

There is no good reason why this should not be done in extradition cases, as the rules that govern the investigating magistrate, govern the extradition commissioner. The facts are to be found in the evidence, and in an extradition case the Judge hears the case in the same manner as nearly as may be, as if the fugitive was brought before a justice of the peace charged with an indictable offence committed in Canada. The Court of King's Bench has even found that this disposition of the Extradition Act gives power to admit to bail. (See Criminal Code, 578 and 596.)

The obtaining of the money by the accused through Carter was the crowning act of the corrupt combination existing between the accused and Carter. Accused knew as well as Carter that this money was not due to them by the United States, and that Carter, in passing it to them, was stealing from his employer, that according to the wording of the United States Statute he was "fraudulently applying the moneys of the United States to an object not prescribed by law," and consequently was embezzling (stealing) the same.

The act of receiving stolen property, knowing it to have been stolen, is punishable as a substantive offence by section 314 and 316 Criminal Code, 1892, and at common law the receiver can also be punished as participator in the theft.

We find in Archbold, 21st Edition, page 401, the following decision: "And where a third party receives goods from a servant, under colour of a pretended sale, knowing that the servant has no authority to sell them, and is, in fact, defrauding his master, this is larceny in both." Reg. v. Hornby, 1 C and K, p. 306.

The offence of receiving is also punished by the Imperial State 24 and 25 Vict., Chap. 96, Larceny Act, sec. 91.

In the United States it is punished by Section 2, Act of 1875, Supplement Revised Statutes United States, p. 89, which is in the following words:

"That if any person shall receive, conceal, or aid in concealing, or have, or retain in his possession with intent to