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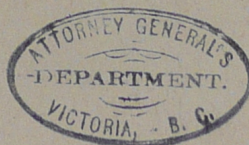
Vancouver Fall Assizes:

Rex v. Darrach.

(The lawful assembly, &c.)

Crown Brief.

No Bill



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POLICE COURT.

(Before A. Williams, Esq., P. M.)

Vancouver, B. C.
September 11th., 1907.

FRANK DARRAH, charged on the information of G. A. Murray,
for that he the said Frank Darrah, at the said City of Vancouver
on the 7th. 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. A. B. POTTENGER APPEARED FOR THE DEFENCE.

VINCENT D. WEBB? Stenographer, Sworn.

THE 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 & Gen-
eral 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. POTTENGER. He will be tried by Your Worship.

MR. POTTENGER. In this case, I wish to ask for all the wit-

nesses to be excluded.

(Witnesses excluded).

DETECTIVE SCOTT, SWORN, EXAMINED BY MR. KENNEDY.

- Q. 1. Mr. Scott, you are a detective here? A. Yes.
- Q. 2. You were on duty on the 7th. of September? A. Yes.
- Q. 3. Do you recognize the accused? A. Yes, I do.
- Q. 4. Where did you see him first? A. I saw him at the corner of Westminster and Cordova street, just a few minutes before twelve O'clock.
- Q. 5. Will you describe the circumstances? A. At that time there were some of the officers had some of the prisoners in charge, bringing them to the station, and a big mob was following up. They had come from Columbia Avenue - I think it was that far down where the officers had made the arrest - and the crowd was following up when I noticed the accused first. I was there trying to find out who had mobbed the Police.
- Q. 6. They were yelling "Mob the police"? A. Yes; in fact there was one before His Worship to-day and committed for trial.
- The first thing I heard him say -
- Q. 7. THE COURT. Who?
- Witness: This boy here (indicating) - was "look out there is Waddell," and somebody in the crowd - kind of behind him - said "mob the police", and he said, as near as I could catch it, "fuck the police; and look at Waddell, the son of a bitch". I recognized those two boys who have just left the Court. They were making fools

of themselves - yelling at the crowds. I fetched him in pretty rough and took the two stones out of his pocket.

Q. 8. Those are the stones (indicating)? A. Yes; practically the same as we found in the Chinamen's windows.

(Exhibit "A")

Q. 9. Then there were rocks fired that height then? A. Yes, showers of them on Pender, Shanghai, Columbia Avenue and other streets.

Q. 10. This particular crowd of which this boy was part - what were they doing? A. The first I saw of the crowd was on Columbia Avenue. Just previous to following this crowd up, for I had made an arrest there, they seemed to be riotous and were throwing stones at every window belonging to Chinese and Japs.

Q. 11. And there were some arrests made? A. Yes, and every time there was an arrest, there were "Mob the Police" cries.

Q. 12. What do you mean by saying the crowd was riotous? A. Well throwing stones through the windows - tearing down the streets.

Q. 13. Anybody else's windows besides Japanese and Chinese broken? A. There was a white man's window smashed I think by mistake.

Q. 14. After that, you say there was an arrest made, and a crowd followed? A. Yes, from the arresting officers to the Station here.

Q. 15. How were they behaving themselves as they followed?

A. They were yelling "mob the Police" all the way up the street.

Q. 16. Do you remember any other expressions used? A. Another

expression was - "Whiteman; let him go".

Q. 17. Anything else? A. And there were words used two or three times here - "fuck the police" - but I couldn't say who used them.

Q. 18. Then the crowd; did they go as far as the Station?

A. Right in front of the door.

Q. 19. And this boy was one of the crowd? A. Yes, and there was a whole lot of boys like him. They seemed to be a most mischievous bunch.

Q. 20. Did you see him do anything - make any disturbance?

A. Nothing more than he said in the crowd. The crowd cheered him on. Every time a window was broke, the crowd would cheer from all over.

CROSS-EXAMINED BY MR. POTTENGER.

Q. 21. You first saw this boy at the corner of Westminster and Cordova? A. Yes, I was working my way through the crowd.

Q. 22. And had the arrest been made previous to this? A. Oh yes.

Q. 23. The crowd was following up the arrested prisoner? A. Yes.

Q. 24. And the boy was in the crowd? A. Yes.

Q. 25. Were you behind him? A. I was within two feet of him.

Q. 26. Behind him? A. Yes.

Q. 27. And you followed him all the way from Westminster Avenue to the Station right behind him? A. Well, within eight to two feet of him all the time.

Q. 28. You were working yourself through the crowd to this boy?

A. Well, there were quite a few yelling.

- Q. 29. Why did you work your way to this boy? A. I didn't try to make my way to this boy specially, but I was trying to make my way through the crowd to arrest them if necessary.
- Q. 30. How far was this boy behind the other officers? A. The other officers were turned into the Station by the time I got hold of the boy. Waddell was ahead of me and was trying -
- Q. 31. All the time you were following this boy up did he say anything? A. Yes, the first thing I noticed him say I know the boy by sight - the first thing he said was, "Look out for Waddell" - and there was quite a bunch of them. He asort of moved away, and when they saw me grab the man who was sentenced to-day -
- Q. 32. Where was that? A. Right below the Station. Just after we grabbed the man -
- Q. 33. Between the corner of Westminster Avenue and right by the Station, this boy had said nothing? A. Yes.
- Q. 34. The first thing he said was "Look out for Waddell" you said? A. Yes; and afterwards -
- Q. 35. But upto that point he said nothing that you could recognize? A. I could not swear which was using the Language.
- Q. 36. You swore that this boy said "Look out for Waddell"? A. Yes.
- Q. 37. You are not sure that this boy made this next remark? A. Yes, he said "look out for Waddell, the son of a bitch".
- Q. 38. What else did he say? A. He said "fuck the Police".

Q. 39. Do you swear to that ? A. Yes.

Q. 40. You are positive of that now? A. Yes, I am.

MR. POTTENGER: Well then, I ask the stenographer to read his notes relating to that.

(Notes read).

Q. 41. MR. POTTENGER: You have heard what the stenographer said?

WITNESS: Yes, I was referring to the remarks made previous to his statements. There was somebody else made these remarks.

Q. 42. You say positively that this boy did make those remarks?

A. Yes.

Q. 43. When you brought this boy into the station, did you accompany Waddell? A. I went into the office because we had business to do.

Q. 44. Did you hear Waddell talking to this boy? A. There was a number of prisoners -

Q. 45. Answer my question, please? A. I cannot remember.

Q. 46. You know he spoke to this boy? You don't know what Waddell said? A. No.

Q. 47. How far were you from Waddell? A. I was quite close but I cannot remember what Waddell said. I didn't pay particular attention.

Q. 48. When this particular boy was on Cordova street, were you paying special attention to him? A. Yes, I was.

Q. 49. You could not remember what Waddell said to this boy?

A. I was not paying particular attention to what he said.

- Q. 50. Waddell had another prisoner? A. Yes.
- Q. 51. And you were searching this boy? A. Yes.
- Q. 52. And Waddell was talking to his prisoner? A. The remarks he made to this boy were after I had searched him and was walking away.
- Q. 53. You didn't hear what Waddell said? A. No, I had my back to him, and was not paying particular attention.
- Q. 54. Did you tell Waddell anything about what this boy had said about him? A. Yes, and he said "I heard him".
- Q. 55. You didn't try to arrest any other people around this boy? A. Well, we were not there to arrest anybody in particular.
- Q. 56. Perhaps they were a little bigger? A. It would not have made any difference. I would have tackled him.
- Q. 57. The only thing he was doing now, he was making these remarks? A. Making remarks and rushing with the crowd.
- Q. 58. You say he was inciting the crowd? A. Most certainly.
- Q. 59. By making these remarks? A. Yes, certainly.
- Q. 60. That was all he was doing? A. Certainly.
- Q. 61. And the remarks he made were "Look out for Waddell" and "Fuck the Police"? A. Yes.
- Q. 62. Did the crowd offer any violence to the police at all? A. They didn't have time.
- Q. 63. They followed you all the way from Westminster Avenue? A. All the way from Columbia Avenue.
- Q. 64. And cheering all the way up? A. Yes.
- Q. 65. And you think that these remarks that this boy made, particularly cheered the crowd? A. Oh, all the re-

marks made by the crowd were the same way.

DETECTIVE WADDELL SWORN, EXAMINED BY MR. KENNEDY.

- Q. 66. You were on duty on the 27th. inst., as Police Officer?
A. Yes.
- Q. 67. Tell the Court the circumstances of this case - all about it? A. Well, in the course of a riot down town, and arrest out of the mob which was coming towards the Police Station, this boy, together with a number of others, followed up shouting. I was a little bit ahead of him.
- Q. 68. The mob started from somewhere - where was the arrest made? A. Down about Columbia Avenue near the corner of Hastings St. However, the mob started after the arresting officers and we started out in the direction of the officers.
- Q. 69. How large a crowd? A. Oh, it was tremendous.
- Q. 70. What had the crowd been doing previous to that time?
A. Oh, rioting.
- Q. 71. Rioting in what way? A. Breaking windows and defying the police.
- Q. 72. In what way? A. Refusing to disperse and move on.
- Q. 73. Had they been asked to disperse? A. Yes.
- Q. 74. About how many officers were there? A. About 20 or 30.
- Q. 75. What were they doing - the crowd? A. Throwing stones and breaking windows in the Chinese quarters.
- Q. 76. Were they hitting any? A. Yes.

- Q. 77. Breaking any? A. Breking everything in sight.
- Q. 78. Chinese and Japanese windows? A. Yes.
- Q. 79. What about the white quarters? A. Oh, they were not molested. The only ones that were, were by accident.
- Q. 80. The crowd - it was only a portion of the crowd that went with Police to the Station? What were they shouting? A. Trying to obstruct the police.
- Q. 81. What expressions were used? A. Well, "Mob the Police". Some were yelling "Rescue them".
- Q. 82. Do you remember any other expressions used? A. Oh, lots there were.
- Q. 83. Well, I should like you to recollect them? A. You mean as far as the accused is concerned?
- Q. 84. No; the mob generally? A. Well, they were in a threatening mood - using threatening language.
- Q. 85. Was it pretty general? A. Yes.
- Q. 86. What led you to follow the arresting officer? A. Because there was a liability of them losing the prisoner.
- Q. 87. Were you afraid of that? A. Yes.
- Q. 88. So you followed on. Then where did you see this boy first then? A. Well, I seen him at the corner of Cordova and Westminster Avenue. I heard him yelling - a whole bunch of them. I noticed him over there, and finally Detective Scott brought him.
- Q. 89. Did you hear him making any expressions? A. He was yelling out "Look out for Waddell".
- Q. 90. Do you remember any other expressions, or could you hear them? A. Oh, there were some others; I cannot say exactly.
- Q. 91. What have you got to say - anything in regard to his con-

duct? A. Disorderly and riotous.

Q. 92. Were you present when he was examined? A. Yes.

Q. 93. MR. POTTENGER: If my learned friend wishes to go into any admissions he made, I must ask him to stop.

Q. 94. MR. KENNEDY: Was he talking to you specially or to any of the other officers? A. If I remember rightly, I searched the boy.

Q. 95. Was he talking to you? A. I was talking to him.

Q. 96. Was he talking to you - answering you back? A. Yes.

Q. 97. Did you offer him any inducement to make any confession to you? A. No.

Q. 98. Did you threaten him at all - that it would be bad for him? A. No.

Q. 99. Any conversation made, was it made by him? A³. It was made in answer to questions asked him. He wasn't talking very much except when he was asked questions.

MR. POTTENGER: I suppose my learned friend is going to ask what this boy said? I object to that very strongly. These admissions were made in answer to questions asked the boy. I refer your Honour to Rex vs. Kay, from which it will be seen that such evidence is not admissible.

THE COURT: I over-rule the objection.

Q. 100. MR. KENNEDY: What else did he say?

WITNESS: Oh, several other things - nothing of importance any more than he admitted being with the rest and shouting. The boy didn't say anything that was very damaging.

Q. 101. Did you find anything on him at all? A. Just the usual-

Q. 102. Well? A. Oh, there were some rocks in his pocket.

I did not take them out of his pocket,
Q. 103. THE COURT: You saw them? (Witness) Yes.

CROSS-EXAMINED BY MR. POTTENGER.

- Q. 104. Well, all you heard him - this boy - say, was "look out there is Waddell"? A. Yes, all that I can swear to.
- Q. 105. And when you got to the station, you had a spirited discussion with him? A. Nothing more than the rest.
- Q. 106. Well, I don't know what your rule is. You called him some names, didn't you? A. Not me. I might have called him a young brat. I am not in the habit of calling anybody names.
- Q. 107. Did you call - do you remember this boy (indicating) being in the room with Ward - all at the same time? A. No.
- Q. 108. Do you remember the occasion when Ward was arrested and came in? A. Yes.
- Q. 109. Do you remember calling the boy any names then? A. No.
- Q. 110. Will you swear you didn't call him any names? A. Yes I will.
- Q. 111. You swear you didn't call him a son of a bitch? A. There are other officers who were there at the time, and they would have heard me if I did.
- Q. 112. You had no great complaint against this boy as far as you are concerned? A. No, he is just boy-like. He was inciting the crowd.
- Q. 113. Now, the inciting of the crowd, that was yelling out, "Look out, there's Waddell"? A. That's plenty.
- Q. 114. You mean that by the mere fact of mentioning your name, that's enough to make the crowd riotous? A. It might have some effect.

- Q. 115. You grabbed a man shortly after then? A. Yes.
- Q. 116. He was a bog man? A. Oh, I don't think it made any difference about the size. It was the worst offenders we were after.
- Q. 117. When did you first see this boy? A. Near Cordova and Westminster Avenue. I heard them coming behind.
- Q. 118. From the time the crowd left Cordova and Westminster Avenue till they got up here, did they break any windows, or rather I should say from Cordova and Columbia?
- A. No, not that I know of.
- Q. 119. They were only yelling? A. Yelling and shouting in a riotous manner.
- Q. 120. Now just hold on. The only thing they were doing was yelling and shouting? A. It was a continuous hubbub on Carroll and Columbia.
- Q. 121. The first time you saw this boy was on Columbia, down to Westminster? A. I saw him first on Hastings street - on Westminster Avenue.
- Q. 122. From the time you first saw this boy with the crowd, until you got to the Station, did the crowd break any windows? A. No.
- Q. 123. The only thing they were doing was yelling? A. Shouting in a riotous manner.
- Q. 124. Please leave out that 'riotous manner', the Court will decide that. A. You asked me what they were doing?
- Q. 125. Well, what were they doing? A. They were yelling and shouting in a riotous manner.
- Q. 126. Did they shout any different when in a riot from other times? A. Oh, I don't know that they did. They inter-

ferred with the officers. They followed up two officers.
Q. 127. Did they interfere? A. They would have if we had not been there.

Q. 128. As a matter of fact they didn't interfere with the arresting officers? A. They didn't get much of a chance.

Q. 129. You didn't see them try to interfere with the officers?
A. No.

Q. 130. All you know was that they were yelling and shouting?
A. Yes, in a riotous manner.

MR. KENNEDY: they were yelling and shouting "Mob the police

THE COURT: The next witness. I may say here, Mr. Pottenger, that the case should be tried by a Jury.

MR. POTTENGER: You think, Your Honour, that this matter is of sufficient importance to keep him in Jail until October 1st?

THE COURT: I do; all the other have decided to be tried by a Jury, and I am not going to make any distinctions. Let one Court deal with the matters. Order him to be committed for trial. Is there any other evidence?

MR. KENNEDY: No; that is the case Your Honour.

The Court: (To accused): 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 upon 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,

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but whatever you now say may be given in evidence against you upon your trial, notwithstanding such promise or threat.

MR. POTTENGER: The accused has nothing to say now, Your Honour.

THE COURT: Committed for trial.

C O N C L U D E D .

I hereby declare that the foregoing is a true and accurate report of said proceedings.

"Vincent D. Webb."
Stenographer.

"A. Williams".

STATEMENT OF THE ACCUSED.

CANADA:

Province of British Columbia.)

County of Vancouver.

FRANK DARRAH, stands charged before the undersigned J. WILLIAMS, of his Majesty's Justices of the Peace in and for the County aforesaid, this 11th. day of September, in the year of our Lord one thousand nine hundred and seven, for that the said Frank Darrah, on September 7th. 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 Frank Darrah, and the witnesses for the prosecution, Detectives Waddell; Scott; being severally examined in his presence, the said Frank Darrah, is now being addressed by me as follows:-

"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 our 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 induce 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".

Whereupon the said Frank Darrah saith as follows:-

"Nothing to say".

Taken before me at Van-
couver, the day and year
first above mentioned.

"A Williams".