"The Knave of Hearts,
He stole some tarts,
And--took them quite away."

As to this, sub-s. 4, provides that "Theft is committed when the offender moves the thing or causes it to move or be moved, or begins to cause it to become movable, with intent to steal it."

"The definition (i.e. of theft) properly expounded and qualified will, we think, be found to embrace every act which in common language would be regarded as theft." Impl. Commrs'. Report, p. 28. Apply it, for the sake of illustration, to one of the recent cases above referred to, *Reg.* v. *Hehir.*

The prosecutor owed the prisoner £2 8s. 9d. for work done in his employment. Intending to discharge his debt, he handed him 9s. in silver and two notes, both of which were believed alike by prosecutor and prisoner, to be one pound notes; in fact, one was a ten pound note. There was evidence that after receiving this note the prisoner discovered its true value and fraudulently misappropriated it to his own use.

On this evidence the jury convicted him of larceny. But the court (by five judges to four) held that inasmuch as the prisoner acquired the lawful possession of the note when it was handed to him, his subsequent dishonest appropriation of it did not amount to larceny at common law. The conviction was therefore quashed.

This case very well exemplifies the truth of what has been pointed out by Sir James Stephen that one chief cause of the excessive intricacy and technicality of the subject is that the fraudulent *taking* is the essence of the offence of larceny at common law, whereas it should be the fraudulent *conversion.* Cf. 44 Sol. Jo. p. 113.

But under the code, s. 305 "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."

The prisoner was guilty of the act of "fraudulently and without colour of right converting" the note to his own use, and his act clearly came within the code definition of theft.

Settled prejudices die hard! The Ashwell case was discussed in *R.* v. *Flowers*, 16 Q.B.D. 643, and the old rule of law that, to justify a conviction for larceny, the receipt and appropriation must be contemporaneous, was said to have been "never really ques-