

GR 419
Box 122 File 1957/83

1907.

Vancouver Full Assign.

Ref. r. Henry Green.
(Malvergnat assembly, r.)

Crown Brief.

Mr. Bell



INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

CANADA
PROVINCE OF BRITISH COLUMBIA
CITY OF VANCOUVER.

The information and complaint of G.A. Murray,
Of City of Vancouver,
taken the 10th day
of September in the year of our Lord One Thousand Nine Hundred
and seven, before the undersigned, A. Williams, Esquire,
Police Magistrate and one of His Majesty's Justices of the Peace in
and for the said City of Vancouver, who says that at the said City
of Vancouver, on the 8th day of September, A.D. 1907, Henry Green
took part, and was a member in a riot, to wit: an unlawful assembly
that had begun to disturb the peace tumultuously.

McCuish & Kuer.

being severally examined in

his presence, the said Henry Green is now addressed by me as
follows:-

* Having heard the evidence, do you wish to say

Contrary to the form of the Statute in such case made and provided

Sworn before me the day and year first above mentioned, at
said City of Vancouver.

TAKEN before me, at Vancouver,
above mentioned.

the day and year first
Police Magistrate.

STATEMENT OF THE ACCUSED.

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CANADA.

Province of British Columbia.

County of Vancouver,

Henry Green,

stands charged before the

undersigned A. Williams, of His Majesty's Justice of the Peace in

and for the County aforesaid, this 12th day of September, in the

year of our Lord one thousand nine hundred and seven for that the

said Henry Green on 8th September at City of Vancouver, took

part and was a member in a riot, to wit: an unlawful assembly

that had begun to disturb the peace tumultuously.

Contrary to the form of the Statute in such case made and provided.

And the said charge being read to the said Henry Green

and the witnesses for the prosecution, officers Watson;

McGuish & Kuner,

being severally examined in

his presence, the said Henry Green is now addressed by me as

follows:-

" Having heard the evidence, do you wish to say

anything in answer to the charge?

WHEREUPON the said Henry Green

saith as follows:-

TAKEN before me, at Vancouver,

the day and year first

above mentioned.

POLICE COURT.
(Before A. Williams, Esqr., P.M.)

Vancouver, B.C. September 12th, 1907
2.30 P.M.

HENRY GREEN, charged on the information of G. Alvin Murray, for that he the said Henry Green, at the said City of Vancouver, on the 8th day of September, A.D. 1907, took part, and was a member in a riot, to wit: an unlawful assembly that had begun to disturb the peace tumultuously.

MR KENNEDY, APPEARED FOR THE PROSECUTION.

MR.POTTENGER, APPEARED FOR THE DEFENCE.

G. ALVIN MURRAY, SWORN AS STENOGRAPHER.

COURT:-- "Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by a Jury at the next Court of Oyer & Terminer & General Gaol Delivery, to be held at the said City of Vancouver, on or about the 1st day of October, next, as the Lieutenant-Governor in Council may appoint?"

Mr. P:-- Preliminary Hearing.

CONSTABLE WATSON, CALLED AND SWORN.

DIRECT-EXAMINATION BY MR. KENNEDY.

Mr. P:- I ask that the witnesses will be excluded, Your Worship?
Court:- Yes, all witnesses will leave the Court.

Mr. K:-

Q. I guess by this time you will admit that you were a constable,
and on duty on the 8th inst? A. Yes sir.

Q. Now, you see the accused, do you recognize him? A. Yes sir.

Q. Will you tell the Court how you saw him, and where, and all
about it? A. At 10.15 P.M. Sunday the 8th, I saw two officers
apprehend him and go along Hastings Street with this prisoner
from Columbia Avenue. There appeared to be a halt in the arrest
there, as there was a crowd there, and I followed up, and I met
the Patrol coming down Hastings Street, it had apparently passed
this prisoner, and I turned it and went back to the corner of
Hastings Street, and Westminster Avenue. The patrol was there,
and these two officers were putting the prisoner into the patrol
at that time, and there was a pretty large crowd and they were
shouting out: "Take him away, don't let them put him in there."
And after he was put into the patrol, the accused here was stand-
ing quite close to the patrol, and he shouted: "Get him out of
that, get him away." "Take him away." And as he was shouting
this, a great many of the others were doing the same thing.

And I arrested him.

Q. What was the effect of this shouting of his, like this? A. Well,
he was the cause of exciting the others, and trying to get the
prisoner away. He appeared to be encouraging them, but he did
not have the courage himself, but he seemed to try and get the
other to do it.

5- Q. Were these others in the crowd doing the same thing? A. Yes sir.
6- Q. What was the nature of this crowd? A. Very disorderly.
7- Q. At that time were they doing any smashing? A. Yes sir, and previous to that time.

8- Q. About how short a time? A. About an hour and a half. To the best of my knowledge. Previous to this there had been a lot of smashing, and breaking up of glass.

9- Q. What was your purpose, your object or your reason for following this crowd down? A. Well, I did not intend to follow these officers and prisoner, until I saw this crowd coming from Columbia Avenue. And they were following up, so I thought I better follow up too. And I was afraid, I thought perhaps they were trying to get the prisoner away. And I followed up to see. But previous to that,-----

10- Q. Well, tell us what gave you that impression? A. Well, I saw the state of affairs, and I saw the crowd in the center of the street.

11- Q. What have you got to say in regard to the disturbance of the peace? A. Well, there was a serious breach of the peace at that time, being committed by that carrying on.

CROSS-EXAMINATION BY MR. POTTENGER.

12- Q. There had not been any breaking of windows for an hour and a half previous to this? A. Not to my knowledge.

13- Q. And by this crowd,---would you swear that this crowd broke any windows? A. No, I could not say.

14- Q. All this crowd was doing, was just simply yelling? A. Yes, at that time.

15- Q. And what did you do,--- did you just stand and watch this man?

16- A. (Q) Do you refer to the crowd at the Patrol.

Q. Yes, the crowd? A. Well, I tried to keep the crowd back, and let the two officers get the prisoner in.

Q. And this was on the corner of Westminster Avenue? A. Yes sir.

Q. And the patrol was over on the North side of Hastings Street? A. Yes sir.

Q. And where were you standing? A. Opposite the patrol.

Q. That is between the patrol and the North side of Hastings Street? A. No. The patrol was standing on the North corner of Hastings street, and I was immediately behind it.

Q. Were there any people between the North curb and the patrol? A. Yes.

Q. And where was this man standing? Very close to the corner of the curb, about at the corner of the curb, he was standing about two yards from the patrol.

Q. Between the patrol and the curb? A. Yes sir.

Q. And you were behind it? A. Yes sir.

Q. Well, you were side by side? A. Yes, practically side by side.

Q. You were the same officer as was giving evidence as to another man shouting at the same time? A. No.

Q. I thought it was you? A. No sir.

Q. Well, there was another man arrested about this time for being concerned in this crowd, or something of that sort? A. There might have been.

Q. How far were you from this man? A. About six feet.

Q. And was he opposite you or in front or behind? A. He was over at my left hand side.

Q. And you were watching the patrol? A. I was standing behind the patrol, and I was keeping the crowd back to try and let them get the prisoner alongside.

Q. Were there people between you and this man? A. No, he was practically on the front.

I was there in the line and he was standing in the front of the line.

Q. And people were shouting all along? A. Yes sir.

Q. And what was he shouting? A. "Take him away, get him away, don't let them put him in there."

Q. Was there any attempt made to take this man away? A. No, they just shouted. The crowd did not come forward at all.

Q. Well, then these shouts did not excite the crowd to any great extent? A. Yes, the crowd appeared to be very much excited then.

Q. Even without this shouting? A. No, it was the shouting of the crowd, and he was shouting all the time.

Q. Well, was the excitement the cause of the shouts, or were the shouts the cause of the excitement? A. Well, practically both. Some shouting would excite the others.

Q. However, the crowd did not do anything? A. No, they stood a little ways off.

Q. And as far as you know, they had not done any damage before that?

A. No.

Q. They were just standing around and shouting? A. Yes sir.

Q. And after this accused was arrested several of the crowd shouted "take him away from them?" A. Yes, and he hissed, and moved about.

Mr. K:- What has this to do with it after he is arrested?

Court:- Well, directly at the time, I think it is all right.

It all goes to show. I think it is very good evidence.

Witness:- Well, "get bricks, and take them from him---".

Q. And did they get bricks? A. No.

Q. Well, was there any attempt to take him away from you by this crowd? A. Oh, I cannot say that there was.

Court:- Was this crowd disturbing the peace tumultuously? A. Yes sir. The people appeared to be in a bad way, by the way the crowd were conducting themselves.

POLICE CONSTABLE, 32 McCUIK, CALLED AND SWORN.

DIRECT-EXAMINATION BY MR. KENNEDY.

Q. You were an officer on that date, that night, the 8th? A police officer? A. Yes sir.

Q. Do you recognize the accused? A. Yes sir.

Q. Will you tell the Court where you saw him, and with whom?

A. Your Honour, we were taking a prisoner to the Office, from Carrall street, about a little after 10:00 O'clock, and we walked up as far as Westminster Avenue with the prisoner.

Q. Court:- Where? A. Westminster Avenue, up Hastings Street, and the crowd followed us all the way along, and the prisoner resisted about half way between Carrall and Hastings Street, and the crowd gathered around us, and of course, they tried to let the prisoner go. And this man always kept on the left hand side on Hastings Street, he was the nearest man to me in the crowd. He was always keeping on the left hand side, and I took particular notice to him.

There were only the two of us and I kept him on that side of me.

Q. Court:- You kept your eye on whom? A. This man here, and the patrol wagon met us on the corner of Hastings and Westminster Avenue, and we took the prisoner to the office, and the crowd around there were shouting "get the prisoner away from them."

Q. Where had this crowd come from? A. They came from Carrall Street. Between the B.C. Electric and the Woods Hotel.

Q. Is that the time when the rope was there? A. Yes sir.

Q. What kind of a crowd was this? A. It was very disorderly, crowd.

Q. In what way were they disorderly? A. Shouting and yelling,

for to take the prisoner away.

Q. Had they done any damage at all? A. Well, I do not know.

Q. They had previous to that,-- you had seen before that,-- would you know, -- shortly before that? A. Well, they ordered a rope to be stretched across.

Q. What was the purpose of this rope? A. It was to keep the crowd back.

Q. Why was it necessary to keep them back? A. In case of damage to property.

Q. The crowd started to follow you and your prisoner? Do you remember who your prisoner was? A. I remember, but I forget his name.

Q. And you said that you kept looking around for you were afraid you would be attacked? A. Yes sir.

Q. What reason had you to fear attack? A. The appearance of the crowd and the way they behaved.

Q. What was their appearance, and in what way were they behaving? A. They were running and yelling and shouting.

Q. What were they shouting? A. "Take the prisoner away."

Q. And they were running besides? A. Yes sir.

Q. And you were walking yourselves? A. Yes sir, oh, we were coming pretty fast.

Q. But you were walking? A. Oh yes, just walking.

CROSS-EXAMINATION BY MR. POTTENGER.

Q. You do not know whether this crowd had broken any windows or not? A. No, I would

You do not know if they had broken any windows? A. No, I would not like to say, I did not see them doing it.

Q. What you saw them doing was running along the street and shouting? A. Yes sir.

Q. You were walking up with your prisoner? A. Yes sir.

Q. And the crowd was running? A. Yes sir.

Q. When did you get up to the crowd again? A. The crowd caught up to us..

Q. So the crowd was not with you all the way from Carrall Street? A. Yes sir.

Q. Well, if you were walking, and they were running they would be apt to get ahead of you? A. Well, we had a kind of clear way, and we could walk about as fast as they could go when they were trying to run.

Q. And this man was on your left ~~whining~~ all the way up Hastings St? A. Yes sir.

Q. And can you distinguish him from all the rest? A. Yes, because he was the closest man to me in the crowd.

Q. And he kept right opposite to you all the way up? A. Yes sir. On my left.

Q. Well, did the crowd make any attempt to take this prisoner away from you? A. No. They did not put their hands at us at all.

Q. But they would have if the prisoner would have resisted, don't you think? If the prisoner had struck you, you think they would have assisted? A. Yes sir.

Q. Fortunate they did not? Well this man did not make any attempt to take the prisoner away did he? He did not make any attempt, at any time he did not put his hands out did he?

A. He was shouting to get him away.

Q. Did he keep this up all the way to Westminster Avenue? A. Yes sir.

Q. From Columbia Avenue, up Hastings to the Corner of Westminster Avenue? A. Yes sir.

Q. Did he keep this up all the way to Westminster Avenue? A. Yes sir.

Q. Just one continual shouting all the way? A. Yes sir. A. Yes sir.

Q. You are the man who gave evidence about some other man shouting too, were you not? A. Not that I know of. He injured me in my duty.

Q. Did you give evidence against another man who was arrested for the same thing, shouting, on the corner at the same time? A. I could not say whether it is the same crowd, or not. This crowd

Q. Well, do you know if you did or not? A. No. A. No.

Q. Do you know if it was the same man? A. No.

Q. It was another man? A. Yes sir. A. Yes sir.

Q. You did it twice that night, on the corner of Westminster Avenue and Hastings Street? A. Yes sir. Well, I do not know

Q. It was on the street again? A. Yes sir. But this man we took him away from the corner of Westminster Avenue and Hastings in the patrol waggon.

Q. In the patrol? A. Yes sir. A. Yes sir.

Q. Did the patrol waggon meet you at the corner of Westminster Avenue and Hastings Street on two occasions that night? A. No, only on one occasion.

Q. Do you not remember giving evidence on another occasion about a man saying "take him away?" A. No.

Q. You do not know, have you given evidence here before to-day? A. Not to-day.

Q. Do you remember giving evidence against Bunce? A. No sir, I do not.

Q. At any rate the crowd were all shouting were they not? A. I would not like to say they were all shouting.

Q. Well, a great number? A. Yes sir. A few of them.

Q. A few of them? A. Yes, a few.

Q. You say now that a few of them were shouting, were they not practically all shouting? A. Not all surely.

Q. Were not half of this crowd shouting?

Court:- How is it possible for him to tell.

Q. Well, were there not a great number of them shouting? A. Yes sir.

Q. And is this the only man that you could pick out of the crowd as shouting? A. One I kept my eye on. He injured me in my duty.

Q. Did you tell this crowd to go away? A. I could not tell them to go away, for they were crowded up, and-----

Q. Well, did you hear anybody in the crowd telling this crowd to go away? A. Yes sir, when we came to the corner of Westminster Avenue.

Q. This man in the box, was arrested on the corner of Westminster Avenue? A. Yes sir.

Q. About as soon as you got up there? A. Well, I do not know anything about the arrest of this man.

Q. All you know about this fellow he was along with the crowd at the corner of Westminster Avenue and Hastings Street, and he was arrested, and he was saying "take him away?" A. Yes sir.

Q. And he kept this up all the way? A. Yes sir. I saw him as soon as he was arrested. And shortly after. And I knew he was the man.

EXAMINATION BY THE COURT.

Q. Why did you keep your eye on this man? A. Well, I was afraid he would attack us in some way or another.

Q. Why were you afraid? A. Well, the way the crowd were carrying on, and shouting "get the prisoner away." I was afraid that if the prisoner resisted, and gave us any trouble, we would lose him altogether. And besides he was the closest man to me all the time.

POLICE CONSTABLE, 42 KUNER, CALLED AND SWORN.

DIRECT-EXAMINATION BY MR. KENNEDY.

Q. You were on duty as a police officer on the 8th of September last?

A. Yes sir.

Q. Do you recognize the accused here?

A. Yes sir.

Q. Will you tell the Court the circumstances under which you found him on the 8th?

A. I was on duty on the corner of Westminster Avenue and Hastings Street, and the police made an arrest, and —

Q. About what time? Q. About 10:00 o'clock I believe. And I

stood there and the accused said: "take him away".

Q. What officer made that arrest? A. Well, I could not say now.

I had recognized him, but there was quite a rush of course.

Q. Who was one of them, McCuish? A. Oh, I could not say, who the

other one was, one was McCuish.

Q. What was the nature of this crowd? A. Very disorderly. They

just came from the neighborhood of Chinatown, where they had been

smashing windows.

Q. How were the crowd behaving when the officers were making

this arrest, and taking this man through the streets? A. Very

disorderly. I should say it was a very disorderly crowd.

Q. In what way? A. Shouting and yelling.

Q. What were they shouting? A. There were a large number of them

shouting to rescue the prisoner.

Q. Did you see the arresting officers when they put this man in

the patrol waggon? When they were putting him in the patrol

waggon, were the crowd shouting to take him away? A. Yes sir.

Q. How far did you follow this crowd? A. Well, that is the first

time I saw the accused.

24- Q. Well, did you follow this crowd? A. Yes sir.

25- Q. Why did you follow them? A. Well, the Police had orders to try and disperse the crowd.

26- Q. Why did you want to disperse them? What kind of a crowd was it that you thought they should be dispersed? A. Riotous behavior.

27- Q. What was this riotous behavior? A. Shouting and yelling.

28- Q. And trying to get him away? A. Yes sir.

29- Q. Well, do you remember any other expressions used in this crowd? A. They shouted,---well, there was quite a racket, and they were trying to get the accused away.

30- Q. Well, what seemed to be the object of this crowd? A. To rescue the prisoner.

31- Q. How many officers were around at the time, before you got to the patrol? A. I could not say there were a number of officers.

32- Q. As many as 12, or 14 officers in this crowd? A. I doubt whether there were that many.

33- Q. Well, would there be 7 or 8? A. Yes sir, about that.

34- Q. I suppose,---were they in plain clothes, or uniform? A. All in uniform.

35- Q. And you recognize the accused as one of this crowd? A. Yes sir, he was.

36- Q. What effect, if any, would his words have on this crowd, would you say? A. He did not have much effect on them.

CROSS-EXAMINATION BY MR. POTTEINGER.

Q. Where did you first see this accused that night? A. On the corner of Westminster Avenue and Hastings Street.

Q. That is after this patrol came along? A. Yes sir, while the patrol came along.

Q. The patrol was not there when you got to this prisoner? The patrol came and met them? A. Yes.

Q. And he was there before the patrol was there? A. I do not know. I could not say. It is the first time I saw him.

Q. Just as they were putting the prisoner into the patrol waggon? A. Yes sir.

Q. What were the expressions you heard? Coming from this crowd? A. "Get him away. Don't let them get him. Get him away."

Q. You did not hear anything else? A. No sir.

Q. You do not remember hearing anything else? A. Yes sir, I do not.

Q. By anyone? A. I do not remember.

Q. Now tell me, on each of these two occasions where the prisoner was put into the patrol waggon on the corner of Westminster Avenue and Hastings Street? There was one constable there, and you were there and that is two? A. Yes sir.

Q. And was the crowd yelling this all this time? A. Yes sir.

Q. When you saw this man yelling "take him away, get him away," where were you standing? A. I was standing about 10 feet from the sidewalk from the North side.

Q. How many feet? A. It might have been 10 feet.

Q. Might have been 20? A. No, I don't think so.

Q. And where was Officer Watson? A. He was assisting to put a prisoner in the patrol waggon.

Q. And where was Officer McCuish? A. He was there I believe, But I guess he was assisting to put the prisoner in. A. Yes sir. And the crowd were

Q. You were watching all this? A. Yes sir. And the crowd were hollering and yelling, and they were making quite a noise.

Q. And practically you picked this man out? A. No, I recognized him all this time.

Q. As what? A. The man shouting "get him away."

Q. You were twenty feet away? A. No, I said I was about 10 feet from the sidewalk.

Q. And was he not on the sidewalk? A. No, he was not.

Q. How far away from you? A. Probably six feet.

Q. Only 6 feet? A. Yes sir.

Q. Were there any other officers nearer to him than you were? A. Not at that time.

Q. Were there any of the crowd between you at that time? A. One or two stragglers.

Q. And you say that Watson and McCuish were assisting to put a prisoner in the patrol wagon? A. Yes sir.

Q. And you were the nearest officer to the prisoner at that time? A. Yes sir.

Q. And you are quite sure you heard this man saying, "get him away"? A. Yes sir.

Q. Have you talked this matter over with Watson or McCuish, or both of them? A. No, I was just brought in off the street.

Q. Did you recognize any of the other men who yelled "get him away"? A. No, I don't think I do.

Q. Well, why did you take so much notice of this man? A. Well, I assisted to arrest him.

Q. You grabbed him right there? A. Yes sir.

Q. Who helped you to arrest him? A. Constable Watson.

Q. This was after the patrol went away? A. Yes sir.

Q. And Constable Watson finished putting this man into the patrol and was going away, as you arrested this man, and he saw you and came to help you? A. McCuish was putting that prisoner in the patrol.

Q. Were there not two men arrested at the same time? One that was not in the patrol wagon?— Was there no attempt made to

rescue the prisoners who were being arrested? A. Oh, no.

Q. No attempt made at all? A. No.

Q. There was not a man there who was being arrested and who got away? A. There might have been.

DEFENCE.

COURT:- "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing and may be given in evidence against you at your trial.

You must clearly understand that you have nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to you to make any admission or confession of guilt, but whatever you now say may be given in evidence against you upon your trial, notwithstanding such promise or threat."

Mr. P:- He has nothing to say, Your Honour.

Court:- Do you wish to give any evidence?

Mr. P:- No.

Court:- "I ORDER HIM TO BE COMMITTED FOR TRIAL."

MR. P:- I understand that there are other charges against this man. I would ask to have these withdrawn."

MR. K:- Yes, Your Worship, I would ask to withdraw these others?

MR. P:- Well, now I understand that he is committed on the charge of being a rioter?

MR. K:- Yes. For taking part in the riot.

COMMITTED FOR TRIAL.

AFFIDAVIT OF STENOGRAPHER.

Province of British Columbia,
City of Vancouver. }

In the matter of the King, on the information of G. Alvin Murray against Henry Green,

I, G. Alvin Murray, of the City of Vancouver, Province of British Columbia, Stenographer, make oath and say:-

1. That I am Stenographer appointed by A. Williams, Esquire, Police Magistrate, one of His Majesty's Justices of the Peace in and for the said City of Vancouver, to report the evidence in this case

2. That the transcript of evidence hereunto annexed, signed by the said A. Williams, Police Magistrate, is a true report of the evidence taken in this case before the said A. Williams, and taken by me as such Stenographer as aforesaid.

SWORN before me
this day of
September, A.D. 1907 }