

ciaries, and they must respectively employ their own attorneys; and no one class have, through the aid of the court, the means of fastening on a common fund the expense of pursuing his special interests adversely to others who have an equal right to be heard.

The order heretofore entered will be rescinded, and the receiver must act in accordance with the views expressed.

### BLAIR v. ST. LOUIS, H. & K. R. Co. and another.\*

(Circuit Court, E. D. Missouri. May 12, 1884.)

#### RECEIVERS—COMPENSATION FOR SERVICES OF LEGAL ADVISER, RENDERED BEFORE AND AFTER RECEIVER'S APPOINTMENT—AGAINST WHAT FUNDS CHARGEABLE.

In a suit brought by A. against B. and C., two railroad companies, E. acted as attorney for the defendants. After services had been rendered by E., but before the case was disposed of, F. was appointed receiver of C. in a foreclosure suit. C. was appointed F.'s legal adviser, and continued to act in the case brought by A. until it was disposed of, and also rendered other legal services. Upon an application by E. for compensation for said services, *held*—

(1) That the fee allowed for services rendered after F.'s appointment was chargeable against F., and should be paid out of the funds in his hands.

(2) That the compensation allowed for services rendered in A.'s case before F. was appointed, was a charge against B. and C., and was payable out of whatever surplus might remain in the hands of the receiver after the lien, demands, and expenses were paid.

Application by Attorneys for a Receiver for compensation for legal services, part of which were rendered before and part after the receiver was appointed.

TREAT, J. This is an application by Smith & Harrison for compensation for legal services. When the receiver was appointed there was a case pending of *Fogg v. The Defendant et al.* The court thought that the receiver should defend said case in the interest of all concerned, and authorized him so to do. For all the services theretofore and subsequently rendered, the amount claimed, to-wit., \$1,000, may not be excessive. Shall the whole of said amount be charged against the funds in the hands of the receiver, or only such portion thereof as resulted from the defense by him as authorized by the court? The ordinary course of such proceedings, under the decree as rendered, would be a charge solely against the two corporations, defendants, to abide the final outcome of the estate. It seems, therefore, equitable that the receiver be ordered to pay to the petitioners the sum of \$500; the other \$500 claimed to be charged against whatever surplus may come to the hands of the receiver after the lien, demands, and expenses have been discharged.

As to the other demands for which services are claimed, the same

\* Reported by Benj. F. Rex, Esq., of the St. Louis bar.

being chargeable against the receiver directly, the only question is as to what should be properly allowed therefor. Under some circumstances it might appear that the amount is moderate; but, in the interests of all concerned, the court thinks that \$200 is ample.

The court, therefore, orders the receiver to pay to the petitioners, Smith & Harrison, the sum of \$700, and that there be assessed against the defendant railroads the sum of \$500; the latter sum to abide the final determination of the case.

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JOHN CROSSLEY SONS, Limited, v. CITY OF NEW ORLEANS.<sup>1</sup>

(Circuit Court, E. D. Louisiana. April 21, 1884.)

EQUITY JURISDICTION—ACCOUNT.

An account, if complicated so as to be incapable of being had at law, of itself is ground of equity jurisdiction. Such an account, especially when it must be followed by the proportioning and distribution of a fund, can be taken in a court of equity.

Cause Submitted on General Demurrer, the ground in support of it being that there is remedy at law.

*Henry C. Miller*, for complainants.

*Charles F. Buck*, City Atty., for defendant.

BILLINGS, J. The bill sets forth that in 1858 a system of drainage was established by the legislature of the state, whereby certain assessments were authorized to be made and recorded,—all of which was done,—whereby numerous tracts or pieces of land within the parish of Orleans became subject to liens. Under this first act the whole matter of drainage was committed to a board of commissioners. The bill then avers that in 1871 the legislature superseded the board of drainage commissioners by the Mississippi & Mexican Gulf Ship Canal Company. To this latter company was transferred all the rights and liens arising from the drainage assessments. The moneys collected therefrom were declared to be a trust fund, and the city of New Orleans was authorized and required to draw warrants for work done by said corporation in the matter of drainage. The bill then shows that in 1876 the city of New Orleans was substituted as the corporation to conduct the said drainage business,—was authorized to purchase all the franchises, tools, etc., of the Mississippi & Mexican Gulf Ship Canal Company, and to pay for the same by warrants to be drawn by said city against said trust fund. The bill then shows that the complainants are the holders of the warrants so drawn against the said trust fund by said city for such work, and for the price of the said purchase to the amount of \$436,000. The bill is

<sup>1</sup>Reported by Joseph P. Hornor, Esq., of the New Orleans bar.