ing to the wer-gild of the thief. By the same laws the thief might be slain if he fled or resisted. Gradually the severity of the punishment increased. By the laws of Athelstan death in a very cruel form was inflicted. At a later date the *Leges Henrici Primi* placed a thief in the king’s mercy, and his lands were forfeited. Putting out the eyes and other kinds of mutilation were sometimes the punishment. The principle of severity continued down to the present century, and until 1827 theft of certain kinds remained capital. Both before and after the Conquest local jurisdiction over thieves was a common franchise of lords of manors, attended with some of the advantages of modern summary jurisdiction. It might be exercised either over thieves who committed a theft or were appre­hended within the lordship (*infangthef*)*,* or over those inhabitants of the lordship who were apprehended else­where *(outfangthef).* Either or both franchises might be enjoyed by grant or prescription. As lately as 1 Ph. and Μ. c. 15 infangthef and outfangthef were confirmed to the lords marchers of Wales. An analogous franchise was *theam,* or the right of calling upon the holder of stolen goods to vouch to warranty, *i.e.,* to name from whom he received them. In the old law of theft there were to be found two interesting survivals of the primitive legal notions which were found in Roman law. Up to a com­paratively recent date a distinction analogous to that between *furtum manifestum* and *nec manifestum* was of importance in English criminal practice. The thief “ taken with the manner ” was by the Statute of West­minster the First not to be admitted to bail (see *Letters of Junius,* lxviii.). In modern procedure the probable guilt or innocence of the accused is not so much to be considered in a question of bail as the probability of his appearance at the trial. The other matter worthy of notice is the old pursuit *(secta)* by hue and cry. In the pre-Conquest codes the owner was generally allowed to take the law into his own hand, as in early Roman law, and get back his goods by force if he could, no doubt with the assistance of his neighbours where possible. From this arose the later development of the hue and cry, as the recognized means of pursuing a thief. The Statutes of Westminster the First and of *De officio coronatoris* enacted that all men should be ready to pursue and arrest felons, and ten years later the Statute of Winchester (1285) enforced upon all the duty of keeping arms for the purpose of following the hue and cry. It also made the hundred liable for thefts with violence committed in it, an adoption no doubt in feudal law of the old pre-Conquest liability of the frith- borg. As justice became more settled, the hue aud cry was regulated more and more by law, and lost much of its old natural simplicity. This led to its gradually becom­ing obsolete, though the Statutes of Westminster the First and *De officio coronatoris* are still nominally law as far as they relate to the hue and cry. The Statute of Winchester as to the liability of the hundred was repealed in 1827.

The term theft in modern English law is sometimes used as a synonym of larceny, sometimes in a more com­prehensive sense. In the latter sense it is used by Mr Justice Stephen, who defines it as “ the act of dealing from any motive whatever, unlawfully and without claim of right, with anything capable of being stolen, in any of the ways in which theft can be committed” (for which see § 296—300), “ with the intention of permanently converting that thing to the use of any person other than the general or special owner thereof” *(Digest of the Criminal Law,* § 295). In this broader sense the term applies to all cases of depriving another of his property, whether by removing or withholding it. It thus includes larceny, robbery, cheating, embezzlement, and breach of trust. Embezzle­ment is a statutory crime created as a separate form of offence in the last century (see vol. viii. p. 159). The difference between larceny and embezzlement turns mainly on the fact of the master’s being in actual or constructive possession of the stolen property (see Possession). Fraud­ulent breach of trust was not made a specific offence until 1857 (see Trust).

*Larceny* (a corruption of *latrocinium*)*,* or theft proper, was felony at common law. The common law of larceny has been affected by numerous statutes, the main object of legislation being to bring within the law of larceny offences which were not larcenies at common law, either because they were thefts of things of which there could be no larceny at common law, *e.g.,* beasts *feræ naturæ,* title deeds, or choses in action, or because the common law regarded them merely as delicts for which the remedy was by civil action, *e.g.,* fraudulent breaches of trust. The earliest Act in the statutes of the realm dealing with larceny appears to be the *Carta Forestæ* of 1225, by which line or imprisonment was inflicted for stealing the king’s deer. The next Act appears to be the Statute of West­minster the First (1275), dealing again with stealing deer. From this it seems as though the beginning of legislation on the subject was for the purpose of protecting the chases and parks of the king and the nobility. An immense mass of the old Acts will be found named in the repealing Act of 1827, 7 and 8 Geo. IV. c. 27. An Act of the same date, 7 and 8 Geo. IV. c. 29, removed the old dis­tinction between grand and petit larceny.@@1 The former was theft of goods above the value of twelve pence, in the house of the owner, not from the person, or by night, and was a capital crime. It was petit larceny where the value was twelve pence or under, the punishment being imprisonment or whipping. The gradual depreciation in the value of money afforded good ground for Sir Henry Spelman’s sarcasm that, while everything else became dearer, the life of man became continually cheaper. The distinc­tion between grand and petit larceny first appears in statute law in the Statute of Westminster the First, c. 15, but it was not created for the first time by that statute. It is found in some of the pre- Conquest codes, as that of Athelstan, and it is recognized in the *Leges Henrici Primi.* A distinction between simple and compound larceny is still found in the books. The latter is larceny accom­panied by circumstances of aggravation, as that it is in a dwelling­house or from the person. The law of larceny is now contained chiefly in the Larceny Act, 1861, 24 and 25 Vict. c. 96 (which extends to England and Ireland), a comprehensive enactment including larceny, embezzlement, fraud by bailees, agents, bankers, factors, and trustees, sacrilege, burglary, housebreaking, robbery, obtaining money by threats or by false pretences, and receiving stolen goods, and prescribing procedure, both civil and criminal. There are still, however, some earlier Acts in force dealing with special cases of larceny, such as 33 Hen. VIII. c. 12, as to stealing the goods of the king, and the Game, Post-Office, and Merchant Shipping Acts. Later Acts provide for larceny by a partner of partnership property (31 and 32 Vict. c. 116), and by a husband or wife of the property of the other (45 and 46 Vict. c. 75). Pro­ceedings against persons subject to naval or military law depend upon the Naval Discipline Act, 1866, and the Army Act, 1881. There are several Acts, both before and after 1861, directing how the property is to be laid in indictments for stealing the goods of counties, friendly societies, trades unions, &c. The principal con­ditions which must exist in order to constitute larceny are these :— (1) there must be an actual taking into the possession of the thief, though the smallest removal is sufficient; (2) there must be an intent to deprive the owner of his property for an indefinite period, and to assume the entire dominion over it, an intent often described in Bracton’s words as *animus furandi* ; (3) this intent must exist at the time of taking ; (4) the thing taken must be one capable of larceny either at common law or by statute. One or two cases falling under the law of larceny are of special interest. It was held more than once that a servant taking corn for the purpose of feeding his master’s horses, but without any intention of applying it for his own benefit, was guilty of larceny. To remedy this hard­ship, 26 and 27 Vict. c. 103 was passed to declare such an act not to be felony. The case of appropriation of goods which have been found has led to some difficulty. It now seems to be the law that in order to constitute a larceny of lost goods there must be a felonious intent at the time of finding, that is, an intent to deprive the owner of them, coupled with reasonable means at the same time of knowing the owner. The mere retention of the goods when the owner has become known to the finder does not make the retention criminal. Larceny of money may be committed when the money is paid by mistake, if the prisoner took it *animo furandi.* In two recent cases the question was argued before a very full Court for Crown Cases Reserved, and in each case there was a striking difference of opinion. In Reg. *υ.* Middleton, *Law Rep.,* 2 Crown

@@@1 This provision was most unnecessarily repeated in the Larceny Act of 1861.