

By George McManus

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STORE MANAGER UP FOR TRIAL
(continued from page one)
sales slips, adding machine slip, cash book and personal memorandum book. The records were turned in to the general office by the store manager. Under cross-examination, witness positively identified accused's writing on the adding machine slip. Answering a question by Mr. Fulton, witness stated that the books would show how much cash accused had on hand when he quit the company on March 7, 1924.
J. R. McWilliams, wireless operator and bookkeeper, identified the adding machine strip turned in by Strigley. Entries in the cash book were made from these strips.

\$91.00 Not Received
J. McD. Grosart, manager, testified that accused had admitted the adding machine strip was his official record of cash sales on the date in question. The personal memorandum book had been handed to witness by accused. The company had never received the missing \$91. Witness admitted, under cross-examination, that in November accused had a conversation with him regarding the advisability of getting rid of a clerk who could not be trusted. There was absolutely no suspicion against any of the book-keepers.
This completed the evidence none being submitted by defence. Mr. Fulton asked that the charge be dismissed. The prosecution, he pointed out, had neglected to prove that accused had never accounted for the \$91. There was no evidence as to what he had turned over when he quit on March 7. The \$91 might have been paid over subsequently to the day in question.
Mr. Cantelon pointed out that two witnesses, Mr. Cuddy and Mr. Grosart, had testified that the \$91 had never been paid over. The prosecution had been very careful to cover this point. Accused had nothing to say.

Up for Trial
"I find gross irregularities have occurred which have not been cleared up, that there was a certain shortage in the amount turned in as compared with the total of the cash sales slips. That this \$91 difference was not accounted for has been stated by Mr. Cuddy and Mr. Grosart. Therefore, it is my duty to commit accused for trial," decided Magistrate Mallory.
The \$5,000 charge between April 14, 1922, and May 19, 1923, was then called before Magistrate Mallory and adjournment was taken until this morning.

Second Charge
The second \$5,000 charge between May 19, 1923, and December 31, 1923, was then proceeded with before Magistrate Gale.
Taking of evidence from G. A. Cuddy, accountant, took a good deal of time and he was the only witness heard on the latter charge yesterday afternoon. He told of having examined books and documents of the store in the period in question. These

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had been furnished him by Mr. Strigley and the general office.
Mr. Fulton objected to witness giving evidence as to an inventory which had been taken on May 19 and Jack Macdonald, accountant, was called to the stand to prove the document. Mr. Macdonald testified that the inventory was an official record of the contents of the store on May 19. Accused said it was correct and there was no possibility of it being wrong. It showed a total value of merchandise in the store at that time of \$33,430.69. Mr. Macdonald was again called in to prove an inventory taken on December 31, showing a total stock of \$42,173.81. Both inventories were entered as exhibits.

Profits Disappeared
Resuming the stand, Mr. Cuddy testified that the books showed total sales of \$70,592.46 between the dates in question. A profit should have been made of \$17,648.02. This was based on a margin of 25 per cent, which had been arrived at from a general comparison of costs and selling prices obtained by witness from conferences with accused. Witnesses said he would consider this a very conservative estimate. The total actual expense of the store in this period, also obtained from the books, was \$4,110.90 leaving a net profit of \$13,537.12. As a matter of fact, Mr. Strigley showed a net profit of \$1,629.72 for the period. There was thus a difference between the profits shown by Mr. Strigley and what should have been from the books of \$11,907.40. The amount of goods obtained by Mr. Strigley, the figure being based on invoices proven by Strigley himself, for the period in question totalled \$73,594.60 which, together with the total on hand at May 19, would be a total of \$107,025.29. These figures indicated, witness declared on being questioned by Mr. Cantelon, that there was a shortage not accounted for of \$11,907.40. The figures had been reviewed with Mr. Strigley prior to the starting of proceedings and he had no exceptions to make. Accused had told witness that there could be little stock taken without his knowing it and the clerks could

have got away with only a small amount. There was an average monthly shortage of \$1,500. Court adjourned at 5.30 yesterday afternoon and resumed at 9 o'clock this morning.
Today's Session
Called again by the prosecution this morning, Mr. Cuddy stated that the shortage of \$11,907.40 had been accounted for neither in goods or proceeds thereof.
Witness was subjected to a lengthy cross-examination by Mr. Fulton as to the methods of conducting the store and the possibility of the estimated shortage not being actually correct, or, if so, of Mr. Strigley not being responsible for it. Witness defended his estimate and expressed the opinion that there could not have been a shortage of such volume without accused knowing of it.
J. M. Grosart, mill manager, in giving evidence told of an affidavit made in January, 1924, certifying to the correctness of the December inventory. When the shortage became apparent, Mr. Strigley produced a telegram from Vancouver instructing him to consult with witness on the matter. Accused came to witness' private office and the whole affair was thoroughly gone into. At the end of the conference, witness asked Strigley if there was anything further he (Grosart) could do to find a solution of the shortage and accused said witness had done everything in his power. Accused had also said he could not see how the shortage could be accounted for by robbery. The shortage had never been accounted for in goods or proceeds thereof. Accused was under terms to account for the good.
Under cross-examination by Mr. Fulton, Mr. Grosart admitted that accused had signed a sworn to affidavit with the reservation that the inventory was correct to the best of his knowledge.
Goat of Manager
Witness also said that he had been sent to Buckley Bay last fall to observe how things were running. Mr. Fulton suggested that the store had been run in a slipshod manner and, to account for the losses, an effort was being made to make a goat of the store manager.
J. Macdonald, accountant, gave evidence of a detailed nature with regard to the shortage and the manner in which it had been determined. The point arose in cross-examination as to marking down of goods from original cost prices. Mr. Cuddy and Mr. Grosart were recalled by Mr. Cantelon and both asserted that Mr. Strigley had made the statement that there had been no marking down from the base of original costs.
Mr. Fulton asked for dismissal of the charge on the grounds that because goods had not been accounted for did not mean accused had received money or valuable security. He cited other cases where similar circumstances had arisen and where acquittal was made. Mr. Fulton

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also pointed out that there were several other possibilities to account for the goods alleged to be short.
Not Criminal
"It may be an American custom," said Mr. Fulton, "but I have never heard of it before in this country where, because a company does not make enough profit that the manager should be pointed to as a criminal. Anyone knows that there may be leakages and failures owing to bad management. Here, I say, there was gross mismanagement not only on the part of the store manager but also on the part of the company. Any person might have stolen the goods. I submit, Your Worship, that it would be a gross injustice to put accused on his trial in a case where the prosecution cannot hope to succeed. I would suggest that you put yourself in the position of a Grand Jury or Petit Jury dealing with the case and, if you deem that the former could not indict or the latter convict, acquit accused yourself. All that has been adduced either as to the shortage or as to what happened to it has been a matter of surmise."
Court on this case then adjourned until 2 o'clock this afternoon in order to give the magistrate opportunity to study the cases submitted to him by defence counsel.

This Afternoon
On resumption of court this afternoon, Mr. Cantelon, replying to Mr. Fulton's argument, declared that the goods and records had been clearly checked over. It was shown that there should have been a profit of at least 25 per cent. Accused himself had admitted this. If necessary, there were a score of other features that the prosecution could elaborate upon.
Magistrate Gale decided that he had no right to dismiss the case without giving a higher court the opportunity of deciding upon it. He thought there was enough evidence before him to warrant commitment.
Accused had nothing to say and the defence was reserved.
In view of the fact that accused had been committed on a more or less parallel case, Mr. Cantelon asked that the third charge be withdrawn. Defence consenting, Magistrate Mallory ordered accordingly.
Bail is being arranged.

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Dated at the City of Prince Rupert, County of Prince Rupert, Province of British Columbia, this 4th day of February, 1924.
Williams, Manson & Gonzales, Royal Bank Building, Prince Rupert, B.C. Solicitors for Emil Marie Bunoz.

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