

### 2. *Imperial statutes.*

But the statute law of Great Britain cannot, in general, be invoked. Sec. 5 of the code enacts that "no person shall be proceeded against for any offence against any Act of the Parliament of England, of Great Britain, or of the United Kingdom of Great Britain and Ireland, unless such Act is, by the express terms thereof, or of some other Act of such Parliament, made applicable to Canada or some other portion thereof as part of Her Majesty's dominions or possessions."

Some general points of interest may well be noticed before examining in detail special features of contrast between the common law and the code, as it is proposed to do in a popular manner in this article, in the hopes of interesting and, perhaps, instructing those who have not given any special attention to the somewhat untrodden region of criminal law.

### 3. *Disused terms.*

*Felony and misdemeanour.*—The time honoured and perplexing distinction between "felony" and "misdemeanour" has been abolished, and all crimes are now divided into "indictable offences," if they be of a class for which an offender may be prosecuted by indictment, or "offences," if of a class punishable on summary conviction: ss. 535, 536).

*Larceny and embezzlement.*—The words "larceny" and "embezzlement" have also disappeared with all the minute technical distinctions that relate to them, and are replaced, as we shall see, by the word "theft."

As might have been expected difficulties have been suggested by reason of these changes of names, and in regard to the crime of larceny it was argued (*Re Gross*, 2 Can. Cr. Cas. 67) in extradition proceedings that, inasmuch as larceny no longer exists by that name as a crime under the code, the prisoner could not be extradited for larceny under the Extradition Act, which refers to larceny as an extraditable crime.

This startling contention was dealt with as follows by Osler, J.A.:—"It would be strange indeed if a change in the name of the thing, which is not even the name employed in describing it in an indictment, should produce so alarming a result. Whatever was larceny here and in Pennsylvania, whether by common law or by statute at the time of the convention in 1889, was thereby made