

iron and lead piping were necessarily broken and carried off with the rest of the materials, and an information was laid under this statute. "The state of the law is somewhat ludicrous, but it seems that our forefathers failed to realize that any one could commit a crime so audacious": 43 Solicitors' Journal, p. 120. Such an offence would, in Canada, be theft under s. 303, *infra*.

The division of opinion in the courts as to the misappropriation of money innocently acquired, of which the cases of *Reg. v. Ashwell*, 16 Cox C.C. 1, and *Reg. v. Hehir*, (1895) 2 Ir. 709, are examples, is very notable. Such subtle questions as these are no longer possible under the code. By sec. 305 the offence of "theft" is so defined as to cover all the various shades of larceny and embezzlement. "Theft" is defined to be "the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent (a) to deprive the owner or any person having any special property or interest therein, temporarily or absolutely of such thing or of such property or interest," etc. The "*animus furandi*" is dealt with by sub-sec. 3. "It is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was at the time of the conversion, in the lawful possession of the person converting." The doctrine of "asportation" by which not only a taking, but also a carrying away is necessary in order to constitute larceny has given rise to much sophistical discussion. To remove a package from the head to the tail of a waggon, was a sufficient asportation but not merely to alter the position of a package where it lay. A thief grabbed at a valuable earring worn in a lady's ear; he dragged it out of the ear but it then slipped from his hand and lodged in her curls, where it was found on her arrival at her home; this was held a sufficient asportation. "If a guest take the coverlets or sheets of his bed, and rising before day, take the coverlets or sheets out of the chamber, where he lay, into the hall, to the intent to steal them, and went to the stable to fetch his horse, and the ostler apprehended him, this was adjudged larceny; and the coverlets and sheets were carried away, being removed from the chamber to the hall, albeit they were still in the house of the owner": Coke 3rd Ins. p. 108. The old nursery rhyme, it is said, precisely defines asportation, when