

BANKS AND BROKERS.

A case of interest to banks, brokers and business men was recently decided in the Supreme Court of Louisiana (*First National Bank of Birmingham v. Gilbert and Clay*, 49 So. 593).

The note of the case as reported is as follows:—When money transferred to an honest taker has been obtained through a felony by the one transferring it, the honest taker who receives it without knowledge of the felony and in due course of business acquires a good title to it as against the one from whom it was stolen. Bad faith will alone defeat the right of the taker. Mere ground of suspicion or defect of title, or knowledge of circumstances which would create suspicion in the mind of a prudent man or gross negligence on the part of the taker will not defeat his title. Bad faith alone will defeat the right of the taker without knowledge. The test is honesty and good faith, not diligence.

The facts were that the money was taken by the teller in bundles out of the vault of the bank and passed through the paying teller's window and handed to the broker, just as it would be passed in the payment of a cheque in the ordinary course of business, but no cheque was presented nor any cheque signed or stated by the teller to be in existence. The broker was invited by the teller to come to his cage and receive the money from him upon the representation of the teller that it was to be invested for a third party on margin. So far as the defendants knew the money may have been simply stolen by the teller in full sight of the taker and passed to him, though the taker may not actually have known it was being stolen, nor, so far as his evidence went, was there any suspicion that it was being stolen.

A good criticism of this case appears in the *Central Law Journal* and the reasoning of the writer commends itself to us rather than that of the Court which decided the case. It certainly is difficult to come to the conclusion that the taker acted honestly and in good faith, and, if not, was he not a joint tortfeasor? The following is the criticism referred to:—