

DAFAMATION CLAIM.**JUDGMENT FOR PLAINTIFF.**

In the Magistrate's Court yesterday morning, before the P.M. (Mr. M. Gallagher), Paul Kirvaldze, of Mackay, waterside worker, proceeded against Helen Marti, of Yalbaroo, on a claim of £100 for defamation by using the following words: "I am sure that Paul (meaning plaintiff) must have stolen it" (meaning a sum of money).

The defence entered was one of not guilty and not indebted; and, by way of counter-claim, defendant stated that plaintiff on October 31, 1927, unlawfully assaulted her in Sydney-street, and she claimed £50 damages. Mr. A. R. Hartley appeared for plaintiff and Mr. W. A. Amiet for defendant.

Paul Kirvaldze stated that he was a waterside worker residing at the Crown Hotel. On September 25 he went to Netherdale, and returned to the Crown Hotel about 8 p.m. Mrs. Bambrick told him something, and the next day he caused a letter to be sent to defendant. About noon on October 31 he saw defendant in Sydney-street, and, after raising his hat, said to her, "Mrs. Marti, would it not be better for all concerned if you will answer the solicitor's letter and prevent me taking you to Court?" She replied, "I am not going to take any notice of the lies that have been told by harlots and —. The Crown Hotel is nothing else than a brothel, and every woman in it is a moll, and every man a bludger." Just then her husband came up and said to witness, "You are a — boxer and a murderer." Witness replied, "What right have you to call me a murderer?" He said, "If you had not been a murderer, you would not go to the war and shoot the Germans for six bob a day." Witness said, "Be man enough to come round the corner and repeat your accusations there." Witness then walked away. To obtain work as a wharf laborer it

was necessary to have a good character as regards honesty. He did not steal any money belonging to defendant, or assault her.

By Mr. Amiet: He approached the lady, but he did not start the argument, nor slap her on the shoulder. He was not in the habit of tapping ladies on the shoulder. He did not speak to her in a nasty or taunting way. He did not know why her husband made such a fuss about things. He did not consider it molestation to approach defendant the way he did. He had put the matter in the hands of his solicitor, and took it back into his own hands because she disappeared from the hotel and he did not know where she was. On the second day after her disappearance, a man came to him from defendant's husband, asking where she was. Witness wanted to find defendant's address and to ascertain what she was going to do. Defendant never told him that he did steal her money or that he was in her room at night. He never went into her room accidentally at 3 o'clock one morning; neither did he meet her in the passage of the Crown Hotel at that time, or exchange words with her. This was absolutely the first he had heard of the nocturnal meeting in the passage. Between 9 and 10 o'clock on the night before that mentioned, he saw defendant in her nightdress, going downstairs in a state of drunkenness. He told her to go back to her room, as she was not in a fit state to go down.

Valentine Bambrick, manager of the Crown Hotel, deposed that defendant showed him a letter she had received from plaintiff's solicitor. He read the letter, and asked defendant whether she had lost anything, to which she replied, "No."

Charles Frederick Dawes stated that he was an engine-driver residing at the Prince of Wales Hotel. On October 31 he was at the Commonwealth Bank corner, talking to plaintiff, when defendant approached and spoke to plaintiff. Defendant's husband also came up later. Witness heard her husband call defendant a

... also came up later. witness heard her husband call defendant a — murderer for going to the war, and a —. Witness and plaintiff then walked to the Prince of Wales Hotel, and he was present at the interview between plaintiff and defendant. Plaintiff did not molest the defendant or strike her in any way.

Cross-examined by Mr. Amiet, witness said plaintiff left him to go and speak to the lady. He did not hear what plaintiff said; he was too far away. Plaintiff did not tap her on the shoulder.

Rose Leonora Macfarlane, the next witness, stated that she was a general at the Crown Hotel. On September 25 defendant told her she had lost £10, and that her bed-clothes were disarranged, and Paul (defendant) must have taken the money, as he was in her room at 3 o'clock that morning. Witness replied that she did not think Paul would do it. Mrs. Bambrick was away that day with her husband. When they returned, witness told them something.

By Mr. Amiet: She did not think any the less of defendant as a result of what she had heard about him. Miss M'Conachie was present with her.

Dottie M'Conachie, employed as a cook at the Crown Hotel, deposed that on September 25 defendant told her that she had lost two £5 notes, and was sure Paul had taken them, as she had seen him in her room at 3 o'clock in the morning. Witness did not think plaintiff took the money, and she did not think any the less of him.

This was plaintiff's case.

Defendant stated she was a married woman residing at Yalbaroo. She went to stay at the Crown Hotel on September 25. She knew plaintiff slightly. On the night of the 25th plaintiff occupied a room opposite that of witness. At 3 o'clock in the morning she left her room to go down stairs, and on coming back found plaintiff coming from her room. He said to her, "Oh, the money."

plaintiff coming from her room. He said to her. "Oh, it's Mrs. Marti." Witness replied, "Yes, it's quite all right." Witness went into her room, and missed £10. She told one of the girls that she saw Paul coming from her room, but she did not accuse him of stealing the money. Witness later got a letter from plaintiff. On October 31 witness and her husband were walking along Sydney-street. Her husband left her to go back to Michelmores, and plaintiff tapped her on the shoulder from behind and said, "Don't you think you ought to apologise, Mrs. Marti?" Witness replied, that she had no need to apologise, as she had not accused him of stealing the money. Witness further stated that plaintiff molested her rudely. She denied plaintiff's story, which was inconsistent with hers. She also denied that Dawes was present when she spoke to plaintiff. She was claiming £50 for being molested in the street, and she denied that she had caused plaintiff to suffer any damage, as she had only narrated the facts.

By Mr. Hartley: She did not offer, in any way, to apologise to plaintiff. If what the two girls said was true, it would be likely to injure plaintiff's character, and a waterside worker who was dishonest would find it hard to get work. She denied having said anything that would injure plaintiff's reputation. She could not say he was an honest, upright man. She did not think he stole £10 from her. She did not say he had done so. She could not say whether he was honest or dishonest. Mrs. Macfarlane and Miss McConachie were not telling the truth. She did not tell Mr. Bambrick that she had lost no money. Not one of them was telling the truth. Neither he nor Mr. Bambrick was telling the truth. It was all lies what they said. She had not quarrelled with any of the five witnesses. She suggested that those witnesses were conspiring against her. She could not suggest a reason. She did not charge plaintiff with assault at first. She made no complaint about assault till November 11. as

complaint about assault till November 11, as she was too busy. She had an intention of proceeding against plaintiff before the charge of defamation was made against her.

After the addresses, the P.M. found that plaintiff had proved his case, and he entered judgment accordingly for £5, with costs totalling £4/15/-.

On the counter-claim, the P.M. held there was no assault, and gave judgment for plaintiff for £3/3/- professional costs.

Mr. Hartley said that plaintiff desired that the £5 should be divided between the Ambulance and the Hospital, as his object of bringing the case was merely to clear his character.