W. P. COLEMAN and **THOS. M. COLEMAN,** Appellants, v. **THE REPUBLIC OF LIBERIA,** Appellee.

1. A judgment for larceny upon evidence showing only receipt of stolen goods is void.

2. The testimony of an accomplice against his particeps criminis, unsupported by corroborative evidence should be received with caution.

3. If several parties are charged as principals and, upon evidence submitted, some are proven to have been accessories before the fact and not principals, as charged, the indictment cannot be upheld as against such accessories.

Larceny. On appeal from the verdict and judgment of the Court of Quarter Sessions and Common Pleas for Montserrado County.

This case comes up from the Court of Quarter Sessions and Common Pleas, Montserrado County, at its September term, A. D. 1907. In that court the appellants were indicted and convicted of larceny as follows :—That on the 28th of August, 1907, they did break and enter the store of James F. Cooper, situated in the settlement of Clay-Ashland, Montserrado County, and then and therefrom feloniously did take, steal and carry away a large amount (in value) of merchandise.

A jury was empanelled to try the facts, witnesses were called, sworn and deposed. The cause was then submitted to said jury which returned a verdict of guilty, upon which verdict the court rendered judgment that the appellants pay two-fold the value of the goods stolen and be imprisoned two calendar months to do hard labour until said fine be liquidated at $6.00 per month; and further, to pay each a fine of $150.00.

To this judgment the defendants below filed exceptions and appealed to this court for review of the proceedings, charge, verdict and judgment as is allowed by law. This case presents several points for the consideration of this court, and it would feel bound to dispose of them all; but on careful examination of the laws raised in the bill of exceptions and urged in the fourth point of the appellants' brief, a point which if true, would cause this case to tumble and fall, we address ourselves to that point in connection with the charge.

The evidence and the judgment. A fundamental rule of law is that every party charging another with an offense is bound to prove it. Proof is the perfection of evidence; for without evidence there is no proof. For example : If a man is found murdered at a spot where another has been seen standing alone, this is evidence presumptive that he was the murderer; but this is very far from proof of

his having committed the murder. To convict one of a certain felony the proof or testimony should not vary from the indictment, for proof alone upholds it. For instance : If one is charged with larceny, and the evidence at the trial prove him only guilty of receiving stolen goods, a judgment for larceny would be contrary to the evidence, hence void.

Again, where one has servants staying in his house and they wickedly commit larceny and carry part of the stolen goods or property to their master's house and he, the master, conceals said goods or property, the actors of the crime would be principals to the felony, while the master only an accessory. During the trial of this cause the appellants urged that the court should have refused to admit the testimony of Alfred Coleman, he being one of the parties engaged in committing the felony. This court says that while the State may use one as witness against others joining him in committing the felony, that while his testimony may be received, yet the jury should well consider such testimony, as his demoralization may lead him wickedly to implicate innocent parties.

The counsel for the State maintains that the punishment of an accessory before the fact being the same as that of the principal, if the appellant on trial proved accessory before the fact, the indictment is upheld. To this we only quote the doctrine laid down by Mr. Archbold, an eminent law authority. (See 1st Archbold's Criminal Law, p. 73 and note.) Says the learned judge, "The offence of an accessory before the fact, differs much from that of the principal so that one indicted as principal cannot be convicted on proof showing him to be only an accessory before the fact."

This quotation applies with such force to this case, that we would overturn great principles of law to set it aside in this case; neither the rulings of the court nor evidence rendered in the case supports the judgment.

Therefore, by this court the judgment rendered below is hereby reversed and shall have no legal force for want of proof. The clerk of this court is hereby ordered to notify at an early date the court below as to the effect of this judgment.

Given under our hands this 12th day of January, A. D. 1908.
By the Court.