

be called on to argue an untenable position. If this case had not raised a very important question I should have been content to say simply that the conviction could not stand; but it is an important matter. The facts were these: Evidence was given in support of the charge, and the case was left to the jury on that evidence. The jury, after the lapse of some time, returned into Court, no communication with the judge or any intimation that they wanted his assistance having taken place in the meantime. The judge asked if they had agreed. They said 'No.' He then asked: 'Do you believe the evidence for the prosecution?' to which the foreman of the jury answered in the affirmative. On this a verdict of 'Guilty' was entered. Now what did the answer of the foreman amount to? He had already said the jury were not agreed, then added: 'We believe the evidence for the prosecution.' That, however, was perfectly consistent with the belief that the facts proved were not such as to show that the prisoner had taken the milk *animo furandi*, which was the essence of the offence. He might have thought that he was allowed to take it, or that it was too trivial to matter, or he might have intended to pay. The facts were not before the Court, but it was clear that the jury had declined to draw the inference that the man took it with a felonious intent. The chairman by directing a verdict of 'Guilty,' really supplied this the essential part of the charge. In so doing he went beyond the function of a chairman, and the conviction must be set aside.

POLLOCK, B., entirely agreed. This decision, however, must not be taken as interfering with the practice common in criminal trials of a jury finding a special verdict. When the jury had found all the necessary facts to constitute the offence, then the judge could direct judgment to be entered accordingly.

GRANTHAM, J., LAWRENCE, J., and WRIGHT, J., concurred.

NEW PUBLICATIONS.

DIGEST OF INSURANCE CASES, for the year 1894, by John A. Finch.—The Rough Notes Company, Indianapolis, publishers.

The present volume is the seventh of this excellent series of Annual Digests, and contains 449 cases. The editor remarks in the preface that with all the courts have had to say upon construction of policies, the companies still have great difficulty in