

TWELFTH DIVISION COURT OF THE COUNTY OF
HASTINGS.

WILLS, JUN. CO. C.J.

JULY 15TH, 1920.

RE YOUNG AND WARD.

Criminal Law—Theft—Confederate States Treasury Note Found in Safe Purchased by Accused at Auction-sale—Intent—Purchase of Contents of Safe—Conviction by Justices Quashed on Appeal—Protection of Justices.

Appeal (under sec. 749 (a) of the Criminal Code) by Thomas Young from a conviction of the appellant by two Justices of the Peace for the theft of \$10 from W. A. Ward, the private prosecutor.

R. D. Ponton, for the appellant.

William Carnew, for the Crown and the private prosecutor, respondent.

WILLS, JUN. CO. C.J., in a written judgment, said that, at an auction sale of the household goods and effects of Ward, Young bought a child's iron savings-bank with a combination lock, which was opened after Young had had it in his possession for some time. In it he found a piece of paper, slightly torn, which turned out to be a \$10 treasury note of the Southern Confederate States, dated, "Richmond, February 17, 1864"—of course worthless as representing money or as a security for money.

Young did not return the note, and Ward, hearing that Young had found a \$10 note in the savings-bank which he bought, laid the charge of theft.

The learned Judge, after stating the facts, gave his decision as follows:—

"The contents of the safe, namely, the note, is absolutely valueless as money, and the intrinsic value as a piece of paper is so small that one cannot say readily that it has any value as such except that it is a piece of paper. Paper is worth money, and this must be worth something.

"Now, was theft committed?

"Theft is the act of fraudulently and without colour of right taking or converting to the use of any person, anything capable of being stolen with intent to deprive the owner, etc.: Criminal Code, sec. 347. Now, when the safe was handed to Young by the auctioneer there was no theft committed because he was the lawful purchaser of the safe, and in the safe, unknown to any one,