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Two workmen digging at a construction site were buried to the waist by a sudden cave-in. A doctor, passing nearby, rushed to the scene and gave lifesaving first aid until they could be rescued by other workmen.

But the doctor himself suffered painful injuries. Was he entitled to collect damages from the construction company, on the ground that its negligence had caused the cave-in?



In a court test, the company said it was not liable.

"We admire his courage," said the company, "but anyone who ventures voluntarily into danger does so at his own risk."

However, the court said the doctor was indeed entitled to a damage award. The court said the company should have foreseen not only that workmen might be trapped but also that rescuers might rush in and get hurt too. As one judge put it:

"Danger invites rescue. The cry of distress is the summons to relief. The wrong that imperils life is a wrong to the imperilled victim; it is a wrong also to his rescuer."

Generally speaking, the law pays due respect to the heroic impulse. In fact, most courts will favor a rescuer even when the danger is merely to property, not human life.

Thus, a man injured while trying to stop a rolling automobile was awarded damages later from the car owner, who had failed to set his brakes. The court said saving property, although less urgent than saving life, is nevertheless a laudable course of action.

Still, the law does not condone outright recklessness. Another case involved a woman who was killed by a freight train while trying to pull her dog off the tracks. She had leaned over even though the train was in plain sight, bearing down fast.

Under these circumstances, a court ruled, her family could not hold the railroad responsible for the tragedy.

"A person is not excused from the consequences of his own acts in exposing himself to danger," said the court, "where the peril is so obvious."

A public service feature of the American Bar Association and the Oregon State Bar. Written by Will Bernard.

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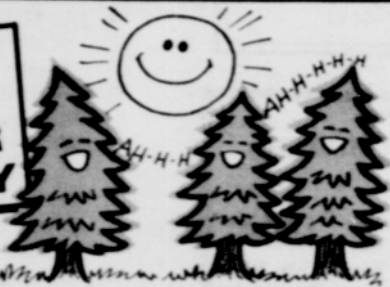
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