

the possession was obtained; but it was thought not to be larceny if such design was conceived subsequently to the rightfully obtaining possession. *R. v. Savage*, 5 C. & P. 143. "Though the person thus obtaining possession afterwards fraudulently appropriated the goods to his own use, he would not be guilty of larceny at common law." *Harris* 211.

But we will allow *The Law Journal* to speak for itself:—

"In regard to the question raised in *Regina v. Macdonald*, we sympathise with the dissentient judges. At common law there could be no larceny without a trespass. A statute says that a bailee who fraudulently converts to his own use goods bailed to him may be convicted of larceny. An infant fraudulently converts to his own use goods of which, if he had not been an infant, he would be bailee. Is he guilty of larceny? The answer seems to be in the negative. There is no dilemma. He is not guilty at common law, because he has committed no trespass, and he is not guilty by statute, because he is not a bailee. His proper legal description is that of licensee, and if it had been decided that a licensee who does something inconsistent with the license becomes a trespasser and, if a fraudulent intent be added, a thief, the decision would have been intelligible. But the various *reductiones ad absurdum* put several times by the judges do not help to a conclusion. They would help if the law of larceny were based on reason, but it is not. It had its origin in days when most crimes were crimes of violence, and it has been toned down by the judges in days when it was a hanging matter. The suggestions made by the learned judges in the course of the argument were valuable to the Legislature, but did not elucidate the question in hand. Some positions of law, however, seem to have been assumed without warrant. It appears to have been supposed that if a chattel is lent to an infant, and he sells it, there would be no remedy unless he was guilty of larceny. He would, however, be guilty of a conversion, upon which he could be sued. The assemblage of a dozen judges to decide a point of criminal law greatly