

MORTGAGOR AND MORTGAGEE—MORTGAGEE IN POSSESSION—RECEIVER OF MORTGAGED ESTATE.

In *re Prytherch, Prytherch v. Williams*, 42 Chy.D., 590, the law regarding the appointment of receivers of mortgaged estates is discussed by North, J., who held that the Court has under the Judicature Act, s. 25, s.s., 8, a discretion as to the appointment of a receiver; that a receiver may be appointed at the instance of a legal mortgagee, but that he has no absolute right to a receiver, and that the power given by the above section may be exercised at the trial as well as upon an interlocutory application; and, lastly, that a mortgagee who has once taken possession cannot relinquish it, so as to escape liability, at his pleasure, and that as a general rule the Court will not assist him to get rid of his responsibility as a mortgagee in possession, by appointing a receiver at his instance. Speaking of the position of a mortgagee in possession, the learned judge says at p. 600: "In my opinion, when he once takes upon himself the burden which is imposed on all mortgagees who are in possession, he must continue to perform the duty, and he cannot when he pleases elect to give it up." He refused to appoint a third person receiver, but with the assent of the mortgagors, he appointed the mortgagee himself receiver, without salary, and without security.

MUNICIPAL BY-LAW—NEW STREET—BUILDING ON NEW STREET.

In *Hendon v. Pounce*, 42 Chy.D., 602, the validity of a municipal by-law came in question, which provided that every new street laid out should be at least 40 ft. in width, and that every person who should construct a new street, shall provide at one end, at least, of such street, an entrance of a width equal to the width of such street, and open from the ground upwards. This by-law was held to be *intra vires* and reasonable, and that it prevented a land owner from constructing a new street upon his land until he had provided an entrance to the new street of the specified width, even though the entrance could only be made over the land of another person, over which he had no control; and it was also held by North, J., that the construction of a new street included building houses abutting on it, and that a land owner could not, until an adequate entrance had been provided, erect houses abutting on the proposed new street.

MORTGAGOR AND MORTGAGEE—RIGHT TO REDEEM DISPUTED—INTEREST—COSTS.

In *Kinnaird v. Trollope*, 42 Chy.D., 610, we have the concluding stage of the action, the original hearing of which is reported in 39 Chy.D., 636, noted *ante* vol. 25, p. 107. The action, it may be remembered, was brought by the mortgagee, on the covenant against the mortgagor. The mortgagor had assigned his equity of redemption, and the assignee had executed a further charge in favor of the mortgagee. The defendant applied to stay proceedings on payment of the amount due on the covenant, and claimed that on payment of the amount, the plaintiffs should assign the mortgaged estate, but this they refused to do, unless paid the further charge also; this contention was decided against them, as appears by the former report of the case. An account was then taken, and the Chief Clerk certified the amount due down to the day appointed for payment. The defendants applied to vary this certificate by disallowing all interest