

## **A Young Man's Impetuosity**

### **BLOW COSTS HIM £27/19/-**

The bench at the Werribee Police Court on Monday morning was asked to determine a claim for £50 damages for an injury received by DENIS PERCIVAL STEPHENS, of Werribee and inflicted by M W CHAPMAN on June 24th. Chapman was also charged with assaulting Stephens.

Mr A E Croft appeared for the complainant and Mr H H Hoare for the defendant.

In outlining the case Mr Croft said his client, as a result of the incident, had been out of work for three and a half weeks. He had been earning £4/10/- a week.

Dr R A Manly, medical practitioner, of Werribee, said he remembered Stephens coming to his surgery on the morning of June 24th. He examined his right eye which was very black; it had bruising around it and was swollen. He sent him home and had applications applied to reduce the swelling. As he suspected a fracture he made X-Ray examinations in three positions and found that the bone around the eye was fractured. Stephens suffered considerable pain, necessitating an injection of morphia one evening. He had been under the witness' care till last week and the professional charges amounted to £7/7/.

To Mr Hoare (defence) - One blow would be sufficient to cause the injury, which was not a permanent one. It was the first occasion that he had seen an eye bone broken.

DENIS PERCIVAL STEPHENS (victim), labourer, residing at Deutgam Street, Werribee, said that on June 24th, he was driving a horse attached to a scoup at the side of the Melbourne road about 2 1/2 miles from Werribee. The chain broke and he had an argument with the defendant's father. As a result they came to grips and rolled on the ground. He eventually got to his feet and the moment he did so was struck a blow on the face. He discovered that it was the defendant who had struck him and when he came round wanted to fight him, but he gave in as his head was reeling. He tried to continue working but was forced to knock off and seek medical attention. He gave the defendant absolutely no provocation.

To Mr Hoare (defence) - He had been working on the job for three months. At the time of the incident he thought Chapman, senior, must have been over the gang he was in. When the complaint was made regarding his work, he resented it. An argument started in which some obscure words were used. Chapman struck at him but he dodged the blow and closed with him. They rolled into a ditch about two feet wide, where they remained for no more than a minute. There was a couple of hits made but he was not

struck on the face. He was lying side on with Chapman. When the defendant hit him he staggered against the father but did not fall. About five minutes after he went over and wanted to fight the defendant; they fought for about two or three minutes. Only six or seven blows were struck by the defendant as they were in about four inches of mud. He only remembered receiving one blow on the ear as the defendant always closed with him.

To Mr O'Grady: He was looking at the ground after getting out of the ditch and the blow either came from the side or behind.

GEORGE HOPPER, a labourer, Werrabee, said he saw all that occurred on the morning in question. Stephens was driving a horse and scoup about three or four yards away from him and when one of the trace chains broke, Chapman, senior, came over and told him it was his own fault. Stephens said, "You're only a big mug, anyway. I know as much about the work as you do." Chapman rushed at him and they fell to the ground. The son came up and struck Stephens from the side, staggering him. Chapman, senr, then told them to carry on as no great harm had been done. A few minutes later Stephens went over to the defendant, but he did not see any blows as they appeared to be mostly in holds. Stephens' eye came up about 15 minutes after he was struck.

To Mr Hoare (defence) - He had known Stephens for the past 14 and 15 years and the defendant about three months. He did not hear anything said apart that Stephens called Chapman senr, a "big mug." He saw all that took place as he was directly behind Stephens' horse and scoup and could not get past. Both Stephens and Chapman Snr were out of the ditch when the defendant came up. He did not see any sign of the injury till after the second fight.

ARTHUR HOPPER, labourer, of Werrabee, said he was engaged in the same work as Stephen's, being about four yards away. When Stephens' trace chain broke, Chapman Snr said "If you had attended to the horse better it would not have happened." Stephens told him he was a "big mug". Stephens was on top of the ditch when the defendant struck him from behind.

To Mr Hoare (defence) - When Stephens and Chapman Snr were on the ground, the men near at hand called to them to "cut it out". He had known Stephens for about three years but had never worked with him before.

Mr Hoare said that the defendant would admit he struck the blow, but it was a measure of defence of one's relative. A man may protect his son, a master his servant and a servant his master, and it looked as if the law was far enough advanced for a son to protect his father if he was being assaulted. It was only natural that the defendant went to his father's assistance. Mr Hoare maintained that Stephens was the aggressor and was apparently heedless of what he said or did.

Mr W CHAPMAN, labourer, said he heard the bad language being used. He saw Stephens straddling his father and striking him about the face and head. He struck Stephens while he was on the ground. Stephens came at him, but they were separated. Stephens thereafter kept abusing him but he took no notice and laughed at him several times. After two rounds of scooping Stephens came over and made a blow at him but he dodged it safely. Stephens was striking at him all the time but the witness only struck twice, once with the right hand and once with the left. Eventually Stephens desisted. He saw no sign of injury to his eye, although he was looking straight at him.

To Mr Croft (prosecution) - It was half an hour before Stephens left for Werribee. Stephens was on top when he struck the blow. It was made with his right hand on the right side of the face. It was only a light blow. Stephens was hit on the face in the second fight. His weight six months ago was 11 stone 7lb. Mr Croft informed the bench that Stephens was 10 stone 7 lbs. He maintained that defendant was not justified in striking Stephens as he should have pulled him off.

C CHAPMAN, temporary foreman for the Country Roads Board, said that he was in charge of Stephens on June 24th. Stephens made use of obscene language when spoken to about the chain breaking, and after the expression was repeated, witness rushed at him, when they both fell to the ground. He did not know what caused Stephens to get up and he did not see any blows struck. He saw his son walking back to his scoop. He realised that he had overstepped his bounds and said to let bygones be bygones. After several round of scooping Stephens went about ten or twelve yards across to his son and made a swing at him. He had heard Stephens call out that his son struck cowardly. It was half an hour after the incidence that Stephens came and told him that he was forced to knock off.

To Mr Croft (defence) - He did not see or hear a blow struck and Stephens did not stagger against him. He saw Stephens' head go back in the last fight. There were only two men left on the job at present.

JAMES SHEDDON, labourer, at present working for the CRB at Seymour, said he was filling Stephens' scoop on June 24th. He heard the arguments and saw the two men roll on the ground. After everything had become normal again Stephens kept nagging at the defendant, and apparently in a temper walked over and had a fight for several minutes with the defendant.

To Mr Croft (defence) - The blow the defendant struck Stephens was a good one.

Mr O'Grady said that the bench was satisfied that the blow admitted by the defendant did the damage. Stephens was awarded £22/2/ damages. Chapman was fined £3, in default 21 days imprisonment, with costs amounting to £2/17/. He was allowed 14 days in which to pay the fine.