

PABC

GR 419
Box 236 File 1920/97

19120

97/20

Vanermer
(Fall)

Assizes.

REX

VS.

Angus McEachern and
Bobby Roberts

Offence

Stealing

CROWN BRIEF

Roberts pleaded Guilty-
Oct 11, 1920
A.H.

McEachern tried
Verdict Guilty of
Theft. Indictment
amended to meet
evidence Sec 889 Code
Oct 12, 1920
A.H.

IN THE SUPREME COURT OF BRITISH COLUMBIA
OVER AND TERMINER AND GENERAL GAOL DELIVERY

CANADA
PROVINCE OF BRITISH COLUMBIA
COUNTY OF VANCOUVER
CITY OF VANCOUVER

Code
Section
240.

The Jurors of Our Lord the King present that at the City of Vancouver in the County and Province aforesaid, on the 13th day of July in the year of Our Lord One Thousand Nine Hundred and Twenty, Angus McEachern and Bobby Roberts did unlawfully break and enter the shop of Mr. Perry and Silas Adams, there situated, and two cash registers, nine boxes of cigars, one box of cigarettes, and one box of Copenhagen snuff, of the value in all of \$240.00, the property of the said Mr. Perry and Silas Adams, then and there being found therein, did then and there unlawfully steal, against the form of the Statute in such case made and provided and against the peace of Our Lord the King, His Crown and Dignity.

I hereby direct that Counsel acting for the Crown at the Vancouver Fall Assizes, 1920, prefer the above Bill of Indictment to the Grand Jury.

Attorney-General.

- Look up Accessory*
1. *Reg. v Campbell* 2 *Can. C. C.* 357
Case of Theft.
 2. *Reg. v Graham* 2 *Can. C. C.* 388
Case of Manslaughter
No Conviction

INFORMATION AND COMPLAINT FOR AN ARRESTABLE OFFENSE

I N D E X
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Contrary to the form of the Statute in each case made and provided.

"Alex. Volume."

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

"Earl E. Robinson"

J.P.

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE

CANADA

CANADA OF BRITISH COLUMBIA

PROVINCE OF BRITISH COLUMBIA

CITY OF VANCOUVER

ANGUS McEACHERN stands charged before the
The information and complaint of Alexander Volume
of City of Vancouver, taken the 14th day of July, in the
year of our Lord One Thousand Nine Hundred and twenty,
before the undersigned, Earl E. Robinson, Esq., 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 13th day of
July, A.D. 1920, Angus McEachern, did unlawfully break
and enter the shop of Mr. Perry, there situated, and two
cash registers and a quantity of cigars of the value of
\$200. the property of the said Mr. Perry, then and there
being found therein, did then and there steal.

addressed by me as follows:

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

whereupon the said Angus McEachern with as follows:

(through Counsel)

"Alex. Volume."

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

"Earl E. Robinson"

J.P.

STATEMENT OF THE ACCUSED

CANADA

PROVINCE OF BRITISH COLUMBIA

COUNTY OF VANCOUVER

ANGUS MCEACHERN stands charged before the undersigned, C. J. South, Esq., of His Majesty's Justices of the Peace in and for the County aforesaid, this 21st day of July, in the year of our Lord one thousand nine hundred and twenty, for that the said Angus McEachern, on the 13th day of July, A.D. 1920, at the City of Vancouver, did unlawfully break and enter the shop of Mr. Perry, then and there being found therein, did then and there steal. Contrary to the form of the Statute in such case made and provided.

And the said charge being read to the said Angus McEachern and the witnesses for the prosecution, being severally examined in his presence, the said Angus McEachern is now addressed by me as follows:

"Usual warning"

Whereupon the said Angus McEachern saith as follows:

(through Counsel)

"We reserve defence"

"C. J. SOUTH",

J.P.

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE

CANADA

PROVINCE OF BRITISH COLUMBIA

CITY OF VANCOUVER

The information and complaint of Alexander Volume (Det: Ellice) of City of Vancouver, taken the 14th day of July, in the year of our Lord One Thousand Nine Hundred and twenty, before the undersigned, Earl E. Robinson, Esq., 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 13th day of July, A.D. 1920, Bobby Roberts, did unlawfully break and enter the shop of Mr. Perry, there situated, and two cash registers and a quantity of cigars of the value of \$200. the property of the said Mr. Perry, then and there being found therein, did then and there steal.

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

"Alex. Volume"

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

"Earl E. Robinson"

J.P.

STATEMENT OF THE ACCUSED

Vancouver, B.C., July 21st, 1920.

CANADA

PROVINCE OF BRITISH COLUMBIA

COUNTY OF VANCOUVER

Bobby Roberts stands charged before the undersigned, C. J. South, Esq., one of His Majesty's Justices of the Peace in and for the County aforesaid, this 21st day of July, in the year of our Lord one thousand nine hundred and twenty, for that the said Bobby Roberts, on 18th day of July, A.D. 1920, at the City of Vancouver, did unlawfully break and enter the shop of Mr. Perry, there situated, and two cash registers and a quantity of cigars of the value of \$200, the property of the said Mr. Perry, then and there being found therein, did then and there steal. Contrary to the form of the Statute in such case made and provided. And the said charge being read to the said Bobby Roberts and the witnesses for the prosecution, being severally examined in his presence, the said Bobby Roberts is now addressed as follows:

"Usual warning"

Whereupon the said Bobby Roberts saith as follows: (through Counsel)

"We reserve defence"

"C. J. South"

J.P.

ACCUSED: Preliminary hearing.

P O L I C E C O U R T

BILLAS (Before C. J. South, Esq., D.P.M.)

Vancouver, B.C., July 21st, 1920.

QUESTIONS BY MR. MCKAY

1 Q What is your name please? A. Billas Adams.

2 Q What is your address? A. 15 Cordova Street East.

CANADA)

PROVINCE OF BRITISH COLUMBIA)

COUNTY OF VANCOUVER)

CITY OF VANCOUVER)

REX Vs. ANGUS MCEACHERN
and BOBBY ROBERTS.

3 Q Yes, you own that place together, do you? A. Yes sir.

4 ANGUS MCEACHERN and BOBBY ROBERTS charged on the information of Alexander Volume of the City of Vancouver on the 14th day of July, A.D. 1920, for that at the said City of Vancouver on the 13th day of July, A.D. 1920, they did unlawfully break and enter the shop of Mr. Perry, there situated, and two cash registers and a quantity of cigars of the value of \$200 the property of the said Mr. Perry, then and there being found therein, did then and there steal. Contrary to the form of the Statute in such case made and provided.

W. M. McKay, Esq., Counsel for Prosecution

A.J.B. Mellish, Esq., Counsel for Defence

L. H. Heaney sworn as stenographer

K. Yamada sworn as Japanese interpreter.

MR. MELLISH: I am appearing and taking a preliminary hearing.

COURT: You have the option to be tried forthwith before me without the intervention of a Jury or to remain in custody or under bail as the Court decides to be tried in the ordinary way by the Court having competent criminal jurisdiction. That is your Counsel will tell you you can elect whether you will be tried here or whether you will take a preliminary hearing.

ACCUSED: Preliminary hearing.

SILAS ADAMS,

Called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MCKAY:

- 1 Q What is your name please? A. Silas Adams.
- 2 Q What is your address? A. 15 Cordova street West.
- 3 Q In the City of Vancouver? A. Yes.
- 4 Q Now do you know the store of Mr. Perry? A. Yes sir Mr. Perry and I own that place.
- 5 Q You own that place together, do you? A. Yes sir.
- 6 Q And where is it situated? A. In Cordova street.
- 7 Q What number? A. 15 Cordova street.
- 8 Q And that is where you live? A. No I live in the Ivanhoe Apartments myself.
- 9 Q Where are they? A. Seventh Avenue and Carolina street.
- 10 Q Now was this store of yours and Mr. Perry's broken into?
A Yes sir.
- 11 Q When? A. The night of the 12th, the morning of the 13th
- 12 Q The morning of the 13th of July? A. Yes sir.
- 13 Q And how was it broken into, whereabouts? A. Well as near as I can make out they came through the front door. I don't know whether it was broken into myself; there was nothing broke up.
- 14 Q Was anything taken? A. Yes sir.
- 15 Q What? A. Two cash registers and some cigars and tobacco
- 16 Q Could you identify these cash registers here? A. Yes sir that is them.
- 17 Q Those are the cash registers. I put those in as Exhibit "A" TWO CASH REGISTERS produced as Exhibit "A".

18 Q Have you seen this sack before? A. No sir.

19 Q What sort of cigars were they? A. Booth's Boquets and "Old Sports".

20 Q Look at those cigars? And a box of Player's cigarettes. A. Yes sir I think that is them.

21 Q There is one box of Player's cigarettes here, do you know how many boxes of cigars are here? A. I do not.

22 Q Copenhagen snuff, was that taken too? A. Yes sir.

23 Q I put that bag containing nine boxes of cigars, one package of Player's cigarettes, five hundred packages that is, and a box of Copenhagen snuff as Exhibit "B"

CIGARS, CIGARETTES and SNUFF produced as
EXHIBIT "B"

24 Q Now did you give any person any permission to take these registers or cigars? A. No sir.

25 Q What is the value of these registers and cigars, approximately? A. Oh I don't know, about two hundred and forty dollars, I guess.

26 Q This place of yours is here in the City of Vancouver? A. Yes sir.

QUESTIONS by MR. GRANT:

27 Q You don't know how the place was broken into? A. No, I do not.

28 Q I suppose your theory is somebody unlocked the door and went through the door and locked it after? A. I further locked the door when I closed up, and I don't know how they got in.

29 Q You found it locked when you got back? A. No, it was open when I got back. There was a man on shift.

30 Q Could it be opened from the inside, I mean without a key? A. Yes, I have a key, yes.

31 Q What I mean is this: you went away and locked the

front door; did you lock it with a key or did it snap?

A/ I locked it with a key.

31 Q What kind of a key was it, a big key? A. No just one of those kind of keys.

32 Q What is it, a snap lock, a Yale lock? A. Yes a Yale lock.

33 Q So it may have been opened from the inside? A. It might have been. I don't know how it was opened, I am sure.

34 Q And you didn't lock it with a key? A. Yes, I locked it with a key.

35 Q It is one of those snap locks. Ordinarily a snap lock you open it with a key and fasten it with a catch? A. No there is no snap to it.

36 Q It is not a snap lock? A. No.

37 Q Then did it open with a little button on the inside?
A No.

38 Q It would only open from the inside with a key? A. Yes inside or outside.

39 Q What time did you close the night before? A. Twelve o'clock.

40 Q What kind of a shop do you keep there? A. A ~~Bar-room~~ a barber's shop.

41 Q Do you run the barber's shop? A. No we rent it.

42 Q Has the man who has the barber's shop a key? A. No.

43 Q Are you the only one that has a key? A. No, my partner has a key and the porter has a key.

44 Q And you were the last one as far as you know that went there? A. Yes sir.

45 Q Now were you the first one there in the morning? A. No.

46 Q So you don't know whether it was found open or not; you were merely informed it was found open? A. Yes.

47 Q What time were you informed it was found open? A. Oh

I guess about nine thirty when I came there.

48 Q And from the information you received who was the first one there in the morning? A. Mr. Perry.

49 Q What time would he be there? A. Seven o'clock.

50 Q And he told you that he found the door open, did he?

A Yes; no the door in the meantime was locked up; the porter had locked the door in the meantime.

51 Q Very well I want to get at, then the porter informed you he found the door open? A. Yes.

52 Q And what time did he find it open? A. About two o'clock or a little after two o'clock sometime.

53 Q Very well now, if these things were stolen from there it would be between twelve o'clock and two o'clock? A. I believe it was between two and three o'clock, because the porter saw them in there, see.

54 Q The porter saw the men in there? A. Yes saw someone in there, yes.

55 Q He saw someone in there and then did he lock it then?

A He went down to the corner and informed the police officer.

56 Q He saw them in there and locked them in, as it were, and went down and informed the police. A. No he didn't lock them in.

57 Q He is going to give evidence here today, is he? A. I do not know.

58 Q He told you that he went along there about two o'clock and saw some men inside, the porter told you that? A. Yes.

59 Q What is his name? A. I don't know his name.

60 Q Where is he the porter of? A. Well he cleans up. He comes there.

61 Q About two o'clock and cleans up at night? A. Yes.

62 Q Why? A. Because the 5.15 was a change in there no good, and it is still in there, now when they come back.

62 Q And he has a key? A. Yes sir.

63 Q Is he a white man? A. No a Chinaman.

64 Q A Chinese porter? A. Yes.

65 Q So there is a Chinaman that comes there about two o'clock and he has a key. Now he told you. A. He didn't tell me anything.

66 Q Well you were informed then? A. Yes.

67 Q That he saw somebody inside? A. Yes.

68 Q And that he found the door open? A. Yes.

69 Q And that he locked the door and went down to tell the Police? A. Well, I don't know about locking the door.

70 Q Well anyway he went to tell the Police there was somebody inside? A. Yes.

71 Q Well now did the police go up there at once? A. I believe they did.

72 Q And you didn't know anything about it till half past nine. The police will give evidence about that part of it? A. Yes.

73 Q Now did anyone know ~~that~~ anything was taken from the place till you went there yourself? A. Why sure, Mr. Perry knew when he opened up. He didn't have no cash register to use.

74 Q Now whereabouts were the registers found, do you know? A. One was on the bar and one in the barber's shop.

75 Q These registers were found alright? A. I don't know where they were found.

76 Q I am asking you, you don't know where the registers were found? A. No I know where they were taken from.....

77 Q You don't know whether these are your registers, but they are similar? A. Yes, I am quite positive they are the registers.

78 Q Why. A. Because there was a cheque in there no good, and it is still in there, was when they came back.

79 Q There was something in them by which you identified both registers? A. No I don't know about the barber's shop.

80 Q What? A. I am pretty sure they are both the registers

81 Q With regard to the cigarettes and snuff and stuff that was there, that is similar to the stuff you missed? A. Yes.

82 Q But you don't identify it as being the same? A. The same brand of stuff.

83 Q The same kind of stuff? A. Yes.

FURTHER QUESTIONS by MR. MCKAY:

84 Q By the way, do you know either of these two men here?

A Yes I know them both by sight, yes.

85 Q Were either of them employed in your place there? A. Not while I was there, no sir.

C. J. POWELL, called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MCKAY:

86 Q Where do you live? A. Manitoba Hotel.

MR. MCKAY: Mr. Bird has asked me to ask protection for this man. There may be some question as to his complicity in the thing. I am using him as a Crown witness.

COURT: Alright that is granted.

87 Q What is your name? A. Mr. C. J. Powell.

88 Q And what is your business? A. Taxi driver, chauffeur.

89 Q You are working for what company? A. The Owl Taxi Company.

90 Q Where do they carry on business? A. The Stanley Hotel.

91 Q In the City of Vancouver here? A. Yes sir.

92 Q Now do you know these two men here? A. I know one of them by sight.

93 Q Which one? A. The gentleman with the white shirt, with the collar.

94 Q With the white collar on his coat? A. Yes.

95 Q Which one is that? A. This gentleman here.

MR. MELLISH: McEachern.

96 Q Now do you remember the 13th of July? A. Yes sir.

97 Q Tuesday. Did you see either of these men on that night. A. Yes sir.

98 Q Which one? A. Both of them I think.

99 Q Where did you see them? A. On Cordova street.

100 Q You might just tell the Court what they were doing?

A Well I was sitting in my car about three o'clock on Tuesday morning and the little fellow came along and he hired my car for the purpose of taking a lady friend of his home.

1 Q Some other man, was it? A. No that gentleman there.

2 Q Some other man? A. No Mr. McEachern. And we went round to the back of the Stanley Hotel and there was some stuff in the alley which they put in my car and we took it away.

3 Q What kind of stuff was it? A. Well I could not swear to that. I didn't pay any attention to it at all.

4 Q There was some stuff there you say in the alley which they put in your car and took it away? A. Yes sir.

5 Q Where did you take the stuff to? A. Near the corner of Burrar and Pender street.

6 Q Here in Vancouver? A. In Vancouver, yes sir.

7 Q Well was it to a house? A. Yes.

8 Q You don't remember the number of the house. A. No.

9 Q Is this the first time you saw either of these men.

A Oh no I have seen Mr. McEachern round there quite a bit just to speak to him, that is all.

10 Q You didn't get a look at this stuff at all? A. Didn't pay no attention to it at all.

11 Q Could you say how many packages of stuff they put in?

A No sir I could not.

112 Q Did you ever see this Exhibit "B" before, this sack?

A Yes I seen that.

13 Q Was there a sack amongst these goods that were put in the car? A. No sir.

14 Q There wasn't? A. I don't think so.

15 Q Where did you see the sack? A. Well I saw it on Mr. McEachern's back.

16 Q On his back? A. Yes.

17 Q In what way? A Well with the stuff in, just the way it is now.

18 Q And whereabouts was it you saw that? A. Well at the corner of Cambie and Hastings street.

19 Q At what time? A. Oh about four thirty, five o'clock I guess, maybe later than that, half past five.

20 Q How did you happen to see him with that on his back at that time? A. Well because him and I came in together, the three of us came in together with that stuff, in a street car.

21 Q I didn't quite catch the connection there. A. Well after we left Burrard street they took two packages each and put them in the house, and then they were undecided where they wanted to go, and in the meantime before I met these gentlemen.

22 Q Both these men were together at that time? A. Yes; and before I had met them that evening I had a call to go out and see a friend of mine at Point Grey. We went out there and had two punctures and came in, and caught the first street car coming in. They had no place in particular to go, and I told them I was going out there and if they wanted to ride out with me it would be alright.

23 Q You drive them out to Point Grey and back again? A. No we left the car at the corner of Fourth Avenue and Alma Road with two flat tires, We took the first car in and

123 "Cont'd."

left them at the corner of Cambie and Hastings.

24 Q How did you happen to see the sack then? A. I seen it all the time.

25 Q It was in your car? A. Yes.

26 Q And you say it looked to be in the condition it is now. A. Yes sir.

27 Q And then you saw McEachern carrying it? A. Yes sir.

28 Q From where? A. From the corner of Cambie and Hastings street.

29 Q To where? A. Well he was going down Cordova Street.

QUESTIONS BY MR. MELLISH:

30 Q You saw McEachern with a sack like this, you say?

A. Yes sir.

31 Q Where did you first see him with it? Where did you first notice this thing? A. Well in my car.

32 Q And then when you got out at Alma Road and Fourth Avenue McEachern carried it into a street-car, is that right? A. Yes.

33 Q And you had the sack along with you in the street-car till you got into the City here? A. Yes.

34 Q What part? A. Hastings and Cambie street.

35 Q Did they get out then? A. Yes.

36 Q And left you? A. Yes.

37 Q No....A. As a matter of fact we all got out of the street-car together.

38 Q Did you go along together? A. No.

39 Q Are you sure that is the same sack or do you just think it is the same sack? A. I just think it is the same sack.

40 Q It was a sack similar to that? A. Yes.

41 Q And this sack, McEachern had this sack the whole time, a sack similar to this at all events McEachern

141 'Cont'd.'

had charge of it? A. Yes.

42 Q And you didn't see them afterwards? A. No, not until now.

FURTHER QUESTIONS BY MR. MCKAY:

43 Q By the way you said you had known McEachern for some time. Where did you know him? A. He was staying at the Stanley Hotel this Winter and I worked right out of that Stanley Hotel.

44 Q The Stanley Hotel, is that the place in question? A. No, it is right next door, but Mr. McEachern used to work for that place next door.

45 Q Mr. McEachern used to work for this particular place 15 Cordova street? A. Yes.

46 Q How long ago, could you say? A. I could not say, maybe two months ago.

FURTHER QUESTIONS BY MR. MELLISH:

47 Q He worked at this place that was broken into, is that what you refer to? A. Yes.

48 Q You know where the place is? A. Yes.

49 Q What did he do there? A. He was bar-tender.

J. W. KELLY called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MCKAY:

150 Q What do you do? A. I am a chauffeur.

51 Q And where do you live? A. Fourth Avenue and Granville.

52 Q That is your place of business? A. No that is my residence.

53 Q What company do you work for? A. I am now working for the Bodega Taxi.

54 Q Now do you know these two men here? A. No sir, I know them by sight.

55 Q Do you remember the 13th of July last in the early

155 'Cont'd.'

morning? A. Yes.

56 Q Did you see them on that date? A. Yes sir.

57 Q Where? A. On Cordova street.

58 Q What time? A. Well I could not say exactly; somewhere round about two o'clock in the morning I should think.

59 Q What was the occasion on which you saw them? A. Well I was sitting in the car with Mr. Powell.

60 Q That is the last witness? A. Yes, and this gentleman came along and said he wanted a car to take a lady friend home.

61 Q These two men together? A. Yes.

64 Q And they drove away? A. They drove away. I got out of the car and they drove away.

65 Q Did you see them again that evening? A. No sir.

QUESTIONS BY MR. MELLISH:

66 Q Where were you at this time that you heard this conversation? A. I was sitting in the car on Cordova street.

67 Q You were sitting in the automobile? A. Yes.

68 Q And that is the car that they got? A. Yes, that is the car they hired.

69 Q And where was the last witness at that time, was he in the car? A. He was sitting in the car with me.

70 Q The two of you were sitting there together? A. Yes.

71 Q And did these men pay him anything? A. Not while I was there.

72 Q Was there any talk about money? A. No.

73 Q Any conversation as to where they would meet the girl or pick her up or anything? A. No.

THOMAS FENNING:

called as a witness, being first
sworn, testified as follows:

QUESTIONS BY MR. MCKAY:

- 174 Q Where do you live? A. 533 Burrard Street.
- 75 Q Vancouver? A. Yes.
- 76 Q And what is your business? A. Well, I haven't been
doing anything for some time.
- 77 Q Now do you know these two men here? A. Yes I know
them.
- 78 Q How long have you known them? A. I have known one
for about three years and the other one for about three
months.
- 79 Q Which one have you known for three years? A. McEachern.
- 80 Q And this man Roberts for three months? A. Yes.
- 81 Q Do you know these cash registers? A. No, I could not
identify them.
- 82 Q Well do you know anything about cash registers in con-
nection with this case, in connection with McEachern and
roberts? A. Yes, they brought two to my place.
- 83 Q When? A. On the 13th, Tuesday morning.
- 84 Q Tuesday morning the 13th of July at what time? A. About
half past two or three o'clock.
- 85 Q Half past two or three o'clock in the morning, was it?
A Yes.
- 86 Q How did they come to your place, do you know? A. They
came in an automobile.
- 87 Q Did they speak to you? A. Yes.
- 88 Q What did they say? A. They asked me could they leave
them there for awhile.
- 89 Q Did you see anything else than the cash registers at
the time? A. That is all.
- 90 Q And they brought those two cash registers to your place
A Yes.

191 Q What is your place, whereabouts is it? A. 533 Burrard.

92 Q I know, but with reference to what corner? A. Just off Pender.

93 Q That is near the corner of Pender and Burrard street,

A Yes.

94 Q And do you know how the cash registers come to be here that were left at your place? A. Yes.

95 Q Did you tell the Police about them? A. No, I didn't.

I got an hour to take the registers out of the room from the landlord where I was living, and I went down to see if I could find McEachern and Roberts to take them, to take it away, and I could not find them. So I went to a lawyer and I asked him about it, and he said he would go out and see if he could find out whether any was stolen; so he came back and he said yes there were two taken from the Loggers Bar, but if they were fetched back right away it would be alright, there would be no prosecution.

96 Q And you brought them back? A. I fetched them back to him and he would not accept them.

97 Q Who would not? A. Mr. Perry of the Loggers Bar.

98 Q That is the partner of that witness that gave evidence today? A. Yes.

99 Q How did they get to the Police hands? A. So the express man fetched the policeman back where I was standing. He asked me who I was.

200 Q Never mind the conversation, but he brought the policeman, and what happened to the registers? A. Well the registers went on the righ then. The policeman asked me where McEachern and Roberts were.

MR. MCKAY: This is not really evidence.

201 Q Well what I want to find out is what happened finally.

A Well I gave the express man when he would not accept them, I gave him orders to leave them on the sidewalk in front of the place.

202 Q In front of the Loggers place? A. Yes if he would not accept them.

3 Q That is 15 Cordova street, is it? A. Yes.

QUESTIONS BY MR. MELLISH:

4 Q You told this policeman that McEachern and Roberts had give you these, did you? A. No, I didn't.

5 Q You told the lawyer that? A. I told the lawyer that.

6 Q And then you returned them when you found out where they were taken from; you returned them to the place they were taken from? A. Yes.

7 Q And were you just moving from your place? A. I was; I got orders to get out that night.

8 Q Was it a business place or where you were sleeping?
A It was a rooming house.

9 Q And this was your room, was it? A. Yes sir.

DETECTIVE ELICE, called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MCKAY:

10 Q You are a detective on the Vancouver police force?

A Yes.

11 Q And a peace officer? A. Yes.

12 Q Now you had charge of this case. Will you tell the Court your connection with this case. A. Your Worship on the 13th of this month I was assigned to look into this case. A burglary apparently had been committed at 15 Cordova street West in the City of Vancouver, and during the course of my investigations I was standing on the sidewalk in front of this number 15 Cordova Street West and an express rig drove up with these two cash registers that are here as an Exhibit in Court I rode in the express rig and I saw the last witness, Fenning, and I asked him if he knew anything about the whereabouts of these two men Roberts and McEachern.

MR. MCKAY: That is not evidence any conversation with him.

A On the 14th, that is the following day, in company with Perry, one of the proprietors of this place that was burgled, and driver Murphy, I went to Coquitlam for the two accused here, and coming into Coquitlam on one of the side roads we saw Roberts walking out towards where the yards are in Coquitlam; and he had a lunch in his hand; so we followed him out to the yards and there we located McEachern waiting for Roberts; and officer McKinlay of the Coquitlam police was there with us, and I gave him the warrants that were out for these two men, and he read the warrants to them; and I warned them myself and asked them if they knew anything about this matter, and they both denied having any knowledge of it whatever. I afterwards discovered that Roberts had been living in the Crown Hotel at one time lately I went there looking for the other part of the stuff that was stolen, and in the store-room of the Crown Hotel I found that sack containing nine boxes of cigars, a package of Players' cigarettes and a carton of Copenhagen snuff.

213 Q That is Exhibit "B" A. That is Exhibit "B".

14 Q Do you know who left that there? A. I don't know. I have got the Japanese.

15 Q He is here? A. Yes.

COURT What was the stuff in? A. The cigars were in the sack just as you see it here.

16 Q In the same sack? A. Yes.

17 q Any further conversations with the accused? A. I asked the accused since in the jail if they wished to tell me where the stuff was, but they didn't wish to tell me anything about it they said.

QUESTIONS BY MR. MELLISH:

218 Q I suppose there was a report made about this robbery?

A There was a report in the morning.

19 Q Did the report mention these articles just as you found them? A. The report said there was about a thousand cigars a package of Players' cigarettes and a package of Mill Bank cigarettes, two cartons of snuff and two cash-registers, which registered from a nickel up to a dollar. They were nickel colored.

20 Q What you recovered then would only be a part of what they reported had been taken? A. According to the report that was only about half the cigars.

21 Q Did the rest of the stuff correspond with the report?

A The rest of the stuff corresponded.

MR. MCKAY:

22 Q One carton of snuff missing, eh? A. Yes.

FURTHER QUESTIONS BY MR. MCKAY:

223 Q By the way, did you see this place that was burgled?

A Yes, I did.

24 Q Do you know how they entered? A. I do not.

25 Q There was no evidence where it could be entered at all?

A There was no break as far as we could find. The door is a door - this is merely supposition on my part, I don't know whether it is admissible as evidence - it is one of those old doors, it would be quite easy to put something in the door and with very little force the bolt and the lock where it is held would come apart very easily. That was the only way I could figure out they got in.

FURTHER QUESTIONS BY MR. MELLISH:

26 Q They could get in if they had a key? A. If they had a key they could get in also.

27 Q If anything was put in between there would be a mark.

A There would be a mark. I didn't see a mark.

228 Q And perhaps it would be that the door was left open
or opened with a key? A. Yes.

29 Q I understand it is not a spring lock? A. No it is an
ordinary lock.

(K. YAMADA sworn as Japanese interpreter)

K. KAWNO,

called as a witness, being first
sworn, through interpreter, testified
as follows:

COURT: Is that binding on his conscience to tell the truth?

Ask him that question?

QUESTIONS BY MR. MCKAY:

230 Q Where do you live? A. 22 Cordova street West.

31 Q What is 22 Cordova street West? A. Crown Hotel.

32 Q Now you are the proprietor of the Crown Hotel? A. Yes
sir.

33 Q Do you know either of these men here? A. Yes.

34 Q Which of them, both of them? A. I know this man very
well; but he comes very often to my place.

35 Q That is, you know Roberts very well, and McEachern
comes very often to your place? A. Yes.

36 Q Now did you see them about the 13th of July last, Tues-
day? A. Yes, I saw both.

37 Q Together? A. No not at the same time. I saw them in
the morning of the 14th together.

38 Q What time was this? A. About half-past eight.

39 Q What time did you see them on the 13th? A. I do not
remember very well.

40 Q Did you ever see this sack before? A. Yes.

41 Q When? A. When the police officer came to my place.

42 Q Where did you see it then? A. In the store-room at
my place.

43 Q Who left it there? A. I do not now who left it there

44 Q What time was it the police officer came there? A. I
remember about ten o'clock in the morning of the 15th.

245 Q And you say you do not know who left the sack there?

A No, I do not know who left it there, but I didn't see this sack before the 13th. I found this in the evening of the 14th.

46 Q And you say you saw these two men together on the 14th at eight o'clock? A. Yes sir.

47 Q Were they staying at your place? A I allowed him to stay in my place, but I never allowed him to stay in my place.

48 Q You allowed Roberts to stay in your place, but you didn't allow McEachern to stay at your place? A I don't like him.

49 Q Is the door of your store-room open? A. It is locked always.

50 Q Well how do you suppose this sack got in there. Can you explain that, if the door was locked? A. This man (indicating Roberts) left his shoes in my store-room, and I remember in the morning of the 14th he asked me to lend him the key, so I lent him and he opened the door.

MR. MCKAY: He asked you to lend him the key and he took the key and opened the door.

QUESTIONS BY MR. MELLISH:

51 Q You let Roberts stay at your place? A. Yes sir.

52 Q Why didn't you let McEachern stay at your place?

A Because I don't like him.

53 Q Do you keep a hotel? A. Yes sir.

54 Q Did the two men want to sleep together in the same room?

A He comes to my place every night.

55 Q He would be there before? A No since he lodged at my place.

56 Q Did Roberts sleep there all night? A. I see him sleep in the day time; I didn't see him sleep at night time.

257 Q Was Roberts there all night? A I didn't ask whether you saw him or not? A. Yes sometimes.

58 Q He was there sometimes at night; what night was he there? A. I don't remember very well.

59 Q Some other time before this, was it? A. Yes.

60 Q And he was just there during the day-time, this time? A He paid for room 52 and slept in room 54.

61 Q Did McEachern go with him? A. I noticed they have three friends together, room 50, 51 and 54. They occupied three rooms and this man came to these three rooms several times.

62 Q There were three other men beside these two were there, or one other? A. Two more.

63 Q There were four men altogether? A. Yes four men together, and just three stayed at my place.

64 Q And they are all friends together? A. Yes it seems to me.

65 Q They all come in an automobile? A. No I never see them come by automobile.

66 Q Do you know how they came? A. No, I do not know how they came.

67 Q What time did they come? A. They came in the morning.

68 Q Of the 13th or 14th? A. I remember about the 6th of July he came to my place first.

69 Q Now you remember on Tuesday the 13th and Wednesday was the 14th, was it Tuesday or Wednesday that the four of them came? Did they come last Wednesday? A. Yes.

70 Q They came on Tuesday; now which was it, was it Tuesday or Wednesday? A. Yes they stayed at my place from the 6th continuously.

71 Q Did you see the detective, that tall nice-looking man that was here? A. Yes.

72 Q Now was that the same day they came or was it the day

72 (Cont'd.)

after they came first? A. I didn't see them when the detective came.

73 Q Did they come the day before the detective or did they come the same day the detective came? A I didn't see them since the detective came.

74 Q Did they write their names in a book the day they came? A Yes.

75 Q Will you bring that book when you come up and give evidence again? A Yes sir.

R. MCKAY: That is the case, Your Worship.

R. MELLISH: Well Your Honour, with respect to this case there is one thing I would like to ask the Crown in the matter. It appears from the evidence of the first witness that there was some porter went there about two o'clock in the morning and saw some people inside, and he went and told the Police or something to that effect. Now if I am to meet the evidence of that man in the Court above I would rather he be produced here, so that I can cross-examine him before he comes up above. If, however, it is not the intention to produce him at all.....

R. MCKAY: No we do not intend to produce him. We are relying on the evidence we have got here.

R. MELLISH: I know it is out of your hands when it gets to the Court above.

COURT: The Crown is not giving you any notice they will produce him.

R. MCKAY: No we don't want him.

R. MELLISH: I don't want to be taken by surprise.

COURT: You Angus McEachern and Bobby Roberts are both charged that on the 13th day of July, 1920, you did unlawfully break and enter the shop of Mr. Perry, there situated, and

two cash registers and a quantity of cigars of the value of \$200 the property of the said Mr. Perry, then and there being found therein, did then and there steal. You have heard the evidence that has been given in your hearing this morning, have either of you, 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 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. Have you anything to say?

MR. MELLISH: We reserve defence.

COURT: You are both committed to take your trial at the next Court of Competent Criminal Jurisdiction.

"C. J. SOUTH"

Deputy Police Magistrate in
and for the City of Vancouver
in the Province of British
Columbia.