

In *Alderson v. Maddison*, 5 Ex. D. 303, Stephen, J., said, and Lord Selborne referred to it, on the appeal, with approval:—

"To say, 'I have cancelled the bond,' when you have not, is to tell an untruth. To say: 'I intend to cancel the bond' is to make a statement as to a present revocable intention. If a person chooses to act on such a representation, without having it reduced to the form of a binding contract, he knows, or ought to know, that he takes his chance of the promisor changing his mind, and therefore he is in no worse position, if the statement is false when it is made, *i.e.*, if the intention is not really entertained, than if it is true when it is made, *i.e.*, if the intention exists, and the person making the statement intends to revoke it, if he pleases."

Where a defendant hired a bicycle, of the value of \$20, representing that he wished to use it to go to L., for the purpose of visiting his sister, and, instead of returning the bicycle, sold it to C.:—*Held*, that evidence which shewed these facts, was not sufficient to support a conviction for having "unlawfully, and by false pretences obtained from X. one bicycle, of the value of \$20," the prosecutor not having been induced and not intending to part with his right of property in the goods, but merely with the possession of them, and there being no representation as to a present or past matter of fact. *Rex v. Nowe*, 36 N.S.R. 531, 8 Can. Cr. Cas. 441. But see Code sec. 347 as to the offence of theft by conversion of the property. *Tremear's Criminal Code*, sec. 347; *R. v. Kelly*, 27 Can. Cr. Cas. 94, 140 and 282, 34 D.L.R. 311.

A person who does not otherwise make a false representation himself but who is present when it is made, knows it to be false, and gets part of a sum of money obtained by such false pretence, is guilty of obtaining such sum of money by false pretences. *The Queen v. Cadden*, 4 Terr. L.R. 304, 5 Can. Cr. Cas. 45.

In order to establish the offence of obtaining money by false pretences it is necessary to prove what was laid down by Buckley, J., in *Re London and Globe Finance Corporation*, [1903] 1 Ch. 728. He said: "To deceive is, I apprehend, to induce a man to believe that a thing is true which is false, and which the person practising the deceit knows or believes to be false. To defraud is to deprive by deceit: it is by deceit to induce a man to act to his injury." *R. v. Bennett* (1913), 9 Cr. App. R. 146 at 154.

On an indictment for obtaining money by false pretences it is essential that the jury should understand that there should be no conviction without an intent to defraud, and, unless such intent is clear from the facts, they should be directed on the point; they should also be directed that the obtaining must be due to the false pretense alleged. *R. v. Ferguson*, 8 Cr. App. R. 113; *R. v. Boyd*, 4 Can. Cr. Cas. 219; *R. v. Brady*, 26 U.C.Q.B. 13.

But where the statement relied upon and shown to be false could not have been made with any other object than that of