

In addition to the cases referred to by the Chancellor in *Johnson v. Farney*, 24 O. W. R. 244, I refer to *Re Williams* (1897), 2 Ch. 12, and *Re Oldfield* (1904), 1 Ch. 549.

There will be no costs between the vendor and purchaser. Costs of the Official Guardian to be paid by the vendor.

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HON. MR. JUSTICE MIDDLETON.

APRIL 9TH, 1913.

WYERS v. WINLOW.

4 O. W. N. 1080.

*Negligence—Teamster Using Saw to Procure Firewood — Loss of Fingers — Improper Use of Saw—Orders of Bookkeeper—Plaintiff not Bound to Conform to — Perverse Findings of Jury — Non-suit.*

Action by a labourer and teamster for the loss of his fingers through contact with a saw while in defendant's employ. While on a casual visit to the office of defendants before quitting work for the day, plaintiff was asked by the bookkeeper to go and get some firewood. He attempted to saw some as he swore he had done on previous occasions, by using a rip-saw as a cross-cut saw. The saw jammed and in attempting to fix it, plaintiff met with his accident. There was no evidence that the saw was not adequately guarded, but the jury found defendant negligent in that certain bolts were loose and in that a notice should have been posted, warning against the use of the saw by inexperienced persons. They also found that the bookkeeper was a person to whose orders plaintiff was bound to conform.

MIDDLETON, J., held, that the jury's findings were perverse and granted a non-suit.

Action for damages for personal injuries sustained by plaintiff in defendants' employ, a saw which he was operating taking off his fingers, tried at Hamilton, March 31st, 1913, with a jury.

C. W. Bell, for the plaintiff.

A. M. Lewis, for the defendant.

HON. MR. JUSTICE MIDDLETON:—The plaintiff was employed by the Winlow & Irving Company, since the 1st of April, 1912, as a teamster and general labourer. He occasionally worked at the saw hereinafter mentioned.

On the 9th April, 1912, the day was wet and cold. Well on in the afternoon, the plaintiff put his horses in the stable and went to the company's office before quitting work for the day. Mr. Turner, a young man employed as bookkeeper,