

in, temporarily, or absolutely, of such thing, or of such property or interest; or,

(b) to pledge the same or deposit it as security; or,

(c) to part with it under a condition as to its return which the person parting with it may be unable to perform; or,

(d) to deal with it in such a manner that it cannot be restored in the condition at which it was at the time of its taking and conversion.

And so by putting the paint and putty on Mr. Lancot's house, they dealt with them so that they could not return them, and there is no evidence that there was any intention of returning the identical goods that they got from the government storehouse.

2. Theft is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it.

So that as soon as these goods were taken from the government storehouse the offence was complete.

3. The taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment.

4. 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.

In commenting upon this section, at page 413, the learned author speaks as follows:

It is generally laid down that any act which is an interference with the dominion and right of property of another is a conversion. A conversion does not mean a destruction of the goods nor does it necessarily import an acquisition of property by the defendant or a total or absolute loss of the goods to the owner, but it consists in any wrongful act by which the defendant deprives the owner of his goods either wholly or for a time. To constitute a fraudulent conversion, the owner must be deprived of his property or money by an adverse using or holding.

Under the terms of section 347, theft by conversion is committed whenever a person, already in possession of a specific article of personal property with the owner's consent, fraudulently and without colour of right converts it to his own use or to the use of any other person than the owner of it, with intent to deprive the owner of it, either temporarily or absolutely, or with intent to deprive any person having any special property or interest therein, temporarily or absolutely, of such special property or interest, or with intent to pledge the same or to part with it under a condition, as to its return, which he may not be able to perform, or to so deal with it that it cannot be restored.

This was what the Act dealt with because in this case it was impossible to return the goods.

The effect of section 347 is to put all persons whomsoever, whether they are or are not clerks, servants, employees, bankers, merchants, brokers, solicitors, factors, agents or bailees, upon the same footing, and to make every person whomsoever, without any distinction, guilty of theft by conversion (or what may, perhaps, be more properly termed embezzlement), when, having become rightfully possessed of something belonging to another, he, instead of handing it over, in specie or instead of doing with it what he was entrusted to do, fraudulently and without colour of right, converts it to his own use or to the use of any other person than the owner. In other words, embezzlement by clerks, servants or other employees, fraudulent conversion by bankers, merchants, brokers, solicitors, factors or other agents, of property entrusted to them for safe custody, &c., and larceny by bailees, are three only of the various ways of committing the offence of theft by conversion treated of by section 347. So that it may not be out of place to briefly review some of the authorities on these three subjects.

I submit, Mr. Speaker, that in taking these goods belonging to the people of Canada from an inferior officer who had no authority to give them the hon. member for Richelieu was strictly within the terms of section 347, of the Criminal Code and was therefore guilty of theft. What is the difference between the position occupied by Mr. Lancot with reference to these goods and that of a man who goes to an inferior officer in a bank—the teller or the ledger keeper and get \$1,000 from him saying to him: I will return this money in a week? The teller or ledger keeper had no authority to give him \$1,000, he gives him \$1,000, he invests that in margins, at the end of the week the \$1,000 is not paid and the clerk is arrested and convicted of embezzlement or theft. The intention of both parties was to return the money at the end of a week or at the end of a month. Why, our prisons are full of men who have embezzled thousands and scores of thousands and hundreds of thousands of dollars intending all the time to return the money. I remember that a short time ago a man from our city stole \$287,000 before being arrested, embezzled it, intending every moment to return it as soon as he made it, but he kept on losing and losing, hoping against hope until finally the whole matter was disclosed and he was sent to penitentiary for twelve years. He did not intend to cheat anybody, he intended to return the money just as this man, admit that if you like, intended to return these materials. He did not borrow these goods, but he got these goods promising to return a similar quantity and a like quality of goods just as the young man who gets \$1,000 from a bank intends to return, not that identical \$1,000, but a like sum of money in ten or thirty days as the case may be. He fails to do it and he is guilty