

EDITORIAL

“OBVIOUS RISK” EXTENDED IN CANADA.

By DANIEL DE LEON

THERE is in law a risk technically known as “obvious.”

He who, for instance, would undertake to rescue a person, or property, from a burning building, or a sinking ship, and in so doing received injuries which he had not anticipated, could not recover damages on the strength of the injuries received. The risk was obvious.

This principle, sane, just, legitimate in jurisprudence, capitalist judiciaries have strained awry until finally it was used to justify, by holding unactionable, even the capitalist who violated the factory acts. The operative, who was injured, frequently had his case thrown out of court on the defendant’s plea of “obvious risk.”

Even in such cases the plea of “obvious risk” was a travesty of law and reason. It was an exemplification of class-law of the crassest. The principle of the helplessness of the wage-slave lies at the bottom of the factory laws. To pretend that the injured wage slave ran an “obvious risk” when he accepted work in the factory, is at once to deny the principle from which factory legislation proceeds; to assume that the wage slave is aware of the employer’s dereliction to the extent of knowing that he undertakes risks that are obvious; and, worst of all, to place violations of the law on the part of the capitalist on a par with the fury of Nature, the consequences of which are generally unavoidable.

Brazenly hypocritical, brutally cruel as were such applications of the principle of “obvious risk” by American capitalism, it was left to the Canadian cousins of the American breed to extend the scope of the principle.

In Montreal a wage slave—whose employer, the Canada Cement Company, had kept his employees at work all day in weather that hovered between 18 and 19 degrees below zero, without shelter or other precaution against cold, and without,

from time to time, a sufficient let-up from work to permit them to warm themselves—had his feet so badly frozen that portions had to be amputated. The ill-starred employee, having instituted suit under the Compensation Act, the Company set up the plea that “if an employee can recover compensation for frost-bite, why not for a simple cold, or because on a torrid day in mid-July he gets hot under the collar”; and, upon this plea, has pushed the case up to the Court of Appeals. In other words, the Canada Cement Company is extending the plea of “obvious risk” beyond the pale set up even in America.

Canadian capitalism is logically carrying the point to its logical extreme—the breaking point. The point where the deep damnation of capitalism leaps to sight in all its hideous nakedness.

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