

In Harm's Way: Wisconsin Workers and Disability from the Gilded Age to the Great Depression

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IN HARM'S WAY: WISCONSIN WORKERS AND DISABILITY FROM THE
GILDED AGE TO THE GREAT DEPRESSION

by

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ABSTRACT
IN HARM'S WAY: WISCONSIN WORKERS AND DISABILITY FROM THE
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Marquette University, 2015

During the late-nineteenth and early-twentieth centuries, the American workplace proved especially dangerous to its workers' lives and limbs. The introduction of mass-production, coupled with a lack of safeguards on mechanized equipment and a dearth of workplace safety or sanitation regulations, ensured that an ever-growing number of workers were maimed or killed. Wisconsin legislators initially sought to remedy the issue of workplace violence by issuing a series of safety laws in the late 1870s and early 1880s. This, however, failed to stem the number of accident victims. Furthermore, the common law liability system through which injured workers could seek restitution from their employers was woefully inadequate for aiding disabled workers in their time of greatest need. In the early 1900s, as communities were increasingly unable to provide financial assistance to these workers and their families, Wisconsin was among the first states to introduce a no-fault workmen's compensation law that ensured the injured parties quick and reliable reimbursement for their losses.

This project explores the impact of work-related injuries on turn-of-the-century Wisconsin workers, restoring disabled workers to the narrative of nineteenth-century industrialization. At a macro-level, it recounts hazardous working conditions of the farms, lumber operations, and manufacturing enterprises of the state, giving particular attention to the havoc that working wrought on the human body. It also explores both the worker's efforts to seek legal redress and the prejudices often directed at them by their "able-bodied" peers. The study concludes with a micro-level analysis that documents the experience of industrial violence at a personal level. It draws on a wide variety of sources, including institutional records from the state's Industrial Commission and Department of Vocational Rehabilitation, newspapers, magazines, philanthropic journals, and four surveys of disabled Wisconsin workers that were conducted between 1907 and 1926. Ultimately, it reveals how disabling work injuries thrust individuals into a complex and often contradictory post-accident world, making an indelible impact—for better or for worse—on their lives.

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Karalee Surface

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¹The Beatles, “A Little Help from My Friends,” *Sgt. Pepper’s Lonely Hearts Club Band*, 1967.

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Introduction

In the late nineteenth and early twentieth centuries, American workplaces were incredibly dangerous to human life and limb. Fifty-eight-year-old Henry suffered terrible burns over his hands, back, and arms when ordered to clean out a boiler at a large industrial plant. Vilhelm, a veteran brewery worker, suffered extensive internal injuries that put him out of work for three years when a runway between two buildings collapsed and he plunged thirty feet. Walter, a seventeen-year-old shoe factory employee was left with three fingers permanently bent in half and his grip severely diminished after the rollers of his machine, which were designed to intake leather, caught his fingers and mangled his hand.¹

Workplace violence knew no bounds, and tragedy could strike workers regardless of their age, experience, or gender. After just two days on the job, fifteen-year-old William broke his upper jaw and mutilated his lower lip when he peeked over an elevator gate and was struck by a descending elevator car.² Likewise, Nikola, an eighteen-year-old machine worker, endured horrific wounds to her head when her hair was caught in a revolving shaft making her the victim of a late-nineteenth-century “scalping.” The girl had simply tried to fix her hair before quitting time and it was swept into the machine as she stooped to pick up her fallen comb.³ Another young girl, Katherine, had two fingers, a thumb, and half of her hand amputated after she reached into the mangle of a laundry to

¹ Wisconsin Legislature, *Report of the Special Committee on Industrial Insurance, 1909-1910*, s.l.: s.n., 1910, State of Wisconsin Legislative Reference Bureau, 77-78, and 82. (Hereafter cited as *Special Committee on Industrial Insurance*.) See Cases 7, 9, and 26.

² *Ibid.*, 85. See Case Number 36. All of the names listed provided for these examples have been fabricated. The Special Commission that featured their stories did not identify its subjects by name, instead using a case number and a first initial.

³ *Ibid.*, 84. See Case Number 32.

remove a towel.⁴ As these examples suggest, industrial machinery threatened to maim most factory workers; but such devastation was not confined to manufacturing.

Accidents of a significant magnitude also struck non-industrial workers. For instance, lumberman Frank Mittwoch lost his ability to grip objects after mishandling his axe and severing the extensor tendon of his thumb.⁵ So, too, when J.M. Johnson failed to get out of the way of an errant log tumbling down a rollway, the heavy timber broke his femur and resulted in a 1.25 inch shortening of his leg, and a fifty percent permanent partial disability in the limb.⁶ Yet another lumberman, Charles Blake, fractured his tibia and fibula and ultimately had to have his leg removed at the knee after failing to get out of the way of a falling tree he had been chopping.⁷ Railroading was equally hazardous. Countless workers lost limbs on the job.⁸ Furthermore, railroads occasionally maimed non-railroad passersby who happened to either work near the tracks or use the train en route to their jobs. Such was the case for a young Wisconsin man who fell while boarding a train home from work and lost his right leg six inches below the knee, as well as a thirty-five-year-old worker who lost both legs after falling under a moving train as he

⁴ Ibid. See Case Number 33.

⁵ “Frank Mittwoch vs. Rib Lake Lumber Company,” *Workmen’s Compensation Third Annual Report*, 67. Cases from the Workmen’s Compensation Annual Reports were not official court cases. Although they follow a legal citation style, and some cases were appealed through the Dane County Circuit Court and the Wisconsin Supreme Court, they began as hearings before the Industrial Commission, a semi-judicial regulatory agency. Their notation—using the X vs. Y format—refers to the case summaries as they were compiled by the Industrial Commission in their annual reports and not a formal legal case.

⁶ Death and Disability Reports, Series 1036, Boxes 1-2, Wisconsin Office of the Commissioner of Insurance, Death and Disability Reports, Wisconsin State Historical Society. (Hereafter referred to as WHS). This assessment of permanent partial disability was ascribed to the case by the Industrial Commission based upon their measurement of how the injury impaired use of the limb.

⁷ Ibid.

⁸ Industrial Commission of Wisconsin, “Results of Investigation on Permanent Partial Disabilities,” *Bulletin of the Industrial Commission of Wisconsin* 2, no. 6, (March 30, 1913). See Cases 6, 12, 23, 43, 47, 108, 109, 113, 115, and 116 for example. See also John Williams-Searle, “Broken Brothers and Soldiers of Capital: Disability, Manliness, and Safety on the Rails, 1868-1908” (PhD diss., University of Iowa, 2004) which highlights the hazards of the railroad industry in more detail.

installed windows in a building near the tracks.⁹ Even on farms, unguarded corn shredders, blowers, and other equipment claimed the limbs of farmhands. A seventeen-year-old Delafield man, for example, lost his left foot three inches above the ankle when it was snared in a corn husker.¹⁰ Although not all accidents severed limbs, minor scrapes and fractures often proved equally dangerous to their victims.

In an age where sanitation and safety standards were lacking, small injuries frequently had major consequences. When Michael Starr injured his ankle after tripping on a stone, he never imagined that gangrene would set in and result in the amputation of his leg at the knee.¹¹ Likewise, a minor cut on the wrist made it impossible for tinsmith Edward Kill to return to his trade. According to reports from the Industrial Commission of Wisconsin, Kill's participation in a professional boxing match after his accident weakened his body's natural defenses and inhibited his ability to fight off a subsequent infection. As a result, the bones of his hand and wrist were removed.¹² Infection not only exacerbated small injuries and threatened workers limbs, but also occasionally resulted in death. For instance, a simple splinter in brewery worker William Kane's thumb became lethal after blood poisoning set in, and the twenty-six-year-old man died leaving a widow and two-year-old daughter behind.¹³

Similar examples of industrial violence abound for this period of American history. As E.H. Downey, the first chief statistician of the Wisconsin Industrial

⁹ Ibid. See Cases 106 and 112.

¹⁰ Ibid. See Case Number 111. As Chapter One will demonstrate, this was a frequent hazard in agricultural work. The problem was so acute that the Industrial Commission of Wisconsin published a special safety bulletin on it. See Industrial Commission of Wisconsin, "Farm Accidents on Corn Shredders and Huskers and on Feed Cutters," *Bulletin of the Industrial Commission* 1, no. 5A (October 25, 1912): 265-285.

¹¹ "Michael J. Starr vs. City of Madison," *Workmen's Compensation Twelfth Annual Report*, 19-21.

¹² "Edward A. Kill vs. Plankinton Packing Company," *Workmen's Compensation Third Annual Report*, 83.

¹³ "Mollie Kane vs. John Gund Brewing Company," Ibid., 52.

Commission, explained: “the toll of life and limb exacted by American industries during the second decade of the twentieth century [alone] exceed[ed] the nation’s losses in battle from the Declaration of Independence to the present day [1924].”¹⁴ Wisconsin industrialized more slowly than states like New York, Ohio, and Illinois, but by 1910 nearly one-fifth of its workers were employed in manufacturing operations.¹⁵ As these enterprises expanded and mechanized, they added new hazards to an already long list of ways that manual labor endangered workers’ lives.

Workplace accidents had been commonplace for centuries, but the introduction of new electrically-powered machinery noticeably increased the degree of destruction that resulted from these incidents. Whereas extreme weather, falling objects, cantankerous animals, and disease certainly inflicted their share of damage on pre-industrial laborers, whirring machinery belts, exposed blades, and unguarded gears of the machine era resulted in greater physical damage to an ever-growing number of workers who were the backbone of America’s industrial development. Importantly, advancements in medical care helped more of these industrially injured men and women survive their encounters, meaning that the devastation wrought by industrial violence on the human body was more and more visible to society as a whole.

Although the collection of accident statistics in Wisconsin was sporadic—making it difficult to determine whether dangers in the workplace increased over time—data from the state’s Bureau of Labor and Industrial Statistics does provide some perspective on how commonly workers might be placed in harm’s way. According to the agency’s records, there were 7,186 accidents to employees between October 1906 and October

¹⁴ E.H. Downey, *Workmen’s Compensation* (New York: The Macmillan Company, 1924), 1.

¹⁵ Donald W. Rogers, *Making Capitalism Safe: Work Safety and Health Regulation in America, 1880-1940* (Urbana: University of Illinois Press, 2009), 17.

1907. Furthermore, the agency concluded that work-accidents accounted for approximately fifty-three percent of all accidents reported throughout the state in that year.¹⁶ Such figures reinforce Downey's observation that, as was the case throughout the country, late-nineteenth and early-twentieth century workplaces in Wisconsin were mass-producing more than a flood of consumer goods: they were also creating an unprecedented number of disabled men and women. Such workplace dangers have been well-documented by those who study labor.

The deadly nature of employment was an important concern of early reformers. Contemporaries like Crystal Eastman and John Fitch emphasized the debilitating nature of manufacturing upon human bodies in their exposés of the steel industry.¹⁷ "Muckraking" journalists like William Hard also documented the incredibly dangerous working conditions in their appeals for fair compensation. Hard's exposés, which generally appeared in the pages of popular magazines like *Everybody's*, brought the horrors of the workplace into the living rooms of middle-class readers.¹⁸ Accidents also featured prominently in more specialized journals and publications, like *The Survey* or state labor bulletins, which targeted specialists in the field of labor reform.¹⁹ Writers like Eastman, Fitch, John Commons, and Paul Kellogg (editor of the six-volume *Pittsburgh*

¹⁶ Wisconsin Bureau of Labor and Industrial Statistics, *Thirteenth Biennial Report, 1907-1908* (Madison: Democrat Printing Company, 1909), 7.

¹⁷ Crystal Eastman, *Work-Accidents and the Law* (New York: Charities Publication Committee, 1910); John Fitch, *The Steel Workers* (New York: Charities Publication Committee, 1910). Based on accident statistics and oral interviews, Eastman's and Fitch's studies depicted the work environment of Pennsylvania's steel district as particularly hazardous to worker's health and safety.

¹⁸ William Hard, *Injured in the Course of Duty* (s.l.: The Ridgeway Company, 1910). This volume included a number of Hard's earlier articles on work-accidents, originally published in *Everybody's Magazine* as well as a proposal for dealing with the problem and expert opinions from the standpoints of an employer, a labor leader, a lawyer, and an economist.

¹⁹ For example, Don Lescohier published a number of studies for the Minnesota Bureau of Labor as well as several feature articles for *The Survey* which spotlighted the hazards that workers in particular industries faced. See Don D. Lescohier, "Work-Accidents and the Farm Hand," *The Survey*, vol. 27 (October 7, 1911): 946-951 and Lescohier, "The Lumberman's Hazard," *The Survey*, vol. 26 (August 5, 1911):639-646.

Survey to which the aforementioned writers contributed) regularly documented workplace dangers for *The Survey*, while Donald Lesochier, Edwin Witte, and Joseph Beck were “experts” whose studies were routinely featured in state publications promoting no-fault compensation as well as stronger work safety regulations.²⁰ Their diligent documentation of the dangers that accompanied employment proved particularly useful decades later for historians seeking to recount the omnipresent dangers that turn-of-the-century workers confronted on a daily basis.

In spite of this contemporary interest in the problem of work-accidents, these events initially played a minor role in several seminal historical studies on labor and working class life. David Brody’s *Steel Workers in America* and Melvyn Dubofsky’s *Industrialism and the American Worker, 1865-1920* briefly referred to the dangers that employees faced, but in spite of the fact that accidents figured so prominently in the lives of turn-of-the-century workers, they do not even merit their own chapter in either of these major works.²¹ Meanwhile, work-accidents are entirely absent in other studies. Herbert Gutman’s *Work, Culture, and Society* gave no attention to the problem of industrial

²⁰While Lesochier was employed by the Minnesota Labor Bureau, the other men worked specifically for the Industrial Commission of Wisconsin and its predecessor, the Wisconsin Bureau of Labor and Industrial Statistics, throughout the late nineteenth and early twentieth centuries. See Wisconsin Bureau of Labor and Industrial Statistics, “Industrial Accidents in Wisconsin, Second Report,” *Fourteenth Biennial Report* (Madison: Democrat Printing Company, 1911): 71-84; Industrial Commission of Wisconsin, “Industrial Accidents,” *Bulletin of the Industrial Commission* 1, no. 3A (July 20, 1912): 137-146; Industrial Commission of Wisconsin, “Farm Accidents on Corn Shredders and Huskers and Feed Cutters,” *Bulletin of the Industrial Commission* 1, no. 5A (October 25, 1912): 265-285; Industrial Commission of Wisconsin, “Falls of Workmen and their Prevention,” *Bulletin of the Industrial Commission of Wisconsin* 2, no. 10 (June 20, 1913): 239-265; Industrial Commission of Wisconsin, “Accidents Caused by Objects Striking Workmen and their Prevention,” *Bulletin of the Industrial Commission of Wisconsin* 3, no. 12 (November 20, 1913): 281-309; Industrial Commission of Wisconsin, “Elevator Accidents and their Prevention,” *Bulletin of the Industrial Commission of Wisconsin* 3, no. 2 (July 20, 1914).

²¹David Brody, *Steel Workers in America; the Nonunion Era* (Cambridge: Harvard University Press, 1960); Melvyn Dubofsky, *Industrialism and the American Worker, 1865-1920* (Wheeling, IL: Harlan Davidson, 1996).

violence or workers' response to it.²² Even in local labor studies, accidents and their toll on human life and limb have rarely been documented. Thomas Gavett's 1965 study, *Development of the Labor Movement in Milwaukee*, carefully traced the post-Civil War development of unionism in the city, a Socialist stronghold in the late nineteenth and early twentieth century. However, he provided very little commentary on how industrial accidents factored into union goals or how the Socialists responded to the dangers that accompanied industrial growth.²³ Robert Ozanne's *The Labor Movement in Wisconsin: A History*, likewise included a minor commentary on how the Wisconsin State Federation of Labor supported workmen's compensation and safety regulations, but never delved into details about what dangers workers actually faced or how accidents affected their daily lives.²⁴ The impact that these accidents had on unions, employers, and the everyday workers was simply not a question that early labor historians appear to have been interested in addressing.

In spite of the fact that Wisconsin was the first state to pass a constitutionally-upheld workmen's compensation law, accidents and workplace safety have only been covered in two local histories.²⁵ Industrial dangers provided the backdrop for Donald Rogers' *Making Capitalism Safe: Work Safety Regulation in America, 1880-1940*. Based

²² Herbert Gutman, *Work, Culture, and Society in Industrializing America: Essays in American Working-Class and Social History* (New York: Knopf, 1976).

²³ Thomas W. Gavett, *Development of the Labor Movement in Milwaukee* (Madison: University of Wisconsin Press, 1965).

²⁴ Robert W. Ozanne, *The Labor Movement in Wisconsin: A History* (Madison: State Historical Society of Wisconsin, 1984).

²⁵ While other state legislatures had introduced workmen's compensation legislation prior to Wisconsin's 1911 law, those measures had been overturned by individual state supreme courts for a variety of reasons. For example, Maryland's 1902 measure was overturned on the grounds that it gave judicial powers to the state insurance commissioner and took away employees' rights to sue their employer and have their cases heard before a jury. New York's first workmen's compensation bill was overturned because it mandated that all employers come under the act. Wisconsin's law, however, skirted these challenges by making the program voluntary. Its legality was also challenged, but the Wisconsin Supreme Court ultimately upheld the law as constitutional.

on his 1983 dissertation, Rogers' study examined the principles that grounded the emergence of workplace regulatory agencies in Wisconsin and six other states. Out of necessity, he alluded to the problem of workplace safety, but never elaborated upon the nature of such accidents and occupational diseases or their impact on workers.²⁶ Only Brigitte Charaus' 2010 dissertation, "What Lies Beneath: Uncovering the Health of Milwaukee's People, 1880-1929," has given any real attention to how the hazards of the workplace affected Milwaukee citizens.²⁷ Although brief and focused primarily on Milwaukee men, Charaus' discussion of such dangers serves as a starting point for my own examination.

These two studies fit with a more recent trend among labor historians to rectify decades of oversight by documenting workplace dangers and their impact on the workers themselves. Carl Gersuny's 1981 study *Work Hazards and Industrial Conflict* included a chapter on the perils of industrial work in turn-of-the-century America as well an analysis of the accident records of several New England textile mills from that period.²⁸ Andrew Mason Prouty's *More Deadly Than War* highlighted the especially hazardous working conditions of one of America's most dangerous occupations—logging—from the early nineteenth century through the 1980s.²⁹ Like the men who worked in the lumber industry, miners were particularly prone to accidents. Evidence of the dangers they encountered—from explosions and limb loss to occupational disease—have been documented in such works as Alan Derickson's 1998 study *Black Lung: The Anatomy of a Public Health*

²⁶ Donald W. Rogers, *Making Capitalism Safe: Work Safety and Health Regulation in America, 1880-1940* (Urbana: University of Illinois Press, 2009).

²⁷ Brigitte Charaus, "What Lies Beneath: Uncovering the Health of Milwaukee's People, 1880-1929" (PhD diss., Marquette University, 2010).

²⁸ Carl Gersuny, *Work Hazards and Industrial Conflict* (Hanover, N.H.: University Press of New England, 1981).

²⁹ Andrew Mason Prouty, *More Deadly Than War: Pacific Coast Logging, 1827-1981* (New York: Garland Publishing, 1985).

Disaster, David Rosner and Gerald Markowitz's *Deadly Dust: Silicosis and the Politics of Occupational Disease in Twentieth-Century America*, and Nancy Forestell's 2006 article, "'And I Feel Like I'm Dying from Mining Gold': Disability, Gender, and the Mining Community, 1920-1950."³⁰ Workplace peril also served as the starting point for John Williams-Searle's "Broken Brothers and Soldiers of Capital" which highlighted the especially hazardous railroad industry as well as Jamie Bronstein's 2008 work, *Caught in the Machinery*.³¹ More recently, James Schmidt documented the devastating toll of workplace injuries on children in his study on *Industrial Violence and the Legal Origins of Child Labor*.³² With the exception of Schmidt's work, these studies focus predominantly on the workplace dangers encountered by men.

In spite of the fact that progressive reformers often couched their appeals for worker safety in terms of a broader concern over women's reproductive health, few scholars had addressed the dangers that workplaces posed to female workers prior to the late-1980s. As Ruth Heifetz noted in her 1987 essay, "Women, Lead, and Reproductive Health: Defining a New Risk," the health and safety of women was often overlooked

³⁰ Alan Derickson, *Black Lung: Anatomy of a Public Health Disaster* (Ithaca: Cornell University Press, 1998); David Rosner and Gerald Markowitz, *Deadly Dust: Silicosis and the Politics of Occupational Disease in Twentieth-Century America* (Princeton: Princeton University Press, 1991); Nancy M. Forestell, "'And I Feel Like I'm Dying from Mining Gold': Disability, Gender, and the Mining Community, 1920-1950," *Labor: Studies in the Working-Class History of the Americas* 3 (Fall 2006): 77-93. See also Arthur McIvor and Ronald Johnston, eds. *Miner's Lung: A History of Dust Disease in British Coal Mining* (Aldershot, England: Ashgate, 2007). David Rosner and Gerald Markowitz, eds., *Dying for Work: Workers' Safety and Health in Twentieth-Century America* (Bloomington: Indiana University Press, 1987) also included several articles on the dangers of mining along with essays on occupational diseases and the government's response to such crises.

³¹ John Williams-Searle, "Broken Brothers and Soldiers of Capital: Disability, Manliness, and Safety on the Rails, 1863-1908" (PhD diss., University of Iowa, 2004); Jamie Bronstein, *Caught in the Machinery: Workplace Accidents and Injured Workers in Nineteenth-Century Britain* (Stanford: Stanford University Press, 2008). More information on both of these studies is included below. It is worth mentioning here, however, that while Bronstein's study was primarily based in Great Britain she did include significant comparative data for the United States.

³² James D. Schmidt, *Industrial Violence and the Legal Origins of Child Labor* (New York: Cambridge University Press, 2010).

because men made up the bulk of the labor force in heavy industries. Drawing on the extensive literature of progressive reformers who published studies on the impact of industrial chemicals on women's reproductive health, Heifetz explored workplace danger from a new perspective.³³ Her study opened the door for labor historians to consider the danger that work posed for *all* American laborers.

Since then other scholars have given further attention to the ways in which employment could also be hazardous to women. In *Steam Laundries: Gender, Technology, and Work in the United States and Great Britain, 1880-1940*, Arwen Mohun devoted one chapter to the day-to-day operation of commercial laundries, touching briefly upon some of the dangers that accompanied each part of the process. In particular, he noted that "almost everyone had heard stories of young, vain women who were caught and scalped (or worse) because of their long, loose hair."³⁴ He also described steam-filled rooms full of noxious chemical odors that could cause lung complications, the frequency with which workers burned or crushed fingers in mangles (large steam or pressure-driven ironing machines), the uncovered rotating drums in which workers' might catch their arms or hair, and the dangers that lie in using the particularly volatile chemicals required for the dry cleaning process.³⁵ Like Mohun's work, Claudia Clark's 1997 study *Radium Girls: Women and Industrial Health Reform, 1910-1935* examined an occupational

³³ Ruth Heifetz, "Women, Lead and Reproductive Hazards: Defining a New Risk," in *Dying for Work: Workers' Safety and Health in Twentieth-Century America*, eds. David Rosner and Gerald Markowitz (Bloomington: Indiana University Press, 1987): 160-173. Heifetz not only documented the early twentieth century concern about women's health and safety in the workplace, but also traced the debates over protective work legislation up to the present day, asking readers whether and how the protective legislation that had been developed for women might equally be applied to men. Extending such legislation to men would ensure their health and safety while also trying to level the playing field for women who had been edged out of many jobs due to a double standard in workplace safety regulations.

³⁴ Arwen P. Mohun, *Steam Laundries: Gender Technology, and Work in the United States and Great Britain, 1880-1940* (Baltimore: Johns Hopkins Press, 1999), 75.

³⁵ *Ibid.*, 70-94.

illness—radium poisoning—that first afflicted female war workers. As Clark explained, young women were hired by watch companies during World War I to paint luminous numbers on watch faces using glow-in-the-dark paint. When many of them took ill in the 1920s and 1930s, medical professionals deduced that their exposure to radium—the ingredient that made the paint luminous—was the cause of a wide variety of health problems including anemia, gum disease, cancer, and bone marrow damage that weakened bones and made them extremely fragile.³⁶ Clark’s study recounted not only the women’s fight for compensation, but also their efforts to get the government to officially recognize the industrial disease from which they suffered and regulate radium use in manufacturing. As these labor historians have aptly demonstrated over the last thirty years, then, employment posed a physical threat for men and women alike.

Such hazards have not disappeared over the last century and many scholars noted as much in their studies of late-twentieth century work-accidents. Gersuny’s study, for example, not only shed light on the unsafe factories of the early 1900s but also reflected on conflicts over occupational safety in the latter part of the century.³⁷ Likewise, several non-historians have also documented the absence of industrial safety in recent times and called attention to the consequence of workplace accidents with their own contemporary studies. For instance, both Daniel Berman’s 1978 book *Death on the Job: Occupational Health and Safety Struggles in the United States* and Lawrence White’s *Human Debris: The Injured Worker in America*—published in 1983—decried the inadequacy of

³⁶ Claudia Clark, *Radium Girls, Women and Industrial Health Reform, 1910-1935* (Chapel Hill: University of North Carolina Press, 1997), 1.

³⁷ Gersuny, *Work Hazards and Industrial Conflict*. Gersuny’s final two chapters outlined over sixty years of safety reforms, including the passing of the Occupational Safety and Health Act (OSHA), and reflected upon the ways that such regulation had changed as well as how it remained the same throughout that time.

workplace safety standards and the shortcomings of the workmen's compensation system.³⁸ Berman, a political scientist, focused more on the faults of compensation bureaucracy and less on the impact of accidents on the average worker, whereas White, a Berkeley lawyer who specialized in workmen's compensation cases, drew on a wide range of oral interviews with workplace accident victims to produce what might be considered the late-twentieth century equivalent of Upton Sinclair's early-twentieth century exposé of working conditions in the Chicago stockyards—*The Jungle*. Like White, sociologists Dorothy Nelkin and Michael Brown surveyed seventy-five employees to gain greater perspective on the average worker's perception of risk in their everyday job for their 1984 study, *Workers At Risk*.³⁹ Thus scholars from a variety of fields have rather thoroughly rectified earlier oversights by examining the harmful conditions under which workers have continuously labored for much of modern history.

These harmful workplaces are—of necessity—the point from which this study embarks. In order to fully appreciate the impact of workplace disability, it is important to understand the specific dangers that Wisconsin employees faced. The state, like most others, was predominantly agricultural between the Civil War and the 1880s. Over time, its abundance of timber prompted the emergence of a thriving lumber industry, and logging became one of the state's leading employments for much of the late-nineteenth and early-twentieth centuries. In fact, Wisconsin was the nation's leading lumber producer between 1890 and 1904. As big lumber companies cleared the forests in the

³⁸ Daniel M. Berman, *Death on the Job: Occupational Health and Safety Struggles in the United States* (New York: Monthly Review Press, 1978); Lawrence White, *Human Debris: The Injured Worker in America* (New York: Seaview/Putnam Press, 1983).

³⁹ Dorothy Nelkin and Michael S. Brown, *Workers at Risk: Voices from the Workplace* (Chicago: University of Chicago Press, 1984), ix. They launched their study in order to remedy the fact that “the burgeoning field of risk assessment was neglecting a key aspect of the problem of occupational health—the perceptions and concerns of the workers themselves.”

southern part of the state and moved on to the North Woods, a variety of manufacturing operations followed in their wake. These early industries began to specialize in agricultural implements, brewing, and metal fabrication. As Chapter One demonstrates, a multitude of both mechanical and non-mechanical accidents confronted the workers in all of these occupations and inflicted varying degrees of harm. Whereas other studies have focused primarily on documenting the dangerous working conditions in these types of industries, the statistical and anecdotal accounting of these bodily injuries found in Chapter One is merely the starting point for a larger investigation of the toll such accidents exacted on working men and women.

In spite of the ubiquity of industrial violence at the turn of the twentieth century (and beyond), historians have paid insufficient attention to the long-term consequences that such conditions had for workers of that period. Disabling accidents and hazardous work environments have been thoroughly restored to the narrative by labor historians, but the aftermath of injury is most often minimized or left out altogether. Even when the repercussions of accidents are considered, the individual disabled worker is usually overlooked.

Instead of documenting the impact of such events on worker's lives, work-accidents are relegated to a supporting role where rates and statistics are used to demonstrate the shortcomings of Gilded Age capitalism, to explain the impetus for adopting protective legislation for the workplace, or to trace the shifting legal theory that undergirded the adoption of workmen's compensation and eventually the idea of a welfare state. For instance, while James Schmidt's *Industrial Violence and the Legal Origins of Child Labor* devoted one excellent chapter to recounting the damage that

accidents inflicted upon working children, his overall study was concerned with a much larger question of how the workplace came to be defined as an unsuitable place for children. He argued that working-class families of the Progressive Era who had long desired to reorganize the workplace to make it safer for children altered their own notions of childhood according to “shifts in the judicial imagination of youth” in order to protect their children.⁴⁰ In *Making Capitalism Safe*, Donald Rogers was even less concerned with the actual accident victims, instead devoting his attention to the safety regulations and the bureaucracies that emerged to enforce those new standards.⁴¹ Similarly, John Fabian Witt’s *The Accidental Republic* focused on the shifts that occurred in American law in response to the country’s work-accident crisis as post-Civil War leaders attempted to “adapt the values of free labor thinking to the problem of risk in a modern wage-earning economy.”⁴² Such works are wonderful contributions to the literature on work-accidents, but they exclude a crucial part of the equation—the worker’s experience as *disabled* people. This missing element is less measurable and therefore tougher to assess. Because of the difficulty in recovering intimate details about working-class life, scholars know a lot about environmental issues of workplace safety but much less about how industrial accidents shaped the lives of the men and women who endured them.

⁴⁰ Schmidt, xxii.

⁴¹ Rogers, 1-9.

⁴² John Fabian Witt, *The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of American Law* (Cambridge: Harvard University Press, 2004), 16. Witt noted that the emergence of accident law was primarily a product of the industrialization in the nineteenth century. Legal systems in western civilization had previously been dominated by the issues of property and contracts, and there was little precedent for dealing with the problem of “unintentional human injuries generated on a mass scale by the regular operations of economic life.” (7) It arose from much experimentation. Witt went on to explain that the experimentation in dealing with accident law had a strong influence on the development of America’s social policy. Indeed, it would shape the opinions of several New Deal era politicians, as well as business and union leaders. See also Ruth O’Brien, *Crippled Justice: The History of Modern Disability Policy in the Workplace* (Chicago: University of Chicago Press, 2001).

By re-examining the topic of work-accidents and the law through the lens of disability, historians can begin to remedy this oversight. Rather than focusing on how incidents prompted legal changes and improved workplace safety, the second chapter of this study examines how work-accidents placed great economic strains on the men and women who endured them, forcing the workers to engage, first, with the state's courts and, later, with the semi-judicial Wisconsin Industrial Commission. This section is predominately concerned with the how the actual worker navigated these two systems (both before and after the passing of a no-fault compensation scheme for injuries incurred on the job) and how they fared under each one. While the chapter establishes the necessary context for the introduction of a no-fault compensation law in Wisconsin, it remains faithful to the overall goal of this study, which is to address how physically impaired workers fared—legally, economically, and socially—after their disabling accidents.

The injured worker's legal struggle is just one of many post-accident experiences that deserve further attention. Indeed the growing number of men and women permanently maimed on the job during this period raises many questions about what it meant to be disabled at a time when earning potential and labor capacity were a major means of defining one's overall worth in society. How did these individuals fare medically, economically, and socially after their accidents? Were they rendered dependent or were physical differences of little consequence in an age in which missing or maimed appendages were more commonplace? How were such physical differences perceived by one's able-bodied peers? And in what ways did those perceptions impact

the disabled worker? Such queries will restore the disabled to a broader historical understanding of employment and working-class life.

Labor historians are just beginning to scratch the surface of these questions. In *Broken Brothers*, for instance, John Williams-Searle looked beyond the rising accident rates in the railroading profession to explore how such accidents were perceived both among the workers themselves and in the broader community. While an earlier generation saw “minor” injuries like missing fingers or hands as a badge of honor or a testament to one’s bravery and skill, later generations redefined such disabilities in a negative context. In the process of professionalizing their trade and advocating for better safety regulation, railroad union leaders gradually began to cast physical impairments as signs of recklessness. Furthermore, Williams-Searle suggested that there was a gendered component to this redefinition, by which the manly scars that so many railroad workers proudly wore early in the nineteenth century became increasingly seen as markers of dependence (and thus a decidedly feminine trait) later in the century.⁴³ Williams-Searle’s study is just one of several recent publications that are re-evaluating labor history by making the disabled workers central actors in the narrative.

Several other scholars have also gone beyond recounting workplace dangers to evaluate society’s perception of disabled workers. Rather than presuming that disability is solely a medical problem which must be overcome by the impaired individual, they have demonstrated how “disability” was and is a fluid and socially-constructed term—like “gender” or “race”—that has been reshaped over time.⁴⁴ In *Caught in the Machinery*, for

⁴³ Williams-Searle, Chapters 5 and 6 passim.

⁴⁴ Catherine J. Kudlick, “Disability History: Why We Need Another ‘Other’” *American Historical Review* 108, no. 3 (June 2003): 763-793. As Kudlick pointed out, early disability studies employed a medical model of disability, defining it as an individual obstacle to be overcome by the disabled. As such,

example, Jamie Bronstein gave particular attention to the differences between how industrial accidents and their victims were portrayed by newspapers targeted at able-bodied, middle-class readers, and the way that workers' themselves understood such events and the disabilities that they endured. She also stressed that "a lost limb is a lost limb—but the cultural and social meaning of that injury has everything to do with the multiple contexts in which it is experienced."⁴⁵ It was the shift in the way that society understood workers' lost limbs in Great Britain and the United States at the turn of the twentieth century that, Bronstein argued, prompted both governments to define disability in the workplace as a problem and to pass legislation that would hold employers accountable.⁴⁶ Like Bronstein's study, Edward Slavishak's *Bodies on Display: Civic Display and Labor in Industrial Pittsburgh* also examined competing views of workers' bodies. Slavishak did not exclusively deal with physically "damaged" laborers, but they did comprise a significant portion of his study; and while he never delved into the long-term consequence of work-accidents for the injured parties, he did argue that "workers' bodies became surrogates for competing ideas about work and the city." Such a conclusion suggests that the disabilities those bodies sometimes included would, likewise, have lacked any sort of "fixed meaning," continually being subject to

the disabled often appeared in studies of "rehabilitation, special education, and other applied professional fields." (765) Following on the footsteps of disability activism in the early 1980s, scholars from a wide variety of fields began to reconsider disability as a socially-constructed category like race or gender. Furthermore, this socially-constructed identity of being disabled "cuts across all races, classes, genders, nationalities, and generations because it can potentially happen to anyone at any time; an accident, a degenerative disease of the limbs, eyes, ears, or nervous system can instantly transport someone into a new category of existence." (768) By redefining the term, disability scholars have made the topic more widely relevant and have raised a multitude of new queries with which scholars in all fields are only beginning to engage.

⁴⁵ Bronstein, 2.

⁴⁶ Ibid., 6.

reinterpretation by outsiders with their own agendas.⁴⁷ As these historians have demonstrated, there is clearly a long history of able-bodied society projecting meaning onto the bodies of the “dis-”abled “others.”⁴⁸

Two other major works have focused upon how such preconceptions of disabled bodies shaped disability policy itself. Halle Gayle Lewis’ 2004 dissertation, “‘Cripples are Not the Dependents One is Led to Think’: Work and Disability in Industrializing Cleveland, 1861-1916,” evaluated how city officials and reformers redefined disability as they began to encounter it on a grander scale. Lewis, more than many others, gave great attention to the actual ramifications of disability for the workers who experienced it. She also explored how the “increasing risk of injuries” resulting from industrialization made many Cleveland politicians and reformers fearful that the city might be overwhelmed by an ever-growing “dependent” class of disabled workers.⁴⁹ Mitigating this circumstance, she argued, “prompted reinterpretations of the traditional values of personal liberty and limited government.”⁵⁰ Drawing on a particularly unique source—the 1916 “Cleveland Cripple Survey”—Lewis also revealed that in spite of Clevelanders’ expectations that

⁴⁷ Edward Slavishak, *Bodies of Work: Civic Display and Labor in Industrial Pittsburgh* (Durham: Duke University Press, 2008), 4.

⁴⁸ See also Susan M. Schweik, *The Ugly Laws: Disability in Public* (New York: New York University Press, 2009); Adrienne Phelps-Coco, “Diseased, Maimed, Mutilated: Categorizations of Disability and an Ugly Law in Late Nineteenth-Century Chicago,” *Journal of Social History* 44 (Fall 2010): 23-37; David M. Turner and Kevin Stagg, eds., *Social Histories of Disability and Deformity: Bodies, Images, Experiences* (London: Routledge, 2006); and Rosemarie Garland-Thompson, ed., *Freakery: Cultural Spectacles of the Extraordinary Body* (New York: New York University Press, 1996). These works dealt with the idea of disability as a social construction by an able-bodied majority, but did not specifically focus on disabled workers.

⁴⁹ Halle Gayle Lewis, “‘Cripples are Not the Dependents One is Led to Think’: Work and Disability in Industrializing Cleveland, 1861-1916” (PhD diss., SUNY-Binghamton, 2004), iv.

⁵⁰ *Ibid.* As Lewis explained in more detail, the return of disabled Civil War Veterans, followed by an increasing number of disabled workers churned out by the rapidly industrializing city pushed many reformers to advocate for better working conditions. The call for government intervention into the workplace countered the earlier American support for laissez-faire economics. Lewis also argued that disability served as a catalyst for the reconsideration of the moral economy and what society owed one another as well as notions of self-sufficiency, independence, and citizenship.

disability bred dependence, many of the city's injured workers had reintegrated themselves into society without government aid. This idea of disability as a category invented by middle-class, able-bodied reformers is echoed in Sarah Rose's 2008 work, "‘No Right to be Idle’: The Invention of Disability, 1850-1930." Rose acknowledged that physical disability is very real, but she argued that the association of disability with unproductiveness and dependency is one that emerged in the late-nineteenth and early-twentieth centuries when "policymakers, employers, and the public *created* disability as a public policy problem."⁵¹ Rose suggested that the implementation of workmen's compensation, vocational rehabilitation, and other public policy programs targeted at the disabled, for all of their good intentions, segregated them from other workers and affixed them with a label and a status that carried many negative consequences.⁵²

Such studies are invaluable and insightful, but much of the literature still focuses on how *society's* definitions of disability affected institutional policies—of unions, charitable organizations, employers, and at all levels of government. Building on the idea that the social construction of disability had important consequences for the injured workers who were adjusting to their post-accident life, the third chapter in this dissertation evaluates the language used to describe the disabled between 1870 and 1930. The various stereotypes employed by the able-bodied undoubtedly affected disabled worker's psyches. Unlike those with congenital disabilities, victims of industrial violence were in an instant thrust into a new identity. One morning they left for work with limbs and general health intact, and a few hours later a misplaced hand, a negligent co-worker, an unguarded gear, or any number of mishaps suddenly changed all of that. Regardless of

⁵¹ Sarah F. Rose, "‘No Right to be Idle’: The Invention of Disability, 1850-1930" (PhD diss., University of Illinois at Chicago, 2008), ix. Emphasis in original.

⁵² *Ibid.*, ix-x.

the severity of the injury, the worker's accident suddenly altered their outward appearance. Whether or not they felt hindered by a missing or scarred limb, the accident invited outsiders' judgments about their able-bodiedness and "wholeness." Such judgments fell harder on some than others, but every disabled person faced them in the wake of his or her accident; thus, the attitudes of the able-bodied and the ways in which they were manifested in injured workers' lives merit attention.

The historical evidence indicates that society has held varied and often conflicting views of the disabled. As such, workers in Wisconsin and elsewhere were considered to be pitiable by some of their peers and criminally suspect by others. Furthermore, they could also be labeled both capable and dependent, all based upon their outward appearance—a reality that no doubt affected their efforts to seek re-employment and to establish or maintain their personal relationships. Beyond the issue of image control, several other practical implications of industrial violence for the individual worker and their families have yet to be fully documented. Therefore, the final chapter aims to recover a sense of how workplace violence and the ensuing disability were experienced by the individuals upon whom they were inflicted.

As has already been noted, few scholars have recovered details about the personal experiences of disabled workers. While some of the studies mentioned above included insights from late twentieth-century employees, their early-twentieth century counterparts seldom left written records behind revealing how they felt about their injuries or the changes such impairments ushered into their everyday lives. Aside from brief anecdotes that pepper many of the studies already mentioned, only Williams-Searle, Schmidt, and Lewis really highlighted the voice of the workers themselves. This absence of personal

detail is noteworthy when compared to literature in several other subfields of disability history which provide a more complete analysis of physical impairment from an insider's perspective.

Polio studies are particularly rich in this regard. Many polio survivors themselves have written about their experiences with the physical impairment inflicted by the disease and the psychological impact that came along with it. For instance, in *How I Became a Human Being: A Disabled Man's Quest for Independence*, Mark O'Brien, who contracted polio at age six and was confined to an iron lung for much of his life, described his early dependence on family and his struggle to gain independence in all aspects of his life—including the pursuit of gainful employment, his own apartment, and finding sexual fulfilment with the help of a sex therapist.⁵³ Gary Presley's *Seven Wheelchairs: A Life Beyond Polio* and Anne Finger's *Elegy for a Disease: A Personal and Cultural History of Polio* echoed many of O'Brien's observations.⁵⁴ Personal insights, however, are not limited to autobiographies. Several academic studies have drawn heavily on oral interviews to provide an inside look at the impact that polio had on people's everyday lives. As early as 1963, Fred Davis published *Passage through Crisis: Polio Victims and Their Families* which documented fourteen different families' experience with the disease.⁵⁵ More recently Daniel Wilson's *Living With Polio: The Epidemic and its Survivors* utilized several case studies to capture a first-person perspective. Like Davis, Wilson's study covered everything from the initial fever and

⁵³ Mark O'Brien and Gillian Kendall, *How I Became a Human Being: A Disabled Man's Quest for Independence* (Madison: University of Wisconsin Press, 2003). O'Brien's story inspired a 2012 film adaptation—*The Sessions*—which garnered several awards.

⁵⁴ Gary Presley, *Seven Wheelchairs: A Life Beyond Polio* (Iowa City: University of Iowa Press, 2008); Anne Finger, *Elegy for a Disease: A Personal and Cultural History of Polio* (New York: St. Martin's Press, 2006).

⁵⁵ Fred Davis, *Passage Through Crisis: Polio Victims and their Families* (Indianapolis: Bobbs-Merrill, 1963).

diagnosis through treatment to the readjustment to life outside of the hospital. Unlike Davis, Wilson was able to ask how his subjects felt about the onset of post-polio symptoms many decades later.⁵⁶ He and Julie Silver conducted a similar oral history in 2007—*Polio Voices: An Oral History from the American Polio Epidemics and Worldwide Eradication Efforts*—which was part of the Polio Oral History Project.⁵⁷ One final example of this literature is Kathryn McGowan’s 2005 anthropological study, “A Body History of Polio-Related Impairments in the United States,” which was based upon interviews with twenty-one Cleveland residents who had contracted polio as adolescents in the mid-twentieth century.⁵⁸ Like Wilson’s study, McGowan’s interviewees revealed how they dealt with both the initial diagnosis as well as the subsequent changes they endured as age and the onset of post-polio syndrome introduced new physical limitations. Personal accounts like the ones mentioned above, however, are not limited to polio patients.

A number of other contemporaries have documented their personal experiences with disability. Both anthropologist Gelya Frank’s *Venus on Wheels* and Kenny Fries’ *Body, Remember* featured the personal stories of two individuals who had congenital disabilities. Frank’s work recounted the story of Diane Devries who was born without arms and legs while Fries’ memoir documented his own experience as an openly gay man

⁵⁶ Daniel J. Wilson, *Living with Polio: The Epidemic and its Survivors* (Chicago: University of Chicago Press, 2005). Wilson’s book featured especially great insight on the male and female experiences of disability and the ways in which the patients’ physical impairment challenged their prescribed gender roles. His interviewees also, though less frequently, related intimate details about how physical impairment impacted their sexuality—a topic which is especially difficult to assess for the workers that make up this study. See also Daniel J. Wilson, *Polio: The Epidemic and its Survivors* (Santa Barbara: Greenwood Press, 2009) which is very similar to his 2005 study.

⁵⁷ Julie Silver and Daniel Wilson, *Polio Voices: An Oral History from the American Polio Epidemics and Worldwide Eradication Efforts* (Westport: Praeger, 2007).

⁵⁸ Kathryn Rosemary Brigid McGowan, “A Body History of Polio-Related Impairments in the United States: How Individuals’ Experiences of their Polio-Related Impairments Responded to Socio-Cultural Shifts in Contemporary American Society” (PhD diss., Case Western Reserve University, 2005).

who was born with a deformity of his legs.⁵⁹ Other accounts, like anthropologist Robert Murphy's *The Body Silent*, dealt with the onset of disability later in life. Murphy who became paraplegic as a result of a tumor on his spinal column reflected on the gradual onset of symptoms and the way in which his condition "visited upon [him] a disease of social relations no less real than the paralysis of the body."⁶⁰ So, too, leading disability activists have reflected on their own experiences as well as their advocacy for civil rights. For instance in an essay entitled "Why I Burned My Book," the late historian and disability rights activist Paul Longmore detailed his own attempts at maintaining economic independence in spite of the "work disincentives in federal disability-related welfare policies."⁶¹ Similarly, psychologist and disability activist Simi Linton who was injured in a car accident in the early 1970s discussed both her disability and her career advocating on behalf of the disabled in her memoir *My Body Politic*, as did fellow activist Jenny Morris in *Pride Against Prejudice*.⁶² Indeed, these contemporary accounts include the kind of in-depth introspection that is impossible to recapture for earlier subjects.

⁵⁹ Gelya Frank, *Venus on Wheels: Two Decades of Dialogue on Disability, Biography, and Being Female in America* (Berkeley: University of California Press, 2000); Kenny Fries, *Body, Remember: A Memoir* (Madison: University of Wisconsin Press, 2003). Both accounts feature very open reflections on both the challenges of one's physical impairment and the pragmatic manner in which the subjects adapted to the realities of living without limbs, the prejudiced attitudes of those they confronted, and the ups and downs they had—both those related to the disability and those that had nothing to do with their corporeal self. They are neither triumphalist stories of overcoming personal obstacles, nor tragic stories that encourage pity. Rather, they are simply biographies of each individual.

⁶⁰ Robert F. Murphy, *The Body Silent* (New York: Henry Holt and Company, 1987), 4.

⁶¹ Paul K. Longmore, "Why I Burned My Book," in *Why I Burned My Book and Other Essays on Disability*, ed. Paul K. Longmore (Philadelphia: Temple University Press, 2003), 231. Longmore's book included a number of other essays devoted to uncovering not only contemporary disability activism, but rooting that activism in a historical understanding of disability. See also Paul K. Longmore and Lauri Umansky, *New Disability History: American Perspectives* (New York: New York University Press, 2001) which focused on restoring the disabled to the historical narrative as active agents, not only in their own lives but in American history as a whole.

⁶² Simi Linton, *My Body Politic* (Ann Arbor: University of Michigan Press, 2006); Jenny Morris, *Pride Against Prejudice: Transforming Attitudes to Disability* (Philadelphia: New Society, 1991).

Other important disability scholars have given special consideration to the way in which physical impairments influenced one's intimate sense of self. Thomas Shakespeare and Harlan Hahn, for instance, have both suggested that able-bodied peers frequently associate physical difference with diminished manhood, and explored the ways in which disabled men coped with these real or perceived notions that they were unable to fulfill their traditional gender roles.⁶³ So too, in "Letting Go of Restrictive Notions of Manhood," Mitchell Tepper examined his own experience with adapting to a new male role and a new understanding of sex and sexuality when he was paralyzed after diving into shallow water and striking the ground. Finally, Thomas Gerschick has argued that "[disabled men] are denied recognition as men" because they are unable to "enact hegemonic standards in [the] realms" of work, body, athletics, sexuality, independence, and control.⁶⁴ Gelya Franks' *Venus on Wheels* and Jenny Morris' *Pride Against Prejudice* included similar insights into how physical disabled women met with traditional gender roles. They also discussed the able-bodied community's sometimes subtle presumptions that physical difference precluded disabled women from doing traditionally female tasks of maintaining a home or bearing children.⁶⁵ Such personal insights and observations

⁶³ Thomas Shakespeare, "The Sexual Politics of Disabled Masculinity," *Sexuality and Disability* 17, no. 1 (1999): 53-64; Harlan Hahn, "Masculinity and Disability," *Disability Studies Quarterly* 9, no. 3 (1989): 54-56. Both Shakespeare and Hahn had a personal connection with their research. Hahn, a political scientist and disability activist, contracted polio as a child and Shakespeare, a sociologist, was born with achondroplasia or dwarfism.

⁶⁴ Thomas J. Gerschick, "Sisyphus in a Wheelchair: Men with Physical Disabilities Confront Gender Domination," in *Everyday Inequalities*, eds. Jodi O'Brien and Judith A. Howard (Oxford: Blackwell Publishers, Ltd., 1998): 189-211. See also Thomas J. Gerschick and Adam Miller, "Coming to Terms: Masculinity and Physical Disability," in *Men's Health and Illness: Gender, Power, and the Body*, eds. Donald Sabo and David Frederick Gordon (London: Sage Publications, 1995).

⁶⁵ Frank, 65-68. As Frank's subject Diane explained it, her parents never told her outright that she could not fulfill traditional gender roles, but in reflecting back she noted that they never talked about a future in which she might have kids or be married. Likewise, she expressed concern over her own ability to maintain a home for her husband Jim. See also Morris, *Pride Against Prejudice*, in which Morris and her interviewees discussed the fact that their disabilities were often perceived by the able-bodied public as having rendered them asexual or less attractive. (19-22)

about disability and gender in these contemporary accounts have rarely been equaled in studies of disabilities that pre-date the 1950s.

One notable exception is in the subfield of war-related disability. Indeed, several scholars have explored how wounded veterans adapted to their post-war lives. Both James Marten and Jalyn Padilla, for example, have documented how disabled Civil War veterans sought to retain economic independence and how they tried to redeem their sense of manhood in spite of both the public's perception of their injured bodies and the fact that their injuries sometimes forced them to rely upon the aid of others. While Marten highlighted the public's perception of disabled veterans and the local and national policies designed to deal with them, Padilla shed light on how prosthetic limbs were marketed as a means to restore independence, physical "wholeness," and manhood.⁶⁶ Like Padilla, several other scholars have analyzed the abundant literature produced by limb manufacturers and rehabilitation agencies in order to demonstrate the links that society made between physical "wholeness" and masculinity.⁶⁷ There have also been

⁶⁶ James Marten, *Sing Not War* (Chapel Hill: University of North Carolina Press, 2011); Jalyn Olsen Padilla, "Army of Cripples: Northern Civil War Amputees, Disability, and Manhood in Victorian America" (PhD diss., University of Delaware, 2008). See also Jennifer David McDaid, "How a One-Legged Rebel Lives": Confederate Veterans and Artificial Limbs in Virginia," in *Artificial Parts, Practical Lives: Modern Histories of Prosthetics*, eds. Katherine Ott, David Serlin, and Stephen Mihm (New York: New York University Press, 2002). McDaid's account drew upon letters written to the federal government requesting limbs or complaining about the limb being noisy, cumbersome, impractical, or uncomfortable—thus introducing the personal voice of the soldier and revealing how they felt about not only their artificial limb, but also the disability itself.

⁶⁷ See David Serlin, "Engineering Masculinity: Veterans and Prosthetics after World War Two," in *Artificial Parts, Practical Lives: Modern Histories of Prosthetics*, eds. Katherine Ott, David Serlin, and Stephen Mihm (New York: New York University Press, 2002); Roxanne Panchasi, "Reconstructions: Prosthetics and the Rehabilitation of the Male Body in World War I France," *Differences: A Journal of Feminist Cultural Studies* 7, no. 3 (1995): 109-140. Panchasi explored how French society projected its fears of a post-war masculinity crisis on the bodies of wounded soldiers whom they took a great interest in restoring to economic self-sufficiency and manhood. See also Erin O'Connor, "'Fractions of Men': Engendering Amputation in Victorian Culture," *Comparative Studies in Society and History* 39, no. 4 (October 1997): 742-777. O'Connor focused on the public discourse about amputation between 1851 and the onset of the First World War with particular attention to the question of whether amputation threatened Victorian ideals about manhood and vigor. Drawing upon the writings of medical professionals, O'Connor noted how some of the phantom pains—likely due to a poor amputation that failed to properly cover

several significant works that documented the effects of modern warfare on wounded soldiers, including Marina Larsson's *Shattered Anzacs: Living with the Scars of War*, Matthew Kinder's "Encountering Injury: Modern War and the Problem of Wounded Soldiers," and Robert Jefferson's 2003 article, "'Enabled Courage': Race, Disability, and Black World War II Veterans in Postwar America."⁶⁸ Perhaps because wounded veterans were a more readily identifiable group whose disabilities stemmed from noteworthy public service, there is a rich base of primary source material upon which historians have been able to reconstruct both their experience with disability as well as the general public's perception of them.

While these scholars have been able to glean personal details about the experience of wounded soldiers from rehabilitation literature, veteran's home records, prosthetic limb advertisements, and other varied sources, few have done the same for injured workers. In spite of the fact that workers were maimed in far greater numbers, they quite simply did not leave behind much evidence about their personal lives. Furthermore, while soldiers of varying ranks might occasionally leave behind their personal correspondence or diaries, few workers (beyond labor leaders) were likely to have documented their daily lives with any sort of regularity. The letters they sent to relatives are more than likely lost to time, and if they were preserved in an archive, "disability" is not likely a key term archivists would have assigned to the collection. Thus tracking down an individual

severed nerves—induced twitching, thrashing, and fits of hysteria which were all considered to be effeminate behavior. She argued that "stump pathology thus suggested not only that masculinity was contingent upon physical integrity, that a man was only as complete as his body, but also that an effeminate pain pattern could undercut the essence of a man, that an incomplete man was not a true one." (744-745)

⁶⁸ Robert F. Jefferson, "'Enabled Courage': Race, Disability, and Black World War II Veterans in Postwar America," *The Historian* 65 (2003): 1102-1124. Jefferson is one of the few who have explored the double burden of disability and race. As he explained, disability policy reflected society's broader cultural and racial perceptions, thus disability pensions differed according to race. As such, the injuries of wounded black veterans were classified as "lesser" in degree and they were granted smaller pensions. Jefferson also discussed their unequal treatment in veterans' hospitals, rehabilitation centers, and veterans' organizations.

disabled worker is like searching for the proverbial needle in a haystack. As such, the details about how workers felt about their injuries or how disability affected their lives must necessarily come from reading against the grain of institutional and government documents.

Employing that strategy, the final chapter of this study is aimed at uncovering more about lived experience of work-related disabilities. Drawing primarily on four separate surveys of disabled workers along with supplementary information from the Industrial Commission of Wisconsin's annual workmen's compensation records, the Department of Vocational Rehabilitation, and contemporary reform literature, Chapter Four provides a macro-level analysis of how work-related disabilities affected one's finances, employability, family dynamics, and their sense of self. The surveys—which were conducted between 1907 and 1926—include responses from men and women who were injured as far back as the 1860s, thus providing an interesting look at how people dealt with industrial disability both before and after the state introduced a no-fault compensation law in 1911. Respondents were notably silent about the non-economic ramifications of their accidents—a product either of their own desire to emphasize their successes or, more likely, the surveyors' lack of attention to the personal impact such injuries had on other areas of working men and women's lives. Regardless of these oversights, this chapter—like the ones that precede it—will demonstrate that the experience of disabled workers was far from uniform. The legal, economic, and cultural consequences of “Henry's” scalded body, “Michael's” amputated legs, or “Nikola's” scalping were as varied as the individuals themselves.

A Note on Periodization and Sources

While work-accidents have continued to threaten workers up to the present day, this dissertation focuses on a period during which they first became a major problem worthy of legislators' attention. In order to provide a full picture of the dangers inherent in work, it stretches as far back as the 1870s, when Wisconsin's economy was predominantly agricultural. The dissertation concludes with the onset of the Great Depression, in large part because the issue of reemployment for industrially disabled workers became much more complex once the nation was mired in an economic recession of that magnitude. Indeed, the matter of how disabled individuals fared during the 1930s is worthy of its own full-length examination, and any attempt to cover that experience here would fail to do it justice. The decision to set these chronological parameters also reflects both the availability and depth of the source materials. Although the details provided about work-accident victims began to taper off in the 1920s, extending the study to 1930 allows for an equal comparison of the pre- and post-compensation law periods. Finally, it permits a discussion of how the return of disabled World War I veterans and the introduction of Vocational Rehabilitation impacted injured workers' post-accident experiences.

As mentioned above, much of this study is derived from a careful re-reading of institutional records. Such sources generally provided standardized, annual reports which are certainly helpful for targeting a group of people who seldom left behind their own records. However, the agencies themselves were often in their formative years. As such, they experimented with the type and quantity of information they collected from year to year. Accident reporting was sometimes very consistent, only to trail off a few years later

as a new administrator replaced an older one. Likewise, as reports were standardized, the extensive details that appeared in the early years were sometimes left out in later reports.

The statistical and anecdotal evidence of accidents which provide the basis of Chapter One are drawn primarily from the Wisconsin Bureau of Labor and Industrial Statistics and its successor, the Industrial Commission of Wisconsin. Accident reporting began in the late 1870s, but reliable data was not available until the twentieth century. Indeed, even when the Industrial Commission first formed in 1911, it often combed local newspapers for evidence of accidents that might not be officially reported in order to reach out to the injured parties and inform them of their rights to compensation.⁶⁹

Data for Chapter Two is derived primarily from the Report of the Committee on Industrial Insurance (1907-1909) and the Industrial Commission's Annual Workmen's Compensation Report (1911-1930). While both provided good examples of the outcomes in contested cases, they were often inconsistent when it came to providing a full description of how an accident occurred, an indication of the time elapsed since the injury, or the subject's current state of employment. The annual workmen's compensation reports in particular became more streamlined in the late-1910s and early-1920s as the commission worked through some of the grey areas of the law and established precedents for its enforcement. Furthermore, while both sources provide a useful glimpse into the ramifications of work-accidents, they excluded countless other cases in which the disabled employee either did not seek legal retribution by taking their employer to court (pre-compensation law) or did not contest the terms of their workmen's compensation payment (post-compensation law).

⁶⁹ In 1907 the state began requesting that all physicians report any accidents they treated and that coroners report any accident-related deaths. While the effort resulted in a massive compiling of data for two years, officials noted that many accidents still went underreported.

Comparatively speaking, the primary sources upon which Chapter Three is built are much more straightforward than the government reports. Contemporary newspaper articles, reform publications, and annual reports from the both the Industrial Commission and the Department of Vocational Rehabilitation offer a glimpse of how able-bodied Americans talked about and understood the physically disabled individuals in their communities. It is, however, more difficult to assess how widely such articles were read and the degree to which such characterizations of disability were adopted by an injured worker's able-bodied peers. Nevertheless, the persistence of these representations of the disabled (as tragic dependents, suspicious vagrants, or liabilities that must be converted into assets)—though often contradictory—suggests that they are worth consideration. They certainly imply that a sudden industrial accident could transport a worker into a new class where his or her ability was judged (for better or worse) based on physical appearance, and this would undoubtedly be an important part of the lived experience of work-related disabilities.

In order to determine just how much a sudden accident transformed working men and women's lives, the final chapter draws upon contemporary surveys of disabled employees. If more thorough records of these workers' contested compensation claims existed at one time, they were lost or discarded when Wisconsin's Industrial Commission transferred its records to the Wisconsin State Historical Society. All that remains are the summaries of contested cases that were featured in the agency's annual reports. Likewise, case records from the Department of Vocational Rehabilitation for this period have not been preserved. Thus, the personal details that such records might have included—in the form of court transcripts, patient interviews, and evaluations—are unavailable for

Wisconsin workers. For their part, the surveys featured so prominently in this last chapter did include occasional personal insights from respondents about how the disability affected their day-to-day lives. More often, however, they focused on the economic repercussions of their physical impairment. Case summaries were varied, indicating that surveyors did not always ask the same questions or that they did not always record the same information. As a result, few large generalizations can be made about how age, gender, occupation, or severity of injury affected one's post-accident experience. Nevertheless, such sources do provide valuable glimpses into the lives of disabled workers that will hopefully be supplemented by future case studies in other states.

Chapter One: Perils of Production

Peace has its perils no less than war; work accidents in the aggregate are equivalent to the losses of a perpetual campaign. Of deaths alone the twelve months' total is four times the number killed and mortally wounded in the battle of Gettysburg; of permanent injuries the annual sum surpasses the yearly average of the Civil War. The total casualties of the American Expeditionary Force in the World War did not equal the casualties to American workmen in peaceful employments between April, 1917, and the signing of the Armistice. The toll of life and limb exacted by American industries during the second decade of the twentieth century exceeds the nation's losses in battle from the Declaration of Independence to the present day.¹

Work has always been dangerous, but as E.H. Downey suggested in his 1924 assessment of workmen's compensation, the workplace became even more hazardous as America industrialized following the Civil War. Legislators eventually tried to protect workers by passing safety laws and introducing no-fault compensation programs. In spite of their best efforts, however, earning a living took a serious toll on the human body. Although Wisconsin was a leader in implementing safety legislation, its workers certainly confronted many perils on the job. Even before the use of automated machinery, injuries were common to farm and factory work alike. However, as Wisconsin's farms and factories matured over the course of the late nineteenth and early twentieth centuries, and dangerous machinery became commonplace, the degree and frequency of injuries rapidly increased and made workplaces more deadly than battlefields.²

¹ E.H. Downey, *Workmen's Compensation* (New York: The Macmillan Company, 1924), 1. Downey was the chief statistician of the Industrial Commission of Wisconsin between 1913 and 1915 and was a major contributor to the public discussion about workmen's compensation throughout the country.

² According to Jamie Bronstein's work, *Caught in the Machinery*, historians must be careful about asserting that industrialization caused an increase in the accident rate. She suggested three reasons why it is difficult to draw such conclusions. First, like the study of crime in the nineteenth century and before, it is difficult to determine whether the increase in accidents reported truly reflected a corresponding relationship to the introduction of the new equipment or whether it was a product of Victorian culture's new

Down on the Farm

The earliest frontier settlers were drawn to Wisconsin's fur-trading or lead mining, but pioneer farmers quickly followed in their wake. From 1835 until the start of the Civil War, much of the land spanning southern Wisconsin was turned into small farms.³ Settlers from New York, Ohio, and New England brought wheat farming with them. Wheat quickly became the young state's most profitable crop, and it remained the crop of choice until the mid-1870s when soil fertility declined and the center of wheat production shifted westward.⁴ Whether they were specializing in wheat or simply running a subsistence operation, farm laborers faced a wide variety of workplace dangers.

Since farms were also typically a family residence, they proved a particularly dangerous for laborers and residents of all ages. As historian Derek Oden explained, farming was a lifelong occupation, and even into the present-day few farmers are likely to retire at a fixed age. Thus work around the homestead generally continued until one was unable to carry out the day-to-day labor and age made even the most familiar tasks more strenuous. Family farms also proved especially dangerous to children, whether they were performing daily chores or simply engaging in play.⁵

preoccupation with humanitarianism and interest in prevention of these accidents. A second cause for concern is the spotty nature of accident statistics that government officials collected. Since few records were kept in Wisconsin until the late nineteenth century, it is difficult to determine whether an increase took place. Finally, Bronstein suggested the possibility that industrialization simply increased the number of hours and therefore the number of workers who might be injured in the line of work. Bronstein made valid points on all three counts. We cannot conclude that the introduction of automated machinery meant more accidents. What can be determined based on the evidence for Wisconsin, however, is how the introduction of heavy, automated machinery brought about more serious and permanent disability for workers.

³ William Frances Raney, *Wisconsin: A Story of Progress* (New York: Prentice Hall, 1940), 217.

⁴ *Ibid*, 220-224.

⁵ Derek S. Oden, "Harvest of Hazards: The Farm Safety Movement, 1940-1975" (PhD. Diss., Iowa State University, 2006), 69.

Even before the introduction of mechanized tools, hazards abounded for agricultural laborers. One of the more frequent non-mechanical injuries on the farm was falling. Farmers tumbled from ladders, from wagons, from the top of barns, from grain elevators, from horses, or even into wells. Weather was another—and rather unavoidable—work hazard for farmers of all eras. The need to carry out work regardless of the season exposed agricultural laborers to the risk of both heat stroke and hypothermia. Additionally, Wisconsin’s icy winters proved dangerous, as a hard fall on a patch of blind ice could put a farmer out of commission for days or weeks.⁶

Like their factory counterparts, farmers were also confronted with the threat of fire. If manure or straw was improperly stored, it proved highly combustible. Oil rags and in later years petroleum products were extremely flammable as well.⁷ Another common source of injury was the use of dynamite caps which farmers employed for blasting stumps. Farm hands and curious children who lacked knowledge about how to properly handle the explosives risked major injuries.⁸ Explosions and fires captured newspaper attention, but they were just two of many dangers that lurked on Wisconsin farms—sometimes in seemingly unexpected places.

Indeed, even interactions with animals and livestock proved hazardous on occasion. According to a survey of 5,241 accidents reported to the Industrial Commission between July 1, 1911 and June 30, 1912, animals were responsible for eight fractures, twenty-six bruises, five lacerations, and one sprained limb—and these were only the

⁶ Ibid., 72-73.

⁷ Ibid., 58. Although Oden’s work focused on the establishment of a farm safety movement in the mid-twentieth century, his recounting of agricultural work hazards is reflective of the type of hazards that farmers had always faced.

⁸ Don D. Lescohier, “Work-Accidents and the Farm Hand,” *The Survey* 27, no. 1 (October 7, 1911): 946-951.

reported cases.⁹ A temperamental horse might kick or bite a nearby farmhand. For example, in September of 1916, thirteen-year-old Orrin Myren suffered a skull fracture after a horse kicked him in the head. The boy had been employed at his uncle's farm harvesting and delivering corn. The horse's kick caught him unexpectedly as he had stooped to pick up some ears that were scattered around the wagon. Animals could also buck a rider off their backs or inadvertently stomp a handler's foot when frightened. Such was the case with William Vojacek, a deliveryman for the Schlaefer Dairy Farm whose horse was frightened by a passing car. The animal reared, knocking Vojacek from his carriage and causing a fractured leg that put him out of work for over four months.¹⁰ Cows, sheep, and pigs were equally dangerous, as they could suddenly ram a nearby farmhand, inflicting varying degrees of harm with their horns or tusks.¹¹

As wheat production waned in Wisconsin, many farmers turned to the dairy industry,¹² and the handling of these large herds of dairy cattle posed additional threats. These weighty creatures could trample their handler or crush one's foot. Handling the bulls was even more dangerous. Wisconsin farm safety specialist Randall Swanson warned that "farmers are crippled and lives are lost because suddenly the quiet dairy bull changes and his disposition suddenly becomes a ferocious, roaring killer."¹³ Farm

⁹ Industrial Commission of Wisconsin, "Industrial Accidents," *Bulletin of the Industrial Commission* 1, no. 3A (July 20, 1912): 146-147. It should be noted that these accidents are broadly labeled as being caused by animals, but the industry in which the animals were used is not specified. Therefore, some of the incidents may have happened in transporting lumber, delivering goods, or other non-agricultural employments. In spite of this, such injuries are probable for anyone handling animals, rendering such statistical information a valid commentary on the dangers of domesticated animals.

¹⁰ "William Vojacek vs. A.J. Schlaefer & U.F. Schlaefer," *Workmen's Compensation Fourth Annual Report*, 8.

¹¹ Oden, 62.

¹² J.H.H. Alexander, "A Short Industrial History of Wisconsin," in *The Wisconsin Blue Book* (Madison: Industrial Commission, 1929): 30-49.

¹³ Randall C. Swanson, "The Dairy Bull—Dr. Jekyll and Mr. Hyde," *Hoard's Dairyman* (November 10, 1944), 598. Quoted in Oden, 64. Oden also mentioned the Swanson report's findings that over six deaths and twenty-five severe injuries were caused by bulls in Wisconsin in 1944.

workers who failed to take caution or turned their backs to a bull risked being charged and gored by the aggressive animal. Furthermore, farmhands were exposed to the threat of diseases transmitted by their livestock. While animals were deadly, however, they were only the second leading cause of injuries and fatalities on the farm. The introduction of new agricultural implements proved even more perilous to life and limb.¹⁴

Throughout the nineteenth century, a number of technological innovations were introduced that changed the nature of farming by speeding up production. In the 1830s, a cradle—consisting of a scythe attached to a frame that guided wheat into piles—was used to cut the crop and followed through the fields by two men who bound each of the piles into bales. It significantly reduced the time and energy invested in baling.¹⁵ Farmers looking to increase production also heartily embraced the newly patented McCormick reaper which began production in Chicago in 1846. By the outbreak of the Civil War, the reaper was a common sight on many Wisconsin farms. These tools, along with corn shredders, binders, grain separators, gasoline-powered engines, hay presses, and mowers all reduced the manpower required to run a large farm operation and simultaneously increased outputs. However, they came at a great price for any operators who mishandled the equipment.¹⁶

The new agricultural implements invited more devastating types of injuries than falls or weather had inflicted. Huskers and shredders were particularly dangerous.

Operators of these machines loaded corn stalks onto a small conveyor belt that carried

¹⁴ Ibid., 67. See Wisconsin Bureau of Labor and Industrial Statistics, *Thirteenth Biennial Report, 1907-1908* (Madison: Democrat Printing Company, 1909), 25. According to the agency's study of work-related injuries, machinery and hand tools accounted for over twenty-four percent of the 684 accidents to farmers that took place between October 1906 and October 1907.

¹⁵ Raney, 218.

¹⁶ Lescohier, "Work Accidents and the Farm Hand," 946-951.

them into a series of “snapping” or “husking” rolls. When the stalks clogged up the machine, as they often did, workmen would reach under the hood to free up the obstruction with their hand or a short piece of the husk, and they ran the risk of catching their hands between the grinding mechanisms. In far too many cases, the men who operated the equipment were unable to remove their hands from the rolls which then drew the limb into a set of shredding knives designed to separate the ears of corn from the husks. If the worker was lucky, they or their fellow workmen were able to turn off the machine before it claimed an entire arm. These dangerous corn shredders were just one of many farm machines that employed the automated rolls and shredding knives, all hazards to farmhands.¹⁷ They were responsible for countless amputated fingers, hands, and arms over the years, and could even cause death.¹⁸

Such accidents were, in fact, so frequent that in 1911 the Industrial Commission conducted a special investigation of accidents on corn huskers and cutters to call attention to these “tragedies of the farm.”¹⁹ The study revealed that in just one year, husking machines were responsible for one death, six lost arms, six severed hands, twenty-five cases of amputated fingers, and ten fractures or lacerations. The feed, ensilage, and silo cutters accounted for three deaths, five lost hands, twelve cases of severed fingers, and fifteen fractures or lacerations.²⁰ As such figures suggest, agricultural implements were leaving a lasting physical impression on many Wisconsin farmers.

¹⁷ According to the Industrial Commission, feed, ensilage, and silo cutters often maimed workers in the same way. See Industrial Commission of Wisconsin, “Farm Accidents on Corn Shredders and Huskers and Feed Cutters,” *Bulletin of the Industrial Commission* 1, no. 5A (October 25, 1912): 265-285.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, 268.

²⁰ *Ibid.*, 273.

While a majority of the men injured by these devices were familiar with the machinery's operation, the Commission's investigation revealed that a combination of carelessness and lack of safety devices often negated workers' experience. For example, one forty-eight-year-old man who had operated such equipment for several years lost his entire arm when he mounted the machine to oil it. While removing snow from the oil cups, he lost his balance, catching his arm in between the rolls. The arm was initially amputated below the elbow, but when gangrene set in doctors thought it best to remove it at the shoulder.²¹ In another instance, a fifty-year-old man with fifteen years of experience, tried to crowd the stalks as the machine drew them in and lost his hand.²² Several workers lost hands or fingers when their gloves caught in some part of the equipment or when they chose to clear up the clogged equipment with their bare hands rather than a stick.²³ In some cases, a fall due to poor weather proved especially dangerous around the machinery. For example, one man slipped on ice and snow on the foot-board and, like the veteran farmer mentioned above, got his hand caught in the snapping rolls as he reached out to catch himself.²⁴ In almost every case featured in the commission's study, an elongated hood to guard the gears or a properly placed and functional safety lever would have prevented the accident altogether or significantly minimized the damage.²⁵ In fact, the legislature had proposed a law three years earlier

²¹ Ibid., 274. See Accident Number 1.

²² Ibid., 276. See Accident Number 3.

²³ Ibid., 274-285.

²⁴ Ibid., 277. See Accident Number 5.

²⁵ Ibid., 266. See list of rules for avoiding accidents. Elongated hoods would prevent most workers from being able to get near the shredding knives and rollers, presuming they did not remove the guard or try to reach into the machine while it was running. Safety levers were supposed to be placed on a part of the machine where one's body could trigger it in case their hand got caught and they could not manually turn off the machine. In a number of cases reported to the Commission the safety lever had prevented the loss of a whole arm. It was also noted that the existence of a lever did not mean it was working. Many of the men who lost a hand on shredders did so because the lever was broken.

which mandated that protective hoods on the shredders be lengthened in order to prevent operators from reaching back as far as the blades. They had also proposed that untrained workers be prohibited from handling the equipment and older machines not be sold until they had been equipped with a proper guard.²⁶

Although the Industrial Commission gave special attention to the dangers of corn shredders and huskers, they were just one of many agricultural implements that frequently maimed workers. Indeed, most farm equipment proved dangerous to farmhands who did not exercise caution when clearing out clogged debris. Otto Busse, for example, lost all of his fingers and part of his right palm when he tried to fix a clogged blower machine on his neighbor's farm. Busse put himself in harm's way by removing the safety cover over the fan in which he caught his hand.²⁷ Many other farmers were injured by contact with the exposed gears, pulleys, belts, blades, and chains found on nearly all farm equipment. Unguarded wood saws severed fingers and hands, or hurled unmanageable boards at the operator. Similarly, uncovered belts could catch an unsuspecting farmer's loose clothing, pulling them into the gears. It took years before safety guards became a standard feature on all farm equipment and even then disabling accidents did not entirely disappear.

In fact, while the lack of safeguards contributed to a great number of farm accidents during this period, a number of others stemmed from a failure on the part of the operator to exercise caution near the machinery's moving parts. Farmers who tried hastily to change belts on their machinery while it was still in operation unnecessarily made

²⁶ Wisconsin Bureau of Labor and Industrial Statistics, "Industrial Accidents in Wisconsin, Second Report," *Fourteenth Biennial Report* (Madison: Democrat Printing Company, 1911), 117.

²⁷ "Otto A. Busse vs. Carl F. Brugger," *Workman's Compensation Third Annual Report*, 78-79.

themselves victims of the whirring gears.²⁸ Edward Puddy, for example, was injured when he tried to replace a belt that came off of a pulley on one of the saws at his employer's farm and instead became entangled in the belt. A coworker saved Puddy from repeated thrashing in the machine, but he was ultimately disabled for over seven months with a badly broken leg.²⁹ In many other cases, farmers' hands were pulled into exposed gears when they tried to oil a machine while it was still running.³⁰ In spite of the fact that these were well-known dangers, they continued to cause workers great harm. And not all farm accidents could be so easily avoided.

A less predictable—though potentially more harmful—mishap occurred when machine operators misjudged the landscape. Steep hills sometimes caused tractors, wagons, or threshing engines to tip, throwing workmen to the ground or even pinning them underneath the vehicle. In some cases, a fallen farmworker was injured further when the machine from which they fell proceeded to run over one of their limbs.³¹ This was the case for a young farmer near Oshkosh who slipped while working alongside a manure spreader and was then run over by the rear wheels, causing fractured ankle bones and torn ligaments.³²

²⁸ See Wisconsin Bureau of Labor and Industrial Statistics, *Thirteenth Biennial Report*, 22, which noted that 1,189 out of the 7,186 (or 16.5 percent) accidents reported during one calendar year (1906-07) occurred on machines that were still operating. Workers' tendencies to fix or adjust machines while they were running seemed to be a widespread problem.

²⁹ "Edward Puddy vs. Ira R. Fitch and Benjamin Robson," *Workman's Compensation Fourth Annual Report*, 17-18.

³⁰ "Farm Accidents on Corn Shredders and Huskers and Feed Cutters," 265-285. In many of the cases featured in this study the injured parties mentioned that they had not exercised caution in clearing out clogged debris and had turned off the machine before unclogging it. The study also included a breakdown of the accidents on these machines and what parts of the machines were responsible—gears, chains, cutters, hoods, delivery pipes, huskers, rolls, blowers, knives, pulleys, burs, etc.

³¹ Lescohier, "Work-Accidents and the Farm Hand," 951.

³² "Swan vs. Nelson," *Workman's Compensation Fifth Annual Report*, 27. Swan who was working for his father-in-law during berry season was out of work for over thirty weeks. The Industrial Commission suggested that the degree of injury might result in permanent partial disability that would hinder his future employment.

As Wisconsin farmers introduced new technologies, their world became more hazardous. The broken limbs and lacerations caused by non-mechanical accidents gave way to more serious incidents which permanently maimed farm laborers on a more regular basis. In a 1911 article for *The Survey*, labor expert Donald Lescohier of Minnesota even suggested that automated farm tools could be considered more dangerous than factory tools simply because of the lack of oversight. While state and national governments began turning their attention to factory inspection and mandating that guards be placed on industrial machinery as early as the 1880s, they failed to recognize the dangers of the farm machinery and to mandate similar safeguarding until years later.³³ Furthermore, if a particular factory was responsible for several disabling injuries, it drew government attention, but farm accidents were reported singularly (on individual farms, through isolated incidents). This led legislators to overlook the frequency with which farm equipment was injuring its operators.³⁴ Whether Lescohier's theory was true, Wisconsin's evidence indicates that, as would be the case in factories, the introduction of machinery in the nineteenth and early twentieth centuries certainly helped make farming increasingly more hazardous.

Wisconsin's Lumber Frontier

Wisconsin's agricultural specialization in wheat spawned a thriving network of flour and grist mills. Farmers shipped their wheat to Milwaukee to tap into the eastern

³³ Gordon M. Haferbecker, *Wisconsin Labor Laws* (Madison: The University of Wisconsin Press, 1958), 18. According to Haferbecker, Wisconsin's first workplace safety legislation was an 1878 law that required all manufacturing facilities with three or more floors to install metal fire escapes on the outside of their buildings. The first law regulating machinery was passed in 1887 and required manufacturers to guard any equipment that might be a danger to workers, including: "all belting, shafting, gearing, and hoists, fly-wheels, elevators and drums of manufacturing establishments."

³⁴ Lescohier, "Work Accidents and the Farm Hand," 946-951.

trade networks and by the end of the Civil War approximately eight grain elevators had been constructed to store the vast amounts of wheat shipped to the city. There were 117 flour and grist mills throughout the state by 1849, and by 1879 that number peaked at 705 before the Wisconsin flour milling industry went into decline. The Badger State was surpassed by Minnesota, its western neighbor, and ultimately by the Great Plains in general. Still, flour milling was the predominant industry of Milwaukee until 1880 and continued to be a major part of the city's industrial sector through first decade of the twentieth century.³⁵

While wheat farming and flour production predominated before the Civil War, however, farming eventually gave way to lumbering in the latter decades of the nineteenth century. Logging replaced flour-milling as Wisconsin's primary industry in the 1880s and it earned Wisconsin a reputation as the nation's leading lumber producer between 1890 and 1904. By the late 1890s, nearly one quarter of the state's manufacturing workforce was employed in the lumber industry.³⁶ Although the small patches of pine forests in southern Wisconsin had been cleared by the 1870s,³⁷ lumber removal continued throughout the state and saw mills proliferated in the northern woods well into the twentieth century.³⁸ In total, nearly 129 billion feet of pine was removed from Wisconsin during this period.³⁹

³⁵ Raney, 222.

³⁶ John D. Buenker, *The History of Wisconsin, Vol. IV: The Progressive Era, 1893-1914* (Madison: Wisconsin Historical Society Press, 1998), 82.

³⁷ Raney, 206. The first saw mills were constructed in Sheboygan County in the mid-1830s and by the Civil War there were over forty in operation. When the area was cleared in the 1870s, these mills were closed or repurposed to paper production.

³⁸ *Ibid.*, 209. Green Bay developed its first major mill as early as 1827; over 24 mills were in operation in the Oshkosh area by 1872; the very small town of La Crosse was home to three shingle mills and ten saw mills; and the Fond du Lac region was home to eighteen lumber and shingle mills at its peak. (200-201)

³⁹ *Ibid.*

Because it made up such a large part of the state's economy, the cutting and processing of lumber accounted for the vast majority of workplace accidents throughout this era, particularly the ones that resulted in permanent disabilities. Between September 1911 and June 30, 1912, for example, the lumber industry accounted for 16.8 percent of all compensable accidents reported to the Industrial Commission.⁴⁰ More importantly, it was responsible for the bulk of the permanently disabling accidents. Specifically, it caused nineteen deaths, one amputated hand, two cases of amputated feet, one lost arm, one case of serious internal injuries, 102 cases of lost fingers, two cases of lost toes, and two cases of blindness.⁴¹ As it continues to be today, logging proved particularly hazardous to human life and limb in its heyday.

The business drew both experienced and novice workers to the Northwoods. While early operations involved small groups of twelve to twenty men, the large-scale timber clearing crews of the late-nineteenth century grew to include anywhere from fifty to two hundred men. Prior to the Civil War, Wisconsin lumberjacks were usually native-born, but as the industry expanded it drew in Scandinavian, Irish, and German migrants who brought with them some experience from clearing the woods of Eastern states. It also attracted men on the fringes of frontier farm settlements who found themselves in need of work during the long winter months.⁴² Regardless of the operation's scale, the same basic process unfolded in forests throughout Wisconsin. Men established camps and

⁴⁰ "Industrial Accidents," 148. These figures were based upon 5,241 accidents reported to the Industrial Commission between September 1, 1911 and June 30, 1912. Compensable accidents were defined in 1911 as those lasting more than seven days.

⁴¹ Ibid., 150-151. Fatalities in the lumber industry accounted for approximately seventeen percent of all industrial fatalities, and nearly one-third (27.4 percent) of all amputated fingers for this nine month period. It should be noted as well, that by 1911 the lumber trade was dwindling in Wisconsin, and we can only guess how frequently the lumber industry maimed and killed Wisconsin workers in its heyday due to lack of consistent statistical data.

⁴² Ibid, 211.

cleared small roadways to transport the timber. As winter set in, the roads were coated with water to form a thick layer of ice that facilitated the movement of the very heavy product. Once camp was established, teams of men worked to clear the woods while other lumberjacks loaded and delivered the lumber to nearby sawmill towns. As operations expanded, logging companies put out calls for more men to clear the woods and run the mills.⁴³

This process brought in workers who lacked experience, a quality that often proved fatal. According to Don Lescohier of the Minnesota Bureau of Labor, it was the seasonal nature of the work—which called on hundreds of men to fell trees in the winter and run the saw mills in the spring—that made lumbering and woodworking as dangerous as mining and railroad work.⁴⁴ The demand for bodies to clear the woods ensured that a significant portion of the workers lacked the proper training and experience to keep themselves and their coworkers safe. Lescohier found this to be true based upon his own investigation of lumber removal and manufacture in Minnesota, where he noted that inexperience was a common trait among the men who were injured. According to his analysis of accident data from 1909-1910, eighteen percent of the wounded men had been employed for less than a week, forty-five percent for less than a month, and a staggering sixty-one percent of the men had been working for less than six months when injured. Lescohier's study also cited age as a factor, with two percent of the

⁴³ Mark Wyman, "Logging the Pineries," in *The Wisconsin Frontier*, ed. Mark Wyman (Bloomington: Indiana University Press, 1998), 253-255.

⁴⁴ Don D. Lescohier, "The Lumberman's Hazard," *The Survey* 26 (August 5, 1911): 639-646. Lescohier explained that in the 1909-1910 fiscal year in Minnesota, lumbering and woodworking were responsible for the second highest number of fatal accidents (behind mining) and that the non-fatal accidents were comparatively serious, resulting in a large number of amputations and crushing injuries that left men seriously impaired and in some cases completely disabled. Lescohier estimated that forty-seven percent of the reported accidents resulted in severe disability lasting between two weeks and two months, and that another eleven percent likely caused in a disability of more than two months.

men being under the age of sixteen, sixteen percent under the age of twenty-one, and fifty-four percent of accidents happening to men under the age of thirty.⁴⁵ Experience, however, was not the only factor in lumber-related accidents; for both the veteran lumberjacks and the new recruits, dangers abounded at every stage in the operation.⁴⁶

A great variety of hazards accompanied the crews in the woods. Men worked twelve-hour shifts felling as many trees as possible and preparing them for transport. Early loggers worked in teams of two, alternately chopping at the tree's base—a job that required a careful knowledge of the way that trees fell. Those who lacked such insight risked the possibility of their tree getting caught in a neighboring branch, stuck in a hole, or dropping on one of their other crew members or horses.⁴⁷ Indeed when lumberjack Gilbert Ericson misjudged the angle of the tree he was chopping it fell onto a neighboring hemlock tree, which crashed back onto Ericson and crushed his skull.⁴⁸ Inexperience also caused some men great injury when they ran into, rather than out of, a falling tree's path.⁴⁹ Falling trees were just the beginning of the hazards that accompanied tree removal.

Axe-men frequently cut themselves, leading not only to injuries but to debilitating infections.⁵⁰ Frank Mittwoch, who worked as a “chain man” removing lumber from the sorting chain and loading it for transport, cut his hand so badly that he severed the extensor tendon of his thumb. Because the tendon failed to fully heal, he lost full

⁴⁵ Ibid., 640.

⁴⁶ The logging and woodworking industries ranked alongside railroads as one of the country's most dangerous industries. The perils of the lumber industry have been well-documented in Andrew Mason Prouty's *More Deadly Than War: Pacific Coast Logging, 1827-1981* (New York: Garland Publishing Inc., 1985).

⁴⁷ Malcolm Rosholt, *Lumbermen on the Chippewa* (Amherst, WI: Palmer Publications, 1982), 23.

⁴⁸ Wyman, 258.

⁴⁹ Leschoier, “The Lumberman's Hazard.” Leschoier cited two cases of men running the wrong way while felling a tree and one case of a boy working on the road who also ran into a falling tree's path.

⁵⁰ Prouty, 90.

extension, making it difficult for him to grasp objects.⁵¹ Once trees were felled, sawyers cleared them of branches and cut them into pieces between ten and sixteen feet in length. Like the men who brought the trees down, the sawyers ran the risks of being crushed by falling trees or cutting themselves. Because they had to stand almost underneath a log to operate their crosscut saws, these men also faced the threat of logs rolling downhill as they shifted and crushing a worker in the process.⁵² The danger continued as lumberjacks transported the goods out of the woods.

The next phase in processing of lumber involved removing the timber to a nearby landing. Swampers cleared the roadways; “road monkeys” iced the roads in preparation for the loaded sleighs; and then logs were “skidded” by a small team of horses or oxen to a landing to await transport.⁵³ In the years before railroads reached logging areas, the logs were transported to nearby streams to await a spring flood that would allow their travel downriver.⁵⁴ Once the product reached a landing, another team of men was in charge of loading them, and for this they used various types of wood jammers: logs were wrapped with chains, and a team of horses or oxen (and later steam power) then pulled on a cable to lift the log into the air and stack it onto the awaiting sleigh or railcar.⁵⁵

Although the first leg of the trip was usually a short distance, it could be quite perilous for the men who carried out the transport. The rigging men who loaded the timber ran the risk of getting caught up in the slack of the cables they used or becoming the victim of debris hurled into the air if one snapped. Once steam power was employed,

⁵¹ “Frank Mittwoch vs. Rib Lake Lumber Company,” *Workman’s Compensation Third Annual Report*, 67-68.

⁵² Prouty, 92. Bucking is a logging term for cutting the tree trunk into smaller lengths.

⁵³ Wyman, 255.

⁵⁴ Raney, 210. See also Rosholt, 26.

⁵⁵ Rosholt, 26.

lumberjacks faced the added danger of explosions.⁵⁶ Traversing the uneven ground was also an invitation for accidents. The sleighs were heavily laden with timber which could literally result in the cart getting ahead of the horse when drivers tried to navigate the steep hills of the woods. Chains that held the logs to the sleigh sometimes snapped, endangering the driver and any other crew involved. Many men were also crushed by logs as they attended to the sleighs or crawled under wagons to fix a jam.⁵⁷ Furthermore, workers who rode on top of the load were sometimes thrown off due to hills or rough terrain.⁵⁸

Hazards continued for the men who drove the logs downstream to the mills. Once spring arrived, water levels rose and rivers could be used for transport. At this stage, workers needed to follow the load and ensure the product's safe arrival. The most experienced men were tapped to serve in the "beat crew," which guided the logs and tried to prevent logjams. The job required agility and fearlessness, as they were frequently obliged to ride the logs through rapids. When a jam formed, the men would use their pikes and peavies, and sometimes pure muscle, to hook the log and pull it free. In certain instances this process involved the men wading into the water to untangle the jam manually, while at other times the beat crew employed dynamite. In either case, when clearing a "center" (a smaller jam of logs caught on a rock or sandbar), workers needed to act quickly. As the jam broke apart, they could fall into the river or be pinned between logs if they did not make it back to their boat in time.⁵⁹ In *The Wisconsin Frontier*,

⁵⁶ Prouty, 94-100.

⁵⁷ Lescohier, "Lumberman's Hazard," 641.

⁵⁸ Wyman, 257.

⁵⁹ *Ibid.*, 261-262.

historian Mark Wyman cited an excellent example of this perilous endeavor as it was observed by an Oshkosh journalist in 1882:

A strong rope was placed under his arms, and a gang of smart young fellows held the end. The man shook hands with his comrades, and quietly walked out on the logs, ax in hand ... At any moment the jam might break of its own accord, and also, if he cut the log, unless he instantly got out of the way, he would be crushed by the falling timber.

There was a dead silence while the keen ax was dropped with force and skill on the pine log. Now the notch was near half through the log; one or two more blows and a crack was heard. The men got in all of the slack of the rope that held the axman; one more blow and there was a crash like thunder and down came the wall, to all appearances on the axman.⁶⁰

The reporter went on to mention that the young man survived the accident, but was somewhat worse for the wear. The “rear crew,” which more often included local farmers or the less experienced loggers, followed behind the main drive, retrieving stray logs from embankments. Like all other tasks, this too proved dangerous. The men were exposed to icy waters through which they waded to dislodge individual logs, risking frostbite, hypothermia, and even death by drowning.⁶¹

The lack of reliable medical care only exacerbated the threat of injury to workers in the woods. For early loggers, few hospitals existed to treat accident victims; and lumber barons seldom offered any medical coverage to their workers. Once hospitals became more common, prudent lumberman purchased hospital tickets from traveling sales representatives to ensure themselves six months of care should they fall victim to one of the many hazards of the trade.⁶² Even into the early twentieth century, however, many injured men still relied upon the crude medical care offered by their fellow loggers

⁶⁰ Ibid., 262.

⁶¹ Rosholt, 63-64.

⁶² Elizabeth Dodd Culver, “Medical Care for Lumbermen,” in *The Badger State: A Documentary History of Wisconsin*, eds. Justus F. and Barbara Dotts Paul (Grand Rapids: William B. Eerdmans Publishing Company, 1979): 250-254.

or the few women in the nearby camps. This early care could be absolutely vital to survival.⁶³ To that end, one Wisconsin doctor concerned with the dangers in such makeshift care went so far as to distribute pamphlets to loggers educating them about proper care of injuries in order to prevent permanent disabilities or death.⁶⁴ While the removal and transport of timber was an extremely hazardous job and the isolated nature of logging camps cut off injured workers from crucial medical care in the event of an accident, the remanufacture of wood in Wisconsin's saw mills was equally—if not more—perilous to workers' lives and limbs.

Once the timber arrived at the mills, a bevy of new dangers threatened workers. Historian Andrew Mason Prouty described the sawmills as “organized chaos, a screeching bedlam of pounding machinery on a vibrating deck, where saws turned like streaks of circular lightning ... an exciting place to work, an easy place to get killed.”⁶⁵ Much like the men in the woods, mill workers might drown while pulling logs from the water or be crushed by falling logs when working as slab-loaders. Although accidents in these facilities could prove just as fatal as missteps in the woods or in transporting the lumber, the machinery employed in these lumber yards and sawmills also—and more frequently—resulted in workers being maimed rather than suddenly killed. Accidents ranged from major injuries like amputations and fractures to lesser ones like eye strain from the sawdust, infections from slivers, and hernias from heavy lifting.⁶⁶

⁶³ Prouty, 88-90.

⁶⁴ Culver, 252-254.

⁶⁵ Prouty, 109.

⁶⁶ “Herman Damerow vs. Paine Lumber Company,” *Workmen's Compensation Fourth Annual Report*, 34. For example, Herman Damerow, aged 54, blamed his exposure to dust particles at the Paine Lumber Company for his glaucoma which ended with surgery and total blindness for Damerow.

The most common source of permanent partial disabilities was, however, amputated limbs. Shingle weavers or sawyers, in particular, risked the loss of fingers or hands. The nature of their work required them to quickly turn out fresh shingles, loading the saw with one hand, while catching the finished product and packing it with another. In the midst of this process, workers also needed to quickly and carefully remove spault from their machine before loading a new piece. A skilled man might turn out 30,000 shingles per day, but one moment of lapsed focus could mean the end of a well-paying job. For example, in 1912, while clearing a small piece of shingle from his machine, sawyer William Winters lost the thumb and first finger of his left hand. The accident exacerbated an earlier injury that left Winters without the ends of his middle and ring fingers as well as the ability to grip with his left hand. Ultimately, the combination these injuries rendered him unable to continue working in this skilled position.⁶⁷ Such disabling accidents were incredibly common among mill workers.⁶⁸

This was due not only to the use of saws, but also the variety of other mechanized mill equipment that was generally left unguarded. Planers, edgers, and emery wheels often lacked safeguards, and countless operators lost fingers when their hands slipped into the open wheels. As was the case for farm workers operating corn shredders, loose gloves also endangered sawmill workers. On numerous occasions they got caught in the saw blade, allowing the machine to cut or pull off the machine operator's fingers. Like their farming counterparts, sawmill workers also frequently exposed themselves to

⁶⁷ "Wm. H. Winters vs. Mellen Lumber Company," *Workman's Compensation Second Annual Report*, 26-29.

⁶⁸ See Wisconsin Bureau of Labor and Industrial Statistics, *Fourth Biennial Report, 1888-1890*; Wisconsin Bureau of Labor and Industrial Statistics, *Fifth Biennial Report, 1891-1892*. Both of these reports included multiple accident reports involving sawyers and other sawmill workers losing all or part of their fingers when clearing sawdust from their tools or even bumping into a blade while it was in motion.

danger by clearing machines without turning off the power. On other occasions, the wood itself caused the accident by sticking or lurching forward, pulling a worker's hands into the blade. Rotten spots caused the wood to push through more quickly, and knots in the wood led to unexpected lurching.⁶⁹ Seventeen-year-old Frank Guyette lost parts of the fingers on his right hand in such a manner, putting him out of work for nearly two months.⁷⁰ Amputated digits, however, were not the only major injury to which sawmill workers were exposed.

Particularly in lumber mills, the threat of amputated limbs was accompanied by the danger of flying objects. Both the saw operator and nearby workers could be severely injured when a piece of wood got wedged in a machine.⁷¹ These lodged chunks of timber would suddenly rocket out of the saw with the force of cannon fire.⁷² Both Bert Harper and I.A. Collins were victims of such flying debris. Harper was struck in the groin by an errant plank, causing a hydrocele which required two surgeries and ultimately resulting in the removal of his testicle.⁷³ Collins was injured when a block of wood flew off of his slab-saw, striking him in the head, nearly fracturing his skull. The injury put him out of work for at least five months.⁷⁴ If they managed to avoid saw blades and flying objects,

⁶⁹ Lescohier, "The Lumberman's Hazard," 639-640.

⁷⁰ "Frank Guyette vs. Hatten Lumber Company," *Workman's Compensation Second Annual Report*, 78-79.

⁷¹ See Wisconsin Bureau of Labor, *Fourth Biennial Report, 1888-1890*; Wisconsin Bureau of Labor, *Fifth Biennial Report, 1891-1892*. In addition to reporting a high number of saw accidents, factory inspectors noted numerous cases where employees were injured by flying pieces of wood that had been lodged in the machine and rocketed out unexpectedly. In many of these cases the injuries that the workers sustained proved fatal. Skull fractures and massive internal injuries from the rapidly propelling boards proved too damaging for most workers to overcome.

⁷² Lescohier, "The Lumberman's Hazard," 639-646; Prouty, 115-118.

⁷³ "Bert Harper vs. Barker & Stewart Lumber Company," *Workman's Compensation Second Annual Report*, 75-77.

⁷⁴ "I.A. Collins vs. Connor Lumber & Land Company," *Workman's Compensation Third Annual Report*, 59-60. Collins was struck in the head on January 18, 1913. He was cleared for return to work in May, but continued to claim disability. Although he failed to convince the Industrial Commission of his

mill workers still might find themselves the victims of various other exposed machine parts.

Belts and gears, especially, presented a major threat to anyone on the shop floor. Workers' loose clothing could, and did, become entangled in the exposed belts, gears, and screw sets. Likewise, a broken belt might snare a worker, spinning them around and beating them against the machine or throwing them across the shop, causing severe fractures or death. When the belts wore out and needed to be replaced, some workers exposed themselves to great risk by keeping the machines in operation during the repair.⁷⁵ One such example of the dangers posed by unguarded gears is the case of Stolle Lumber Company employee Charles Johnson. In October 1913, Johnson was needlessly injured when his right arm came into contact with the exposed gears of a planer. The machine drew in his arm and mangled it so badly that it required amputation at the elbow. Over a year before Johnson's injury, the Industrial Commission of Wisconsin had issued an order mandating that all such machines be equipped with a guard.⁷⁶ The company's non-compliance cost the man a limb.

As was the case with Johnson, most of the mechanical accidents in lumber mills could have been avoided with proper safeguards, but employers were slow to invest in such measures. Beginning with the first official factory inspections in 1888, visitors from the Bureau of Labor constantly lamented the lack of such safety devices and the unwillingness of companies to update their machinery. In 1911, Minnesotan Don

skull being fractured and of his continued inability to work, they did agree that the initial injury was at least accountable for nearly half a year's lost employment.

⁷⁵ Lescohier, "The Lumberman's Hazard," 639-646; Prouty, 118-120.

⁷⁶ "Charles Johnson vs. Stolle Lumber Company," *Workman's Compensation Third Annual Report*, 62-63. The Industrial Commission had issued the order for safeguards on June 14, 1912. Johnson was injured nearly seventeen months after the order had gone into effect.

Lescohier drew attention to the dangers inherent in the old-fashioned “square-head” jointer, which included a large gap into which stray fingers could easily be drawn and severed. He also informed his readers of the availability of a new planer equipped with a circular cylinder that would cause only minor flesh wounds for hands that neared a blade. He lamented the fact that employers would forego such a simple solution to a common accident hazard rather than spend the money to protect machine operators.⁷⁷ Like Lescohier, the bulletins from the Industrial Commission of Wisconsin that featured common workplace accidents continually referenced the fact that a minor investment in safety would far outweigh the expenses incurred by employers when their workers got injured.⁷⁸

The whirring gears and deadly saws found on farms and in sawmills merely marked the beginning of a mechanization process that exposed more and more workers to accidents causing greater damage than ever before. Throughout the late-nineteenth century, Wisconsin industry blossomed. As was the case for both farming and the lumber business, the introduction of heavy machinery into the manufacturing process made these new Wisconsin factories more of a threat to workers’ safety.

Industrial Wisconsin

Even while Wisconsin’s agriculture and lumber industries were in their heyday, the state’s manufacturing sector was rapidly developing. Manufacturing quickly outpaced

⁷⁷ In 1911, the Wisconsin legislature also sought to fix this problem by proposing a bill that prohibited the sale of all wood-sawing machinery without the inclusion of “reasonable safety devices.” Industrial Commission of Wisconsin, *Biennial Report* (1911), 118.

⁷⁸ Comparisons of the economic costs of accidents versus the cost of investing in safety were common to most of the Industrial Commission’s shop bulletins: “Gear Accidents and their Prevention,” “Falls of Workmen and their Prevention,” “Eye Injuries and their Prevention,” “Shop Organization for Safety,” and “Accidents Caused by Objects Striking Workmen,” etc.

the growth of farming in the late-nineteenth century. The number of workers employed in these operations increased by seventy-five percent between 1889 and 1914.⁷⁹ Fueled by steam and coal, and facilitated by the development of railroad shipping networks, new manufacturing operations sprung up throughout the state to replace the declining wheat and lumber industries. Between 1860 and 1890, the number of Wisconsinites employed in factories grew from 15,414 to 132,031. The corresponding number of factories for this time period jumped from 3,064 to 10,417; in 1900, the number of factories peaked at 16,187.⁸⁰ This growth in the industrial sector continued into the twentieth century; by 1925, nearly a quarter of a million Wisconsin residents were employed in factories.⁸¹

By the 1890s, some of these operations were growing in size as well as in number. The 1880 census counted 57,109 workers in a total of 7,674 factories. However, while the number of workers more than doubled to 132,031 in the next decade, the number of factories only increased by about thirty-five percent.⁸² Such figures indicate a boom in the size of individual manufacturing operations, and suggest that new means of mechanization and mass production had been introduced.

The varied industrial operations that emerged were reflective of the state's reliance on its own raw materials. Flour and grist mills were the predominant manufacturing operations up until the 1880s. Lumber remanufacturing ranked second, finally eclipsing the flour production in 1890. Other major industries in the latter half of the nineteenth century included brewing and distilling, leather manufacture, iron and steel

⁷⁹ Buenker, 80.

⁸⁰ Alexander, 34-36.

⁸¹ Ibid, 49. In 1925, factory workers and their families totaled 920,061. This accounted for over one-third of the state's overall population, meaning that a sizeable minority of the population was dependent upon manufacturing for their living, and was very susceptible to the threat of workplace injury and its long-term consequences.

⁸² Ibid, 35-36. According to Alexander, the 1890 census counted a total of 10,417 factories.

manufacture, slaughtering and meatpacking, carriage and wagon making, and the production of farm equipment.⁸³ In the early twentieth century, there was a rise in the number of dairy operations as well as the number of foundries, machine shops, and automobile manufacturing operations.⁸⁴ Regardless of what these factories produced, most posed a wide array of threats to their workers.

One of the earliest concerns about manufacturing among legislators was the threat of fire. Whereas early-nineteenth century farming and lumbering operations employed a small number of workers in any one area, factories included more workers who were confined to a mill or plant, making potential fires more deadly. For example, a fire that broke out in the George A. Whitting paper company in 1888 led to a boiler explosion that killed fifteen.⁸⁵ This concern over the threat of fire was also reflected in the state's very first industrial safety legislation, an 1878 law requiring factories of three or more stories to provide at least one metal escape stairway.⁸⁶ Furthermore, fire safety was the most frequently cited issue in Wisconsin's first official factory inspection report and was a close second to machinery in the years that followed.⁸⁷ Such fears were not unfounded

⁸³ Ibid, 34-44. The labor shortages during the Civil War had spurred interest in new farming implements, and Milwaukee consistently ranked as third in the nation for the production of farm equipment. Production of these agricultural tools did decline over the years, but Wisconsin was consistently a national center for production of farm implements from the late nineteenth century into the mid-1920s.

⁸⁴ Ibid., 43. By 1920, dairy goods ranked highest in the state in product value, and foundries and machine shops had risen to third place. As automobiles became a preferred mode of transportation, however, the manufacture of cars and car parts soon became the state's most profitable industry.

⁸⁵ Wisconsin Bureau of Labor and Industrial Statistics, *Third Biennial Report, 1887-1888* (Madison: Democrat Printing Co. 1888), 276.

⁸⁶ Haferbecker, 18.

⁸⁷ The Wisconsin Bureau of Labor and Industrial Statistics, *Biennial Reports, 1883-1910*, 14 vols. (Madison: Democrat Publishing). The earliest reports from the BLIS factory inspectors primarily called attention to the lack of fire escapes in the establishments they visited, while giving brief reference to machine-related accidents. In the first annual report, inspectors were only authorized to mandate fire safety orders. By the time the next inspection was carried out, the legislature had broadened their authority and allowed inspectors to mandate that employers cover and safeguard all dangerous machinery—exposed gears, set screws, pulleys, shafting, and elevators.

since many factories were crowded, dusty, and lacked proper safeguarding against combustion.⁸⁸

Fire, in fact, remained a major danger to industrial workers across the country for decades. Even into the twentieth century, employers continually failed to recognize the dangers inherent in their factories' operations. Too often, the lack of foresight resulted in a gruesome front page feature documenting the tragic deaths of workers who were unable to escape. The Triangle Shirtwaist Fire of 1911 in New York is the most prominent example because it galvanized support among Progressive reformers for a renewed conversation about accident prevention, worker safety, and compensation; but it was neither the biggest nor the last fire in American labor history. Such incidents continue to threaten the lives of present day workers. For the period in question, however, fires were but one of many dangers that industrial workers faced.

The non-mechanical injuries that endangered farmers and loggers were also an issue for Wisconsin's factory workers. The most common of these was falling. In the factory inspection reports from the Bureau of Labor and Industrial Statistics during the 1880s and 1890s, industrial operations were frequently cited for falling hazards. Of particular concern was a lack of railings on or around stairways, scaffolds, and vats. Many companies also failed to enclose open holes in the floor and elevator shafts.⁸⁹ Data collected by the Industrial Commission during the first eighteen months under the compensation law also confirmed the prevalence of accidents related to falling.

⁸⁸ See Wisconsin Bureau of Labor and Industrial Statistics, *Second Biennial Report, 1885-1886*, for example, in which the state factory inspector cited two furniture companies—Sheboygan Manufacturing Company and Matton Manufacturing Company—for being too crowded, leaving machinery unguarded, and—in the case of the latter company—failing to provide proper ventilation system to remove sawdust. (492)

⁸⁹ See Wisconsin Bureau of Labor and Industrial Statistics, *Biennial Reports, 1888-1900*, Vol. 4-10 (Madison: Democrat Publishing Company).

According to the report, falls accounted for 13.2 percent of the 10,517 compensable accidents documented.⁹⁰ The study explained that workers frequently fell from ladders, unstable piles of lumber or other material, wagons, and cars. Falls into vats and bins were often mentioned as hazards for tannery and veneer workers; and poorly constructed ladders and scaffolding were a danger to all employees. Furthermore, the crowded nature of most factories coupled with dim lighting created a common tripping hazard for workers in all branches.⁹¹ A perusal of the factory inspection reports from the Bureau of Labor and Industrial Statistics or the contested compensation hearings that took place after 1911 indicated several other reasons that workers fell, including slipping on ice or wet floors, stepping in a hole, tripping down stairs, and falling off a platform or moving vehicle. Some injuries even resulted from ill-conceived pranks by coworkers.

The degree of severity resulting from such falls varied considerably. Some merely ended with a broken limb and therefore a brief recovery time—the Briggs Brothers worker who broke his arm by falling out of the mill, for example, or the employee at Pabst Brewing Company who fell off a wall, broke his ankle, and likely returned to work after his fracture mended.⁹² In other cases, workers claimed that the fall had occasioned further injuries. For instance, when Harry Harris suffered appendicitis, he

⁹⁰ Industrial Commission of Wisconsin, “Falls of Workmen and their Prevention,” *Bulletin of the Industrial Commission of Wisconsin* 2, no. 10 (June 20, 1913): 241. The study noted that the number of falls was nearly equivalent to half of the machine-related accidents, making it the second largest category of industrial accidents.

⁹¹ *Ibid.*, 241.

⁹² Wisconsin Bureau of Labor and Industrial Statistics, *Fourth Biennial Report, 1888-1890* (Madison: Democrat Publishing Co., 1890), pp. 180 and 262 respectively. See also “Falls of Workmen and their Prevention.” The data in this report suggested that most injuries from falls resulted in bruises, fractures, sprains, or lacerations rather than in long-term permanent disability.

attributed it to falling down the stairs at work while carrying fifty pounds of brushes.⁹³ Similarly, Ludwig Carlson credited his bout of pneumonia to a fall at the Rhinelander Paper Company mill that fractured one of his ribs.⁹⁴ In still other instances, a fall led to more direct and serious injury. This was true for nineteen-year-old Adolph Schmidt whose tumble resulted in a coma and three injured vertebrae, rendering him completely disabled for over six months.⁹⁵ Minor falls could even lead to amputation. For instance, when Gust Drewtzki fell from a train on his way to the general office he ended up having his arm amputated at the shoulder.⁹⁶ In a small minority of cases, such accidents caused death.⁹⁷

Falling objects were another major hazard of the industrial workplace. In fact, the threat of falling objects was so significant that the Industrial Commission devoted special attention to it in one of its 1913 shop bulletins. According to the study, they accounted for 2,659 accidents between 1911 and 1913. Of these, eighty-six were fatal and 107 caused permanent disability (amputated fingers and limbs or vision impairment).⁹⁸ The remaining 2,466 cases, while less permanent in nature, were certainly not without negative consequences for the workers who lost precious wages while recovering from

⁹³ "Harry Harris vs. Milwaukee Dustless Brush Company," *Workmen's Compensation Second Annual Report*, 56. The Industrial Commission agreed with Harris and his doctor's assessment and ordered the company to pay him compensation for his medical and disability expenses.

⁹⁴ "Ludwig Carlson vs. Rhinelander Paper Company," *Workmen's Compensation Fifth Annual Report*, 30.

⁹⁵ "Adolph Schmidt, a minor, by Bartel Plog, his general guardian vs. Menominee Bay Shore Lumber Company," *Workmen's Compensation Fourth Annual Report*, 22.

⁹⁶ "Gust Drewetzki vs. Hackley-Phelps-Bonnell Company," *Workmen's Compensation Fifth Annual Report*, 15.

⁹⁷ "Falls of Workmen and their Prevention," 241-265. The data indicated that death was more common when workers fell from scaffolding, tramways, or trestles. It also revealed that falls from buildings, ladders, moving vehicles, and down elevator shafts could and did result in death.

⁹⁸ Industrial Commission of Wisconsin, "Accidents Caused by Objects Striking Workmen and their Prevention," in *Bulletin of the Industrial Commission of Wisconsin* 3, no. 12 (November 20, 1913): 283. According to the data, sixty-eight cases of falling objects resulted in the loss of fingers and toes or slight impairment of vision. In thirty-nine more serious cases, workers lost an arm, leg, foot, or eye.

painful lacerations or fractured bones. According to the commission's investigation, the time lost by wage earners due to falling objects amounted to approximately 65,000 working days.⁹⁹

Poor shop organization and carelessness among fellow workers meant that employees had to constantly be on the lookout for falling materials or equipment. The size of the object was not important, as small and large items both inflicted significant damage. Anton Kowalski, for example, was put out of work for thirteen weeks after an iron bolt fell on his head.¹⁰⁰ Improperly stored boxes and bags were another—slightly heavier—hazard that threatened worker safety. For instance, after 330-pound bag fell on John Makl from thirty feet above he was unable to return to work for five weeks. The same was true for deliveryman Alvin Mantz whose foot was crushed by a falling box.¹⁰¹ For men who worked outside, passing trucks loaded with raw materials were constant threats in the era before hardhats. Twenty-eight-year-old immigrant Elija Pecanac sustained a major injury to his arm when a piece of ore fell from the trestle above him and pierced his shoulder.¹⁰² The use of heavy-duty cranes presented further risk, as both the operator and the individual worker had to be mindful of their surroundings. Frank Bakiewicz's coworker failed to do so and ended up hitting him with the crane. The injury

⁹⁹ Ibid. The Commission and its predecessor—the Bureau of Labor and Industrial Statistics—frequently called attention to lost work days. Most often, this approach seemed targeted at the business owners who hopefully would read the regular reports as an appeal to their sense of cost effectiveness in order to gain support for the state's safety movement. There is little elaboration in these accounts about what lost work time meant to the injured party.

¹⁰⁰ "Anton Kowalski vs. Wausau Sulphate Fiber Company," *Workmen's Compensation Second Annual Report*, 24.

¹⁰¹ "John Makl vs. Superior Stevedores Company," *Workmen's Compensation Second Annual Report*, 38; "Alvin O. Mantz vs. The Falk Company," *Workmen's Compensation Fourth Annual Report*, 15. Mantz was out of work for nearly two months with a bruised foot.

¹⁰² "Elija Pecanac vs. Illinois Steel Company," *Workmen's Compensation Second Annual Report*, 71.

caused pleurisy and Bakiewicz was out of work for nearly a year.¹⁰³ An inattentive crane operator, however, was just one threat. The hoisted item itself was not always securely fastened, as was the case when a wheelbarrow broke free and struck Fred Le Roy, cutting his face and knocking out several teeth.¹⁰⁴ While tripping hazards and falling objects made for obvious accidents, factory workers also dealt with non-mechanical hazards that were a product of exposure or long-term energy expenditure.

Like farmers, industrial workers found themselves subject to general wear and tear inflicted by the nature of their work as well as the weather. When the state passed workmen's compensation legislation, hernias caused by heavy lifting were frequently reported.¹⁰⁵ Exposure to the sub-zero temperatures of Wisconsin winters also took a toll. For instance, Angel Aillo froze the tips of all of his fingers working at the Milwaukee Refrigerator Transit & Car Company on a particularly cold day in December 1914. The frostbite resulted in some long-term impairment in moving his fingers.¹⁰⁶ Likewise, in the same month, coal deliveryman Henry Skongstad suffered a frozen foot due to prolonged exposure to freezing temperatures.¹⁰⁷ Unlike their farming contemporaries,

¹⁰³ "Frank Bakiewicz vs. National Brake & Electric Company," *Workmen's Compensation Fourth Annual Report*, 11. Bakiewicz had suffered from pneumonia a year earlier, requiring the removal of two ribs and part of his lung. In his weakened condition, the blow from the crane did significant damage.

¹⁰⁴ "Fred Le Roy vs. G.H. Fleck," *Workmen's Compensation Third Annual Report*, 82.

¹⁰⁵ Hernias were featured in many of the workmen's compensation reports as the review board was less certain about how to handle them as compensation claims. Claimants were often turned away because they had failed to report hernia pains directly following the heavy lifting they had performed. This cast serious doubt among medical experts about whether or not the hernia was a direct result of the lifting or a congenital disposition toward hernias.

¹⁰⁶ "Angel Aillo vs. Milwaukee Refrigerator Transit & Car Company," *Workmen's Compensation Fourth Annual Report*, 18.

¹⁰⁷ "Henry Skongstad vs. Star Coal Company," *Workmen's Compensation Fourth Annual Report*, 31. Skongstad had suffered his frozen foot just one day after Aillo. Unlike Aillo, whose injury had not been compensated, Skongstad's frozen foot resulted in five weeks' worth of compensation. The nature of his job as a deliveryman necessitated exposure to the elements. Since no one was at home for his first delivery, however, he had not had an opportunity to warm up and the commission felt this made the company liable.

industrial workers were also endangered by exposure to caustic materials used in these new industries.

Explosions and chemical burns were a fairly common result of the employment of new fuels and corrosive cleaning solutions. A boiler explosion at the E.P. Allis South Foundry in 1888 was responsible for the death of a man who was finishing the heaters and boilers.¹⁰⁸ Such explosions could kill workers due to impact or cause suffocation. They could also cause permanent disability. For example, carriage painter Eugene Wohlgemuth suffered third-degree burns on his face, arm, and neck due to a gasoline explosion. The accident put him in a coma temporarily, and when he regained consciousness his doctors discovered paresis (or slight paralysis) of his face and an inability write or speak.¹⁰⁹ In addition to causing devastating explosions, the chemicals employed in these factories could also have less sensational but equally serious effects on workers.

Since most employees did not wear gloves for safety, the chemicals they handled often caused painful skin conditions. This was the case for Faun Norris, a thirty-year-old janitor for Williams and Larson, who attributed his infected hand to the use of sal soda and oxalic acid to remove stains from the floor. Norris was hospitalized from November 15 to December 28 as a result of raw skin sores on his hands.¹¹⁰ Similarly, Nickolas Karabon suffered skin abrasions when he was put to work pulling treated hides out of a vat at the Milwaukee Patent Leather Company—a task for which the company failed to

¹⁰⁸ Wisconsin Bureau of Labor and Industrial Statistics, *Fourth Biennial Report*, 240.

¹⁰⁹ “Eugene Wohlgemuth, by Anna Wohlgemuth, his guardian vs. A.J. Kuestner and the Illinois Indemnity Exchange,” *Workmen’s Compensation Fifth Annual Report*, 19.

¹¹⁰ “Faun Norris vs. Williams & Larson,” *Workmen’s Compensation Third Annual Report*, 69.

provide him with protective gloves.¹¹¹ Although the Industrial Commission showed concern over the dangers these chemicals posed, it took years before the legislature began mandating the use of safety gear.

The Commission first documented the “injurious fumes and vapors” of the state’s industrial operations in its 1913 General Orders on Sanitation. The list included, but was not limited to: ammonia generated in refrigerating plants; carbon dioxide created by kilns, brewery vats, and bakeries; and sulphur dioxide which was commonly produced in the paper industries.¹¹² It was not until 1919, however, that the state legislature broadened the workmen’s compensation law to cover occupational diseases that resulted from continual inhalation of these toxic fumes.¹¹³ While the commission identified such dangerous fumes early on, other caustic substances were less obvious to factory workers and their employers.

Paint, dust, and noxious odors were more silent causes for concern in the industrial workplace. The earliest reports from factory inspectors frequently critiqued the ventilation systems in most manufacturing operations. The North Chicago Rolling Mill in Bay View was one among many factories that were encouraged to remedy the dust and floating steel particles—a product of steel filing—in its nail mill, a situation “which must be very injurious to the nailers who are directly exposed to it.”¹¹⁴ At the Atlas Paper Company, one inspector noticed men tying sponges around their nostrils to protect

¹¹¹ “Nickolas Karabon vs. Milwaukee Patent Leather Company,” *Workmen’s Compensation Fifth Annual Report*, 24.

¹¹² Industrial Commission of Wisconsin, “General Orders on Sanitation,” *Bulletin of the Industrial Commission of Wisconsin* 2, no. 1 (January 20, 1913), 11. Other notable “injurious fumes” included: arseniuretted hydrogen from refining copper, carbon monoxide, carbon tetra-chloride, chlorine, gases like sulphuric acid and potassium cyanide from pickling vats, lead and mercury fumes, phosgene in dye works, and hydrochloric acid used by lithographers.

¹¹³ “Wisconsin Department of Workforce Development, Timeline History, 1900-1919,” https://dwd.wisconsin.gov/dwd/dwdhistory/Year_Pages/1900_1919.htm. Accessed May 23, 2014.

¹¹⁴ Wisconsin Bureau of Labor and Industrial Statistics, *Second Biennial Report*, 496-7.

themselves from dust in the room where rags were cut and he called attention to the “unpleasant” odor of boiling alkali potash at Eagle Lye Works. Likewise, Diamond Match Company was sharply criticized for the lack of effort to purify the air in its factory. An inspector noted the confined work space and the danger of exposure to phosphorous which “act[ed] directly on the bone.”¹¹⁵ Like the dust and chemicals found in early factories, paint fumes were also injurious. Frank Mrcz, a common laborer at the Pfister & Vogel Leather Company, contracted lead poisoning a few weeks after he had painted the company’s ventilators.¹¹⁶ The confined work space, poor ventilation, and the use of new toxic chemicals contributed to a growing number of occupational diseases like lead and mercury poisoning, “phossy jaw,” silicosis, and tuberculosis.

The unsanitary factory conditions found in many industrial operations also made injuries more dangerous. Splinters and cuts often became infected after workers returned to their tasks. Frank Matiwitz, for example, ended up missing fifty-eight days of work after a splinter in his hand became infected.¹¹⁷ Likewise, a painter at the St. Mary’s Hospital failed to properly treat his sore thumb and was permanently disabled after the onset of a subsequent infection.¹¹⁸ On occasion, such minor injuries even proved deadly. A janitor for the First National Bank, Asa Patch, pricked his finger while cleaning the

¹¹⁵ Ibid., 496-503. Exposure to phosphorus in matchmaking factories became a major concern in the early 1900s when the connection was made that phosphorous caused a terrible condition known as “phossy jaw” which resulted in the necrosis of the jaw bone. The disease was very harmful to one’s overall health, and caused unsightly disfigurement, rotting the victim’s teeth, and usually leading to removal of the lower jaw bone. Following his commentary on the malodorous and dangerous phosphorous fumes that could be found in match factories, the Wisconsin factory inspector urged the introduction of proper ventilation, declaring that “at whatever the cost, the working people should be provided with pure air, which the Creator of all things ordained.” (502) See also various feature articles from *The Survey* which highlighted the stories of “phossy-jaw” victims.

¹¹⁶ “Frank Mrcz (Mross) vs. Pfister & Vogel Leather Company,” *Workmen’s Compensation Third Annual Report*, 46.

¹¹⁷ “Frank Matiwitz vs. Pfister & Vogel Leather Company,” *Workmen’s Compensation Second Annual Report*, 46.

¹¹⁸ “Christiansen vs. St. Mary’s Hospital,” *Workmen’s Compensation Fourth Annual Report*, 29.

spittoons and died shortly thereafter due to blood poisoning.¹¹⁹ The same fate befell a young brewery employee. When twenty-six-year-old William Kane cut his hand on a beer keg at the John Gund Brewing Company, he thought little of the minor flesh wound. Over the course of the next ten days, he developed blood poisoning and died leaving behind a wife and a two-year-old child. In the wake of Kane's case, the Industrial Commission decried the fact that the public overlooked the significant dangers that could accompany minor injuries: "Here is a man, in the prime of life, strong and full of vigor, cut down by an injury which was insignificant except for the infection that followed."¹²⁰ Clearly the workplace was hazardous even when mechanical devices were not employed.

However, the implementation of new technology in Wisconsin industry upped the ante. The expansion of industrial operations brought an ever greater number of Wisconsin laborers into the growing factories. Increased rates of production and the employment of high-powered machinery exposed these workers to more serious danger, and resulted in an even greater number of amputations, fractures, vision impairments, and deaths.¹²¹ While these devastating accidents eventually caught the attention of industrial reformers, it took several decades for them to put the wheels of change in motion.¹²²

The first consistent industrial reports revealed an interest in reducing machine-related accidents. As early as 1883, Bureau of Labor commissioner Frank Flowers made

¹¹⁹ "Jannah Patch vs. First National Bank of Milwaukee," *Workmen's Compensation Fourth Annual Report*, 9.

¹²⁰ "Mollie Kane vs. John Gund Brewing Company," *Workmen's Compensation Third Annual Report*, 53.

¹²¹ The Wisconsin Bureau of Labor and Industrial Statistics did not begin collecting consistent and detailed data on industrial accidents until 1906-07 when, pursuant to chapter 416 of the laws of 1905, the legislature mandated that all physicians report any patients whom they treated for injuries sustained in the course of employment (or otherwise) that resulted in a period of incapacity of two weeks or more. Before this time, the Bureau of Labor and Industrial Statistics did include some reference to industrial accidents in its reports on factory inspection, but the detail was limited. The data collected between 1906 and 1908 indicated that machines accounted for about fifty-three percent of the accidents. This figure was higher for cities like Milwaukee where machine-related accidents accounted for over sixty percent.

¹²² Haferbecker, 18.

reference to the increased danger, declaring that “artisans are in need of other protection than simply against fire. Injury and death frequently result from dangerously exposed shafting, belting, bull-wheels, elevator-wells, stairways, etc., from unsafe freight elevators, machinery and boilers, and from preventable causes.”¹²³ Indeed, most of the earliest inspectors noted “reckless exposure to machinery” in many of the factories they visited.

As was the case on farms and in the lumber industry, this proliferation of automated machinery made the workplace more hazardous than ever to workers’ bodies. The first statistics collected by the Industrial Commission in the 1910s suggested that machinery-related accidents accounted for the largest proportion of overall accidents reported. This amounted to approximately twenty-eight percent of the 10,517 overall accidents—or 2,944 in total.¹²⁴ Although consistent reporting of accidents and their causes did not come into effect until the Industrial Commission was formed, the data from its predecessor indicated that missing or maimed limbs—most due to machinery—had vastly outnumbered other industrial injuries for decades.¹²⁵ Out of a total of 184 accidents documented in 1888-1889, machinery caused six cases of lost hands, three of amputated legs, three incidents of missing feet, and sixty-nine cases of amputated or

¹²³ Wisconsin Bureau of Labor and Industrial Statistics, *First Biennial Report, 1883-1884*, 169.

¹²⁴ Industrial Commission of Wisconsin, “Falls of Workmen and their Prevention,” 240. This information is based on all accidents reported between September 1, 1911 and March 1, 1913.

¹²⁵ The Bureau of Labor and Industrial Statistics solicited information about accidents from companies around the state. Since the collection of such materials was voluntary and most employers were less than forthcoming, the data provided far less than a complete picture of industrial injury. The information that it did include, however, is revealing. The commission began presenting a summary of accidents in 1888, organized by county and nature of the accident, but this reporting had declined in detail by the mid-1890s. For the years where descriptions were available, most of the accidents reported were attributed to machinery. Other accident descriptions indicated the prevalence of falling, fires, and explosions.

crushed fingers.¹²⁶ Furthermore, missing or maimed limbs accounted for 157 out of the 252 accidents reported for 1890-1891, and for 172 of the 309 reported accidents in the following two year period.¹²⁷

Such amputations stemmed from the use of a wide variety of machines. Saws, the major hazard of the lumber mills, were employed in all sorts of industrial operations and they were equally dangerous to all operators.¹²⁸ George Schmitz, for example, was “badly crippled for life” when his hand came into contact with a circular saw while making furniture in the manual training department at Appleton High School.¹²⁹ Exposed gears and belts were also particularly dangerous due to the very confined nature of many early workspaces. Tight quarters coupled with the exposed gears were viewed as an invitation for disaster. In Rice Lake, for example, a young man was killed after a button on his shirt got caught in the key seat of his machinery. Unable to free himself from the machine, he was pulled into the shaft and whirled around until he died.¹³⁰ Another worker at the C.A. Beck box-making factory got his pant leg caught as he attempted to step over an exposed shaft. The incident resulted in the amputation of his leg.¹³¹ Belts and gears were yet another hazard for workers who needed to replace broken or worn-down equipment. This was the case for Jess Hickox who ran into the screws on a line shaft while replacing a belt at the Beloit Concrete Stone Company. The machine tore the

¹²⁶ Wisconsin Bureau of Labor and Industrial Statistics, *Fourth Biennial Report, 1888-1889*, 120a. Within the category of lost fingers, further specification was made about how many cases there were of one finger lost, two fingers, three fingers, etc. Thus the actual count of missing and crushed fingers is much higher.

¹²⁷ Wisconsin Bureau of Labor and Industrial Statistics, *Fifth Biennial Report, 1891-1892*, 144a; Wisconsin Bureau of Labor and Industrial Statistics, *Sixth Biennial Report, 1893-1894*, 198a.

¹²⁸ Saws, for example, accounted for amputated limbs and digits at a furniture making operation (Banderbob & Chase), the Wisconsin Refrigerator Company, a door and blind-making factory, and at a plant that made carriages (Northwestern Sleigh Company). Wisconsin Bureau of Labor and Industrial Statistics, *Fourth Biennial Report, 1888-1889*.

¹²⁹ “George Schmitz vs. City of Appleton,” *Workmen’s Compensation Second Annual Report*, 31.

¹³⁰ Wisconsin Bureau of Labor and Industrial Statistics, *Third Biennial Report, 1887-1888*, 325.

¹³¹ Wisconsin Bureau of Labor and Industrial Statistics, *Second Biennial Report, 1885-1886*, 514.

muscles and ligaments in Hickox's arm, and completely disabled him for a period of three and a half months.¹³² Between September 1911 and February 1914, gears alone caused 208 accidents, approximately thirty-five percent of which resulted in a permanent disability.¹³³ Furthermore, in nearly seventy percent of these cases the accident was due to the employer's failure to guard such equipment.¹³⁴ Like belts and gears, elevators were an oft-cited work hazard by late-nineteenth century safety inspectors.

In fact, industrial elevators caused a wide variety of accidents which inflicted varying degrees of harm. Most of the early companies that used elevators failed to surround them with automatic gates. As a result, the majority of these accidents occurred when a worker was caught between the platform and the floor in some way.¹³⁵ This also proved the most deadly type of elevator-related mishap. For example, an improperly guarded lift at Adler & Sons Clothing in Milwaukee claimed the life of a thirty-year company veteran who got caught in the doors, fell down the shaft, and died a week later.¹³⁶ In other cases, workers were injured when the elevator car dropped suddenly. Such an incident was generally caused by an employer's failure to keep elevators up to code with regular maintenance. At Hansen's Empire Fur Factory in Milwaukee, for example, one female employee was killed and fifteen others injured when the elevator's

¹³² "Jess C. Hickox vs. Beloit Concrete Stone Company," *Workmen's Compensation Fourth Annual Report*, 37.

¹³³ Industrial Commission of Wisconsin, "Gear Accidents and their Prevention," *Bulletin of the Industrial Commission of Wisconsin* 3, no. 1 (February 20, 1914), 3.

¹³⁴ *Ibid.*, 3.

¹³⁵ Industrial Commission of Wisconsin, "Elevator Accidents and their Prevention," *Bulletin of the Industrial Commission of Wisconsin* 3, no. 2 (July 20, 1914), 3. This shop bulletin described the ways in which workers were injured on elevators, and made special note of both the cause of accident and severity of injury. It is worth noting that some elevators lacked any "roof"; therefore, workers onboard could be injured if a coworker dropped something from a higher floor down the elevator shaft. Unguarded elevator shafts, however, were the biggest concern, and the data from the earliest factory inspections conducted by the Bureau of Labor and Industrial Statistics revealed that even when employers had guarded their elevators it was not uncommon for the gates to be removed or left open by workers who found them a hindrance to their work routines.

¹³⁶ Wisconsin Bureau of Labor and Industrial Statistics, *Fourth Biennial Report, 1888-1889*, 240.

gears malfunctioned and the car dropped very suddenly to the ground.¹³⁷ Less common, but no less injurious, were the accidents that occurred when workers looked over the edge of the gate and were struck by a descending elevator car. They could also be hit by unguarded counterweights or by objects falling from above into the elevator car. Based upon the first twenty-eight months of consistent accident data collected by the Industrial Commission, elevators were responsible for twenty two deaths, three cases of permanent disability, and cost 172 workmen over 5,400 working days' wages.¹³⁸ As dangerous as they were, elevators were just one of many industrial machines that workers must approach with care.

Nearly all industrial equipment contributed to the growing numbers of amputated limbs and fingers. The Industrial Commission's first publication on industrial accident statistics listed twenty-six different machines which were responsible for causing compensable injuries: motors, shafting, gears, belts, pulleys, ropes and cables, barkers, chains and sprockets, boring machines, conveyers, paper machines, drills, emery wheels, jointers, lathes, planers, presses, rolls, sanders, saws, set screws, shapers, and staying and ending machines. In addition, 308 accidents were classified as being caused by "miscellaneous machinery."¹³⁹ As was the case on farms and in sawmills, the lack of safeguards only compounded the problem, making all equipment more dangerous. Indeed, it would seem that any machine that workers might operate could maim them for life if they were not extremely diligent while using it.

¹³⁷ Wisconsin Bureau of Labor and Industrial Statistics, *Second Biennial Report, 1885-1886*, 506.

¹³⁸ "Elevator Accidents and their Prevention," 3.

¹³⁹ "Industrial Accidents," 146. This data was based on accidents reported between July 1, 1911 and June 30, 1912.

The most noteworthy observation about machine-related injuries is that they showed a higher tendency to cause permanent disability than the non-machine-related accidents. Data from the commission's 1913 shop bulletin on industrial accidents revealed that while accidents attributed to falling objects or falling workmen caused great numbers of fractures and bruises, the machine-related accidents resulted in 335 cases of missing fingers, three cases of missing toes, three amputated arms, and four lost eyes.¹⁴⁰ A sampling of cases from the workmen's compensation hearings of the 1910s further illustrates how these machines maimed their operators. William Dvorak and Frank Budny both lost fingers while operating a punch press.¹⁴¹ The injuries left both men with permanent partial disabilities. Immigrant Michael Janiec lost the tip of his third finger and two joints of both his fourth and fifth fingers when they were caught in a shearing machine used to cut scrap iron.¹⁴² Even when a machine did not cause amputation, it still had the potential to mangle one's limb and impair its future use. Richard Stegman worked as a metal polisher for Harley-Davidson when his hand came into direct contact with an emery wheel. The injury put him out of work for six months and upon further examination doctors determined that he would only regain seventy-five percent of the hand's normal function.¹⁴³ Ella Higgins, a forty-three-year-old widow, had her hand drawn into the rollers of a laundry machine when she tried to free a tangled towel. The steam generated by the machine charred her fingers down to the bone, rendering the hand completely useless. At her compensation hearing, medical experts agreed that the fingers

¹⁴⁰ Ibid., 146.

¹⁴¹ "William Dvorak vs. Stamping and Tool Company," *Workmen's Compensation Second Annual Report*, 54; "Frank Budny vs. Mitchell-Lewis Motor Company," *Workmen's Compensation First Annual Report*, 91.

¹⁴² "Michael Janiec vs. Mitchell-Lewis Motor Company," *Workmen's Compensation Second Annual Report*, 30.

¹⁴³ "Richard Stegman vs. Harley-Davidson Motor Company," *Workmen's Compensation Second Annual Report*, 63.

should be amputated since they served no purpose in their current state.¹⁴⁴ Likewise, Julia McGill who worked as a domestic at the Dunn County Insane Asylum was permanently partially disabled when her arm got caught in the laundry wringer. The machine's centrifugal force broke McGill's upper arm badly lacerating her muscles and severing many of the nerves. As a result, she could not flex it more than twenty percent, and was unable to lift it above her head.¹⁴⁵

While machines most frequently threatened limbs, they also presented a hazard to workers' eyes. Charles Kuschman, William Koch, and Earnest Koenig all suffered permanent vision loss as a result of errant steel pieces flying off of the machines they were operating and into their eyes. In each of these three cases, the men were able to return to work, but their permanent partial disabilities qualified them for fifteen years of disability payment.¹⁴⁶ Although all three men eventually rejoined the workforce, the Industrial Commission's reports revealed that eye injuries had commonly resulted in long-term unemployment. While they acknowledged that a one-eyed man might be able to carry out a job for the same wages as a man with both eyes, they added:

We are also satisfied that one-eyed men are not as desirable a class of employes [sic] as those who are *physically whole*. There are times when such men, no doubt, will be refused employment because of their physical defect, and there may be times when they will be discharged from employment when labor is plentiful because of such defects.¹⁴⁷

¹⁴⁴ "Ella Higgins vs. Hanover & Butler," *Workmen's Compensation Fourth Annual Report*, 37.

¹⁴⁵ "Julia McGill vs. Dunn County," *Workmen's Compensation Second Annual Report*, 33.

¹⁴⁶ "Charles Kuschman vs. The Fuller-Warren Company," "William Koch vs. Simmons Manufacturing Co.," and "Ernest Koenig vs. International Harvester Corporations," *Workmen's Compensation Second Annual Report*, 49, 51, 54. Although all three men received fifteen years' worth of compensation, the weekly amount was pretty small. Based on calculations about the extent of disability, Kuschman was paid \$1.13 per week, Koch 98 cents, and Koenig \$1.41.

¹⁴⁷ "Charles Kuschman vs. The Fuller-Warren Company," *Workmen's Compensation Second Annual Report*, 50. Emphasis in original.

Unlike a single missing finger, vision impairment increasingly became problematic for employers, many of whom expressed fears over being held accountable if a blind worker experienced a second workplace injury.

Conclusion

Throughout the late-nineteenth and early-twentieth centuries, industrialization brought Americans face to face with new dangers at work. While earlier causes of injury persisted in the new work environments, the technological advancements that dramatically increased production rates also led to work-accidents that caused more devastating long-term damage. These machines proved very hazardous to their new users who often failed to recognize the consequences of misuse. A lack of concern among employers for guarding machinery in the nineteenth century also contributed to these horrible accidents. By the early-twentieth century, however, across the nation and especially in the state of Wisconsin, such devastating injuries began to concern legislators and reformers. Likewise, workers and employers began to look for new ways to make the workplace safe. The reforms they implemented did eventually lead to a decline in workplace accidents, but in the meantime America's job sites continued to churn out high numbers of industrially-injured men and women whose accidents forced them to grapple with a new "disabled" identity.

Chapter Two: Navigating the Legal System

On June 30, 1911, Governor Francis McGovern signed a new workmen's compensation bill into law. The act replaced the former liability law under which injured employees could seek restitution for the economic losses they suffered with a no-fault compensation scheme. Under the new law, workers were no longer required to take their employers to court and prove negligence in order to recover damages. Instead they were compensated a set amount—sixty-five percent of their weekly wages—for a designated number of weeks, regardless of who was at fault.¹

This workmen's compensation law was the culmination of years of effort on the part of legislators. In Wisconsin and other progressive states like New York, Massachusetts, and California, calls for action had been sounding for decades. As early as the 1870s, reformers began their campaign to convey to the public how the constitutional promise that all citizens could seek "remedy in the law for injuries or wrongs" against themselves had "become a hollow mockery" for working class men and women.² Indeed many workplace regulations aimed at curbing the growing number of industrial accidents preceded the implementation of workmen's compensation in Wisconsin. Each was an important foundational stone that paved the way for a more equitable system. Reflecting

¹ John D. Buenker, "Progressivism Triumphant: The 1911 Legislature," in *Wisconsin Blue Book, 2011-2012* (Madison: Legislative Reference Bureau, 2011), 134. If, however, an employee was proven to be intoxicated or wilfully disobeying safety orders, compensation was withheld.

² "The Common Welfare: Wisconsin Court to Pass on Workmen's Compensation," *The Survey* 26 (April 1911-September 1911): 858-859. According to the article, the brief submitted by the Industrial Commission argued that they "[had] shown that the constitution guarantees every person a certain remedy in the law for injuries and wrongs which he may receive to his person," and that this guarantee had "become a hollow mockery" for the men and women who were injured on the job. The article was unclear as to when that brief was presented to the state supreme court (or in what case), although it was presumably from *Borgnis and others v. The Falk Company* (the case during which the court upheld the recently passed workmen's compensation law). This *Survey* article provided no detail about the "constitutional guarantee" the commission referenced, but it might be presumed to refer to the right to due process which was officially guaranteed for all citizens by the Fourteenth Amendment.

upon the state's progress on the eve of the Compensation Act's passage, the newly formed Industrial Commission of Wisconsin emphasized this long road to change, explaining that:

We have shown that more men are injured by accident in the industrial occupations than in war; we have shown that more misery and suffering result therefrom than from war, flood, and famine.

We have shown that the victim of accident is twice the victim of the claim agent and the ambulance chaser; and how fraud and perjury keep step with these gray wolves of disaster.

We have shown how personal injury cases clog the courts and breed distrust of their judgments.

We have shown how ill-will and hatred grow up thereby between master and servant and how the public is injured.

We have shown how men's lives and limbs in countless numbers are sacrificed when they should and can be saved.

We have shown that workmen's compensation laws help to relieve all these conditions.

We have shown that such laws are sanctioned by usage for over thirty years; that all civilized countries save ours have such laws; we have shown the widespread demand for them in this country—a demand that is almost universal.

We have shown that this demand has not come from sudden impulse, but after study and investigation.

So now it may be truly said that there is a great public necessity for such laws.

It is clear from the authorities cited that the states have ample authority under the police power to legislate for all the great public necessities. There is no express constitutional inhibition against workmen's compensation acts. Such acts are within the spirit and letter of the constitution, state and national. The public welfare is promoted by them.

These things being true, the law should be upheld.³

The history of this campaign for workers' rights and industrial safety is well-documented in the historical literature. The reformers who guided these measures forward were, in fact, diligent in their documentation of workmen's compensation schemes throughout the world as well as the safety movements emerging in industrial states across the country. E.H. Downey's *History of Work Accident Indemnity in Iowa*,

³ Ibid.

for example, chronicled the introduction of no-fault compensation as it was first being introduced in that state as early as 1912.⁴ Factory regulation, occupational health, and social insurance remained central issues in John Commons' and John Andrews' 1936 study *Principles of Labor Legislation*. Both men were central to Wisconsin's compensation and factory safety movements.⁵ In the 1950s, scholars revisited the topic, focusing on how workmen's compensation had evolved and raising questions about how it could be adapted to the changing nature of the workplace.⁶ In more recent years, the introduction of workmen's compensation and safety campaigns have been the topic of legal histories such as John Fabian Witt's *The Accidental Republic* as well as cultural studies like Jamie Bronstein's *Caught in the Machinery*; and Wisconsin's particular experience with these campaigns was central to Donald Rogers' 2009 study *Making Capitalism Safe: Work Safety and Health Regulation in America, 1880-1940*.⁷

The experiences of workers at various stages in this long legal evolution are less frequently addressed. While Bronstein asked what workers and the community at-large thought about injuries and most historians have included some anecdotal evidence of

⁴ E.H. Downey, *History of Work Accident Indemnity Iowa*, Iowa Economic History Series edited by Benjamin F. Shambaugh (Iowa City: State Historical Society of Iowa, 1912).

⁵ John R. Commons and John B. Andrews, *Principles of Labor Legislation*, 4th ed. (New York: Harper & Brothers Publishers, 1936). See also S. Howard Patterson, *Social Aspects of Industry: A Survey of Labor Problems* (New York: McGraw Hill, 1943).

⁶ Herman Miles Somers and Anne Ramsay Somers, *Workmen's Compensation: Prevention, Insurance, and Rehabilitation of Occupational Disability* (New York: John Wiley & Sons, Inc., 1954). The authors noted the ebb in the literature on compensation following the mid-1930s and sought to explore the effectiveness of compensation, which they argued had reached a crossroads by the mid-twentieth century.

⁷ John Fabian Witt, *The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of American Law* (Cambridge: Harvard University Press, 2004). Witt focused on the legal experimentation of turn-of-the-century reformers who were unable to reconcile the problem of workplace danger and risk with the ideology of free labor which so long pervaded American thinking; Jamie L. Bronstein, *Caught in the Machinery: Workplace Accidents and Injured Workers in Nineteenth-Century Britain* (Stanford: Stanford University Press, 2008) put more emphasis on the cultural meanings of workplace accidents and how they were perceived publicly and privately in industrializing societies; Donald Rogers, *Making Capitalism Safe: Work Safety and Health Regulation in America, 1880-1940* (Urbana: University of Illinois Press, 2009) provides a comparative study of Wisconsin's industrial safety movement with five other states.

injuries, few have made them central to the story. How did men and women who were injured under the liability scheme navigate the system in order to recover damages? Did the courts award them enough money in such cases to provide for their families? What implications did the lawsuit have on their opportunities for reemployment? Furthermore, as states introduced new safety regulations and a new compensation scheme, what were the legal implications for workers? Was it any easier to navigate the compensation system than it was to pursue damages under the liability scheme? And how did the legislation impact the worker's relationship with the employer and with the state? These are some of the questions that deserve greater attention. Thus this chapter focuses on the ins and outs of liability law and demonstrates the effect of workmen's compensation on the injured employee.

Work-Accidents Outside the Court System, 1870-1911

Prior to 1911, Wisconsin workers who were injured on the job faced many uncertainties when trying to recover damages. Chief among these concerns was the financial burden that accompanied injuries of every sort. The loss of a breadwinner was particularly destructive for many families. Often those who were injured had little savings to fall back on in case of a disaster. Even if a worker was able to return to work, they had to account for the financial losses they faced during their recovery period. If they were not already employed, wives and children might be called upon to enter the workforce in order to keep the family afloat in a time of crisis. More often than not, however, wives or children were likely already working in one form or another. Medical expenses also proved troublesome. How much would proper treatment cost and where

would the worker find the money to afford it? Were there long-term medical costs to be incurred? This loss of wages and the mounting medical bills also begged the question of how injury impacted one's housing situation. If the worker did not own their home, they could find themselves facing eviction. And if they owned their own domicile, they might face foreclosure. All of these issues, of course, were both immediate and long-term concerns.

Some injured workers were able to rely on employer beneficence. The more personal nature of master-servant relations in small manufacturing operations in the late nineteenth century sometimes led to a stronger sense of charity and accountability among employers. In fact, according to a survey of permanently disabled workers conducted by the Industrial Commission in 1913, nearly sixty percent of the respondents were re-employed in some capacity by the same company following their accidents.⁸ While this was primarily true for workers who lost fingers—a comparably minor permanent disability—the survey reveals that some men who suffered from graver injuries such as the amputation of an arm or leg were also able to return to work with their former employer.⁹

Even in the larger factories that developed in late-nineteenth century Wisconsin, employer benevolence was not entirely unknown. Some companies sponsored employee benefit associations that compensated for lost wages and also covered the immediate cost

⁸ Industrial Commission of Wisconsin, "Results of Investigation on Permanent Partial Disabilities," *Bulletin of the Industrial Commission of Wisconsin* 2, no. 6 (March 30, 1913): 107-166.

⁹ *Ibid.* While this survey was conducted in 1913, most of the testimony included came from men who were injured prior to the implementation of the Workmen's Compensation Act. It should be noted that the purpose of the study was not only to document worker experience, but to show employers that disabled workers could make good workmen and to prevent injured workmen from "los[ing] courage in the face of misfortunes" by providing an example of what others had achieved. This agenda likely led the researchers to emphasize those who had positive experience, but the study does not completely whitewash the experience of injured workers; it does document hardships and animosity among some workers in the wake of work-accidents.

of medical aid. For example, the International Harvester factory in Milwaukee introduced such a program in September of 1908. Those employees who voluntarily enrolled in the program could receive half a year's wages if an accident put them out of work, one year's wages in case of an amputated foot or hand or the loss of one eye, and two years' wages in the case of two lost limbs or total blindness.¹⁰ Within the first two years of the program's implementation, the company increased compensation significantly for major permanent partial disabilities—granting workers who lost a single limb one and one-half years' wages, those who lost one eye three-fourths of a year's wages, and those who were unfortunate enough to lose two limbs or suffer total blindness four years' wages. Foreshadowing the state's future plans, the company also established an industrial accident board designed to ensure prompt and direct payment of compensation to employees.¹¹ Additionally, some of the International Harvester plants were equipped with first aid facilities and visiting nurses who were charged with attending to the injured workers in their homes. The company also placed greater emphasis on factory safety regulations.¹²

¹⁰ "Report of the International Harvester Company, December 31, 1908," 17-18, McCormick Mss 1Z, International Harvester Company Collection, Wisconsin State Historical Society. (Hereafter International Harvester will be referred to as IH Collection and the historical society will be referred to as WHS). As part of a national company, IH's benefit association was modeled on successful schemes in other plants. Like U.S. Steel, IH was interested in mollifying workers to preserve stability. Such companies were also beginning to accept the idea that employee welfare was an important concern.

¹¹ "Annual Report of the International Harvester Company, December 31, 1910," 18, IH Collection, WHS; "Annual Report of the International Harvester Company, December 31, 1911," 18, IH Collection, WHS. Those who lost a single limb were to be compensated no less than \$500 and no more than \$2,000. Compensation for the loss of two limbs or total vision impairment was not to be less than \$2,000; and it is significant to note that the four years' worth of wages for major permanent disabilities was greater than the aid granted in case of death on the job which was three years' wages. This suggests the great financial toll that permanent impairments had on the individual and the family. The company also provided for lesser injuries at a rate of half the regular wages for a period of up to 104 weeks after the injury. Those who remained permanently totally disabled beyond this point were granted an annual pension equal to eight percent of what they would have received in case of death.

¹² "Report of the International Harvester Company, December 31, 1908," 17-18, IH Collection, WHS.

Plans for medical care and benefits in times of disability, while not ubiquitous, were becoming increasingly common for larger factory operations. In 1909, Pfister & Vogel was the first Milwaukee company to employ a professional nurse from the Visiting Nurses Association (VNA) in Milwaukee to care for the health of its workers and their families. By the 1910s, the VNA established an entirely new branch of their services— industrial nursing—and had stationed nurses in several other Milwaukee companies in a similar capacity.¹³ The Bureau of Labor and Industrial Statistics' 1907 survey of employer liability also indicated that a growing number of Wisconsin employers had started similar employee benefit schemes. In most cases, employees paid an initial admission fee ranging from seventy-five cents to a dollar and monthly membership dues of twenty-five cents. In case of illness or injury workers received approximately five dollars a week in addition to medical coverage.¹⁴ At a few of the companies employees were able to “buy” a policy which suited them. For instance, Kiel Furniture Company and La Crosse Plow Company allowed members to buy in for basic coverage with a lower

¹³ “VNA Historical Narratives, 1907-1981,” Visiting Nurses Association Collection, VNA Headquarters in West Allis, WI. See also VNA binder which included various annual reports from the Association. The idea for the VNA in Milwaukee originated with Mrs. Francis Boyd in the early 1900s. Mrs. Boyd employed a private nurse in her home, and when the woman was not busy, she sometimes made calls upon the employees of the Shaboldt-Boyd Company. The experience led to the creation of the VNA which did not originally focus on treating industrial employees, but within the first two years industrial nursing was added to its list of services. The VNA reports indicated that at the height of industrial nursing in the 1920s, the agency had anywhere between five and seven nurses who served seven to ten different companies in Wisconsin. Some of the companies employing their services over the years include: Pfister & Vogel, Seaman Body Corp., Gridley Dairy, Albert Trostel Company, U.S. Glue Company, Weinbrenner Shoe Company, Harsh & Chapline Shoe Company, E.R. Wagner Manufacturing Company, and Cutler-Hammer Company. In the 1930s the number of industrial nurses dropped as low as two due to the Great Depression.

¹⁴ Wisconsin Bureau of Labor and Industrial Statistics, “Industrial Accidents and Employers’ Liability in Wisconsin” *Thirteenth Biennial Report, 1907-1908*, 13 (Madison: Democrat Printing Company, 1909), 60-65. (Hereafter this state agency is referred to as BLIS). Such companies included Fuller & Johnson Manufacturing Company of Madison, the Allis-Chalmers Company in Milwaukee, Willow River Lumber Company in New Richmond, Northwestern Manufacturing in Fort Atkinson, and Mandt Wagon Company of Stoughton.

initial fee and monthly dues or to opt for higher initial payments with guarantee of greater benefits in case of injury.¹⁵

These larger companies were ahead of the curve when it came to recognizing a shift in the nature of production and acknowledging a need for greater employer accountability. Such benefit plans, according to International Harvester Company's annual report, were "based upon the principle that industry should bear the burden regardless of legal liability."¹⁶ In the coming years, reformers used this refrain to justify support for a wholesale replacement of common law liability. When Wisconsin legislators began their investigation into employer liability and compensation in 1909, they eagerly sought the testimony of companies like International Harvester and Pfister & Vogel which had utilized such employee benefits plans to provide for their workers in the face of industrial accidents.¹⁷ Those plans served as the foundation for the no-fault compensation system that lawmakers eventually passed.

The employee benefit associations, however, were not without their own problems for workers who were injured on the job. On the one hand, these plans were not covered entirely by the employers. Workers who volunteered to join such associations were required to contribute to the funds. Furthermore, membership in such associations could be restricted based on prior health conditions. For example, International Harvester, while offering a very generous plan to employees, required a physical examination for all who decided to join the employee benefit association. As C.W. Price, director of the McCormick Works Club in Chicago pointed out, this "physical examination also works

¹⁵ Ibid., 62-63.

¹⁶ "Report of the International Harvester Company, December 31, 1911," 18, IH Collection, WHS.

¹⁷ Wisconsin Legislature, *Report of the Special Committee on Industrial Insurance, 1909-1910* [s.l.: s.n., 1910], State of Wisconsin Legislative Reference Bureau. (Hereafter referred to as *Special Committee on Industrial Insurance*.)

out a positive advantage to the company because it eliminates *undesirable men*; raises the standard of efficiency, and reduces the risk of serious accidents.”¹⁸ What Price did not mention were the implications that this physical examination had for previously disabled men and women seeking employment with International Harvester (a matter that is discussed further at the end of this chapter).

The biggest problem with these employer benefit associations was undoubtedly their inability to fully provide for an injured worker in his or her time of need. International Harvester’s extensive plan which compensated employees in case of injuries and illnesses incurred both on and off the job was the exception to the rule. Price’s survey of benefit associations suggested that most companies offered workers aid only in case of accidents on the job. While employees reluctantly accepted them “as a part of the shop discipline” and welcomed the insufficient aid they provided, the plans failed to foster positive labor relations because they were so limited in scope. Price also argued that plans offering five dollars per week were “entirely inadequate to cover the situation, and [inevitably] the employees must seek outside protection for their families.”¹⁹ For all of their faults, however, these early employee benefit plans offered some sense of protection for a small set of workers who were facing increasing dangers in a quickly mechanizing workplace.

Not every worker could count on such care. Studies conducted in the early 1900s by the Wisconsin Bureau of Labor and Industrial Statistics (BLIS) and the state

¹⁸ C.W. Price, “Employees’ Benefit Association of the International Harvester Company,” *Annals of the American Academy of Political Science and Social Science* 22 (January 1909): 28-29. Emphasis added. Price explained that such physical exams were not administered to employees who were with the company on or before September 1, 1908. Those employees had the opportunity to join the program without submitting to an exam, regardless of age or physical condition, any time prior to January 1, 1909. It should be mentioned that McCormick Works was a part of the larger International Harvester company.

¹⁹Ibid., 31.

legislature indicated that employer benevolence was neither sufficiently widespread, nor expansive enough to be a viable solution to the challenges that confronted injured workers. Such a study in the thirteenth biennial report of the BLIS calculated that in 23.5 percent (nearly one-fourth) of non-fatal injury cases reported to the Bureau directly by the injured workmen, employees received absolutely no compensation or medical aid from their employers. Furthermore, for 37.5 percent of the cases reported, employers provided for all or part of the medical bills *but* offered no compensation for lost wages. In 9.5 percent of the cases employers provided some compensation but did not incur the cost of medical aid. Thus in only about one-third of these cases did employers offer their injured employees some combination of medical aid *and* compensation for their injuries. The agency also collected data on injury reports directly from factory inspectors. This information showed similar results, with 21.37 percent of injured workers receiving no compensation or medical aid; and while nearly half of the cases reported by factory inspectors resulted in employers covering medical expenses, only 7.63 percent of all injured workers in this group received any combination of compensation and medical aid.²⁰

For those workers whose employer offered no assistance, the only recourse was public charity or a lawsuit against the employer. Indeed, New York reformers who investigated the growing problem of work-accidents bemoaned the fact that the “present system leaves the injured workman to stand the greater part of the industrial accident loss, and because his income is not equal to it he and his dependents undergo extreme

²⁰ “Industrial Accidents and Employers’ Liability in Wisconsin,” 54. There were 306 non-fatal injury cases reported via mail by the injured workers. An additional 131 non-fatal injury cases were collected from factory inspectors—upon which the second set of statistics is based.

poverty and often become a burden on public or private charity.”²¹ A study conducted by the Chicago Relief and Aid Society of 1,000 families supported this conclusion, indicating that in over ten percent of the cases “destitution of the family was found to have arisen, in whole or part, from some kind of industrial accident.”²² Such findings were no fluke. In his article expounding on the value of the International Harvester benefits scheme, C.W. Price went so far as to suggest that approximately “seventy-five percent of the cases of need which appeal for charity are directly traceable to sickness and accident.”²³ As industry grew exponentially during the late nineteenth-century, charitable organizations were simply unable to keep up with the demand for aid from injured workers.

The high demands placed on charities indicated a larger problem that could not continue to be shouldered by the public. As the number of workers forced into destitution grew, so too did the calls for change to the liability scheme. Critics charged that it was failing to properly shift the burden of industrialization upon the employers rather than the individual and the community at-large.²⁴ Before addressing those changes, however, it is necessary to examine exactly how liability law failed the injured worker and thrust them, in ever greater numbers, upon the doorsteps of local charitable organizations and poorhouses.

²¹ “Work-Accidents and the Law: The Report of the New York Commission on Industrial Accidents,” *The Survey* 23 (March 26, 1910), 967.

²² William Hard, “The Law of the Killed and Injured,” *Everybody’s Magazine* 19, no. 3 (September 1908), 371.

²³ Price, 33.

²⁴ See Graham Taylor, “Religion in Social Action, IX: Industry and Religion: Their Common Ground and Interdependence,” *The Survey* 27 (June 1, 1912): 403-408; Winthrop D. Lane, “The National Conference of Charities and Correction,” *The Survey* 26 (July 1, 1911). Lane discussed the work of industrial commissions around the country to bring attention to the “burdens placed upon families by such accidents,” and a “growing insistence during the past year that the injury to the workman, like the injury to the machine, shall be credited to the inevitable cost of industry, and shall be paid for, so far as that can be done, by society itself.” (522)

Navigating the Courts Under Employers' Liability Law

The nineteenth-century common law of employer liability saddled workers with the burden of proof. Under this system, accidents were *always* someone's fault. So when a worker decided to take his or her employer to court over their injury, he or she had to prove that it was the employer's responsibility.²⁵ Further undergirding this institutionalized reluctance to compensate workers was the notion that it was unlawful to deprive an individual (the employer) of their property (financial compensation or medical aid) without due process of the law.²⁶ In other words, employers who declined to offer aid voluntarily to their injured workers were entirely safeguarded by a legal system that demanded the injured worker—in the midst of physical and mental recovery, and probable financial struggles—launch a legal campaign to prove an employer was completely at fault in order to secure some form of remuneration.

This uphill battle for the disabled worker was further complicated by a series of employer defenses that made it very difficult for the injured to win. The first of these defenses, contributory negligence required employees to prove that they were not *in any way* responsible for their injury. If the employer could demonstrate that the worker shared *any* responsibility, their claims were dismissed—even if the employer had been negligent to some degree.²⁷ It should go without saying that it was incredibly difficult for workers to prove that they had no responsibility at a time when society so firmly believed that someone must be accountable for accidents. The second defense—the fellow-servant doctrine—provided another level of protection for employers by mandating that an

²⁵ Gordon M. Haferbecker, *Wisconsin Labor Laws* (Madison: University of Wisconsin Press, 1958), 35.

²⁶ Witt, 134.

²⁷ Somers and Somers, 18.

injured employee was not entitled to compensation if his or her injury resulted from the negligence of their fellow employee. In other words, if the company could demonstrate that a co-worker shared *any* blame, it absolved the employer of their legal responsibility of compensation. These two defenses alone, broad in scope and flexible in interpretation, ensured that very few workers had their day in court.²⁸

The final defense—assumption of risk—could be invoked in most other cases and workers had little chance of rebutting this argument. Under this defense, an injured worker could not recover damages if their injury was a result of a known hazard of employment, thus forcing them to choose between the possibility of injury or keeping their job.²⁹ According to this line of reasoning, an employee had agreed to the extra hazards upon taking the job. If they failed to leave the job upon learning of the risks, courts ruled that they had tacitly accepted them.³⁰ In an 1894 case, for example, a worker named Dougherty was instructed by his foreman to leave his hand-powered machine and take up work on a steam-driven one. While Dougherty initially expressed fear of the machinery and reservations about using it, he complied with the order upon threat of being fired, and soon thereafter his arm was broken in the machine's whirring gears. The Wisconsin Supreme Court found in favor of the employer, declaring that:

If an employee, of full age and ordinary intelligence, upon being required by his employer to perform duties more dangerous or complicated than those of his original hiring, undertakes the same, knowing their dangerous character, although unwillingly, from fear of losing his employment, and is injured by reason of his ignorance and inexperience, he cannot maintain an action therefor against his employer.³¹

²⁸ Haferbecker, 35.

²⁹ Somers and Somers, 18.

³⁰ Haferbecker, 35.

³¹ The Dougherty case was cited in Hard's article, "The Law of the Killed and Wounded," 363. The original case records can be found in Supreme Court of Wisconsin, vol. LXXXVIII, October 2, 1894, 341.

In and of themselves, these defenses and the liability law system were enough to discourage most injured workers from pursuing legal action. But a whole host of other complications also faced disabled employees who chose to navigate the courts.

Suing one's employer was not a decision to be taken lightly, for it could compound the practical problems of disability by adding new stresses. The injured workman, for instance, would need to consider whether or not he or she had the capital to finance such a legal battle. According to Herman and Anne Somers, accidents were more common among lower-paid, young or middle-aged workers.³² Data for Wisconsin workers upholds this claim, as nearly seventy-eight percent of the injured workers whose age was documented in the various contemporary surveys of disabled employees were under the age of forty-five.³³ As such, it might have been difficult for them to finance a court battle. Researchers gathering information about industrial accident victims in Milwaukee County in the early 1900s emphasized the importance of capital, pointing out that a "lack of savings and a pressing need for money which makes itself strongly felt in cases of large families, generally cause early settlements out of court."³⁴ Thus many of the newly disabled workers would have to weigh the cost of litigation against their immediate responsibility to provide for their families.

³² Somers and Somers, 10. The authors' conclusion was credited to the research of the U.S. Department of Labor, but no date was provided to contextualize this claim. The inexperience of younger workers and the danger of unskilled industrial work, however, would seem to be rather timeless, presumably making such an assertion as true of the turn-of-the-century as it might be later in the twentieth century.

³³ This percentage is based on the author's calculation of information collected from over 464 subjects who were featured in the *Report of the Special Committee on Industrial Insurance, 1909-1910*, the Industrial Commission's 1913 "Permanent Partial Disabilities Study," Regina Dolan's 1918 study of disabled workers, the Death and Disability Reports collected for the Wisconsin Office of the Commissioner of Insurance (1923-1926), and Grace Zorbaugh's 1926 study of workers who received lump-sum payments of their compensation settlements. Age was only provided for 188 of these subjects, but the data indicated that young and middle-aged workers were the most commonly injured. They, of course, made up the bulk of the workforce.

³⁴ *Special Committee on Industrial Insurance*, 68.

Another matter for workers to consider before proceeding with a lawsuit was the serious impact it could have on their relations with the employer. Job loss was a likely possibility for those pursuing legal action.³⁵ Evidence suggests that “in cases of smaller injuries, where the injured person expect[ed] to continue work for the same employer after his recovery, the settlements almost invariably [were] made out of court.”³⁶ Retaining connections to one’s original employer was especially important at a time when evidence of a serious disability—amputation of fingers or limbs, and blindness—could make it difficult for workers to find new employment. According to the Wisconsin Industrial Commission’s 1913 survey of workers with permanent partial disabilities, respondents who changed jobs following their injury frequently mentioned that, while they had “never faced job discrimination due to their injuries,” they had been cautious to conceal the disabled limb until they had proven their worth to the new employer.³⁷ Clearly disabled workers were aware of the fact that a visible physical impairment could prove detrimental to being hired.

Other deterrents from legal action included both the unpredictability of the court system and the great amount of personal fortitude a court battle entailed. The Wisconsin Special Committee on Industrial Insurance, formed in 1907, was quick to note that the employer liability law “makes it impossible to foresee with any degree of certainty the attitude of the court.”³⁸ The court’s inconsistencies were commonly cited by other supporters of a no-fault workmen’s compensation system as well. The New York

³⁵ Somers and Somers, 18.

³⁶ *Special Committee on Industrial Insurance*, 68.

³⁷ “Results of Investigation on Permanent Partial Disabilities,” 109-142. This was especially true for those men who had lost fingers or had their hands mangled in machinery. They were able to conceal the injuries much more successfully than those who suffered limb amputation or loss of eyesight. See Chapter Four for more detail.

³⁸ *Special Committee on Industrial Insurance*, 69.

Commission on Industrial Accidents, for example, noted the “uncertainty or arbitrary chances of recovery under our system” and emphasized the fruitless expenses of litigation.³⁹ Similarly, William Hard’s 1908 feature story on liability law in *Everybody’s Magazine* touched on the complexities of the law and its interpretation and how it could make legal retribution difficult to obtain:

...there are so many technicalities, there are so many quirks in the common law, there are so many catches in the constitutions of the states and of the United States, there are so many different kinds of judges and of jurors...⁴⁰

Indeed, contemporaries estimated that because of the chances of a victory in court were so slim, only one in eleven injured workers chose to sue.⁴¹ Many workers who settled out of court, then, were presumably driven to their decisions because launching such an uphill battle in the court proved too difficult.

Those who proceeded with a lawsuit also faced the distinct possibility of becoming embroiled in a long-term fight that did not guarantee a beneficial outcome. Only about ten percent of those cases that went to court ended well for the injured employee.⁴² In spite of those odds being in their favor, employers often invested considerable funds in fighting compensation suits because, under the liability scheme, when jurors heard a case in which an injured workman was legally entitled to damages, they tended to grant him or her everything they could.⁴³ Thus many employers, armed

³⁹ “Work-Accidents and the Law: The Report of the New York Commission on Industrial Accidents,” 967.

⁴⁰ Hard, 367.

⁴¹ “Compensation vs. Liability,” *The Survey* 23 (March 12, 1910): 906-907.

⁴² *Ibid.*, 907.

⁴³ Hard, 368. As Hard suggested in his article, “Nine cases get nothing. The tenth gets all the money.”

with their expert lawyers and sufficient cash reserves, “[f]ought] and quivocate[d] and procrastinate[d] over practically every case as it c[ame] along.”⁴⁴

Although employer’s liability law presumed that a worker’s recourse lay in his equal access to the court system, it failed to account for the unequal financial resources of master and servant. A working-class man or woman—skilled or unskilled—could hardly be expected to keep up such a prolonged legal battle. The Wisconsin committee charged with investigating liability law argued that “A great amount of determination is generally required from a person to start a lawsuit against a rich employer who is able to employ expert legal help.”⁴⁵ Furthermore, they pointed out, many unskilled workers came from abroad. Likely unfamiliar with the language and the American legal system, such workers would need a great deal of determination or outside assistance to pursue legal action. The committee indicated that the lack of such outside encouragement as well as financial support from family members who might remain abroad was a strong reason for injured immigrant workers to settle out of court.⁴⁶ When workers did pursue legal action, it took a considerable amount of time for courts to reach a verdict. As William Hard suggested in his 1908 article, “The Law of the Killed and Wounded,” on average it took a minimum of two years for a case to be processed through the Circuit or Superior Courts. Beyond the initial hearing, it would take another six months to proceed through an Appellate Court

⁴⁴ Ibid., 369.

⁴⁵ *Special Committee on Industrial Insurance*, 69.

⁴⁶ Ibid., 69. This study featured the cases of twenty-eight Italian immigrants in Milwaukee who had settled out of court, directly with their employer. The data on families was incomplete for these cases and, in fact, only two of the injured parties were noted to have wives or children. Based on the information available neither of the two men had a family network in the states, but both were supporting a spouse and/or children who had remained in Italy.

and six months more to reach the State Supreme Court. Clearly, “litigation [was] a rich man’s game, like automobiling [sic] or yachting.”⁴⁷

This imbalance, however, did not discourage every injured worker from pursuing legal action, and there were no shortages of lawyers interested in taking their cases. In fact, one of the frequently cited arguments favoring a shift to workmen’s compensation was that “ambulance-chasing” lawyers eager for a major pay out drove a wedge between employer and employee and created unnecessary hostility.⁴⁸ The injured worker needed someone to take his or her case if he or she was to have any chance at keeping themselves or the family afloat without relying on charity. Thus in the midst of dealing with the hardship of physical and emotional recovery, disabled workers found themselves shouldering the burden of trust: who could they trust to help them in their time of need? And would that trust be worth the up-front investment? If it was, and the worker won their case, there was no guarantee that a settlement would offer long-term security.

The shortcomings of legal settlements under the employer’s liability law are evident in the debates over replacing the old system. As legislators weighed the idea of implementing a new compensation scheme, they turned to the experts to determine the faults of the contemporary liability settlements. One such analysis came from a 1907 investigation conducted by Fred King and Selig Perlman of industrial accident victims in Milwaukee County. King and Perlman gathered information on thirty-six court cases and forty-eight non-court cases of injured workmen. Drawing on the available legal documentation as well as personal interviews with families and injured workers,

⁴⁷ Hard, 369.

⁴⁸ “Compensation vs. Liability,” 907. This argument was frequently cited throughout articles in *The Survey*, and seemed to be an effective way to garner support from both employer and employee for a new system, allowing them to place blame on the lawyers for the wrongs of the liability law system.

insurance representatives, and employers, this study illustrated the inadequacies of injury compensation both in and out of the court system.⁴⁹

Injured workers and their legal representatives, understandably, often placed a higher value on their injuries than the employers and the courts. As King and Perlman's study indicated, workers frequently received a mere fraction of the amount for which they sued the employer. A man who suffered internal injuries and a blow which crippled his leg, for example, sued his employer for \$25,000. Although the jury found in his favor, they only awarded him \$9,000.⁵⁰ This was an exceptional amount compared to what other workers in the study received. In another case, a man who had half of his foot amputated sued his employer for \$15,000 only to be awarded \$1,100. Likewise, a man who suffered amputation of his right arm at the shoulder received nothing when he sued his employer for \$15,000.⁵¹ On average, for the fifteen cases of permanent disability in King and Perlman's study that made it before a judge, the courts awarded the injured workers less than twenty percent of the amount they sought.⁵² In each and every case, the employees who won in court received less than the amount they hoped to acquire.

⁴⁹ *Special Committee on Industrial Insurance*, 59-85. The study included thirty-six cases that went to trial and forty-eight cases that were settled out of court. In fifty-six of the cases, where information could be found via court documents and interviews, investigators noted the nature of the injury, its impact on earning power, the impact on the family members, the amount of compensation granted, and promptness of payment. They also provided information, where available, regarding coverage of medical expenses. This information was juxtaposed with an estimate of what the injured workers would have received under the proposed workmen's compensation bill. The other twenty cases were drawn from the records of an Italian representative who handled most accident cases among Italian immigrants in Milwaukee. Follow-up interviews were not available in the Italian cases, and so the report included less information on the impact of injury on family for these particular injured workers.

⁵⁰ *Special Commission on Industrial Insurance*, Appendix 1A, [60a]. Based on author's calculations of data from this study.

⁵¹ *Ibid.*, [60a].

⁵² *Ibid.* These figures are based upon the author's calculation of information collected regarding amount sued for and amount received in each case. Some workers received far less—as was the case for the man who sued for \$15,000 and won nothing; and some received much closer to the amount they requested—as was the case for a man who was scalded by a hot substance. He sued for \$7,600 and was awarded \$5,531. Legal strategy likely accounted for this stark difference, since lawyers probably thought it best to demand a higher pay out and hope that their clients came away with at least a small award.

The same was largely true for workers who suffered from temporary disabilities or for many of the cases that were settled out of court. In all but two of the sixteen cases of temporary disablement that made it to court, workers were granted far less than the amount for which they sued. In fact, when taken as a whole, the awards handed down by the courts for temporarily injured workers averaged just fifteen percent of what the workers had requested.⁵³ The data regarding cases settled out of court or those negotiated by a claim agent is incomplete. For those cases which did include this information, however, there was a clear discrepancy between the amount a worker hoped for and the amount they actually received.⁵⁴ Even when workers won in court, they could not count on an indemnity sufficient to cover their loss of wages due to the accident and their legal fees.

One of the biggest grievances among both employers and employees in injury suits was the fact that very little of the money paid out in these cases actually made it to the employee. *The Survey* elaborated on this matter in a 1909 editorial:

Employers are naturally uncomfortable when they realize that the bulk of the enormous sums which they pay out annually to employers' liability insurance companies is spent not in compensating the families of their workmen who are killed, or in replacing the wages of those who are disabled, but in fighting suits for damages, in contingent fees to lawyers, in expenses and profits made possible and necessary by the uncertainties of the law of negligence. The employe [sic] is not satisfied, because in a very large proportion of all injuries he receives no compensation whatever, and when he does receive a liberal award it is usually after a prolonged and expensive series of lawsuits, which have necessarily been financed by others who have thereby established a claim on a large part of the sum nominally awarded to him.⁵⁵

⁵³ *Special Committee on Industrial Insurance*, Appendix 1B, [62b]. Based on author's calculations of source material.

⁵⁴ *Ibid.*, Appendices 1C-1D, [64a, 66a]. These included cases that were settled out of court, but required the assistance of claim agents. For the twenty-eight Italian cases and a handful of the non-Italian cases, no information was available regarding the amount the worker requested in the wake of their injury, so it cannot be compared to the actual amount granted in these cases.

⁵⁵ "Social Forces: Compensation for Industrial Accidents," *The Survey* 22 (May 29, 1909), 297.

These sentiments were universally expressed by critics of the liability law. The New York Commission on Accidents, for example, found the amount of indemnity actually reaching the injured workers was somewhere between one-fourth and one-third of the damages paid by employers. Such minimal support for the disabled worker was, they argued, “an outrage and a mockery, bringing him only hope deferred and justice denied.”⁵⁶ Indeed, much of the impetus for change from employer liability to workmen’s compensation derived from this frustration on the part of employer and employee at the small amount of money actually granted to the disabled worker in their time of need. As is evidenced later in the chapter, appealing to the employer’s sense of thrift as well as their desire to improve labor relations with direct and fair compensation proved vital to the movement for no-fault compensation.

The King and Perlman study of injured Wisconsin workers upheld these critiques and further demonstrated the costly nature of litigation. For all thirty-one court cases (of both permanent and temporary disability) in the King and Perlman study, lawyer’s fees significantly reduced the amount that actually went to the injured workers. Legal fees ranged from fourteen to fifty percent. Only two cases involved a legal fee of less than twenty percent—one in a case of permanent disability where legal fees amounted to \$800 on a \$5,800 award and another in a temporary disability case where the legal fees were \$75 on a \$500 award. Furthermore, in seventeen out of the other twenty-five cases for which information was available, legal expenses claimed thirty percent or more of the final settlement.⁵⁷ Even for cases that settled out of court, awards were sometimes

⁵⁶ Quoted in “Compensation vs. Liability,” 907.

⁵⁷ *Special Committee on Industrial Insurance*, Appendices 1A and 1B [60a, 62b]. In three cases there is no information regarding final settlement or lawyer’s fees. Eight cases included legal fees between twenty

reduced due to legal expenses. In two of the twenty non-court cases in King and Perlman's study, the injured workers ended up paying a claim agent.⁵⁸ Clearly it was costly for injured workers to pursue legal action—a fact which discouraged many from even trying to go to court and robbed others of the full benefits of their awards. Frustration over these high legal fees was evidenced by the fact that they were held to ten percent when the new compensation law was passed in 1911.⁵⁹

Further compounding the problem of expensive trials and inadequate indemnity was the issue of delayed payment. As the above discussion indicates, trials could take a considerable amount of time from start to finish. The King and Perlman study showed that the average time from start of a suit to settlement was approximately twenty-six months.⁶⁰ Beyond this, however, payments were usually delayed for a considerable length of time. In the same study, a special emphasis was given to the fact that awards under the liability system often came in the form of a lump sum payment, “sometimes years after the injury when the necessity of the injured man and his family have passed.”⁶¹ Out of the forty-three non-fatal accident cases settled in and out of the Milwaukee County court system, according to King and Perlman, thirty-nine injured workers had received no payment at all from their employers until a final settlement was reached many months or years later.⁶² The time elapsed between accident and settlement

and twenty-nine percent; nine cases included fees of thirty to thirty-nine percent; four cases between forty and forty-nine percent; and in four cases the legal fee was fifty percent.

⁵⁸ Ibid., Appendices 1C and 1D [64a, 66a]. A claim agent's fee was likely also paid in other cases, but the data was incomplete in this regard.

⁵⁹ Haferbecker, 65. This limit on attorneys' fees for representation on contested compensation claims lasted until 1949, when it was raised to twenty percent.

⁶⁰ *Special Committee on Industrial Insurance*, 64-66. The study indicated an average of twenty-five months for permanent disability cases and twenty-six-and-a-half months for temporary disability cases.

⁶¹ Ibid., 60.

⁶² Ibid., Appendices 1A-1D, [60a, 62b, 64a, 66a]. In only one case had actual payments commenced and in three cases no information was available. These results exclude the “Italian Cases” collected by King and

for these cases ranged from three weeks to sixty-eight months.⁶³ Thus even when the injured worker won in the lower courts, he or she frequently did not see any financial gain until the case proceeded through an extended appeals process.

For these reasons, support for reforming the liability system was gaining traction by the beginning of the twentieth century in Wisconsin and other industrial states.

Coupled with the concerns over the cost of litigation was the fact that accidents were increasing as the state industrialized. As Labor Commissioner J.D. Beck wrote in the BLIS's 1907-1908 biennial report:

In Wisconsin, no less than in other states in which there is much industrial development, accidents to workmen while at work are becoming so numerous that it is desirable not only to seek the best methods of prevention, but also provide a method of settling the claims arising out of such accidents that will be equitable and expeditious, and economical.⁶⁴

The Bureau of Labor committee that investigated employer's liability also argued that the contentious atmosphere created by requiring both sides to pinpoint negligence was problematic for labor relations as a whole. Furthermore, they hinted that the desire to deny one's responsibility led to concealment of the facts surrounding accidents and inhibited accident prevention work.⁶⁵ The roots of employer liability reform, however, extend far beyond the turn-of-the-century. Thus before proceeding to discuss how workers navigated the no-fault compensation system that went into effect in 1911, it is necessary to give brief attention to how the system came into play in the state of

Perlman in which settlements had been reached directly with the employer and no legal action had been initiated.

⁶³ Ibid. For many of these individuals, years had passed by without any compensation payments commencing, in spite of the lower court ruling in their favor.

⁶⁴ "Industrial Accidents and Employers' Liability," 3.

⁶⁵ Ibid., 5.

Wisconsin, which safety measures preceded it, and how those measures impacted disabled workers.

Roots of Change

Before state legislators considered wholesale reform of employer liability, they introduced a number of measures designed to improve the existing system. Between 1875 and 1907 they passed a series of laws that were designed to limit the fellow-servant defense in favor of the injured employee. Most of the language in these acts was targeted at the railroad industry where a worker might never come into contact with the “fellow-servant” who was blamed for their accident.⁶⁶ According to Gordon Haferbecker’s study on Wisconsin labor laws, the initial 1875 act proved to be the most sweeping dismissal of the fellow-servant rule in railroad accident cases. It made railroad companies liable for any accident to their workers which stemmed from “the carelessness or negligence of any other agent, employe [sic], or servant of such company in the discharge of, or failure to discharge, their proper duties as such.”⁶⁷ In that same year, the courts ruled that a vice-principal (or supervisor) could not be defined as a “fellow-servant” because they held some degree of authority over workers.⁶⁸ Over the next thirty years, under pressure from railroad owners, the courts went back and forth on the matter, finally removing the fellow-servant defense completely in 1907.⁶⁹ At that same time, railroad brotherhoods

⁶⁶ Haferbecker, 35-36.

⁶⁷ Quoted in Haferbecker, 36.

⁶⁸ Ibid., 36. The vice-principal doctrine was commonly invoked before that time by the employer to dismiss the charges of liability in cases where supervisors were at fault for injury to other workers.

⁶⁹ Ibid., 36-37. As Haferbecker detailed in his account of the state’s labor legislation, a number of statutes throughout the 1880s and 1890s added provisions which were often interpreted in such a way as to deny employees benefits. Each of these provisions listed specific instances in which employees could claim

also pushed the courts to replace the doctrine of contributory negligence with a doctrine of comparative negligence. Such a law would allow injured workers who had shared in some of the blame for their accident a chance at recovering damages should their employer prove to share greater responsibility for the accident.⁷⁰ For railroad employees, then, the late nineteenth century legal changes opened the door for a greater chance of obtaining financial security in the wake of a tragedy.

The same was not true for industrial workers in general until the early twentieth century, at which point the efforts to reform the employers' liability law were replaced with calls for a complete overhaul of the system. Industrial workers did share in the gains of their railroad brethren with regard to the court's decision to abrogate vice-principal doctrine.⁷¹ They also benefitted from the legislature's increased concern for factory safety. In 1887, Wisconsin passed its first safety legislation, mandating that certain machinery be guarded. As such, an employer's negligence in properly safeguarding equipment could negate an employer's defenses in court.⁷² In the early 1900s, however, before employers' liability reform for non-railroad workers gained any real momentum, legislators were already suggesting that direct compensation replace costly litigation. For example, while Assemblyman Wallace Ingalls was recommending a reform to the assumption of risk doctrine in 1909, other legislators had already been proposing a new system for four years.⁷³

liability or when fellow-servants could be blamed. As a result, in any accident case that did not fall under the specified categories, fellow-servant defense could still be invoked by the railroad company.

⁷⁰ Ibid., 37.

⁷¹ Ibid.

⁷² Ibid., 18, 37.

⁷³ Jennie McMullin Turner, "Workmen's Compensation in Wisconsin, 1905-1913: Planks in Party Platform and History of Bills, with Votes," (Madison, 1916), [no page number].

Once they realized the extent of industrial accidents in the state, lobbyists and legislators began to push for implementation of a new system. It took many decades, however, before the rising accident rates were chronicled and before they were interpreted as problematic. Reliable accident figures were not collected for the state until 1888, and a more detailed analysis of these figures did not appear until the BLIS conducted a special investigation on industrial accidents and employer's liability in its thirteenth and fourteenth biennial reports of 1907-1909. As such figures came to light, they sparked a debate over whether Wisconsin had an industrial accident *problem*. For many, the answer was a definitive "yes."

The first advocacy for change came from labor representatives in the 1890s, but by the early 1900s the sentiment was widespread. Between 1880 and 1907, there was a rise in non-railroad accidents among workmen. Such a shift prompted the Wisconsin Federation of Labor to push for the fellow-servant defense to be completely revoked as early as 1896.⁷⁴ By 1906, outrage over employers' liability and its shortcomings had reached a point where all of Wisconsin's major political parties began to take note. The Democratic Party that year threw its support behind the campaign to replace contributory negligence with comparative negligence for all personal injury cases and the Republican platform endorsed comparative negligence for the railroad industry. The Socialist Party, which gained steam in Wisconsin in the 1890s and was especially strong in industrial Milwaukee, pushed for a complete removal of contributory negligence from the law and

⁷⁴ Haferbecker, 37. Haferbecker explained that prior to 1880, railroad accidents were the cause of 77.2 percent of the claims of injured workmen that came before the State Supreme Court. Between 1880 and 1907, that number dropped to 27.4 percent, meaning that work-accidents were increasingly happening in factories (though this is not to exclude agricultural labor and the lumber industry).

supported “the enactment of laws to compensate workmen when injured while employed.”⁷⁵

The reform campaign continued to gain steam as more and more evidence was collected on accident rates and the nature of liability law. Following on the heels of the rather damning investigation of industrial accidents and employers’ liability by the BLIS in 1908, political critiques went even further. The Republican platform of 1908 “pledged [itself] to insure to the laboring classes of this state equality of opportunity in industry and equality of rights before the courts,” and called for legislation protecting workers’ health and safety that were “as strong and as certain ... as those of any state or country.”⁷¹ The Socialists, meanwhile, continued to call for removal of contributory negligence and the enactment of new laws to compensate injured workmen. By 1910, every political party was not only supporting removal of contributory negligence, but also pushing for a completely new law to ensure compensation regardless of blame. Republicans, for example, declared that “Losses occasioned by bodily injuries in industrial accidents should be borne by the industry in the first instance rather than by the disabled wage-earner or his dependents.”⁷⁶ They urged the immediate enactment of new legislation that would ensure employer accountability and provide certain compensation for all work-accidents. Likewise, the Democratic Party expressed its “profound interest in the welfare of the laboring people” and promoted legislation designed to “justly compensate employes [sic] in case of injury [or death].”⁷⁷

Such fervor among the politicians for reform on behalf of Wisconsin’s beleaguered workers fits within a broader context of progressive concern about

⁷⁵ Turner, 1. Information on party platforms in previous sentences also comes from Turner.

⁷⁶ Ibid., 3.

⁷⁷ Ibid.

industrialization on a state, national, and international level. At home, politicians were responding not only to the growing number of industrial accidents, but the increased public awareness of such events. Although the initial reports from the BLIS on industrial accidents were limited in detail, they provided a baseline of statistical information that proved useful over time. Twenty years later, the progressive fervor inspired the agency to use such data as a starting point for finding fault in the contemporary laws on compensating industrial injury.⁷⁸ On a broader scale, employer's liability had been a major topic of labor reform since the early 1880s. Workmen's compensation was introduced in Germany in 1884, in England in 1897, and in France in 1898. Several other states also preceded Wisconsin in replacing employer's liability with workmen's compensation—Maryland in 1902, Montana in 1908, and New York in 1910—and the federal government first instituted such a law for some government employees in 1908.⁷⁹ In fact, by the mid-1910s, reform advocates in Wisconsin feared that they were behind the times and bemoaned the state's—and the nation's—failure to make quicker progress on this matter. Commissioner of Labor J.D. Beck epitomized this progressive desire for change and a competitive bent, writing at the end of his 1907-1908 biennial report:

In practically every other important civilized nation on the globe the widow, orphans and injured persons would have been either pensioned or compensated. In America, under an antiquated system of employers' liability they were fought through the courts like criminals ... On the one hand, the remedy for sightless eyes and maimed bodies and helpless widows and hungry children is long and expensive litigation. On the other hand, it is prompt medical assistance, and regular weekly income. Which is the better victory for human beings. [sic] When shall we make each

⁷⁸ See "Industrial Accidents and Employer's Liability in Wisconsin." The Bureau launched a two-part investigation on industrial accidents and the effectiveness of employers' liability as Wisconsin politicians and lobbyists began to push for reform.

⁷⁹ Haferbecker, 38. All three state laws were held unconstitutional; thus Wisconsin's 1911 law was the first state law to be upheld by the courts. Technically, however, the federal law of 1908 was the first workmen's compensation law that was held constitutional.

trade add the cost of its burned out eye sockets to the cost of its burned out coal grates. [sic]⁸⁰

The increasing concern for employee well-being accompanied by political promises eventually spawned action in the form of meaningful proposals for a new legal scheme. In 1903, labor leaders Fred Brockhausen and Frank J. Weber started drafting a no-fault workmen's compensation law. They presented the plan to the Wisconsin State Federation of Labor the next year and on April 20, 1905 Assemblyman Brockhausen submitted the proposal to the legislature.⁸¹ The plan, Bill 549A, offered a system under which injured employees could choose between taking their employer to court and accepting a set rate of compensation. Rates would be set by a permanent committee comprised of labor and employer representatives. The initial proposal was tabled without a vote. Although reintroduced in 1907 and in 1909, the bill was repeatedly blocked.⁸²

In spite of these early legislative failures, the page had turned on employer's liability and workmen's compensation was becoming an ever-more likely reality. The same year that Brockhausen's proposal was tabled, Governor James O. Davidson expressed his support for workmen's compensation and strongly urged legislators to act. Although it was not yet ready to heed the governor's call, the 1909 legislature did create a special committee to investigate the necessity and feasibility of a new workmen's compensation system. The committee was ordered to report back during the 1911 session.⁸³ Furthermore, public discussion of the issue remained strong. The Wisconsin Federation of Labor continued its campaign by publicizing the proposal throughout the

⁸⁰ Quoted in Daniel Hoan, "Brief on Employes' Compensation," 5. [Madison: Union Label, undated], Wisconsin Free Library Commission, State of Wisconsin Legislative Reference Bureau.

⁸¹ Haferbecker, 38.

⁸² Turner, 5.

⁸³ Haferbecker, 40.

state. Even Milwaukee's manufacturers began to take the matter under advisement, hosting an "Industrial Insurance Smoker" and inviting labor experts to talk on the issue.⁸⁴

When the legislature reconvened in 1911, Wisconsin was ripe for change and workmen's compensation soon replaced the outdated employer's liability law. The special committee charged with investigating industrial insurance had concluded that the burden of industrial disability and death should fall directly upon industry itself. To assess the liability system, commissioners spent two years soliciting up-to-date statistics on accident rates, inquiring about the impact of employer's liability rulings on injured workers and their families, discussing employer benefit programs, interviewing business and labor organization representatives, and studying the compensation programs in place around the world. Based upon what they discovered, the committee "unanimously recommend[ed] to the governor and to the legislature a workmen's compensation measure which, we believe, will meet in a practical way the present day conception of justice to individuals who suffer through accidents sustained by workers in gainful occupation."⁸⁵ Governor Francis McGovern supported the change in his January 12 inaugural address to the legislature. He heartily endorsed a new and "more humane" system to compensate injured workers.⁸⁶ Following some debate over the details of the bill, the measure passed the Senate on March 30, 1911. It was bandied about in the

⁸⁴ Ibid., 38-39. As Haferbecker explained, this event indicated growing interest in the idea of compensation. He mentioned that John R. Commons and W.W. Cook of University of Wisconsin, J.D. Beck and Dr. Max Otto Lorenz of the Bureau of Labor, and Judge Marshall of the State Supreme Court were invited to give their opinions on the matter.

⁸⁵ *Special Committee on Industrial Insurance*, 35.

⁸⁶ Buenker, 118.

Assembly for a month, eventually passing on April 21 by a vote of 69-13. McGovern signed the law into place on May 4; it was set to take effect on September 1, 1911.⁸⁷

The workmen's compensation law completely altered the experience of the disabled workers. The creation of this centralized bureau charged with overseeing the compensation plan ultimately led to a new relationship between injured workers and the state. In many ways, state intervention meant greater assurance of care in a time of need. Modifications in the state's standards for medical care and rehabilitation changed the way in which disabled workers handled their recovery. It also meant learning to navigate a new and quickly expanding bureaucracy. Beyond forging a new relationship with the state, the introduction of workmen's compensation also had certain, less obvious, effects on the injured worker's relationship with their employer. As such, it is necessary to turn attention to how workers utilized the workmen's compensation system and exactly how the new law impacted their experience of work-accidents.

Navigating the Workmen's Compensation System in Wisconsin, 1911-1930

The workmen's compensation law established new rules about compensating employees injured in the course of their job. Most importantly, it was based upon a no-fault scheme of compensation. Blame was no longer the most important consideration in the wake of a work-accident. It also abolished two of the employer defenses: fellow-

⁸⁷ Ibid., 128-130. As Buenker explained in his article, representatives debated over quite a few issues concerning the details of the law. These included: whether employees should make contributions to the employer fund, whether it was to be compulsory, if an employee had the right to opt for a traditional lawsuit, which employees came under the act, and even whether or not employer defenses from the liability system could be reinstated under the new program. According to Buenker, the Merchants and Manufacturer's Association of Milwaukee launched a "friendly test case," of the law's constitutionality and the law was upheld by the State Supreme Court in November of 1911. See also Haferbecker, 42.

servant doctrine and assumption of risk.⁸⁸ Workers who were covered under the act were no longer obligated to demonstrate that their employer was responsible for the injury because, under the new law, all work injuries that resulted in at least one week of disability were compensable.⁸⁹

In its first two years, the changes brought about by the law reached only a small segment of employees, but future amendments quickly extended no-fault compensation to a large majority of Wisconsin workers. To circumvent arguments about its constitutionality, the law was designed to be voluntary. Employers had to elect to come under the law.⁹⁰ Thus, for workers whose employer had not yet chosen to switch to the new system, legal action continued to be the only recourse.⁹¹ In 1913 legislators implemented several adjustments which brought almost all of Wisconsin's workers under coverage. First, they amended the terms of the law's voluntary enrollment policy. Rather than requiring employers to opt in to the law, the amended act presumed that all employers with four or more workers were automatically covered and required that they *opt out* of coverage if they so chose, thus expanding the law's reach.⁹² Lawmakers also revoked the remaining employer defense—contributory negligence—for employers who did not come under the new law.

⁸⁸ Haferbecker, 42. The last of the employer defenses, contributory negligence, was not eliminated until the act was amended in 1913. See also *Workmen's Compensation, Second Annual Report*, (July 20, 1912), x.

⁸⁹ The exception to this rule was any intentional or self-inflicted injury or those resulting from willful neglect of safety codes and procedures. See Haferbecker, 52 or U.S. Department of Labor, "Workmen's Compensation Legislation of the United States and Canada as of July 1, 1926," *Bulletin of the United States Bureau of Labor Statistics*, no. 126 (Washington: Government Printing Office, 1926).

⁹⁰ "Workmen's Compensation Legislation of the United States and Canada as of July 1, 1926," 57.

⁹¹ While the assumption of risk doctrine and fellow-servant rule had been eliminated as a defense for employers across the board, those employers who did not come under the law could still rely on the very effective contributory negligence defense to rebut an employee's claims to damages in court. This third defense was not fully removed from the employer arsenal until 1913.

⁹² Haferbecker, 42.

With such a valuable legal defense removed from their arsenals as well as the rising costs of liability insurance and the onus of added paperwork required for opting out, many employers found it beneficial to “voluntarily” *opt in* to the guaranteed compensation scheme. Between the second and third year under the new act, the number of employers in compliance had jumped from 2,029 to about 12,500 and the number of employees covered increased from 149,000 to 250,000.⁹³ Put another way, the percentage of industrial accidents that came under the new law rose from just 23.8 percent in September 1911 to 99.4 percent by June of 1914.⁹⁴ As more and more employers came under the compensation act, an ever-growing number of Wisconsin employees developed a new relationship with the state government which was charged with overseeing their post-accident recovery and compensation.

With the court system replaced by an Industrial Commission, injured workers and their employers had to become familiar with the new bureaucracy handling their claims. Along with instituting a no-fault policy, the legislature created an Industrial Accident Board to enforce the law’s provisions and to perform the quasi-judicial task of hearing contested cases.⁹⁵ Although a majority of cases—particularly after the law was in effect for a few years—were “uncontested,” this agency became a key resource for all injured workers. It monitored all cases (contested and uncontested), kept records of all transactions, set safety standards, and eventually made direct contact with every injured employee to ensure proper reporting of accidents and prompt payment.⁹⁶

⁹³ *Workmen’s Compensation, Third Annual Report, 2.*

⁹⁴ *Ibid.*

⁹⁵ Haferbecker, 42. The 1911 Legislature soon created a new agency, the Industrial Commission, which replaced the accident board and became the umbrella organization for enforcing all of the state’s labor legislation.

⁹⁶ The “uncontested” label did not necessarily mean that there was no disagreement over the settlement. These cases could and often did involve differences of opinion, but stopped short of needing judicial

In order for injured workers to capitalize on the oversight of this new agency and gain their rightful compensation, they had to adhere to a specific set of rules and deadlines. To start, they could not enter a claim unless their injury had resulted in one week's absence from work. After the first week, those individuals who sought compensation were required to file notice with their employer within thirty days of the alleged accident. This notice included their name and address, the time and place of the accident, and the nature of the injury. Failure to provide such notice could be ruled an attempt at misleading the employer and could result in one's claim being dismissed.⁹⁷ It was, therefore, very important that employees become familiar with these new legal rules and regulations in order to initiate a claim.

The Commission continually adopted new rules and procedures over the years, and it took some time for injured workers to learn and accept these changes. For example, by 1913 the Commission had pushed for employers to file a first accident report at the time of injury and to follow up with a final report detailing the total amount of compensation and medical coverage. These forms were to be signed by the employee to indicate he or she had a full understanding of the events that transpired. According to the commission, there was some reluctance on the part of employees who feared the new system. In the third annual report, the commission noted that:

The workmen of the state have been educated under the old liability laws. The training under that system has caused them to be suspicious of a receipt or release ... We are gradually educating workmen to the new

oversight by the commission and were eventually worked out between parties. Nonetheless, "uncontested cases" or any case in which the parties had reached a compromise had to be submitted to the Industrial Commission for approval.

⁹⁷ Chapter 50 §2394-1 to 2394-32 (The Laws of Wisconsin, Session Laws 1911). In cases where employees were so disabled as to not be able to file notice, someone else had to do so on their behalf. The laws did include a provision that in cases where payment had commenced without written notice or where, based on finding of fact, there was no intent to mislead, employees who failed to provide official written notice within the first thirty days might still be able to claim compensation.

plan. In time they will know that the signing of a receipt does not preclude them from recovering for further disability.⁹⁸

It would take several years before injured workmen and their employers had fully accepted the new arrangements and learned to handle the new compensation claim procedures.

In agreeing to the new legislation workers also welcomed outside medical intervention into their lives. According to the original act, any employee seeking compensation benefits had to be willing to, “upon the written request of his employer, submit from time to time to examination by a regular practicing physician” and also had to be willing to be evaluated by commission-appointed physicians if the case was contested.⁹⁹ While an employee could certainly seek their own medical counsel—at their own expense—the law upheld an employer’s right to choose a doctor to handle their case.¹⁰⁰ If an employee refused such medical evaluation, the law ordered that he or she may be denied any accrued compensation during the period of refusal.¹⁰¹ While some workers saw submission to medical examinations as an acceptable tradeoff for compensation, a small minority was unwilling to tolerate such intrusions and preferred to rely on their own medical experts—even if it meant taking their case to the commission for review.

⁹⁸ *Workmen’s Compensation, Third Annual Report*, 11-12.

⁹⁹ Chapter 50 §2394-1 to 2394-32 (The Laws of Wisconsin, Session Laws 1911), 51. Such medical examinations were to be covered by the employer or—in the case of a commission-ordered evaluation—the state.

¹⁰⁰ In cases where an employer failed to specify a doctor or supply medical care, the commission often accepted the employee’s decision to seek outside counsel. If there were medical disputes between employer and employee doctors, they reserved the right to seek neutral, third-party medical experts. All medical testimony was heard before the commission in disputed cases.

¹⁰¹ Chapter 50 §2394-1 to 2394-32 (The Laws of Wisconsin, Session Laws 1911), 51. See also, Haferbecker, 48-49. According to Haferbecker, worker suspicion of bias among company doctors prompted legislative changes regarding the medical policy. In 1921, the law was modified to allow employees a choice from an employer-approved panel of physicians. In 1934-1935, medical societies for Milwaukee County and the state at-large composed open panels of hundreds of doctors for employees to choose from in case of accident.

Contested cases required workers to become familiar with more procedural changes and allowed greater intervention of the state into their lives. Both parties were able to appeal their case to the Industrial Commission by submitting a written statement of the controversy. The commission would schedule a hearing for the worker (or employer) to air a grievance. In order to ascertain the facts of the case, representatives of the state often dug further into the details of the worker's accident and the resulting impairment. At the hearings, examiners interviewed employers and employees along with witnesses and medical experts to determine the specifics of the accident and the nature of the injury as well as the character of the claimant. They could also require employees to submit to further medical evaluation and employers to allow impromptu inspections of their records or the site of the accident. These facts were then passed along to the commissioners for review. If the case was appealed by either side to the Dane County Circuit Court, payment was delayed, but it was the commission, not the worker, who had to navigate the court system in the appeals process. The impact of these procedural changes would remain to be seen as the state implemented them over the course of the early twentieth century.

As new provisions were added to the law, workers faced more bureaucratic red tape. For example, in 1921, the legislature mandated that vocational rehabilitation be made available to any injured employees who could reasonably benefit from such training. In order to take advantage of this new opportunity, workers who sought these services needed to meet the approval of the Vocational Rehabilitation Board. After filing an application with the board, workers were required to complete an interview with an agent who would judge their eligibility for the program. If they had independently sought

rehabilitation, the individual would need to submit to a medical examination before being approved.¹⁰² There were also some time constraints that workers needed to consider.

According to the law, the worker had to begin a vocational training course within sixty days from the date that they had recovered. The state also mandated regular attendance at rehabilitation sessions—provided one’s health permitted it.¹⁰³

As the 1911 law went into effect, questions over its merit loomed large in the minds of Wisconsin employers and employees. Was such an intrusion of government into labor-management relations necessary? Would it bring better benefits to injured workers in their time of need? Would it help eliminate hostilities over worker safety? Finally, how might it change labor-management relations? Retrospectively, the answers to those questions are simple. Yes, it was necessary and would bring better benefits to workers. The Industrial Commission underlined the necessity of such change in its third annual report, arguing that “because of his lack of understanding of the law and owing to his sickness and suffering, the workman [was] not [and had never been] in a condition to meet on equal terms with the adjuster and cannot make a fair and equitable compromise.”¹⁰⁴ Under the new law, most workers now had a right to compensation for their injuries and could count on the state as their ally to enforce that right. And, yes, it would likewise remove some of the animosity between employer and employee; but it is also clear that interjecting the state into labor-management relations had some unintended effects on the relationship between workers with permanent disabilities and their prospective employers.

¹⁰² Chapter 534, §41.215 (The Laws of Wisconsin, Session Laws 1921), 874-877. According to the law, those workers who were referred to the Vocational Rehabilitation Board by the Industrial Commission did not need to take part in the examination process.

¹⁰³ Chapter 534, §2394-9m (The Laws of Wisconsin, Session Laws 1921), 877-878.

¹⁰⁴ *Workmen’s Compensation, Third Annual Report*, 12-13.

Positive Repercussions

When it was first introduced, some workers questioned the law's usefulness, but their concerns centered on whether the new system would truly be more advantageous than seeking redress through the court. Unlike the large financial settlement in court that many hoped for, the final draft of the new law set minimum and maximum payments for weekly indemnity and imposed deadlines on how long payment could be made for different degrees of injury.¹⁰⁵ To that end, representatives from the Wisconsin State Federation of Labor-Social Democrat coalition tried during the legislative debates to preserve workers' rights to choose between litigation and direct and automatic compensation payments.¹⁰⁶ Although this proposal was dismissed, the benefits of mandated compensation far outweighed the disadvantages for injured workers. Even with its limits, government intervention often resulted in better and more reliable financial support for the injured employee.

Although some employees may have arrived at larger settlements under employer's liability, the mandated compensation system was more beneficial because it ensured prompt and complete payment of an indemnity. Barring a dispute over who was liable for the injury or what was fair payment, employers and their workers were required to begin payment of compensation on the eighth day following the injury.¹⁰⁷ The system

¹⁰⁵ Chapter 50 §2394-1 to 2394-32 (The Laws of Wisconsin, Session Laws 1911). According to the original law, the average annual earnings were not to be calculated at less than \$375 or more than \$750. This benefitted common laborers, whose annual earnings might amount to less than \$375. Over the years, these figures were updated and the maximum weekly payments reflected the increased number of skilled workers seeking compensation.

¹⁰⁶ Buenker, 129.

¹⁰⁷ Chapter 50 §2394-1 to 2394-32 (The Laws of Wisconsin, Session Laws 1911), 46. Compensation only began once a worker had missed a full week of work. If their injury caused them to miss a month, they would retroactively be awarded compensation for that first week. If it did not, they still lost out on a week's

also provided greater certainty to the injured worker about how much compensation would be awarded. In all cases, payment was required to amount to sixty-five percent of the average weekly earnings and continued for the duration of the injury (or for up to fifteen years in cases of permanent disabilities). Those payments increased to one-hundred percent of the weekly wages if one's accident was severe enough to cause permanent or temporary total disability (rendering an employee "entirely incapable of work, but also so helpless as to require the assistance of a nurse") following the law's ninety day allowance for medical coverage.¹⁰⁸

Such direct and definite payments ensured that a majority of workers who came under the act were no longer suffering long delays or losing a large portion of their indemnity to lawyer's fees. Such conclusions were supported by the findings of the Special Committee on Industrial Insurance which compared the actual settlements from liability cases with hypothetical awards that would have been granted under a no-fault system. For example, the committee interviewed a Milwaukee man who fell thirty feet and endured major internal injuries and a permanently crippled leg. After paying his lawyer \$2,000, the man walked away with \$7,000 in damages. While the court case dragged on over twenty-eight months, however, the man received nothing. Although his award under the compensation bill would have been a smaller amount (\$3,000 in total), payment would have commenced immediately following injury. Based on a rate of \$9.37 per week, the man who received nothing over twenty-eight months would have been able

worth of wages. It is worth noting that disputes over fair payment often arose in cases where weekly wages were variable or uncertain.

¹⁰⁸ Ibid., 46. Even in these instances there was an eventual cap on payment. A worker who needed the constant aid of their nurse would not continue collecting their full compensation indefinitely.

to collect \$1,124.40 in that same period under the new law.¹⁰⁹ In his time of greatest need, he would have been able to rely on a sure income. Instead, as a father of seven, he was forced to collect aid from his shop relief fund and a private benefit society to keep the family afloat. When he returned to work, he was unable to obtain a skilled position and, at the time of the survey, was earning one-third of his previous wages at unskilled labor.¹¹⁰

Such stories were not uncommon, and the report of the Special Committee on Industrial Insurance included countless examples of cases where direct compensation would have brought quick and certain relief during the most crucial period of recovery. A man suffering from major burns on his hands, arms, and back waited fifty-five months for a settlement of \$5,000, and was forced to rely on indefinite charity and outdoor relief in the interim. Under the compensation law, he would have received \$1,770 during that waiting period, possibly preventing him from becoming an object of charity.¹¹¹ In another case, an eighteen-year old man who lost both legs and suffered impairment of his right hand might have collected \$431.48 during the twenty-two months that it took to reach a settlement.¹¹² Before the introduction of no-fault compensation nearly all injured workers found themselves at a financial disadvantage during the most vulnerable period of their recovery. If they actually did win a settlement in court, it usually came after years of waiting, during which time their standard of living was clearly dependent upon their thrift and their network of support.

¹⁰⁹ *Special Committee on Industrial Insurance*, Appendix 1A, [60a].

¹¹⁰ *Ibid.*, 78.

¹¹¹ *Ibid.*, 77. See also, Appendix 1A, [60a].

¹¹² *Special Committee on Insurance*, 78. It should be mentioned that in this particular case the man ended up with a \$5,000 settlement. Under Workmen's Compensation, he would have ended up with only \$1,500. While that amount is significantly less, it is worth pointing out that he would have received some of that money at the time he needed it most, when he was recovering from the very severe injuries.

Even in cases where an injured worker managed to pull together enough resources to weather the storm, the certainty that the compensation law provided would have allowed for a more seamless transition to their new life as a disabled worker. A German man (referred to as H.), for example, who suffered paralysis in his left arm when a piece of stone crushed it, endured a sixty-eight month waiting period as his case proceeded through the courts. He initially spent a year of trying to reach an acceptable settlement out of the courts, but when that failed he decided to hire a lawyer. Over the next five years, he turned down multiple smaller offers and was forced to fight his employer all the way to the State Supreme Court.¹¹³

Although H. was able to borrow money from friends and establish a small grocery with his wife, the advantages under the compensation system might have served him well. After the Supreme Court ruling, he walked away with \$3,000 in damages. The contentious nature of the case, however, had most likely severed any good relations with the employer. He had a wife and two children, and was the sole breadwinner, and so during the interim, he used \$100 from a benefit society and \$1,500.50 from friends to establish the grocery with his wife. As such, he presumably would have to spend half of his final settlement reimbursing the friends who had loaned him money. Beyond that, the income from the grocery store was significantly less than the man was able to make as a stonecutter. In the year prior to the accident, H. had earned \$935 and in the year after he made \$125. The remaining settlement money would have only carried the couple through about two more years. If the no-fault system had been in place, however, H. and his family would have collected \$1,101.04 during that period.¹¹⁴ In this case, investigators

¹¹³ Ibid., 79-80.

¹¹⁴ Ibid., Appendix 1A, [60a]; see also pages 79-80.

estimated that he would have walked away with the same amount—\$3,000—under both laws. Like his other settlement, it may not have lasted more than a few years, but the payments would have started immediately. Clearly the uncertainty involved with liability suits thrust injured workers into charity situations that even the best court settlement could not rectify in the long term.

Promptness of payment was, indeed, one of the driving concerns behind calls for a new compensation law. Members of the Special Committee on Industrial Insurance stressed the “poverty and suffering borne by injured workingmen and their families.”¹¹⁵ The study of liability cases that they solicited from Fred King and Selig Perlman gave special emphasis to the differences in the distribution of benefits under liability law and the proposed compensation plan, noting how lump sum payments consistently arrived years after the accident when the worker’s time of greatest need had passed.¹¹⁶ This desire to deliver prompt payment persisted even after the law was enacted.

Ten years after the compensation law went into effect, the Industrial Commission proposed changes that would get money to the injured workers even more quickly. Beginning in January of 1921, the commission sought to eliminate unnecessary delays by penalizing companies that dawdled. They imposed a ten percent increase in payment in such cases, and after a few years, the new fine had a notably increased promptness. When the fine was first imposed in 1921, only 16.5 percent of insurance companies made their first payment within the first two weeks. By the middle of 1924, that number was up to

¹¹⁵ Ibid., 35.

¹¹⁶ Ibid., 60.

40.4 percent.¹¹⁷ Compared with the rest of the country, Wisconsin was far ahead of its peers when it came to promptness of indemnity payments.¹¹⁸

The new system also offered workers with permanent impairments a greater certainty about how much financial support they would receive. All injuries were initially calculated based on wage loss on a case-by-case basis, but the commission quickly adopted a schedule of compensation to address the common and frequently occurring permanent partial disabilities. These injuries—blindness as well as the loss or serious impairment of a finger or limb—did not preclude a worker from returning to employment, but would likely impact their job options as well as their potential earnings. In 1913, the law was amended to specify a certain number of weeks that compensation for these individual injuries would extend. Two years later, lawmakers further explained that such compensation would not commence for those with permanent disabilities until after the injured party made a full medical recovery.¹¹⁹ Thus a worker who suffered from permanent disability could count on the initial support—sixty-five percent of his wage loss—while he or she recovered from his injury, and then collect a set amount of compensation over the next few months or years to offset any financial loss that might be occasioned by the nature of the permanent impairment.

¹¹⁷ *Workmen's Compensation, Twelfth Annual Report*, 5. The numbers were lower for self-insured employers, but even among that group of employers the new penalty spurred slightly quicker payment. The numbers jumped from fourteen percent in 1921 to 17.7 percent in 1924.

¹¹⁸ *Workmen's Compensation, Tenth Annual Report*, 4. Oregon and California were just beginning to approach Wisconsin's record for punctuality at this time.

¹¹⁹ Haferbecker, 51. He went on to mention the changes to the permanent partial disability schedule that were instituted in 1917, significantly extending the period of coverage, and he also discussed the changes to the schedule in 1923 which altered the method of payment. This new scheme extended the period of payment to 1,000 weeks for any and all injuries, but reduced the size of the payment based on the nature of the injury. So, workers would get compensated over a longer period of time but receive less each week. Workers who had less serious injuries would receive a different amount each week than those who had more severe impairments. This significantly altered the worker experience, creating confusion and an extra hassle. By 1931, Haferbecker noted that the disapproval was so strong that the old system was restored wherein weekly payments were the same but the number of weeks was determined by the extent of injury.

Such certainty in amount and duration of payment for partially disabled workers undoubtedly had a tremendous impact on their experience of the injury. While no amount of compensation could bring back the missing or marred limb, they could fully expect some assistance in their time of financial need.¹²⁰ This fact, along with the comparably liberal provisions of the Wisconsin compensation plan, ensured an improvement in the way workers were treated after such horrible accidents.

Wisconsin's waiting period and compensation scale compared quite favorably with other plans. Like California, Illinois, Maryland, and Ohio, Wisconsin only required a one-week waiting period before compensation commenced in case of partial disabilities. Unlike those other states, Wisconsin allowed for reimbursement of the first week's wages if the recovery time lasted more than twenty-eight days.¹²¹ In 1931, the waiting period in the Badger State was further reduced to three days, putting it second—behind Oregon—for wait time.¹²² It was second only to Ohio in compensation rates, providing workers with sixty-five percent of their average annual wages.¹²³ (In states like New York, Maryland, and New Jersey, the compensation was limited to fifty percent of the worker's annual wages.¹²⁴) Wisconsin's minimum and maximum limits for compensation were continually adjusted to account for worker's rising wages, and in

¹²⁰ *Special Committee on Industrial Insurance*, 47-48. The commission stressed the fact that the burden of these non-monetary costs of work-accidents were borne solely by the worker and could never be completely remedied by mere wage compensation of lost wages, but that the industry owed them that much.

¹²¹ Downey, 117.

¹²² Haferbecker, 50.

¹²³ Downey, 116-117. Ohio offered slightly more—66.66 percent of average annual wages. It also had slightly higher minimum and maximum weekly payments—\$5 to \$10—versus Wisconsin's weekly compensation range of \$4.69 to \$9.38. Aside from Ohio, only California came close to Wisconsin's standard for compensation benefits. Like Wisconsin, they offered sixty-five percent of annual wages.

¹²⁴ *Ibid.*, 116.

1931 the legislature increased the compensation provisions to cover seventy percent of wage loss, making it third behind Illinois (75-97.5 percent) and Idaho (80 percent).¹²⁵

Additionally, the state's limits on duration of payments showed a strong interest in supporting worker recovery to the fullest extent. In case of permanent total disability, Wisconsin allowed for compensation to continue up to fifteen years, capping the total amount of aid at four times one's average annual wage. This payment period was extended several times over the next two decades, and by 1937 it was amended to allow continuation of payments for the duration of the injured employee's life.¹²⁶ In cases of permanent partial disability, payments continued for fifteen years and were limited to a maximum of \$3,000.¹²⁷ Even if an individual's indemnity under the compensation rates was less than the settlements they might earn by taking their employer to court, the new system undoubtedly proved more helpful over time. The assurance of immediate and long-term support—regardless of rate—had replaced the uncertainty and unreliability of the courts, and reduced the possibility that one mismanaged a lump sum settlement.

Another major advantage for the injured worker to the compensation system was the guarantee and generous provisions of medical aid under the new act. In every case, employers were ordered to cover all medical and surgical treatments, medicines, and necessary medical equipment (i.e. crutches, surgical supplies) that were necessary to treat an injured worker. Furthermore, employers were to pay for such care as was "reasonably required" for up to ninety days following the accident. In contested cases, where an employee had been forced to pay for such medical expenses out of pocket, the

¹²⁵ Haferbecker, 50. These totals were continually changing to match increased wages throughout the 1910s and 1920s.

¹²⁶ Ibid., 51.

¹²⁷ Downey, 116-117.

commission could order an employer to reimburse the affected worker for those expenses.¹²⁸

Such assurance of medical aid was a welcome change. As the Bureau of Labor and Industrial Statistics pointed out in its 1907-1908 report, approximately one-third of the self-reported injury cases and nearly half of those injury cases reported by factory inspectors resulted in no medical aid to the injured worker.¹²⁹ Accruing medical debt at the same time that one lost his or her wages merely compounded the problems of workplace injuries. The state's generous provisions for aid suggest that prior to the introduction of the compensation act injured workers frequently dealt with a double financial burden.

Wisconsin's medical provisions were extremely favorable in comparison to other state plans that emerged in the 1910s. In states like New Jersey and Massachusetts, medical aid was limited to the first two weeks after the injury. Neighboring states like Illinois limited aid to the eight weeks and \$200; and New York, a state which led the push for workmen's compensation, offered no medical provisions at all. California came the closest to Wisconsin's standard for medical care, matching their ninety day period but limited the total medical aid to \$100.¹³⁰ Writing about this discrepancy in their first annual report, the commission indicated Wisconsin's concern for the fair treatment and full recovery of the injured workers:

It is little less than criminal to limit medical and surgical aid to two weeks, as is done in some of the states, or limit it to cases where the employee

¹²⁸ Chapter 50 §2394-1 to 2394-32 (The Laws of Wisconsin, Session Laws 1911), 47.

¹²⁹ "Industrial Accidents and Employers' Liability in Wisconsin," 54. In thirty-three percent of the 306 non-fatal cases that were reported by workmen, medical bills were not paid by the employer. In 47.33 percent of the 131 non-fatal cases reported by factory inspectors, no medical bills were paid by the employer.

¹³⁰ Downey, 116.

dies leaving no dependents, a provision for the benefit of the doctors. *No employee seriously injured, can recover in two weeks, and to shut off medical and surgical attendance at the expiration of two weeks is a gross injustice to those employees who are the most seriously injured.*¹³¹

They eschewed criticism from supporters of old-line insurance schemes, pointing out that it was not only “humane” but also “in the interest of the workmen as well as the employers” to invest in the full recovery of the injured worker.¹³²

This keen interest in complete restoration of injured workers to productivity was reflected in the state’s decision to extend medical coverage to include rehabilitation training. The push for rehabilitation programs for injured workers was spurred by the nation’s entrance into World War I. As state and national legislatures began to support rehabilitation services for wounded veterans as a patriotic obligation, industrial commissions around the country called attention to the “soldiers of industry.” Supporters pointed out how many more wounded workers there were than wounded soldiers and argued that society also owed a debt of gratitude to these individuals. These advocates also stressed the fact that workers needed more than compensation to return to their former standard of living. In a letter to Robert LaFollette in 1918, the Industrial Commission of Wisconsin claimed that “a very large percentage of those who have sustained serious industrial accidents have not since been able to procure any steady employment.”¹³³ Rehabilitation, members argued, would help restore those workers as productive members of society. After years of campaigning by the commission and labor advocates, Wisconsin began operating under the Federal Rehabilitation Act, providing

¹³¹ *Workmen’s Compensation, First Annual Report*, 70. Emphasis added.

¹³² *Ibid.*, 70. A quick and full recovery, they pointed out, would be advantageous for employers who could cease compensation payment once their employee had mended.

¹³³ Wisconsin Industrial Commission to Robert LaFollette, June 1, 1918, 1, Box 62, “Rehabilitation of Disabled Men,” Department of Labor, Industry, and Human Relations, Subject Files, 1911-1975, 1979-1983, WHS.

vocational rehabilitation to all citizens who might reasonably be returned to employment through such a program.¹³⁴ Those who were eligible were provided up to ten dollars a week for rehabilitation training. While it was a great step forward in the care for injured workers, it did have limits. The aid was restricted to twenty weeks and those partaking in such training were supervised by the Department of Vocational Rehabilitation.¹³⁵ Regardless of those restraints, the “Rehabilitation Law” promised workers not only aid but also state support during their adjustment to a new life.

Impact of State Intervention

Reflective of the Progressive Era, supporters of the compensation system in Wisconsin thought that the best, and indeed the only way, to remedy the problem of work-accidents was through state intervention. One of their primary concerns about the old system was its tendency to create hostility between labor and management. Such hostilities were unproductive and unnecessary according to advocates of the no-fault compensation plan, and state intervention could only bring about positive change according to these reformers. After conducting a formal investigation into the liability law system in 1907-1908, proponents who supported a new system of industrial insurance pointed out that “in almost all individual cases of such claims the employee has severed his contract of hiring with his employer.” Furthermore, they argued that the present system not only soured the immediate employer-employee relationship, but also provided leverage to “[other] employees [who] have [already] been encouraged often without justification to adopt an attitude of suspicions and distrust toward capital,”

¹³⁴ “Chapter 534, § 41.215 and 2394-9m (Wisconsin Session Laws 1921), 874.

¹³⁵ Haferbecker, 49. Such payments were separate from the compensation benefits.

ostensibly exacerbating other labor disputes.¹³⁶ Furthermore, proponents of change noted that the tragic image of families scraping to get by and suffering over months and years while waiting for a settlement did little to create positive relations between workers and their employers. In many ways, the direct and certain settlements did have a positive impact. Within a few years, employers and employees sang its praises. Indeed, commissioners noted in the third annual report that “very few employers and still fewer workmen, would care to return to the old liability system, with its attendant waste, injustice and ill feeling.”¹³⁷ The expansion of state oversight over the workplace, however, had some mixed results.

In addition to ensuring certain and consistent compensation and medical aid, the state’s new role in monitoring compensation had positive effects on workplace safety. Beginning in 1913, the law mandated that any injuries caused by an employer’s failure to follow safety guidelines would result in a fifteen percent increase in compensation. For example, forty-three-year-old Ella Higgins’ hand was badly mangled when she tried to pry a towel loose from a laundry machine. The commission granted Higgins an additional fifteen percent compensation, increasing her weekly payments from \$4.69 to \$5.39, because the company had violated safety order number 226 mandating that all flat work ironers have guard rails.¹³⁸ Of course, such penalties could also be applied to workers who had been injured by “wilfully fail[ing] to comply with a safety order” or whose injury was due to intoxication.¹³⁹ The commission also fined employers double or triple

¹³⁶ *Special Committee on Industrial Insurance*, 38.

¹³⁷ *Workmen’s Compensation Third Annual Report*, 4.

¹³⁸ “Ella Higgins vs. Hanover & Butler,” *Workmen’s Compensation, Fourth Annual Report*, 37.

¹³⁹ Haferbecker, 53.

compensation if they had illegally employed a minor who then suffered an injury.¹⁴⁰ By assessing such penalties, the Commission hoped that it could induce employers to invest in safety and improve work conditions. To some degree, the plan succeeded. It created a safer work environment and did not appear to result in any hostilities between labor and management.

The state's safety campaigns, in fact, seem to have altered the relationship between employers and employees in a positive way by attempting to bring them together to attack the problem. The Industrial Commission's predecessor—the Bureau of Labor and Industrial Statistics—had been writing safety codes since the late 1870s. When the new commission formed in 1911, it implemented a bottom-up approach to safety, encouraging both workers and employers to make prevention of work-accidents a collaborative effort. They started by enlisting the services of C.W. Price—the safety expert from International Harvester—to launch safe workplace campaign in 1912. As Donald Rogers, a historian of Wisconsin's worker safety campaigns, has documented, such movements emphasized scientific management and introduced the safety plans of large corporations to smaller businesses throughout the country.¹⁴¹ Price's plans called upon workers to take a greater role in promoting safety on the workroom floor. It proposed joint employee-employer committees charged with plant inspection, imbued

¹⁴⁰ Ibid. As Haferbecker explained, minors were not originally subject to the compensation law. Amendments to the law in 1917 brought all of the illegally employed minors under its coverage and ordered the employer to pay treble damages if a minor was injured in his employ. This rule was modified in 1925 so that employers only paid double the damages in cases where they had failed to require a work permit proving the employee's age, but kept the provision for treble damages for cases where a child was injured in an occupation that was prohibited to them.

¹⁴¹ Rogers, 56-57. Rogers' work highlighted the development of the safety movement in industrial states throughout the country, giving special emphasis to Wisconsin, and assessed the impact and limitations of that safety movement. Rogers suggested that while Wisconsin's work safety program and compensation system were strongly intertwined, they "produced mixed results" when it came to reducing accident rates. (87)

foremen with greater responsibility for safe work practices, and encouraged stronger training of new employees against work hazards. To that end, the commission also invested a great deal of time and money in producing promotional materials and films educating workers of safe practices and employers about the cost-efficiency of properly engineered safeguards for machinery. They also issued a flurry of safety bulletins and open-ended safety orders. Additionally, the commission encouraged participation from all parties when amending safety laws by seeking expertise from advisory committees and then holding public hearings for most changes.¹⁴² While the safety movement strove to bring greater cooperation between workers and employers, the state's increased involvement was sometimes more specifically targeted at helping the workers.

In the late 1910s, the Industrial Commission expanded its role as watchdog for worker's rights to compensation. With most of the kinks worked out of the no-fault system, commissioners turned their attention to ensuring that uncontested cases had been carried out honestly and completely. They required full reports from employers detailing accidents and from insurance companies to document details of payments. In addition, doctors were required to report any cases of permanent partial disability or temporary disabilities lasting longer than three weeks.¹⁴³ In 1919, the commission further expanded its role in the injured workers' life by directly contacting them to make them aware of their rights to compensation, explaining the process of filing a claim, and encouraging them to contact the commission with any questions or concerns.¹⁴⁴ The new procedure ensured an injured worker had access to the resources he or she needed, thereby eliminating the problem of an uninformed worker being duped for want of knowledge

¹⁴² Ibid. 56-65.

¹⁴³ *Workmen's Compensation, Ninth Annual Report*, 4-5.

¹⁴⁴ Ibid., 5.

about Wisconsin laws. The state's role expanded even further when they began a program of investigating all claims for possible safety violations. Commission deputies lodged themselves firmly between employer and employee by investigating any cases where the safety department suggested there might be a possible violation of safety orders.¹⁴⁵ This change not only helped enforce safety, but also had an impact on the worker's relationship with an employer and the government. Specifically—whether the employees wanted it or not—their injury invited the government to intervene as a guardian in their relationship with the employer.

This connection with the state brought many advantages for disabled workers over the old system, but it also created some problems. Historians such as Halle Gayle Lewis and Sarah Rose have aptly demonstrated how injured workers—and other individuals with disabilities—had long been able to adapt to their conditions and operate as “physically whole” employees in the workplace and beyond when they were given the opportunity.¹⁴⁶ Indeed, the evidence supporting these assumptions for Wisconsin workers abounds. The Special Committee on Industrial Insurance found that most injuries—even those leading to amputations—resulted in a complete disability period of seven months or less.¹⁴⁷ In many of the liability cases they examined, employers had offered to reemploy the injured worker in another capacity, sometimes for equal wages. The same was true for

¹⁴⁵ Ibid.

¹⁴⁶ Halle Gayle Lewis, “Cripples are Not the Dependents One is Led to Think: Work and Disability in Industrializing Cleveland, 1861-1916” (PhD diss., SUNY-Binghamton, 2004); Sarah F. Rose, “No Right to Be Idle: The Invention of Disability, 1850-1930” (PhD diss., University of Illinois at Chicago, 2008). Drawing on the Cleveland Cripple Survey and a series of other court documents, Lewis indicated how common it was for injured workers to return to work in spite of hiring discrimination in the late nineteenth and early twentieth century. Both Lewis and Rose drew attention to the way in which the introduction of workmen's compensation altered this reality by creating a new definition of disability which emphasized dependency and by contributing to shifting ideals about workplace efficiency.

¹⁴⁷ *Special Committee on Industrial Insurance*, 100. Some of the more severe injuries resulted in greater periods of disability, but the majority of injuries were minor by contemporary standards.

a majority of the workers with permanent partial disabilities who were surveyed in 1913 by the Industrial Commission. Most had returned to work with the same company for similar wages and a significant number reported that within a few years they had experienced a pay increase. Even those who suffered wage loss could count on being re-employed prior to the introduction of workmen's compensation legislation.¹⁴⁸

Within the first two decades after the no-fault compensation legislation was introduced, however, employers seeking greater cost-efficiency adapted a new, sometimes damaging, perception of disabled workers. As Lewis and Rose have pointed out, the new visions of disability that followed from these changes to compensation law often had unintended consequences for workers who were already injured. Before long, some Wisconsin employers were trying to minimize the cost of accidents. In doing so, they began to look negatively upon their employees who were visibly impaired, for instance.

Concern over the likelihood of such impairments making an individual more accident-prone was evident in the literature distributed by the Industrial Commission and by some of the amendments to the law. One of the primary purposes of the agency's investigation into permanent partial disabilities, for example, was "to predispose employers to give the maimed man a chance to make good."¹⁴⁹ Commissioners stressed that the experience of injury often made workers more, rather than less, cautious.¹⁵⁰ Such assurances from the new agency failed to calm employers. Nearly a decade after the law went into effect, the *Workmen's Compensation Annual Report* noted that "many

¹⁴⁸ See "Results of Investigation on Permanent Partial Disabilities." Sometimes these workers returned to the same job they had before the accident. In other cases, they took up a new occupation, trained for a supervisor position, or were re-employed as watchmen for similar wages.

¹⁴⁹ *Ibid.*, 107.

¹⁵⁰ *Ibid.*

employers [were still] reluctant to employ such handicapped workmen, because they might become liable for permanent total disability, if the workmen should be unfortunate enough to have a second serious injury.”¹⁵¹ To prevent such discrimination against disabled workers the law was amended in 1919 to include a second-injury fund. The amendment declared that in cases where an already disabled worker suffered from a second injury on the job, the employer would pay no more than they would have if it was the first serious injury. If the second injury had resulted in a higher degree of permanent partial disability to the worker, the difference would be made up by the state.¹⁵²

Even the guarantee that second injuries would not prove more costly could not stop the tendency of employers to categorize disabled workers as unemployable. Throughout the country, cost-conscious employers began to introduce physical examinations to the hiring process. Supporters of these physicals insisted that the exams were beneficial to workers who could be properly fitted to an “appropriate” job. When taken to their logical conclusion, however, they could easily be used to weed out disabled workers. In fact, labor unions vocally opposed the exams for fear that employers could use them as a basis “for throwing thousands and hundreds of thousand[s] on the street, refusing them a job, and ... [ultimately] discriminating against labor unions.”¹⁵³ In a post-employer’s liability law era, employers were increasingly concerned that hiring disabled workers would cost them more in the case of a work-accident. That this concern resulted in job discrimination and physicals and was so strong as to elicit a legislative initiative

¹⁵¹ *Workmen’s Compensation, Eighth Annual Report*, 5.

¹⁵² *Workmen’s Compensation, Eighth Annual Report*, 4-5. The second injury fund was made up of contributions from employers. For every accident on their premises that resulted in the loss or total impairment of a limb—hand, arm, foot, leg—or eye, an employer or their insurer was required to contribute \$1,500 to the fund. See Haferbecker, 53.

¹⁵³ Magnus W. Alexander, “Important Phases of the Labor Problem: Recruiting of Men, Low Labor Waste, High Productivity and the Promotion of Contentment—Collective Bargaining Discussed,” *The Iron Age* 102, no. 21 (November 21, 1918), 1260.

like the second-injury fund suggests that no-fault compensation had created a new problem for disabled workers. In classifying them as disabled, the new law branded them a liability and over time it would saddle them with a label that came to connote dependence.

Conclusion

As the evidence suggests, the employee's experience of work-accidents has always been complex. Under employer's liability laws, many workers faced great financial hardship and uncertainty. Navigating the legal system to reach a favorable outcome was incredibly difficult. However, this experience was not universal. Employee benefit associations, benevolent bosses, and various charitable organizations did their best to meet these problems and help workers adjust to their post-accident lives. As the number of work-accidents and the severity of the injuries they caused increased over the late-nineteenth and early-twentieth century, however, the old system's flaws became too big to ignore. Industry had to bear the cost of the injuries it was producing. The contentiousness caused by lengthy and bitter court battles to place blame was dangerous and exacerbated class divides.

Although no-fault workmen's compensation made great strides at remedying these problems, it created new challenges for the disabled employees to navigate. Injured workers could count on certain compensation, but only if they filed all necessary paperwork and met their deadlines. Failing to be aware of legislative procedure could impact their eligibility for aid. In addition, they had to jump through new hoops to take advantage of the medical aid provisions of the law. Most importantly, the new system

required the injured worker to form a new relationship with the state. Intervention of the Industrial Commission into the labor-management relations certainly worked wonders to help injured employees procure their due compensation, but it also created some backlash. Whereas a workman missing some fingers or sporting a mangled limb might be a common sight in a factory or at the lumberyard in the nineteenth century, cost-conscious managers gradually began to close the door to those workers after the workmen's compensation law went into effect.

Chapter Three: Societal Perceptions of Disability

“I pitied him his blindness; but can I boast ‘I see?’ Perhaps their walks a spirit close by, who pities me.”¹

Disability scholars often argue that it is not the physiological impairment itself that circumscribes the abilities of a man or a woman who is classified as “disabled.” Rather, they contend that like race and gender the idea of disability is socially constructed, that is, societal perceptions help define a disabled body’s limitations. In this manner, the “able-bodied” community’s notions about “crippled” bodies can prove to be one of the greatest obstacles that a physically impaired individual may encounter.² This interpretation of disability as a social rather than a medical construct³ is frequently reflected in contemporary literature, particularly in works produced by disabled writers and scholars. *Pride Against Prejudice* author Jenny Morris, for example, listed a number of narrow-minded assumptions that she and her interview subjects confronted from their able-bodied peers. Examples of such prejudices included that they felt ashamed or ugly, that life was a burden or not worth living, that they longed to be “normal” or “whole,” that all choices and experiences—both good and bad—were tied to their identity as

¹ Harry Kemp, “Blind,” *Eight Biennial Report on Industrial Rehabilitation*, Industrial Rehabilitation Division of the Wisconsin State Board of Vocational Education (Madison: State Board of Vocational Education, 1936), 63.

² Paul Longmore and Lauri Umansky, eds. *The New Disability History: American Perspectives* (New York: New York University Press, 2001); Simi Linton, *Claiming Disability: Knowledge and Identity* (New York: New York University Press, 1998); Paul K. Longmore, *Why I Burned My Book And Other Essays on Disability* (Philadelphia: Temple University, 2003); see also Sarah F. Rose, “No Right to be Idle: The Invention of Disability, 1850-1930” (PhD diss., University of Illinois at Chicago, 2008) and Halle Gayle Lewis, “‘Cripples Are Not the Dependents that One is Led to Think’: Work and Disability in Industrializing Cleveland, 1861-1916” (PhD diss., Binghamton SUNY, 2004) which both addressed society’s presumption that disability disqualified people from the workplace and rendered them dependents.

³ Longmore and Umansky, 7-8. Medical interpretations posit that disability is a personal shortcoming over which one must triumph.

disabled, that they were asexual or undesirable as a marriage partner, and that they were incapable of working or doing anything else of value.⁴

Historians are discovering that such prejudices are not new, but rather reminiscent of those faced by physically impaired men and women for generations. This is especially true for the industrially injured men and women of the late-nineteenth and early-twentieth centuries. As Edward Slavishak demonstrated in *Bodies of Work*, the able-bodied community frequently projected their own social definitions onto workers' bodies. He argued that both civic boosters and progressive reformers in turn-of-the-century industrial Pittsburgh used the symbol of the worker's body to reinforce their conflicting messages about industrialization and validate their own political agendas. While city boosters emphasized the idea that the thriving city was built on the strength of workingmen, reformers conducting the Pittsburgh Survey called attention to the degraded, worn-down, and crippled bodies of the city's workers to send another message about the impact of the industrial workplace. Both groups assigned their own meanings to the worker's body to garner support for their respective causes; and the latter group, in particular, concluded that those crippled bodies were problematic.⁵ As the evidence in Wisconsin confirms, it

⁴ Jenny Morris, *Pride Against Prejudice: Transforming Attitudes to Disability* (Philadelphia: New Society Publishers, 1991), 19-22. Morris herself was injured when she broke her back while attempting to save a child wandering on a ledge. After teaching sociology and housing policy, she became a freelance writer and researcher focusing on social policy, disability, and feminism. In this work, she interviewed eight women about their experiences with disability. For further examples, see also Kenny Fries, ed. *Staring Back: The Disability Experience from the Inside Out* (New York: Plume, 1997); Mark O'Brien with Gillian Kendall, *How I became a Human Being: A Disabled Man's Quest for Independence* (Madison: University of Wisconsin Press, 2003); and Daniel Wilson, *Living With Polio: The Epidemic and its Survivors* (Chicago: University of Chicago Press, 2005).

⁵ Edward Slavishak, "The Working Body as a Civic Image," in *Bodies of Work: Civic Display and Labor in Industrial Pittsburgh* (Durham: Duke University Press, 2008), 89-148; and Slavishak, "The Pittsburgh Survey and the Body as Evidence," in *Bodies of Work*, 149-199. Such conclusions were based in their associations of disability with dependence and poverty, and their fear of those characteristics undermining America's future generations. It should be noted that their cause—improving safety in the workplace and fairly compensating the industrially injured—was certainly noble, and was based on concern

was quite common for outsiders to ascribe their own meaning to worker's bodies—particularly disabled ones. In looking at the industrially impaired, reformers and charitable organizations saw burden and economic waste. Many characterized disability as a fate worse than death. Potential suitors viewed it as an insurmountable burden that could possibly trump love. Family members perceived it as devastating financially and emotionally. Even rehabilitation experts interpreted broken bodies as liabilities that needed to be converted into assets.⁶

While the documentary record fails to indicate how the workers received society's judgment on their disabled bodies, it is full of evidence demonstrating the ways in which society interpreted crippled and maimed bodies, and the accidents that caused them. Disabled characters were common in the sentimental, multi-part serials featured in national magazines like *Harper's* and *Everybody's Magazine*. Likewise, accounts of real disabled individuals appeared in newspapers in the form of both accident announcements *and* in crime reports where they were often labeled vagrants. Industrial accident victims, in particular, were a frequent topic of concern among progressive reformers, and as such they graced the pages of local and national charity magazines, Bureau of Labor safety publications, and special investigative reports commissioned by state legislators. After Wisconsin accepted the terms of the Federal Industrial Rehabilitation Act and began offering related services in 1921, the newly formed Vocational Rehabilitation agency also began keeping a record of its work with all sorts of disabled civilians. In addition, the

for the working class. One cannot deny, however, that it also reflected fears about what disability meant for both the individual and society as a whole.

⁶ Wisconsin Industrial Rehabilitation Division, *First Biennial Report* (Madison: State Board of Vocational Education, 1922). (Hereafter the Department of Vocational Rehabilitation will be referred to as DVR) The terminology of liabilities converted to assets was repeated in subsequent biennial reports throughout the 1920s and into the early 1930s.

documentary records of the Industrial Commission of Wisconsin and its predecessor, the Bureau of Labor and Industrial Statistics, give scholars a sense of how the government, the courts, and the employers perceived injured workers. These varied sources serve as a window into minds of “able-bodied” individuals at the turn of the century, and help to provide a sense of how society treated the disabled workers at the heart of this study. The picture that these documents paint is complex and usually conflicting. For Wisconsin residents—and indeed most nineteenth century Americans—disabled workers were both sympathetic, but also suspect; they were occasionally seen as triumphant, but more often labeled tragic; they were deemed useless, but were also considered worthy of redemption and capable of restoration; and they were the deserving poor, but not always worth the risk of reemployment.

Society and Accidents

Before delving into the conflicting attitudes of the “able-bodied” toward crippled or maimed industrial workers, it is worth noting the way in which those same individuals viewed industrial accidents. Society’s attitude toward these unfortunate events shifted greatly between the 1870s and the 1910s when workmen’s compensation was passed in numerous states. In many ways, these attitudinal changes mirrored the way that society viewed disabled men and women, objects who were becoming more commonplace during this time. Thus a quick review of the social response to industrial danger lays the groundwork for understanding social perceptions of impaired workers’ bodies.

As historians have well-documented, accidents were commonly assumed by early-nineteenth-century observers to be truly “accidental.” According to Jamie

Bronstein's *Caught in the Machinery*, most accidents were presumed to be an unavoidable act of God. In public reports, she argued, "accidents were discussed in ways that underlined fatalism by casting workers as hapless victims of circumstance or Providence."⁷ According to such logic, no one was to blame. This definition suited a predominantly agricultural society in which serious and permanently disabling accidents were less common. Small communities shared the responsibility of caring for the injured individuals and their families, and so long as serious accidents were a rarity that system was sufficient. As America industrialized, the impact of work-accidents grew and eventually made people question how "inevitable" accidents truly were.⁸ The shifting of public opinion, however, was a very slow process.

Even as the rate of industrial accidents increased and thereby made disability a more common sight among workers in the 1870s and 1880s, most individuals continued to view accidents as a tragic, but mundane, fact of life. As historian Sarah Rose suggested, workers dreaded the threat of injury but fully expected that they would eventually come face to face with it. In fact, she argues, this "acceptance of high physical costs of work continued well into the twentieth century, even as workplaces became ever larger and more mechanized."⁹ In his work with the 1907 Pittsburgh Survey, John Fitch interviewed steel workers who confronted danger on a regular basis, but accepted deadly accidents as an inevitable part of working-class life. One man who had been employed in the steel mills for twenty-five years simply explained that "men [we]re bruised and maimed and killed all around him when the mill is running to its full capacity" and that

⁷ Jamie Bronstein, *Caught in the Machinery* (Stanford: Stanford University Press, 2008), 60. Bronstein also discussed how accidents could be seen as "punishment for sin, either on the part of the individual or the community." (3)

⁸ Bronstein, "The Options for Injured Workers," in *Caught in the Machinery*, 19-58.

⁹ Rose, 123.

“a man may be killed a short distance away” without him even noticing. Employers, he said, would “simply carry [the man] out and [let] the work go on.”¹⁰ Another worker, according to Fitch, appeared to have become immune to the dangers. As he described it, this second man calmly removed a bit of steel from his fellow worker’s eye, all the while telling Fitch about the excellent conditions under which men in the mills were employed and questioning the intent of those who argued to the contrary.¹¹ Such injuries were so frequent that maimed or mangled limbs certainly were not necessarily a reason to eliminate one from the workplace.¹² In fact, as John Williams-Searle argued in his work on disability among railroad workers, minor amputations could be seen as a badge of honor—proving to co-workers that one was no longer a rookie of the trade.¹³

Local newspapers frequently reported workplace accidents, and the brevity and lack of outrage accompanying such descriptions indicate exactly how perfunctory disabling accidents really were. In a single 1870 issue of the *Wisconsin State Journal*, for example, six separate accidents—all of which resulted in either permanent disability or fatality—were included among the news briefs. The excerpts were short—usually including some expression of remorse, but primarily just recounting scant details of the cause and the nature of injury. For instance, one article simply declared: “the son of

¹⁰ John A. Fitch, “Pittsburgh Survey Notes,” Mss 937, Box 4, John A. Fitch Papers, Wisconsin State Historical Society. (Hereafter the collection will be referred to as Fitch Papers and the archive will be referred to as WHS). Fitch was involved in the Pittsburgh Survey, but did his graduate work at the University of Wisconsin-Madison under John Commons. His work in Pittsburgh was part of a long career advocating for workers’ rights. See also Rose, “No Right to Be Idle,” 124-125, which discussed Fitch’s observations in this same capacity.

¹¹ Fitch, Box 4.

¹² Rose, 122-125. Rose quoted historian Arwen Mohun who argued that workers often “continued to live with changes to their body that we would medicalize as disabilities but that they viewed as one more of the many afflictions, economic, psychological, and physical of poverty.” 122-123.

¹³ John Williams-Searle, “Broken Brothers and Soldiers of Capital: Disability, Manliness, and Safety on the Rails, 1868-1908” (PhD diss., University of Iowa, 2004), 46-47. Williams-Searle’s study of disability among railroad workers revealed how this attitude about disability as a badge of honor shifted over time and such injuries became associated with recklessness and irresponsibility.

Thomas Webster, 14 years old, fell into a vat of boiling soap ... and was scalded so that he died the next morning.”¹⁴ Another stated that ten-year-old Thomas Wallace was killed while plowing after “the horses took fright from a sudden clap of thunder, and ran away, dragging him some distance and breaking his neck.”¹⁵

If an entry included greater detail, it was primarily a gruesome retelling of the accident and description of the injury. In a “shocking accident,” for example, a farmer named Benjamin Norwood lost both legs when a falling bush struck his horses and caused his mowing machine to overturn. While Norwood tried to steady the horses, “the blade of the machine came up in his rear, cutting off smoothly one leg, and severing the other through the bone, leaving it dangling by the flesh.”¹⁶ While thoroughly recounting the gory details of the accident, the writer seemed neither shocked nor appalled by such a grisly injury. Similarly, an 1880 account of a Milwaukee train yard incident gave extensive detail of the damage inflicted on switchman Patrick Burke when he was run over by a car and badly mangled. According to the article, Burke’s kneecap was crushed and “the flesh was torn from his thighs and sternum, the thigh bones being bared at some

¹⁴ “News Paragraphs,” *Wisconsin State Journal*, Tuesday, July 5, 1870, 1.

¹⁵ Ibid. Other examples of this brief reporting abound. For instance, the young man hit by a train who “suffered terribly all night and at 4 o’clock Wednesday morning died.” See “Wisconsin Items,” *Wisconsin State Journal*, Thursday, July 21, 1870, 1; or the eight-year-old Milwaukee boy whose arm was “shockingly mangl[ed]” and amputated at the shoulder. “Wisconsin Notes,” *Wisconsin State Journal*, Tuesday, July 5, 1870, 1; or the short update about a young man who suffered a second injury to his foot when his axe slipped. “Dane: Chapter of Accidents,” *Wisconsin State Journal*, November 16, 1899. It is worth mentioning that before accident reporting was required by the state, the Wisconsin Bureau of Labor and Industrial Statistics relied heavily on newspapers to get accurate estimates of industrial accidents. Its successor, the Industrial Commission of Wisconsin, also relied on newspapers, following the passage of the compensation act, to track down accident victims and ensure they were informed of their rights to compensation. Clearly newspapers were a fruitful source of accident reporting and it was commonplace to find mention of local accidents in their pages. At the ninth annual meeting of the International Association of Industrial Accident Boards and Commissions, Wisconsin representative Fred Wilcox explained how Wisconsin’s Industrial Commission relied on newspaper clippings in the early 1910s for collecting information about accidents around the state. “Standardization of Claim Procedure Under Workmen’s Compensation,” *Proceedings of the Ninth Annual Meeting of the International Association of Industrial Accident Boards and Commissions*, Baltimore, MD, October 9-13, 1922 (Washington, D.C.: United States Government Printing Office, 1922), 54.

¹⁶ “News Paragraphs,” *Wisconsin State Journal*, Tuesday, July 5, 1870, 1.

places.”¹⁷ The author described how wondrous it was that the man survived at all and told readers that had the car been stopped any later, “the vital spark would have been crushed.”¹⁸ Such horrible detail prevailed into the early twentieth century, as evidenced by a 1908 article in the *Manitowoc Herald*. Here again, the author provided specific details about a young man who cut himself to the bone while working at a local butcher shop. The headline screamed: “A Gallon of Blood Lost.” The article carefully documented how the young man came into harm’s way—the way he stood, how he sliced the hide off of the cow he was dressing, and how deeply the knife penetrated his leg.¹⁹

Accidents were such a common threat in the late-nineteenth century that newspapers documented all kinds, regardless of cause or even geographic location. Short entries on work-accidents accompanied countless articles about train derailments, traffic accidents, drowning incidents, and domestic mishaps. Furthermore, news coverage was seldom limited to the immediate vicinity. Many of the local papers carried word of accidents taking place in neighboring Illinois and even as far away as Pittsburgh.²⁰ Thus, as Bronstein asserted in her study of nineteenth century work-accidents, the general populace was inundated with gory accident reports on a fairly regular basis. In a period where early death was so much more probable than today, reports of tragic work-accidents were accepted by the reader with a sort of inevitability with which modern-day

¹⁷ “Crushed by the Cars,” *Milwaukee News*, Saturday, March 6, 1880.

¹⁸ *Ibid.* The reporter gave slight indication of the impact of the injury, closing the article by mentioning that Burke was a “middle-aged man of family.” [No page number]. Doubtless, the accident would have had serious implications for that family’s future.

¹⁹ “Wm. Daeke is Victim of Serious Injury Cut from Knife in Leg,” *Manitowoc Daily Herald*, July 18, 1908, 1. For other examples, see “Forrest Bulman Injured,” *Marshfield Times*, February 22, 1901, 4; “How it Happened: The Burlington Wreck,” *The Daily Leader* [Eau Claire], June 1, 1902, 2.

²⁰ See report of William Telford’s death near Homestead, Illinois and the explosion that killed John Hohiser and William Mitsch near Pittsburgh in “News Paragraphs,” *Wisconsin State Journal*, July 5, 1870, 1. In addition, the ten-year-old Thomas Wallace mentioned above and fourteen-year-old Thomas Webster were injured in Biggsville and Peoria respectively.

readers cannot relate.²¹ In fact, turn-of-the-century progressive reformers were the first to raise any serious question about the tacit acceptance of hazardous work conditions and early death.

While some workers and employers did express frustration and disgust at the dangers of the workplace prior to outside critics, others had come to accept it as an unchangeable part of the cost of production. One Irish worker in Pittsburgh who was interviewed by Fitch in 1907 concluded that men's lives and limbs were of less value than the steel. While relating a story about how his employers called for the quick removal of a "Hunkie" who had gotten caught in the machinery, he sadly explained that "their object was not one of humanity, but [that] they could not afford to let the mill stand idle."²² Another man suggested that an acknowledgement of workplace danger could mean bad publicity. According to him, Andrew Carnegie had responded to the suggestion of a company hospital by saying that "he did not wish to advertise that they had a slaughterhouse at Homestead."²³ Other interviewees agreed that worker's lives were handled capriciously by certain employers. In the Schoen Pressed Steel Car Company, for example, a worker explained that the company brought in inexperienced and unskilled foreigners as strikebreakers without considering how that inexperience might prove

²¹ Bronstein, 71-72. Bronstein's study dealt primarily with Great Britain, but included some comparison with the workplace dangers in the United States. Since Britain industrialized before the United States, Bronstein's focus was on the early- to mid-nineteenth century. Interestingly, she asserted that prior to the Civil War when images and descriptions of horrific deaths began to enter American homes the language used by reporters who covered work-accidents was exceptionally graphic and detailed. She suggested a sort of fascination with the power of machinery to mangle and maim bodies. While not intending to be irreverent, reporters would often use excessively detailed descriptions that sometimes embellished the truth or gave the reader a more graphic account of the situation than what was viewed by witnesses on site. While Wisconsin's industrialization post-dated the Civil War, scholars can still see an affinity for details about the specifics of the accident and the degree of injury inflicted on the victim's body in these late-nineteenth century accounts.

²² "NUBIA-4, 11/26/07," Box 4, Card 3-4, Fitch Papers, WHS.

²³ "Pittsburgh, Homestead, Ben Davis," Box 4, *ibid*.

damaging. Fourteen workers were killed due to this lack of appreciation for safety and training.²⁴

Such perfunctory reporting of gruesome and horrifying injuries reflects the nineteenth century observers' acceptance of accidents as "unavoidable" or as a sign of divine providence. The lack of outrage in these accounts only reinforces the idea that while the average reader felt sorry for the victim, they did not believe anything could be done to prevent such incidents. In fact, scholar Greg Krohm pointed to the failure among administrators to collect reliable and consistent accident data at this time as "a testament to how little people thought [industrial accidents were] an issue that could be managed by employers or government."²⁵ By the late-nineteenth century, however, the increased frequency and severity of such events seemed to override the public's view of industrial disabilities as inevitable. The accidents were placing greater strains on the individual, family, and community. As a result, workers looked to the courts to determine fault in the case of work-accidents.

This led to greater contentiousness about industrial accidents, which was reflected in the employer and the court's view of them. Under the common law liability system, either the worker or the employer could be blamed for what was allegedly an inevitability. Faced with the prospect of shouldering the financial burden, many employers fought fiercely to absolve themselves of liability. As was discussed in Chapter

²⁴ "W-1, 12/18/07," Box 4, *ibid*. This man, an employee at Schoen Company went on to explain how horrible accidents were so commonplace in the plant. A man who was impaled by a red-hot iron rod was hardly unusual. In many cases, he explained, the accidents were not talked about or printed in the papers because the victims were "Hunkies"—a term used to reference Eastern European immigrants in general, and to distinguish the injured worker from a good, red-blooded American employee who was presumably more deserving of headlines and sympathy. Only the accidents to more "important" workers apparently made the news.

²⁵ Quoted in John D. Buenker, "Progressivism Triumphant: The 1911 Legislature," in *Wisconsin Blue Book, 2011-2012* (Madison: Legislative Reference Bureau, 2011), 126.

Two, employers embraced various legal strategies that implied the worker was to blame.²⁶ The idea that accidents were truly accidental did not regain popular support until the introduction of no-fault compensation in 1911.

As such, the public view of industrial accidents between 1880 and 1910 was shaped by the idea that one might have brought the burden of injury or death on themselves through lack of proper caution. Several of the laborers that Fitch interviewed suggested as much. Some called the workers “lazy” and asserted that their complaints about workplace safety were “unfounded.”²⁷ Others acknowledged that accidents were frequent, “but in half of them the men are to blame” due to their “carelessness in the presence of danger.”²⁸ At least one interviewee placed the blame on uneducated and inexperienced “hunkies.” This particular man had quit Harvard medical school in his third year after his father died and entered the mills in 1893. His response to Fitch’s inquiries was that “nine-tenths of the accidents which we read about in the mills happen to foreigners” and that “of this nine-tenths are caused through stupidity of the *ignorant* man, or that of *some other foreigner* employed.”²⁹ To a certain degree, such sentiments were shared by Wisconsinites at this time. According to the Bureau of Labor and Industrial Statistics, workers often flouted the safety precautions—removing machinery guards or leaving gates to the elevator shafts open.³⁰ Even into the twentieth century, following the introduction of workmen’s compensation, the Industrial Commission’s frequent publications called on employees to be more mindful and careful about the work

²⁶ See Chapter Two, “Navigating the Legal System.”

²⁷ “NUBIA-3, 11/22/07,” Box 4, Fitch Papers, WHS.

²⁸ “Jones and Laughlin, Charlie Steele (3),” *ibid.*

²⁹ Box 4, Ch. 23, Card 1, *ibid.* Emphasis added.

³⁰ See Chapter One.

they were performing to reduce accident statistics.³¹ Indeed in any accident, most Americans were certain that someone was to blame. It is important to keep in mind then that, throughout the late nineteenth and early twentieth centuries, the newly disabled workers would be confronting a society which in many respects blamed them for their own misfortune.

By the early twentieth century such attitudes about the inevitability of accidents and worker accountability began to shift yet again. Regardless of who was at fault, reformers argued that the economic and social cost of accidents and their long-term effects were placing a too large of a burden on the community.³² This commentary shifted the focus away from the issue of blame and facilitated the return of a more sympathetic view of the industrially disabled. Human lives were being devalued under the liability system and reformers suggested that workers should be considered victims, helpless cogs in the industrial wheel.³³ Furthermore, they charged that America was

³¹ See "Wisconsin's Movement for Industrial Safety," *Bulletin of the Industrial Commission of Wisconsin* (May 1, 1915), 13, which included pledges on the part of the employees to exercise caution; "Metal Burns and their Prevention," *Shop Bulletin* 2, no. 8 (April 20, 1913) which explained to workers that "It's better to be careful than crippled." (181); "Infections and their Prevention," *Shop Bulletin* 2, no. 11 (October 20, 1913) which stressed that "regrets don't bring back lost arms and legs." (277).

³² For a discussion of this inequitable distribution of burden see: "Industrial Basis for Social Interpretation," *The Survey* 22 (April 3, 1909), 9-10; Graham Taylor, "The Month's Industrial Survey," *The Survey* 22 (April 3, 1909), 75-79; Paul U. Kellogg, "A Working Program of Occupational Standards," *The Survey* 24, no. 23 (September 3, 1910), 757-758; and Frank W. Lewis, quoted in "Social Forces: Economics, Philosophy and Morals vs. The Court of Appeals," by the Editor, *The Survey* 26 (April 8, 1911), 77-80. The rising number of accidents simply negated the issue of who was at fault in the minds of most advocates for reform. In their opinion, industry was failing to do its part, regardless of who was to blame for the accident. As recounted in Chapter Two, employers usually provided insufficient support in response to work-accidents, and the "burden" was frequently passed off to charitable organizations, family, and friends. However, when the increased power of machinery to maim could not be matched by these resources, there was a growing insistence on the part of reformers and lawmakers that *employers* were to blame—maybe not for the accident itself, but for their lack of responsibility in providing suitable working conditions.

³³ This notion of society owing something to its disabled citizens foreshadowed the emergence of the welfare state that was solidified in the 1930s when the tragic toll of the Great Depression on Americans prompted government intervention on behalf of its citizens' welfare in the form of the New Deal State. In his 1944 State of the Union Address, Franklin Roosevelt enumerated a number of economic "rights" to which American citizens were entitled: employment with a living wage; adequate food, clothing, and

woefully behind the curve when it came to addressing the problem.³⁴ Rather than accepting workplace tragedies as unavoidable, more Americans hoped to reduce industrial mishaps altogether through safety campaigns and to efficiently deal with those who were already injured with rational programs of aid and rehabilitation.

This ever-changing public attitude toward industrial accidents undoubtedly impacted the way that they viewed the men and women who were affected by such events. In an age where communities could handle the economic repercussions of these accidents, they could be attributed to an act of God and the victims of such incidents were viewed as unfortunate. However, since danger was so common in all facets of life, they were not necessarily unusual or problematic. Whether or not it was expressly stated, the legal system of liability and its emphasis on blame would certainly have encouraged the perception that while an accident victim was unfortunate, they were likely responsible for their own hardship. When the public finally came around to the idea that accidents were preventable and industry should be held accountable, an element of pity was reintroduced into their view of industrial accident victims. Suddenly more people felt that these injured men and women were owed a fair shake in the face of tragedy. They and their families were to be provided for by the industries that maimed them. However, this new outlook was also accompanied by the presumption that disabled individuals who could not

leisure; fair income for farmers; a decent home; medical care; education; and (most importantly for the purpose of this study) the right to protection from the economic threats of old age, sickness, accidents, and unemployment. These rights had their roots in the shifting of public opinion about workplace conditions and industrial accidents during the late nineteenth and early twentieth centuries. Harvey J. Kaye, "FDR's Second Bill of Rights: 'Necessitous Men are Not Free Men,'" www.rooseveltinstitute.org/new-roosevelt/fdr-s-second-bill-rights-necessitous-men-are-not-free-men. Accessed August 2, 2014. See also Price V. Fishback and Shawn Everett Kantor, *A Prelude to the Welfare State: The Origins of Workers' Compensation* (Chicago: The University of Chicago Press, 2000).

³⁴ John B. Andrews, "A Clinic for Industrial Diseases," *The Survey* 25 (November 12, 1910), 268-270. Andrews explained that Wisconsin and Minnesota were among these first states give their long overdue attention to the problem of industrial accidents.

properly be cared for, redeemed, and restored were problematic and potentially dangerous for employers and for society as a whole. These mixed attitudes and prejudices about the disabled individual sometimes existed at the same time and are worth exploring in more detail.

Society and the “Dis-”abled Body

Tragic wrecks

Two of the more frequent characterizations of disabled bodies were that they were unfortunate and ruined for life. Whether used to describe a fictional character or a real person, such a label by the presumably able-bodied author or reporter indicated how closely people associated physical wholeness with actual ability. To them and likely to many of their readers, missing limbs precluded one’s ability to carry on in the world socially and economically. The accident (or congenital impairment) robbed the person of all hope for a “normal” future and transformed their personality.

Articles and novels featuring disabled characters frequently classified them as poor wrecks. For example, Olivia Howard Dunbar’s “The Blasphemer” tells the tale of a once strong and virile young man named Gideon Barstow whose promising life unravels before him following a fall from the scaffolding at work. The tragic fall occurs when his brother Miles turns suddenly to greet Gideon’s fiancé and causes both men to plummet to the ground. While Miles makes a full recovery, Gideon suffers spinal injuries and is paralyzed—a fate which the narrator regards as “worse than dead.”³⁵ In fact, as he

³⁵ Olivia Howard Dunbar, “The Blasphemer,” *Harper’s Magazine* 131, no. 781 (June 1915), 61. This characterization of permanent disability as worse than death is frequently expressed in the literature on

explains, “it wasn’t long before [the townspeople] got to speaking of him as you would of a dead man.”³⁶ Barstow’s fiancée Jennie weeps at the idea of being permanently tied down to a paralyzed man, and soon the author mentions that the noble Gideon relieves her of her obligations by calling off the engagement. Adding insult to injury, his beloved Jennie marries his brother and Barstow suffers in silent pain. When Gideon’s father passes away and can no longer care for him, he is sent to live with his brother and his former flame—forced to watch the life that would have been his. His resentment grows fiercer and the injury changes his entire disposition. In an effort to avoid the town’s pity, become independent, and escape the cruel punishment of watching his brother carry on with his great love, the young man takes up shoe repair and pushes to become self-supporting. Even still, Barstow is bitter and angry at the world around him. This arouses the interest of the town’s new minister who labels him blasphemous and orders the town to boycott his business until he repents. In the end, the author’s tragic protagonist—seeing no other means of escape from his personal Hell—dupes his fellow townspeople into thinking he has gone crazy and is sent to an asylum to live out his days.³⁷

Dunbar’s story demonstrates multiple preconceptions that the able-bodied had about disabling injuries and their ultimate impact upon an individual. Clearly, Barstow was a “poor wreck” who suffered an awful fate that he could not overcome. The narrator enforced this notion, labeling him a “good *cobbler*, [but] a poor soul” and indicating that

accident victims and is also reflected in the early employer benevolence schemes. For example, in 1911, the U.S. Steel Relief Plan added a clause about permanent disablement requiring that such individuals receive no less payment than the minimum amount for death relief. Provisions like this one recognized the fact that “in the case of such permanent disablement, the fact that the injured man still lives often puts the family in a more precarious situation than if he had been killed outright.” See “The Common Welfare: U.S. Steel Relief Plan Has Been Continued,” *The Survey* 26 (June 24, 1911), 448.

³⁶ Dunbar, 62.

³⁷ *Ibid.*, 59-66.

his only refuge lay in being committed to an asylum.³⁸ For such a terrible fate to befall a beloved man was even more problematic and made his case seem all the more tragic. As Dunbar's narrator explained, "The thing would have seemed bad enough if it had happened to a worthless tramp, but that Gideon should be struck down in that way ... was enough to break your heart."³⁹ Evidently, Barstow would forever be an object of pity to his former friends and neighbors.

The story also touched on able-bodied prejudices about love and the disabled body. Dunbar wrote how Jennie wept over Gideon's accident—perhaps, in part, for her lost love—but also because "it was a mighty different kind of life that seemed to be stretching ahead of her now, with Gideon a cripple."⁴⁰ In practical terms, the man's paralysis would most certainly inhibit his ability to earn a sufficient wage to support a family,⁴¹ but this element of Dunbar's story also indicated that Jenny's love could not endure the realities of caring for a crippled man.⁴² Although Barstow himself put forth a valiant effort to "overcome" his disability and avoid dependence through self-rehabilitation, Dunbar still concluded that his accident indelibly reshaped his personality. He had changed from a "tall and muscular [man for whom] life was almost too easy,"⁴³ to

³⁸ Ibid., 59. Emphasis in original.

³⁹ Ibid., 62.

⁴⁰ Ibid.

⁴¹ Even though Barstow managed to earn his keep through shoe repair, his success was—in large part—due to his prior standing in the community and the charity of his neighbors who brought him their business intentionally to support his goals.

⁴² In reality, the author suggested that it was Jenny's vanity that would be too difficult to overcome. She was described as a beautiful young woman—the equivalent of a modern day prom queen—and before his accident, Gideon was implied to have been the strapping prom king of the community. The narrator, a close friend to Gideon, indicated that other women might have endured the accident with Gideon. As he told his wife, Lura: "You could have been faithful to a crippled lover, and married him—if he would have let you—and been happy all your life and made him happy. But Jennie—why, that girl wasn't made to be a heroine." Ibid., 62.

⁴³ Ibid., 61.

a “wounded, angry, uncomprehending bird, clinging to its unlovely refuge, its hoarse, reiterated imprecations unheeded.”⁴⁴

The tale of Gideon Barstow, blasphemer and poor crippled soul, was just one of many that portrayed the disabled as tragic characters. In “Maddelena’s Valentine,” a fictional story published in the *Eau Claire Leader*, an Italian man named Giovanni loses his leg while rescuing a young girl from being hit by a train. As he lies in his hospital bed, poor Giovanni laments the fact that he is no longer considered an appropriate suitor for Maddelena in the eyes of her guardians. With great sadness, he calls himself “only a worthless sack of broken bones” as he contemplates his future without the woman that he loves.⁴⁵ Indeed, the girl’s caretakers quite bluntly discuss the fact that Giovanni’s lost leg makes him unsuitable as a breadwinner. “There is nothing for a cripple but to sell shoestrings on the Green,” declares her mother in the wake of the accident.⁴⁶

Unfortunately for Giovanni and other physically impaired individuals, love and economic worth were strongly intertwined. This view of the disabled as pitiful and tragic, however, was not just a figment of the fictional imagination.

Such attitudes proliferated in newspaper and journal publications that highlighted accidents and disability as major social problems. Even in the most basic newspaper accounts, the disabled were dubbed “helpless for life.”⁴⁷ Contributors for *The Survey*—a journal which focused on social work and reform—frequently echoed the words of

⁴⁴ Ibid., 66.

⁴⁵ Mary Imlay Taylor, “Maddelena’s Valentine,” *Eau Claire Leader*, Wednesday, July 17, 1912, 6.

⁴⁶ Ibid. In Taylor’s story, Maddelena proved more empathetic and loving than Jennie. She wept over Giovanni’s accident and the fact that her family felt him ill-suited as a life partner because of it, but ultimately declared her love in spite of their reservations. When Giovanni asked whether she would accept a crippled man’s proposal, she quickly responded that she would as soon as a cripple asked her.

⁴⁷ “Helpless Cripple for Life,” *Waukesha Freeman*, January 10, 1884; “Cripples in Bad Plight,” *Racine Daily Journal*, March 11, 1908. These articles declared the individuals helpless and dependent in their everyday lives, following their disabling accidents.

Dunbar and Taylor, talking about the disabled in terms of hopelessness, dependence, and broken spirits.⁴⁸ In a feature on the newly established Home for Aged and Disabled Railroad Employees in Highland Park (near Chicago), for example, Graham Taylor stressed the indelible impact of disability on a person's economic identity and his or her sense of self. In spite of the home's beautiful surroundings, he explained that "it [would] hardly dissipate the shadows which shut in a man thrown from the working world and the activities of life, at the very bloom of his power and earning capacity."⁴⁹ He mentioned that the men labeled themselves "broken rails" and lamented their "broken life, of days cut short or lingering too long, of separation from family, the awful quiet after the rush and roar of their work-a-day life, and of disappointed hopes."⁵⁰ It was a "loss of life while [one was still] living," according to Taylor, and there was no way to compensate them for it.⁵¹ The same lack of hope and broken spirit was present in Douglas McMurtrie's 1912 report on caring for crippled children. He explained to readers how "the average crippled child comes to an institution broken in spirit and discouraged, [and] has felt that he is a useless member of the community," for his (or her) whole life.⁵²

For all of their good intentions, some reformers also used language that indicated their predilection for interpreting disability as a cause of deficient character. In an article

⁴⁸ *The Survey* was a specialized journal mainly circulated among social workers. Originally referred to as *The Charities and the Commons*, the publication was renamed following the Pittsburgh Survey, installments of which were featured in the magazine. It was published by the Charities Organization Society of the City of New York.

⁴⁹ Graham Taylor, "Industrial Survey of the Month: For Disabled Railroad Employees [sic]," *The Survey* 24, no. 1 (June 4, 1910), 421.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, 421-422.

⁵² Douglas C. McMurtrie, "Care of Crippled Children," *The Survey* 27 (November 18, 1911), 1209-1210. McMurtrie, who later became a strong advocate for rehabilitation of wounded soldiers, tried to combat the children's internal negativity and feelings of despair. Because he perceived of disability as an individual, medical pathology, his approach for aiding the disabled focused heavily on changing their attitudes. He encouraged other able-bodied people who worked with disabled children (or soldiers) to "awaken ambition" and eventually "render the cripple self-supporting, thus enabling him to take his place as an independent member of society." *Ibid.*, 1210.

about abolishing poverty, editors at *The Survey* talked about how industrial hazards were churning out “a large class of *subnormal* people” who were helpless in the wake of their accidents.⁵³ Instead of allowing industrial owners to exploit them, editors called upon their readers to protect these injured workers “for their own safety and *for the welfare of the race*.”⁵⁴ Further judgment was passed if and when disabled workers came to rely on public support. For example, that same article went on to assert that it was, “of course ... the *weaker* ones [accident victims] who actually succumb[ed] and appl[ied] to the dispensaries and charitable societies for aid.”⁵⁵ Another editorial reinforced this stigma associated with reliance on public aid, explaining that industrial accidents were a concern precisely because they transformed a “self-contained, self-supporting, self-respecting unit of society [into] a *shattered, fragmentary remnant* of a family, appealing to external aid, a ‘*dependent family in its home,*’ to be ... *robbed forever of the proud satisfaction of having been above charity*.”⁵⁶ Still other reformers utilized even stronger language when describing the “burden” placed on the state “to support public institutions for the care of *indigent incompetents* and their offspring, the *parasites of society*.”⁵⁷

Although these writers were outraged at the toll industrial workplaces had taken on the individual and the family unit, their presumptions about the people for whom they were advocating were rarely positive. The associations that they made between disabled

⁵³ “Social Forces: How Shall Poverty be Abolished?” *The Survey* 28 (July 6, 1912), 485. Emphasis added.

⁵⁴ *Ibid.* Emphasis added.

⁵⁵ *Ibid.*, 486. Emphasis added. The article went on to explain that many disabled workers would never ask for aid, but the weak ones who exhibited personality traits like shiftlessness, irresponsibility, and intemperance were unable to overcome their unfortunate injuries. The author cautioned those who worked with such individuals—whose personal faults overshadowed the impact of the injury in their minds—to not forget about the fact that injury truly was the cause of much poverty and that there were many suffering privately because their pride ruled out reliance on charity.

⁵⁶ “Social Forces: The Discovery of the Individual,” *The Survey* 25 (March 25, 1911), 1047. Emphasis added. As this entry suggested, a reliance on charity—even when needed—came with its own stigma.

⁵⁷ “The Economic Waste due to Occupational Diseases,” [s.l.: s.n., no date], 25, Series 2034, Box 10, Wisconsin Free Library Commission, Research Reports and Studies, 1905-1962, WHS. Emphasis added.

workers' bodies and abnormality, and their attitudes toward those who sought charitable aid are indicative of the prejudices constructed by the able-bodied community that a permanently disabled worker would have faced in the wake of his or her accident. Indeed, such stigma was cited by a blind artist and his crippled wife when they were discovered "squatting" in an old canal boat in New York to justify their refusal of help. Although some people had offered them food and assistance, the couple declined help because they were "too proud to appear to be paupers."⁵⁸

Similar to contemporary fiction writers and reformers, society at-large tended to presuppose that permanent impairment affected not only economic worth, but also one's ability to measure up to traditional gender roles and hindered their marriageability. In "Maddelina's Valentine," her suitor, Giovanni, had lost the ability to fulfill one of the most important parts of his role as husband. He was unable to be a breadwinner, and at a time when earning power was intricately tied with definitions of manhood, he had become less of a man. This sentiment was echoed in John Fitch's article "What a Man is Up Against." As Fitch explained, the daily grind of work took a heavy toll on "manhood's young vigor," sapping the workers of their strength and energy and making them "useless" scraps thrown on the heap next to worn out equipment after a few short years.⁵⁹ Whether manual laborers suffered injury or not, Fitch suggested that the demands of their work quickly diminished one's ability to provide a living for his or her family.

Although women were less often considered to be breadwinners, industrial accidents also affected their families' ability to survive. For instance, when a fire broke out in a Newark Underwear Factory, killing twenty-five women and injuring sixteen

⁵⁸ "Blind Artist—Brave Wife," *Oshkosh Daily Northwestern*, January 17, 1883, 2.

⁵⁹ John A. Fitch, "What the Workingman is Up Against," 10, Box 3, Fitch Papers, WHS. Emphasis added.

others, Mary Sumner Brown explained how many of the women had served a vital role in supporting aging parents, children, or other dependents. Their earnings at the factory were an important part of the family economy.⁶⁰ Like Giovanni or Gideon who were considered less worthy marriage partners in the wake of their accidents, the marriageability of the disabled Newark women was also affected in the eyes of their able-bodied peers. The brother of one of the girls who was permanently impaired by the fire “in bitterness of spirit stated the crude and brutal truth,—‘*what does a young man want of a woman like that?*’”⁶¹ It is evident that physical impairment could create further problems for unmarried men and women, as it was clearly considered too great a liability by at least some members of the opposite sex.

Even when love did triumph over financial concerns, injured workers (along with other disabled individuals) might also find themselves confronted with opposition from supporters of the eugenics movement, a cause which reached its heyday during the Progressive Era. For example, in 1912 Dean Walter T. Sumner of Chicago began requiring individuals who wanted to marry at the Cathedral of SS. Peter and Paul to present a certificate from a reputable physician declaring that both parties were “normal physically and mentally and ha[d] neither an incurable nor communicable disease.”⁶² While it is not clear whether Sumner’s mandate would be applied to individuals who suffered some physical impairment on the job, his justification for the action was steeped in language about “the enormous problem of public care of *abnormal people*” and

⁶⁰ Mary Sumner Brown, “When a Women’s Workroom Burns,” *The Survey* 25 (January 7, 1911): 558-562.

⁶¹ *Ibid.*, 562. Emphasis added.

⁶² Graham Romeyn Taylor, “Refusing to Marry the Unfit,” *The Survey* 28 (May 18, 1912), 291. Sumner was also known for his experience as the chairman of the Vice Commission in Chicago, a role which would have brought him into contact with these alleged “undesirables” who were a “burden” to society.

concern over the effects of such unions on the next generation. In particular, he explained that the church must act so that “there shall not be left in the wake of married life sterility, insanity, paralysis, blinded eyes of little babes, twisted limbs of deformed children, physical rot, and mental decay.”⁶³ If Sumner did not include industrial accident victims in this category, his attitudes about the disabled “other” still clearly reflected common able-bodied associations of disability with personal shortcomings and sub-human traits. Given that the cause of one’s physical impairment would not have been advertised upon first glance, it is safe to assume that disabled workers would just as likely be assessed in such terms by their peers on a daily basis.

Dangerous and Suspect

While some contemporaries classified the disabled as tragic or hopeless, others went further and labeled them as dangerous elements that threatened the social fabric. They characterized physically impaired individuals who had resorted to begging as fraudulent or criminally suspect, and insisted that an injured party’s disability should be subjected to scrutiny for fear that they might be taking advantage of the kindness of strangers and exploiting the system. If indeed a beggar was truthfully disabled, many able-bodied individuals still saw disability as problematic. Idleness bred crime and poverty had a ripple effect that ruined future generations.

Alongside the brief mention of accident *victims* in the local papers, readers could find stories of disabled *vagrants* arrested for causing a nuisance. The *Marshfield Times*, for example, reported the arrest of “a begging cripple, who ha[d] *infested* the city” for a

⁶³ Ibid. Emphasis in previous quote is added.

week disturbing passersby.⁶⁴ Another “cripple” was taken into custody in Racine for “making himself obnoxious” at Beck’s saloon.⁶⁵ Likewise, the *Daily Northwestern* reported that sixty-year-old William Cowan, who had lost part of both feet while working in a lumber camp, was arrested after being caught prowling around local homes in Oshkosh.⁶⁶ While disability certainly did not predispose one to criminal behavior, physical defects were commonly noted if and when such individuals were arrested, which suggested an association of the disability itself with the character flaw of dependence and the crime of vagrancy.

Specialized journals were often more explicit in their association of criminality and disability. For instance, a 1911 article in *The Survey* asserted that eye-strain (and presumably other physical impairments) could be considered a contributing factor in several cases of criminal behavior. According to New York doctor William M. Richards “underneath every crime ... is some kind of incompetence, and *underneath incompetence is some kind of physical defect*, either inherited or acquired.”⁶⁷ Richards’ conclusions were based upon a study of juveniles at two reformatories in New Jersey, but his assumptions were not limited to youths with congenital defects. He drew long-term connections between disability and idleness, arguing how physical impairment impacted one’s entire future. Physiological defects like eye-strain led to truancy and “every criminologist kn[ew] that the majority of criminals were truants when children.”⁶⁸ Such behavior allowed one to fall in with the idle crowd which inevitably engaged in mischief;

⁶⁴ “Briefly Mentioned,” *Marshfield Times*, May 18, 1910, [no page number]. Emphasis added.

⁶⁵ “The Criminal Record,” *Racine Daily Journal*, May 1, 1899, 1.

⁶⁶ “Short Notes,” *The Daily Northwestern*, November 5, 1901, 4.

⁶⁷ “Eye-Strain and Crime,” *The Survey* 27 (November 11, 1911), 1171. Emphasis added. Note the association of physical impairments with both incompetence and criminal behavior.

⁶⁸ *Ibid.*, 1171-1172.

since idle people still needed to live, Richards asserted that they generally turned to crime to survive. Incarceration for minor offenses like pickpocketing only introduced youth offenders to the more hardened criminals and pushed them further down the path of illegal behavior.⁶⁹ While Richards' findings were based upon a study of juvenile offenders, his supposition that disability led to idleness and idleness to crime could easily be applied more broadly to industrially-injured workers—especially those who were unable to recover from the financial strain that their injuries had inflicted.

In fact, this prejudiced connection between criminality and disability does appear in other contemporary literature. A 1909 article on the role of the church in organized charity, for example, cautioned against providing aid for needy families solely based upon outward appearances. To demonstrate this point, author J.W. Magruder recounted the tale of a “needy family” who was provided with ten Christmas baskets from various churches and associations after the father suffered paralysis. According to Magruder, however, the family was not needy as two grown sons were regularly employed and earning sufficient income to support the father. When the baskets rolled in to the family, the sons quit work, “trading on their father’s misfortune.”⁷⁰ Even though the disabled man was not criminally suspect, Magruder’s piece suggested that impairment—whether real or fake—could always lead to fraud. So too a 1909 study of homeless men in Chicago indicated that most of the men who were temporarily or permanently crippled and maimed were dangerous, immoral, or fraudulent.⁷¹ The study found that:

⁶⁹ Ibid., 1172. This study of boys at the Elmira Reformatory indicated that fifty-six percent suffered from “serious impairment of eyesight.” At another reformatory in Rahway, New Jersey, eighty-three percent of the inmates were found to be needing glasses.

⁷⁰ J.W. Magruder, “The Church and Organized Charity,” *The Survey* 22 (October 23, 1909), 121.

⁷¹ “The Trend of Things,” *The Survey* 22 (October 30, 1909), 151. The article summarized the findings of a study of 1,000 homeless men who had applied to the Chicago Bureau of Charities for aid. Of the 1,000 men in the study, 253 were categorized as “temporarily or permanently crippled or maimed.” Furthermore,

... a large proportion of the illness which crippled the men had been caused by drink or gross immorality; that more than half of the men who claimed industrial injuries had not received them, but were crippled by other causes; that the injuries of those who had met with industrial accidents were in many cases slight and the vagrancy of the men was due entirely to other causes; that several of the men who had met with general accidents had been drunk when they occurred, and lastly that a number of the men who were injured on the railroads had been tramps and vagrants long before they were hurt and had not been forced into vagrancy on account of their injuries.⁷²

In New York, the establishment of a National Association for the Prevention of Mendicancy and Charitable Imposture in 1910 provided yet another example of how disability was often associated with fraud. The new organization cited “physical handicap...as the *fundamental cause of mendicancy, imposture or fraudulent appeal.*”⁷³ Actual impairment, they argued, not only caused poverty, but also encouraged criminal deception. In response, the agency aimed to provide material aid and help actual disabled individuals to find employment. However, they also sought to document such persons by photographing, fingerprinting, and maintaining a detailed file on them.⁷⁴ Clearly even able-bodied progressive reformers regarded the disabled with a sense of suspicion. In their minds, a crippling workplace injury would certainly qualify one for sympathy and aid, but should one choose to rely on that aid they would have to prove worthiness and face questions about whether their impairment compromised their character and to what degree.

two percent of the men were congenitally disabled, thirty-four were impaired by illness, and sixty-four percent were impaired by accidents (work or otherwise).

⁷² Ibid., 151.

⁷³ “The Trend of Things,” *The Survey* 25 (October 8, 1910), 99. Emphasis added. It is noteworthy for both the purposes of this chapter (in assessing society’s perception of disability) and in Chapter Four (about the consequences of an injury) that physical handicaps were labeled the primary cause of mendicancy. While disability might not have precluded someone from earning a living—as will be discussed in greater detail in the next chapter—it obviously did drive a significant enough number of men and women to poverty and begging in New York, according to this agency’s study.

⁷⁴ Ibid., 99.

Perhaps even more than the threat of idleness and criminality, able-bodied members of society seemed to fear the ripple effects that disability had on a community by destabilizing the building block of the society—the family. Concerned social workers devoted pages upon pages to documenting the impact of work-related deaths and injuries on families. For instance, Louise Montgomery noted how permanent disability or death to husbands thrust women into the role of breadwinner and implied that such a shift contributed to children’s poor school performance. With their husbands “no longer a support but a burden to be carried,” Montgomery explained that wives took in cleaning, boarders, or piecework to make ends meet. Since “the woman unaided rarely earned more than \$1.50 a day, the children were put to work as soon as the law would allow [and] those of school age frequently suffered from the lack of the mother’s care.”⁷⁵ In such situations, where family budgets seldom had funds available in case of tragedy, work-accidents erased all hopes for the children to advance beyond their parents’ lifestyle. According to the title of Montgomery’s article, then, industrial disability was one of many causes which fertilized “The Soil in Which Repeaters Grow.”⁷⁶ Reform advocate Florence Woolston also hinted at the impact of work-accidents on children in her 1909 article, “Our Untrained Citizens.” Based upon her study of a group of children seeking work permits in New York City, Woolston found that while some of the applicants simply disliked school, many others were forced into the situation prematurely by the death or injury of a family member. What was particularly troubling for Woolston was

⁷⁵ Louise Montgomery, “The Soil in Which Repeaters Grow,” *The Survey* 22 (October 9, 1909), 78.

⁷⁶ *Ibid.*, 77-81. Montgomery’s study was based on Chicago public school children who were listed as being one to three years below their normal grade level. As she explained, the children’s situation was not based upon mental deficiency, but upon broader economic and social factors which had either robbed them of the opportunity to continue in school or had impacted their physical development. She cited only a few instances of work-accident related cases, focusing more broadly on cases where strained finances due to layoffs or death of a father that had forced children into work early or had robbed them of proper nutrition due to insufficient income. However, the impact of injuries would likely have yielded similar experiences.

the fact that an early exit from school robbed these young men and women of the proper civics training required to make them upstanding citizens. According to Woolston, these untrained citizens with their lack of knowledge about democracy threatened to undermine the basis of American freedom.⁷⁷

For other reformers disability threatened the virtues of independence and self-sufficiency that were long-held as core American values. Henry Seager, for example, argued that industrial accidents were causing “a lowering of standards of living for not less than 100,000 persons every year.”⁷⁸ Seager explained that even when an injured worker could return to work, he or she was rarely able to continue in the same trade. More often, he asserted, the worker’s impairment forced him or her into unskilled employment at a lower wage; and while “some wage earners meet this situation with no loss in independence and self-respect ... many more sink under their misfortunes and in time adopt the standards—or lack of standards—of the casual laborers with whom they have to compete.”⁷⁹ Seager’s interest in reforming the matter stemmed primarily from his concern over the growing “army of the *standardless* lowest class” rather than a sense of sympathy or outrage for the injured party and his or her family. As he explained:

If this resulted merely in unhappiness and suffering for the families affected, we might content ourselves with present methods of trying to relieve distress as it arises ... but these evils do not confine themselves to the families who suffer directly from them ... and no class in the community is so improvident as vagrants who never feel sure of tomorrow’s dinner.⁸⁰

⁷⁷ Florence Woolston, “Our Untrained Citizens,” *The Survey* 22 (October 2, 1909): 21-35.

⁷⁸ Henry Seager, “A Program of Social Reform,” *The Survey* 24 (April 2, 1910), 29.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.* Emphasis added.

Seager and others feared that industrial accidents, which impoverished families, could lead to class conflict that endangered the social order. It was wise, he argued, to address such social threats by adopting a program which prevented pauperization altogether.

A Mess of Contradictions: Institutional Engagement with Disabled Bodies

The Disabled and Charity

This combination of fear and sympathy was reflected in able-bodied Americans' shifting attitudes about how to handle the disabled and the poverty that often followed work-accidents in particular. With more and more individuals suffering disabling industrial accidents in the late-nineteenth and early-twentieth centuries, the problem became more acute. As contemporaries began to accept the idea that blame was irrelevant and the liability system inadequate, the industrially disabled shifted more universally into the category of "deserving poor." Following her work on the Pittsburgh Survey in 1907-1908, Crystal Eastman explained that work-accidents were not simply a result of a worker's recklessness, and even when they were, it was not right to consider such individuals unworthy of sympathy and financial assistance.⁸¹ Alongside veterans and orphans, industrially disabled men and women and their families were in many ways victims who were rightfully entitled to public support. While they may be worthy, however, charitable agencies were also wary of fostering dependency, a condition which they assumed that disabled individuals could be inclined to adopt.

In the late-nineteenth century, victims of work-accidents still needed to establish their worthiness when seeking help. Such was the case for P.S. Smith who traveled to

⁸¹ Eastman, "Work-Accidents and Employers' Liability," *The Survey* 24 (September 3, 1910), 788-794.

Eau Claire, Wisconsin in hopes of soliciting ticket sales for a book drawing in December of 1888. Smith, who had been badly injured in the lead mines of Iowa County, carried several letters of introduction with him to attest to his character. They confirmed his claims that his wife had recently died, leaving him responsible for the care of “several small children” and praised the quality of the works he was selling.⁸² Without such letters, the announcement of Smith’s arrival in town might presumably have ended up with accounts of other “crippled” drifters reported by the paper as dangerous vagrants rather than in a news brief declaring his worthiness of public support.

Just over a decade later, however, reformers increasingly argued that people like Smith, who were injured on the job, should be differentiated from other impoverished groups. For instance, when the Philadelphia charities commission noted a rising number of arrests for begging in 1909, they sought to adapt a new program that distinguished between those who were lazy or dangerous, and those who were “victims of misfortune.” Accordingly, the program provided aid to the latter. Among these victims, they specifically cited “persons having some physical handicap but who are still *anxious to earn whatever they can by honest labor* ... [and] *respectable* heads of families who are permanently disabled in any way, and whose children are too young to be breadwinners.”⁸³ Likewise, the impetus for establishing the Home for Aged and Disabled Railroad Employees in Highland Park, Illinois came from one doctor’s discovery of his former railway coworker at the Cook County poorhouse and his belief that such men were worthy of more. At the home’s opening, the former grandmaster of the Brotherhood

⁸² “A Book Drawing,” *Eau Claire Daily Free Press*, December 10, 1888, 2.

⁸³ “The Common Welfare: Brotherly Love and Professional Beggars,” *The Survey* 22 (April 17, 1909), 106. Emphasis added. Note that the language here is conditional. Only those “respectable” individuals who were willing to “earn whatever they can by honest labor” were considered worthy of charitable aid. This certainly suggested outside judgment of one’s worth.

of Railway Trainmen emphasized the fact that providing such an establishment was not just charity, but “a matter of duty with us.”⁸⁴ The men who were broken down by the hazards of railroad work should not be eking out a living at the poorhouse. They had earned the respect and care provided by the brotherhood with their years of service and the sacrificing of their limbs to the successful operation of the railroads.

These reformers championed the notion that injured workers were not just tragic, cautionary tales to be featured in safety pamphlets; rather, they *were owed some retribution for their loss*. While workplace accidents could not be eliminated entirely, advocates for a new system of workmen’s compensation argued that *someone* should be held accountable for the havoc they wreaked on the individual and his or her family.⁸⁵ Eastman and her colleagues on the Pittsburgh study argued that the injured wage earners and their families *deserved* “some law by which society should make up to them at least a share of their income loss, and thus keep them from destitution.”⁸⁶ They were worthy not just of the employer’s time and financial assistance, but also of support from the community at-large. This same idea that society owed something to its disabled workers was echoed in former-president Theodore Roosevelt’s 1910 speech in Pittsburgh:

*It is our duty henceforth to strive to bring about such conditions in our American life, that no man shall be so crushed by outside circumstances, for which he is not responsible, that he cannot make his own way and lead a self-respecting life, or enable his wife and children to live under conditions which will secure self-respect ... We cannot afford in this great democracy to have a large section of the people so ground down that they cannot live under the conditions necessary if the man is to be in truth, and not in name only, a self-respecting American citizen.*⁸⁷

⁸⁴ Taylor, “Industrial Survey of the Month: For Disabled Railroad Employes [sic],” *The Survey* 24 (June 4, 1910), 421.

⁸⁵ Eastman, 788.

⁸⁶ Ibid.

⁸⁷ “Colonel Roosevelt’s Speech,” *The Survey* 25 (September 17, 1910), 855-856. Emphasis added. Roosevelt’s speech was presented at Exposition Hall. He was a guest of the Pittsburgh Civic Commission.

Roosevelt's speech made it clear that all citizens were entitled to safety, and in the case of accident, they were eligible for support to prevent poverty. His remarks also reflected broader social concern for the impact that such poverty and hardship could have on a community. As he made quite clear, unwarranted difficulties could undermine American citizenship by robbing the individual of self-respect and independence.

Some advocates for these "worthy poor" even drew comparisons between wounded soldiers and wounded workers to justify their claims about worthiness. For example, at the dedication of the aforementioned railroad workers' home, the Illinois governor expressed his hope that other industrial organizations as well as the state would follow the model set by the home in "providing more effectively for the care and comfort of all *disabled soldiers of industry* whom accident or misfortune has rendered incapable of meeting unaided the stern demands of the battle of life."⁸⁸ So, too, the Superintendent of the United Charities of Chicago, Sherman King, argued that injured workers simply hoped for their injuries and illnesses to "be taken care of, broadly, by those who are benefitted from the service, *just as the nation at large is a debtor to the soldier who sacrifices health or life, and participates as a nation in movements of amelioration for him and those dependent upon him.*"⁸⁹

Such comparisons were not universally accepted. In James Henry Henle's poem, "The Veterans," for instance, a Civil War veteran distinguished his service for country from the aged industrial worker who confronted him about receiving a pension. In response to the industrial worker's story of woe, the soldier replied: "I'm infernal sorry

⁸⁸ Taylor, "Industrial Survey of the Month: For Disabled Railroad Employes [sic]," 422. Emphasis added.

⁸⁹ Sherman C. Kingsley, "Standards of Compensation for Sickness, Accident and Death," *The Survey* 24 (September 3, 1910), 800. Emphasis added.

fer [sic] you, brother, and something ought to be done about it, but you see it's different from my case. I risked my life fighting the enemies of my country—though they're not that any longer.”⁹⁰ The “ugly one,” as Henle described the worker, strongly disagreed: “Well, I risked my life too. D'yer think being fifteen hours a day in a damn furnace and eating yer meals while yer run around—d'yer think that's healthy? Look what I am now, and look what you are. Who took the worst chances?”⁹¹ By the late 1910s, however, with America preparing to enter the Great War the attitudes of such detractors were largely silenced by a growing rehabilitation movement that lumped injured workers with wounded veterans as deserving of public support.⁹²

While disabled workers might be considered worthy—even as worthy as soldiers—the same proponents of assistance were careful to emphasize that “charity should not make paupers” or encourage dependency. An editorial in the April 3, 1909 edition of *The Survey*, for example, argued that “strength and comfort is the end which we should rank highest among the good things which we covet for those who look to us for help ... [but] it must not multiply the occasion.”⁹³ In some instances, authors alluded to a proclivity of the disabled to wallow in dependency if charitable organizations failed to couple aid with a program of self-help or rehabilitation. A cartoon series drafted by Boston architect and cartoonist J. Harleston Parker and entitled “Planless Charity and—Charity With A Plan” provided a good example of this attitude. Used by a joint commission in Boston to inform the public of how to deal with the homeless, Parker's images demonstrated both the “right” and the “wrong” way to help. In the first still, the

⁹⁰ James Henry Henle, “The Veterans,” *The Survey* 28 (May 11, 1912), 279.

⁹¹ *Ibid.*

⁹² The connection between disabled soldiers and disabled workers is explored in more detail below.

⁹³ “Social Forces: The Perversion of Institutions,” by the editor, *The Survey* 22 (April 3, 1909), 2. This applies to the previous quotation as well.

man—who seems to be nursing a work-related injury to his arm—is seen making an appeal for money from a wealthy passerby. The second shows the “deserted home” where a frazzled mother and two barefoot, unkempt children pleading for food sit waiting for the breadwinner to return. In the third image, the man appears outside a liquor store, contemplating the temptation to spend his “charity” on drink. These images are juxtaposed with five others which show the public how an “appropriate” response to charity—a referral to the Associated Charities and Provident Association—led to proper medical care and training which restored the man to productivity and self-sufficiency and brought great happiness to him and his family.⁹⁴ The message was clear: monetary aid simply bred dependency and indulgence, while long-term intervention and supervision led to a restoration of the individual and the family.

This idea that disabled individuals might embrace dependency appeared again in a 1918 article of the *Manitowoc Daily Herald*. The title itself declared: “The Cripple [was] *Naturally Averse to Giving up Soft Snap*.”⁹⁵ The article—based on a study of 150 beggars in Kansas City, Missouri—warned readers of “a peculiar sort of ‘cripples’ philosophy” along the line, that the world owes them a living,” an attitude that drove certain disabled individuals to begging. The study concluded that many of the disabled men—particularly those dependent upon alcohol—preferred to beg rather than to make an honest living; and like the cartoon series employed by the Boston charitable agency, it stressed the need to give “every cripple ... personal attention in solving his problems, rather than [allowing

⁹⁴ “Planless Charity—and Charity with a Plan,” *The Survey* 23 (March 12, 1910), 914-916.

⁹⁵ Emphasis added. Note the idea that the injury itself somehow altered the individual’s entire character or exacerbated the already negative aspects of their character like alcoholism, and encouraged long-term dependency.

them] to receive doles from passersby on the streets.”⁹⁶ Like charitable societies, many employers and government agencies that dealt with injured workers also shared mixed feelings about the worthiness of and the potential threat embodied in the disabled individuals they encountered.

Employers and the Disabled Worker

Both before and after the passing of the workmen’s compensation legislation in Wisconsin, employer perceptions of their disabled workers seemed to be dually shaped by a sense of sympathy for their plight and a fear of shouldering the financial responsibility for the impairment. Such duality explains how they could simultaneously adopt a sense of paternalism over their employees in the pre-compensation era while also vigorously contesting them in court over liability claims. It also helps to shed light on why employers of the post-compensation law era were open to the re-employment of rehabilitated workers even while they were introducing physical examinations to the hiring process, a move that would inevitably prove a barrier to the re-employment of disabled individuals.

As many historians have aptly demonstrated, it was not uncommon to find physically impaired workers employed in factories and on farms throughout the country in the late-nineteenth century. As previously mentioned, John Williams-Searle’s study

⁹⁶ “Stories of American Cities: Cripple Naturally Averse to Giving up the Soft Snap,” *Manitowoc Daily Herald*, August 3, 1918, 6. Such outside intervention in Kansas City echoed Wisconsin legislators’ decision to insert the state into disabled employees’ lives after 1911, assessing worthiness and monitoring distribution of compensation.

recounted the frequency of physical injuries among railway workers.⁹⁷ Halle Gayle Lewis further established that, contrary to the expectations of middle-class Cleveland reformers, permanently disabled workers in that city frequently returned to the workplace upon recovery.⁹⁸ Furthermore, Sarah Rose's study, "No Right to be Idle," documented this phenomenon with particular reference to the Ford Motor plants where disabled workers were often employed and—in certain departments—surpassed their non-disabled coworkers in efficiency.⁹⁹

As was discussed in Chapter Two, this same conclusion can be drawn about the experience of Wisconsin workers. Injured employees were generally reemployed, often by the same company. At times they even went on to earn more than their pre-injury salary. The small size of early industrial operations lent itself to a paternalistic sense of responsibility among many Wisconsin employers. Even in larger operations, employers sometimes added to the funds of employee-run benevolent associations and medical aid was occasionally provided for injured workers.¹⁰⁰ Although this attitude among employers was far from universal, it is safe to say that for workers who were not totally

⁹⁷ Williams-Searle, "Broken Brothers and Soldiers of Capital." Williams-Searle's study of injured railroad workers suggested that this attitude changed over time as injuries that were once considered a "badge of honor" among workers were later characterized by the brotherhoods as signs of recklessness and irresponsibility on the part of the worker. The brotherhoods, seeking to professionalize the occupation, associated such injuries with alcohol use and immorality, and contributed to negative perceptions of those who suffered such amputations.

⁹⁸ Lewis, "What may the community do for cripples, and what may it expect of them?": The Cleveland Cripple Survey of 1915-1916" in "Cripples are Not the Dependents One is Led to Think," 197-238. As has previously been discussed, Lewis documented the surprise among reformers in Cleveland to find that disabled employees had been reemployed on a fairly regular basis, rather than being rendered permanently dependent. The men and women who conducted the "Cleveland Cripple Survey" fully anticipated that the findings would demonstrate the problem of reemployment for industrially injured workers. According to the study, however, while unemployment was a problem for some, it was not universally a consequence of industrial injury.

⁹⁹ Rose, 142-157.

¹⁰⁰ See Chapter Two. Industrial Commission of Wisconsin, "Results of Investigation on Permanent Partial Disabilities," *Bulletin of the Industrial Commission of Wisconsin* 2, no. 6 (March 30, 1913): 107-166.

disabled by their accident, the prospect of employment still existed in times of economic prosperity. A willingness to re-employ disabled workers, however, did not necessarily mean that employers accepted any responsibility for the impairment or the distress that the accident had inflicted.

Employer sympathy, where it did exist, was conditional. If and when the disabled worker tried to challenge the employer in the courts for a more generous settlement (or in some cases, for any compensation at all), these same employers responded negatively to the disabled worker in their employ. They invested a great deal of money in combatting the employee's claims about dangerous work conditions or employer responsibility, invoked the triple threat of liability defenses—contributory negligence, fellow-servant doctrine, and assumption of risk—to lay all blame on the individual, and portrayed them as lazy, greedy, or reckless. Thus prior to 1911, in the aftermath of injury, employers stood poised to adopt two very contradictory attitudes toward their disabled employee.

When Wisconsin instituted workmen's compensation and largely eliminated the question of accident liability, much of the employers' contentiousness toward injured workers seeking compensation subsided. Many employers welcomed the imposition of a compensation scheme which would standardize accident settlements and eliminate the influence of sympathetic juries that tended to grant workers large settlements whenever they could find fault with an employer. As a matter of fact, Wisconsin employers' opinions had been heavily considered by the 1907-1908 Special Commission on Industrial Insurance which was tasked with assessing the effectiveness of the liability law

in the state and first proposed a no-fault compensation plan.¹⁰¹ After a decade under the law, most Wisconsin employers fully accepted the idea that industry must absorb the cost of workers' disabilities in the same way that they assumed responsibility for broken machines in their plants. As Horace Mellum, the secretary and general attorney for Nash Motors Company in Kenosha, declared in 1923:

American industry today has seen its responsibilities and has accepted them in a spirit of good will and complete cooperation. There is no other group, or agency, or organization in America, public or private, which is to the same extent now doing for the handicapped man what the principal industries of America are now doing to rehabilitate the injured workman and to again place him in lucrative and respectable employment.¹⁰²

Mellum, who spoke frequently on the matter of employing injured workers, was a supporter of vocational rehabilitation and served as the president of the Wisconsin Association for the Disabled from its inception in 1926 to 1931. He strongly encouraged employers to remember that the disabled workers who sought employment were “just human beings like the rest of us. [And hiring agents] must take that man as a fully physically capable being and ask him what he can do.”¹⁰³ Mellum and others advanced the idea that disabled workers were still quite capable of performing some form of work.¹⁰⁴

¹⁰¹ Wisconsin Legislature, “Chronological Record of Meetings,” *Report of the Special Committee on Industrial Insurance, 1909-1910* [s.l.: s.n., 1910], 42-44, State of Wisconsin Legislative Reference Bureau. (Hereafter referred to as *Special Committee on Industrial Insurance*.)

¹⁰² Horace J. Mellum, “Employment of the Handicapped,” 1. [Speech originally written in 1923, published in unknown pamphlet in 1926], Parkside Mss 13, Horace J. Mellum Papers, WHS. (Hereafter referred to as Mellum Papers.)

¹⁰³ Mellum, “Speech at Tennessee Conference on Crippled Children,” March 1929, 3, Mellum Papers.

¹⁰⁴ See also the works of rehabilitation advocates like William Faulkes—the first supervisor of the Division of Vocational Rehabilitation in Wisconsin—who argued that “the human body is such a highly organized and versatile aggregation that the loss of a single member, or even a single sense, does not greatly impair the physical efficiency,” especially where rehabilitation could apply. William Faulkes, “Use and Protection of Physically Handicapped in Industry,” (paper presented at Wisconsin Council of Safety, Schroeder Hotel, Milwaukee, Wisconsin, June 27, 1943), 1, Mss 767, William Faulkes Papers, WHS. (Hereafter referred to as Faulkes Papers.)

In fact, the perception of disabled workers as a liability to be eliminated altogether was a gradual, rather than immediate, result of the new law. Physical exams were not implemented instantly following the law's passage. Throughout the 1910s and 1920s, many workers continued to find reemployment a viable option after their accidents. During these years, employers often attested to the efficiency and worth of disabled workers who would commonly "outshine and outwork the others."¹⁰⁵ Combatting the idea that injury indicated recklessness and made one more prone to a second accident, rehabilitation advocates argued to the contrary. They suggested that a first accident made workers more conscientious and that "physically defective individuals d[id] not present a more hazardous problem than normal individuals if reasonable precautions [we]re taken in the placement of such individuals."¹⁰⁶ Since disabled workers already had one impairment they were careful to preserve the rest of their bodies. Furthermore, they pointed out that "nature, ha[d] a way of compensating for these [losses]."¹⁰⁷ When America entered the Second World War, disabled individuals—industrially or otherwise—were even seen as an untapped natural resource.¹⁰⁸

Disabled employees were also considered a wise investment because of the loyalty they typically showed employers. At 1930 meeting of the International Association of Industrial Accident Boards and Commissions, for example, Dr. Thomas

¹⁰⁵ Mellum, "Tennessee Conference on Crippled Children," 3.

¹⁰⁶ Faulkes, "Use and Protection of Physically Handicapped in Industry," 1. Note the use of terms like "physically defective" and "normal" which indicate subconscious perceptions of disabled bodies.

¹⁰⁷ Frank G. Pedley, "The Workmen's Compensation Act in Relation to Handicapped Individuals," *Proceedings of the Seventeenth Annual Meeting of the International Association of Industrial Accident Boards and Commissions*, (Washington D.C.: U.S. Bureau of Labor Statistics, 1931): 249-254. See also Rose, "No Right to be Idle," 142-157.

¹⁰⁸ Faulkes, "Reparation of Human Assets: 25 Years of Experience Proves Foundation of Hope for Disabled Vets; Program Pays for itself 33 Times Over," *Wisconsin State Journal*, June 3, 1945, 5, Faulkes Papers, WHS. Frank Pedley also echoed this sentiment even earlier than Faulkes (in 1930), explaining to his peers at the annual meeting of the International Association of Industrial Accident Boards and Commissions that "to reject the handicapped is to eliminate a considerable portion of the potential working forces, among them many good workmen." (Pedley, 253)

Crowder, the medical director of The Pullman Company in Chicago, explained to his colleagues that “in general, a man who is crippled ... and who realizes his handicap is likely to be faithful and loyal to the organization that gives him work to do, thus enabling him to maintain his independence and self-respect.”¹⁰⁹ So too, the Western Electric Company in Wisconsin concluded that hiring the physically disabled “admit[ted] to industry a group of workers which is characterized by slightly greater stability and a slightly lower rate of turnover than normal workers.”¹¹⁰

These positive assumptions about the disabled, however, were eventually challenged by employers who feared increased liability in the case of a second injury as well as those who were concerned with developing maximum industrial efficiency. Increasingly, the writings of Mellum and other employer representatives juxtaposed sympathy and support for the hiring of rehabilitated workers with a sense of cautious reserve about industry bearing the total burden for such individuals and strong support for “objective” physical examinations in the hiring process. By the 1930s employer commentary regarding the bodies of disabled workers was overrun with talk about the fair distribution of these “economic burdens.”

Concern over economic fairness appeared again and again in public discussions about workmen’s compensation as a justification for employer resistance to the hiring of disabled persons. In fact, employers often chose to address the problem of disabled employees in purely economic terms, consciously avoiding the humanitarian approach. For example, at the International Association of Industrial Accident Boards and

¹⁰⁹ Quoted in discussion of Frank Pedley’s “The Workmen’s Compensation Act in Relation to Handicapped Individuals,” 254.

¹¹⁰ Quoted in Faulkes, “Use and Protection of Physically Handicapped in Industry,” 7. As will be evidenced in Chapter Four, many workers did stay with their employers, perhaps for fear of the difficulty in finding work elsewhere.

Commission's 1930 annual meeting, Delaware employer Joseph Bancroft insisted that "to get at the truth" about reemploying the disabled, "sentiment must be excluded [from the conversation]."¹¹¹ As Bancroft explained it, disabled workers were truly "unfortunate" and should be compensated so as to "not become a burden on the community." However, the matter of how best to "utilize *human waste* and make it of economic value to the community and not a constant cost to industry" was less straightforward.¹¹² Certain companies, he argued, were able to reabsorb the workers into the production process, but in companies where such reemployment must endanger others or reduce productivity, "the *damaged material* should not be used."¹¹³ While Bancroft recognized a need to reemploy disabled workers, he argued that it was simply unfair to expect an employer to "assume the risk of employing a *defective*" and risk incurring a punitive fine in the case of second injury.¹¹⁴

Fears about workers suffering a second injury fed the flames of employer mistrust in disabled employees. Until 1919 in Wisconsin, companies were held responsible for the full extent of disability which followed from a second injury, even when the first injury did not happen on their premises.¹¹⁵ Thus, if a one-eyed worker lost vision in his second eye upon returning to work, the employer would owe him or her compensation in the amount relative to total blindness. Even though he or she had only lost one eye while in their employ, the company was

¹¹¹ Joseph Bancroft, "An Employer's Recommendation as to Employment of Persons with Physical Impairment" Proceedings of the Seventeenth Annual Meeting of the International Association of Accident Boards and Commissions (Washington D.C.: U.S. Bureau of Labor Statistics, 1931): 263.

¹¹² Ibid. Emphasis added. Note the labeling of the disabled worker's body as "human waste," as though it is simply another byproduct of the industrial manufacturing.

¹¹³ Ibid. Emphasis added.

¹¹⁴ Ibid., 264. Emphasis added.

¹¹⁵ Gordon M. Haferbecker, *Wisconsin Labor Laws* (Madison: University of Wisconsin Press, 1958), 53.

accountable for the employee's current state.¹¹⁶ The same was true for any combination of injuries. As a result, employers became reluctant to hire disabled men and women, particularly if they were new to the company. If a company did employ a previously injured individual, employers reasoned, a second injury on their premises would saddle them with a greater burden than they felt they should be required to bear. Employers like Bancroft went so far as to suggest that compensation in such cases be proportional to the “effectiveness of the *damaged* individual ... because a person who has not all of his members or faculties is more liable to injury than one who is *normal*.”¹¹⁷ So, too, Mellum had suggested on at least one occasion that injured workers should be able to waive their rights to compensation so as to gain employment and avoid unfairly burdening their new employer.¹¹⁸ Evidently the message disseminated by other rehabilitation workers and industrial commissions that disabled workers were more conscientious than their “able-bodied” counterparts was not universally accepted.

Over time, in Wisconsin and other states physical examinations of workers became an acceptable way to avoid the problem of second injuries. Mellum's writings indicated that physical examinations were utilized at Nash Motor

¹¹⁶ Ibid. In 1919, the Wisconsin legislature amended the workmen's compensation law to provide for a second-injury fund. The law was meant to encourage the hiring of disabled workers. Under the terms of the amendment, if a disabled worker was re-injured on the job, his or her employer was only charged for the result of the second injury. The disabled employee would, however, still receive benefits based on the combined result of both accidents—in other words, they would receive compensation reflecting their current state of impairment. In such cases, the difference was paid out of the special fund. The second injury fund was financed by employer fines for cases of total impairment; any time an employee lost a limb or suffered total impairment, employers or their insurers were charged a \$1,500 fine.

¹¹⁷ Bancroft, 264. Emphasis added. Note the juxtaposition of “damaged” and disabled individuals with “normal” people.

¹¹⁸ Mellum, “The Subnormal Employee [sic] as a Problem in Accident Prevention and Workmen's Compensation,” [undated], 12-13. Mellum Papers, WHS. His speech suggested that the state, by requiring employers to assume the risk of paying more in case of second injuries, was essentially forcing their hand and making them discriminate against disabled workers in the hiring process.

companies. Without investigating each company's individual papers, it is difficult to assert what percentage of Wisconsin companies engaged in similar practices. The fact that state legislators had introduced a second-injury fund by 1919, however, implies that the practice was somewhat common, and that it posed enough problems for jobseekers that it required state intervention (the creation of a second injury fund to discourage discriminatory hiring) on the behalf of disabled workers.

While employers tended to proclaim that the exams were “not for the purpose of elimination, [but solely intended] for the purpose of placement,” evidence suggests that corporate executives often felt differently. Even Mellum, who assured listeners and readers around the country of the exams' harmless nature, seemed to contradict himself on this matter. In an undated speech entitled “The *Subnormal* Employee [sic] as a *Problem* in Accident Prevention and Workmen's Compensation,” Mellum noted that superficial physical exams could not always distinguish the “*subnormal physical organism* which present[ed] itself at the window, properly clothed and cleverly concealed.” He attributed to this allegedly subnormal individual “latent physical defects of a *dangerous* character” that made them hazardous to the industry and the workers around them.¹¹⁹ After labeling disabled jobseekers as “potential hazards,” he went on to question the best course for dealing with them. If large industries could afford to institute physical exams that weeded them out, would that leave the burden of supporting

¹¹⁹ Ibid., 3. Emphases added in all preceding quotes from Mellum's speech. In this speech, unlike many of Mellum's others, he was particularly negative in his discussion of physical impairment—indicating that it may be an early publication. He continuously employed the term “subnormal,” complained of the burdens placed on employers to support such individuals, and questioned what the best course was for dealing with the disabled.

these “*undesirable[s]*” to the small companies or public charities? Or should the state be made to “provide a means of livelihood for these *derelicts*?” If this were the case, then society as a whole would contribute to their care through taxpayer supported rehabilitation, job training, and again via their government salaries. Perhaps, he suggested, the state would require that all employers “absorb their fair proportion of the “subnormal” people into the ranks of their workers, assuming such burden as part of the charge of the costs of production.”¹²⁰ Mellum’s speech implied that none of these were reasonable options.

In addition to his critical commentary on the issue of reemploying disabled workers, Mellum also showed strong disapproval of the Wisconsin legislature’s approach to compensation—and work safety campaigns more broadly. He charged that the onus for work-accidents had been placed upon the employer while “nothing ha[d] been done by the laws of this or any other state to impress upon the workmen that he must use care and thought and concentration upon the work in which he is engaged.”¹²¹ Furthermore, he charged that the Industrial Commission often found in favor of the employee, even when the initial injury was exacerbated by the employee’s supposed lack of care in tending to the injury during recovery. “Under the broad powers which are now given to the Industrial Commission of Wisconsin,” he argued, “the Commission may in all sincerity and fair conscience feel that it must protect the employe [sic] against himself and his surrounding hazards, rather than to have him suffer heavy financial loss and probably develop into an object of charity to the great detriment of his family and society

¹²⁰ Ibid., 3-4. All preceding quotes are from Mellum’s speech, and the emphasis in each quotation is added.

¹²¹ Ibid., 5.

generally.”¹²² For Mellum, such an approach entirely undermined the American value of rugged individualism. He linked such paternalism with the downfall of society, and suggested that it would “leave the individual without any personal responsibility, initiative or ambition.”¹²³ Mellum concluded that industry should have the right to “prepare for this new social condition,” (i.e. weed out the “subnormal” through medical examinations) if the compensation law intended to saddle it with a full accountability for all accidents.¹²⁴

Clearly the introduction of a no-fault compensation scheme in Wisconsin did not entirely eliminate the possibility that employers might have a negative view of and discriminatory attitudes toward disabled employees. The notion that physical examinations were a harmless means to better fit an employee to their ideal job was not entirely true. Such tests could be barriers for the disabled employee who tried to return to work. Likewise, the fact that employers frequently challenged compensation rulings in the early 1910s indicates reluctance on their part to shoulder entirely the blame. As was the case prior to 1911, a disabling injury at work could still potentially sour the relationship between employer and employee, and a previously well-liked worker could suddenly be viewed as suspect or greedy. Employer attitudes toward the disabled were varied and complex. Even Mellum, who was clearly an advocate for the rehabilitation and reemployment of disabled men and women later in his career, held conflicting ideas about the character of the disabled worker whose injury might somehow have the potential to warp his or her character and thereby encourage dependency.

¹²² Ibid., 10.

¹²³ Ibid., 12.

¹²⁴ Ibid.

The Industrial Commission of Wisconsin and the Disabled Body

When the state legislature implemented a no-fault compensation law for workplace injuries in 1911, it was primarily motivated by a desire to remedy the violent toll of an industrializing workplace on individuals. The Special Committee on Industrial Insurance, which was charged with proposing a new system for dealing with work-accidents in Wisconsin, saw their growing concern with the matter as being “in line with the spirit of the age in which we live.”¹²⁵ Although they also expressed interest in improving labor relations by bringing uniformity to the matter of compensation, they were most certainly sympathetic to disabled workers and the impact of injuries upon their everyday lives. Supporters of the new law genuinely believed that no-fault compensation could help provide “protection to that great army of unfortunates, who, in times of distress are unable to help themselves.”¹²⁶ Such individuals were tragic and in need of assistance and compensation for their losses—they were the “worthy poor.”

However, the new system—particularly in contested cases—invited intervention from an outside agency, and as evidenced by the annual workmen’s compensation reports, representatives from these agencies sometimes echoed the broader public’s stereotypes about disability and its potential to influence one’s character. By and large, the three-member Industrial Commission charged with hearing contested cases for workmen’s compensation gave the disabled employee the benefit of the doubt. In response to charges that the compensation rate (65 percent of the regular wages) was bound to encourage malingering, the agency replied: “it is hard enough for the ordinary workman to live on his wage, and we feel assured that there will be little opportunity for

¹²⁵ *Special Committee on Industrial Insurance*, 46.

¹²⁶ *Ibid.*

extravagance where his wage is reduced from 100 per cent to 65 per cent during his disability.”¹²⁷ On a case-by-case basis, however, the semi-judicial body occasionally brought their personal judgments to bear on how genuine and deserving disabled workers truly were. Just a few paragraphs after their assurances about the unlikelihood of malingering workers, they asserted that “it is a well[-]known fact that people with pensions often come to rely upon the pension and their efficiency deteriorates.”¹²⁸ Like the rest of society, the members of the commission were clearly of two minds about disability and its impact on an individual’s integrity.

In some cases the commission focused on the worker’s previous reputation. Most often such inquiries affirmed the applicant’s strength of character and suggested that they were not trying to use disability as a means to shirk responsibility. In the case of *William Webster vs. Wisconsin Fruit Package Company*, for example, Webster was characterized as “an industrious, hardworking man” who was not likely to be faking the impairment that followed from his fractured leg.¹²⁹ Webster’s fracture had exacerbated an earlier injury, and resulted in slight shortening of his leg which, in turn, entitled him to permanent partial disability compensation—a lump sum payment of \$150—in addition to what he received during his recovery time.¹³⁰ A similar evaluation was made in the case for a Great Northern Railway Company employee who claimed to have been blinded after a piece of coal hit him in the eye. While the company denied the claim, they had no testimony to challenge his account. The commission noted that “the applicant was

¹²⁷ *Bulletin of the Industrial Commission of Wisconsin* 1, no. 3 (July 20, 1912), 70-71.

¹²⁸ *Ibid.*, 71-72.

¹²⁹ “*William Webster vs. Wisconsin Fruit Package Company*,” *Workmen’s Compensation Third Annual Report*, 48. As noted in previous chapters, these cases were heard by the Industrial Commission, a semi-judicial body that was not a part of the formal court system. If and when cases were appealed, they were taken to the Dane County Circuit Court and then to the Wisconsin Supreme Court. Unless noted in italics, the cases referenced were heard before the commission only, and not the formal courts.

¹³⁰ *Ibid.*, 49.

apparently a truthful man” and decided in his favor.¹³¹ Such examples indicate that the Industrial Commission did not always presume that disability bred laziness or greed in employees.

There were, however, other occasions where the commission’s case summaries implied that the worker’s accident encouraged them to forsake hard work. In such cases, the commission often accused the claimant of imagining their impairment. When Harry Lewandowski complained of “tenderness” at the site of two amputated fingers in 1912, the Commission suggested that “he [could] never fit himself for work by remaining in idleness. It is wholly unreasonable to give such inconvenience as an excuse for idleness.”¹³² While they were sympathetic to his situation, the commissioners argued that the law did not account for any physical or mental suffering.¹³³ Likewise, Charles E. Daggett, who claimed that a sore wrist inhibited his ability to work, was told that “the compensation act compensates for *actual* inability to work and the resulting wage loss ... not for *imagined* inability to work.”¹³⁴ I.A. Collins, who suffered a skull fracture after being struck by a flying board, “ha[d] made himself believe that he cannot work ... and should be encouraged to return to work and to an earning basis.”¹³⁵ Finally, Stanli

¹³¹ “King vs. Great Northern Railway Company,” *Workmen’s Compensation Fifth Annual Report*, 14. The case was pending an appeal in the Dane County Circuit Court at the time of the report’s publication.

¹³² “Harry Lewandowski vs. Illinois Steel Company,” *Workmen’s Compensation Second Annual Report*, 32.

¹³³ Ibid.

¹³⁴ “Charles E. Daggett vs. Northwestern Marble Tile Co.,” *Workmen’s Compensation Third Annual Report*, 66. Daggett worked as a common laborer for the company. He claimed to have had his arm pinched between two marble slabs. The company was ordered to pay him compensation, but only for the two weeks judged to be adequate for recovery. Emphasis added.

¹³⁵ “I.A. Collins vs. Connor Lumber and Land Company,” *Workmen’s Compensation Third Annual Report*, 60.

Brzostek, who suffered from a badly burned foot had, a “mental attitude [that] ma[de] his injury to him seem more serious than it really [was].”¹³⁶

At times, members of the commission even went so far as to suggest that a male applicant’s inability to return to work was due to his lack of masculinity. Thus, when Lewandowski complained of soreness at the sight of his amputated fingers, the commission responded that the “claimant must act a man’s part and earn his support.”¹³⁷ Similarly, when Sylvester Boehmke failed to return to work a year after his foot was badly injured, the commission accused him of being “*excessively sensitive* over a comparatively simple injury.”¹³⁸ They suggested that work would facilitate further recovery and that “a man must meet these things in a man’s way. He cannot spend his time in idleness and self-pity and hope to receive compensation.”¹³⁹ Such responses were especially common if the accident did not result in a permanently maimed body. Thus, when Felix Carzesty suffered bad bruising on his foot while unloading a vessel, the commission suspected him of trying to take advantage of their generosity. Carzesty was labeled “underserving [sic]” and accused of “lack[ing] courage to use his foot as an *ordinary man* would.”¹⁴⁰

In the grand scheme of things, the commission was more concerned with standardizing rates of compensation and reducing economic waste by encouraging

¹³⁶ “Stanli Brzostek vs. Illinois Steel Company,” *Workmen’s Compensation Second Annual Report*, 23.

¹³⁷ “Lewandowski vs. Illinois Steel,” 32.

¹³⁸ “Sylvester Boehmke vs. The Milwaukee Electric Railway and Light Company,” *Workmen’s Compensation Second Annual Report*, 59. Emphasis added.

¹³⁹ *Ibid.* Boehmke was in a head-on collision and the webbing between his last two toes was torn. His ankle was also bruised. Following his injuries, Boehmke underwent treatment and briefly returned to work for half days at a different position. When offered his old job, he did not want to return and the company let him go. The commissioners suggested that he should have at least tried to return to his old job and denied him further compensation beyond what he had already received.

¹⁴⁰ “Felix Carzesty vs. Superior Stevedores Co.,” *Workmen’s Compensation Second Annual Report*, 53. Emphasis added.

factory safety. Following the implementation of the Workmen's Compensation Act in 1911, commissioners talked very little about disabled bodies in any direct way. In fact, while sympathy for the broken body was one element driving the agency's mission, that concern was trumped by a desire to bring efficiency to the workplace and ameliorate tensions between employers and laborers. However, the members of the Industrial Commission who were in charge of hearing contested compensation cases were granted the right to determine worthiness. As such, they were invited to hear testimony on the character of the men and women who stood before them and to question how genuine their pain and suffering truly were. Like their contemporaries, the commissioners had mixed feelings about physically impaired individuals. They believed that a truly disabled person was a sympathetic case, deserving of aid. They also believed in the potential for people to take advantage of the system by faking injury or wallowing in dependency. Those mixed feelings were evident in the few references they made to personal character in their annual reports.

The Rehabilitation Community and the Disabled Body

When the United States passed the Federal Rehabilitation Act on June 2, 1920, Wisconsin was among the first states to accept its provisions. In 1921, the state legislature approved a plan to implement a state-wide rehabilitation program that afforded training and placement opportunities for any "persons fourteen years and older suffering from physical disability due to birth, disease, public accident, [or] industrial

accident.”¹⁴¹ The state appropriated \$22,400 for administering the new program (to be matched by \$25,000 of federal aid) and launched the new program on September 1, 1921. Under it, disabled Wisconsinites were entitled to a medical assessment (if they had not already had one) to decide upon necessary treatment for a full recovery, personalized consultations to determine an appropriate occupation based upon their capabilities, training in the appropriate field, and assistance in finding work to suit the training. If he or she was an injured worker, the applicant would receive an additional ten dollars per week for up to twenty weeks (separate from the workmen’s compensation they received) to cover maintenance costs while they underwent training.¹⁴²

Much of the support for rehabilitation stemmed directly from concern over how to handle returning World War I veterans who were crippled or maimed. Gertrude R. Stein, an assistant at the New York Bureau of Rehabilitation, suggested as much in her 1923 article for *The Modern Hospital* in which she explained how the success of programs for disabled soldiers encouraged rehabilitation experts to tackle the problem of disabled workers, a group that had long been overlooked.¹⁴³ In Wisconsin, the work with soldiers certainly seemed to play a significant part in shifting the public’s mindset about dealing with disabled civilians. Several newspaper articles appearing in 1918 linked the work of repairing wounded veterans with broader programs to help all disabled Wisconsinites. In an article in the *Grand Rapids Tribune*, for example, the author discussed the efforts

¹⁴¹ Industrial Rehabilitation Division of the State Board of Vocational Education, *First Biennial Report for the year ending June 30, 1922* (Madison: State Board of Vocational Education, 1922), 6. See also Haferbecker, 49-50.

¹⁴² DVR, *First Biennial Report*, 7-9.

¹⁴³ Gertrude R. Stein, “What is Rehabilitation,” *The Modern Hospital* 21, no. 3 (September 1923): 336-338. Stein mentioned that the psychology of the injured worker was quite different than the disabled soldier and any work with them would require a new approach. The differences between these approaches, however, was not central to her article, which instead focused on the origin of a program for injured workers and a general sketch of how such agencies would function.

being made on behalf of wounded soldiers, concluding with the hopeful notion that “out of the emergency of war . . . there will thus develop a permanent asset for peace, a long step toward solving the problem of putting the industrial cripple as well as the war cripple back on the payroll.”¹⁴⁴ Similarly, the *Waukesha Freeman* ran an excerpt from Red Cross director Douglas McMurtrie’s pamphlet on aiding the wounded soldier, suggesting to all good patriots that they “start with the cripples now among us and continue the work with crippled soldiers when they return.”¹⁴⁵

The Industrial Commission itself also tried to build upon the national interest in rehabilitation after America entered the war. In 1918 it ordered an investigation on the “Industrial Rehabilitation of Handicapped Men” in order to assess how injured workers fared in Wisconsin.¹⁴⁶ While investigators hoped that research into the lives of the handicapped workers would be particularly helpful in designing a program for wounded veterans, in fact it shed light on problems that workers faced and presumably revealed a need for greater rehabilitation programs for a broad group of individuals. Wisconsin commissioners responded kindly to the pleas of the California Industrial Commission, which circulated a letter in April of 1918, calling on other agencies to support an expansion of the federal legislation for rehabilitation of soldiers to include industrial workers.¹⁴⁷ Following the receipt of the letter, the commission wrote its own letter to

¹⁴⁴ “Ready to Remake the American Wounded,” *Grand Rapids Tribune*, September 19, 1918, 20. While Grand Rapids is commonly known as a city in Michigan this article was, in fact, taken from a paper published in what appears to be Grand Rapids, Wisconsin.

¹⁴⁵ “Your Duty to the Crippled Soldier,” *Waukesha Freeman*, June 6, 1918, 7.

¹⁴⁶ Regina M. Dolan, “Industrial Rehabilitation of Handicapped Men: Report on an Investigation Undertaken for the Industrial Commission of Wisconsin,” (1918): 1-22, Series 2034, Box 10, Wisconsin Free Library Commission, Research Reports and Studies, 1905-1962, WHS.

¹⁴⁷ Industrial Accident Commission of California to Members of the International Association of Industrial Accident Boards and Commissions, April 16, 1918, Series 1020, Box 62, Folder C1565.1, Department of Labor, Industry, and Human Relations Records, WHS. (Hereafter referred to as DLIHR Records.) In the letter, the California commissioners highlighted the growing number of disabled workers

Senator Robert La Follette in June of 1918, explaining how difficult it was for industrial workers to return to employment and directed additional correspondence to other senators supporting an amendment to the Rehabilitation Act that would include industrial workers.¹⁴⁸ In a 1919 letter to the American Association of Labor Legislation, the commission also explained how it had lobbied Congress to pass the Smith-Bankhead bill, extending rehabilitation opportunities to the industrially disabled.¹⁴⁹ However, the idea of rehabilitating the disabled and fitting them to a job that utilized their skills was far from a new phenomenon.

Throughout the early 1900s, while ideas about accountability for industrial accidents and the worthiness of the industrially disabled were in flux, some individuals were also reconsidering the association of physical disabilities with idleness and inability. Facilities for training the blind typically predated most rehabilitation programs; as Dr. Charles Campbell, an advocate for the blind was quick to point out in late 1909, “the blind do not need doles of charity but a chance to learn some trade or occupation which they can follow just as successfully as those who see.”¹⁵⁰ In a 1910 *Survey* article, Eleanor Adler and Serena Marshall proposed that the same was true for others with physical impairments. They surveyed the state of affairs in early twentieth century New York, documenting the growing number of persons with disabilities and the lack of

who were in need of vocational rehabilitation and who were unable to help themselves. They stressed that private agencies were ill-equipped to handle the rehabilitation process and that the accident commissions should capitalize on the programs that were already in development for soldiers before they were disbanded. The end of the war, they noted, would result in reduced manpower around the world and a great need for skilled workers. They also explained how rehabilitated disabled workers could capitalize on opportunities for employment in such a setting. The letter was accompanied by a proposed amendment (S.4284) to this effect.

¹⁴⁸ Industrial Commission of Wisconsin to Robert La Follette, June 1, 1918, Box 62, Folder C1565.1, DLIHR Records, WHS.

¹⁴⁹ Industrial Commission of Wisconsin to Dr. John B. Andrews, Secretary of the American Association for Labor Legislation, January 8, 1911, 1, Box 62, Folder C.1565.1, *ibid.*

¹⁵⁰ “Illinois Conference of Charities and Correction,” *The Survey* 22 (October 23, 1909), 128.

proper facilities to retrain them for employment. The two authors argued that such “*subnormal*” individuals should not be discounted. They were “often capable of good work, and worthy of more than the economic waste of mere dependence ... [but without training they could] not compete on an equality with the able-bodied.”¹⁵¹ Instead of casting them off, Adler and Marshall proposed that society should provide training and “establish them in useful and contented independence.”¹⁵² Even Alexander Fleisher, a *Survey* subscriber from Madison, Wisconsin, suggested in his 1911 letter to the editor that by replacing newsboys with tubercular patients who were in recovery, the former could be protected from vice and corruption while the latter were afforded the chance to find gainful employment in an environment that would prevent them from relapse.¹⁵³

Some early reformers even went so far as to suggest that the disabled man or woman’s biggest obstacle was not overcoming their medical condition, but rather it was society’s perception of them as incapable. Joseph Lee, for example, predated men like Douglas McMurtrie. During World War I, Lee suggested that the best thing society could do for the disabled was to curb their own biases about what it meant to be a “cripple.” In “Play as Medicine,” the author explained how the general public often defined a person by their ability to take part in an industrial world. Since, “no other standard [was] provided ... the invalid ha[d] no recognized duty to perform ... and no recognition [was] given to what he d[id].”¹⁵⁴ Citizenship and value were all vested in society’s recognition

¹⁵¹ Eleanor H. Adler and Serena G. Marshall, “Self-Support for the Handicapped,” *The Survey* 24 (April 30, 1910), 180. The reader will note that Adler and Marshall also used the term “subnormal,” as referenced in the previous sentence. Emphasis added. Even among those who felt that disability could be overcome, it was not uncommon to see the use of terms like “subnormal” which suggested that the disability had somehow made the individual less than complete.

¹⁵² Ibid.

¹⁵³ Alexander Fleisher, “Convalescent Men for Newsboys,” letter to the editor, *The Survey* 25, (February 11, 1911), 809-810.

¹⁵⁴ Joseph Lee, “Play as Medicine,” *The Survey* 27, (November 4, 1911), 1134.

of one's economic contribution; therefore, Lee argued that society must broaden its definition of what it meant to be a member.¹⁵⁵

In addition to these reform-minded individuals, there were also a few select politicians and labor advocates who expressed interest in establishing a rehabilitation program prior to American involvement in the Great War. William Faulkes, one of the leaders in Wisconsin's Rehabilitation program, began discussing the idea of rehabilitating disabled civilians along with other like-minded politicians as early as 1913.¹⁵⁶ The topic was also on the agenda at the 1916 meeting of the International Association of Industrial Accident Boards and Commissions.¹⁵⁷ At the group's next annual meeting they announced the creation of a new committee charged with evaluating the worth of rehabilitation, and how it could address the economic and social problems of the disabled.¹⁵⁸ Although America's entry into the war shifted the focus of these early advocates to the rehabilitation of soldiers, many of them continued to advocate for the extension of such programs to all disabled citizens.¹⁵⁹

Unlike other members of society who were torn between their sympathy for and mistrust of the disabled, the rehabilitation community was generally single-minded in its attitude toward disability. Men and women who were missing limbs or weakened by

¹⁵⁵ While the rehabilitation movement that emerged in the 1920s was frequently concerned with an individual overcoming their disability, it also echoed Lee's sentiments about adjusting societal perceptions to accept those disabled persons who had "successfully" done so.

¹⁵⁶ William Faulkes, "Review of the Historical Background and Philosophy of the Vocational Rehabilitation Movement," (paper presented at General Advisory Council Meeting, Hotel Schroeder, Milwaukee, Wisconsin, November 12, 1948), 1, Faulkes Papers, WHS. He claimed to have discussed the matter with a senator from Vermont who was planning to present such a bill to Congress prior to his departure for Germany as a member of a government committee studying vocational education.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid. Faulkes explained that the group was supposed to develop a comprehensive plan for dealing with the matter on a national scale the following year. While they failed to formulate such a plan, the entire 1918 conference was devoted to the issue of rehabilitation.

¹⁵⁹ Ibid., 2.

disease were not hopeless and irredeemable wrecks. They were “liabilities [that the state must convert] into assets, and happy citizens.”¹⁶⁰ While they acknowledged that some cases could not be rehabilitated, the Wisconsin Department of Vocational Rehabilitation continually suggested that society as well as the individual must remember that “it is not what is gone that matters, but what is done with what is left.”¹⁶¹ With the proper attitude and training, most disabled individuals could be reclaimed as citizens.¹⁶² Even with such strong convictions, however, their messages and the program they developed were not free of some internal contradictions or negative presumptions about the disabled body.

One such inconsistency in the rehabilitation message was its simultaneous assertion that while society should change its attitude toward physical impairment, disability was primarily a personal problem that must be overcome.¹⁶³ To be certain, men like William Faulkes and George Hambrecht of Wisconsin Vocational Rehabilitation program or Douglas McMurtrie of the Red Cross Institute for Crippled Men recognized the fact that the biggest obstacle to recovery for the disabled was society’s biased attitude toward them.¹⁶⁴ In the first biennial report of the vocational rehabilitation department, Hambrecht and Faulkes explained that:

The cripple finds the hardest things to overcome in his whole career are often the ideas in the minds of the rest of us—our mistaken ideas about cripples. These apparently trivial things are in reality signs of a general

¹⁶⁰ DVR, *First Biennial Report*, 44.

¹⁶¹ Faulkes, “Use and Protection of Physically Handicapped in Industry,” 1, Faulkes Papers, WHS.

¹⁶² Faulkes, “Reparation of Human Assets,” 5. See also, DVR Biennial Reports. Note the idea that citizenship had been lost when one became physically impaired.

¹⁶³ The idea that society must change its perception of the disabled and open its mind to what they could *do* reinforced the model of disability as socially constructed. The suggestion that it was a matter of individual triumph over impairment, however, supported the medical model of disability which disregarded societal obstacles and defined disability as an individual problem.

¹⁶⁴ McMurtrie was in charge of the Red Cross. For decades he urged society to reassess their opinions of what a disabled person was capable of doing. His work with wounded veterans and crippled children was mirrored in the local efforts of men like Faulkes and Hambrecht. Hambrecht served as the director of both the Industrial Commission and the State Board of Vocational Education which brought him into close contact with disabled workers whom he believed capable of rehabilitation.

inability to see the man behind the handicap,—and they are the very things that make a man believe he is helpless. They contribute, without a doubt, toward idleness among cripples, recluses who only wish to come out after dark,—and the discouraged workman who keeps his crippled hand well hidden in his pocket.

We have a task and a responsibility to “put these people [the disabled] right,” so to speak in the minds of their and our so-called neighbors, who are apt to have mistaken ideas about the ambition, ability and economic status of those who do not present the same outward appearance as the average person.¹⁶⁵

Faulkes reiterated this message twenty-five years later as the Second World War came to a close and Americans prepared to welcome home another wave of disabled veterans.¹⁶⁶

He also made continuous assurances to employers that physically impaired men and women were capable of recovery and were a valuable source of labor.¹⁶⁷

At the same time, however, the agency’s biennial reports were riddled with poems that suggested recovery was a matter of personal will power. “If you think you’ll lose, you’ve lost; for out in the world you will find, success begins with a fellow’s will; it’s all in the state of mind,” the agency reminded its charges.¹⁶⁸ Although naysayers may cast doubt upon recovery, they reminded the disabled to “buckle in with a bit of a grin, just take off your coat and go to it; just start to sing as you tackle the thing, that ‘cannot be done,’ and you’ll do it.”¹⁶⁹ The emphasis on individual will abounded.¹⁷⁰ One example in the third biennial report seemed to directly imply that disability was solely a personal condition to be overcome by suggesting that “whether the world is blue or rosy depends

¹⁶⁵ DVR, “An Ounce of Prevention,” *First Biennial Report*, 25.

¹⁶⁶ Faulkes, “Reparation of Human Assets,” 5, Faulkes Papers, WHS.

¹⁶⁷ Ibid. See also, Faulkes, “Use and Protection of Physically Handicapped in Industry,” *ibid.*

¹⁶⁸ “Encouragement: What is Left and Not What is Gone Matters,” in DVR, *First Biennial Report*, 12.

¹⁶⁹ Edgar A. Guest, [untitled poem], DVR, *Second Biennial Report*, 20.

¹⁷⁰ The examples of such sentiments were numerous, but a few other instances merit a footnote for readers interested in the poetic insistence on overcoming hardship through one’s own willpower. “Keep a-goin!” urged one untitled poem in the second annual report. Another, aptly titled “Will,” declared “the human will, that force unseen; the offspring of a deathless Soul; can hew the way to any goal; tough walls of granite intervene.” DVR, *Second Biennial Report*, 25-26.

on the kind of glasses we wear. *It is our spectacles, not the world, that need attention.*¹⁷¹

The reports were also dominated by stories of personal triumph wherein the individual succeeded because of their drive and their positive attitude.¹⁷² In addition to these contradictory interpretations of disability as both a medical and a social construct, the rehabilitation community's noble mission was sometimes described in ways that carried negative implications about the disabled.

At times their message suggested that individuals with physical impairments were helpless without intervention. In both the biennial reports and in several speeches, the chief of vocational rehabilitation in Wisconsin, William Faulkes, emphasized the idea that "self-rehabilitation, like self-education, [was] the accomplishment of the few, rather than the many."¹⁷³ According to the agency a simple perusal through the Industrial Commission's records revealed countless cases of individuals who had tried and failed to rehabilitate themselves in the wake of their accidents, "wast[ing] money and courage in mistaken judgments."¹⁷⁴ Once they failed to self-rehabilitate, the organization explained how they ended up as either "a public mendicant," or "[if] too proud to exhibit and commercialize his [or her] shortcomings [the individual hid] away in secluded places, dependent on relatives or friends for existence."¹⁷⁵ The agency's annual reports also reinforced these broad statements about dependency in some of the stories they documented about successful rehabilitation. One success story, for instance, featured a fifty-six year old man with a broken ankle and deformed left hand who was unable to

¹⁷¹ "Untitled Poem," DVR, *Third Biennial Report*, 12. Emphasis added.

¹⁷² See the first, second, and third biennial reports of the DVR. After the third report, examples of individual stories tapered off and were replaced by a statistical breakdown of the agency's work.

¹⁷³ Faulkes, "Vocational Rehabilitation: What it Aims to Accomplish," originally published in *Wisconsin Employee's Magazine*, December 1933, 1, Faulkes Papers.

¹⁷⁴ DVR, *First Biennial Report*, 13.

¹⁷⁵ *Ibid.*, 6.

provide for his wife and five children before undergoing rehabilitation. He was relying on public assistance when he came to the agency. With their help alone, he was able to train as a baker and find new employment.¹⁷⁶ While a permanent impairment may have been difficult to overcome, it was not impossible. As the rehabilitation department itself uncovered in a survey of twenty-eight Wisconsin cities, many of the 1,959 disabled persons they encountered had “already self-rehabilitated.”¹⁷⁷ However, the agency’s portrayal of the disabled as helpless reinforced their own self-perception.

In much of the department’s literature, the agency’s work was characterized as a noble and divine intervention that rescued the disabled from the depths of despair. The first biennial report began with a poem by Nellie Winchester characterizing rehabilitation as a heavenly savior:

Venturing timidly to the brink I looked into its depths and saw with horror, borne upon the crest of the rushing torrent were the maimed and blind—swept with piteous cries for help.

One held aloft a mangled, bloody stump; his family, little, ragged, famished children clung to him; a mother lifted her crippled child in silent appeal; a man with blinded eyes; and so they were carried by on the crest of the torrent...

... Suddenly I seemed to feel a presence beside me; turning I beheld a benign figure, ample of proportions and bearing upon her serene brow the seal of motherhood of nations.

I said, “Art thou of earth?” She pointed to her breast across which was written “Rehabilitation.”

She spread her arms with a gesture of infinite love and pity over the thronged waves of the River of Desolation. The chasm was filled with light. The crippled and blind climbed the steep ascent and joined the passing throng with happy faces.¹⁷⁸

¹⁷⁶ DVR, *Second Biennial Report*, 14.

¹⁷⁷ Ibid., 20. The agency conducted the survey in an effort to reach out to the great number of disabled persons in the state and inform them of the opportunity for rehabilitative training. They did not list how many of the individuals were self-rehabilitated. While they mentioned that the “gospel of rehabilitation” was advanced in “many” cases and that some of the group were either too old or too disabled to engage in training, their findings seem to contradict their own statements about self-rehabilitation being a complete rarity. Instead it seems that where possible, individuals who were permanently injured were doing their best out of necessity and a desire to rehabilitate themselves, find employment, and move on from injuries.

¹⁷⁸ Nellie M. Winchester, “A Vision,” in DVR, *First Biennial Report*, [no page number].

Winchester's poem was accompanied by other references to the program's noble mission. For example, the director of Vocational Education George Hambrecht wrote to Governor John Blaine that the agency "brought a *lasting blessing* to the lives of a great many men and women *who would otherwise struggle* through life *dependent on others*, because of physical disabilities beyond the control of the injured persons to remedy."¹⁷⁹ Likewise, the agency quoted Horace Mann: "to pity distress is but human[;] to relieve it, is Godlike," suggesting that their mission was, in fact, divine.¹⁸⁰

On occasion, some authors of rehabilitation reports, pamphlets, and speeches used questionable terminology to describe disabled bodies. For example, in a 1933 article, Faulkes explained how the success of historical figures like Beethoven, Byron, and Hellen Keller at self-rehabilitation was a testament to the fact that "a 'straight' mind may be housed in a *crooked* or *defective* body."¹⁸¹ That Faulkes felt compelled to assert such an obvious fact—that a physical disability did not detract from a person's other abilities—suggests how difficult it would be for a disabled individual to overcome societal prejudices about their worth. Furthermore, Faulkes' use of terms like "crooked" and "defective" indicate that even the most open-minded members of society still perceived the disabled as "abnormal." A decade later, Faulkes delivered a speech that included similar questionable language. While acknowledging that the public view of the disabled as unemployable shattered morale and discouraged recovery, he also cited a "tendency of a *perverted* attitude on the part of the *deformed*" as a problem to be

¹⁷⁹ George P. Hambrecht to Governor John J. Blaine, Madison, January 22, 1923, 1, DVR, *First Biennial Report*. Emphasis added. Note both the idea of the work as a "blessing" as well as the agency's presumptions that the injured were helpless and dependent, and that their impairment was "beyond [their] control ... to remedy."

¹⁸⁰ Quoted in DVR, *First Biennial Report*, 9.

¹⁸¹ Faulkes, "Vocational Rehabilitation: What it Aims to Accomplish," 1, Faulkes Papers. Emphasis added.

addressed by rehabilitation specialists.¹⁸² Such a twisted mindset was presumed to be tied to the individual's physical condition. Faulkes explained that the connection had a long historical precedent, referencing Richard III's line in Shakespeare: "Then since the heavens have shaped my body so,—Let Hell make crook'd my mind to answer it."¹⁸³ While the bulk of rehabilitation literature, then, was targeted at providing access to proper employment training for the disabled and encouraging the general public to adopt a more accepting view of them, the specialists themselves occasionally lapsed into the use of pejorative terms to describe the disabled and their psyches.

Even more commonly, the negative implications about disabled bodies were less direct—manifested in back-handed presumptions about disability hidden within their affirmations about the purpose of the rehabilitation agency. More specifically, the emphasis on rehabilitation restoring productivity and self-worth carried with it the notion that the original idleness stemming from their disability robbed those individuals of leading a purposeful life or even being a true citizen. "What most interests handicapped people," the first biennial report of the vocational rehabilitation department claimed, "is the pursuit of a common goal. They long to share in the race with the rest, to forget their handicap and to have it forgotten."¹⁸⁴ While such a statement certainly reflected a genuine sentiment among the disabled, it also carried with it the presumption that without training, disabled individuals were *not* normal and were *not* able to reenter that race on their own. Work was the key to joining the rest of society, "for to be idle is to become a stranger unto the seasons; and to step out of life's procession, that marches in majesty and

¹⁸² Faulkes, "Use and Protection of the Handicapped in Industry," 6, Faulkes Papers. Emphasis added.

¹⁸³ Ibid.

¹⁸⁴ DVR, *First Biennial Report*, 25.

proud submission toward the infinite.”¹⁸⁵ The biennial reports continuously touted its importance. “Thank God for the might of it; the ardor, the delight of it; Work that springs from the heart’s desire, setting the brain and the soul on fire,” wrote Angela Morgan in a poem featured in the agency’s first report.¹⁸⁶ Work alone allowed the disabled to “lead independent, self-supporting lives.”¹⁸⁷ Rehabilitation “remove[d] the disabled person from dependency ... enable[d] such disabled person to care for those who are dependent upon his wage-earning ability ... [and] ma[de] life worth living to the maimed and crippled.”¹⁸⁸ Such “happiness and respectability” could only be derived from “successful achievement” and work was the premiere way to achieve. At a time when so much of one’s self-worth was tied to employment, the repeated claims about rehabilitation restoring productivity carried the implication that those who could not be restored to work or failed to “overcome” were dependent and leading lives that were not worth living.

By restoring one’s ability to work, rehabilitation officials also promised to restore citizenship to the physically impaired. A cartoon featured in one of the agency’s reports highlighted this connection between productivity and citizenship by showing a young man ascending a set of stairs labeled “physical rebuilding,” “vocational rehabilitation,” and “producer,” toward the ultimate goal of “success” and “citizen[ship].”¹⁸⁹ Indeed, the government’s role according to these publications was to provide “an equal opportunity to everyone to develop the ‘best that is in them’ to the end of becoming self-respecting

¹⁸⁵ Faulkes, “Vocational Rehabilitation: What it Aims to Accomplish,” 1.

¹⁸⁶ DVR, *First Biennial Report*, 26.

¹⁸⁷ DVR, *Second Biennial Report*, 5.

¹⁸⁸ DVR, *Third Biennial Report*, 25.

¹⁸⁹ DVR, *First Biennial Report*, [no page number].

and self-sustaining citizens.”¹⁹⁰ What lies beneath the surface of these comments is the suggestion that those who were unable to gain employment and become a “producer,” were not true citizens. Independence, self-sufficiency, and the ability to contribute to society by earning a wage were all requisite parts of citizenship by this definition, and those who lacked these attributes were not only physically impaired, but they were not an equal member of their communities. In spite of the best efforts of men like Joseph Lee to suggest that society change its definition of citizenship to recognize the contributions of its “disabled” members, even the progressive rehabilitation advocates of Wisconsin held fast to the association of economic productivity with a person’s value within society.

Conclusion

In the end, it is difficult to pinpoint any universal sentiment in the able-bodied community’s perception of their disabled peers. At various times and places, they saw the disabled as tragic and dependent non-citizens, suspicious and fraudulent threats to the social fabric, or deserving and capable of restoration. More often than not, the able-bodied individuals whom injured workers confronted held more than one of these beliefs at the same time. Such attitudes mirrored the public’s opinion about industrial accidents and shaped their policies for dealing with the disabled “other.” What is clear from the documentary record is that industrial injuries thrust newly impaired workers into uncharted territory where their friends, neighbors, employers, and the government officials whom they encountered had likely drawn new conclusions about who they were and what they were capable of doing—all based upon their physical difference.

¹⁹⁰ DVR, *Third Biennial Report*, 5.

Chapter Four: The Lived Experience

While scholars can, to some degree, discern the immediate financial implications of industrial disability and can look to institutional publications for a sense of how Gilded Age and Progressive Era Americans handled the disabled, it is much more difficult to assess how industrially injured men and women experienced disability themselves. Few of these working-class individuals left behind written records of their personal feelings. If any of them had been inclined to share their stories, the long work weeks and minimal wages likely prohibited their time and ability to document their state of mind. Furthermore, the omnipresent danger in most workplaces made work-related disability much more ubiquitous at the turn of the century than it is today. As such, few of these injured workers would likely have understood their situation as extraordinary or worth written consideration.

Although agencies like the Industrial Commission and the Vocational Rehabilitation Division kept extensive records on accident victims and their recoveries, they generally lacked detailed insight into an individual's perspective. The personal case files from both agencies have long-since been destroyed after staff members disposed of the standardized accident reports, compensation claims, hearing transcripts, and interviews with the disabled applicants seeking these services, presumably deeming the case summaries in the agencies' annual reports to be a sufficient record. Instead, much of what remains in the institutional record pertains to annual statistics of cases reported and settled, and a count of individuals placed in new lines of work. Such a detailed collection of statistics certainly reflects a broader trend among turn-of-the-century reformers to show a greater interest in statistical summaries than sentimental anecdotes. The lost

records might not have included much because they were not likely to have been aimed at gathering details about how disabled workers felt about their condition or what ways it reshaped both their day-to-day existence and their overall identity. In any case, scholars are simply left to wonder what those files might have contained about each person behind an accident.

What historians can glean from the documentary record, however, is that industrial disability was far from a uniform experience. The degree to which injuries affected individuals was undoubtedly the result of a combination of internal and external factors—including age, marital status, degree of injury, time elapsed, extent of kin network, career ambitions, employer support, family finances prior to the accident, financial obligations, ability to gain reemployment, and ultimately one’s individual personality. A man like Hans, who lost his index finger at the age of twelve while operating a bench press and quickly returned to work for the same wages, was likely to adapt to his newly disabled identity rather seamlessly.¹ The small degree of disability incurred combined with his young age and ability to return to his former employment with a minimal lapse in wages allowed him, for all intents and purposes, to resume his former identity. Although he may have found the injury aesthetically unpleasing or might have suffered some lingering pain at the site of the amputation, Hans was not likely to view his impairment as life-changing. However, for someone like shingle sawyer William Winters who lost four fingers as a result of two separate accidents, being disabled meant a world of difference. Because his injury impaired his ability to keep up

¹ Industrial Commission of Wisconsin, “Results of Investigation on Permanent Partial Disabilities,” *Bulletin of the Industrial Commission of Wisconsin* 2, no. 6, (March 30, 1913): 116. See Case Number 24. (Hereafter referred to as Permanent Partial Disabilities.) Hans is an assumed name, since the study did not identify the subjects by name.

the pace of an expert sawyer, he could no longer continue in his skilled trade. His future earnings were likely to amount to less than half of what he had made in that position. Furthermore, Winters' employer challenged the Industrial Commission's ruling on whether he was due compensation, appealing the case all the way to the State Supreme Court. For years, then, his payment was delayed and his suffering prolonged.²

Despite this lack of attention to workers' perspectives in the written record and the admitted variability of the disability experience, this final chapter focuses on recovering as much of that personal voice as possible. Importantly, it does not include any attempt to make broad presumptions about the highly subjective issue of disability as a matter of personal identity. The evidence is far too scant to provide a definitive statement on the mindset of industrially disabled Wisconsinites. Rather, in examining what has been left behind in the pages of Wisconsin legislators' specialized studies and annual reports and, to borrow a familiar phrase from social historians, "reading against the grain," the chapter reflects on the *variety* of ways that disability impacted a worker's financial situation, future employability, family dynamics, and his/her sense of self.

Disability and Finances

The financial repercussions of work-related disability are the easiest to quantify. Advocates for workplace reform have left thorough documentation regarding this aspect of industrial injury. In truly Progressive fashion, they sought to quantify the problem of

² "Wm. H. Winters vs. The Mellen Lumber Company (Ashland County)," *Workmen's Compensation First Annual Report*, 89-91. See also the follow up of Winters' case: "William H. Winters vs. Mellen Lumber Company," *Workmen's Compensation Second Annual Report*, 26-28. As has been noted in previous chapters, the cases that come from the Industrial Commission's annual reports on compensation are not official legal cases and are therefore not italicized. While the cases were occasionally appealed to the Dane County Circuit Court or the Wisconsin Supreme Court, the citation presented here represents the hearing before a the semi-judicial Industrial Commission.

industrial violence to enhance their appeals for reform. Since data on accident rates and wage loss were so compelling, safety advocates in Wisconsin and their contemporaries around the country often framed the argument for safer workplaces in terms of cost and efficiency. According to the reformers' view of the industrial accident problem, such incidents equated to lost income and thrust formerly self-sufficient workers into temporary dependency. Even more problematic, in the eyes of these liability law critics, was the fact that because these "thousands of workingmen's families [were] brought to extreme poverty and privation, the state suffer[ed] through the lowered standard of living of a vast number of its citizens and the public [was] directly burdened with the maintenance of many who become destitute."³ Based upon the analysis of these well-intentioned men and women, then, the toughest hurdle that disabled workers faced in the wake of their accident was the loss of regular wages.

Although circumstances varied, these assertions usually proved correct. All compensable work-related injuries resulted to some degree in lost wages. The Industrial Commission of Wisconsin classified disabilities that resulted from these accidents into four major categories: temporary partial, temporary total, permanent partial, and permanent total. Wage losses were inherent to all of them. With temporary disabilities—like a strained back or fractured bones—time away from work for healing meant diminished income. Even when workers suffered temporary partial injuries and were able to continue work in some capacity, they were typically reemployed at a lesser-paying job such as watchman while they healed. In cases of permanent partial disabilities—lost fingers, arms, feet, legs, or eyes—wherein the loss was lasting and visible but the

³ New York Commission cited in Crystal Eastman, "Work-Accidents and Employers' Liability," *The Survey* 24 (September 3, 1910), 791.

individual was able to resume employment after recovery, workers could expect a temporary but complete wage loss while their bodies mended. This classification of injury could, and often did, equate to a long-term reduction of wages as well. As was the case for William Winters (mentioned above), certain types of injuries forced formerly skilled workers to take lesser-paying, unskilled positions.⁴ Permanent total disabilities, as the label suggests, meant a permanent loss of income, to which was added the expense of care and maintenance for the newly disabled worker.

Investigations into work-accidents in Wisconsin—both before and after the passing of the workmen’s compensation law in 1911—uphold the prevalence of wage losses in the wake of injury. According to the Special Committee on Industrial Insurance (SCII), which was charged by the state legislature with investigating liability law in 1907, twenty-four out of the forty-three disability cases they documented resulted in long-term reduction of pay.⁵ It should be noted, however, that this figure only accounted for the subjects’ wages after they returned to work. In every single case the committee documented—even those where the worker eventually returned for the same or increased wages—they first suffered temporary wage loss while on the mend. The length of total

⁴ To be clear, although many men and women were forced into unskilled labor as a result of their injuries, not every permanent partial injury pushed workers into these lower-paying positions. As the Industrial Commission noted in their hearing on Winters’ case: “there are many occupations open to the applicant where he can earn a good wage and we have little doubt that he will find a place as a useful self-supporting member of society.” In the end, however, they felt it necessary to calculate his compensation based on the fact that his injury had amounted to “total permanent disability in the employment in which he was injured.” “William H. Winters vs. Mellen Lumber Company,” *Workmen’s Compensation Second Annual Report*, 28.

⁵ Wisconsin Legislature, *Report of the Special Committee on Industrial Insurance, 1909-1910* [s.l.: s.n., 1910], State of Wisconsin Legislative Reference Bureau. (Hereafter referred to as *Special Committee on Industrial Insurance*.) Put another way, nearly fifty-six percent of the cases resulted in some degree of wage loss in the immediate aftermath of the accident. These calculations are based on the author’s count of the cases documented in the study.

disability in these cases ranged from six weeks to nearly six and a half years.⁶ The Industrial Commission's 1913 Investigation on Permanent Partial Disabilities also suggested that wage loss was a significant possibility following disabled employees' recovery. In nearly 27 percent of the cases, workers suffered a long-term wage reduction upon returning to work.⁷ This only exacerbated the absolute wage loss they faced during the healing process.

Even after the implementation of workmen's compensation, long-term wage reduction was a common outcome for injured workers—especially for cases that resulted in permanent partial disabilities. According to an investigation conducted by Grace Zorbaugh in 1926, even workers who were injured over a decade after the no-fault compensation scheme was implemented found themselves facing decreased long-term wages once they returned to work. The study was based on the observation of over forty Wisconsin workers who were permanently partially disabled on the job between 1921 and 1924 and who had requested that their compensation settlements be commuted (or converted to a lump sum payment rather than a weekly one). With regard to long-term wage loss, Zorbaugh's findings were quite similar to those of the pre-compensation era studies. Whereas nearly 56 percent of the SCII cases had resulted in long-term wage loss, Zorbaugh found the same to be true for about twenty out of forty six (or 44 percent) of the cases she examined.⁸ In five of the examples she cited, the worker's post-accident

⁶ Ibid., Appendices 1A and 1B. During this period, injured workers were entirely incapable of bringing in wages. In addition to the period of complete disability, nearly every worker surveyed faced additional recovery time during which they were partially disabled. It is not clear, however, whether or not they were able to return to work during that time. The duration of partial disability—where noted—ranged from three months to nine years. It should be mentioned that all amputees would be classified by today's standards as permanently partially disabled.

⁷ "Permanent Partial Disabilities." Calculations based on author's count of the cases in this study.

⁸ Grace Zorbaugh, "Commuted Awards in Wisconsin: The Effect of Lump-Sum Payment of Workmen's Compensation on the Well-Being of the Injured and of Dependents" (PhD diss., University of Wisconsin,

wages were more than 50 percent below their pre-accident earnings.⁹ Clearly automatic, no-fault compensation did not remedy all of the financial problems that followed in the wake of workplace accidents.

The main difference between these post-1911 cases and their counterparts featured in the SCII report was the fact that the workers were entitled to automatic compensation payments that began following their injuries. Such compensation helped alleviate some financial strain, but could not replace a steady income. Several of the subjects of Zorbaugh's study had felt compelled to appeal to the commission for a commuted lump sum payment of their compensation because of a 1923 amendment to the law that reduced their weekly payments and exacerbated financial hardship. Under the revised law, the week-to-week allotments were reduced to a paltry and insignificant sum that was of little help to the newly disabled workers. As a result hundreds of workers requested that the commission issue their compensation award in full so that they could use it as needed to cover their everyday expenses.¹⁰ As Zorbaugh's survey suggested, post-1911 workmen's compensation—whether it came in the form of small weekly

1926), 26. Zorbaugh observed that the cost of living varied widely for the period which she studied. Thus she based her analysis of wage loss on the basis of buying power.

⁹ Ibid. Earlier in her study, Zorbaugh specified that six other men (for a total of fifty-two all together) were non-earners who had no source of income from any permanent source.

¹⁰ Ibid., 4-5. Zorbaugh explained that in 1923 the state legislature changed the method of computing weekly payments for cases of permanent disability. Under the previous operating procedure weekly payments amounting to sixty-five percent of the workers' wages were made until the final settlement total had been reached. Furthermore, under the law, the minimum weekly payment in the 1920s had been \$6.83 and the maximum weekly payment was \$18.20. Under the new system, the Commission used a set of pre-determined percentages for each type of permanent disability to determine how much workers were owed. That total monetary award was then distributed over a much longer time frame which ranged from two-hundred-and-sixty to nine hundred weeks (or the standard time frame used in cases of permanent total disability). The precise number of weeks over which the disability payment was made depended upon the worker's age. The net effect of such change was that rather than receiving two-thirds of their former wages each week, workers now received much smaller payments. This new system was meant to ensure that workers could rely on some financial help throughout the remainder of their lives. However, because it reduced the weekly compensation payment to a miniscule amount, it was unhelpful, especially for a newly disabled worker who might have no other source of income in the period immediately following their accident. Because of widespread dissatisfaction with the new system, the state eventually reverted back to their old method of distributing higher weekly settlements.

payments or one large lump sum—did not always remedy the financial strain that work-related accidents induced.

These contemporary observations on long-term wage loss, while useful in measuring disabled workers' financial strain, does not allow scholars to fully appreciate the way in which such workers' lives were affected by these economic losses. Fortunately, these statistical studies, however brief in their inclusion of personal detail, also provided some anecdotal evidence indicating just what it meant to be without a person's full income. They also documented some of the ways that disabled workers struggled to get by even after they had physically recovered.

Permanent partial disabilities—amputations, blindness—were obvious upon an individual's return to work and sometimes prohibited disabled employees from engaging in higher-paying work.¹¹ For example, one Wisconsin man lost a year's worth of wages after falling under a switch horse in 1902. The accident led to the amputation of his right leg eight inches below the knee. His former employer found light work for him, including a position as watchman, but whereas his daily pre-accident wage was \$1.82, his post-accident wages ranged from \$1 to \$1.40 per day. It took him six years to regain his pre-accident salary and additional time to earn a slight increase of five cents.¹² Similarly, a Milwaukee man who lost his right eye working at a foundry in 1883 found himself out of a job for two weeks. Rather than returning to the foundry, he chose to try his hand at various other jobs—from fruit selling to poultry raising to working as a teamster. After

¹¹ While this was certainly true for some individuals, it appears to have been a matter of considerable debate among workers with permanent partial disabilities. In the 1913 Permanent Partial Disabilities study, many interviewees stressed the fact that their disabilities did not hinder their ability to perform tasks, and should not present a problem for any man who was able to put their mind to the job at hand and work hard. Others felt that the injuries they incurred had inhibited their abilities greatly and proved an obstruction in seeking employment. Both matters will be discussed in further detail later in this chapter.

¹² "Permanent Partial Disabilities," 143.

thirty years and several failures, the man was employed as a blacksmith helper.

Exacerbating what was likely thirty years of job-hopping and economic uncertainty was the fact that his wages had dropped from \$5.00 to \$5.75 per day at the foundry to a measly \$2 per day as a blacksmith's assistant.¹³

Even accidents that did not result in amputation could have a deleterious effect on a worker's wages. For example, both a fifty-four-year old German man who injured to his arm after falling under a moving car in the foundry yard and a veteran German brewery employee who suffered major internal injuries and a crippled leg following a thirty-foot fall returned to work for one-third less than their previous wages. These reduced wages came after the men had endured two- and three-years, respectively, of complete disability (total wage loss).¹⁴ So, too, a Polish immigrant who suffered a fractured leg and injured shoulder after being struck by heavy coal pieces lost \$300 in wages during his absence and suffered a fifteen percent decrease in his earnings upon returning to work.¹⁵ Whether such injuries seriously circumscribed workers' continued productivity or not, they gave employers pause and appear to have reduced the injured person's bargaining power.

Head injuries were particularly troublesome, as they could cause lingering dizziness that inhibited workers' functionality. Such was the case for an English-born man who suffered a compound fracture of his skull when stricken by a broken hoist. He

¹³ Ibid., 157-158. It is worth noting that a wage of \$5.00 to \$5.75 per day in a foundry does seem exceptionally high. The record does not specify what position the man held at the foundry, but suggests he was in the molding trade. According to Charles D. Long, *Wages and Earnings in the United States, 1860-1890* (Princeton, NJ: Princeton University Press, 1960), the average daily wage for iron molders in large cities in 1880 was \$2.41. This man's salary may well have been a typo, but it also might have been reflective of a supervisory role at the foundry. What is clear is that his demotion from iron molder to blacksmith helper was certainly accompanied by a significant wage loss. Charles Long's study is no longer in print. Accessed on December 2, 2014 at <http://www.nber.org/books/long60-1>.

¹⁴ *Special Committee on Industrial Insurance*, 77-78. See also Appendix 1A, "Cases of Permanent Disability Involving Court Proceedings, [no page number].

¹⁵ Ibid., 79.

endured continued attacks of dizziness upon return to work and his wages were reduced by two-thirds.¹⁶ Even seemingly lesser injuries which did not result in permanent disability might threaten workers' livelihoods. Thus a German man who broke his wrist and lost most of his teeth after falling from a second-story building saw his weekly earnings of fourteen dollars reduced by \$2.00-\$3.00 once he recovered.¹⁷ Regardless of the severity of these injuries, the common law liability system generally added further insult to injury.

In addition to prolonging the period of financial uncertainty, the liability system often added more financial expenses to the already tight budgets of workers who chose to sue their employers for compensation. As Chapter Two revealed, there were many obstructions to employees who sought redress through the legal system. Common law defenses negated most claims of employer negligence, and even when courts ruled in the disabled employee's favor, monetary support could be delayed for years by the appeals process. When the courts dismissed employees' claims, many found themselves shouldering the extra burden of legal fees. A young German man who lost his right arm at the shoulder just two days after starting his new job endured over two-and-a-half years of appeals only to lose in the State Supreme Court. In the process, he turned down several settlement offers from the employer as well as an opportunity for work as a night watchman, and spent \$200 of his own money fighting the case. Without the aid of his brothers, who helped him establish a small grocery, "he and his wife and three small children would have fared badly."¹⁸ In another case, an unskilled Polish worker, whose legs were both broken after being pinned down by a piece of heavy metal at his foundry

¹⁶ Ibid., 83.

¹⁷ Ibid., 80.

¹⁸ Ibid., 81.

job, awaited legal retribution for four years, only to have his case dismissed by the high court under fellow-servant doctrine. During that time, he lost two-and-a-half years' worth of wages. Furthermore, he was charged with court fees. While he was able to borrow \$125 to put toward that expense, he still owed the courts an additional \$100 at the time he was interviewed.¹⁹ Another family paid at least \$800 for doctor's bills, legal advice, and court fees for their son, only to have his liability suit dismissed after thirty-two months.²⁰ As these cases suggest, fighting for compensation was a risky gamble that sometimes ended up exacerbating the economic toll of work-related disability.

Medical expenses were yet another burden shouldered by disabled workers prior to 1911. Although some employers offered free medical coverage, this practice was not mandated by law.²¹ Thus injured workers whose employers were not particularly benevolent paid out of pocket for their post-accident care. For some, like the seventeen-year-old shoe factory employee whose fingers were caught in a rolling machine and permanently bent, the expense was significant but not financially devastating. He paid \$27 dollars to his doctors, and although his fingers remained permanently bent and his grip diminished, he recovered a small settlement from his employer and was eventually

¹⁹ Ibid., 83-84.

²⁰ Ibid., 83. The young American man—twenty-one years old at the time of his accident—had been working as a telephone lineman's helper. He suffered major internal injuries as well as wounds to his hip and knee when a rope broke and he fell from a platform. However, the court deemed the platform an "appliance" and not a "part of the works" for which the employer should be liable.

²¹ It is impossible to determine how frequently employers covered medical expenses for their injured employees prior to the 1911 compensation law which subsequently mandated such coverage for a period of ninety days. Based on the investigation conducted by the Committee on Industrial Insurance in the early 1900s, employers (and in some cases employee benefit societies) provided medical care in fourteen out of the thirty-one cases that were taken to court. Only four of the remaining seventeen cases explicitly indicated that the employee themselves or an outside source—the county or a special fundraiser—covered the medical expense. However, the failure to mention company-supported medical care in the remaining cases stands in stark contrast to the surveyors' interest in noting such care for the other interviewees, suggesting that silence equated to no offer of employer-paid medical care.

able to return to work as a machine operator at a slight increase in wages.²² In other cases, the extent of the worker's injuries demanded longer hospital stays and higher bills that necessitated outside aid. For example, a young girl who was hospitalized for eleven months following a gruesome incident in which her hair was tangled in a revolving shaft and her scalp removed, was fortunate enough to draw on a fund of \$1,000 which had been raised by friends and neighbors to cover her medical bills after her employer offered no medical care.²³ For the majority of injured workers the health care expenses fell somewhere between these two extremes; and while many of them eventually covered the cost of treatments in one manner or another, the lack of medical aid from their employers likely put them in a rather precarious financial situation for a considerable period following their accidents. The workmen's compensation law of 1911 went a long way toward remedying these various financial burdens, but it did not eliminate them altogether.

Although the no-fault compensation scheme was designed to ensure financial support for wounded workers, the data from various Wisconsin surveys revealed that wage loss and unemployment were still very real problems for disabled employees long after 1911. For example, when a twenty-five year old mechanic who earned twenty-one dollars per week suffered the loss of one eye, the injury resulted in an extended period of unemployment, during which time the young man was reduced to "earning a precarious living."²⁴ Unlike many of the workers injured prior to 1911, he received ninety days of medical coverage. Although his compensation was originally intended to be paid on a week-by-week basis, he was granted an advance of \$475 which allowed him to pay off

²² *Special Committee on Industrial Insurance*, 82.

²³ *Ibid.*, 84.

²⁴ Zorbaugh, 28-29.

various debts. Sometime later the commission also granted his request for a commutation (or lump sum payment) of his settlement in the amount of \$1,075. Although the man planned to put that money towards a down payment on a home, a series of unfortunate events forced him instead to use it to cover living expenses. His original employer laid him off, and he was turned away by a second employer due to his impaired vision. After a long period of unemployment, he took two separate jobs each lasting a year. Eventually, he decided to pursue self-employment selling fruits and vegetables. Not unlike many of his pre-1911 counterparts, this man found himself swimming in debt in spite of his financial settlement. At the time he was interviewed, he had forsaken his role as grocer and was making a mere fifteen dollars per week as a cigar salesman.²⁵ In another instance, a young Polish man who suffered from extensive injuries to his hands took a pay cut of ten dollars per week after he was turned away by numerous employers. While his commuted award had allowed him to get married and establish a small home, it had likely made future care of his wife and his home difficult.²⁶ Unfortunately, the stories of these two men were not anomalies and workers suffering from a wide variety of injuries encountered similar experiences.

Just as it had prior to the new compensation law, the same fate also befell workers with less visible injuries after 1911. Thus a thirty-one year old man who suffered a

²⁵ Ibid. After relying upon his settlement to cover living expenses, he had accrued \$450 of additional debt by the time he was interviewed.

²⁶ Ibid., 30. This young man appealed to the commission for an advance on his settlement—a commutation—in order to get married. They granted his request and paid him the remainder of his award. However, as was the case, in all commutations, the Commission reduced (or “discounted”) the amount to which he was originally entitled. In this case, the man sacrificed \$400 from his original settlement in order to get the payment in a lump sum. Additionally, Zorbaugh noted that the wife was not seen during the interview. It is unclear whether this was simply because she was out of the home at the time or whether she was pushed to enter the workplace to supplement her husband’s lost wages. Although Zorbaugh frequently noted that commuted awards were “discounted,” she did not explain why. The best hypothesis is that reducing the award total discouraged the bulk of workers from requesting commuted lump sums which administrators feared they might squander (thus negating the intent of the law to provide reliable income and reduce poverty in the wake of industrial accidents).

dislocated spine faced a twenty-five percent reduction of his pre-accident wages (from thirty-eight dollars to approximately twenty-eight dollars per week) and an occasional lay-off from his old job following his return to the workplace. Furthermore, while medical coverage was mandated by law for the first ninety days after his accident, this man was still paying nearly \$1,000 annually for continued medical treatment at the time he was interviewed. Although he applied for and was granted a commuted award, the money offered no long-term financial security. The bulk of settlement (\$2,000) was applied to a mortgage on his home; another \$285 was used to cover legal expenses; and the remaining \$590 was quickly expended on medical care. Furthermore, the man's personal insurance company cancelled his accident insurance policy after just two payments, putting the financial burden of his extended medical treatments back on him.²⁷ As this example suggests, even those workers who were not left with outwardly visible injuries could face similar financial struggles that complicated the transition into their post-accident life.

Clearly, the economic impact of a work-related accident was significant regardless of when it occurred. Court expenses and medical bills exacerbated often lengthy periods of unemployment that ensued while workers recovered from the physical effects of their injuries. Such expenses made it all the more important that the newly disabled worker get back to work as soon as they were able to do so, but reemployment could be tricky to negotiate. Willingness to work was not always enough to convince potential employers to hire a disabled applicant. Discriminatory hiring practices were common and workers had to learn how to circumvent them. Even when workers were able to find employment, the potential for economic advancement varied greatly: some

²⁷ Ibid., 31.

individuals suffered prolonged wage loss whereas others were rewarded with great advancements over their pre-accident wages.

Employment

Discriminatory Hiring Policies

Although most disabled men and women found their way back into the workforce in some capacity, their return was sometimes obstructed by employers who were reluctant to hire workers whom they considered to be “less than whole” and therefore less efficient. These practices were not universally adopted, but the repeated references made by reformers to a growing class of dependents indicated that disabled men and women could and did have difficulty obtaining work. Such concerns were vocalized by a number of agencies and employers in Wisconsin. In their summary of the case of “John Makl vs. Superior Stevedores,” for instance, the Industrial Commission noted that it must not only consider one’s wage loss in making their ruling, but also consider “the prospective loss ... includ[ing] his physical capacity to earn, [and] also his capacity to get work.”²⁸ The Commission clearly understood that while workers might be willing and able to earn a paycheck, they might not be able to impress that fact upon prospective employers. The matter appeared once again in their ruling on the case of “Frank Guyette vs. Hatten Lumber Company.” In determining Guyette’s probable loss of wages following the amputation of several fingers, the commission explained that “in some cases employers

²⁸ “John Makl vs. Superior Stevedores,” *Workmen’s Compensation Second Annual Report*, 39. Makl had only been able to secure light work picking cranberries following an accident on a ship in which a 330-pound bag fell on him.

do discriminate between the man that is maimed and the one that is not.”²⁹

Commissioners were not the only ones who recognized this possibility.

Employers themselves suggested that the introduction of no-fault compensation would force their hand and encourage them to turn away disabled applicants. For instance, a representative of the John Lauson Manufacturing Company in New Holstein, Wisconsin lamented that “under the provisions of the law we feel that we would be justified in taking only men who are physically perfect” which, in turn, “would work a hardship on the imperfect employees.”³⁰ These discussions regarding discrimination clearly indicate the reality that faced men and women who suffered serious and visible injuries.

The various Wisconsin surveys of disabled workers do not reveal how frequently these discriminatory hiring practices were applied, but they do support the fact that disability was used to disqualify several workers from employment. Such was the case for a twenty-one-year old man whose arm was amputated four inches above the wrist after he caught it in the picker machine at a woolen mill. Employers turned him away several times, and although he eventually settled into a job, he sorely lamented the strife his injury had caused.³¹ Another young man, who lost his arm while working on a farm just outside of Whitewater, was immediately let go by the farm owner. After a contentious court battle with his employer—who provided no medical aid or compensation—the man was forced to move to Milwaukee to find employment.

²⁹ “Frank Guyette vs. Hatten Lumber Co.,” *Workmen’s Compensation Second Annual Report*, 78.

³⁰ *Workmen’s Compensation First Annual Report*, 106. See also Chapter Three which mentioned the concerns of employers like Horace Mellum and Joseph Bancroft regarding the employment of disabled workers who might be considered a “subnormal” burden on their employers and their coworkers. Such attitudes contributed to the implementation of physical examinations of prospective employees which facilitated discriminatory hiring.

³¹ “Permanent Partial Disabilities,” 147.

According to the survey, he tried several other jobs, eventually taking work as a clerk in a department store.³² Perhaps employers of the industrial city, being more accustomed to workers with physical disabilities, had more experience incorporating them into their operations.

Still, in Milwaukee and other Wisconsin cities and towns, discriminatory hiring was neither a rarity nor a practice that disappeared after 1911. Regina Dolan's 1918 study included two cases of double leg amputees who were unable to secure a job in the wake of their accidents. Although the men had not resorted to professional begging, they were forced to earn a living selling pencils and shoestrings and residing at the County Infirmary during the winter months.³³ So too, Zorbaugh documented at least one case in which a man's "semi-crippled" hands had been the reason for many refusals of employment.³⁴ Such acknowledgements of outright discrimination by disabled workers demonstrate that re-employment was no easy feat, but these blatant cases of employer bias were just the tip of the iceberg.

Many other respondents indicated that discrimination was real, but claimed that it was limited to certain trades and professions. The 1913 Permanent Partial Disabilities study included several men who asserted that they had never experienced discrimination, *except* in certain lines of work. For example, one German-American man who lost three

³² Ibid., 165.

³³ Regina Dolan, "Industrial Rehabilitation of Handicapped Men: Report Upon Investigation Undertaken for the Industrial Commission of Wisconsin," [s.l.: s.n.,1918], 14, Series 2034, Box 2, Wisconsin Free Library Commission, Research Reports and Studies, 1905-1962, Wisconsin State Historical Society. (Hereafter referred to as WHS.) While their missing legs may not have eliminated them from the workplace, both men suffered additional physical impairments. One had vision problems and the other a paralyzed arm. These ailments combined with the leg amputations severely limited their employment options.

³⁴ Zorbaugh, "Married at Price of Heavy Discount," 30. Since Zorbaugh only highlighted the stories of nine men, it is more than likely that other individuals whom she interviewed would have suffered similar discrimination. Zorbaugh also neglected to assign her featured cases any sort of reference number, thus the title listed above refers to the label she gave the case in question.

fingers and most of the function in his right hand as a brakeman gave up an offer of lifetime employment—presumably at a lesser-paying position—with his railroad company in order to continue his work as a fireman on the road. He resigned this post sometime later, but quickly regretted his decision. When the man attempted to return to railroad work, he was denied employment due to new rulings about hiring disabled men within that industry. Instead, he was forced to accept a job as a ticket taker and janitor at a Milwaukee movie theater.³⁵ At least two other men from the same survey experienced similar discrimination when seeking railroad jobs.³⁶ Another Milwaukee worker, who took up a career in painting and varnishing in spite of his physical disability—he was born without thumbs and had a paralyzed left hand—claimed that he had “never been refused employment *excepting* in a few cases where he had to demonstrate his ability to handle brushes.”³⁷ If they were willing to pursue other professions, however, these individuals suggested that they had no problem gaining reemployment.

Even more interviewees tacitly acknowledged that discriminatory hiring practices were a hurdle to overcome by explaining how they circumvented employer bias when seeking work. One man who had lost four fingers of his right hand at the second joint explained that he had never been refused a job *except* for when he forgot to hide his hand from the interviewer.³⁸ Likewise, many others admitted that they tried to keep maimed

³⁵ “Permanent Partial Disabilities,” 122-123. The rules he referred to were likely imposed by the railroad unions when they began to “professionalize” their industry. See John Williams-Searle, “Broken Brothers and Soldiers of Capital: Disability, Manliness, and Safety on the Rails, 1868-1908” (PhD diss., University of Iowa, 2004) for more information on how workers with disabilities were edged out of the profession.

³⁶ Ibid. See Cases 183 and 203.

³⁷ Ibid., 132. Emphasis added.

³⁸ Ibid. See Case Number 46.

limbs hidden until they had proven their worth.³⁹ Some even concealed their disability long after they were hired. For example, a Racine man who lost four fingers on his left hand in 1896 managed to keep his disability hidden for two whole years at his new job in South Milwaukee.⁴⁰ These responses were, for obvious reasons, limited to those individuals with hand or finger injuries. Nine out of 132 respondents in the Permanent Partial Disabilities study (hereafter referred to as PPD) who had lost fingers or a hand explicitly mentioned that they had made a conscious effort to hide their hands upon applying for a new job.⁴¹ Since the survey interviewers did not appear to include this question on a regular basis, only a small percentage of respondents shared their experiences. Based upon the discussion of able-bodied prejudices toward disabled bodies in Chapter Three, however, it is quite likely that even more of the men and women with minor hand injuries tried to conceal their disabilities for fear of being turned away on sight alone.

Although it is difficult to ascertain how universally workers experienced such discrimination, these comments regarding workers' efforts to conceal their disabilities do suggest some degree of correlation between severity of the injury and outright discrimination in the hiring process. Out of the six interviewees in the PPD study who claimed outright rejection from employment based on their physical differences, one had an amputated leg, another an amputated arm, and a third had the bones and tendons of his arm removed up to his shoulder rendering the limb useless.⁴² The two men who claimed

³⁹ Ibid. See Case Number 80. The same was true in a case of impaired vision where the respondent explained that "when asking for employment," he always requested "a chance to show what he could do with one eye gone, and has always been able to make good." (161)

⁴⁰ Ibid., 138-139. Not only had the man concealed his missing fingers on the workroom floor, but the interviewer even noted that he was the star catcher on the company's baseball team.

⁴¹ Ibid. Statistics based upon the author's calculation of cases in this study.

⁴² Ibid. See Cases 109, 122, and 124.

outright rejection in Dolan's study were double leg amputees—one of whom also suffered impaired vision and the other who also had impaired function in his arm.⁴³ Additionally, though she did not focus directly on the matter of reemployment, Zorbaugh calculated the percentage of individuals in her study who were reemployed based upon their type of injury. While one-hundred percent of those who suffered eye or hand injuries were actively working, the percentages were somewhat lower for those who had other disabilities. Only eight-six percent of respondents with finger injuries were employed, while eighty percent of those with foot injuries and seventy-one percent of the workers with arm injuries had found a job. Reemployment rates were significantly lower for workers who had thumb injuries (sixty-seven percent) and those with leg injuries (fifty-five percent).⁴⁴ Leg-related disabilities were clearly the most common reason for workers to be denied employment. In fact, Dolan observed that managers, foremen, and social agents had a more difficult time placing a man on crutches than one who was missing an arm or suffering from a general debility.⁴⁵ There were certainly exceptions to these rules. Individuals with lesser injuries could have trouble pinning down a job, whereas some men and women with more severe amputations encountered a benevolent employer or established other connections that helped them get back to work; but for all intents and purposes, those men and women with more severe injuries—particularly ones that inhibited mobility—found it very difficult to return to the workforce.

⁴³ Dolan, 14.

⁴⁴ Zorbaugh, 26. The low rating for individuals with thumb injuries may be due to loss of one's ability to grip. Zorbaugh, however, did not provide a numerical breakdown of how many cases fell under each category, a matter which might have significantly skewed her final totals—i.e. the sample size might not have been statistically significant enough to apply such findings to the general population of disabled workers.

⁴⁵ Dolan, 19.

While discriminatory hiring may have varied based upon the severity of injury or the benevolence of employers, it remained a distinct possibility faced by all disabled Wisconsin workers who sought reemployment during this period. The state did not officially prohibit employers from discriminating against the physically impaired until 1965 when legislators amended its Fair Employment Law to include disability among other categories such as race, creed, color, national origin, ancestry, age, and gender which could not be used to disqualify applicants. Wisconsin was, in fact, the first state to outlaw job discrimination on the basis of disability and preceded the federal government in doing so by twenty-five years.⁴⁶ Until then, however, injured workers could count on the fact that their physical impairment might very well be deemed problematic by employers when they tried to reenter the workforce. In spite of this, the statistical evidence available for Wisconsin indicated that a vast majority of workers who were not totally disabled eventually managed to find work.

Persistence in the job hunt usually yielded results, but the prolonged search for steady employment certainly did harm some workers. It extended their period of financial strain and allowed them to accrue debt above and beyond that which they had accumulated during their recovery period. A young American machine hand who broke the ball of his foot, for example, spent eighteen months earning meager wages at odd jobs before he was able to secure a steady position as a bartender.⁴⁷ So too a Hungarian carpenter who fell forty feet from a scaffold after being hit by a roof beam was unable to

⁴⁶ Wisconsin Department of Workforce Development, "DWD History, 1911-1965," http://dwd.wisconsin.gov/dwd/dwdhistory/Year_Pages/wis_indstrl_comm.htm, accessed November 19, 2014.

⁴⁷ *Special Committee on Industrial Insurance*, 81. The man, who was regularly employed as a machine operator was forced into "common labor" during the summer of 1908 due to "hard times." It was there that a chain broke and a rail fell onto him, breaking the ball of his foot.

maintain steady employment for at least three years following his accident and was only able to perform light work when he did.⁴⁸ Those who were reemployed as watchmen or at “light work” usually suffered significantly reduced wages.⁴⁹ Others were only able to find irregular employment as day laborers.⁵⁰ It is worth noting, of course, that such opportunities presumed that the economy was thriving.

Although it was far from a universal business practice, disabled employees did often find themselves laid off during an economic downturn.⁵¹ Such was the case for at least two Racine workers who lost their right eyes on the job. While they were both initially rehired by their employers, they were let go during slack times.⁵² The Vocational Rehabilitation Agency remarked that the onset of the Great Depression and the “low ebb of employment ha[d] made it practically impossible for the person, sub-standard physically, to compete in the open labor market for unskilled and semi-skilled employment.”⁵³ For many disabled workers, then, their physical impairment was a financial liability that they would have to deal with for the rest of their working lives.

As most of these examples demonstrate, work-accidents had both short- and long-term consequences for Wisconsin workers. In addition to the pain and financial strain they faced in the immediate aftermath of their injuries, the lasting disabilities that these

⁴⁸ Ibid., 29. Whereas the American man had turned down offers of settlement from his employer, this man’s employer did provide medical coverage. Additionally the court awarded him a settlement of \$4,200. The money, however, went to freeing the home from mortgage and his continued inability to find steady work likely tested the family budget.

⁴⁹ Ibid. In Cases 7, 12, and 14, specifically, the men were listed as being only capable of light work.

⁵⁰ Ibid., 77. In this instance, a 54-year-old German man with a badly injured shoulder turned down a job as a watchman with his former employer only to find that all that was available to him was irregular work as a day laborer at one-third of his normal earnings.

⁵¹ “Permanent Partial Disabilities.” See Cases 83, 188, 208. See also Zorbaugh, “Always Paying for Treatments,” 31.

⁵² Ibid. See Cases 184 and 188.

⁵³ Wisconsin State Board of Vocational Education, *Sixth Biennial Report* (Madison: State Board of Vocational Education, 1932), 7. The agency noted that such difficulties in finding employment prompted more injured men and women to take advantage of its services because they would not be earning any income otherwise. (Hereafter referred to as the Division of Vocational Rehabilitation or DVR.)

men and women incurred often continued to take a toll on their income for some time after the physical wounds had healed. Perhaps because of this financial necessity or employer biases, many of Wisconsin's disabled employees appear to have dealt with such challenges by getting a fresh start upon their return to work.

Job-Hopping

Whether they were forced out by their employers or made the decision to pursue new opportunities elsewhere, a significant number of workers changed either their type of employment or the company for whom they worked following a disabling work-accident. Data from the 1913 PPD study indicated that 122 out of 213 respondents (57.2 percent) had changed positions—if not employers—at some point following their injuries.⁵⁴ This post-accident “job-hopping”⁵⁵ was not exclusive to the pre-compensation era. Regina Dolan noted that fifty-six percent of the respondents in her 1918 survey changed either position or company after their wounds had mended.⁵⁶ Likewise, Zorbaugh's study of disabled workers receiving commuted settlement awards between 1921 and 1924 showed

⁵⁴ “Permanent Partial Disabilities.” Statistical figures derived from the author's count of the cases in this study. It is worth noting that although this study was conducted in 1913, a majority of the respondents were injured prior to 1911 when the no-fault compensation law was introduced. Thus its findings were more indicative of the pre-compensation era in many regards.

⁵⁵ The term “job-hopping” must be qualified. While the various studies of injured workers suggested that a very high percentage of workers changed jobs after their injuries, that did not necessarily mean that they changed employers altogether.

⁵⁶ Dolan, 8a. Dolan drew on the records of the Industrial Commission for workers disabled between 1914 and 1916. Of the eighty men who were of employment age at the time of their injury, twenty-eight left their former employers and an additional seventeen changed position in spite of staying with their pre-accident employers. It is worth noting that an additional six interviewees were too ill to work at all, four were self-employed at the time of injury, twelve remained unemployed at the time of their interview, and in two cases Dolan was unable to ascertain sufficient detail about their work history. Thus, if viewed in terms of how many men returned to their *same position* at the *same company* after their accident, Dolan's study suggests that only 13.75 percent did so.

seven out of seventeen disabled workers (41.1 percent) took up new occupations.⁵⁷

Regardless of whether compensation was mandated, then, disability frequently marked a change in employment.

While the evidence clearly indicates a correlation between disabling injuries and changes in employment, it is difficult to pinpoint any one motivation behind a worker's post-accident decision to stay or leave. Some might presume that job-hopping was more prevalent prior to the introduction of workmen's compensation because accidents created a contentious relationship between injured workers and their employers. However, the Industrial Commission's 1913 PPD study showed that 115 of the 213 respondents (fifty-four percent) initially returned to their former employer upon recovery.⁵⁸ Although many of these individuals eventually moved on to other companies and other positions over time, the high percentage dismisses the simplified assertion that disabled workers of the pre-compensation era were universally cast out by cruel employers. Rather, the data available for Wisconsin workers suggested that an employee's decision about whether or not to return was based on a variety of factors.

Sometimes they simply had no other choice but to take what jobs were offered.

When a Great Lakes fisherman, for example, had the tendons removed from his right arm he took any job he could get. He told survey interviewers in 1913 that he was unemployed for two years and had been rejected by many employers due to the fact that

⁵⁷ Zorbaugh, 6. Zorbaugh's study included data on seventy-one cases of work-related disability (as well as forty-five fatal cases, where commuted awards were made to dependents). While she provided statistical breakdown based upon all cases, she only highlighted a few select narratives in her study. Thus it is probable that more of the respondents might have changed jobs following their disabling accident. However, a change in occupation could only be gleaned from the narrative summaries because it was not one of the factors that she decided to deal with in her statistical analysis.

⁵⁸ "Permanent Partial Disabilities." Statistics based upon the author's count of the individual cases in this study. These individuals at least initially returned to their employers, although they may have been let go or looked for other opportunities after some time had passed.

his arm was left permanently stiff by the accident. With few options available to him and a family to support, he took any work he could find, eventually ending up as a helper in a tool room.⁵⁹ In another case, a fifty-eight-year-old German man in Milwaukee was forced from his role as foreman following an accident that severed his thumb and immobilized his little finger. Although the disability was relatively minor and had only put him out of work for a week, he was demoted to the role of night watchman at a pay cut of twenty-five to fifty cents per hour and subsequently left his company for a job as a machinist (though his wages that were still lower than his original salary).⁶⁰ While the downgrade in employment for this man is surprising given the nature of his injury, the fact that he was re-employed as a watchman was not.

Many workers who underwent amputation of a major appendage took work as elevator operators, garage attendants, or watchmen—all at a financial loss. The PPD study noted that five out of the nine individuals who transitioned from their original job to one of these three positions had suffered the amputation of a foot, arm, leg, or hand.⁶¹ Likewise, Dolan's study noted leg or arm amputations in all four cases where a worker became a watchman or elevator operator.⁶² Whether such change was due to their actual inability to keep up with their peers or simply because of employer prejudices about what these workers could do is difficult to discern from the record. Further complicating the

⁵⁹ Ibid., 147. See Case Number 122. The Racine man's salary dropped from \$1.50 per day to \$1.00-1.25 for quite some time. It is worth noting, however, that by the time of his interview he had found work as a tool helper at a daily wage of \$2.25.

⁶⁰ Ibid., 118. Survey conductors did not note the details of why this man's salary varied following his injury, mentioning only that his wages varied between \$1.50 and \$1.75 per day while he served as a night watchman. He had made \$2 per day in his pre-injury employment.

⁶¹ Ibid. Statistics are based on author's count of cases in this study. Note that the man who lost his hand did not lose the entire hand, but lost all fingers, effectively eliminating the possibility for its use to operate machinery. In three of the other four cases, workers had lost three fingers and in one case the worker had lost his left eye working as a riveter.

⁶² Dolan, 17-18. See Cases 2, 9, 10, and 11.

matter is the fact that many of those who were reemployed for lower wages at unskilled jobs like elevator attendant or watchman were staying with their original employer.

Because surveyors failed to consistently document whether their subjects had stayed with a company and never asked them why they chose to do so, there is not enough evidence to determine any patterns among those individuals who remained with their original employer. It is entirely possible that many men stayed put because of the fear of rejection elsewhere, but that sweeping assertion cannot be applied to all disabled workers. In several of the cases documented in 1913 the foremen's remarks indicated their high regard for the employees in question. Many labeled the returning party as a "good" or "intelligent workman," an "old, faithful employe [sic]" or an "all around good man."⁶³ Several other comments from the foremen suggested that the workers' disabilities did little to impair their efficiency. For example, one elderly blacksmith who had lost his eye twenty-years earlier was described as "the best man in the tool trade the foreman ever saw."⁶⁴ Another foreman suggested that he would "not give this quick and accurate employe [sic] for half a dozen other men;" and a third indicated that the work of his one-eyed employee was "a great deal better than some others who have two eyes."⁶⁵ For at least some disabled employees, then, the injury did little alter their standing as a worker.

Other personal narratives suggested that employer benevolence or a worker's ability to adapt to another task were sometimes the motivating factor for returning to one's employer. Some men who possessed good penmanship were able to transition to

⁶³ Ibid. See Cases 15, 19, 22, 23, 46, 47, 61, 71, 76, 82, 84, 87, 91, 105, 117, 128, 130, 133, 142, 144, 162, 173, 174, 177, 180, 182, 189, and 208.

⁶⁴ Ibid. See Case Number 158.

⁶⁵ Ibid. See Cases 159 and 161.

office work or become clerks.⁶⁶ In other cases, whether out of loyalty or benevolence, the company went so far as to make changes that allowed workers to continue in employment at their pre-accident occupation. For example, one middle-aged worker who lost function in his left hand after two separate accidents was provided by his employer with a special machine that allowed him to sharpen saws “with greater ease and comfort than if he used the ordinary tools.”⁶⁷ These accommodations were most likely the exception rather than the rule, but they certainly were made on occasion. In all cases, disabled employees—both male and female—did whatever they could to resume their roles as breadwinners.

If or when necessary, workers looked to new employers in order to accomplish that goal. Nearly fifty percent of the respondents in the PPD study noted that they had not only changed positions in the wake of their accident, but also changed employers. Some of them did so immediately, while others initially returned to their pre-accident jobs before seeking work elsewhere. At least thirty percent of the subjects in the SCII survey mentioned changing employers as well. Several of them went into business for themselves, using their savings or a small settlement to open a grocery store that their spouses helped to operate.⁶⁸ Likewise, in four of the fifteen cases of disability that Zorbaugh highlighted and at least six of the compensation cases in Dolan’s study, workers left their original employer. The actual number of employees who moved on to a new company is likely much higher, but consistency in these surveys is lacking, and Zorbaugh and Dolan’s studies in particular only highlight the narratives of a small sample of their overall interviewees. In spite of such limitations, the information available in

⁶⁶ Ibid. See Cases 47, 59, 82, 113, 120, 134, 143, 156, 204, 210, and 211. See also *Special Committee on Industrial Insurance*, Case Number 30.

⁶⁷ Ibid., 130. See Case Number 64.

⁶⁸ *Special Committee on Industrial Insurance*, Appendix 1A and 1B.

these sources does indicate that when workers *willingly* moved from one position or company to another, they did so in a number of different ways.⁶⁹

Some workers made a lateral move, pursuing the same exact work or a similar task whenever possible. For example, an Austrian man who lost the index and second fingers of his right hand while working as a bench machine hand found a new employer in Milwaukee, but took up the same line of work for the same wages.⁷⁰ Likewise, a twenty-six year old Milwaukee man who lost his little finger and part of his right hand while working as a shop electrician in 1910 resumed his work as an electrician, but after briefly returning to his old job, he left the company for an offer of higher wages elsewhere.⁷¹ More often, machine operators moved from one type of equipment to another. Thus an American man who lost the third finger on his right hand in a drill press simply took up work as a general machine hand, a handyman, and a lathe operator in his shop.⁷² It also appears that many disabled workers tended to stay within their general occupation whenever possible. This was true for the case of a twenty-three year old switchman who lost his leg four inches above the ankle in 1902. After a brief stint as a hoisting engineer in the woods of Minnesota, he returned to a Milwaukee train yard to serve as an engineer on one of the locomotives.⁷³ The data is inconclusive on how one's age, the severity of the injury, or the availability of other employment opportunities factored into such decisions. What is evident, however, is that disability did not always edge a worker out of his or her pre-accident occupation.

⁶⁹ See "Permanent Partial Disabilities" and *Special Committee on Industrial Insurance* as well as the Zorbaugh and Dolan investigations. Statistics derived from the author's own count of the cases cited in these studies.

⁷⁰ "Permanent Partial Disabilities," 114.

⁷¹ *Ibid.*, 123-124.

⁷² *Ibid.*, 117.

⁷³ *Ibid.*, 144.

While some stayed put, other disabled men and women ended up in altogether new occupations. As was mentioned above, some of them tried to open their own grocery stores or to peddle fruits and vegetables.⁷⁴ Zorbaugh also highlighted the stories of two men whose injuries led them into alternative forms of self-employment. One young mechanic who lost an eye tried his hand at establishing a produce business, but ultimately ended up as a cigar salesman.⁷⁵ In the second case, a Swedish man who lost two fingers working in an automobile plant used his lump sum settlement to open a bakery with his wife.⁷⁶ Occasionally such changes seem to indicate that a worker was stepping back into a career with which they had prior experience. For example, Dolan recounted the story of a brakeman who took up farming after losing his left arm.⁷⁷ Others appear to have been driven towards completely new occupations that could better suit their disability. Again, Dolan cited the cases of a railroad conductor who became a florist after losing his left arm and a searing machine operator who began training as a cobbler after losing both legs.⁷⁸ While the one-armed florist would easily be able to make and deliver floral arrangements, cobbling was a skilled trade that would allow a worker to remain seated, making it appropriate for a double leg amputee.⁷⁹

⁷⁴ This was particularly common among the subjects in the *Special Investigation on Industrial Insurance*, but does also appear in some of the narratives from the “Permanent Partial Disabilities” study in 1913 and in at least one case cited by Dolan where a mechanic who lost his eye accrued \$450 in debt after opening his own fruit and vegetable business. (29)

⁷⁵ Zorbaugh, “Hard Times Follow Loss of Eye,” 28-29.

⁷⁶ Zorbaugh, “Business Increasing Value of Home,” 32.

⁷⁷ Dolan, 18. While Dolan did not mention whether the man had experience farming, it seems likely that he might have grown up with some farm experience prior to his work on the railroads since a one-armed farmer with no previous farm experience would probably be at a disadvantage over those with both arms or with prior knowledge of the trade.

⁷⁸ *Ibid.*, 7.

⁷⁹ Note that cobbling was the profession adopted by Olivia Howard Dunbar’s protagonist Gideon in “The Blasphemer” (featured in Chapter Three) after he fell from a scaffold and was paralyzed from the waist down. It allowed him to earn a living following his father’s death.

For some disabled workers, such major job changes were a singular occurrence, but others—whether prompted by their difficulty in holding steady employment or their own career ambitions—hopped from job to job following their injuries. A Kenosha man, for instance, proceeded to take work as a bookkeeper, farm hand, florist, and street car conductor after losing his thumb while operating an edger.⁸⁰ In another case, a seventeen-year-old who lost his left foot three inches above the ankle in a corn husker ended up working as a helper and handyman at a machine shop, a chauffeur, and finally a draughtsman during the seven years that followed his injury.⁸¹ At least twenty workers from the PPD study mentioned changing jobs more than one time following their work-accident.⁸² These examples demonstrate that disability need not mean idleness.

Furthermore, although physical disabilities—particularly amputations of major limbs—did often put workers at a financial disadvantage on the job market, data on Wisconsin workers indicates that employment changes among the disabled also did not always represent a step backwards. In some cases they marked career advancements or financial gains. For instance, five workers interviewed for the PPD study who had initially suffered a wage loss due to their injury were able to return to their pre-accident wages by changing employers.⁸³ Fourteen individuals were even able to advance their former wages in the same manner.⁸⁴ The same was true for twenty-five employees who returned to work for the same pre-accident wages, but earned increased pay after changing jobs.⁸⁵ Depending on one's age, schooling or—after the Vocational

⁸⁰ "Permanent Partial Disabilities," 125.

⁸¹ *Ibid.*, 145.

⁸² *Ibid.* Statistics based on author's count of cases in this study.

⁸³ *Ibid.* See Cases 20, 46, 55, 88, 111, and 146.

⁸⁴ *Ibid.* See Cases 30, 43, 46, 53, 77, 80, 83, 85, 88, 122, 144, 169, 185, and 204.

⁸⁵ *Ibid.* See Cases 4, 10, 18, 19, 24, 38, 42, 44, 45, 47, 49, 56, 65, 72, 98, 106, 114, 119, 149, 155, 171, 176, 188, 195, and 208.

Rehabilitation Act was passed in 1920-1921—job training, they might have greater opportunities to find a higher-paying job that was better-suited to their physical needs. Dolan mentioned that, of the twenty-eight disabled workers in her study who changed employers, two had learned a trade, one went to law school, another studied engineering, and two more were pursuing professional training. So too, the SCII noted the story of a sixteen-year-old American boy who suffered extensive injuries to his left hand, subsequently sought out training at a business college and was re-employed as a clerical worker at a thirty-four percent increase over his former salary.⁸⁶ After the state established a Department of Vocational Rehabilitation, such training was made available to a greater number of disabled workers. The agency expressly identified training of the mind as the best way to level the playing field for the men and women who were physically “less than whole.” Even before advanced learning became the state’s “party line,” however, disabled men and women had—as these examples suggest— found ways to adapt to their new physical conditions and some were able to thrive economically.

Clearly, the impact that disability had on one’s wages and their eligibility for employment was contingent on so many variables: age, employer attitudes, mobility, degree of injury, and personal disposition. All of these elements shaped the way that an individual dealt with their disability. Since contemporary scholars never consistently questioned their subjects on these different matters, historians can only speculate as to which factors were most important. Age, for example, might have allowed greater physical recovery or an opportunity for further schooling, but it also may have worked in

⁸⁶ *Special Committee on Industrial Insurance*, 84-85. See Case Number 35. The boy was hired to operate a trimming machine in a box factory for six dollars per week. After just seven hours of operating the machinery, he was injured. Three years later, after completing business college, he was earning thirty-five dollars per month as a clerical worker.

favor of older employees whose companies could have felt greater loyalty toward an injured worker and been more willing to keep them around after the accident. Older workers might also have the advantage of having fewer dependents. Furthermore, employer opinions varied greatly. There is no clear connection between discriminatory hiring and any single profession. Nor does there appear to be any great shift in hiring policy after the compensation law went into effect.⁸⁷ Even severity of injury showed no significant correlation with a worker's wage loss or difficulty in obtaining employment. While there was a slight tendency for workers who became watchmen or elevator attendants to have had a major amputation, there were others with missing arms or legs who had no trouble finding work for equal or greater wages than they had earned before their accident; and on occasion workers with relatively minor injuries, like amputated fingers, had great trouble securing work or found themselves demoted to a lesser paying job. All that historians can know for certain is that job-hopping was a frequent occurrence in the wake of work-accidents, and discriminatory hiring practices—while proving to be a difficult hurdle for workers with visible disabilities—were not entirely impassable for all employees.

Family/Networks of Kin

The degree to which wage loss during and after recovery or a search for steady employment constituted a grave impairment was intricately tied to many other factors.

⁸⁷ The Industrial Commission would eventually establish a second injury fund designed to discourage employers from discriminating against disabled applicants by promising that, in case of a second injury to an already disabled worker in their employ, the employer would only be responsible for the injury that happened on their watch, with the state covering the difference. The necessity of such a legal promise does suggest that the 1911 law might have increased discriminatory hiring. However, the evidence from the actual case studies in this chapter does not seem to indicate a significant shift after 1911.

The data on post-accident wages merely indicates that physical impairment did not necessarily mean idleness for many workers. In order to understand wage loss in more concrete terms, pre- and post-accident wages must be considered in a broader context. A majority of these incidents struck men between the ages of eighteen and forty-five—the prime age when they became family men.⁸⁸ Therefore, one of the most important angles to explore is how financial strain affected the individual and their family.

As with most of the personal details, the institutions that solicited information on work-accident victims were generally less interested in the nitty-gritty details of how disability affected a person's daily life. The largest study—the PPD investigation conducted in 1913—narrowed its focus to recovery time, wage differentials, and the workers' experience with reemployment. Occasionally interviewees shared some brief reflection on their personal feelings about their physical impairment, but no one commented directly on family or extended kin networks. The SCII investigation in 1907 included the most detail about family dynamics following an accident. On a smaller scale, Dolan and Zorbaugh included some reference to the family as well. Based upon the limited information these three studies provide, however, it appears that family could be both a burdensome obligation for disabled breadwinners, *and* in some cases, a vital

⁸⁸ Out of 188 Wisconsin accident cases where information was available about a worker's age at the time of their injury, 112 (or 59.5 percent) were between the ages of eighteen and forty-five. Another twenty-seven cases (or 14.3 percent) of the workers were between the ages of 46 and 59. Such figures support the fact that injured workers were often family men and women. This correlates with data from the Wisconsin Bureau of Labor and Industrial Statistics' *Thirteenth Biennial Report* which found that nearly seventy-four percent of all employee accidents between October 1906 and October 1907 (5, 283 out of 7,186) befell workers between the ages of sixteen and forty. Furthermore, another 953 accidents struck men between forty-one and fifty—meaning that the vast majority of accidents befell workers in their prime who were likely to either have children already or be close to starting a family. (14) See also Eastman, "Work-Accidents and Employer Liability," 789. She stressed the fact that "the person injured or killed [was] always an income producer. No helpless children, no feeble old men, no idle women perish[ed] in these disasters. So nearly every work-accident [left] a problem of poverty behind." Ibid.

support system that helped them ride out the storm of financial distress that inevitably followed their accidents.

Family as a Liability

The wage loss that was so common to disabling injuries put a serious dent in a worker's family income. In twenty-two of the cases documented by the SCII in 1907, workers' families lost over one-third of their annual wages in the year after their accidents. In many cases the loss was even more severe. Some saw their yearly earnings reduced by as much as half, and in the most severe cases, incomes were cut off entirely after the accident.⁸⁹ These examples are usually indicative of an accident to the major breadwinner of the family.

Indeed, one of the biggest problems with work-accidents was the fact that they so often struck a family's sole breadwinner, thus undermining the unit's stability and reducing its standard of living for some length of time. The SCII study noted at least ten cases where work-accidents disabled a family's only source of income.⁹⁰ In each of these instances, no other family members entered into the workplace following the accident. This may have been by choice, but more often than not it was likely that the family did

⁸⁹ *Special Committee on Industrial Insurance*, Appendix 1A and 1B.

⁹⁰ The SCII only documented details about how disability had impacted the families of thirty-one Milwaukee County residents who suffered work-related disabilities. While they also included forty-eight non-court cases, they were unable to track down details for most of the individuals who were permanently disabled on the job. The ten cases above come from the thirty-one cases that went to court and seven non-court cases of disability where information was available to the survey conductors. Thus ten out of thirty eight (or about twenty-six percent) of the disabling accidents eliminated a family's sole breadwinner. In the Italian cases such information was derived from official records of a representative for the Italian government who was charged with handling most of the Italian accident cases that took place in Wisconsin. Thus family information was only supplied for two of the Italian cases. Neither of those two cases are included in the total provided above since the information on whether they were the sole breadwinner for their families is inconclusive. They will, however, be mentioned elsewhere in this chapter.

not have any other members of a working age. For example, a young man who lost his left hand had a wife and seven children to support. His accident put him out of work for three months and left him with a permanent partial disability that could very well have made it difficult to find future employment. Since neither his children nor his wife could enter into the workplace, the family's annual wage dropped from \$500 per year to \$400.⁹¹ While their loss seems minimal in comparison with other families whose wages dropped by several hundred dollars, this particular family's wages were low from the outset. The SCII reporters provided no information on the man's occupation or his daily pay, but the paltry annual income indicates that he was likely a common laborer. The average wage for laborers in Wisconsin varied greatly over the last two decades of the nineteenth century, but assuming that this man was able to work six days a week for the entire year (at least 312 days), his daily wages when healthy were approximately \$1.60—a woefully insufficient income for supporting himself and eight other dependents.⁹² The loss of \$100 in the wake of his accident surely lowered the family's standard of living further still. Similarly, the family of an English sheet metal worker who suffered a compound skull fracture after being struck on the head by a broken hoist found themselves in dire economic straits in the wake of his accident. The man's injuries left him idle for six months, and when he returned to work, in spite of persisting dizzy spells, his wages were reduced by more than two thirds—from \$900 in the year before the accident to just \$260 during the twelve months that followed. Since the man's wife could not be spared and the

⁹¹ *Special Committee on Industrial Insurance*, Appendix 1 C. See Case Number 13.

⁹² United States Department of Labor, "History of Wages in the United States from Colonial Times to 1928," *Bulletin of the United States Bureau of Labor Statistics, Wages and Hours of Labor Series* no. 499 (Washington, D.C.: Government Printing Office, 1929), 253-260. The BLS did not have consistent annual information from Wisconsin during this time, but indicated the lowest, highest, and average daily earnings for laborers in Wisconsin where available. The last data provided for Wisconsin was for 1896, during which time the lowest rate was seventy-five cents per day; the highest was \$2.50 per day and the average was \$1.25. This man fell somewhere in between the average and the highest earning common laborers.

three children were not of working age, the family was forced to get by on their small savings and a meager \$125 aid payment from the disabled man's union.⁹³ In these trying situations, a family could only count on the comfort of weathering the financial storm together.

Foreign workers who had left families behind when they immigrated lacked that vital network of support, and thus experienced an added level of insecurity in the wake of disabling accidents. Although the record was incomplete, investigators for the SCII study in 1907 noted at least two accident cases that befell Italian workers whose families remained in the homeland. One man, a laborer in a gas plant, suffered a skull fracture that left him permanently disabled. While he waited for six months to receive a \$500 settlement from his employer, his wife remained in abroad—robbed of the monetary support of her husband and lacking a way to reach him in his time of need.⁹⁴ Likewise, another Italian worker whose paralyzed right arm combined with two other injuries rendered him permanently and completely disabled left behind a wife and three children in Italy. Although he received a \$1,500 settlement from his employer after only three months, his physical impairment would most likely have made it difficult to support his family whether he was able to return to Italy himself or pay for their passage to the United States.⁹⁵ In such cases, attempts at financial security were thwarted by the new realities of wage loss, unemployment, and the added expenses of taking care of oneself here in the U.S. while also trying to care for the family abroad.

Even after 1911, work-related disability was especially problematic for immigrants. For instance, when Bosnian immigrant Elija Pecanac was injured in 1913

⁹³ *Special Committee on Industrial Insurance*, 83. See Case Number 28.

⁹⁴ *Ibid.*, Appendix 2C. See Case Number 9.

⁹⁵ *Ibid.* See Case Number 1.

after a piece of iron ore fell from a trestle above him and struck his shoulder, his lack of fluency in the English language and his fear of being fired led him to downplay his injury while it worsened. With his wife and four children remaining at home in Bosnia, Pecanac suffered silently at his boarding house for ten days before calling the doctor who found the arm to be so infected as to require a two month hospital stay. The extended period of unemployment during recovery (over six months) and the deterioration of his once muscular arm impaired his earning capacity at least temporarily. He simply had no income to support himself or his family. Even after he received his \$182.75 settlement following a contested compensation claim, the money was not likely to go far toward helping the family get back on secure financial footing.⁹⁶ Regardless of the person on whom they befell, such injuries could not be taken lightly.

In the worst-case scenarios, work-related disabilities drove families into temporary or even permanent dependency. Thus forty-six-year-old carriage painter Eugene Wohlgemuth became entirely reliant on the care of his family after a gasoline explosion left him with third degree burns over his left arm, neck, and face as well as paresis (or loss of voluntary movement) in the right side of his face. Although Wohlgemuth recovered some function in his facial nerves, his speech was greatly impaired. He won a contested settlement claim of \$3,670.21, but could never work again.⁹⁷ The case summary left no indication of whether Eugene had children, but Anna Wohlgemuth (the guardian listed in his case) was likely his wife. In the wake of his accident, she would be charged with task of caring for Eugene *and* taking over his role as

⁹⁶ "Elija Pecanac vs. Illinois Steel Co.," *Workmen's Compensation Second Annual Report*, 71.

⁹⁷ "Eugene Wohlgemuth, by Anna Wohlgemuth, his guardian vs. A.J. Kuestner and the Illinois Indemnity Exchange," *Workmen's Compensation Fifth Annual Report*, 19.

breadwinner. Like Eugene and Anna, many other Wisconsin families endured similar hardships in the face of their own work-accidents.

Even in the case of lesser injuries, disability could and often did hit families hard. In the early 1920s, a fifty-six-year-old man with a broken ankle and a slightly deformed left hand was unable to secure regular work to support his wife and five children. The family was relying on public charity until they were directed to the state's relatively new Vocational Rehabilitation Agency. After some training, the man took up work as a baker for \$35 per week, resuming a role as the family's sole breadwinner.⁹⁸ As all of these examples suggest, dependency was a threat regardless of the severity of one's injury or availability of mandatory workmen's compensation payments.

Indeed, even after the compensation law was passed in 1911, the aid that it mandated still fell short of relieving many families of the economic burden. In her 1926 study, Zorbaugh cited compensation expert E.H. Downey's claim that compensation benefits—while a welcome change to the old system—bore “less than half of the direct monetary cost of work injuries.”⁹⁹ She also noted that in over forty-three percent of the cases where disabled workers had requested commuted awards without specifying a reason for their claim, the money was used to cover living expenses.¹⁰⁰ So too, the Vocational Rehabilitation Agency recognized that compensation only went so far and that workers must be restored to employment as soon as possible to avoid financial hardship for their families. Thus in its second biennial report, the agency mentioned that

⁹⁸ DVR, *Second Biennial Report*, 14.

⁹⁹ E.H. Downey, “Workmen's Compensation,” quoted in Zorbaugh, 2.

¹⁰⁰ *Ibid.*, 23. Zorbaugh noted that only about forty-three percent of applicants overall explicitly stated a purpose for their commutation requests. The figure above is drawn from the remaining cases where a purpose was not stated. She observed that the money was put toward “living expenses” in thirteen of those cases, and in other cases was specifically used for debts, medical expenses for family, furniture, clothing, etc. (all of which might also fall under that larger umbrella of “living expenses,” but were each given their own separate label or category).

its “‘earn while you learn’ scheme” had allowed more workers to take advantage of the agency’s job-training program, “especially ... the injured man with urgent family demands.”¹⁰¹ As these contemporaries noted, disabling injury was particularly problematic for families with one breadwinner and several small children. However, a family need not include small children for work-related injuries to cause distress.

Disabled breadwinners were sometimes grown children who were responsible for the support of their parents. Such was the case for an unskilled Polish worker whose legs were broken after being pinned under a piece of heavy metal in the foundry where he worked. He lost several hundred dollars pursuing legal action against his employer over the next four years and was completely idle for the first two-and-a-half years. The young man had been the sole supporter for his dependent mother, and in the wake of the accident, his married older brother had to assume financial care for both of them.¹⁰² So too, an Italian man who was the lone provider for his parents ran into financial trouble even with the compensation award that he was granted for his lost hand. He was injured in the late 1910s or early 1920s and eventually applied for a commutation of his settlement (in the amount of \$2,900), most of which he applied to the purchase of a new home. When Zorbaugh interviewed him three to four years later he lamented the fact that the home was a money pit. Although he had stayed with his employer and was earning the same wages as before the accident (\$27 per week), the work was not steady. Moreover, the man and his parents were sometimes forced to rely on outside income from the rent he collected from other tenants in his house and his small soldier’s bonus

¹⁰¹ DVR, *Second Biennial Report*, 15.

¹⁰² *Special Committee on Industrial Insurance*, 83-84. See also, Appendix 1B, as the narrative summary of his case did not mention the dependent mother but the chart in the appendix did.

from the war.¹⁰³ As this last example attests, the loss of a breadwinner was still a grave detriment to families long after the compensation law went into effect.

Based on such tragic stories, it would be easy to conclude that work-related disabilities were permanently crippling to not only the individual but their families as well. As is always the case, however, both the individuals and the families who experienced the hardship wrought by disabling work-accidents found ways to adapt to their new singular and collective identities. Zorbaugh explained that in light of the fact that compensation did not cover more than half of the cost of injuries, disabled men and women with families either underwent a temporary or permanent reduction to their standard of living (reflecting their post-accident means), dipped into their savings, assumed new debt, or—when the option was available—sent other family members to work.¹⁰⁴ In such cases, whether these other wage-earners simply kept the family afloat or were able to alleviate financial distress entirely, the family became a valuable asset to disabled men and women. Such actions, however, were not without their own consequences.

Family as an Asset

Families most often served as an asset when the disabled worker was a child. The money that young workers earned was usually supplementing parental income. Thus the loss of such wages—whether temporary or permanent—might slightly lower a family's standard of living, but not as drastically as it would when the disability befell a primary breadwinner. So when a young machine operator was struck by an errant revolving shaft

¹⁰³ Zorbaugh, 30-31.

¹⁰⁴ *Ibid.*, 2.

pulley, he was able to rely on the support of his family while he recovered from a fractured arm and a nearly severed leg. Although his leg was “permanently crippled,” he had been able to procure training as a cigar maker during his three years of idleness, and went on to marry and establish a home of his own.¹⁰⁵ Similarly, a sixteen-year-old boy who sliced off his thumb, forefinger, and parts of the other three after just seven hours working at a box factory was aided by his parents who were “in a fairly comfortable [financial] circumstances” at the time of his accident. The boy was sent to a business college and by the age of nineteen had secured steady employment as a clerk.¹⁰⁶ In such cases, the child’s income was usually not required to keep the family afloat. Thus when a fifteen-year-old Milwaukee boy leaned over the elevator gate and was struck by a descending elevator car just two days into his employment, his father told SCII interviewers that he did not need the boy’s earnings. In fact, unlike other children, this young man had simply taken a summer job (presumably to gain work experience and earn a few extra dollars). While the accident had fractured his jaw and left him with a mutilated lip, it had little economic bearing on the family.¹⁰⁷ Not all children were as expendable as these cases might suggest but, for the most part, injuries to them were easier to accommodate than those that struck a parent.

When husbands were the victims, their wives frequently became the biggest asset for supplementing their lowered income. Such was the case for a German man in Milwaukee County whose toes were amputated after a heavy iron column broke free from its hoist and landed on his foot. Gustav was unable to work for eleven months and

¹⁰⁵ *Special Committee on Industrial Insurance*, 83. See Case Number 19.

¹⁰⁶ *Ibid.*, 84-85. See Case Number 35.

¹⁰⁷ *Ibid.*, 85. See Case Number 36.

he did not reach a settlement with his employer until a year after his accident.¹⁰⁸ During the interim, his wife ran a small grocery and two of his seven children were sent to work. When the settlement money came in from his employer, Gustav used the money to purchase a horse and wagon that would help with his wife's grocery business.¹⁰⁹ The same was true for another German man, Hans, whose arm was paralyzed after being caught under a slab of heavy stone.¹¹⁰ By borrowing money from several relatives, he and his wife were able to establish a small grocery which she ran. Reduced to light work after his accident, Hans served as her assistant and the two were able to keep their school-aged children from entering the workplace.¹¹¹ In other cases, wives took in lodgers to help cover the costs of medical care and lost wages. Such was the case for a Hungarian carpenter whose back and arms were strained and legs were both fractured after a forty foot fall from a scaffold. Since the family had four small children and the husband's disability relegated him to light work, the best way for the wife to make ends meet was to rent out rooms in their home.¹¹² Wives were the most logical choice in times of need, but only when they could be spared.

In many other instances, older children who were already employed bore the burden of becoming the main breadwinner, either temporarily or permanently. When a fifty-four-year-old German worker fell under a moving train car in an iron foundry yard, crippled his arm at the shoulder and was reduced to working as an irregular day laborer at one-third of his former wages, his two grown daughters and one son became the family's

¹⁰⁸ This is an assumed name, as the SCII study only identified its subjects with a case number and a first initial.

¹⁰⁹ Ibid., 78. See Case Number 10.

¹¹⁰ Hans is also an assumed name.

¹¹¹ Ibid., 79-80. See Case Number 15.

¹¹² Ibid., 79. See Case Number 14. The man eventually won a settlement of \$2,400 after two years. At least \$1,200 of that total went to their lawyers and several hundred dollars were likely used to repay debts to friends who had loaned them money during their period of hardship.

primary providers.¹¹³ Even with an additional \$312 in aid from his shop relief society, however, the family's overall income was still reduced by \$838.¹¹⁴ If wage-earning children were younger (as the son may have been in this case), there was great disparity in pre- and post-accident family earnings.

Indeed the age and gender of one's children seemed to influence how the family fared following a work-accident. The fact that women earned less than men certainly exacerbated the wage loss that followed from a disabled breadwinner. For example, when a Polish coal barge employee was put out of work for four months after a hatch cover fell on him, his family "was obliged to depend for support mainly upon a daughter's earnings of \$5 per week and \$4 a month rent paid by a married daughter who lived in the same house."¹¹⁵ If children were older and married, they extended the kin network and offered a greater source of financial support in the wake of disabling injuries. Thus, after a German man was struck by a falling brick, his four grown children helped support him and his wife until he suffered a second accident—likely due to the dizziness that persisted long after his first injury healed—and died.¹¹⁶ As each of these examples suggest, whether they were able to replicate pre-accident wages or not, kin was invaluable in the immediate wake of work-accidents.

If wives and children could not sufficiently supplement a lost breadwinner's income or if they lacked any close family, workers were forced to look for outside aid from friends or extended family. For example, after a sixty-three-year-old Norwegian

¹¹³ Ibid., 77. See Case Number 6.

¹¹⁴ Ibid., Appendix 1A. See Case Number 6. The family's earnings (including the father, and three working children) in the year before the accident was \$1,885. In the year that followed, the children earned \$735. The aid society contributed between \$312 and \$350 to the family (the report shows conflicting totals in the narrative portion and the chart), and two years after the accident the man received a \$200 settlement with his employer—of which, \$65 went to his lawyer.

¹¹⁵ Ibid., 82-83. See Case Number 27.

¹¹⁶ Ibid., 81. See Case Number 20.

laborer (Otto) was badly injured by a careless coworker who backed into him while he was loading a truck, he relied heavily on employer benevolence and on aid from both friends and his employee benefit association.¹¹⁷ Otto was “scarcely fit to work at all,” but had an elderly wife to support and decided to take up a post as watchman for his former employer. He was eventually offered a small settlement of \$500 from the company at least two years after the accident. In the interim he received free medical aid and \$200 from his shop relief society. He also borrowed an unspecified amount from his friends to make ends meet.¹¹⁸ This extended network of aid allowed him and his wife to maintain some level of independence in spite of his physical impairments, but not all injured workers were able to do the same.

Some accident victims actually returned home to stay with their families during convalescence. This was the case for an American machine hand in Milwaukee County who, after three months in the hospital, went to live with his father and his married sister for at least a year and a half while he tried to secure steady employment. The man had broken the ball of his foot in the summer of 1908 after he was struck by a falling rail.¹¹⁹ Even after the introduction of the compensation system, disabled workers still relied on their extended kin. Zorbaugh noted the case of a twenty-two-year-old African-American man whose commuted compensation award was quickly expended to cover the costs of asthma treatments for his soon-to-be ex-wife, moving costs, divorce proceedings, and funeral expenses for his former mother-in-law. As such, he was forced to return home to

¹¹⁷ Otto is an assumed name.

¹¹⁸ Ibid., 79. See Case Number 12.

¹¹⁹ Ibid., 81. See Case Number 21. This was the same man mentioned above who finally found work as a bartender after eighteen months of odd jobs.

live with his father and earn his keep by helping him operate a lunch wagon.¹²⁰ Such arrangements were vital, but not always available.

When these opportunities did exist, they could come with their own negative consequences. Contemporary interviewers were never interested in (and therefore never documented) how such arrangements made an individual feel. It is fair to speculate, however, that some disabled workers would have harbored mixed feelings about returning home and being forced to rely upon their families. While such care was certainly appreciated, some individuals may have experienced failed sense of self or felt discouraged that they had been forced to take a step backward. Such feelings would vary greatly depending upon the severity of a worker's injury and whether or not the arrangement of living at home with one's parents was intended to be temporary or more permanent. It might also be contingent upon each individual's personal disposition and the amount of time that had elapsed since the injury.

On a more tangible level, financial reliance on friends and extended kin networks undoubtedly meant mounting debts, obligations requiring repayment to friends or family who had loaned the disabled person money. Again, since investigators were less attuned to these potential consequences of outside support, they did not probe beyond the fact that outside aid was offered to see how the disabled workers felt about accepting help. Whatever dual edge sword that outside aid presented, it was more than likely a preferable option to many disabled workers—especially for families with younger children who sought to avoid putting them to work, if at all possible.

In the least ideal circumstances, when aid was unavailable from another source, younger children were sent into the workplace to replace disabled parents' lost incomes,

¹²⁰ Zorbaugh, "Negro Ran Through His Award," 29.

either temporarily or for the long-term. Wisconsin was one of many industrializing states which recognized quite early that children might need to leave school to enter the workplace if work-accidents claimed the lives or limbs of their parents.¹²¹ Although legislators worked to remove children from the workplace whenever possible, Chapter 519 of the Laws of 1889 expressly stated that a child over the age of ten who could read and write English would be able to secure a special permit from county judges to work during the school year if and when his or her “family needed its support.”¹²² Thus when a narrow runway at one of Milwaukee’s large breweries broke, causing a fourteen-year veteran worker to fall thirty feet and suffer major injuries, two of his seven children entered into the workplace.¹²³ For three years, while the man was unable to work, his family relied on a combination of the children’s wages, \$250 from his shop relief society, and \$416 from a private benefit society to which he had belonged. Annual family earnings dropped from \$780 in the year prior to his accident to \$390 in the year that followed. (The family likely dipped into their small savings.)¹²⁴ The \$5,000 settlement that the injured man finally reached with his employer—reduced to \$3,000 after his lawyers were paid—would not abate financial hardship for long, because the man had only been able to secure unskilled work at a two-thirds of his former wages once he

¹²¹ See McLean “Passage to Texas,” *The Survey* 24 (November 19, 1910), 290 which discussed how children between twelve and fourteen were barred from work in Texas unless the child’s father died or was incapacitated. See also “Important Legislative Changes, 1910-1911,” *The Survey* 25 (September 23, 1911): 776-777 which noted that California allowed children to work if parents were incapacitated.

¹²² Orrin Fried, “A Summary of Child Labor in Wisconsin,” (Madison: Industrial Commission of Wisconsin, 1933), [no page number] via the *Children in Urban America Project*, <http://www.marquette.edu/cuap/>. Accessed December 2, 2014.

¹²³ *Special Committee on Industrial Insurance*, 78. See Case Number 9.

¹²⁴ *Ibid.*, Appendix 1A. See Case Number 9.

physically recovered.¹²⁵ As this case indicates, child employment was often necessary, but it did not come without a cost.

Whether it was temporary or permanent, reliance on a child to serve as breadwinner not only robbed the child of education and exposed them to the risk of their own injuries, but it could also undermine traditional family roles. So, after a Milwaukee man was killed and four of his children went to work to support their mother and two younger siblings, the sixteen-year-old son who had been employed at a printing press, carelessly (whether because of his age, inexperience, or any number of other reasons) placed his right hand on unguarded knives that were under the desk of a printing press he was operating and lost three fingers. He returned to work seven months later but, at his young age, had already experienced one of the most difficult challenges for disabled workers—discriminatory hiring practices—and would likely continue to grapple with doubting employment agents in the future if and when he changed jobs.¹²⁶ In a more traumatic example, a German millwright at a large Milwaukee brewery was permanently disabled when he fell twenty feet from a platform that gave way. In addition to the partial loss of eyesight and intense pain he experienced in his paralyzed left arm, the man regretted the fact that he was forced to send the oldest of his four children, a fourteen-year-old boy, to work. He had been saving for the boy's college education, but his disability prevented the father from returning to work and his wife could not be spared. She had given birth to their fourth child just six weeks earlier. Their family income dropped from \$975 to \$300 in the year that followed his accident. Although his wife took up sewing and housework as soon as she could be spared from nursing the infant, the

¹²⁵ Ibid., 78. See Case Number 9.

¹²⁶ Ibid., 82. See Case Number 24.

family was heavily reliant on charity: free rent in a home owned by relatives, loans from friends, and aid from a fraternal society.¹²⁷ Even after winning a substantial settlement of \$8,750, most of which went toward opening a small grocery store, the man asked SCII interviewers: “How can I live and watch my children growing up about me, realizing I must always be a burden upon them[?]”¹²⁸ Clearly the fact that this man had fallen from his role as breadwinner was a source of great pain. Although he is one of the few who put it into words, it is fair to assume that he was not the only disabled worker who would have harbored such feelings. While such arrangements weighed heavily on the disabled parent and certainly lowered a family’s standard of living, they at least allowed them to stay together. Not all disabled workers and their families were so lucky.

On occasion, work-accidents made it impossible for parents to care for their children. In 1911, the *Milwaukee Leader* featured such a story. A local man, formerly “considered one of the best railroad engineers running out of Milwaukee,” lost his arm in a corn shredder while helping a friend with the harvest five years earlier. After his wife died, he had no way to support his three small children and they were placed in an orphanage. The man’s story made news in December of that year as he was desperately seeking a job so that he could afford to buy new shoes for his daughters as a Christmas present.¹²⁹ This worker’s story was not likely an anomaly. While Milwaukee orphanage records rarely indicated whether a parent was disabled by a work-accident, numerous children in their charge are listed as having one or both parents alive.¹³⁰ Since many

¹²⁷ Ibid., 80. See Case Number 17.

¹²⁸ Ibid.

¹²⁹ “Wants Job to Buy Shoes for Daughters for Xmas,” *Milwaukee Leader*, December 22, 1911, [no page number], Children in Urban America Project (CUAP), <http://www.marquette.edu/cuap/>, accessed November 12, 2004.

¹³⁰ Karalee Surface, “Orphanages in Progressive Era Milwaukee,” (paper presented at the Mid-America Conference on History, Norman, OK, October 5, 2009).

working-class families lived on tight budgets, a sudden injury could easily undermine a parent's ability to care for his/her children. If necessary, parents relied upon such institutions to provide temporary care until they managed to get back on their feet.

Although disability should not be presumed to have broken up every family, there is certainly a great likelihood that a portion of those children with surviving parents were in the orphanage either temporarily or permanently because of a work-related accident. In fact, early nineteenth-century reformer Florence Lattimore suggested such a link between asylum care for children and industrial accidents in her 1908 study, "Children's Institutions and the Accident Problem." Basing her findings on the records of five children's institutions in the industrial districts of Pittsburgh, she pinpointed work-accidents as the cause for admittance in the cases of 165 children. The children belonged to sixty-seven separate families. While twenty-four of the fathers had been killed at work, two were totally disabled, eight "permanently inconvenienced" (but not fully disabled), seven permanently injured but not incapacitated, and twenty-four had suffered temporary injuries.¹³¹ Although similar detail was either not collected or not preserved in the records of Wisconsin's orphanages, Lattimore's contemporary observations were likely not a fluke. Indeed the connection between disabled breadwinners and dependent children is a fruitful topic that deserves more scholarly attention.

In the end, work-related disabilities and the impairment of earnings that accompanied them inevitably had a significant impact for an employee's family. At times

¹³¹ Florence Lattimore, "Children's Institutions and the Accident Problem," *The Survey* 24 (September 3, 1910): 801-805. Lattimore went on to explain that the degree to which disability was the main cause of institutionalization varied. In twenty-two percent of the 165 cases, she concluded that injury could not be considered the main cause. In thirty-three percent of the cases, she claims that it was a contributing factor but was exacerbated by other issues like family trouble, lack of savings, and "waywardness." In a full forty-five percent of the cases (or for seventy-five of the children), however, Lattimore suggested that a parent's disability was the main cause of dependency. She further estimated that those seventy-five kids had collectively spent 208 years in the asylums (or an average of three years per child).

family proved to be the most valuable asset a disabled worker could have—nursing them back to health, loaning them money, providing food and shelter. Familial support, however, did not always come without consequences. In some cases it came with a noticeable reduction of living standards after children became the primary breadwinners. In other instances the sacrifice was the child's health and future education. Even after compensation alleviated some of the financial burden, families bore the brunt of the economic impact of disabling work-accidents. When they were unable to meet the economic demands of a lost breadwinner, families also became the disabled worker's greatest liability. Since they were of prime working age, the vast majority of work-accidents struck the men (and sometimes women) most likely to have younger children. While all disabled workers found some way to adapt to their new condition, the impact of their disability on their capacity to support a family certainly factored into how they felt about themselves in the wake of their accidents.

Sense of Self

It is only logical to conclude that a sudden grave injury and the changes that it wrought would, in some way, impact a person's attitude or even hinder their self-confidence. The simple fact that their wages were often impaired would have made disabled workers acutely aware of their difference from their non-injured peers. Additionally, most of them were bound to face the general public's often prejudiced views of the disabled as pitiable, dependent, subnormal, or suspect. On top of all of this, there was an element of suddenness that accompanied work-related disability which scholars can only assume would affect the way that disabled employees felt about their

injuries. Instantaneous change made a person's experience with disability slightly different than that of individuals who had congenital defects or who were hindered by the onset of a disease in early childhood. Like wounded soldiers or car accident victims, they went from being physically "normal" to being physically "different" in moments. While they were, for all intents and purposes, the same person, others no longer saw them that way. Indeed, some never saw themselves that way. As Jenny Morris explained in *Pride Against Prejudice*, disability would likely have overshadowed an individual in many ways—whether they intended it to or not. The outside world would always presume that everything in life—good or bad—was now tied to their physical differences. Furthermore, disabled workers would likely have found that their physical differences often invited unwanted stares and commentary from strangers and friends alike.¹³² Substantiating these seemingly logical presumptions, however, is problematic.

If tapping into the effect of work-related disabilities on family life is difficult, it is nearly as impossible to find any documentation of how physical impairments affected

¹³² Jenny Morris, *Pride Against Prejudice: Transforming Attitudes to Disability* (Philadelphia: New Society Publishers, 1991), 19-22. Morris reflected on her own experience, noting that while she knew immediately after her fall from a wall that she was going to be paralyzed from the waist down, she "didn't fully realise [that] by stepping over that wall I became someone whose physical condition others feared." (2) She also included a number of stories from other disabled women about the tendency of able-bodied persons to blatantly stare at them because of their physical difference. For example, a young woman who was badly burned as a child and sported very notable scars on her face explained how every time that she went out on the street passersby would see her scars and immediately look down or away "as if the horror was too much," but inevitably she noted they always looked back again in curiosity. Such glances made her self-conscious of her appearance, contributed to her sense of loneliness, and encouraged her to stay inside where she felt safe from prying eyes. (24) Likewise, other respondents noted that the stares were often accompanied by invasions of their privacy. Strangers felt compelled to ask them about intimate details of their lives—"they have a consuming curiosity about how we pee, how we shit, how we have sex (*do we have sex?*)"—or to comment on their condition as "a shame." (29) Furthermore, some respondents explained that even their family members sometimes talked about them in exclusionary ways. For instance, a young woman who was born blind always felt different from her siblings, attending a special school where she lived away from her family. She noted that when her parents spoke of the children's future they always seemed to speak of her in different terms. (27) Such modern-day observations are certainly not a new phenomenon, and whether one's working-class peers were more used to seeing workers with maimed hands and limbs or not, it is reasonable to presume that many Gilded Age/Progressive Era disabled workers would have echoed the sentiments of these late twentieth-century women.

workers' sense of self. While Wisconsin legislators were concerned with work safety as early as the 1870s and began tackling the issue of fair compensation for injured employees in the 1910s, their approach to the issue showed little concern for documenting how disabled workers felt about the injuries that befell them or how such accidents had changed their lives. Work-accidents were a problem of economics. They rendered people dependent—either temporarily or permanently—and when employers failed to provide monetary support that dependency fell to the community. The most important things for safety reform advocates to quantify then were the wages and workdays lost, the cost of medical care, and the degree to which disability compromised re-employment. Even when the state established a commission to study the shortcomings of the common law liability system, the voice of the injured was muted. A few interviewees hinted at the hardships they experienced, but at the hearings that the special committee held on the proposed legislation workers' voices were limited to the Wisconsin State Federation of Labor's representative—who may or may not have been disabled.¹³³ Based on the information that they chose to collect from the thirty-six disabled workers in this survey, the commissioners probably ignored the matter of feelings altogether when they held their formal hearings.

Later survey conductors were only slightly more concerned with disability's broader impact on the individuals they questioned. Although there is no record of the questions included in the Industrial Commission's 1913 Study on Permanent Partial Disabilities, very little detail is offered on the participants' personal feelings about their physical impairment. In the event that workers were asked or volunteered a comment on the matter, they usually discussed it in terms of how it affected their ability to work.

¹³³ *Special Committee on Industrial Insurance*, 36.

Many responded simply that it either had or had not impaired their earning capacity. Regina Dolan's survey in 1918 was conducted with the intent to assess how disability might affect returning World War I soldiers and inform legislators as to what might be done to help them adjust to their own impairments. Perhaps because of this fact, many of the respondents tended to emphasize the positives as opposed to dwelling on those things they could no longer do. As Dolan noted, "a handicapped man rarely showed any tendency to admit his inability to compete on equal terms with his fellows!"¹³⁴ So too in Zorbaugh's 1926 study—which was admittedly concerned with the advisability of granting lump sum compensation awards (versus paying weekly installments) rather than assessing how disability affected the psyche of her interviewees—little insight was given to the personal, non-economic implications of her subjects' disabilities. With all of the attention directed at an injury's financial ramifications, it is hard to find any evidence to help correlate the experience of disabled workers with that of soldiers, polio victims, or others injured by non-work accidents—some of whom have left behind their own very valuable and introspective memoirs.

From what little personal insights were shared in these surveys, however, it seems that the impact of physical disability was as unique and varied as the workers who experienced it. Some were left with great lingering pain in their amputated limbs, while others happily declared that their lost part was barely missed. Similarly, some workers never recovered from the financial hardships their injuries begot, whereas their peers bounced back to their pre-accident wages or even secured better paying jobs. In the former case, we can assume the outlook was more negative, while the latter individuals might have had an easier time adjusting to the physical difference. In still other cases,

¹³⁴ Dolan, 11.

workers' brief comments about how their injuries impacted their ability to perform non-work functions reflected how deeply they felt their loss.

Lamented Limbs

Although workers rarely opened up about their disabilities, a select few indicated that they sorely regretted their loss. In the case of a twenty-one year old who lost his right arm four inches above the wrist, interviewers noted that due to his multiple rejections from employment he “fe[lt] the loss of his arm greatly” until he “picked up courage and earned a little more every year.”¹³⁵ This particular worker had lost his arm eight years earlier, at the age of thirteen, just two weeks after he arrived in the city to learn a trade. Along with the suddenness of the injury and his young age, he likely felt that the injury had robbed him of a prosperous future. While he had no children to support, he might have considered his injury a deterrent to his future courtship possibilities as well as his ability to become a breadwinner for a potential wife. In other cases, the regret stemmed from the workers' dissatisfaction over the medical care they had received. A twenty-three-year-old Polish immigrant whose fingers were lacerated on a cut-off saw explained to survey interviewers that the resulting stiffness “undoubtedly could have been prevented by proper medical attendance.”¹³⁶ Likewise, a young German-American worker whose accident robbed him of two fingers and left two others on the same hand stiff when he was just seventeen years old cited improper medical care as the primary reason for the severity of his injury. Although he later found work at higher wages than

¹³⁵ “Permanent Partial Disabilities,” 147-148. See Case Number 124.

¹³⁶ *Ibid.*, 112. See Case Number 12.

he earned at the time of the accident, he “deplore[d] the loss deeply.”¹³⁷ Such responses hint that the disability contributed to a lack of confidence.

Others were more blatant in affirming the correlation between disability and a lowered sense of self-worth. For example, a young American man who lost his fourth and fifth fingers when they were caught between the gears of his machine and its guard felt conscious of his injury when he returned to work. Although he claimed that he never faced discrimination and had been able to secure similar work as a skilled machinist, he “felt he was not wanted” after he was back on the job.¹³⁸ So too a Milwaukee worker who lost his left eye in 1890 while employed in an experimental metal testing room admitted to interviewers over twenty years later that his injury impaired his earning capacity, and ensured that he “lacked nerve and confidence.”¹³⁹ In the most severe cases, an accident sometimes made the worker fearful of machinery, causing a change in employment. Thus a Milwaukee man who lost his thumb and first finger on a rip saw changed positions to become a helper in a tin shop because he “dreaded machinery” after his accident. The same was true for a Kenosha man who switched from operating a punch press to a position as truck mover after losing his right eye because he “lack[ed] the nerve necessary to do machine work.”¹⁴⁰ Clearly the trauma and mental distress these work injuries begot sometimes lasted long after physical recovery had been achieved.

This is not to say that physical pain itself was not a significant source of grief for the victims of these industrial accidents. Although only a few admitted a great deal about their feelings, a handful of interviewees spoke frankly about their lingering pain. Such

¹³⁷ Ibid., 119. See Case Number 13.

¹³⁸ Ibid., 117. See Case Number 26.

¹³⁹ Ibid., 152. See Case Number 146.

¹⁴⁰ Ibid., 150. See Case Number 138.

commentary was generally brief. Thus a Milwaukee man who fell under a switch horse and lost his leg eight inches below the knee simply told interviewers that he “suffer[ed] much discomfort.”¹⁴¹ Or a man whose right index finger was torn from his hand while cleaning the gearing of his machine explained that the injury “cause[d] pain only during cold weather,” but insisted that it did not interfere with his earnings.¹⁴² While few acknowledged such physical pain, it no doubt affected many of the men and women who endured jarring injuries. The degree to which that pain defined their lives after the injury was most likely dependent on some combination of the severity of their injury, the quality of medical care they received, and their personal attitude toward their disability.

Whether it was due to the lingering pain or the type of injury they experienced, workers who reflected negatively on their disability most often discussed how the injury had interfered with their earning capacity or their ability to perform certain work tasks. Many respondents simply replied that the injury had impaired their earning capacity to varying degrees.¹⁴³ Others, like the forty-eight-year-old German man in Milwaukee who had lost four fingers on his right hand in 1907, were more mournful of their loss. In describing his demotion to elevator attendant and the correlating reduction of his earnings, he told the interviewer that his injury had “destroyed every hope of making decent wages.”¹⁴⁴ Frustration over decreased wages, however, was just the tip of the iceberg.

¹⁴¹ Ibid., 143. See Case Number 104.

¹⁴² Ibid., 119. See Case Number 32.

¹⁴³ Ibid. See Cases 9, 50, 53, 97, 100, 110, 194, and 155, for example.

¹⁴⁴ Ibid., 112. See Case Number 11. The man was injured six years earlier, at the age of forty-two. Perhaps his age or his lack of other training combined to make him feel more desperate about the wage loss than some of his peers.

Some of injured workers explained that their feelings of frustration stemmed from the fact that their disabilities hindered their long-term career goals. Thus, even though a Racine man who had lost his right eye while working as a carpenter in 1887 had long since recovered from his injuries and was gainfully employed for twenty-six years after his accident, he shared with interviewers that his injury had not only impaired his earnings, but kept him from pursuing his goal of becoming an expert in fine cabinet work. Thwarted career goals were a sore point, even though he was very highly regarded by his employers as having been “a great deal better than some others who have two eyes.”¹⁴⁵ Likewise, a Racine man who lost all of the fingers on his right hand in two separate accidents explained that the “injury thwarted his ambition to become a patternmaker.”¹⁴⁶ Regrets over lost careers were, in fact, the most common personal detail shared by those who discussed how their disability negatively influenced their lives.¹⁴⁷

Although it was rarely expressed by the interviewees, frustration over work-related disabilities was not always limited to its effect on earning power. In the case of twenty-two-year-old William Dvorak, for instance, the loss of his fourth finger at the distal joint was somewhat problematic for his career as a marble cutter. More important to Dvorak, however, was the fact that the injury interfered with his outside career as a musician. During the hearing that followed his accident, the Industrial Commission acknowledged what the lost finger might mean to his ability to play music, but insisted that they “[could not] consider physical or mental pain and suffering, [excepting where]

¹⁴⁵ Ibid., 161. See Case Number 189.

¹⁴⁶ Ibid., 136. See Case Number 83.

¹⁴⁷ Ibid. See Cases 62, 125, 173, 176, 183, and 211.

they occasion loss of wage.”¹⁴⁸ In still other instances, regret was not a matter of impaired function, but rather outward appearances.

Disfigurement was, as it still is, a concern for those who experienced more severe injuries. While some workers might consider lost fingers a badge of honor, more severe disabilities invited the judgment of able-bodied peers who—intentionally or unintentionally—scribed certain characteristics to people who were physically different. For example, a young American-born worker who lost both legs and suffered additional injuries to his right hand after falling into the unguarded gearing of an electric motor felt very uncomfortable about his physical appearance when interviewers came to call. Having been supported by his family for a few years while he recovered, he had not yet decided on what work he would pursue and explained to his visitor that he “d[id] not like to be seen on the street in his present crippled condition.”¹⁴⁹ When the Industrial Commission formed, it acknowledged the burden that workers like him might feel because of disfigurement. Beginning in 1913, they allowed a benefit of \$715 for disfigurement to the head or face; four years later, they amended that provision to cover any mutilation to the neck, hands, and arms.¹⁵⁰ However, the agency reserved the right to judge who qualified for such allotments. Thus, when Richard Ellingson’s face and scalp were lacerated by a stray piece of emery wheel that hit him above his left eye, commissioners turned away his request for disfigurement benefits. They emphasized that the injury was not “such as to make the employee repulsive and thereby lessen his chance of employment,” or to make him “become sensitive to his disfigurement and thereby

¹⁴⁸ *Workmen’s Compensation Second Annual Report*, 64.

¹⁴⁹ *Special Committee on Industrial Insurance*, 78-79. See Case Number 11.

¹⁵⁰ Gordon M. Haferbecker, *Wisconsin Labor Laws* (Madison: University of Wisconsin Press, 1958), 54.

lessen his ability to seek and obtain employment.”¹⁵¹ In their opinion, Ellingson bore “the honorable scars of industrial conflict” which should in no way interfere with future employment or make him so “repulsive” as to “embarrass him in associating with his fellowmen.”¹⁵² Surely more disabled men and women felt conscious of the attention that their injuries might bring from their peers. Since none were likely asked about their feelings on the matter and few were bold enough to share how they felt, it is impossible to say with any certainty whether this was a widely shared sentiment among disabled workers or how it correlated with the one’s age, gender, and the severity of their injury.

While it would be easy to conclude that the negative opinions voiced above were standard fare for a disabled worker, the evidence paints a much more complex picture. In spite of the minimal attention given by interviewers and interviewees to the personal feelings that accompanied these disabilities, the individuals who did respond sometimes reflected quite positively on their post-accident lives. Whether they considered it a blessing or simply felt it had minimally changed their lives, these individuals—like many others with physical impairments—simply refused to define their lives in terms of victimhood. They did not necessarily “triumph over adversity,” but rather adapted to their new reality, never ceasing to be the same person they always were and combatting any tendencies for their contemporaries to see them otherwise.

¹⁵¹ “Richard Ellingson, by William Stein, his guardian vs. A.E. White Machine Works,” *Workmen’s Compensation Third Annual Report*, 63.

¹⁵² *Ibid.*

“No Great Loss”

The individuals who expressed little anger or frustration about their work-related disabilities most often indicated the importance that a positive attitude played in their recovery. They stressed that the loss of an eye or of a few fingers should be “no hindrance to the chances of a good man to get ahead.”¹⁵³ Some—particularly those with missing fingers—went so far as to declare that they really did “not miss [their] fingers [or eyes] very much.”¹⁵⁴ Employers noted that these workers were “unusually cheerful” and stressed that they could “keep up with the best men” in their shops.¹⁵⁵ Such was the case for the German-American employee who lost three fingers of his right hand on a putty machine, but “secured a position with [another] company by keeping his hand concealed and then tackling the work with great ambition [and] ma[king] good.”¹⁵⁶ These same attributes were highlighted in the 1920s when the Department of Vocational Rehabilitation published success stories in their annual reports. For example, they noted the “energetic attitude” of a man named Fay in the wake of an accident that had resulted in the amputation of both legs when he was just seventeen. Following his training, he had found a job as a mechanical dentist.¹⁵⁷ Rehabilitation specialists also highlighted the story of a worker named Lester whose “zeal and determined attitude” had helped him secure a job as a linotype operator after losing his arm in a machine shop accident.¹⁵⁸ In other

¹⁵³ “Permanent Partial Disabilities,” 120. See Case Number 35.

¹⁵⁴ *Ibid.*, 111. See Case Number 8. See also Cases 22, 23, and 162. Others, such as Cases 4, 6, 15, and 140, explained that their missing fingers were “no great loss.”

¹⁵⁵ *Ibid.*, 111. See Case Number 8. See also Cases 4, 46, 84, 91, 117, 150, 162, 173, 174, 177, 180, 189, and 208.

¹⁵⁶ *Ibid.*, 114. See Case Number 18. In fact, many of the respondents stressed that they had “made good” in the wake of their accidents—they had earned their way into their jobs, and not taken charity.

¹⁵⁷ DVR, *Sixth Annual Report*, 47.

¹⁵⁸ *Ibid.*, 43.

cases, the positive attitude was implied in a worker's response rather than being explicitly stated.

Particularly in cases where injuries were less severe, respondents who reflected positively on their disability often noted the ease with which they were able to adapt to their post-accident lives. As one Milwaukee man who lost his right eye as a carpenter explained, his current occupation—patternmaking—was entirely possible “and if you once get into the habit of focusing your work with one eye, it is easy to get along.”¹⁵⁹ Another, a japanner (a worker who applied enamel finishing to auto bodies), suggested that his disability—a missing little finger—was of little importance in his line of work.¹⁶⁰ Even if an injury occasioned a change to a new profession, several respondents suggested that it should not eliminate one's ability to work. Thus a blacksmith who lost his right eye in 1879 explained that a partial loss of vision “would never cause a refusal of work *if one is willing to work.*”¹⁶¹ Several other interviewees simply declared their ambition to become experts in their fields in spite of their disability.¹⁶² While re-employment was certainly a big factor in determining a worker's post-accident disposition, the ability to re-adjust to work was not the only thing that made respondents view their lives in a positive manner.

Just as there were men and women who begrudged the toll of their disability on their personal lives, there were also respondents who failed to see their physical impairment as a hindrance in their non-work lives. Some emphasized physical activities that were still able to engage in after the accident. For instance, interviewees from the

¹⁵⁹ “Permanent Partial Disabilities.” See case number 157.

¹⁶⁰ Ibid., 150. See Case Number 135.

¹⁶¹ Ibid., 160. See Case Number 186. Emphasis added.

¹⁶² Ibid. See Cases 22, 128, 135, 149, 154, 162, and 171.

PPD study highlighted how a twenty-nine-year-old Calhoun man “walk[ed] naturally and without crutches, r[ode] a bicycle, and enjoy[ed] ice and roller skating” even after he was run over by a train and lost both legs three inches below the knee.¹⁶³ They also gave the example of a Racine man who lost four fingers in a stamping machine in 1896, but continued to serve as the “star catcher” on the company’s baseball team.¹⁶⁴ Similarly, two men in the Dolan study demonstrated how they could operate a car in spite of their loss of one arm.¹⁶⁵ Another told Dolan how he had learned to dance and skate after losing his leg; and a fourth interviewee “proudly displayed his new artificial legs and showed how well he could walk.”¹⁶⁶ Whether these subjects accentuated positive outcomes because the Dolan study was intended to determine what might be done for World War I veterans or because their commentary was a true reflection of the men’s feelings, it clearly showed that the experience of disability was not always one of tragedy and despair.¹⁶⁷

Perhaps as a result of time elapsed or personal disposition, an injured worker might even consider his/her disability as a blessing in disguise. Indeed, one respondent from the PPD study who lost three fingers on his right hand thought of his injury as an important reminder to be more careful. The fact that the injury was less severe—he lost only parts of his fingers at the second joint—and he was able to return to work as a sub-foreman and later was promoted to general foreman at the mill undoubtedly helped him to come to terms with the loss.¹⁶⁸ In another instance, a German-born man who was unable to do farm work due to an unspecified injury declared his disability to be a

¹⁶³ Ibid., 144. See Case Number 108.

¹⁶⁴ Ibid., 139. See Case Number 91.

¹⁶⁵ Dolan, 11.

¹⁶⁶ Ibid. The boy with artificial limbs had lost both legs just below the hips.

¹⁶⁷ Dolan actually suggested that the men she interviewed might be offering a skewed perspective in order to paint a more uplifting picture for returning veterans.

¹⁶⁸ “Permanent Partial Disabilities,” 120. See Case Number 34.

“blessing.” Born into an impoverished family, his inability to do heavy labor had resulted in his family making a great financial sacrifice to send him to America where he could study to become a Lutheran minister. Years later, working as a teacher in a church school, the man “[found] much to be grateful [for] in the fact that through his teaching he ha[d] ‘an opportunity to influence the lives of many young people for good.’”¹⁶⁹ In this, as in all cases, the experience was shaped by a combination of variables. The fact that his disability was identified at an early age, that it was less visible than an amputated limb, that he had been able to compensate for his physical weakness by receiving academic training, and that his family was able to sacrifice their small earnings for that opportunity, along with his general disposition are all reflected in his personal response to being “dis”-abled.

Conclusion

In the end, no two experiences of disability are the same because, quite simply, no two people are the same. There are likely stronger patterns of correlation that might be drawn from more consistent and detailed data sets on disabled workers at the turn-of-the-century. Had interviewers thought to document such information, present-day scholars might find stronger connections between age or time elapsed since the injury and a worker’s sense of self. A closer examination of the records of orphanages, workhouses, and charitable agencies might help shed light on how frequently work-disabilities truly fractured the core of family. Or a larger collection of more severe injuries might indicate a stronger link between injury type and the worker’s post-accident fate. Based on the

¹⁶⁹ Dolan, 12.

information available for the state of Wisconsin, however, the strongest conclusion to be drawn is that disability impacted a worker's finances, employability, family life, and sense of self in a great variety of ways which ultimately depended on the unique details of each and every case.

Conclusion

In the late nineteenth century, eighteen-year-old Michael took a job at a steel mill in Milwaukee County.¹ The oldest of six children, he was the only one of working age and his income would provide a valuable supplement to his father's regular earnings. After one week on the job, Michael's life changed forever. He was using an iron rod with a hook at one end to straighten steel rails when the hook slipped forcing him to lose his balance and fall backward into the unguarded gears of an electric motor. His life was spared, but the accident resulted in the amputation of both of Michael's legs and permanent stiffening of the fingers in his right hand. After the accident, he turned down the steel company's initial offer to pay him a \$150 settlement, pay for his artificial limbs, and provide him with continued employment. He also rejected two additional offers of \$800 and \$3,000, opting to bring suit against the employer instead. After nearly two years, Michael settled out of court for \$5,800 and coverage of his hospital and doctor's expenses. In the interim, a benefit society offered him \$120 in aid. The settlement undoubtedly helped Michael and his family for a few years, but eventually he needed to find gainful employment.²

The economic and social effects of Michael's disabling injuries persisted long after the physical wounds had healed and the court's verdict on liability was reached. In spite of the sizeable settlement the court awarded, the severe nature of his injuries dictated that he would be heavily reliant on the aid of his family. With no other children

¹ With the exception of Elija Pecanac, all names in this chapter have been fabricated. The *Report of the Special Committee on Industrial Insurance* only included a first initial for all of the cases they included.

² Wisconsin Legislature, *Report of the Special Committee on Industrial Insurance, 1909-1910* [s.l.: s.n., 1910], 78, State of Wisconsin Legislative Reference Bureau. Although the report was dated 1909-1910, many of the men and women who were surveyed had been injured prior to 1900.

of working age, the family's financial support fell once again squarely on his father's shoulders. Beyond such economic ramifications, however, the accident also struck more deeply at the young man's sense of self. As the interviewer from the Special Committee on Industrial Insurance explained: "M does not like to be seen in the street in his present crippled condition, and has not yet decided what sort of work he will take up."³ Beyond hindering his re-employment, Michael's self-consciousness about his physical appearance presumably took a toll on his social and romantic life. At a time when there was little government oversight of industrial production, such injuries were far from isolated incidents.

Although this tragic case might suggest that the sudden, disabling injuries that were so prevalent in an age of unregulated industrialization could only end in despair, scholars must be cautious about making sweeping generalizations regarding the highly unique experience of disability. Michael and countless other disabled workers greatly lamented their physical losses. They were frustrated about restrictions that their paralyzed or missing limbs placed on their ability to fulfill their rightful role in society and were self-conscious of the unwanted stares that their different physical appearance invited. Such sentiments were certainly quite common, especially in the immediate aftermath of work-accidents. However, as a different story from the pre-compensation law era demonstrates, the impact of such disabling accidents was highly dependent on a wide range of variables unique to each and every man and women who endured them.

Sixty-two-year-old handyman Henry lacked all of the family resources and support networks that had aided Michael in the wake of his accidents, yet when interviewed by the same investigators in 1907 he appeared to have been free of the

³ Ibid., 79.

frustration and angst that the younger man had expressed. Henry was injured seven years before the study was conducted—scalded over much of his hands, arms, and back after being ordered to clean a boiler. Earning just two dollars per day at the time, he lacked any real savings and was penniless for four years after the accident while he awaited his settlement. His medical bills were charged to the county, and as the accident rendered him “practically disabled for life,” he attempted to support himself by applying to the county poor commissioner for outdoor relief as well as taking up light work with his former employer when it was offered.⁴ Unlike other skilled workers whose injuries would have robbed them of a more sizeable weekly salary, Henry’s standard of living would not have changed quite as drastically.⁵ While the accident hindered his income just as much as the next worker, the elderly handyman appeared to have been living a hand-to-mouth existence for some time. Furthermore, while other injured workers might be unable to provide for their wives and small children, Henry needed only to be concerned with supporting himself.

Henry also seemed less concerned with how others perceived his injured body. While Michael, the young man embarrassed by his amputated limbs, feared leaving his home years after the accident, Henry took a different approach to confronting the stares of his peers. Whether it was out of sheer financial necessity or was a reflection of how he felt about his scars, he decided to display his scalded arms, torso, and “crooked hands,” as part of a freak show at the county fair.⁶

⁴ Ibid., 77.

⁵ For instance, when a German millwright named Bernard fell thirty feet from a platform and was rendered “a permanent cripple [who] cannot move about without aggravating his injuries intensely,” he was robbed of his twenty dollar weekly wages. Ibid., 80.

⁶ Ibid.

Although the investigators did not include a direct statement from Henry on how he felt about his injuries or why he put them on display, his experience seems markedly different from Michael's. He lacked family support, but was also free of the stress of providing for that same family. Furthermore, while the income loss that his accident incurred was very real, the degree to which his standard of living was affected was different from that of men and women who had once been skilled workers with higher weekly wages. Whether it was a product of his age, his temperament, or his sheer economic desperation, Henry also dealt with the social prejudice that accompanied his physical "other"-ness in a much different manner than many other accident victims.

As this dissertation demonstrates, accidents were a very real and persistent threat for Gilded Age workers. At a time when state and national governments had yet to find a balance between unfettered capitalism and protecting human life and limb, work-related disability was a common experience for many laborers in most lines of work. By the early 1900s the issue had come to a head in Wisconsin. Leaders had begun to encourage stronger enforcement of safety regulations and started to take a keen interest in how injured workers fared in the wake of their injuries. In 1911, hoping to provide better care for these men and women, eliminate the contentiousness caused by bitter court battles between employers and employees, and more evenly distribute the economic burden of industrial accidents, Wisconsin became the first state to pass a constitutionally upheld workmen's compensation law.

The new law was a vast improvement over the old system, but as time would show it did not entirely transform the experience of work-related disability. Whereas employees injured before 1911 could only hope that their employer was benevolent

enough to cover medical expenses, the new law ensured that workers would receive ninety days of medical care. Likewise, while prior to 1911 employees often had to challenge their employers in court over who was at fault—potentially souring the relationship altogether—in order to obtain reparations, those who were injured after 1911 could generally count on automatic compensation for their injuries, regardless of who was at fault.⁷ However, as the case of Bosnian immigrant Elija Pecanac suggests, the new system was not entirely without complication. When Pecanac was injured in 1912 after a piece of iron ore lacerated his left arm, he kept the injury hidden. Fearing that he would lose his job, he failed to report his accident within the law’s thirty day requirement, and as such, his employers tried to deny compensation by claiming they were intentionally misled about the nature of the injury. While he did not have to sue the employer, Pecanac and others like him had to learn a whole new set of bureaucratic rules in order to secure economic support in their time of greatest need.⁸ A failure to do so could, as Pecanac’s case demonstrates, open the door for employers to deny financial responsibility.

Furthermore, many of Pecanac’s post-accident experiences went beyond economics. Like Michael and Henry before him, he still had to deal with the variety of other ways that the physical damage of his accident reshaped his life. For example, according to the Industrial Commission, the once “strong man [Elija], as brawny as an ox ... soon came to grief.”⁹ Since his wife and four children remained behind in Bosnia, Pecanac was holed up in a boarding house, suffering silently for nearly ten days

⁷ As was noted in Chapter Two, such provisions were only applicable for employees who were covered under the law. Agricultural and domestic laborers were excluded and employers who had less than four employees were not covered by the law. After the first few years, however, over ninety percent of Wisconsin’s work-accident cases fell under the provisions of the no-fault compensation law.

⁸ “Elija Pecanac vs. Illinois Steel Company,” *Workmen’s Compensation Second Annual Report*, 71.

⁹ *Ibid.*

following his accident. An infection set in, weakening the arm, forcing him to finally seek medical care and ultimately resulting in the young immigrant being placed in the hospital for two months. Nearly five months after the initial accident, the strength of his arm was so diminished as to prevent him from engaging in the type of heavy work in which he had once been employed.¹⁰ Indeed, as Pecanac's story indicates, many of the non-tangible effects of work-related disabilities persisted long after the introduction of no-fault compensation in Wisconsin and other states.

Such violent interactions between man and machine have not disappeared in our present day, but rather followed the spread of industrialization into new, unregulated workplaces around the world. An NPR report from Shenzhen, China in 2000, for example, reads like an article from the pages of Progressive Era America's *Survey* magazine at the turn of the twentieth century. While the burgeoning Chinese city welcomed the economic benefits of industrial investment and workers were attracted by new and higher-paying jobs, a lack of proper training for employees coupled with unregulated machinery and hours led to an increasing number of clashes between man and machine which left countless workers maimed.¹¹ More recently, the collapse of an unsafe factory building in Bangladesh resulted in the death of over 340 workers who feared losing their jobs if they did not show up to work.¹² The more sensational stories of workplace violence often come from abroad, but even here in the United States it still remains a threat—primarily to blue-collar workers. The most recent and complete

¹⁰ Ibid.

¹¹ Robert Gifford, "Industrial Accidents in China," *Morning Edition*, NPR, July 5, 2000. Accessed October 25, 2014 via NPR archives, www.npr.org/templates/story/story.php?storyId=1076242.

¹² Korva Coleman, "Several Arrests in Deadly Bangladesh Factory Collapse," NPR, April 17, 2013. Accessed October 25, 2014, via www.npr.org/blogs/thetwo-way/2013/04/27/179441810/several-arrests-in-deadly-bangladesh-factory-collapse.

statistics indicated that 4,628 workers were killed and 1,153,980 suffered injuries that required them to miss work in 2012.¹³ When these disabling accidents strike, they leave an indelible impact on workers lives as they learn to adapt to a new physical—and often times mental and emotional—state of being.

This study of late-nineteenth and early-twentieth century workers represents the tip of the iceberg. It documents the dangers they faced, and recounts not only the shifts in the economic and governmental systems through which those workers sought redress for their losses but also the impact of such legislative interference on the recovering accident victims. Furthermore, in fitting with a larger trend in disability studies which defines disability as a socially-constructed status rather than an individual, medical pathology, this study explores how the term disability was constructed in the late-nineteenth and early-twentieth centuries and how such a definition impacted injured workers in their everyday lives.

If the findings seem less than fulfilling in some ways, it is because there is still a long way to go to fully comprehend how workers felt about their injuries. The sources lend themselves to an understanding of the economic side of the story, but reveal less about the personal toll of such injuries. This may simply be a product of the narrow vision that contemporary scholars and reformers had when studying the industrial accident problem in Wisconsin. They may have focused entirely on the cost of accidents rather than asking their subjects anything personal about disability. It might also, however, be attributable to the fact that such documentation was simply not preserved.

¹³ “Revisions to the 2012 Census of Fatal Occupational Injuries (CFOI) Counts,” U.S. Bureau of Labor Statistics, (April 2014), 1. Accessed via www.bls.org; “Nonfatal Occupational Injuries and Illnesses Requiring Days Away from Work, 2012,” U.S. Bureau of Labor Statistics (November 26, 2013), 1. Accessed via www.bls.org. The most recent year for which both fatal and non-fatal accidents statistics were available was 2012.

The agencies that dealt with injured workers on a regular basis in Wisconsin appear to have purged their records long ago. These missing files—on contested workmen’s compensation claims and the patients of the vocational rehabilitation agency—might very likely have contained the type of insight that would enrich the story. It is my hope that scholars will be able to find such valuable documents in future case studies of disabled workers throughout the country.

To that end, an examination of a variety of other source material might prove valuable for recapturing this crucial part of turn-of-the-century working-class life. The settlement house records of cities like New York and Chicago presumably would have dealt with this matter in a more personal way than state governments and their records warrant further examination. So too, several studies conducted under the auspices of programs like University of Chicago School of Social Work indicate a keen interest on the part of academics in the connection between disability and social problems like poverty and the social disorganization of the family.¹⁴ Indeed, as studies of orphanages during this period indicate, a great number of children were sent to live in homes for dependent children simply because their parents could not afford to care for them.¹⁵ The loss or serious impairment of a family’s breadwinner seems an obvious connection worth exploring. While there may never be a consensus on how workers dealt with the sudden disabilities that were so prevalent in industrializing America, the stories of people like

¹⁴ See “The Trend of Things,” *The Survey* 22 (October 30, 1909), 151, which mentioned a study of 1,000 homeless men who had applied to the Chicago Bureau of Charities for aid; and Louise Montgomery, “The Soil in Which Repeaters Grow,” *The Survey* 22 (October 9, 1909): 77-81. See also Florence Lattimore, “Children’s Institutions and the Accident Problem,” *The Survey* 24 (September 3, 1910): 801-805. Although Lattimore’s work was conducted in Pittsburgh rather than Chicago, it suggested contemporary interest in the impact of workplace disability upon working-class families.

¹⁵ Karalee Surface, “Orphanages in Progressive Era Milwaukee,” (paper presented at the Mid-America Conference on History, Norman, OK, October 5, 2009).

Michael, Henry, and Elija suggest that this all-too common aspect of working-class life is in great need of further historical investigation.

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