

CLAIM FAILS

ADELAIDE RIVER CASE

In the Darwin Local Court on Monday, before His Honour, Mr. Justice Wells, Edwin Verburg, farmer, of Adelaide River, claimed £1/7/6 from Edward Collins for fruit sold and one sledge hammer. A counter claim for £3 was entered by defendant for towing and repairs to Verburg's car.

Mr. J. W. Lyons appeared for the plaintiff while Mr. G. W. Michell appeared on behalf of the defendant.

Mr. Lyons made application to have the claim amended and the following was added: Vegetables £1/7/10, carting £4/4/0, making a total claim of £6/19/4.

Edwin Verburg, farmer, of Adelaide River, sworn, said: On the 9th June I supplied defendant with 13½ dozen of lemons at 1/6 per dozen. Defendant said he wanted them for his intended mother-in-law who was

going to start a squash shop. He took delivery of them and brought them to Darwin. At that time defendant was carrying out a contract at Adelaide River for the Government. He had no sledge hammer to break up stone so he asked me to

break up stone so he asked me to sell him one and I did. On the 3rd

Slightly used Gramaphones, thoroughly overhauled, newly stained and in perfect order with 12 records & box needles. Table models 27/6, Portables 37/6. Large Cabinets £3. Also American True Story Magazines 5/- doz. Sent anywhere. U.S.A. Trading Co., Woolongabba, Q.

June, while I was in Darwin Jim Young came to me and said "Ted Collins telephoned to me to send him an axle for his truck as he has broken down. Will you take it up to him." I said, "Alright." I took the axle up to Adelaide River and gave it to Collins. While Collins was working at Adelaide River I also supplied him with fruit and vegetables but he has never paid me. In regard to the counter-claim by defendant for towing my car three-quarters of a mile and repairs done I never received a bill. Defendant

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only towed my car about ¼ of a mile and the repairs only took five minutes. He only adjusted the mixture. For carrying the axle to Adelaide River I expect payment of £4/4/0 at a rate of 1/- a mile for 84 miles. I have no carrier's licence

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04 miles. I have no carrier's licence but in a case of emergency I am allowed to do that. I never sent defendant a bill for the fruit and vegetables because he had assisted me with the car and I intended to wipe it off.

Cross-examined: I only want payment for the goods defendant bought for other people. I am very generous and give vegetables to anybody working around Adelaide River.

John William Lyons, solicitor, said defendant came to see him in his office and said if Verberg was going to go ahead with the case he (defendant) would enter a counter-claim for repairs done to Verberg's car. He said he owed the old man the money he claimed alright but as he had done some work on plaintiff's car he thought it should be set off against it.

This was the case for the plaintiff.

Edward Collins, contractor, sworn, said: At the time referred to by

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I was carrying out a contract at Adelaide River concerning a washaway. Shortly before arriving at Adelaide River I broke an axle and walked from there to Charlie Sack's residence and borrowed another one. I was not held up through

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other one. I was not held up through having to get a new axle. When Verberg brought the axle up I started work. Shortly afterwards Verberg's car broke down near a crossing and I towed him in. He asked me if I knew what was wrong and I told him. He then asked me to fix it for him and he would pay me. I said it was alright. Together with my companion we spent about eight hours repairing the car. Sometimes I used to watch him water his garden and he told me I could have some fruit if I wanted any. Of all the goods I got from him he never asked me to pay for them. As far as the lemons are concerned I know nothing about them nor did I ever receive them. For towing Verberg's car the charge is £1, and for the repairs £2. In regard to the sledge hammer he said I could put a handle on a head he had and for fixing it I could have the use of it. While working I lost it. I intended buying him another one but as I had fixed his car for him I thought it

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could be wiped off.

Cross-examined: Regarding the conversation with Mr. Lyons I admitted owing Verberg the money. I concluded by the bill I received that Verberg thought I owed him the money and when I spoke to Mr.

money and when I spoke to Mr. Lyons I didn't bother now I phrased my sentence. What I meant was that I owed Verberg the money but as I had done him a service I thought one should have been set off against the other.

At the conclusion of the evidence Judge Wells said in regard to all the other items there was no question of payment at any time. As regards the lemons Verberg said he sent them to Collins and Collins said he never. As Verberg had failed to convince him both the claim and the counter claim were dismissed.