

In connection with this it is interesting to notice that Austin, in his notes on criminal law (II. 1044), has pointed out that principles are "obscured by being often couched in Latin terms not generally understood and not infrequently misapplied; i.e., larceny instead of the familiar and more precise theft. Larceny, or latrocinium, is not theft."

The endless refinements and subtleties of the law of larceny are familiar to all students of the criminal law; the distinction between things which do and do not savour of the realty by which "a heap of dung is a chattel, but if it be spread upon the land it is not" (per Rolle, J.), it being then a part of the freehold; the animus furandi; the taking invito domino; the dividing lines between larceny and embezzlement; the rules as to bailees; the strange doctrine of the common law by which there could be no larceny of a living dog, whereas there could be larceny of a dead dog's skin; in 1526 it was doubted whether a peacock could be stolen, being "rather a bird of pleasure than of profit, for it often kills all its chickens except one;" in another case Mr. Justice Hales thought it "no felony to take a diamond, rubie or other such stone (not set in gold or otherwise), because they be not of price with all men, however some do hold them precious;" these and many other instances which might be enumerated well illustrate the words of the poet who sang of

"That lawless science of our land,
That codeless myriad of precedents,
That wilderness of single instances."

A remarkable illustration recently happened in London, England, where the accused is said to have entirely demolished two unoccupied houses, and carried away the whole of the materials of which they had been constructed, so that, when the owner came to inspect his property, he was surprised to find a clear site, and no vestige of his houses. Strange to say, except incidentally, the accused could not be brought within the criminal law. Trees and houses cannot be stolen, and to sever them and carry them away is merely a trespass at common law giving a civil action. The prosecutor was, therefore, driven to proceeding on a charge which was merely incidental to the principal fact of the case. By statute it is a felony, punishable as larceny, to cut or break any glass, woodwork or metal fixed to any house, with intent to steal the same. In demolishing the houses the glass and woodwork and