

hands who paid the balance of wages due him, amounting to \$7.96, on the 23rd December. On the same day he obtained an advance of \$7, alleging that he had spent all his previous pay. He endeavoured to obtain a loan of \$5 from the prosecutor, and stated to one of the officers of the ship that he was short of money. He stated to a fellow seaman that the officer in question had loaned him a sum of money, but it appeared the statement was untrue. At noon on the 25th December the prosecutor placed a wallet containing the sum of \$26 in his chest and locked it up. On the same afternoon the defendant, who had been about the room where the chest was, was seen in possession of a roll of paper money including two \$5 bills, and on the same evening he loaned \$5 and \$2 in paper money to two of the ship's hands who were in his company. The following day the prosecutor went to look for his money and found that his chest had been opened and the money taken. No attempt was made to identify the money seen in the defendant's possession with that stolen from the prosecutor, nor was it shewn that the defendant had knowledge that the prosecutor had placed the money in his chest.

The learned judge of the County Court having convicted defendant, reserved the two following questions for the opinion of the Court: (1) Whether or not there was any legal evidence to support the conviction. (2) Whether he was justified in drawing from the facts stated a presumption sufficiently strong to justify him in finding a judgment of guilty.

Held. 1. In answer to the first question that there was evidence to support the conviction.

2. In answer to the second question, that the question was not properly before the Court.

Per TOWNSHEND, J.—The question as to the weight to be given to the evidence and the inferences to be drawn from it was for the trial judge, and could only be brought before the Court by appeal.

Per GRAHAM, E.J.—(Who concurred that there was evidence to justify a verdict of guilty) the case was one in which the Court should exercise its power under the Code s. 746 by ordering a new trial.

Per MEAGHER, J.—It was not the intention of Parliament that the remedy by case reserved under the Code s. 743, and the one by application for a new trial, under the Code s. 747, should both be open to the accused at the same time: *The Queen v. McIntyre*, 31 N.S.R. 422.

W. A. Henry, for Crown. *J. J. Power*, for prisoner.

Full Court.] SHAND v. EASTERN CANADA SAVINGS CO. [March 13.

Practice and precedent—Security for costs of appeal ordered to be given by plaintiff in insolvent circumstances.

On an application made by defendants for security for costs of an appeal asserted by plaintiff, it appeared that plaintiff's action had been