

to S. for value and then conveyed a second lot to a trustee in trust for himself for life and on his death to his adopted daughter. H. died leaving a will by which he devised a third lot to his adopted daughter, and devised the remainder of his real estate to his executors with power to sell. On the death of H. the trustee of the second lot conveyed same to the adopted daughter. The next conveyance of H.'s land was a sale by the executors of H. of the remainder of H.'s real estate to B. for value, and shortly afterwards the adopted daughter conveyed the two lots held by her to W. and P. and the holder of the judgment at the request of the adopted daughter released from the judgment the lots purchased by W. and P. and after doing so made an application to the court for leave to issue execution against the real estate which was of H., such application being necessary by reason of the death of the judgment debtor. The application was opposed by B. and leave to issue execution having been given, B. appealed to the full court.

*Held*, dismissing the appeal without costs, that the judgment creditor was entitled to the order for leave to issue execution, but the court intimated that the judgment should be borne by all the lots rateably, and that if the judgment creditor should proceed to sell the land to B. under the execution he must give credit for an amount proportionate to the value of the lands released. DRYSDALE, J., dissented, holding that the judgment creditor by releasing the lands of W. and P. had lost his right to go against the other lands of H. which are now owned by S. and B. and that leave to issue execution should be refused.

Roscoe, K.C., for appellant. Robertson and Savary, for respondent.

Full Court.]

THE KING v. CROSS.

[Jan. 16.

*Embezzlement—Case stated as to procedure—Power of judge to amend—Simultaneous trial of several charges—Crim. Code ss. 852, 853, 854, 856; 834, 839, 854.*

Defendant was brought to trial before a County Court judge, charged with having between certain dates while acting as cashier in the freight and express office of the Halifax and Southwestern Railway, received various sums of money for which he was bound to account, but as to which he unlawfully and fraudulently converted the same to his own use.

Objection was taken on the part of defendant that each taking constituted a separate offence and the prosecuting counsel