

as swindling or as robbery? Is not the perpetrator a robber in fact and a felon in law? Is he not an outcast of the law, visited with all the strength of insulted justice? Nothing of the kind. If we search through law books under such titles we shall search hopelessly for the punishment of such an offence. It is only to be found under the mild and assuaging title of "breach of trust." A few years ago a silly grocer's clerk, who applied his master's money to his own use was a great, if not the greatest of felons. To-day, what do we find? Defalcations and frauds unparalleled in the history of the world—thousands and tens of thousands coolly appropriated by men whose extravagance in life is supported by dishonesty till death.

If an old woman take her neighbor's goose, she is branded as a thief, prosecuted as an outlaw, and punished as a felon. But the refined scoundrel who makes use of his position in Society and his attainments in education to steal—we shall say steal, though the law does not say it—to steal the value of hundreds of thousands of pounds, simply commits a "breach of trust." Why should not such an one be punished with as much certainty and severity as the starving beggar or the houseless, vagrant? Why not punish him more severely, as the magnitude of his offence is great and the danger of his example very great? Not to do so is to hold out a premium for the commission of great offences, while those of petty import are visited with pains and penalties.

During a recent investigation in the City of Toronto we had the sorry spectacle of a man, upon whom suspicion of a grave crime rested, boasting in Court that he had counselled one equally suspected of the success of a noted bank swindler in New York, who, by increasing the amount of his speculation, ensured his escape from the grasp of the law. Is this not the baneful influence of bad example overspreading the land because of defective laws? Men who would not steal a goose, because it is a felony, fear not to pocket thousands of the money of others, because it is *only* a breach of trust. The moral sense of right and wrong is in this way blunted by the impotency of the law.

Our moral perceptions when in a normal state show us that it is wrong to use the property of another without his consent as our own. But a knowledge of the law makes us aware that though wrong it is not unlawful—that is to say,—not punishable as a crime.

When we find men in positions of trust not only abusing their trust, but indulging in wild expenditure by the commission of acts grossly dishonest, hoping that they will not be discovered, and knowing that if discovered there is no danger of occupying the felon's dungeon—when we witness these things every day and everywhere we are compelled to de-

mand an amendment of the law. Let the law be extended, and the offence be called by its true name—felony—and then shall we find men choose rather the imputation of poverty than of crime.

We believe that if breaches of trust, when wilful and for the benefit of the party offending, are not made crimes, frauds the most astounding will flap their wings in the very portals of our Courts of Justice.

We affirm the principle that law must expand as society expands and crimes essays to increase. How is the law at present? It is prim with nicety, and characterized for the finest distinctions that the mind can well conceive.

1. *Larceny* is the felonious taking of valuable property from the *possession* of another *without his consent and against his will*.

2. *False pretence* is the obtaining of valuable property from the *possession* of another, *with his consent and will*, by means of some artful device.

3. *Embezzlement* is in general the misapplying, *without the consent and against the will of the owner*, of property *received* from third parties by persons in situations of trust *for the use of the owner*, but which had never been in the owner's *possession*. With respect to bankers and others entrusted with valuable securities for a special purpose, the rule is slightly extended.

4. *Breach of trust* is the *misusing* of that property which the owner has without any *fraudulent seducement* and *with his own free will and consent* put or permitted to be put into the *possession* of a trustee, agent, or servant.

Here are four descriptions of offence, three only of which are punishable as crimes. The first, and the only one punishable at common law, is that of larceny. To meet the exigencies of society the second, and third, have been made crimes by statute. To meet the exigencies of society we are of opinion that the time is come for making the fourth, also a crime by statute. No one who reads the newspapers of the day—no one who reflects upon what he reads—can deny the propriety of this position. There may be some difficulty experienced in framing a remedy which will be neither too severe nor too lenient; but as regards leniency, surely no remedy can be *less* lenient than *no* remedy at all.

We shall watch with anxiety the movement now going on in England under the combined direction of Sir Richard Bethell and Lord Brougham. Better is it to have a measure imperfect in details than no measure at all. Several of the United States are in advance of England in this particular, and their laws though not all that is desirable are found to work beneficially. The law of France is also in the