

QUEEN'S BENCH DIVISION.

LONDON, May 28, 1892.

THE QUEEN v. RUSSETT—2 Q. B. Div. (1892) 312.

Criminal Law—Larceny—Possession Obtained by Fraud—Larceny by a Trick.

The prisoner agreed at a fair to sell a horse to the prosecutor for £23, of which £8 was to be paid to the prisoner at once, and the remainder upon delivery of the horse. The prosecutor handed £8 to the prisoner, who signed a receipt for the money; by the receipt it was stated that the balance was to be paid upon delivery. The prisoner never delivered the horse to the prosecutor, but caused it to be removed from the fair under circumstances from which the jury inferred that he had never intended to deliver it. Held, that the prisoner was rightly convicted of larceny by a trick.

Case stated by the deputy chairman of the Gloucestershire Quarter Sessions.

The prisoner was tried and convicted upon an indictment charging him with having feloniously stolen, on March 26, 1892, the sum of £8 in money of the moneys of James Brotherton. It appeared from the facts proved in evidence that on the day in question the prosecutor attended Whitcomb fair, where he met the prisoner, who offered to sell him a horse for £24; he subsequently agreed to purchase the horse for £23, £8 of which was to be paid down, and the remaining £15 was to be handed over to the prisoner either as soon as the prosecutor was able to obtain the loan of it from some friend in the fair (which he expected to be able to do), or at the prosecutor's house at Little Hampton, where the prisoner was told to take the horse if the balance of £15 could not be obtained in the fair. The prosecutor, his son, the prisoner and one or two of his companions, then went into a public house, where an agreement in the following words was written out by one of the prisoner's companions, and signed by prisoner and prosecutor: "26th March, G. Russett sell to Mr. James and Brother (sic) brown horse for the sum of £23 0s. 0d. Mr. James and Brother pay the sum of £8, leaving balance due £15 0s. 0d. to be paid on delivery." The signatures were written over an ordinary penny stamp. The prosecutor thereupon paid the prisoner £8. The prosecutor said in the course of his evidence: "I never expected to see the £8 back, but to have the horse." The prisoner never gave the prosecutor an opportunity of attempting to borrow the £15, nor did he ever take or send