

had before then been unlawfully obtained and taken and appropriated by said A, the taking and receiving being a misdemeanour under sec. 85, ch. 164 R. S. C. at the time when he so received the money. A. who was the executor of C's estate and was the custodian of the money, pleaded guilty to the charge on the first count. B. pleaded not guilty, was acquitted of the charge on the first count, but was found guilty of unlawfully receiving.

On the question submitted, in a reserved case, whether B. could be found guilty of unlawfully receiving money from A. who was custodian of the money as executor, the Court of Queen's Bench for Lower Canada (on appeal), Sir A. Lacoste, C. J., dissenting, held the conviction good.

At the trial it was proved that A. and B. agreed to appropriate the money, and that when A. drew the money he purchased his railway ticket for the United States, made a parcel of it, took it to B's store, handed it to him, saying: "Here is the boodle; take good care of it." On the same evening, he absconded to New York.

Held, affirming the judgment of the Court below, that whether A. be a bailee or trustee, and whether the unlawful appropriation by A. took place by the handing over of the money to B., or previously, B. was properly convicted under sec. 85, ch. 164, R. S. C., of receiving it, knowing it to have been unlawfully obtained.

Gwynne, J., dissenting.

Appeal dismissed.

St. Pierre, Q. C., for appellant.

J. F. Quinn, Q. C., for respondent.

Quebec.]

HUNT V. TAPLIN.

Appeal by defendant—Amount in controversy—Pecuniary interest—
R. S. C. ch. 135, sec. 29.

The plaintiff, who had acted as agent for the late M. S., brought an action for \$1470 for a balance of account as *negotiorum gestor* of M. S. against the defendants, executors of M. S. The defendants, in addition to a general denial, pleaded compen-