

found as the money which was so stolen. *R. v. Haverstock* (1901), 5 Can. Cr. Cas. 113, per Wallace, Co. J., at Halifax.

Where the accused was convicted of the theft of bank notes but there was no evidence to identify the same with the bank notes found on and taken from the prisoner at the time of arrest, and no application was made immediately after the conviction for an order of compensation to the prosecutor for his loss, an order may be properly made *ex parte* for the restoration to the prisoner of the money so taken from him. *Ibid.*

Where it is impossible to identify the money found on the prisoner as the stolen money, and the prisoner claims the money as his own, the proper course for the prosecutor to take is to apply, under sec. 1048, immediately after the conviction of the prisoner, for compensation for loss of property, and thus obtain an order that the money of the prisoner shall be paid to him to such extent as will compensate him for the loss sustained.

It will be noted that sec. 1050 does not include the offence of obtaining money or goods by false pretences, but recourse may be had in such cases to an order for compensation under secs. 1048 and 1049 or to a civil action. Restoration of goods not connected with charge to accused.

A court of criminal jurisdiction may order the restoration to an accused person committed for trial of articles taken possession of by the police which are not connected with the offence charged and are not required for the purpose of evidence. *Ex parte McMichael*, 7 Can. Cr. Cas. 549; *R. v. McIntyre*, 2 P.E.I. Rep. 154.

Where money taken from a prisoner on his arrest is admitted by the Crown authorities not to be required for the purpose of evidence at the trial the Court may order it to be restored to the prisoner. *R. v. Harris*, 1 B.C.R., pt. 1, p. 255.

*Protection of Innocent Purchaser.*—Where the property stolen has been transferred by the thief or the guilty receiver to an innocent purchaser for value who has acquired a lawful title thereto, the Criminal Court shall not award restitution. This is not to be construed as a declaration that the innocent purchaser for value has a lawful title. The protection of sub-sec. 3 is afforded to the innocent purchaser only in the event of his acquisition of a lawful title which fact could be ascertained only by reference to the civil law of the province.

In *Vezina v. Brosseau* (1906), 30 Que. S.C. 493, the person from whom a horse was stolen took civil proceedings to recover the horse from the man to whom the purchaser from the thief had sold it. The last sale was pleaded as giving a lawful title under the Que. Civil Code, sec. 1489, on the ground that the sale to the defendant was made by a "dealer trading in similar articles," but the plea was not sustained as it appeared that although the second vendor may have occasionally sold horses, such was not his real or ostensible business.