

himself; that F. had agreed to pay the defendant \$5 a day and expenses to come for the contents of the box; that the defendant had come to Toronto, and the bank, not being satisfied as to his identity, had refused to deliver the contents of the box, but told the defendant that they would, on F.'s request, open the box and send him the contents by express or registered mail; that the defendant returned to Chicago, and reported to F., who said, "No, I want you to go back and bring the valuables;" that the defendant returned to the bank, and was met with the objection that he had not an order from W.; that he again returned to Chicago, and reported, and F. said he would go and see W. and get the order, and sent the defendant back to Toronto; that the defendant was arrested on the 13th September, 1916, in the bank, when he called the third time to see if W.'s order had arrived; that the defendant, when arrested, gave his proper name and address in Chicago, stated that he knew F. for 15 years, and came to Toronto at F.'s request and expense. The defendant testified that he did not know the contents of the box; that F. had told him that the box contained valuables; and that, had he known it contained money, he would not have come; that he did not know the nature or value of the "valuables," had made no provision for taking them to Chicago, or for paying duty on them if they were dutiable.

It was shewn that the contents of the box were bank-notes (value, \$1,925) done up in bundles, not covered by envelopes; and it was admitted that the notes had been stolen and placed in the box by F. and W.

The trial Judge did not accept the defendant's denial of knowledge; and when, along with the other facts and circumstances adduced in evidence, it is considered that, had the venture on which F. sent the defendant to Toronto been successful, the defendant must, of necessity, as soon as he opened the box, have discovered that the contents were bank-notes, it cannot be said that there was no evidence on which the trial Judge might reject the defendant's denial and find, not only that he was untruthful, but that he did, as a fact, know that the box contained stolen property.

There was evidence to support the conclusion of the trial Judge; and the question should be answered in the affirmative.

MEREDITH, C.J.O., MACLAREN and HODGINS, JJ.A., concurred.

MAGEE, J.A., read a dissenting judgment.

Conviction affirmed.