

## MCKAY V. HARPER.

*Fee Fund—Costs of guardian ad litem when paid out of the Fee Fund.*

[SPRAGGE, C., on appeal from REFEREE, 10th March, 1873.]

A Solicitor upon the plaintiff's application having been appointed guardian *ad litem* to infant defendants, and being unable to obtain his costs from the plaintiff or from the infants' estate, it was ordered that they be paid out of the suitor's fee fund.

## MCGILLIVRAY V. MCCONKEY.

*Amendments.*

[BLAKE, V. C., on appeal from the REFEREE, 31st March, 1873.]

If a plaintiff amends his bill by *striking out* portions so as to render the answer to them useless, an application may be made by the defendant answering for the costs thus unnecessarily incurred, and such an application should be made at the hearing.

After answer liberal *addition* to the bill by amendment, retaining the original allegations is proper even though rendering a new defence necessary, and the costs of such amendment are proper costs in the suit.

## REDMAN V. BROWNSCOMBE.

*Irregularity—Endorsement—Gen. Ord. 40.*

[The REFEREE, April 2nd, 1873.]

The endorsement of the name and place of business of the Solicitor conducting proceedings is by Gen. Ord. 40 required on the first writ *sued out* or proceeding *filed* in a suit or matter, but is not essential on the first papers *served*.

## SWETNAM V. SWETNAM.

*Purchaser—Registry of mortgage for balance of purchase money—Vesting order.*

[The REFEREE, 3rd April, 1873.]

A purchaser who to secure a balance of purchase money has given a mortgage to the Court, must have his mortgage registered, and pay the fees for registration before a vesting order will be granted.

## UNITED STATES REPORTS.

## SUPREME COURT OF PENNSYLVANIA.

## BRADSTREET &amp; SON V. EVERSON, PRESTON &amp; CO.

1. *Held*, That the facts in evidence were sufficient to go to the jury upon the question whether the receipt, by which the defendants undertook to collect the claims mentioned in it, was authorized or given by them.

2. The defendants, a "mercantile agency" at Pittsburgh, gave their receipt for a claim "for collection" against a party in Memphis, and transmitted the same to their own attorney, who collected the money and failed to pay it over. *Held*, That they were liable for his neglect.

Error to the Court of Common Pleas of Allegheny county.

Opinion of the court by AGNEW, J. Delivered November 14, 1872.

There are but two questions in this cause which are required to be noticed. First, whether J. M. Bradstreet & Son authorized the receipt of June 2nd, 1865, by which they undertook to collect the claims mentioned in it, and second, the nature of their liability. It is undisputed that J. M. Bradstreet and Son had a branch office in Pittsburgh, of what they termed their "Improved Mercantile Agency," and that the persons employed in this office were their agents. They only deny that their business was a collecting agency; asserting that it was confined to giving to subscribers information of the mercantile standing of men in business in the different parts of the country. It is in testimony that the acceptances mentioned in the receipts were delivered, as the witness states, to J. M. Bradstreet and Son at the office of the agency, and the receipt given for them, is in the name of J. M. Bradstreet and Son, and was made out by a person in the office, acting in their business. This was in 1865. In 1867 the plaintiffs were called on by a person belonging to the office for a power of attorney to be sent to their agent or attorney in Memphis, Tennessee, to enable them to collect the moneys for the acceptances from John W. Wood, the attorney to whom the acceptances had been sent by them, and who having collected the money had failed to pay it over to the defendants. This power directed to J. B. Woodward, of Memphis, and dated August 30th, 1867, was handed to the person in charge of the Pittsburgh office, who gave for it a receipt of the same date in the name of the defendants, stating that the power was executed by the plaintiffs at the request of the defendants, and addressed to their agent J. B. Woodward. Woodward himself testifies that he was called on in Memphis by J. De Soto, the agent of J. M. Bradstreet and Son in that city, and at his request and in his company went to John W. Wood and demanded of him the money he had collected on the acceptances. He also testifies that his correspondence was with J. M. Bradstreet and Son, and not with the plaintiffs, and that he was engaged to attend to the business by J. De Soto the agent of the defendants at Mem-