

bank or banking association who violates any of the provisions of this section, is guilty of an act of embezzlement of the public money so deposited, loaned, transferred, used, converted, appropriated, or applied, and shall be punished as prescribed in section fifty-four hundred and eighty-eight."

This section is the counterpart of section 5488, which is the embezzlement section.

On this other ground also, the commitment to await surrender would be granted, provided all other conditions for extradition would have been complied with.

#### RECEIVING.

The extradition of the accused is lastly sought for the reason that they are accused of receiving from Carter money fraudulently obtained, to wit, the \$575,749.90 paid over to them by Carter on July 6th, 1897, knowing the same to have been stolen.

This reason does not appear to have been set in the information and complaint as a special cause for asking the extradition of the accused. The charge, though, is made in substance, and the fraudulent payment by Carter of this money, and its acceptance by the accused, are mentioned as overt acts of the conspiracy. The supplementary information and complaint made in this case, after the judgment of the Privy Council, for a warrant to re-arrest the accused, contained a count for the fraudulent receiving of this money, which was mentioned in the new warrant of arrest, and at the argument Counsel for the prosecution declared that they were asking extradition on the ground of fraudulent receiving also. It is the practice in Canada for magistrates holding preliminary investigations, to commit for all the offences proven by the evidence adduced, whether these offences are mentioned in the information or not, and even for totally different offences, omitting that or those mentioned in the information.