A. Since 1912.

10

Q. Have you had anything to do with mortgage loans?

A. Some, but not very much.

Q. Have you gone over the reports of the Trenton Trust Company in relation to the estate, from time to time?

A. The ones they send Mrs. Hewitt, yes.

Q. And you have given her your advice and consulted with her about the estate in its various forms?

20

A. I have.

### CROSS EXAMINATION.

BY MR. KATZENBACH:

Q. Mr. Hewitt, this list which has been marked D-1, are bonds purchased by Mrs. Mary P. Hewitt—of course, these bonds were purchased jointly by the guardians, were they not?

30

A. They were purchased as stated in my answer.

Q. And does this column here give the date of purchase—the first column, and the second column give the party from whom purchased?

A. Presumably, yes.

Q. And there were purchases of bonds, thus made by Mrs. Hewitt, from you personally, I have gathered from the list?

A. None from me personally, no.

Q. I notice here, July 1, Charles E. Hewitt, par value \$10,087.50.

A. I remember the case perfectly well.

Q. You are the "Charles E. Hewitt"?

A. I am the Charles E. Hewitt.

Q. You are the Charles E. Hewitt that is referred to with reference to the list of Passaic bonds?

A. I am, yes.

10 Q. These bonds were either the bonds purchased in New York or in Philadelphia; they were purchased, of course, at the best price that could be obtained at either place, and sometimes you could get a better price on this bond in Philadelphia than in New York?

A. Possibly, yes.

Q. Do you recall any incidents of that kind?

A. No, I don't.

20 Q. And as a general rule, with reference to the purchase of these bonds, you conducted the correspondence for Mrs. Hewitt?

A. Usually, yes.

Q. And some of the letters that were written to Mr. Palmer, signed by Mrs. Hewitt, were dictated by you and written by you?

A. Some of them dictated by me; I don't know whether I wrote them in my own hand or not.

Q. Were they typewritten; did you have them typewritten?

30 A. Probably.

NELSON PETTY, a witness produced on behalf of the Appellants, being duly sworn according to law, testifies as follows:

#### DIRECT EXAMINATION.

BY MR. GOURLEY:

Q. Mr. Petty, you are the Trust Officer of the Trenton Trust Company?

A. I am.

Q. Have you charge of the account we are now examining?

A. I have.

Q. Are you able to tell us shortly what proportion of the original corpus has been reconverted by the guardians? I show you a table, and ask you whether you know anything about it?

A. I have compared it before, and think it is accurate.

10

Q. What have you got to say in answer to the question?

A. Of course, we were appointed the agent in November 29, 1912 for the guardians. The only way I can tell about the corpus on hand July 20, 1917, is by looking at the account of the guardian at that time. I have no personal knowledge of the corpus on hand at that time, only since November 29, 1912.

Q. And from that, what conversion has there been of principal? Can you tell what the estate was when these guardians took it over in December 1912, from that paper?

20

A. I can.

Q. What was the corpus of the estate then?

A. \$438,000.00.

Q. How much of it, if any, has been reconverted at the present? How much of the present estate still stands in its original form?

A. About 85%.

30

Q. Eighty-five? Then 15% is all the change that has taken place in the original securities—on \$438,000. on hand December 1, 1912?

A. Based on four children, on the corpus of the four children.

Q. We are speaking of that?

A. Yes.

Q. That would represent approximately about sixty odd thousand dollars?

A. \$66,000.00.

Q. I desire to call your attention to one of these accounts, one dated July, 1914, and call your attention to the bottom: Principal \$45,114.00, Income \$10,536.00, and ask you whether that means that \$45,000.00 of principal was reconverted that year, or whether there are other items to enter into that?

A. That is a disbursement.

10 Q. Mr. Palmer, if I may be permitted, read from that as giving the amount of principal as received during that year.

A. That is the credit side of the account (indicating); that is the principal paid out.

Q. Does that sum, \$45,000.00, indicate the amount of principal paid in on the corpus during that year?

THE COURT: No, it indicates the amount they claim credit for as having invested.

20

## CROSS EXAMINATION.

BY MR. KATZENBACH:

Q. Now Mr. Petty, this statement was not made up by you, was it?

A. No, it was not.

Q. All this statement purports to show is the stocks of the Cook companies?

A. Yes, on November 29, 1912.

30 Q. On November 29, 1912. Now, that was at a date subsequent to the sales of these large blocks of stock to Messrs. Hamill and Gummere, and Brampton and Service and others, which you were familiar with?

A. It was.

Q. It was just prior to that date that those large sums of principal had been invested by the guardians, was it not?

A. Yes.

Q. And this only purports to show that of the stock of the manufacturing enterprises since the

date of November 29, 1912, there has been a change of 15%, is it not?

A. That is my understanding of it.

Q. And it hasn't anything to do with any changes in the mortgages, has it?

A. I don't know.

Q. That has not anything to do with investment of \$206,000.00 of surplus income by the guardians, has it?

A. It has not.

10

RECESS UNTIL 2 P. M.

NEW JERSEY PREROGATIVE COURT.

In the matter of the commissions to be allowed to the guardians of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d and Margaret Eva Cook, minors, upon the discharge of Henry Palmer, one of the guardians of said minors.

On Appeal 20  
from the Or-  
phans' Court  
of Mercer  
County.

For the Appellants:—MR. WILLIAM M. GOURLEY  
and MR. LINTON SAT-  
TERTHWAITE.

30

For the Respondent:—MR. FRANK S. KATZEN-  
BACH.

CONCLUSIONS.

BACKES, V. C.

Four of the minor children of Edmund D. Cook, deceased, Ruth, Edmund, George and Margaret, each, received from their father's estate \$109,510.30. Their mother, Margaret P. Cook, George R.

Cook and Henry Palmer were appointed their guardians in April, 1911. In December, 1912, George R. Cook, resigned, waving compensation, and received his discharge. The two remaining guardians were continued under a new order of appointment and in September, 1917, Mr. Palmer applied for and received his discharge. The Orphans' Court allowed compensation to the guardians for their care of the corpus, as against the respective estates, the following sums: Ruth \$2,899.61, Edmund \$2,340.02, George \$2,059.23 and Margaret \$1,885.21, aggregating \$9,184.07. Of these allowances, Mr. Palmer was awarded three-fifths, \$5,510.42, he having been the active guardian in the management of the funds. An allowance of \$300 against each of the estates was also made to counsel.

10  
20 The only question to be delt with is whether the allowances are excessive. The division of the allowances to the guardians is not involved. The allowances to counsel are not seriously assailed. They are at the rate of less than \$50 a year against each estate. These sums are indeed modest for the character of legal services rendered, taking into consideration the high standing of counsel, and so much of the appeal as concerns that feature of the case is dismissed with the further comment that the allowances are beyond fair criticism.

30 The allowance made to Mrs. Hewitt (formerly Mrs. Cook) has not been the subject of discussion. While the appeal attacks the allowances as a whole, the contest is centered upon so much thereof apportioned to Mr. Palmer, Mrs. Hewitt prosecuting in her capacity as remaining guardian. The remuneration allowed to Mr. Palmer for his six and one half years of service is very moderate, and this can be better appreciated by dividing the total into the number of years of service. For his care and watchfulness and prudent management of nearly a half a million dollars, his annual com-

pensation is less than nine hundred dollars. It would seem to me that the mere responsibility of so large a fortune justifies this amount of remuneration. I doubt very much if in a private undertaking a person of Mr. Palmer's qualifications could be secured to assume, merely the risk at this small fee. Of course, at common law, trustees served gratuitously, but a different policy now prevails and under the provisions of the Orphans' Court Act, guardians are allowed commissions not to exceed five per cent. of the estate, and in fixing the compensation the court, within the limitation, is required to measure it by the "actual pains, trouble and risk of such accountant." When therefore we look at the actual pains and trouble, in addition to the risk, Mr. Palmer had, as disclosed by the evidence, and from it appears that the burden of the management of the funds was carried by him, no one, moved by a sense of fair play and justice, could say that the allowances are out of proportion to his pains, trouble and risk. I venture to observe that in the Court of Chancery where we are frequently called upon to fix fees of receivers of insolvent corporations, and where there is no statutory limitation would exceed considerably the sums given here, and properly so. The amounts fixed by the Orphans' Court are within the statutory limitations, are fully justified by the nature of the services rendered and so far as the estates are concerned are reasonable and are approved.

The thing that gives ground for criticism and probably provoked this appeal is the inequality of the allowances made against the several estates. The funds were managed as a unit, as they came to the wards from their father, to which were added considerably from income in excess of what was needed for the maintenance of the children. The same scrupulous care and attention was given to each and for the same length of time, and the

question, naturally enough, asked is, if the statutory basis of compensation is actual pains, trouble and risk of the guardians, why should Ruth's estate be called upon to pay a larger sum than the others, and why should Edmund's be greater than George's, and George's exceed that of Margaret's? At first blush this taxation would seem to be unjust and it would appear that the court below fell into grievous error in its method. 10 But the court had this situation to deal with. Ruth's estate had another year to run, Edmund's six years, George's seven and Margaret's twelve. Ruth's estate, the administration of which was about ended, was taxed at the rate of three per cent. commission, those of Edmund and George at four and Margaret's at five per cent., and at these rates the commissions were allowed in proportion as the period of service rendered by the guardians bore to the terms to be administered. 20 Now while the court, obviously esteemed the services rendered to Ruth's estate to be fairly worth the sum of three per cent. *minus* and that the guardians had earned no less from the other estates, provision had to be made for the compensation of those who were to administer the unexpired terms and, with the capital for this purpose restricted by the statute to five per cent. the appraisal had to be subordinated to apportionment. 30 Although the imposition on the several estates does not result in an exact equality of charge the highest is not excessive and the appellant-guardian is not aggrieved.

The appeal will be dismissed with costs.

## NEW JERSEY PREROGATIVE COURT.

In the matter of the commissions  
to be allowed to the guardians  
of Ruth Joyce Cook, Edmund  
Dunham Cook, George Rea  
Cook, 3d and Margaret Eva  
Cook, minors, upon the dis-  
charge of Henry Palmer, one  
of the guardians of said mi-  
nors. } 10

MARGARET P. HEWITT, Remain-  
ing Guardian, }  
Appellant, } On Appeal  
and } from Mercer  
HENRY PALMER, Guardian, } County Or-  
Respondent. } phans' Court.  
20

## DECREE OF AFFIRMANCE.

This cause having been brought to a hearing on  
an appeal from the Mercer County Orphans'  
Court, and the court having taken testimony, ex-  
amined the pleadings, and Linton Satterthwaite  
and William B. Gourley, of counsel with appell-  
ant, and Frank S. Katzenbach, Jr., of counsel with  
the respondent, having been heard, and the } 30  
question brought up by the appeal having been  
duly considered;

IT IS on this 2nd day of August, 1918, on motion  
of Frank S. Katzenbach, Jr., proctor for Res-  
pondent, ORDERED, ADJUDGED and DECREED that  
the order of the Mercer County Orphans' Court,  
made on the fifth day of February, 1918, fixing  
the commissions on corpus to be paid to Margaret  
P. Hewitt and Henry Palmer, guardians of the  
estates of Ruth Joyce Cook, Edmund Dunham

Cook, George Rea Cook, 3d and Margaret Eva Cook, minors, and the counsel fees to be paid to Frank S. Katzenbach, Jr., out of the corpus of said estates be, and the same is in all things affirmed, and the costs of the appeal be paid by the appellant, and that the petition of appeal be dismissed;

10 And IT IS FURTHER ORDERED that the record be remitted to the Mercer County Orphans' Court to proceed thereon according to law and the practice of said Court.

Respectfully advised,

E. R. WALKER, Ordinary.

JOHN H. BACKES, V. C.

Endorsed:

FILED AUGUST 5, 1918,

THOMAS F. MARTIN, Register.

NEW JERSEY PREROGATIVE COURT.

In the matter of the commissions  
 to be allowed to the guardians  
 of Ruth Joyce Cook, Edmund  
 Dunham Cook, George Rea  
 Cook, 3d and Margaret Eva  
 Cook, minors, upon the dis-  
 charge of Henry Palmer, one  
 of the guardians of said mi-  
 nors. } 10

MARGARET P. HEWITT, Remain-  
 ing Guardian, }  
 Appellant, }  
 and }  
 HENRY PALMER, Guardian, }  
 Respondent. } On Appeal  
 from Mercer  
 County Or-  
 phans' Court. } 20

NOTICE OF APPEAL FROM PRERO-  
GATIVE COURT.

The appellant above named hereby appeals  
 from the whole and every part of the final decree  
 or order of the New Jersey Prerogative Court,  
 affirming the order or decree of the Mercer  
 County Orphans' Court in the above stated matter,  
 entered in said Prerogative Court on the fifth day  
 of August, nineteen hundred and eighteen, in the } 30  
 above stated cause, to the Court of Errors and  
 Appeals, in the last resort in all causes.

LINTON SATTERTHWAITE,  
 WILLIAM B. GOURLEY,  
 Proctors and of Counsel of Margaret  
 P. Hewitt, remaining guardian, Appellant.

I conceive there is good ground for appeal in the above cause.

LINTON SATTERTHWAITE,  
Of Counsel with Appellant.

---

10 Service of a copy of the foregoing notice of appeal acknowledged this seventh day of August, nineteen hundred and eighteen.

FRANK S. KATZENBACH, JR.,  
Proctor of Henry Palmer, Guardian, Respondent.

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Endorsed:

FILED AUGUST 13, 1918,

THOMAS F. MARTIN, Register.

NEW JERSEY COURT OF ERRORS AND APPEALS.

In the matter of the commissions to be allowed to the guardians of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d and Margaret Eva Cook, minors, upon the discharge of Henry Palmer, one of the guardians of said minors.

10

MARGARET P. HEWITT, Remaining Guardian,

Appellant,

and

HENRY PALMER, Guardian, Respondent.

On Appeal from Prerogative Court.

20

PETITION OF APPEAL.

The petition of Margaret P. Hewitt, remaining guardian of Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3d and Margaret Eva Cook, minors, the appellant in the above stated cause, respectfully shows that your petitioner finds herself aggrieved, both personally and as guardian, &c., as aforesaid, by a final decree made in the Prerogative Court by his Honor Edwin Robert Walker, Ordinary of the State of New Jersey, entered on the 5th day of August, 1918, in the above stated cause, in this respect to wit:

30

That the said decree affirms the order or decree of the Mercer County Orphans' Court fixing allowances for commissions to guardians of said Ruth Joyce Cook, et als., and counsel fee, and making an unequal apportionment of the com-

missions allowed between the appellant and respondent; that said allowances were in excess of proper allowance based upon pains, trouble and risk in the administration of said guardianship, that whatever allowance of commission should be made to the appellant and respondent, as guardians, should have been equally divided between them.

10 And your petitioner humbly appeals from the whole of said decree, upon the ground that the same is erroneous, for that the allowances made in said decree should have been reduced, and that commissions allowed should have been equally divided between the appellant and respondent.

Your petitioner, therefore, prays that the decree of the said Ordinary may be reversed and said allowances may be reduced, and that commissions allowed to appellant and respondent be equally divided between them.

20 And that your petitioner may have such further relief in the premises as to this honorable court shall seem meet.

\_\_\_\_\_  
Solicitors and of counsel with Margaret  
P. Hewitt, remaining guardian, appellant.

30 I can see there is good grounds for appeal in the above stated cause.

\_\_\_\_\_  
Of Counsel.  
\_\_\_\_\_

Service of a copy of the foregoing petition of appeal, acknowledged this \_\_\_\_\_ day of  
A. D. 1918.

\_\_\_\_\_  
Solicitor of Henry Palmer, guardian, respondent.

NEW JERSEY COURT OF ERRORS AND APPEALS.

In the matter of the commissions  
 to be allowed to the guardians  
 of Ruth Joyce Cook, Edmund  
 Dunham Cook, George Rea  
 Cook, 3d and Margaret Eva  
 Cook, minors, upon the dis-  
 charge of Henry Palmer, one  
 of the guardians of said mi-  
 nors. } 10

MARGARET P. HEWITT, Remain-  
 ing Guardian, }  
 Appellant, } On Appeal  
 and } from Prero-  
 HENRY PALMER, Guardian, } gative Court. 20  
 Respondent. }

ANSWER TO PETITION OF APPEAL.

The answer of Henry Palmer, Respondent, to the Petition of Appeal of Margaret P. Hewitt, remaining guardian.

1. This respondent answering, admits the making of a final decree in the Prerogative Court by his Honor, Edwin Robert Walker, Ordinary of the State of New Jersey, entered on the 5th day of August, 1918, in the above stated cause, affirming the order or decree of the Mercer County Orphans' Court, fixing commissions for and allowing commissions to the guardians of the said Ruth Joyce Cook, et als., and counsel fee, and referred to in appellant's petition of appeal filed herein. 30

2. This respondent is advised, believes and submits that the said final decree of the Prerogative

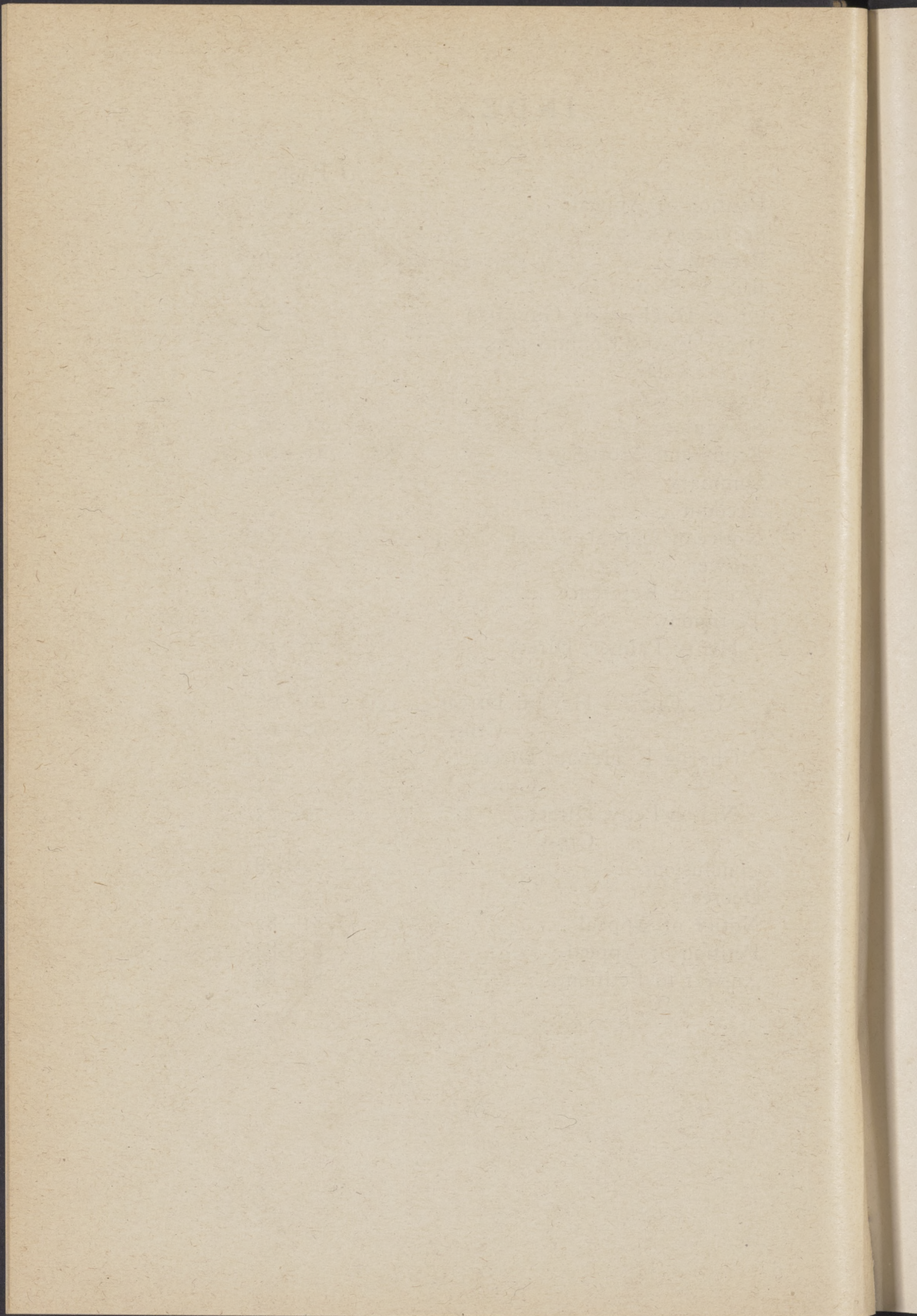
Court complained of by the appellant is just and lawful, and this respondent denies that the said decree, or any parts thereof, are erroneous, improper or illegal, or that the allowances therein made are excessive, or that the allowance of commissions made to the appellant and respondent as guardians should have been equally divided between them, and alleges that said decree is legal, proper and correct, and the allowances therein made are just and reasonable and should not be reduced, and that the division thereof made by the Court between the appellant and respondent was fair, just and proper.

10 3. This respondent, therefore, prays that the said petition of appeal may be dismissed with costs, and that the said decree of the Prerogative Court be affirmed with costs.

FRANK S. KATZENBACH, JR.,  
Proctor for and of counsel with Respondent.

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# New Jersey Court of Errors and Appeals

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IN THE MATTER OF THE COMMISSIONS TO BE ALLOWED TO THE GUARDIANS OF RUTH JOYCE COOK, ET ALS., MINORS, UPON THE DISCHARGE OF HENRY PALMER, ONE OF THE GUARDIANS. } On Appeal from the Prerogative Court.

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## BRIEF OF APPELLANT.

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This is an appeal from an order of the Prerogative Court affirming an order of Mercer Orphans' Court making an allowance on an intermediate accounting to the guardians, Henry B. Palmer and Margaret P. Hewitt, on the discharge of the one guardian, Henry B. Palmer, and allowance of counsel fee.

The amount of the corpus was \$438,041.40, and of income, as stated in account, was \$71,448.83.

The maximum commission of 5% on income was allowed, .....	\$ 3,572.44
Commission on the corpus was allowed, aggregating, .....	9,184.05
	<hr/>
Making total commissions of...	\$12,756.49

These commissions were directed to be apportioned between the guardians, 6-10ths to Henry B. Palmer, and 4-10ths to Margaret P. Hewitt. A counsel fee of \$1,400.00 was allowed.

Appellant insists (1) that the allowance of commissions was too high, (2) that the commissions allowed should have been equally divided, and (3) that the counsel fee was excessive.

The rate of commission to be allowed, in a given case, where the estate exceeds \$20,000.00, is according to the statute to be based on "the actual pains, trouble and risk rendered" in settling the estate or performing the trust. The statute places a maximum limit and between this limit and nothing the sound discretion of the court must determine. Obviously, however, the intention of the statute is that the maximum prescribed should be sufficient for any probable maximum of "services rendered." It is equally obvious, that for only ordinary services much less than the maximum should be allowed. The circumstances of each individual case must control, but decisions of the courts will serve as a guide.

In Wolfe's case, 7 Stew, 223, Runyon, Ordinary, allowed 1% on \$1,300,000., saying that "the mere fact that an estate is large is not of itself a sufficient warrant for a large allowance to those to whom the law may have committed it for protection and management; but they" (the courts) "are to have regard rather to the more appropriate considerations—actual pains, trouble and risk".

In Pomeroy vs. Mills, 37 N. J. Eq., (10 Stew. 578, the Court of Errors and Appeals reduced the allowance to executors on a "final" account of 3% on \$484,233.01 to 2%. In this case the Orphans' Court had allowed 5% and the Prerogative Court reduced the allowance to 3%, the Court of Errors making the further reduction as above.

In *Rogers vs. Hand*, 39 N. J. Eq., (12 Stew.) 270, on final account of executor, a commission was allowed by Ordinary Runyon of 3½% on \$289,000.00, where the executor had been compelled to carry on litigation and to investigate and ascertain accurately what lands testator owned and to exercise testamentary power to sell.

In *Marsh vs. Marsh*, 82 Eq., 176, 87 Atl., 91, allowance 1¼% on total income and 2% on total income—Trustee devoted his entire time.

In *re Hibblers Estate*, 78 N. J. Eq., 217, 78 Atl., 91, an executor had been allowed 3% on a principal of \$166,859.83, and further commission was denied him on filing his account as trustee.

In *Metcalf vs. Colles*, 45 N. J. Eq., (Stew.) 148, 10 Atl., 804, McGill, Ordinary, allowed an executor on final account, 4% on \$155,418.18 saying, "Precedents in allowance of commissions to executors, however, afford but little assistance in fixing compensation. Each case must depend upon its own circumstances, and be tested and controlled by the criterion intended by the statute compensation".

In *Andress vs. Andress*, 46 A. J. Eq., (1 Dick) 528, 22 Atl., 124, Vice Ordinary VanFleet allowed \$3,000.00 on \$107,000.00 on final account of executor.

In *Weeks vs. Selby*, 61 N. J. Eq., (16 Dick) 668 46 Atl., 948, the Court of Errors and Appeals affirmed an allowance of 1% to an executor on \$1,197,501.57.

In *Lyon vs. Bird*, 79 N. J. Eq., 157, 80 Atl., 450, Vice Ordinary Walker allowed 1% on the amount of the inventory, \$72,417.62, and 2½% on \$9,211.86, the amount by which the principal had been augmented, saying inter alia:

"If trustees administer an estate for a quarter of a century, investing and reinvesting, perhaps over and over again, the securities of the

estate, and in the end are entitled to no more than 5 per cent., upon what theory can the maximum allowance to these executors, whose duties with reference to the corpus of the estate were more or less perfunctory, be possibly justified?"

\* \* \*

"The allowance of commissioners on principal and on the collection and disbursement of income must be made with reference to the actual pains, trouble and risk of those administering the estate; and commissions on the principal, where the estate, as in this case, exceeds \$50,000, must be determined with reference to the actual services rendered, and the maximum rate should be allowed only when clearly earned, never for the mere asking."

In *Conover vs. Ellis*, 49 N. J. Eq., 549, 25 Atl., 701, McGill, Ordinary, allowed 2½% on \$63,175.43.

In *Re Steelman Estate*, 99 Atl., 612, Vice Ordinary Leaming allowed executors 2½% on \$29,397.59.

The memorandum opinion of the 'Orphans Court, on which the order first appealed from was based, is as follows:

"Mr. Edmund D. Cook, of Trenton, N. J., died in the year 1908, leaving five children, Charlotte Cook, Ruth Joyce Cook, Edmund Dunham Cook, George Rea Cook, 3rd and Margaret Eva Cook, all minors. Mr. Cook left an estate valued according to the inventory filed in the Surrogate's office, at upwards of \$750,000.00. After the estate had been administered and the share of the widow paid over, there remained as the shares of the five minor children \$547,551.51 or \$109, 510. 30 for each child.

On April 29th, Margaret P. Cook, George R. Cook and Henry Palmer were appointed guardians of the minor children and the above amount, \$547,551.51, was turned over to these guardians.

On December 6, 1912, the guardians were discharged as of November 1st, 1912, and Margaret P. Cook and Henry Palmer were thereupon appointed as guardians, and continued in the discharge of the duties of their office up until September 28, 1917, when Mr. Henry Palmer having petitioned to be relieved, was duly discharged by the Orphans' Court of the County of Mercer.

Charlotte Cook, having reached the age of 21 years in the early part of 1917, received from the guardians the amount of her estate.

The question now before the Court for determination is: What would be a proper allowance to the guardians for their services up to September 28th, 1917, out of the corpus of the estate of the remaining 4 minors?

Miss Ruth Joyce Cook became 21 years of age August 3, 1918, Edmund Dunham Cook will be 21 years of age on May 25th, 1923, George Rea Cook December 24th, 1924 and Miss Margaret Eva Cook on December 22, 1929. In the case of Ruth Joyce Cook, 88.26% of the total period of guardianship had expired on September 28, 1917, in the case of Edmund Dunham Cook, 53.42%, George Rea Cook, 47.01% and Miss Margaret Eva Cook, 34.43%, as will appear by the statement attached hereto.

Assuming that both guardians of Ruth Joyce Cook had continued in office until the end of the trust and had continued to manage the estate in the same prudent and careful manner, as it is evident has been done in the past, a fair and reasonable allowance would, in the opinion of the Court, be 3% on the original amount of her share received by them as guardians. This would make an allowance of \$3,285.30.

Fixing this amount as a proper basis of allowance for the whole term of the trust, the guardians will now be allowed 88.26% thereof, or \$2,899.61.

In the case of Edmund D. Cook and George Rea Cook, a reasonable and proper allowance to the guardians for their services, if the respective estates of both minors were fully administered until they reach their majority, would be 4% on the original value of their respective shares, at the time the guardians assumed control, or \$4,380.41 out of each estate. An allowance of 53.42% of that amount, or \$2,340.02 will now be allowed out of the estate of Edmund D. Cook and 47.01%, of that amount making \$2,059.23, will now be allowed out of the estate of George Rea Cook.

The youngest child, Margaret E. Cook, will not become of age until December 22, 1929, and the entire duration of her guardianship will cover a period of nearly 19 years. An allowance of 5% on the corpus of her estate when fully administered, would seem to be a reasonable and proper one. Calculated on this basis, the allowance for the entire period would amount to \$5,475.51, and 34.43% of that amount, making \$1,885.21, will now be allowed out of the corpus of her estate to the guardians for their services up to September 28, 1917.

Mr. Palmer appears to have been the active guardian and upon him devolved the greater part of the burden of caring for the investments of the minors, a duty which he unquestionably discharged with the utmost care and prudence. It is contended by counsel for Mr. Palmer that he should receive two-thirds of the amount allowed to the guardians and Mrs. Hewitt should receive one-third, and the Court is, therefore, required to determine whether the amount should be shared equally between them or otherwise. In my view of the matter there should be allowed to Mr. Pal-

mer a greater amount than to his co-guardian and the division should be three-fifths to Mr. Palmer and two-fifths to Mrs. Hewitt.

A fee of \$300.00 out of the estate of each of the four minors will be allowed to Mr. Katzenbach, proctor for the guardians."

The following facts will be an aid in measuring the pains, trouble and risk, of these guardians.

The total estate for the four children received into the hands of the guardians on November 29th, 1912, was valued at \$477,000.00, of which \$438,041.21 was Corpus and \$38,958.79 Income; on July 20th, 1917, the date when Mr. Henry Palmer's duties as guardian ceased, the book value of the estate was \$642,823.00, of which \$438,041.21 was Corpus, and \$204,781.79 was Income.

The guardians had already been awarded a commission of 5% for caring for such Income.

The change in the Corpus that took place during the period, was the sale of Stock of Stephen Ballard Co., and of the Standard Inlaid Manufacturing Company, amounting in all to \$66,597.87, or 15 2-10% of the Corpus; the balance of the Corpus \$371,443.34, or 84 8-10% having remained in the trust unchanged. See testimony of Nelson B. Petty.

The risk of these guardians was lessened by a Court order authorizing them to retain in the trust the stocks of the so called Cook Companies. The question then is to fix on the Corpus of an estate, which Corpus amounts to \$438,041.21 a rate of commission that will be fair and just, on an *intermediate* accounting; \$371,443.34 of such Corpus having remained unchanged in the hands of the guardians and only \$66,597.87 having been re-invested and such guardians already having been awarded the maximum allowable commission, 5% on all accretions to such Corpus, which because of its unique character was unusually large.

Appellant calls attention to the fact that while *four estates of four minors were administered, they were all administered as a single fund.*

The allowance for commission, therefore, should be made on the same basis as if the entire fund belonged to but one minor. For the "pains, trouble and risk" were precisely the same as would result from the care of a single fund of the same amount.

It follows, necessarily, that the "pains, trouble and risk" *for each of the four shares*, were, for the period covered by the account and for which commissions were allowed, *exactly the same.*

The "pains, troubles and risk" for the given period being the same, how on the basis of compensation—the test laid down by the courts—can there properly be allowed unequal compensation for the equal service?

The decision allows the following commissions out of the estate of each minor, viz:

Out of the estate of Ruth Joyce Cook.	\$2,899.61
Out of the estate of Edmund Dunham Cook .....	2,340.02
Out of the estate of George Rea Cook	2,059.23
Out of the estate of Margaret E. Cook	1,885.21
	<hr/>
	\$9,184.07

The corpus of the estate of the four children, being \$438,041.21, this amounts to 2.1% of the entire Corpus of the estate.

The interest of each child, in the total estate, is an undivided one. The interest of all are administered as a single estate, there can therefore be no possible difference in the pains, trouble and risk, yet under this decision, Ruth Joyce Cook's estate would pay 54% more than Margaret E. Cook's, which is identical in every respect, and has been administered over the same period. The same

principle applies to the shares of Edmund D. Cook and George Rea Cook. Assume two estates, identical in all respects, with separate guardians, and that the guardians for the sake of economy, for large amounts can be administered at a less percentage cost than smaller amounts, had administered them as one estate, that each guardian had presented his account for settlement on the same day, and the Court had allowed one of the guardians 54% more commission than the other. It is unthinkable! How then, was this illogical conclusion reached? The reasoning is sound, and if the premises were correct, the conclusion, of necessity, would be correct. These errors were in arbitrarily fixing the allowance to be made to the guardians in the case of the estate of each child, on the assumption that such child had reached the age of twenty-one years, and also in incorrectly fixing the time during which these guardians have administered the trust of such child, in relation to the entire time of its administration, from the beginning to the end of such trust.

Having thus erred, the only chance of a correct conclusion was in erroneous intermediate reasoning, but with inaccurate premises, the intermediate reasoning sound, the argument naturally would proceed unerringly to an illogical conclusion.

The order fixes September 28th, 1917, as the date of the determination of the period for which commissions are allowed. Appellant insists that the date should be not later than July 20th, 1917, the date of Mr. Palmer's account, which account the record shows was filed notwithstanding Mrs. Hewitt's protest to Mr. Palmer, and insistence that alleged errors in the fourth account be corrected before a fifth account be filed.

Mr. Palmer in his petition for discharge asks that he be discharged as of July 20th, 1917. It is fair to assume, therefore, that he did not

actively perform any duties subsequent to that date and the calculations herein made will be based on that date as the termination of the services for which commission should be allowed.

In measuring the pains, trouble and risk of this estate, its unique character must be considered. When the corpus of the estate was received into the hands of the guardians, the largest item by far, was in stocks of manufacturing companies, which stocks were owned by the late Edmund D. Cook at the time of his death.

To show conclusively, that the administration of the trust has involved practically the minimum of pains and trouble, and that the percentage allowance should be low, as compared with the great majority of trusts, it will be necessary to mention only three facts, viz:

1st. On the date of Mr. Palmer's account, there remained in the trust 80% of the stocks received by the three guardians and about 84% of the stocks received into the hands of these guardians in 1912, and 60% of all the securities received by them.

The stocks disposed of, as appears by Mr. Palmer's testimony, were sold through the efforts of George R. Cook, one of the three guardians during the first period of the guardianship, and one of those interested in the manufacturing concerns whose stock was held by the estate of Edmund D. Cook. Probably only Mr. Cook could have made the advantageous sale of these stocks at the time, and this performance of a former guardian, cannot be taken into account in considering the "pains, trouble and risk" of the remaining guardians.

2nd. Notwithstanding the accumulation of income 52% of the income shown in Mr. Palmer's account as received, was from stocks received by the guardians at the beginning, and which were

retained by order of the Court thus eliminating risk.

3rd. The unusual value of the estate received into the hands of the guardians, which for the four children, amounted to \$438,041.20.

Under these conditions. what then would be a fair and just allowance to these guardians?

Assuming that commissions are to be allowed to July 20th, 1917, there is attached hereto a statement showing details regarding the guardianship of each child. That statement shows, that the entire trust, for the four children, was on July 20th, 1917, 48 28-100 per cent. completed; that three guardians acted 24 28-100 per cent. of the time, and the two guardians 75 72-100 per cent. of the time; that on July 20th, 1917, the duration of the trust had been 6 84-365 years, and of the total time of the guardianship of Ruth Joyce Cook, Edmund D. Cook, George Rea Cook and Margaret E. Cook, there had been completed 85 62-100, 51 82-100, 45 61-100 and 33 40-100 per cent. respectively.

Following the method used in the decision, it is first necessary to fix a fair and just percentage allowance on the estate of Margaret E. Cook, whose trust will still have 12 155-365 years to run.

The entire life of this child's trust when terminated, will have been about 18 2-3 years, and if its administration involves no greater pains and trouble during the last period, which pains and trouble can not now be measured, then the first period, which is known, 3-5 of the maximum allowable commissions should be fair and just or 3 per cent. This assumption is all the more reasonable because it is a basis for determining the allowance to be made to the guardians for a term already expired and for which the pains, trouble and risk can be measured, and an additional fact, to be taken into consideration is that during this expired term there were three other trusts administered,

each as an undivided interest being equivalent to one trust four times the value of that of Margaret E. Cook; and in fact until Charlotte Cook became of age on February 11th, 1916, there were five trusts administered as one of for more than 2-3 of the time.

Taking 3% as the basis then for the entire term of Margaret E. Cook's guardianship; the percentage for the full term of Ruth Joyce Cook, Edmund D. Cook and George Rea Cook would be 1 17-100 per cent, 1 93-100 per cent, and 2 20-100 per cent. respectively, and the percentage allowance on the corpus of each estate will be determined by multiplying these percentages by the percentage of the expired term of each trust respectively, as follows:

Ruth Joyce Cook	1.17 times	85.62 equals	1.002%
Edmund D. Cook	1.93 times	51.82 equals	1.002%
George Rea Cook	2.20 times	45.61 equals	1.002%
Margaret E. Cook	3 times	33.40 equals	1.002%

The corpus of each trust is \$109,510.30 and 1.002% of this is \$1,097.29 multiplied by four, for the corpus of the four estates equals \$4,389.16.

But Mr. George R. Cook acted as guardian with Mrs. Hewitt and Mr. Palmer for 24 28-100 per cent. of the term of administration that this allowance covers and 24 28-100 per cent. of \$4,389.16 is \$1,055.69.

He certainly would be entitled to 1-3 of this amount, had he been paid on the corpus when discharged (he was paid only on the income' deducting 1-3 of this amount of 351.89 leaves \$4,037.27 allowance to the two guardians on the corpus of the four estates.

The duties of the guardianship include not only the care of the property of the minors, but the care and nurture of the minors as well. If two guardians of the persons and property of orphan-

minors should divide the work, one giving chief attention to care of the property and one to the care, education and training of the children. Who would say the one caring for the children should not be credited with performance of half the duties of the guardianship? The fact that one of the guardians happens to be the mother of the children cannot alter the case. Moreover, Mrs. Hewitt did a good share of the management of the property and did all the caring for the children. She, if either, should be given more than half.

While the allowance of commissions on incomes was fixed by an order allowing the account, which was separate from the order formally appealed from, it should be considered in connection with the allowance on the corpus. This allowance of full commission on income might well have been less, and it enters into the total amount received by the guardians for their services.

The allowance on the income being for the maximum without anything to show special trouble or pains, the allowance on the corpus should be kept down to the limit that the actual trouble, pains and risk would warrant. This would be equitable.

The guardians are allowed \$200.00 for counsel fee by the order allowing the account. The order appealed from makes a further allowance for counsel fee of \$300.00 from each share of the corpus or \$1,200.00 in all, which, with the \$200.00 allowed in the stated account, makes a total allowance of counsel fee of \$1,400.00. Appellant regards this as in excess of what is proper.

The four shares were handled as one fund and unless the work done by counsel would warrant in the case of a single fund of the same total, an allowance of \$1,400.00, it should not be allowed in this case.

The transactions of the guardianship since February 11th, 1916, so far as the accounts show, re-

Point V, p. II of respondent's brief indicates that counsel has misconceived the intended meaning of this paragraph. The figures given on page I2 of this brief show what appellant thinks should be allowed as commissions are based on the entire period of the guardianship, including the time for which, as here stated, it might be claimed the guardians are not entitled to commission.

quiring any attention whatever from counsel, were the payment of a mortgage, known as the Sarah Louise Smith mortgage, that the guardians held, amounting to \$4,000.00, and the purchase of five mortgages to the total amount of \$28,000.00, while the testimony in the Prerogative Court does not disclose any unusual matters requiring counsels' attention.

There would not seem to have been great need of legal advice in connection with the administration of this guardianship.

Appellant would call attention to the fact that while the foregoing argument has been based upon the supposition that the guardians were entitled to an allowance for services from the beginning of the trust or guardianship, at which time they were appointed, together with George R. Cook, yet in reality they are entitled to an allowance for services only from December 6th, 1912. At this time an order was made discharging the three guardians acting up to that time, revoking the order appointing them, and appointing Margaret P. Hewitt and Henry Palmer guardians, from that time in the place and stead of the three guardians theretofore acting, of which three guardians these guardians happened to be two. The present guardianship, however, is legally a distinct and separate guardianship and legally the making of an allowance should be considered accordingly. How-

Point V, p. II of respondent's brief indicates that counsel has misconceived the intended meaning of this paragraph. The figures given on page I2 of this brief to show what appellant thinks should be allowed as commissions are based on the entire period of the guardianship, including the time for which, as here stated, it might be claimed the guardians are not entitled to commission.

In this connection appellant again calls attention to the fact that by order of the court the guardians were authorized to retain the stocks in which a

quiring any attention whatever from counsel, were the payment of a mortgage, known as the Sarah Louise Smith mortgage, that the guardians held, amounting to \$4,000.00, and the purchase of five mortgages to the total amount of \$28,000.00, while the testimony in the Prerogative Court does not disclose any unusual matters requiring counsels' attention.

There would not seem to have been great need of legal advice in connection with the administration of this guardianship.

Appellant would call attention to the fact that while the foregoing argument has been based upon the supposition that the guardians were entitled to an allowance for services from the beginning of the trust or guardianship, at which time they were appointed, together with George R. Cook, yet in reality they are entitled to an allowance for services only from December 6th, 1912. At this time an order was made discharging the three guardians acting up to that time, revoking the order appointing them, and appointing Margaret P. Hewitt and Henry Palmer guardians, from that time in the place and stead of the three guardians theretofore acting, of which three guardians these guardians happened to be two. The present guardianship, however, is legally a distinct and separate guardianship and legally the making of an allowance should be considered accordingly. However, in order that the contentions here made by appellant as to the proper basis for an allowance might be the more effectively compared with the allowance ordered by the court below, the figures given have been made to cover the same period as to the assumed beginning of the trust. Appellant claims, therefore, that a still greater reduction might be insisted upon.

In this connection appellant again calls attention to the fact that by order of the court the guardians were authorized to retain the stocks in which a

STATEMENT SHOWING PROPORTION OF CORPUS RECEIVED BY MARGARET P. HEWITT AND HENRY PALMER,  
GUARDIANS, THAT STILL REMAINS IN THE TRUST AND WAS RE-INVESTED BY THEM.

	Stocks in Cook Companies	Other Securities	Total	% Total	% of Cook's	% of other Securities
Corpus received by Margaret P. Hewitt and Henry Palmer on November 29th, 1912, for four children.	196,617.82	241,423.39	438,041.21	100%	100%	100%
Corpus on Hand on July 20th, 1917, as per Report of Henry Palmer for four children.	166,437.20	205,006.14	371,443.34	84 8-10%	84 7-10%	84 9-10%
Corpus disposed of and reinvested by Margaret P. Hewitt and Henry Palmer.	30,180.62	36,417.25	66,597.87	15 2-10%	15 3-10%	15 1-10%

July 29th, 1918.

HOWARD BOND

STATEMENT SHOWING DETAILS OF THE GUARDIANSHIP OF EACH CHILD.

Name	Date of Birth	End of Trust	Duration of Trust	Percent of Whole Time 51 224-365	3 Guardians April 27, 1911 to October 31, 1912		2 Guardians October 31, 1912 to July 20, 1917		Total 3 Guardians and 2 Guardians		End of Trust—Balance July 20, 1917, to end of each Trust.	
					Yrs.	% of each Trust	Yrs.	% of each Trust	Yrs.	% of each Trust	Yrs.	% of each Trust
Miss R. J. Cook	Aug. 3, 1897	Aug. 3, 1918	7 101-365 yrs.	14.10	1 187-365	20.79	4 262-365	64.83	6 84-365	85.62	1 17-365	14.38
Mr. E. D. Cook	May 5, 1902	May 5, 1923	12 8-365 yrs.	23.29	1 187-365	12.58	4 262-365	39.24	6 84-365	51.82	5 289-365	48.18
Mr. G. R. Cook, 3d	Dec. 24, 1903	Dec. 24, 1924	13 241-365 yrs.	26.47	1 187-365	11.07	4 262-365	34.54	6 84-365	45.61	7 157-365	54.39
Miss M. E. Cook	Dec. 22, 1908	Dec 22, 1929	18 239-365 yrs.	36.14	1 187-365	8.11	4 262-365	25.29	6 84-365	33.40	12 155-365	66.60
			51 224-365 yrs.	100.00	6 18-365	11.72	18 318-365	36.56	24 336-365	48.28	26 253-365	51.72

3 Guardians served 24.28% of time to July 20th, 1917.

2 Guardians served 75.72% of time to September 28th, 1917.

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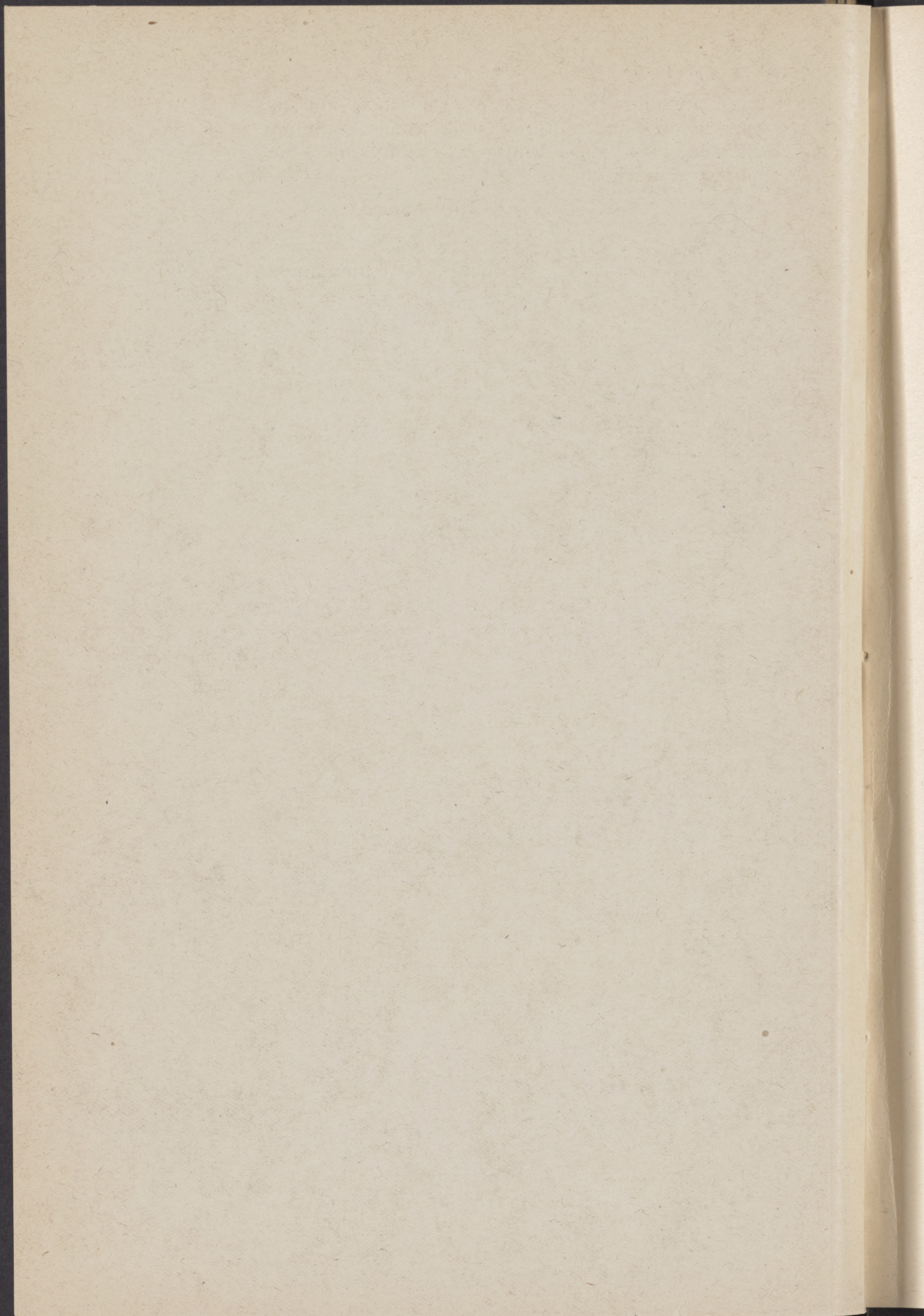
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large portion of the estate was invested, and the risk was thus so minimized as to almost eliminate that feature in considering the commission that should be allowed.

WILLIAM R. GOURLEY,  
LINTON SATTERTHWAITE,  
Proctors of Appellant.



NEW JERSEY COURT OF ERRORS AND  
AND APPEALS.

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In the Matter of the Com-  
missions to be Allowed to  
the Guardians of Ruth  
Joyce Cook, *et als.*, mi-  
nors, upon the discharge  
of Henry Palmer, one of  
the Guardians.

} On Appeal from the  
Prerogative Court.

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BRIEF OF RESPONDENT.

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The respondent on February 24th, 1911, was appointed a guardian of the estates of Ruth Joyce Cook, Edmund D. Cook, George D. Cook, 3rd, and Margaret Eva Cook, four minors. The corpus of the estates was \$438,000. He entered into bonds in the sum of \$500,000, and continued to serve as a guardian until September 28th 1917, when, upon his application, he was discharged. During this period of six years and seven months the appellant, Margaret P. Hewitt, was a co-guardian.

By a decree of the Mercer County Orphans' Court, dated February 5th, 1918, the respondent for his services as guardian was allowed from the corpus of the estates the sum of \$5510.42. By the same decree a counsel fee was allowed to the counsel for

the guardians of \$1200 from the corpus of the four estate, \$300 being allowed from the corpus of each of the four estates.

This decree was appealed by Margaret P. Hewitt to the Prerogative Court upon the sole ground, as stated in the petition of appeal, (case, page 2, line 7) "that the allowances were excessive." The Prerogative Court, after full hearing, affirmed the decree of the Mercer County Orphans' Court. The decree of affirmance of the Prerogative Court dated August 2nd, 1918, has been appealed to this Court by the said Margaret P. Hewitt.

The opening statement on page 1 of the appellant's brief to the effect that the appeal includes the allowance of commissions on income upon an intermediate account filed by the guardians is erroneous. No appeal was taken from the order of the Orphans' Court, fixing the commissions on income to the guardians on said intermediate account. The commissions upon said intermediate account were paid and that subject is not involved in these proceedings, and reference thereto in the appellant's brief is improper.

The two questions involved in this appeal are:

First. *Was the allowance to the respondent of \$5510.42 for the care of \$438,000 for six years and seven months excessive?*

Second. *Was the counsel fee of \$1200.00 for legal services for six years and seven months excessive?*

The appellant's brief seeks to raise a third question, namely, that the commissions allowed to both

guardians on the corpus should have been equally divided between the respondent and the appellant.

The Prerogative Court declined to consider this question for the reason that it was not made the subject of appeal to the Prerogative Court, (Case, p. 76, line 18), the only ground of appeal stated in the petition of appeal being that the allowances made by the Orphans' Court were excessive. As this question was not raised in the appeal to the Prerogative Court, it, of course, cannot be raised in the appeal to this Court from the Prerogative Court, and will not, therefore, be considered in this brief.

#### POINT I.

THE COMMISSIONS ALLOWED TO THE RESPONDENT WERE FAIR AND REASONABLE FOR THE PAINS, TROUBLE AND RISK INVOLVED AND WERE NOT EXCESSIVE.

On this subject the Prerogative Court, speaking through Vice-Ordinary Backes, said:

“The remuneration allowed to Mr. Palmer for his six and one-half years of service is very moderate, and this can be better appreciated by dividing the total into the number of years of service. For his care and watchfulness and prudent management of nearly a half a million dollars, his annual compensation is less than nine hundred dollars. It would seem to me that the mere responsibility of so large a fortune justifies this amount of remuneration. I doubt

very much if in a private undertaking a person of Mr. Palmer's qualifications could be secured to assume merely the risk at this small fee."

The evidence fully justifies this conclusion.

The four minors are the children of the late Edmund D. Cook, who was interested in several large manufacturing enterprises in the City of Trenton, namely, Cook's Linoleum Company, Standard Inlaid Manufacturing Company, Acme Rubber Manufacturing Company, Hamilton Rubber Manufacturing Company and Stephen Ballard Rubber Company. Mr. Cook's entire estate was invested in the stock of these companies. His estate amounted to \$750,000 in round figures. He died intestate, leaving a widow, Margaret P. Cook (now Margaret P. Hewitt, the appellant), and five children. Mrs. Hewitt received \$250,000 and the children \$500,000, which at the time of the appointment of the guardians had increased to \$547,000. One child, Charlotte, attained her majority in February, 1916, and received her estate.

After the death of Mr. Cook, Mrs. Hewitt (then Mrs. Cook), was desirous that the estate should not be solely invested in stocks of manufacturing enterprises. (Testimony of Mrs. Hewitt—Case, p. 67, line 28.) This resulted in conferences with the respondent, George R. Cook, the brother of Edmund D. Cook and counsel (Frank S. Katzenbach, Jr.), with the result that stock of the manufacturing enterprises were sold and the sum realized (\$160,000) was invested in mortgages when the secured notes given by the purchasers of the stocks were paid.

Mr. Palmer was the guardian who examined the properties on which mortgages were offered. Only on two occasions did Mrs. Hewitt make examinations

of properties. The titles were examined by counsel. The amount held in mortgages at the conclusion of Mr. Palmer's guardianship was \$255,000.

So carefully was the work done that not one cent was ever lost in either principal or interest. The wards did not require for their maintenance all of the income from their estates. The amount of excess income invested during the six years and seven months was \$205,000. During this period there was also invested in municipal and railroad bonds \$188,000. These bonds were purchased by Mr. Palmer and Mr. Hewitt (Mrs. Hewitt's husband—Case p. 43, line 15). In every instance the opinion of counsel as to the legality of the investment was obtained (Case, p. 43, line 30). In the making of these investments not a cent of principal or interest was ever lost.

Mr. Palmer also attended all the meetings of stockholders of the various manufacturing corporations in which the guardians held stock. Mrs. Hewitt never attended any of these meetings. Mr. Palmer also called at the offices of these corporations frequently to find out the condition of the business (Case, p. 44, line 15). After each stockholders' meeting Mr. Palmer called on counsel and went over with him the conditions of the corporations.

Mr. Palmer, who lived in Langhorne, Pa., came to Trenton on this business at least once a week (Case, p. 45, line 27). He paid his own traveling expenses, and no charge was made for clerical help in conducting the considerable correspondence with reference to the estate. (Case, p. 47, line 15.)

Mr. Palmer, as the Prerogative Court said (Case, p. 77, line 16) carried the burden of the management of the estate. No criticism is or could be made of the manner in which he fulfilled his trust. He brought

to this task exceptional qualifications and abilities. He did not ask for any specific sum. The allowance was made by the Mercer County Orphans' Court because that Court thought the sum of \$5510.42 for the care and management for six years and seven months of estates of \$438,000 when they came to his hands and \$634,000 when they left his hands was only fair compensation for the pains, trouble and risk Mr. Palmer had had. This sum is less than \$900 per year. The Prerogative Court said "that no one, moved by a sense of fair play and justice could say that the allowances are out of proportion to his pains, trouble and risk" (Case, p. 77, line 18), and affirmed the decree of the Orphans' Court. Mr. Palmer was the uncle of the four wards; he was an intimate friend of their father. It was probably for these reasons that he undertook to serve as a guardian. It was a benefit to the estate to have them managed by someone who had not only the ability of Mr. Palmer, but had at heart the interests of the wards.

Yet, Mr. Palmer had been subjected to the annoyance and expense of having questioned in two appellate Courts the value fixed by the Orphans' Court upon his services as a guardian. It is respectfully submitted that the decree of the Prerogative Court affirming Mr. Palmer's compensation should be affirmed by this Court.

POINT II.

THE COUNSEL FEE ALLOWED IS NOT  
EXCESSIVE.

Concerning the allowance to counsel, the Prerogative Court said:

“The allowances to counsel are not seriously assailed. They are at the rate of less than \$50 a year against each estate. These sums are indeed modest for the character of legal services rendered, taking into consideration the high standing of counsel, and so much of the appeal as concerns that feature of the case is dismissed with the further comment that the allowances are beyond fair criticism.”

It is somewhat embarrassing for one to consider and comment upon his own fee. The writer desires no fee that is unreasonable. The allowance does not seem to the writer excessive. The evidence shows that it represents over six years' work in advising guardians upon the management of estates of \$438,000, which grew in that time to \$643,000. Counsel passed on the titles of property upon which mortgages to the amount of \$255,000 were taken. In instances where the buildings were in course of construction the amount of mortgages were paid to counsel and then paid out as the buildings progressed. This of course, involves more work. Municipal and railroad bonds were purchased to the amount of \$188,000 by the guardians. Counsel passed on the legality of these investments. The other matters in which counsel rendered services have been heretofore sufficiently referred to in connection with the statement of Mr. Palmer's services.

## POINT III.

The appellant's brief is mostly devoted to an attempt to show that the Orphans' Court erred in fixing the commissions because it awarded from the different estates different sums for the same length of services by the guardians. The Prerogative Court disposed of this criticism in the following language.

"The thing that gives ground for criticism and probably provoked this appeal is the inequality of the allowances made against the several estates. The funds were managed as a unit, as they came to the wards from their father, to which were added considerably from income in excess of what was needed for the maintenance of the children. The same scrupulous care and attention was given to each and for the same length of time, and the question, naturally enough, asked is, if the statutory basis of compensation is actual pains, trouble and risk of the guardians, why should Ruth's estate be called upon to pay a larger sum than the others, and why should Edmund's be greater than George's and George's exceed that of Margaret's? At first blush this taxation would seem to be unjust and it would appear that the Court below fell into grievous error in its method. But the Court had this situation to deal with. Ruth's estate had another year to run, Edmund's six, George's seven and Margaret's twelve. Ruth's estate, the administration of which was about ended, was taxed at the rate of three per cent. commission, those of Edmund and George at four and Margaret's at five per cent., and at these rates the commissions were allowed in propor-

tion as the period of service rendered by the guardians bore to the terms to be administered. Now, while the Court obviously esteemed the services rendered to Ruth's estate to be fairly worth the sum of three per cent. minus and that the guardians had earned no less from the other estates, provisions had to be made for the compensation of those who were to administer the unexpired terms and, with the capital for this purpose restricted by the statutory five per cent., the appraisal had to be subordinated to apportionment. Although the imposition on the several estates does not result in an exact equality of charge the highest is not excessive and the appellant-guardian is not aggrieved."

The guardianships of these minors extend over a long period of years; that of the youngest child, Margaret Eva Cook, for the period of nearly 19 years. The Orphans' Court in fixing the allowances had to bear in mind that other guardians would have to be compensated for their services, and that the total compensation could not, by reason of the 5 per cent. limitation fixed by the statute, exceed the amount produced by this percentage. In the case of guardianships covering a long period of time, this results in the compensation of guardians being in some instances less than their services warrant. This will be the case in the present case, and what the appellant contends is an illogical conclusion with reference to the allowances made by the Orphans' Court is merely an evidence that the statutory limitations in some instances work an injustice and prevent adequate compensation being awarded to guardians. The difference in the allowances is not an illogical conclusion of the Orphans' Court and Prerogative

Court, but the result of the provisions of the statute regarding compensation making it necessary in some instances to award to guardians lesser compensation than they are really entitled to.

#### POINT IV.

The appellant's counsel appeared to realize in their contention that the commissions awarded to Mr. Palmer are excessive, that it is incumbent upon them to show what in their opinion the proper commissions should have been. They undertake to do this by starting with the premise that in the case of Margaret Eva Cook a fair allowance for 19 years service as a guardian would be three per cent. of the original amount of her estate. With this as a basis they reason that Mr. Palmer is entitled for all services for six years and seven months in administering an estate of which the corpus was originally \$438,000 and now has grown to \$643,000, the munificent sum of something less than \$2018.63. If we say \$2018.63, this in round figures is \$300 per year, or less than \$6 per day for every day Mr. Palmer left his own business and came to Trenton on the business of the estates. Out of this amount he would have to pay his traveling expenses and clerical help. Where could a man of standing and of business ability be obtained to administer an estate of the size of the estates of these wards at \$6 per day for every day actually engaged in the work. It would mean that no man of standing or ability could be obtained to look after the interests of minors if this is to be the high water mark of the compensation of guardians.

A mere statement of the proposition would seem to be sufficient that this sum which has been worked out by the appellant's counsel is a ridiculously small sum for the character of service rendered by Mr. Palmer for six years and seven months in administering without the loss of a cent of principal or interest a estate which amounted to \$438,000 when it came into his hands and \$643,000 when it passed out of his hands. It also must be remembered that Mr. Palmer was not an administrator of the estate, of Edmund D. Cook. He did not receive commissions as an administrator of this estate, as did Mrs. Hewitt. Mr. Palmer also gave freely of his services before his appointment as a guardian in February, 1911.

#### POINT V.

Appellant's counsel argue in their brief (page 14) that since Mr. Palmer and Mrs. Hewitt were re-appointed as guardians on December 6th, 1912, at the time of the resignation of Mr. George R. Cook, as guardian, and no allowance of commissions was then made, that thereby Mr. Palmer forfeited any claim for commissions for the period of his guardianship between February, 1911, and December, 1912. They do not contend that Mr. Palmer has received anything during this period for his services, but merely that he is barred from asking anything because of the new order of appointment of guardians. This is not only very narrow, but the smallness of the proposition is Himalayan. I can conceive of no position which would better demonstrate the pettiness of the attitude assumed towards Mr. Palmer and his services.

## POINT VI.

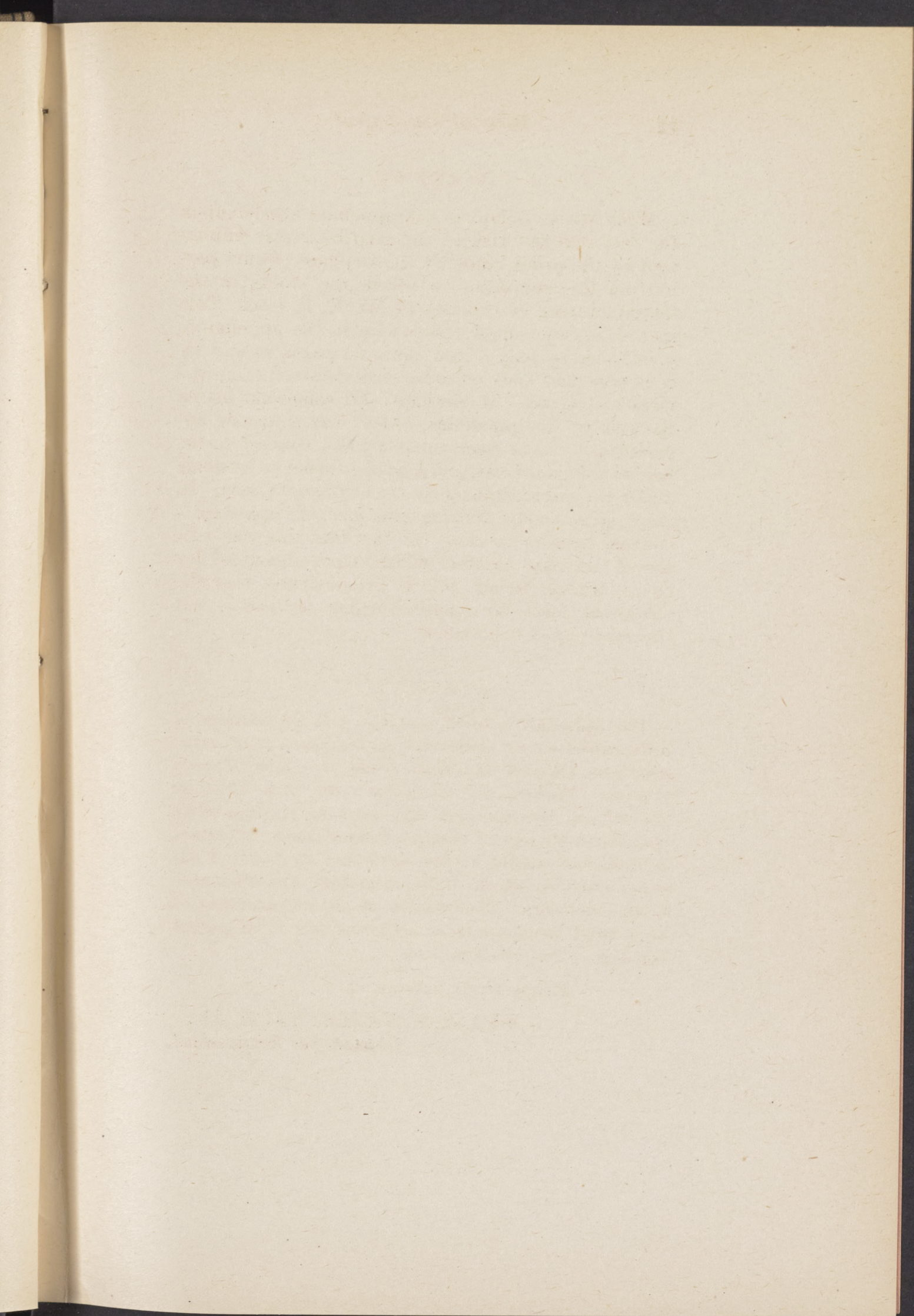
Much stress is laid in the appellant's brief upon the fact that the risk of the guardians was minimized by the order made by the Orphans' Court permitting the guardians to retain the stocks in the manufacturing enterprises of Mr. E. D. Cook. This matter is commented upon twice in the appellant's brief, once on page 7 and again on pages 14 and 15. It is true that such an order was obtained from the Orphans' Court. It, perhaps, did somewhat lessen the risk of the guardians, but it was a proper application to have been made by the counsel in behalf of the guardians, and a proper order to be made under the circumstances by the Orphans' Court. In their strenuously arguing this matter, appellant's counsel seem to overlook the fact that this was only one of the many matters which required counsel for the guardians to act, and it demonstrates that the allowance made to counsel for his services is not excessive, as they contend.

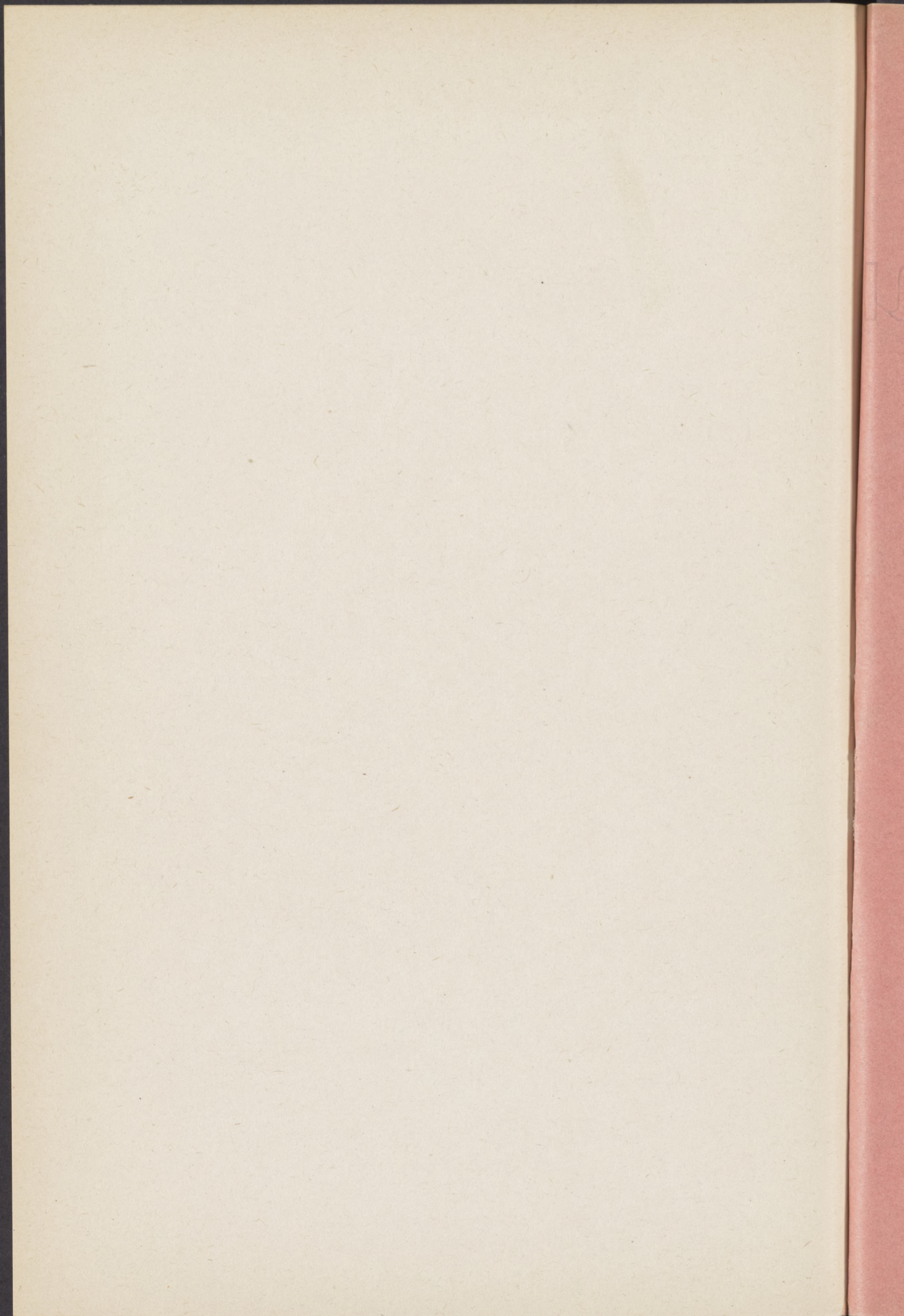
## POINT VII.

The appellant's brief contains a large number of authorities citing instances of the amount of commissions allowed in other cases by New Jersey Courts. These serve to throw very little light on the subject because each case must be controlled by the circumstances of that particular case. Attention is, however, called to the fact that in most of the cases cited in behalf of the appellant, the allowance is to executors. The period of an executorship is very brief in comparison with the period of guardianship in the present case.

Respectfully submitted,

FRANK S. KATZENBACH, JR.,  
*Counsel for Respondent.*





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