

with a heavy loss, from which probably they may not be protected, even if their present application is successful.

The authorities show very clearly, that a mortgagee, having given notice to the tenants holding the mortgaged premises under leases granted by the mortgagor, either before or after the date of the mortgage, is entitled to receive from the tenants the rents in arrear at the time of the notice, as well as those which accrue afterwards. *Moss vs. Gallimore and another*, 1 *Douglas*, 278; *Pope vs. Biggs*, 17 *Eng. C. L. Rep.*, 368; 1 *Powell on Mortgages*, 175, 176, 177.

In this case, the requisite notice appears to have been given on the 23d of February last, from which period it is presumed no payments have been made to the mortgagors; and as from that period the tenant could not be compelled to pay the mortgagors, it would seem to follow, that if the rents cannot be collected under the authority of this court, and applied to the extinguishment of the mortgage debt, they cannot be collected at all.

The objection taken by Mrs. Abbott to the application of the petitioners is, that by the terms of the decree, the petitioners are entitled to ask for nothing more than a sale of the principal mortgaged estate; and that this court has no authority or jurisdiction, by order on said petition, to direct said rents or arrears, or any part thereof, to be collected and paid over to said petitioners. But cases are not unfrequent in this court, in which trustees, acting under the authority of decrees similar in their terms to the present, have been permitted, when sales of the property could not be readily or advantageously made, to rent it, and account for the rents to the parties entitled to the proceeds of the sales; and no reason suggests itself why the court may not give the like authority to collect and account for rents due, when the sales are effected. And as in this case it is apparent that the money raised by the sales is quite inadequate to pay the mortgage debt, the propriety of applying the rent to that object is most obvious.

The court will, therefore, give the trustee power to collect the interest and rents due upon the mortgaged property, and