

A. THE MUTUAL RESPONSIBILITIES OF AMATEURS AND GUIDES.

THE case of those two guides is well known who, last summer, when clearing the summit of the Jungfrau of dangerous boulders, killed an amateur descending the Rottalsattel and were subsequently lightly punished by the Tribunal for their want of care. Another notorious case was the Dent Blanche accident in 1929, where a stone dislodged by an amateur struck and killed by ricochet the guide, F. Taugwalder, the Herr being also injured.

This leads us to the question whether in Switzerland an amateur or guide kicking down or accidentally pulling out stones, can be held responsible for the possible damage to parties below him. To this a former President of the S.A.C. and eminent jurist, writes as follows:—

‘§ 41 of the Swiss *Obligationenrecht* states that he who, on purpose or by sheer negligence (“*fahrlässigkeit*”), causes damage to another person is responsible for that damage (“*ist zum Ersatz desselben verpflichtet*”). The injured person can therefore, in case no private arrangements be possible, bring an action against the culprit in the latter’s domicile. If loss of life occurs, the family of the deceased can claim an indemnity for the loss of its supporter. If there be real culpability (“*fahrlässigkeit*,” *i.e.* want of elementary care, or even purpose), resulting in death or bodily injury, criminal prosecution may follow, according to the Cantonal law.

‘Ordinary clumsiness does not entail an obligation to pay for injuries inflicted, nor is it punishable. But under conceivable circumstances it might be argued that an amateur undertaking certain climbs without the certainty of being able to climb safely, *i.e.* without dislodgment of stones, is acting in a reprehensible manner. If this be admitted, a limited civic—probably not criminal—responsibility might devolve upon him.’

As an instance of what may sometimes happen, I may state that some years ago, on the way to the Mischabel hut, my wife was struck upon her rucksack by a stone rolled down for fun by some young tourists above.

B. ON THE EXPLOITATION OF ACCIDENTS BY RESCUE PARTIES.

In the case of the Dent Blanche accident, when the guide Taugwalder was killed and his ‘Herr’ injured, a party of 28 [*sic*] guides went up to fetch the corpse of their colleague and to help the amateur; this latter was able to walk down from the Wandfluh to Schönbühl. The claim presented and paid was 4005 frs.—about £160—plus the doctor’s bill and all funeral expenses. In the accident on the Breithorn, where four Frenchmen were killed, the party of 10 guides who proceeded as far as the difficult spot where the bodies lay received 200 frs. each, while the other party of about 12 porters received 100 frs. each. To this sum must be added other items,

provisions, etc., so that the complete bill must have exceeded 3500 frs.—more than £140—which, compared with the Dent Blanche expenses, does not appear excessive.

To this, in agreement with the present Central Committee of the S.A.C., I am authorised to make the following statement :—

According to that Club's Regulations for Rescue Stations ('*Rettungsstationen*'), vide *Die Alpen*, 1928, 'Chronik' [pp. 261 *et seq.*], it is the head of that Station or his substitute who organizes the rescue expedition on being informed of the accident and the request made. This implies for the relatives of the injured an obligation to cover all the costs thereof up to a reasonable amount, inclusive of special insurance of the rescue expedition (10 frs. a man) if this be considered prudent. '*The number of rescuers sent out should not be exaggerated*' (B. Art. C.). '*The guides' and porters' tariffs for the mountain in question serve as a basis when making out the claim*' (§ D of said Regulation). At the end of the operations, the Station sends to its Section, to be forwarded to the Central Committee S.A.C., a report of its doings and a detailed copy of the bill which it has handed over to the relatives. A Circular to that effect was sent last January by the C.C. to all Swiss '*Rettungsstationen*' or '*Postes de Secours*.' This proves that the C.C. takes a great interest in all such cases. Should the relatives (or the friend who will perhaps act for them) consider the bill as being too high, it will *be best for them to send it, before payment, to the C.C. for examination*. The C.C. will always be glad, in the interests of the good name of our country, to look over the bill and exert pressure towards a reasonable reduction if necessary. Rescue parties are sometimes inclined to exaggerate their claims, and the head of the '*Poste de Secours*' is not always in a position to counteract such a proceeding.

The transport of dead bodies, when fatal accidents occur, is, strictly speaking, not under the control of the S.A.C. or its '*Rettungsstationen*.' It is the Commune in which the body lies which is responsible for it. Should, however, the said Station be asked to undertake the work, then it would also make out the bill and send a copy and a '*Rapport*' to the Central Committee for the latter's information. Should, on the other hand, the Commune undertake the transport of the body or bodies, then the relatives (or their friends) would have to arrange with the Commune as regards expenses. But even in that case the relatives may apply to the Central Committee, which will always gladly provide advice and help as far as lies in its power.

PAUL MONTANDON.

March, 1931.