

A HORSEMAN'S CARELESSNESS. COLLIDING WITH CYCLIST.

DAMAGES AWARDED.

The circumstances surrounding a horseman's collision with a cyclist in Woodlands Road (as reported in the "Herald" some time ago) were ventilated in Court yesterday before the Magistrate, Mr V. G. Day, when a young man named W. C. Fraser, claimed £132 14s 6d from Augustine Goodwin.

Mr F. J. Rolleston appeared for plaintiff, Mr J. W. White representing defendant, who did not appear.

Mr Rolleston said the plaintiff claimed damages from defendant as the result of the accident, which Eraser alleged caused him to lose eight weeks work, and one finger of his left hand. The facts were that on the evening of October 3rd. about 7.10 o'clock, Fraser was cycling on the brow of the hill which leads off North Street into Woodlands road. He was on his correct side of the road, and was going at a slow pace. He had a bright light burning on his bike at the time, and when he arrived opposite Mr Coe's gate, the defendant came down the hill on horseback. He was evidently very careless, and it was possible that he did not see the cyclist. He could hardly help seeing the bright light on the cyclist's machine, and had plenty of room to pass by on his own side of the road. There was nothing there to prevent him from so doing. The horse swerved into the cyclist knocking him over, and smashing his bicycle. Fraser was seriously injured, and his index finger had to be amputated as a result. He would call evidence to prove that there was no negligence on the part of plaintiff, that the sole cause of the accident was due to defendant. Witnesses would clearly show that Goodwin was to blame. Plaintiff was a cabinetmaker, and the loss of his finger was a very serious one to him in his trade.

The plaintiff said it was just in the dusk of the evening that the accident took place. His light was full on at the time. He was riding at the top of the up-grade of the hill. He heard a horse coming along which was on the wrong side of the road. The horse suddenly swerved and knocked plaintiff down. Goodwin asked plaintiff if he was hurt, and told him that it served him d----- well right. Plaintiff showed defendant his finger. Defendant rode on unconcerned, and plaintiff struggled to the gutter where he collapsed. Before then he had called Harold Radcliffe, who lived close by, and he assisted plaintiff. He could not grip nails properly now at his work, but his employer had taken him on again at the same rate of wages. He had lost eight and a half weeks' work, which amounted to £24 4s in wages. Repairs to the bike cost 10s, and medical expenses were £3 6s. The next day he went to Mr Shaw's where defendant was employed. Plaintiff's father asked defendant what he meant by knocking a man off his bike and not stopping to look after him. Defendant replied that someone else came on the scene, and attended to him. Defendant then said that they were telling a lot of lies, and he would not pay anything for damages.

Mr White intimated that as his client was not present he could not go much into detail.

Plaintiff in reply to Mr White said he was certain that the accident took place on the 3rd October, and not on the 17th.

W. W. Smith, leather merchant, said he was coming up Woodlands Road, and passed defendant, who was cantering up the hill on the wrong side of the road. He also saw a cyclist come round North Street corner into Woodlands Road. He seemed to be going at a medium pace on his correct side of the street. He saw the horse swerve suddenly when alongside the cyclist, and heard a sound which resembled the clang of horse's hoofs with a bicycle. Witness then went over and heard Fraser, who was on the ground, remark that "this is the end of the penny

section.” Fraser picked up the lamp and showed his finger to Goodwin, who rode onward. Fraser then scrambled to the side of the road, and appeared to be weak. He dropped the lamp in the gutter. Harold Radcliffe then came up and assisted Fraser. From what witness observed the accident was directly caused by the horseman, who had plenty of room to pass on his right side.

To Mr White: He did not hear any swearing. Did not hear anything except the words stated. Harold Radcliffe corroborated the previous evidence. The crash was what attracted his notice, and he arrived when the horseman was standing still on the road.

Mr White said he proposed to deal with the question of damages since he had no defence to offer. The evidence clearly showed that plaintiff lost little as the result of the accident. He was being paid the same rate of wages as before the accident, and this showed that his employer valued him just the same. If the loss of the finger was so detrimental he would not have been re-employed. The claim for damages was excessive, if the Workers’ Compensation Act was any criterion. The damages according to the Act should be assessed as 15 per cent of earnings for one year. He made them out at £23 8s. Of course, the Act stipulated this as between employer and employee, but His Worship would consider the legislation as some criterion on which to fix the damages in this case. There was strong evidence tendered by plaintiff himself that he was just as good a man after as before the accident, although he had lost his forefinger. Mr Rolleston contended that the present capability of his client was not the point. His employer had taken him on no doubt, but there was the possibility of the employer going out of business at any time. Thus the plaintiff might eventually be out of work. That was the basis on which compensation should be considered. There were also other conditions and circumstances to be considered in the matter. As regards the amount of the claim he held that the Act stipulated an employee accidentally hurt as in this case, was entitled to 10 per cent of the maximum amount which he would be entitled to if totally incapacitated — that was about £468. He referred to a similar case wherein the Court had allowed a shepherd who had lost the first finger, £800. Plaintiff was entitled to 15 per cent of his annual earnings, but he would be content to leave the assessment to the Court.

His Worship without comment gave judgment for plaintiff for £40 plus special damages, making a total of £72 14s 6d; Court costs £3 7s; witnesses’ expenses, £2; and solicitor's fees, £6 14s.

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A peculiar accident, which, it is stated, is to be ventilated in Court at an early date, occurred on Woodlands Road last Thursday evening. A young man named Fraser was wheeling his bicycle, with light burning, up the hill, when he saw a man on horseback approaching him. Having a good light he was indifferent as to the approaching animal. When quite near the horse shied and by some means ran into the pedestrian knocking him and his bicycle over. The machine was smashed, and the horse trod on and injured the head of the cyclist. The horseman rode straight ahead, only turning around to demand of the young fellow, who was lying unconscious, why he got in the way and to get up and not to pretend that he was hurt.

MORE MEN FOR THE WAR

YESTERDAY'S SEND-OFF.

FIRST OF THE SECOND DIVISION

Yesterday, by the express for Christchurch, South Canterbury's quota of the 41st Reinforcements left for camp. Those who went from Timaru assembled at the Drill shed at 1 p.m., and were addressed by the Rev. J. H. Rogers, and the Mayor. The draft from South Canterbury included twenty married men, these being the first of the Second Division reservists to leave. Ten of them belonged to Timaru.

The Mayor said it was his duty, on behalf of the citizens, to wish them God-speed. The occasion, however, was one which he viewed with anything but pleasure. At no time was it other than a painful duty to farewell those who were leaving their homes for the war and on this occasion his duty became specially painful by reason of the fact that the draft included the first of the Second Division men who were leaving their wives and falling into step with those who had gone before them in the cause of freedom. It was not a case of saying good-bye that day, as most, if not all of them, would be in Timaru again on final leave before sailing for Europe; but they were making that day the great break from their civil occupation, and taking up a new role as soldiers of the Empire. If it were only for their own peace of mind, the men of the First Division who had been given exemption (and a great many people were of opinion that far too many exemptions had been given) should, with the exception of those who had been exempted for health reasons, now come forward and let men of the Second Division and returned men fill their civilian occupations. (Applause.) He hoped that good luck would ever be with the men who were leaving, and wished them God-speed and a safe return.

The Rev. J. H. Rogers, acting-vicar of St. Mary's, also addressed a few words to the men. He said he was sure they were not going to look upon it as a gloomy day, as they were going to keep the flag flying, and to help to raise still higher the honour of the Empire, if that were possible; they were going to take part in the most glorious cause that a man could fight, or live, or die for — the cause of Liberty. They were going to stand shoulder to shoulder with some of the finest men that ever fought, and inherit the place of some of the greatest heroes that over fell. The thought of this was enough to warm any heart. (Applause.) Mr Rogers said he quite felt with the Mayor that single men who could go but had not done so were not worth a thought. "The Mayor did not say that exactly, but I believe he thought it; at any rate I do." Mr Rogers said he would like to add a special word for the Second Division men. He asked them not to be down-hearted. They would feel that it was harder on them, than on single men who had no dependents, and they would view the position more seriously because they had more at stake. They would on this account do better than others, realising all that it meant. They should also remember that they had the honour to fight for the protection of their wives and families, and that if the enemy got the upper hand, New Zealand would very soon fall under his sway — and they knew what would happen then. Also they should remember that those they were leaving behind would by their never-ceasing prayers and thoughts give them a tremendous stimulus, and by God's grace they would thus be doubly strengthened. In conclusion Mr Rogers pictured the warmth of the welcome home, after duty nobly done, and wished them God's blessing.

The draft marched to the station headed by the Battalion Band, and a very large number of people lined the streets and assembled at the Railway station and gave them a hearty send-off. They left in charge of Q.M.S. Patchett.

The following are the names of the men who left Timaru and Temuka: — Ablett, J. Brington, J. O., Breen, J., Blyth, A.

Cambridge, A., Campbell, W. J., Chambers, W. J., Crorar, G. W., Courtney, P. A., Cartwright, R., Cain, G., Catherwood, H., Chambers, G.
Dickie, H. M., Davison, W., Deane, G., Downes, P. M., Duslan, C. E.
Ellis, C. E.
Frampton, C. A., Fraser, A. J.
Goodwin, A. L. Glassey, E., Gray, J. E.
Hyland, J., Hughes, T., Hawkey, C. S., Hobbs, T., Hampton, R. E., Hansen, H. S., Hampton, T. J.
Jones, B., Johnston, W.
Keeley, C. W., King, E. H.
Leary, J. F., Lamb, C. O., LeGros, E. G.
Mills, D., Mills, H. Mitchell, A. R., Matheson, A. J., McInnes, J. A., McQuarters, W. E., McPherson, P., McDonald, J.
Pearce, G. H.,
Revell, W. T. D., Reeves, E. F., Roberts, W.
Sugrue, T. J.
Tozer, A. S., Tucker, R. J.
Wall, N., Wyatt, A. H.
Hardy, W.
Burborough, J.
Christie, A. S.
Gillies, C. L., Grayburn, E. R., Grice, L. G.
Jennings, W., Johnston, M. A., Lloyd, H. A.
McQuilkin, J., Maddren, A. H., Morris, G. W., Thomas, G. F. D.
White, W. F., Watson, B.

TEMUKA'S SEND-OFF.

The ladies of the Temuka Patriotic Entertainment Committee, supplied luncheon for the Temuka and Geraldine quota, (sixteen) of the 41st Reinforcements yesterday prior to their leaving for camp. About fifty recruits and relatives were present, and music was provided.

Mr T. Gunnion presided and welcomed the men. He made reference to the later war news as a "bit black just now but with a bright spot at Zeebrugge," and asked the men to acquit themselves so that Temuka could be proud to welcome them back.

Rev. C. MacDonald gave a stirring speech. They were going, he said, to take part in a life and death struggle with the Germans. We must give the last man and last shilling to defeat them, if we don't they will take them. There is nothing worth thinking about just now but the defeat of the Germans.

Mr Barker also spoke.

A fair crowd had assembled at the station to farewell the recruits. Short addresses were given by Major Kennedy, Geraldine, and the Mayor of Temuka, and hearty cheers were given as the train steamed out.

MOTOR ACCIDENTS.

A NARROW ESCAPE.

While motoring homeward in the vicinity of Saltwater Creek at about half-past five on Saturday evening, Mr A. L. Goodwin, of Otipua, met with an accident which might easily have been attended by more serious consequences. At the bottom of a hill about a mile and a half south of Saltwater Creek, his car apparently got out of control, and dashing up a bank at the side of the road, overturned, precipitating the driver, who was the only occupant, on to the roadway. Mr Godwin, who suffered a severe cut on the head, was picked up by Mr J. Toneycliffe and taken to the Timaru Public Hospital.

Apart from a broken windscreen, damaged hood, and twisted lamps and mudguards, the car was not seriously damaged, and was later driven away from the scene of the accident.

Inquiries made last evening elicited the information that Mr Godwin was proceeding satisfactorily, but will be confined to bed for a few days.