

## Notes on Recent Cases

### R. v. Atwell

#### *Theft of Money—Finger Print Evidence—Attempted Rebuttal by Defence*

On Saturday night, Aug. 11, 1940, Charles Simmons, manager of the Butler Hotel at Brantford, Ont., followed out his daily custom and counted the cash receipts. His wife and an employee then saw him put the money in the usual bureau drawer in the baby's bedroom. Late the next night, however, he discovered that \$225.00 was gone.

Footprints on the baby's crib and bedclothes indicated that entrance to the room had been gained through a transom over an unused door just behind the crib.

Detectives from the Brantford City Police searched the baby's room and located fingerprints on the dusty door lintel. The moulding was removed and taken to the police station and the portion bearing prints was sent to the R.C.M.P. Finger Print Section, Ottawa.

Five hotel employees volunteered their fingerprint impressions for elimination purposes. Examination of the prints on the moulding showed that they were identical with the right middle, ring, and little fingerprint impressions of Rex Atwell, an employee of the hotel. Atwell was placed under arrest and, to obviate any possibility of error, his prints were again taken.

The preliminary hearing took place before Magistrate James McKay. Assisted by a photographic exhibit, a fingerprint expert from Ottawa gave evidence of the identification. Sufficient evidence was provided to establish a *prima facie* case.

The trial was held in the Brant County Judge's Criminal Court before His Honour Judge A. T. Boles of Simcoe. The defendant testified that he had lived at the hotel for several years. He attempted to clear himself by stating that he was in the habit of grasping the top of door-frames in the hotel and chinning himself on them; these calisthenics he had often done in the door-way in question. Other witnesses sought to corroborate this defence. The testimony seemed plausible until the Crown proved that the door had not been used for some time and that the prints were very recent ones. Moreover, it was shown that Atwell could not have left his prints in the position they were found, merely by chinning himself.

Convinced that the accused was guilty, Judge Boles sentenced him to six months definite and three months indeterminate in the Ontario Reformatory.

### R. v. Barbour

#### *Regulations Respecting Trading with the Enemy—War Measures Act—Possession of Jehovah's Witnesses Literature*

In January of this year it came to the attention of the R.C.M.P. at Edmonton, Alberta, that members of Jehovah's Witnesses were distributing pamphlets in the area. Several bundles were picked up in the Evansburg district; these were left at various houses and included two or three pamphlets, bearing the Watch Tower imprint, and one of the many books published