

Two bills of indictment were presented against A. and B. under ss. 85 and 83 of the Larceny Act.

By the first count each was charged with having unlawfully and with intent to defraud taken and appropriated to his own use \$7,000 belonging to the heirs of C., so as to deprive them of their beneficiary interest in the same.

The second count charged B. (the appellant) with having unlawfully received the \$7,000, the property of the heirs, which had before then been unlawfully obtained and taken and appropriated by said A., the taking and receiving being a misdemeanour under s. 85, c. 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 s. 85, c. 164, R.S.C., of receiving it, knowing it to have been unlawfully obtained.

GWYNNE, J., dissenting.

Appeal dismissed.

Mr. Saint Pierre, Q.C., for the appellant.

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

[Quebec.]

MCLACHLAN *v.* MERCHANTS BANK.

MCLAREN *v.* MERCHANTS BANK.

Partnership—Dissolution—Married woman—Benefit conferred on wife during marriage—Contestation—Priority of claims.

On the 10th April, 1886, J. S. McL., a retiring partner from the firm of McL. & Bros., composed of the said J. S. McL. and W. McL., agreed to leave his capital, for which he was to be paid interest, in a new firm, to be constituted by the said W. McL. and one W. R., an employee of the former firm, and that such capital should rank after the creditors of the old firm had been paid in full. The new firm undertook to carry on business under the same firm name up to 31st December, 1889. J. S. McL. died on the 18th November, 1886. Mrs. A. McL., the wife, separate as to property of J. S. McL., had an account in the books of both firms. On the 17th April, 1890, an agreement was entered into