

*pro confesso* against an absconding defendant, and who has been advertised as such, it is necessary to shew by affidavit that the defendant cannot be found to be served with notice of the motion.

Gilmour v. Matthews, 376.

13. When a purchaser neglects to pay in his purchase money, and no objection is made to the title, the court will order him within a limited time to pay in the amount with interest; or in default direct a re-sale of the property, and that the purchaser pay costs of motion and deficiency, if any, on such re-sale.

Crooks v. Crooks, 376.

14. A decree of foreclosure being erroneous, the court refused to pronounce a final decree of foreclosure on default of payment.

Com. Bank v. Graham, 419.

15. Where a plaintiff desired to amend by adding a judgment creditor who had assigned his claim to the plaintiff as a party defendant, leave was given for that purpose, dispensing with service on the defendants already before the court.

Boomer v. Gibson, 430.

16. After payment of what is payable upon a mortgage payable by instalments, pursuant to the orders of 1853, it is irregular to take any further proceedings in the cause until another instalment falls due.

Carroll v. Hopkins, 431.

17. The court ordered a commission for the examination of an aged witness to issue without requiring the bill to be served in

the first instance; the object of the suit being to perpetuate testimony, and it having been sworn that there was danger of the testimony of the witness being lost; but directed notice of the execution of the commission to be served on the defendants.

Hunt v. Prentiss, 487.

18. When it becomes necessary to revive by way of amendment against infant defendants, the proper course is to amend simply in the first instance by making the infants parties. After that has been done, if the infants fail to have a guardian appointed, the plaintiff may apply under order XIII. to have a solicitor appointed guardian, and in either case the plaintiff will be in position to move that the suit do stand revived.

Kirkpatrick v. Fouquette, 549.

19. Where a plaintiff in suits for foreclosure or sale asks for a reference to the master to enquire as to other incumbrances, he takes such reference at the peril of costs, if there are in reality no other incumbrances on the estate.

Hamilton v. Howard, 581.

20. Where for the purposes of a suit it is necessary to obtain an order for the execution of a conveyance by infant representatives of a mortgagee not parties to the cause, the proper mode of applying is by petition.

Owen v. Campbell,  
In re Mills, Infants, 630.

## PRINCIPAL AND AGENT.

1. Where it appeared that an agent had received large sums of