

I am now asked to make an order: (1) that Catherine Harrison be paid the interest upon her payment of \$365 from the time it was paid into Court until the time at which she could have been required to pay for her final purchase. . . ; (2) that the costs of this application may be paid out of the fund in Court; (3) that payment out may be made in terms of the report.

All parties consent to the last two. As to (1), this is a proper order to make in any case: Catherine Harrison paid money into Court which she should not have paid—and the other beneficiaries are not entitled to have any advantage of the interest upon that sum.

As to (2), the application must be refused: the commission covers all costs other than disbursements. When the disbursements are taxed by the Master, he takes account of all disbursements proper to be allowed, future as well as past—and the commission covers all costs, future as well as past.

As to (3), subject to what I have said in respect of (1), the order may go.

It seems to be necessary again to call the attention of practitioners to the necessity of filing all the papers which are to be used on motions—it is too much to expect the Court to act the solicitor's clerk and hunt up the missing documents.

I have recently pointed out also that the Court does not act as a conduit pipe to draw orders through, just because parties desire them. Mere consent will not justify the issue of an order wrong in principle.

MULOCK, C.J.Ex.D.

OCTOBER 21ST, 1912.

PATTERSON v. OXFORD FARMERS MUTUAL FIRE
INSURANCE CO.

Fire Insurance—Representation that Property Free from Incumbrance—Material Misrepresentation and Concealment—Onus—Innocent Non-disclosure—Act of Agent of Insurance Company—Prejudice—Absence of Evidence as to Value of Property—Failure to Prove Materiality of Misrepresentation—Concealment of Fear of Incendiarism—Failure of Proof—Statutory Declaration—Statutory Conditions 13 and 15—Proofs of Loss—Particulars—Omission to Give Notice in Writing of Loss—Insurance Act, sec. 172—Relief from Omission—Knowledge and Conduct of Directors—Adoption of Oral Notice.