

SUPREME COURT.—IN CRIMINAL JURISDICTION.

Before his Honour Mr. Justice Webb.

ALLEGED ASSAULT.

Aken Petroff pleaded not guilty to a charge of having unlawfully assaulted Stephen Orloff, thereby causing bodily harm, at West End, Brisbane, on August 5, 1927.

Mr. F. W. Dickson prosecuted for the Crown; Mr. D. J. R. Watson (instructed by Mr. A. L. Macnaughton) appeared for the defendant.

Outlining the case for the Crown, Mr. Dickson said that in a quarrel between the defendant and Orloff, who were friends, Orloff was stabbed in the chest with a knife, although the wound, fortunately, was not dangerous. Orloff was a labourer, and had been working on the Gayndah line, when he came to Brisbane in July last. He met the defendant on the afternoon of August 5 at Delaney's Hotel. They had drinks together, and later, had tea. Afterwards Orloff bought a dozen bottles of beer and a bottle of whisky, supplementing the liquid refreshments with a parcel of sausages and other eatables. He then invited Petroff to his room in South Brisbane. The food was spread out, and the two men prepared to have a "good time." While they were having this "good time" they quarrelled. They were talking about their strength, and the conversation engendered a hostile feeling between them. Orloff subsequently stated that the defendant wanted to fight him. While pouring out a glass of beer Orloff was struck in the chest with a knife held by the accused. He said to Petroff, "Are you going mad?"

Constable Samuel George Watson, stationed at West End, gave evidence, and, in reply to counsel for the defendant, admitted that Orloff was not anxious to go on with the case against Petroff, as they had been friends for 10 years.

Re-examined by Mr. Dickson, witness said that the defendant had won second prize in the Golden Casket about a year ago, and held a considerable number of shares in a big suburban picture theatre

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COMPLAINANT'S EVIDENCE.

Stephen Orloff said he could not remember having a fight with defendant. He could not say definitely how he got the scratch on the chest. He thought Petroff gave it to him, but he was not sure. When he got the scratch he called out to Lominoga, the proprietor of the house where they were drinking, but he did not say who caused the scratch.

Cross-examined by Mr. Watson, witness said he was prepared to shake hands with Petroff and let bygones be bygones.

Replying to further questions by Mr. Dickson, Orloff said he did not wish to go on with the case. He swore in the Police Court that Petroff had struck him with a knife, but when he made the statement he had not a clear recollection of what had occurred.

George Lominoga, fitter, living at West End, said he heard Petroff and Orloff talking of their strength, and later Orloff sang out, "What you hurt me for?" Subsequently witness saw a knife under the bed and picked it up, but Petroff denied using the knife.

Mr. Watson asked for the withdrawal of the case from the jury, as the Crown evidence proved nothing.

This his Honour refused to do, as he considered there was plenty of evidence if the jury believed it.

DEFENDANT'S EVIDENCE.

Defendant, a one-legged man, who walked with the aid of a stick, said in evidence that while they were drinking and smoking he was struck on the temple twice, and knocked off his chair. Other blows were struck, and he picked up a knife in self-defence. He could not remember using the knife. As a matter of fact, he was unconscious, and did not again remember anything until the next morning. Later he was removed to the hospital with a broken rib.

The jury returned a verdict of guilty.

Mr. Dickson said the defendant had one previous conviction—he was fined £10 in 1924 for wilful destruction of property.

Mr. Watson pleaded that defendant should be given the benefit of section 656 of the code.

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His Honour: I am afraid I must send him to gaol for a short term. Some people, particularly foreigners, are too ready with the knife.

Mr. Watson: I would suggest that a fine might meet the case.

Remarking that the defendant had used the knife very viciously, his Honour imposed a sentence of nine months' imprisonment, with hard labour. He intimated that if after three months defendant's conduct was reported good, he would be prepared to favourably consider any petition to the Governor-in-Council which was submitted to him.

The court adjourned until 10 a.m. next day.
