

INNISFAIL RUSSIANS

EXCHANGE OF COURTESIES.

ASSAULT AND BATTERY CHARGE.

INNISFAIL, May 16.

"You are a spy," and similar epithets were alleged during the hearing of a case in the Innisfail Magistrate's Court yesterday, to have been used in an argument between two local Russians. George Smagin proceeded against Nicholas Dvorik claiming "£100 damages for assault and battery, and 2/5 costs." The complaint alleged that on 11th ult. the defendant unlawfully assaulted and beat the plaintiff at East Innisfail by striking him on or about the head, and body, causing a lacerated wound to plaintiff's scalp, a contused wound to the right forearm and the index finger of the left hand.

Mr. J. T. McNamee appeared for plaintiff, and Mr. M. A. Vandeleur for defendant.

WHAT THE DOCTOR FOUND.

Doctor R. Fulton Craig stated that he examined plaintiff on the evening of the 11th ult. and found that he had a wound on the left side of his head about an inch to an inch and a quarter long. The scalp was opened up and the wound extended down to the skull bone. Witness could not detect any fracture of the skull. He would say that plaintiff's skull was a normal one. He had apparently lost a fair amount of blood so witness admitted him to the general hospital. The wound was stitched next day. Witness did not find any other wounds on the head. Plaintiff had an injury on his right forearm, and the index finger of the left hand. When witness saw him first plaintiff was a bit dazed and appeared to have been stunned. Plaintiff was in hospital from 11th April to 16th April. Witness had since examined him and found that the wound had healed up, and there were no apparent results of the injury. He did not think plaintiff had suffered any permanent in-

jury. He did not think plaintiff had suffered any permanent incapacitation.

In reply to Mr. Vandeleur witness said he had seen plaintiff once between 16th April and that day. He did not know how much blood had been lost, but one of plaintiff's garments was bespattered with blood. That and his general condition was the reason he was admitted to the hospital. Witness knew defendant Dvorik. The latter consulted him professionally on April 16. Witness examined him and found he was suffering from a bruising and swelling of the upper arm just above the elbow. It was tender to the touch, and witness could see that some external violence had caused it. He treated defendant.

In reply to Mr. Aitkin witness said defendant must have received the injury to cause the bruise, and swelling, at least three or four days before he saw him.

"ARMED WITH SPANNERS"

George Smagin, the plaintiff, deposed that he was a Council employee and resided at Innisfail. On the day in question, about 6 p.m. he was going to his home on the east side of the town, and was walking along the river bank near Sam Harris's house. The defendant Dvorik lived at East Innisfail. Witness saw Dvorik, with two spanners, coming to him, whilst Mrs. Dvorik was on the bank of the river. One of the weapons was a shifting spanner. Defendant said to witness, "You are a spy. You have been to the police station." Witness answered, "I have not been there at all." Proceeding witness said: "I walked two or three yards and then looked back. Dvorik said to his wife, 'Come close to him and tear your dress.' I moved away. Dvorik ran after me and I turned around and faced him, and when I did he hit me with a spanner. He also hit me on the head with another spanner. I was further struck on the right hand and on a finger of the left hand. When I re-

ceived the blow on the head I became dizzy. Dvorik ran home and his wife remained on the road. I went to the Ambulance and then to the

remained on the road. I went to the Ambulance and they took me to Doctor Craig. I was in the general hospital for six days, and as a result of the injuries I sustained I was away from work for 25 days. I earn £5/2/6 a week. I have to pay the doctor £5 and the hospital 30/-. Since I was discharged from the hospital I have felt a pain in the head. When I do hard work, or it is a hot day, I feel weak. I did not feel like that before. I feel a pain on the left side near my ear every day, and during the last couple of days I have felt it worse than before. I feel very bad at work.

HOT PASSAGES

In reply to Mr. Vandeleur (cross-examining) witness said, "I have not seen Dr. Craig since I came out of the hospital. I paid £5 to Dr. Craig, and I went to see my solicitor about this case, on the same day. I saw Dvorik on the afternoon of April 11 near Wilson's hotel, but I did not speak to him then. I did not see him leave a tin near the Rankin-street railway station. I don't remember Dvorik saying that afternoon, 'You can go to —.' I did not see Dvorik go home by boat. I don't know that it was Mrs. Dvorik's practice to go down to the river bank to meet her husband. One of the spanners would be about 12 inches long, but the spanner produced in court is not the one used that day. I don't know Mrs. Compton who keeps a shop. I did not hit Dvorik in the stomach with my fist that afternoon, nor did I say to Dvorik in Russian, 'I will fix you now you —.' I lifted up a bag I had to protect myself, but I did not hit Dvorik with the bag at all. I knew a man named Paul Karuscha, but I deny having any trouble with him some time ago. I don't remember going to Dvorik's house in 1925 and Karuscha jumping through the window. I never attacked Dvorik with a stick, and I have never been in trouble with the police here.

CONSTABLE WALLACE'S EVIDENCE

Constable D. H. Wallace deposed that defendant came to the police station and

informed witness he had had a row with a countryman named Smagin that evening on the esplanade. Smagin had accused him of stealing a pair of pliers which he claimed to have had in his possession for about six years, also that during the row he had been struck on the arm with a bottle by Smagin. Defendant showed witness his left elbow saying, "That is where he hit me with the bottle." Witness looked at the place but saw no marks thereon. He informed Dvorik the assault did not appear to be of a very serious nature, and told him that he could proceed against Smagin civilly if he so desired.

THE DEFENCE

Evidence was given by defendant who stated that he was in town on the day in question and saw plaintiff leaning up against a verandah post of Wilson's hotel. Witness turned around and asked "What is wrong?" Plaintiff replied, "You are stealing something." Witness said in Russian "Why in — are you talking like that? What can I steal? The railway station?" Plaintiff replied, "I will call the police." Proceeding witness said: "I took some groceries out of a tin, emptied them on the ground, and said, 'Now bring the police to have a look.' I went two or three yards towards him and asked him to come to the police, but he ran away from me towards Jubilee Bridge. I went towards my place and later saw plaintiff along the river bank. He said, 'I will settle with you, you —.' He had a bag over his right shoulder. I answered, 'All right, I will fight you. You drop your bag and I will drop my tools. I know you are a stronger man than me, and you know I am an invalid.' I had only put my tools down when Smagin hit me in the stomach with his left hand. I then hit him on the face with my right hand. Smagin took the bag off his shoulder and started swinging it. I could see there was something round in the bag, and I said, 'Put down the bag.' At that time he hit me on the left upper arm with the bag. I don't know what was in the bag but my arm fell down straight away. He also hit me with the bag on

away. He also hit me with the bag on the hip. I hit him on the head, and as I did so I saw blood come. Smagin had attacked me before with a stick on the esplanade. I took proceedings against him and he paid my expenses. I was afraid of Smagin when I saw him there that day. I later went to the police station and made a complaint.

In reply to Mr. McNamee witness said that he had known plaintiff before the war, and denied ever referring to him as "living in the trenches like a worm." He did not call plaintiff a "spy." Witness had a spanner, chisel, and saw.
