

on behalf of the mortgagee, but had no authority to receive the principal. The mortgagor wishing to pay off the mortgage, the solicitor got the transferee to execute a reconveyance under the impression that he was merely joining in an appointment of new trustees (the mortgaged property being trust property); he handed this deed to the mortgagor with all the other deeds (except the transfer), but he kept the money himself, merely paying the transferee from time to time the interest on the original mortgage-money. Three years afterwards the transferee filed a foreclosure bill against the astonished mortgagors, and Lord Hatherley, affirming the Master of the Rolls, held that the mortgagee must pay his principal a second time or be foreclosed. The first payment was held to have been in his own wrong, because he made it to a person who was not authorised to receive it; if he had gone with his money to his original mortgagee, the original mortgagee would have said, "The mortgage is transferred," and passed him on to the transferee, and so the payment would have got into the right hands. But if the original mortgagee had played the knave and pocketed the money, the fault would have been the transferee's, for not giving to the mortgagor notice of his having taken the transfer.

The case was a particularly hard one upon the mortgagor, because, receiving back his deeds, his mortgage, with a reconveyance, he had everything to assure him that the mortgage was extinguished. Yet the decision is unimpeachable. If, when the mortgage was created, the mortgagor had from the mortgagee been given to understand that the solicitor had authority to receive principal as well as interest, here, we imagine, the transferee, not having given notice, would have been bound by this arrangement, and the payment made would have been good as against him. The moral of the case is—that mortgagors should, unless they have a special authority, take care, in paying off their mortgages, to pay direct to the mortgagor, and not to the solicitor through whom the advance was effected.—*Solicitors' Journal*.

MAGISTRATES, MUNICIPAL, INSOLVENCY, & SCHOOL LAW.

NOTES OF NEW DECISIONS AND LEADING CASES.

DIVISION COURTS JURISDICTION.—**PROHIBITION.**—County Courts have jurisdiction of actions of ejectment where the yearly value of the premises does not exceed 20*l*. A county court decided on conflicting evidence that the yearly value of the premises did not exceed 20*l*. *Held* (*per* COCKBURN, C. J., and LUSH, J.; HANNEN, J., *dubitante*), that the Court of Queen's Bench could not review this decision by prohibition. —*Brown v. Cocking*, Law Rep. 3 Q. B. 672.

CRIMINAL LAW.—1. The cashier of a bank has a general authority to conduct its business, and to part with its property on the presentation of a genuine order; and if, being deceived by a forged order, he parts with the bank's money, he parts, intending so to do, with the property in the money, and the person knowingly presenting the forged order is not guilty of larceny, but of obtaining money on false pretences.—*The Queen v. Prince*, Law Rep. 1 C. C. 150.

2. Partridges, hatched and reared by a common hen, so long as they remain with her, and, from their inability to escape, are practically in the power and dominion of her owner, may be the subject of larceny, though the hen is not confined in a coop, but at liberty.—*The Queen v. Shickle*, Law Rep. 1 C. C. 158.

3. A stole gas for the use of a manufactory, by drawing it off from the main through a pipe, which was never closed at its junction with the main. The gas from this pipe was burnt every day, and turned off at night. *Held*, (1) that as the pipe always remained full, there was a continuous taking of the gas, and not a series of separate takings; and (2) that even if the pipe had not been kept full, the taking would have been continuous, as it was substantially one transaction.—*The Queen v. Firth*, Law Rep. 1 C. C. 172.

4. A woman permitted the prisoner to have connection with her, under the impression that it was her husband. *Held*, that in the absence of evidence that she was unconscious at the time the act of connection commenced, it must be taken that her consent was obtained, though by fraud, and that therefore the prisoner was not guilty of rape.—*The Queen v. Burrow*, Law Rep. 1 C. C. 156.

MUNICIPAL LAW—A statute provided that no licensed victualler should sell wine or ale on Sunday, except "as refreshment for travellers." A. walked on Sunday to a spa, two and a half miles from his house, for the purpose of drinking the mineral water there for the sake of his health, and was supplied with ale at an hotel at the spa. *Held*, that A. was a traveller within the exception.—*Peplow v. Richardson*, Law Rep. 4 C. P. 168.

2. Commissioners were incorporated with powers to construct a bridge, and to borrow from the treasury £120,000 on an assignment of the tolls: they were authorised to take tolls, to be applied to pay the expenses of the bridge, and then in repayment of the sum borrowed. *Held*, that they were not liable to the poor-rate, as they were in occupation of the bridge, as servants of the crown, deriving no