PABC
GR 419
Box 123 File 907/96

1907.

96

Vancouver Fall Assizes.

97

Rex v. Kominski.
(Wounding, &c.)

Crown Brief.

True Bill.

Guilty of
Common assault.
Sentenced 3 mos with
hard labour.

ATTORNEY GENERAL'S
DEPARTMENT
VICTORIA, B.C.

1907.

Rex v. Konishi:

(Wounding with intent to murder)

Max. punishment: Life imprisonment.

Defence may challenge 12 jurors peremptorily.

(Sec. 364 new.
" 432 old)

On an indictment for wounding with intent to murder, it is not necessary that injured party shd. be in fact wounded in a vital part, for the question is not what the wound is, but what wound was intended — Jackson referring to R. v. Hunt — 1 Moo. 93.

If intent be not proved, jury may convict on charge of causing grievous bodily harm, if on this indictment.

(Code sec. 711 old) — R. v. Cruse 2 Moo. 53.

In the Supreme Co
Oyer and Terminer

Canada:
Province of British Co
County of Vancouve
City of Vancouve

The Jurors f
Konishi, at Rivers Inl
Province of British Co
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against the peace of o

2. And the Juro
said Konishi, afterwar
the place last aforesa
wound, with intent in
to do some grievous bo
Statute in such case m
of our Lord the King,

In the Supreme Court of British Columbia,
Oyer and Terminer and General Gaol Delivery.

Canada:
Province of British Columbia,
County of Vancouver,
City of Vancouver.

The Jurors for our Lord the King present that one Konishi, at Rivers Inlet, in the County of Vancouver, in the Province of British Columbia, on the Twenth-ninth day of June, in the year of Our Lord one thousand nine hundred and seven, one Nishikawa, unlawfully did wound, with intent thereby then unlawfully, the said Nishikawa, to kill and murder, 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.

2. And the Jurors aforesaid do further present that the said Konishi, afterwards, to wit, on the day and year and at the place last aforesaid, the said Nishikawa unlawfully did wound, with intent in so doing, to him, the said Nishikawa, to do some grievous bodily harm, 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 the Counsel acting for the Crown at the Vancouver Fall Assizes, 1907, prefer this Bill of Indictment to the Grand Jury.

Attorney-General.

(C) Code—Section 558.

# *Information and Complaint for an Indictable Offence.*

—:o:—

CANADA:

PROVINCE OF BRITISH COLUMBIA,

*County of*

THE information and complaint of W. Woollacott, Constable

of Alert Bay

of June , taken this thirtieth day

, in the year of Our Lord nineteen hundred and

~~xxxxx~~ seven , before the undersigned one of His Majesty's Justices of the Peace in

and for the said County of Vancouver , who saith that he hath just

cause to believe and suspect and doth believe and suspect

that on the twenty ninth day of June, nineteen hundred and

seven at the Beaver Cannery, Rivers Inlet, S. Konishi unlawfully

did wound N. Nishikawa, with intent, thereby, to murder the

said N. Nishikawa.

SWORN before me the day and year first above-mentioned, at the Beaver Cannery

Rivers Inlet.

" Richard W. Large "

J.P.

The King versus S. Konishi ( Japanese )

Charged with unlawfully wounding N. Nishikawa with intent thereby to murder the said N. Nishikawa; as by the information laid before Richard W. Large, J. P. by W. Wollacott, Constable.

Interpreter; T. T. Stinigik. Swprn.

Evidence of U. Nishikawa. Sworn.

" My occupation is as seaman and I am master of the Tug Boat"Hope", working for the Beaver Cannery. I know the prisoner as S. Konishi, fisherman, of Beaver Cannery. I tally the fish on the " Hope " and the first day he threw in 8 fish on the 26th June, 1907, and he said I counted one fish short, so I told him I would put down one more on his tally book next time he threw in. When I went up to Tommy's(Japanese house he started on about the fish shortage and I told him not to talk about one fish all the time. He had been drinking and stood up and got hold of my coat by the front part of the collars and then hit me in the eye, and I did the same back to him, he having hit me first. We both fought till three or four men stopped the fight. The prisoner said nothing after the fight but left the house and I stayed looking for my cap during which time the prisoner returned and wanted me to come outside the house as he wanted to fight again. I didn't do anything and he came up and cut me over the left shoulder with a knife. He cut me on the back of the shoulder but nowhere else. After that the other men stopped him and took away the knife, their names being Imai Sonoda, and Toda. Before he used the knife he bit my hand during the first fight. It was between six and a quarter past in the evening, but it was not very light in the house and I did not see the knife. The trouble occurred on the 29th June 1907.

The three pieces of clothing produced are mine, the ones I was wearing at the time I was cut.

" U. Nishikawa.

Certificate to signature

" R. J. Woods."

S.M.

The King versus S. Konishi ( Japanese )

Evidence of Mr. R. G. Johnston, Sworn.

" I, R. G. Johnston, am Cannery Manager at the Beaver Cannery, and U. Nishikawa is master of the tugboat " Hope" I know the prisoner as a fisherman. The prisoner came on the 29th June, 1907, complaining that the Captain had made a mistake in tallying two fish, red springs, showing the book with eight fish in it. The accused claimed that the had seven sockeyes and two red springs. He said it should have been nine in place of eight , and if it wasn't straightened out he would kill the captain. I told him if had seven sockeye and two red springs, it made eleven instead of nine, and that the captain or any man was liable to make a mistake. I allowed him a tally of eleven fish and put it in his book. To the best of my knowledge the prisoner was under the influence of liquor and I had to quieten him down. I received a report of trouble later in the evening from the Captain, N. Nishikawa, who came in to me and wanted me to dress the wound. He was taken to the Hospital and had the wound dressed there.

" R. G. Johnston "

Certificate to Signature

" R. J. Woods "

S.M.

King versus S. Konishi ( Japanese )

July 3rd.,1907.

Evidence of Sonoda ( Sworn )

" I know the prisoner and he works at Beaver Cannery. I also work at Beaver Cannery. I remember last Saturday I saw the trouble between Captain Ishikawa and the prisoher. I was in the room when they had trouble. I heard the prisoner and Captain having trouble and saw the prisoner catch hold ofmthe Captain's coat and start to fight with their hands. The Captain threw the prisoner down, and the prisoner bit the Captain's hand. The prisoner went out. While the Captain was looking for his cap the prisoner re - turned and called the Captain and started fighting but the Captain said he wasn't going to fight. I knew nothing about the prisoner having a knife. The prisoner stodd up in frant of the Captain and struck him, but I don't know what with. Imai came in and took the knife out of the prisoner's hand I saw the knife but cannot say for sure that the knife pro- duced is the one used. As soon as the Captain was stabbed he went out right away and didn't touch the prisoner. The se- cond time the prisoner came I heard him tell the Captain to come outside, but the Captain didn't come out. I didn't see the prisoner strike the Captain as toom many men were standing in front, but just saw the knife taken from the prisoner's hand. I saw blood coming from the Captain's left shoulder on the back.

His

" K. X Sonoda,

mark

Witness:
R. Brooks

Certificate to signature

" R. S. Woods "

The King versus Konishi ( Japanese )

July 3rd.,1907.

Evidence of Imai, Sworn:

My name is Imai and I am a fisherman at the Beaver Cannery and I know the prisoner, and saw him last Saturday at Tommy's house., I saw the Captain come to the house. I saw them fighting both times, at the second fight I saw the prisoner with a knife and I took the knife away from prisoner and I identify the knife produced as the same one used and I also cut my fingr with the knife whrn taking it away from prisoner. The prisoner didn't want me to take the knife away, but didn't say what he wanted the knife for. I didn't see the prisoner strike the Captain with the knife. The big blade of the knife was open when I took it away from prisoner. The Captain didn't say anything when he was cut, but I saw blood on the Captain after the fight. There were only two men fighting, the Captain and prisoner. I didn't hear the prisoner say anything. I was in the room all the time.

" T. Imai "

" R. J. Woods "

S. M.

The King versus S. Konishi ( Japanese )

July 3rd.,1907

Evidence of R. W. Large ( Sworn )

" I am a medical practitioner and am in charge of Rivers Inlet Hospital. There was a Jap brought by My Johnston by Tugboat "Hope". I examined him in the Office He was wearing a vest over a sweater and there was a long cut in the sweater over the left shoulder. On removing all his clothing an incised wound on the left shoulder blade was exposed. The wound was between three and four inches in length and of practically uniform depth, extending completely throughout the skin, but not involving the deeper structures. There was no bruising of the surrounding tissues and it was a clean cut wound such as would be made by a sharp instrument. It extended from the spine of the scapula downwards and outwards. There were some abrasions of skin about his face and a wound in the prominent portion of the right thumb. This wound was more of a contusion. The skin was broken in in several places and marks were on it similar to those that would have been made with teeth. There was a discoloured portion of flesh between these marks, this latter wound was somewhat inflamed and tense. On dressing the wound in the shoulder I found a number of pieces of hair or wool similar to the sweater he was wearing. He was wearing a vest, a sweater and an undershirt. I noted particularly the cut in the sweater which corresponded with the position of the wound. There were blood stains on the wound on the shoulder and also on the one on the thunb.

(sgd) Richard W. Large M. D.

Certificate to signature