HAWKINS, J., said he concurred in the udgment of his brother Cave.

MANISTY, J., agreed with his brother Stephen, after whose able and elaborate judgment he said, he need not add anything. He thought that the prisoner could not properly be convicted of larceny, either at common law or upon bailment, because at the time of the delivery of the coin neither party knew it to be a sovereign, so that there was neither a felonious taking nor a "bailment," *i.e.*, an intentional delivery of a sovereign. In his view, the law was well settled on the subject in the case of *Reg.* v. *Middleton* (the case of a man taking up money at a post-office put before him by mistake), and he thought it would be most mischievous if it were now unsettled. That case, in his opinion, covered this case completely, as the prisoner was held guilty, because at the moment he took it up he took it dishonestly; so that the judges put that as the decisive time—the time of the actual taking—not of a subsequent alteration of intention. The real remedy of the prosecutor was to sue the prisoner for 19s as money lent. That might be called "technical," but he was prepared to hold that that was the proper course, as the prisoner might honestly have changed the sovereign and was only liable to return the 19s. Here the taking was lawful, and so the prisoner was not guilty of larceny at common law, neither could he be convicted as a bailee, as there was no bailment of the sovereign.

FIELD, J., also concurred in the opinion that the prisoner was not guilty of larceny and could not be convicted of any crime by our law. He had had the advantage of reading the judgments of his brethren who had held the same view, and they had so abundantly and ably supported it that he did not think it necessary to add anything in support of it.

DENMAN, J., however, who had tried and reserved the case, said he had come to the same conclusion as his brother Cave and the Lord Chief Justice, whose judgment he had read. If he had thought the case covered by *Reg.* v. *Middleton* he should not of course have reserved it, but the opinion of some of the judges referred to by his brother Manisty as conclusive was only a dictum, and a dictum in which he himself had concurred, but did not consider it decisive of this case. The case was stated carefully and designedly in a neutral way; not therefore of course stating a felonious intention at the time of taking, and the very question reserved was whether the jury could rightly find that he was guilty of stealing the coin. On the whole, he thought, there was evidence on which the jury might find the prisoner guilty. There was no doubt as to the definition of larceny, that is fraudulently taking anything with felonious intention; and the question was whether there was a felonious taking. His brother Stephen put it as a case of fraudulent retention after an honest taking, but he denied that such was the case, for it could not be said that the prisoner believed he was taking a sovereign at the time of taking the coin. There was some ambiguity in the use of the word "taking," and there was no real "taking" of the sovereign by the prisoner until he knew it was a sovereign, and so the case fell within the cases as to finding, in which it was held that if a man found something, and afterward found out the owner and then resolved not to return it, he was then, and not before guilty of larceny; so that the question was not whether he stole it at the time he first took it. He came to the conclusion therefore, that the conviction ought to be upheld.

LORD COLERIDGE, C.J., then delivered his judgment to the same effect as Cave, J., that the prisoner was guilty of larceny at common law. He doubted whether it could be said that there was a "bailment" in the present case, as bailment meant a "contract," and here there was no contract as to the sovereign. As to the question of larceny at common law, he assumed that there must be a felonious taking, but delivery and taking must be acts into which intention entered. There must be an intentional intelligent taking, knowing what the thing was, and a man could not be said to take a thing when he did not know what it was. It could not be truly said that a man took what he did not know of, and he did not think that it was law. In this case, therefore, he thought that there was no delivery of the sovereign and no taking by