

Appendix XVII.

of foreign gold coin, called doubloons, value £11 8s., the property of John Field, in the dwelling-house of John Brown.

The material circumstances of this case, as they appeared in evidence, were as follow:—The prosecutor, John Field, was walking along James Street, Convent Garden, when a person unknown joined company with him, and soon afterwards picked up a purse which was lying at a door. The prosecutor was persuaded to go to a public-house with him, being told that he was entitled to half the contents. From one end of the purse the stranger produced the following receipt:—"Feb. 2. 1784.—Bought of William Smith, one brilliant diamond-cluster ring, value £210, and received at the same time the contents, in full of all demands, by me, William Smith;" and from the other end he pulled out the ring itself. In the course of the conversation the prisoner entered the room, praised the beauty of the ring, and offered to settle the division of its value. Upon the stranger's lamenting that he had no money about him, the prosecutor said that he had forty or fifty pounds at his lodgings at Chelsea. "That sum will just do," said the prisoner. A coach was immediately called, and all three were drawn to the prosecutor's lodgings. The prosecutor and stranger went into the house, leaving the prisoner at the Five Fields, and they afterwards joined him at the Cheshire Cheese. The prisoner said, "I will give you your share of the ring if you will be content until to-morrow." The prosecutor put down twenty guineas and four doubloons, which the stranger took up and carried away, leaving the ring with the prosecutor, and appointed him to meet next day to have the money returned and £100 for his share of the ring. The prosecutor attended the next morning at the place of appointment, but neither of the parties came. The ring was of a very trifling value.

The jury were of opinion that the prisoner was confederating with the person unknown for the purpose of obtaining the money by means of the ring, and did therefore aid and assist the person unknown in obtaining the twenty guineas and four doubloons from the prosecutor. They accordingly found him guilty of stealing, but not in the dwelling-house, subject to the opinion of the twelve judges whether it was felony.

Mr. JUSTICE WILLES (after stating the indictment and the circumstances that appeared in evidence, proceeded thus)—This matter was submitted to the opinion of all the judges, the first day of last Michaelmas term, except Lord Mansfield, who was absent, and they all agreed in the distinction between the parting with the possession and the parting with the property; that in the first case it was a felony, and in the last case it was not. Nine of the judges were of opinion that in this case possession only was parted with, it being merely a pledge, till the supposed value of the ring was delivered. Two of the judges thought that the doubloons were the same as money, and were of opinion it was a loan, and was a parting with the property; but nine of the judges were of opinion it was felony, and the judges could not distinguish this from the following case of the King and Patch. The prisoner was indicted for stealing a watch and some money. He picked up a ring and a purse in the street, and, pretending he had found it, offered to divide the money with the prosecutor, and opening the purse there was a ring and bill of parcels, stating the ring to be a diamond one, of