

BANKRUPTCY—LEAVE TO ISSUE EXECUTION—ORDER TO CONTINUE PROCEEDINGS—RULE 181—(ONT. RULE 396).

In re Bagley (1911) 1 K.B. 317, may be briefly noticed for the fact that the Court of Appeal (Cozens-Hardy, M.R., and Moulton and Farwell, L.JJ.) decided inter alia that where a judgment creditor becomes bankrupt, the trustee in bankruptcy may obtain leave to issue execution on the judgment, without first obtaining an order to continue the proceedings under Rule 181 (Ont. Rule 396) or otherwise making himself party to the action. The Court of Appeal had to consider two opposing dicta, that of Cotton, L.J., *In re Woodall*, 13 Q.B.D. 479, 483, and that of Wright, *In re Clements* (1901), 1 K.B. 260, 263, and while the Master of the Rolls and Moulton, L.J., preferred the former, Kennedy, L.J., intimated his preference for the dictum of Wright, J.

CRIMINAL LAW—PRACTICE—CONVICTION—ADMISSION BY PRISONER OF ANOTHER OFFENCE—REQUEST BY PRISONER TO COURT TO TAKE OTHER OFFENCE INTO ACCOUNT WHEN PASSING SENTENCE.

The King v. McLean (1911) 1 K.B. 332 was somewhat unusual in its circumstances. A prisoner was indicted and convicted for housebreaking, and he then requested the Judge in passing sentence to take into account a charge of arson for which he was to be tried in another county and to pass a sentence for both offences. The judge acceded to his request and passed a sentence of 3 years' penal servitude. This was done without consultation with the prosecutors in the other case which was duly brought on and tried and the prisoner was convicted before another judge, and a sentence of 5 years' penal servitude was passed. On appeal the court (Lord Alverstone, C.J., and Pickford and Avory, JJ.) discussed the practice to be pursued in such a case and came to the conclusion that where a prisoner convicted admits that he is also guilty of another offence of the same character as that for which he has been convicted the court may take both offences into account in passing sentence, but if there is a committal for the other offence the judge should ascertain whether the prosecution agrees that he should do so. If the committal is in another county and the