

was the Confederate note. When the safe was opened and the Confederate note found by Young, did he fraudulently and without colour of right convert the same to his own use with intent to steal it? He says that, when he bought the bank, he believed that he had bought it and any contents, if there were any. I am strongly of that view, and am of opinion that the defendant was not guilty of theft, and certainly not guilty of the theft of \$10.

"There was no malice on the part of the prosecutor, shewn in this trial, nor would any charge have been laid if the defendant had promptly explained the contents of the safe, instead of letting it be understood that he had found \$10 in the safe. There was no arrest or confinement of the defendant, and the Justices of the Peace acted in good faith and without malice and are entitled to the protection of the Court, as are all other persons concerned in the hearing and trial of this case.

"I therefore order that the said appeal be and the same is hereby allowed, and that the said conviction be and the same is hereby quashed, with \$23.38 costs to be paid by the respondent to the Clerk of this Court, to be paid over by the said Clerk to the appellant. The Confederate note is to be handed to Ward."