

COURT DECISIONS.

Defeat Elementary Justice and Common Sense.

INVITE THE POPULAR WRATH

Rulings Like That on the New York Compensation Act Engender Only Disrespect and Disloyalty to Courts and Constitutions.

The New York court of appeals has decided in its wisdom that the legislature cannot enact a law which insures compensation to employees injured in the course of their work and to the families of those who are killed. The utmost that can be done is to sweep away some of the judge made defenses behind which employers have shielded themselves in damage suits. These defenses have indeed been strong to defeat elementary justice and common sense. The fellow servant doctrine, the doctrine of contributory negligence and the doctrine of assumption of risk, we are told, lie within the power of the legislature. * * * We now learn that when the lawmakers open their eyes, when their minds are stirred out of the old ideas and they determine to enact a law which is in principle measurably abreast of those of the most backward countries of Europe, they are not to be allowed to do anything of the kind. Employees may without legislative enactment be declared to have assumed, but employers cannot even by statute be required to assume, the risks of their trade.

The doctrine that employees tacitly assume the risks of their trade is good law, for the judges since Abinger in the Priestly case and Shaw in the Farwell case have said it.

Lord Abinger, in refusing to hold the employer liable, roundly declared that "the inconvenience and absurdity of the consequences is a sufficient argument against this principle." After all these years a legislature finds, what has long been obvious to moralists, economists and sociologists, that it is the opposite principle of requiring an employee to prove that neither he nor his fellow servants are negligent, which involves inconvenient and absurd consequences. The legislature modestly tries, in a few admittedly dangerous trades, to establish the principle of assumption of risk by the employer. It proposes a plan by which the industry as a whole is to assume the risk, which is gradually to be transferred like other increases of expense in manufacture, to the consuming public. But, behold, what the judges did without difficulty at the expense of the defenseless workers, even the sovereign legislature cannot do at the expense of the industry. Why? Because it appears this is taking property without due process of law. The legislature had done its best, but to create a due process of law for the establishment of a rational, just and modern system of compensation for industrial accidents, even in the dangerous trades, is beyond its power. This is not because the makers of the constitution intended to put it beyond the power of the legislature or because they have ever done anything which by the widest stretch of the imagination could possibly be interpreted as indicative of any such intention. The fourteenth amendment was intended to protect ex-slaves from any state laws which might impose civil disabilities upon them. An earlier amendment, the fifth, requires the federal government also to observe "due process of law" in taking life, liberty or property, and, in fact, the "right to

law" is one of the most ancient and esteemed of all the common law traditions. But if this ancient bulwark of liberty, so long the peculiar glory of England and of English speaking people, is by judicial interpretation to become one more obstacle in the way of rational legislation, one more mocking denial of popular rights under the cover of protecting them, a husk of constitutional guarantee with a rotten kernel of legislative impotence, then the sooner it is swept out of the constitution and out of the judicial mind the better for all concerned.

Courts and constitutions cannot retain public respect and loyalty, to say nothing of veneration and affection if decisions of this kind represent their prevailing spirit. No lip service to the economics, sociology, and morality, which the judges evidently discover with much misgiving, as a new force which they do not fully understand, but with which they see that they must reckon, will save them from the popular wrath which such decisions engender.

If we must amend the state and federal constitutions before we can enact a compensation law, providing such financial compensation to the sufferers in the Washington place fire, as would be theirs if the disaster had happened in any civilized country except ours, this, we repeat, will not be because any constitutional convention, or any popular vote has ever so decreed. It is because phrases have gradually been distorted from their original and natural meaning, and because legal rights have been transformed into judicial wrongs. We are not prepared to say that any other remedy than amendment is now possible or that in practice even that one is possible. We point out merely that the obstacle which the court finds in the way of doing what morality, economics and sociology require is a court made obstacle, just as are the other obstacles which the court is now complacently willing to let the legislature remove if they will be good enough to try again.—E. T. Devine in Survey.

INSURANCE FOR WORKERS.

Brewery Men Have a Plan That Calls For Employers' Aid.

The members of the United Brewery Workmen of America are taking a referendum vote on a plan of insurance for workers which it is proposed to submit to the employers. The proposed plan is that the brewery and malt house owners pay \$18 a year for each member of the union into a fund to which each union man is to add \$6.

The fund is to be controlled by a commission of seven members, three to be chosen by the employers and three by the union, and the six are to elect a seventh man. Workmen injured in the course of their employment are to receive 65 per cent of the amount of their wages, but shall not receive pay unless the disability continues more than ten days and shall not receive compensation for more than fifty-two weeks for any one injury.

Provisions are also made in the plan for compensation for injuries resulting in death of a worker or workers. It is believed, according to the originators of the plan, that if it is adopted by both sides the fund will provide old age pensions for workers coming under its provisions.

Pension For Kansas Teachers.

The Kansas senate has passed a bill pensioning public school teachers. In order to receive the benefits of the act teachers must have been in the service not less than thirty years. The measure applies only to cities of the first class.

HELPFUL IN NEED.

Union Comfort For the Near Down and Outer.

THE BOND OF BROTHERHOOD

The Trade Unionist In Hard Luck Is Not Friendless, but Where Can the Unorganized Toiler Find Aid When Misfortune Overtakes Him?

You meet on the street a man you knew years before as one in the crowd in your trade. He is woe-begone. His clothes tell his story at a glance. His sad and careworn and perhaps pale and thin face confirms the story in detail. He is out of work. He most probably avoids you, though you were always on good terms with him, so far as you had anything to do with him, in the old days. You know he shrinks from your cheerful "How are you, old man?" "How goes it?" or "Where are you now?" He hates to explain. His very appearance is a confession that he has fallen behindhand. He is adverse to adding to it a verbal admission of failure. If you are moved to sympathize with him, however, and take him by the hand and try to pretend you don't see any difference in him he may give in and talk. He knows very well the pious lie you are acting, but passes it by without mention, feeling you are actuated by a friendly spirit.

He'll tell you what's the matter with him. He was "let out" when "the firm," "the company" or "the boss"—where he worked when you knew him—introduced new machines or reorganized or increased the proportion of apprentices or of younger men or women. For the first time in years he then found himself on the street. Past the age to qualify himself without much trouble for another occupation, handicapped by the lack of the adaptiveness of youth, bunched together with the others of his occupation "laid off" for various reasons, he has since been living 'twixt hope and fear, searching for work. His days of enforced idleness have stretched into weeks, the weeks into months.

What has happened to this man? He may try to think he is the same, as a human being and a workman, that he was when he fell out of his job. He is not. Far from it. He has gone backward and downward every day. He has lost in nerve, for he has seen how he is only one of the many down and out. He has lost in the confidence he had in his knowledge of his trade, for in looking about him he has learned how methods have changed. He has lost in self respect, for he feels every hour that men may speak of him as not having made good. He has lost flesh and even strength, for he has been economizing on his bodily sustenance.

When a man in this condition of mind and body finds a job, his difficulties in keeping up with the others on a force are almost insuperable. He balks at any task that is new to him, lacking self confidence. He fears every day that a new layoff may be awaiting him. He resents the foreman's eye, or a fellow worker's show of help, or the silent sizing up he knows he is getting from the crowd about him. He has the sensation that they are saying he has lost his hold. It is a question in his own mind whether he really ever can "come back" or catch on again.

It is a social truth that the first thing a man in such plight needs is a kind of medicine. If he can be placed in circumstances in which he can be

set firmly on his feet again he may stand upright and do good work the rest of his days. A new suit of clothes, a little feeding up, a helping hand at the right moment at his work, a good natured bluffing in response to his irritable moods, an acknowledgment by those about him that hard luck is waiting at any and every man's door, the nerve reaction that ensues upon good stiff work and the re-establishment of the discipline of routine—with such medicine the worker who quailed in fear lest he might be relegated to the human scrap heap may become a man again.

But if his chance hangs off too long his fate is to "lay down." He is "gone." Somehow death often comes opportunely in such cases. The real man having passed away, the poor body remains only to succumb, in its weakness, to one of the hundred forms of illness into which watchful death is ready to lead him.

How many good, honest men every one of us among the elders have seen passing through these sufferings, each a sacrifice to an imperfect civilization! On the other hand, as if to prove that the dead ones were so sacrificed, how many other men, just of about the same character, we have seen picking themselves up through finding a job in the nick of time, fully recovering their lost ground and living happily with their families thereafter a good, long lifetime!

Fellow union men, as you have read these lines have you not been reflecting, as have we, upon the fact that when your union was weak or lacking in out of work or other funds you saw a far greater proportion of men going down and out in the struggle than since your union has become strong? It has become helpful to its temporarily unfortunate members. But tell us, you men among the unorganized, where can you look for help in your trade when you lose your job, fall sick, go wandering in search of work or need insurance of any kind against the misfortunes which the wageworkers of your occupation must face in common?—Samuel Gompers in American Federationist.

Labor Legislation in Cuba.

The three following bills affecting labor conditions in Cuba were recently introduced in the chamber of representatives:

To fix the legal maximum at eight hours for all laborers in the republic who are paid a fixed salary (excluding those who do "job" work).

To repeal article 567 of the penal code, which penalizes those who combine to increase or decrease in a manner contrary to law (abusivamente) the price of labor or to regulate its conditions.

To require that 75 per cent of the laborers employed in agricultural, industrial or commercial work and 75 per cent of the apprentices in the same line shall be native or naturalized Cubans.

Christmas at the Corners.

When the members of the Basswood Silver Cornet band gave a concert last winter and wore the neckties their wives gave 'em for Christmas, you couldn't hear the music at all.

William Jenkins, who is somewhat nigh in money matters, expects to present his family with an encyclopedia, one volume to each member. Last year he gave 'em one dozen eggs.

Rev. Hanks wishes us to announce that he has plenty of white lawn neckties, and if he preaches from now to the crack of doom he won't use up half what he got last year for Christmas, even if he uses a fresh one with every sermon. Potatoes and Hubbard squash will be welcome, but he has all the secondhand earmuffs that he needs.—Judge.