

IN THE COURT OF QUARTER SESSIONS

HOLDEN AT COWRA

BEFORE HIS HONOUR JUDGE CROSS

Thursday, 8th March, 1973

(i) REGINA v. DAVID ALLAN LAUNDRESS

(ii) IN THE MATTER OF DAVID ALLAN LAUNDRESS

SENTENCE

HIS HONOUR: It has been said that Revenge is a kind of wild Justice. And though the Courts may not approve the infliction of deliberate injury, still one's heart goes out in sympathy to all those who are moved to violence in defence of their family. Circumstances which understandably give rise to a degree of passion may properly be regarded as mitigating factors on the question of sentence for violent conduct.

In the present case Mr. Laundress had been happily married for seven years and has four small sons. The evidence reveals that about a week before 18th February, 1973, his wife informed him that she wanted him to leave the home in Grenfell as she no longer loved him. The surprised Mr. Laundress asked if there was another man. No, lied the wife, she had merely fallen out of love with him. In an understandably bewildered state Mr. Laundress was shortly afterwards informed by a friend that a local milkman named Keys had been carrying on with his wife. Mr. Laundress sought out Keys, who admitted it. Mr. Laundress then confronted his wife with this information, whereupon she confessed her past misconduct with the milkman, said she was madly in love with the milkman, could not live without him, etc. etc. She told Mr. Laundress that he would have to leave home, and he subsequently found his bags had been packed for him. He was understandably confused. Of course, he could have ordered his wife out of the house; but there were four small sons in need of a mother's care. Considerations such as

these, added to an understandable bewilderment and confusion, led him to accept his wife's direction and he moved out.

He felt, of course, some sense of injustice. He approached Keys and complained of the milkman's intrusion into his marriage. He pointed out the possible disadvantage to the children, and he asked Keys if Keys was really going to take on all the responsibilities that the wife was asking him, Mr. Laundess, to abandon. Keys replied that he would give the situation a week's trial and let Mr. Laundess know!

This statement by Keys that he would take the wife for a week, apparently on appro., no doubt deepened the husband's gloom. He felt that he - at least he - was getting the wrong end of the stick. He brooded over a few drinks with his brother on the night of 17th February. Thoughts turned to resolve and resolution to action; and about 3 a.m. on 18th February Mr. Laundess and his brother arrived at the matrimonial home. They entered the house and Mr. Laundess entered the bedroom. He found the wife and the milkman both naked in bed together. In Mr. Laundess's own words, "I lifted him up and got into him". When he finished getting into the milkman, Mr. Laundess told him to get out. The milkman raised a minor objection to appearing in the Grenfell streets at night totally unclad. The husband, becoming irritated at the thought of the milkman's sense of propriety being offended by these sartorial or thermometric considerations, happened to notice a rifle on the top of the wardrobe which he remembered was loaded, perhaps not inappropriately, with rat-shot. He grabbed the rifle and urged the milkman to leave. The milkman had by then donned some clothes and commenced to move off across the front lawn.

All this time, the wife - as some wives tend to do in these situations - had remained noticeably audible. She had put on a dressing gown and now announced her intention of leaving with the milkman. At this stage the husband, becoming even more irritated at the slow rate of the milkman's departure, at his wife's wallings and at her pursuit of the milkman, decided to fire some rat-shot at or near the milkman's feet to

speed him on his way. At that very moment, however, the wife had run up near the milkman; and perhaps by another piece of wild justice (and partly due to the husband's inexperience at shooting from the hip) the pellets hit the wife's legs and not the milkman's. This development did not cause the wife to fall silent. The husband's brother took the rifle from him. The milkman helped the wife into his milk truck which was parked outside and, getting his priorities into an order that may not have instinctively occurred to all persons, drove first to the police station to demand that the husband be charged and only then to the hospital, where the devoted surgical staff removed eight pellets from the skin of the wife's lower legs before allowing her to leave. Since that night the wife's mother has visited her in Grenfell; I am informed that there is some possibility that the wife with the children may move to the mother's home at Katoomba; and there is a suggestion that the milkman's ardour has cooled.

The current of these dramatic events carried the husband before the Court of Petty Sessions at Cowra on two charges - one, a summary charge of assault on the milkman and the second, an indictable charge of "malicious" wounding of the wife.

On the summary charge the learned Magistrate felt that an appropriate penalty for the husband assaulting, i.e. punching, the milkman was one month's imprisonment with hard labour. The affair between the wife and the milkman had been carried on for some time before the husband knew of it. The husband was acting as father, husband and provider while the milkman was clandestinely the wife's lover. When spoken to by the husband the milkman replied in terms which were on any analysis contemptuous of the husband and indeed contemptuous of the wife. It appears to me that if a man elects to intrude into another's marriage, putting the welfare of the children as well as that marriage at peril, he must expect as a natural hazard, at least the possibility of getting a hiding from the husband. On any realistic basis this milkman appeared to have asked for what he got. In my opinion the circumstances surrounding this assault

on the milkman are such as to reduce its seriousness below the level which attracts a prison sentence, even one to the rising of the Court.

TO THE PRISONER:- In lieu of the learned Magistrate's penalty you are fined the sum of twenty cents which you must pay to the Clerk of Petty Sessions, Cowra, within seven days; otherwise imprisonment with hard labour for twenty-four hours. I make formal orders disposing of the appeal accordingly. I make no order as to the costs of the appeal.

As to the shooting, it must be said that rat-shot from a .22 rifle from some distance away is scarcely lethal. There was clearly no intention to do serious injury to any person nor was any serious injury done. The incident occurred at a time when your mind was cursed by domestic affliction. And it must also be remembered that it was the milkman and your wife who created this explosive situation which you in an understandable excitement merely detonated. You do not present any threat to society; you are conceded by the police to be an honest and hard worker; and you have already spent fourteen days in Bathurst Gaol as the result of the Magistrate's order. Compassion blends with responsibility in inducing me to defer passing sentence on you entering into a recognizance yourself in the sum of \$400 to be of good behaviour for a period of two years and to be liable to be called up at any time for sentence for any breach committed within that period. That recognizance may be taken before a Magistrate.