

is an essential ingredient of the charge, and the onus of showing this is on the prosecution. As an isolated instance the act might be innocent—even though done neither by accident or mistake. But if shown to be part of a system in itself fraudulent its character may be found not to be innocent. I will only add, that, if the evidence tendered does not tend to show that the offence is part of one system, it is not admissible, but if the Judge thinks the evidence is sufficient to connect the act charged with the other acts as parts of one system, then it is admissible.

H. C. OF A.
1912.
THE KING
v.
FINLAYSON.
Isaacs J.

Appeal allowed. Order appealed from discharged. Conviction restored. Case remitted to the Supreme Court to do what is just and consistent with this judgment.

Solicitors, for the appellant, *Lawson & Jardine* for *F. L. Stow*, Crown Solicitor for Western Australia.

Solicitors, for the respondent, *L. Waxman* for *Penny, Hill & Nairn*, Perth.

B. L.

[HIGH COURT OF AUSTRALIA.]

PARKER APPELLANT ;

AND

THE KING RESPONDENT.

ON APPEAL FROM THE SUPREME COURT OF VICTORIA.

H. C. OF A.
1912.

Criminal Law—Evidence—Identification of person charged—Finger prints.

Where it is proved that a crime has been committed resemblance of finger prints may of itself in connection with other circumstances be sufficient evidence of the identity of an accused person with the person who committed the crime charged.

MELBOURNE,
May 23.
Griffith C.J.,
Barton and
Isaacs JJ.

H. C. OF A.
1912.

Special leave to appeal from the Supreme Court of Victoria : *R. v. Parker*,
(1912) V.L.R., 152 ; 33 A.L.T., 215, refused.

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PARKER
v.
THE KING.

APPLICATION for special leave to appeal.

Edward Parker was tried at the Court of General Sessions at Melbourne on a charge of breaking into a shop and stealing therefrom the contents of a safe between 1 p.m. on Saturday 3rd February and 8 a.m. on Monday 5th February.

The only evidence against Parker depended upon a comparison of one of several finger prints found on a bottle which was in the shop during that period with a print of the middle finger of Parker's left hand, which was taken in gaol. Enlarged photographs of both prints were put in evidence, and the method of obtaining the prints was detailed by the detective in charge of the finger print branch of the Criminal Investigation Department, who pointed out to the jury nine points of similarity in the arrangement of the ridges or lines on the prints. In addition to the natural contour of Parker's left middle finger, there were two scars nearly at right angles to one another, and the print taken from the bottle presented the same marks. The jury having convicted the prisoner, the Chairman of General Sessions stated a case for the determination by the Supreme Court of the question whether, when the only evidence of identity against an accused person depends upon the resemblance between finger prints, such evidence is sufficient to support a conviction.

The Full Court having answered the question in the affirmative: *R. v. Parker* (1), Parker now applied for special leave to appeal to the High Court from that decision.

Bryant, for the appellant. Although the evidence of the similarity of finger prints is admissible, in the absence of other evidence it is insufficient to warrant a conviction. *R. v. Castleton* (2) is not a definite decision on the point. If such evidence is allowed to go to a jury, they should be told that it would be very dangerous to convict upon that evidence alone.

GRIFFITH C.J. We think that leave must be refused. We are asked to allow the point to be argued whether, when evidence of

finger prints is the only evidence of identity, it is sufficient to support a conviction. Leave is asked in the hope that the rule may be laid down that it is not. Signatures have been accepted as evidence of identity as long as they have been used. The fact of the individuality of the corrugations of the skin on the fingers of the human hand is now so generally recognized as to require very little, if any, evidence of it, although it seems to be still the practice to offer some expert evidence on the point. A finger print is therefore in reality an unforgeable signature. That is now recognized in a large part of the world, and in some parts has, I think, been recognized for many centuries. It is certainly now generally recognized in England and other parts of the British Dominions. If that is so, there is in this case evidence that the prisoner's signature was found in the place which was broken into, and was found under such circumstances that it could only have been impressed at the time when the crime was committed. It is impossible under those circumstances to say there was no evidence to go to the jury.

H. C. OF A.
1912.
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PARKER
v.
THE KING.
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Special leave refused.

Solicitor, for the appellant, *Sonenberg*.

B. L.