

suam conditionem facere potest," are but a few of the forms of statement of a principle recognised in our law. This is stated by Fry, L.J., in the following words: "No system of jurisprudence can with reason include amongst the rights which it enforces, rights directly resulting to the person asserting them from the crime of that person:" *Cleaver v. Mutual Reserve Fund Life Assn.*, [1892] 1 Q. B. 147, at p. 156. Maybrick had insured his life in favour of his wife and died by poisoning: his wife was convicted of his murder, her sentence being commuted to penal servitude for life. The executors of Maybrick sued the insurance company and it considered that Mrs. Maybrick had no right to receive the insurance, but there was a resulting trust in favour of the estate.

This case was much canvassed in our own case, *McKinnon v. Lundy* (1893), 24 O. R. 132, 21 A R 560; *sub nom. Lundy v. Lundy*, 24 S. C. R. 650.

Mrs. Lundy had made a will devising certain lands to her husband: he killed her and was convicted of manslaughter. Lundy's grantee claimed the land: the trial Judge (Ferguson, J.), held that Lundy could neither take under the will nor inherit and that the lands should go as on an intestacy except that Lundy could not inherit any interest. The Court of Appeal unanimously reversed this judgment, drawing a distinction between murder and manslaughter, "something little removed from accident when all intent to bring about the death and thereby bringing about the existence of the fund for the profit of the criminal was necessarily absent." Another distinction is drawn between the *Cleaver Case* and the *Lundy Case* by one of the Judges, namely, that in the former the plaintiff was seeking the assistance of the Court—in the *Lundy Case* the defendant Lundy is not seeking the aid of the Court. He does not require it. the validity of the will is not disputed. "It is admitted to be a good will. . . ." per MacLennan, J.A., at pp. 566, 567. The Supreme Court, 24 S. C. R. 650, reversed the judgment of the Court of Appeal and restored that of Mr. Justice Ferguson, pointing out that "the principle upon which the devisee is held incapable of taking under the will of the person he kills is, that no one can take advantage of his own wrong," p. 652.

The principle must, of course, be subject to two qualifications, the rights in question must be property rights—Mrs.