

# Larceny – Common Law

- (1) Wrongful and fraudulent taking and
- (2) Carrying away of the
- (3) Personal Property of another, with the
- (4) Intent to permanently deprive the true owner of his/her property

## Other points:

- Larceny is a *specific intent* crime!
- **Good faith** is a defense because it's a crime of "specific intent" (e.g. defendant really thought victim owed the money)
- **Slight movement** enough to satisfy the "carrying away" element
- Stealing *symbolic property* is not larceny because it is not considered to be personal property (examples: deed to real property, stock certificate, patent certificate, title to a car)
- Larceny can't be committed if you have **possession** of the property, but can be committed if you have mere "**custody**" of the property.

**Larceny by Trick:** Taking the property with permission gained through a lie as to present circumstances.

# Other Theft Crimes – Common Law – Part 1

## Embezzlement:

Fraudulent appropriation to a person's own use or benefit of property or money entrusted to that person by another

- (1) Fraudulent conversion of the
- (2) personal property of another
- (3) with the intent to permanently deprive the true owner of such property

➤ Only difference between **larceny** and **embezzlement** is the defendant himself. In embezzlement, the defendant has a duty of trust vis-à-vis the victim and originally had lawful possession of the property.

# Other Theft Crimes – Common Law – Part 1 (cont.)

## False Pretenses:

- (1) Obtaining **title** to
- (2) the **property** (not just personal) of another
- (3) by **false representation**

➤ With larceny and embezzlement, there is *no change of title, just of possession*. With *false pretenses, there is a change in title*.

➤ Differences between false pretenses and larceny by trick:

- (1) If the victim does not transfer title, it cannot be false pretenses
- (2) Larceny by trick must be done with a **lie about the present right to the property**. False pretenses can be done with any lie.

- All of these are Specific Intent Crimes!

**QUIZ TIME**

# Other Theft Crimes – Common Law – Part 2

## Extortion (“Blackmail”):

- (1) Causing the victim to voluntarily relinquish property
- (2) by the threat of
- (3) wrongful action or force

➤ The threat *does not* have to be of an action that would have been illegal!

## Receiving Stolen Property:

- (1) Knowingly receiving
- (2) Stolen property
- (3) with the intent to permanently deprive the true owner of its possession

➤ *Defendant must know (actual knowledge) that it is stolen*; the fact that a reasonable person should have known the property was stolen is not relevant. However, circumstantial evidence can be used to prove this knowledge. (“I didn’t know” is a good defense if the jury believes it).