

a blue cameo, woman's head thereon, mounted with narrow rolled-gold band; a wire name-brooch, "Florrie," blue-enamel front, minus pin; a chased-silver oblong purse, plain oval space each side, demon's head underneath; a silver chain, flat oval links, chased-silver Maltese Cross attached; a silver medal, size of two-shilling piece, "O. C." on it; a silver medal, size of a shilling, "O. C." on it; a silver medal, "Dux of E.S.P.G.S." on it; a silver medal, "P.S.A.A.A., 1904," on it; two silver medals, size of two-shilling piece, chased floral design; a nickel-plated belt, oblong links, four pear-shaped holes in each link; a gold oval scarf-pin, set with a ruby, four milk-stones, and three opals (one missing); a gold cable bangle, padlock attached, "Louie" and "N.Z." thereon; a mother-of-pearl brooch, ladies' hand holding a bunch of flowers; a silver brooch, New Zealand fern pattern, "S.L." and "X." on back; a silver ring, "Forget-me-not" thereon; three bottles of scent; a tin of Colgate's toilet-powder; a gentlemen's soft white shirt, "Brennan, draper, Newtown," on tab. Identifiable, except money. No person suspected. A coffee-coloured Chesterfield overcoat, minus lining, velvet collar, was found close by, probably left by offender. Total value, £15. (08/2569.)

## MISCELLANEOUS INFORMATION.

### Resignations.

No. 1437.—Constable Reynolds, Wynfrith Revell, 30th November, 1908.

No. 1473.—Constable Sheahan, John Joseph, 30th November, 1908.

### Rewards.

CHRISTCHURCH.—Constables W. J. Harvey, No. 1166, and D. A. McLean, No. 1188, have been awarded £1 10s. each for arresting H. Elling, P. Cavey, and W. Coleman, absentees from H.M.S. "Pioneer," at Timaru. (08/41.)

CHRISTCHURCH.—Sergeant W. Fouhy, No. 380, and Constable J. Donovan, No. 1059, have been awarded £1 each for services in connection with the conviction of Charles Nolan for sly-grog selling. (08/2570.)

CHRISTCHURCH.—Constable F. Phillips, No. 1424, has been awarded £1 10s. for services in connection with the conviction of Frederick Denna, for sly-grog selling. (08/2551.)

INVERCARGILL.—Detective A. Cameron, No. 794, and Constable C. Bonner, No. 593, have been awarded £1 each for services in connection with the conviction of Mary McGregor for sly-grog selling. (08/2576.)

### Land temporarily reserved for Police-station.

(See *New Zealand Gazette*, 1908, page 3003.)

WELLINGTON LAND DISTRICT.—Section No. 16, Block II, Kakahi Village Settlement, containing 1 acre and 3 perches.

## LAW REPORT.

("N.Z. Law Reports," Vol. xxvii, page 955.)

[S.C. CRIMINAL. WELLINGTON (COOPER, J.)—20TH AUGUST, 1908.]

### REX v. ORAM.

*Criminal Law—Theft—Finding of a Chattel—No Knowledge or Reasonable Belief that Owner can be found—Conversion of Chattel—Subsequent Knowledge or Belief—Pawning of Chattel with Knowledge or Belief—"The Criminal Code Act, 1893," Section 218, (3).*

If a person finds a chattel and does not know who the owner is, and has reasonable grounds for believing that the owner cannot be found, and in that belief converts the chattel to his own use, he is not at common law guilty of theft. Nor does he at common law become guilty of theft if after having so converted the chattel he acquires a knowledge or a belief on reasonable grounds that the owner can be found, and after acquiring such knowledge or belief retains possession of the chattel with intent to deprive the owner thereof. *Reg. v. Thurborn* (18 L.J. M.C. 140). But the effect of section 218, subsection 3, of "The Criminal Code Act, 1893," which provides that it is immaterial whether the thing converted was at the time of conversion in the lawful possession of the person converting, is to make the finder of the chattel in the latter case guilty of theft.

THE prisoner was indicted for burglary, theft, and receiving goods knowing them to have been dishonestly obtained. A

burglary was committed at 5.33 a.m. on the morning of the 21st of June, at a jeweller's shop in Cuba Street, Wellington, and a large number of diamond and sapphire rings were stolen. The time was precisely fixed. The prisoner was met in the vicinity of the shop at 6.15 a.m., and was informed by the policeman on the beat of the burglary, and was by his consent searched, but none of the stolen property was found upon him. Later in the morning of the same day he was proved to have been in possession of a sapphire ring originally containing three stones, one of which was then missing. The police had no knowledge of his possession of this ring until the 23rd of June. About 8 o'clock on the morning of the 21st of June he was again seen by the policeman who had previously searched him, and there was conflicting evidence as to whether he was again searched. In the interval he was proved to have had the ring in his possession. On the 23rd of June he pawned it by the agency of another man, and was arrested on the 25th of June, when he stated that he had found the ring in Cuba Street. No other portion of the stolen property was at any time found in his possession. There was evidence called for the defence which, if the jury believed it, established that the prisoner did not leave his lodgings before 6 a.m. on the 21st of June, and therefore could not have been in Cuba Street at 5.33 a.m. The prisoner gave evidence on his own behalf, and stated that about 7.15 a.m., and after he knew of the burglary, he was walking down Cuba Street with a man named Petersen and picked up the ring some short distance from the jeweller's shop; that he believed it was a lost ring, and, as a stone was missing, he said he honestly believed it could not have been a part of the property which had been stolen, and that he remained in that belief up to the time he pawned the ring. The ring was identified by the jeweller as a part of the stolen property, but the jeweller stated that when he last saw it in his shop the stones were complete. There was no mark on the ring to indicate who the owner was.

*Bell, K.C.*, for the Crown.

*Toogood* for the prisoner.

COOPER, J., in summing up, addressing the jury, said,—

If you believe the evidence as to the *alibi*, then you ought to acquit the prisoner upon the charge of breaking and entering. If you believe the *alibi* but do not believe the prisoner found the ring, then his unaccounted possession of the ring is evidence upon which you may convict him upon the count for receiving stolen property, the presumption in such case being that he knew it was dishonestly obtained. If you also reject the evidence of the *alibi*, then his possession of the ring is some evidence upon which you may infer that he was also connected with the burglary, and it is open to you then to convict him of the burglary.

If, however, you believe the evidence supporting the *alibi*, and also believe that the prisoner found the ring, then I direct you as follows: If a person finds in a public street an article such as the sapphire ring in the present case, then, if at the time of finding it he takes possession of it and intends to appropriate it, he is guilty of theft if he knows who the owner is or has reasonable ground for believing that he can be found. That is the law both in England and in this Dominion. In England, if he has no such knowledge or reasonable ground for belief at the time he finds and appropriates the ring, but sells or deals with the article so found after he has acquired such knowledge, he is not according to the law of England, and was not here up to the time of the passing of the Criminal Code, guilty of theft. He was civilly responsible to the owner. In New Zealand, in my opinion, the provisions of the Criminal Code Act have in this respect altered the rule of law existing before the passing of that Act. Subsection 3 of section 218 of that Act, re-enacted in section 240 of "The Crimes Act, 1908," states that "it is immaterial whether the thing converted was at the time of conversion in the lawful possession of the person converting." This, I think, indicates that the Legislature intended to alter the rule of law enunciated in *Reg. v. Thurborn* (18 L.J. M.C. 140), in which it was decided that a person who, having found a bank-note with no mark upon it or circumstance to indicate who the owner was or that he might be found, but who the next day heard who the owner was, and after that changed the note and kept the money, was not guilty of theft. I think the effect of the subsection is to make the act theft if, although the finder does not know or has no reasonable ground for believing when he finds the article who the owner is, he acquires such knowledge afterwards and before disposing of the article found.

If, therefore, you find that the prisoner found the article as he states, and that he had reasonable ground for believing that the owner could be found, you will convict him of stealing the ring. If you think that he had at the time of the finding the article no such reasonable ground for belief, but you find that he had such reasonable ground at the time he caused the article to be pawned, you will then also convict