

EDITORIAL

SOCIALISM SOLEMNLY CONFIRMED BY COURT OF APPEALS.

By DANIEL DE LEON

TO the reverential tune of “reform is a consummation devoutly to be wished,” and crocodile tears to match, copiously shed in phrase formation for the injured workingmen plaintiff in the case, the Court of Appeals of this State declared unconstitutional, all the members of the Court concurring, the Workmen’s Compulsory Compensation law, passed last year by the Legislature.

The history back of the law just repealed by branding it unconstitutional is long and significant.

As the law stood, a workingman could recover damages for injuries sustained by reason of the negligence of the employer, provided he himself was not guilty of contributory negligence. The principle of the law, as it stood, excluded, accordingly, all occupations inherently dangerous, occupations in which, regardless of all known precautions, accidents were liable to occur. From the law, as it stood, arose, or, parallel with the law, as it stood, ran the principle of “Obvious Risk.” The risk being obvious, due to the inherently dangerous nature of the occupation, the workingman who undertook it, so ran the theory, undertook it voluntarily, with eyes open; hence, if injured, had no claim for redress upon others.

Against this principle and theory there rose a dissenting element within the ranks of bourgeois society itself. The first crystallization of the dissenting sentiment into law was the British Workmen’s Compensation Act of 1897; the next was the Workmen’s Compulsory Compensation law, enacted last year by the Legislature of this State as the result of the Wainwright Commission, appointed in 1909 to investigate the workings of the new British law, which was known to strike a somewhat new path. The Workmen’s Compulsory Compensation law confirmed and extended the central principle latent in its British prototype.

The new legislation overthrew the principle and theory of the law, as it stood, insofar as to guarantee to the workingmen indemnity also for injuries sustained where his risk was obvious, in other words, in all occupations inherently dangerous to health, limb, or life. It amounted to the promulgation of a new principle. The literature, on both sides of the Atlantic, that preceded, accompanied, and finally formulated the new principle into law, culminating with the law passed by this state as its highest expression, is voluminous; it is unique; it is significant. Boiled down to its essence, and presented in the condensed form of a manifesto, it amounted to this:

“Society does not do its full duty by the workingman in guaranteeing to him indemnity when injured through the negligence of the employer. That is well enough so far as it goes. But there is a category of cases in which the workingman is equally entitled to protection from Society, in the shape of indemnity. The category of such cases is that of occupations in which, despite all possible precautions on the part of the employer, accidents are liable to occur. These are the occupations that are inherently dangerous. These occupations are not a few. What is more, they are occupations that Society needs for its welfare and progress. They are of the nature of Public Works. To leave the workingman himself and alone to pay with injured health, limb, perchance life itself, for the unavoidable accidents that beset such occupations is conduct neither agreeable to Public Policy—inasmuch as such conduct tends to deprive Society of Public Works and improvements, which it needs, by scaring away, with the prospect of unrequited suffering, the workingman factor necessary for the erection of such Works; nor is the conduct agreeable to Society’s principle regarding the Equality of Labor and Capital—inasmuch as such conduct allows Capital to go unscathed, and Labor alone scathed, by the ‘Operations of Nature’: the former enjoying the returns of the completed works, the latter nursing their wounds.”

Obviously the gist of these arguments, benign and noble enough as far as they go, is the bourgeois theory of the “Brotherhood of Capital and Labor.” The Workmen’s Compulsory Compensation Act was to be the tangible and practical illustration of the theory, a theory that Socialism has, to repletion, demonstrated untenable. By its action—all the nine Justices of the Court of Appeals concurring, the three Democrats, along with the six Republicans burying their dangers in the body of the Act—the Court of Appeals of the Empire State of New York has added the weight of its authority to the Socialist principle—

Working class and capitalist class are enemies born.

Transcribed and edited by Robert Bills for the official website of the Socialist Labor Party of America.
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