# American Legal History – Russell

## Crystal Eastman, Work Accidents and the Law (1910).

### EDITOR'S FOREWORD

The Slavs from Austro-Hungary, the Latins from the Mediterranean provinces, the Germans or the British-born, who come to Pittsburgh to do the heavy work of manufacture (and for Pittsburgh read the United States), from a region of law and order to a region of law-made anarchy so far as the hazards of industry are concerned. For there is scarcely a country of modern Europe but has brought its statutes abreast of industrial progress and wrought out for itself, as we have not, some sensible adjustment between civil rights, human needs, and the ceaseless operations in which groups of men and powerful appliances are joined in producing what the world wants.

Laggard as the American states have thus been in what Mr. William Hard has called the "law of the killed and injured," it is ours to profit by the experience of the countries which have from five to fifteen years' headway in this field. An American system should, none the less, be grounded firmly in American conditions. Toward the understanding of these conditions, of the common causes of accidents, and their consequences in the actual household experience of working people, this book is contributed. Miss Eastman presents the findings of the first systematic investigation of all cases occurring during a representative period in a representative American district. No such body of facts has hitherto been available, and the investigation could scarcely have been better timed in relation to constructive efforts towards the establishment of industrial justice. The field work was carried on during 1907-08 as part of the Pittsburgh Survey and the results were published in brief in "Charities and the Commons" in March, 1909. During the past year state commissions have been appointed in Minnesota, Wisconsin and New York for the purpose of recommending legislation on this subject. Data quoted in Appendix IV from the first report of the New York Commission afford a comparison between the Buffalo and the Pittsburgh districts, and show that the problem is in no sense local. Of scarcely less significance has been the institution

by the largest employer of labor in the Pittsburgh district (the largest, also, in the United States) of a system of relief which may be said to be a recognition that a share of the income loss due to every work-accident should be a charge on the business. Employers' associations, labor unions, conferences of charities, legal and economic associations have taken up the question; in many quarters, dissatisfaction which three years ago was all but inarticulate is now assertive and purposeful. Yet as this book is issued, the rank and file of workers in no American state are protected adequately against economic loss due to the accidents of their work.

An equally momentous change manifests itself in the attitude being taken by engineers, superintendents and mechanics toward the prevention of accidents. The fact that the cases studied by Miss Eastman fell in a period before recent developments in this direction makes them more truly a reflection of the unregulated industrial practice with which the American public has to deal. At the same time, in Mr. Beyer's article, we are able to present, as an illustration of methods of advance, the work of prevention extensively developed by the United States Steel Corporation under a central committee appointed in May, 1908.

This investigation, it should be borne in mind, was of fatalities and not of plants. The staff, within the limits of its time and means, concentrated on the first piece of work to be done--a study of the work-fatalities of which there was public record in a given year; the indications as to responsibility for the accidents which caused them; the distribution of the income loss which they involved. This plan eliminated any chance of partiality. Only the non-occurrence of a fatality in an industry during the period studied would bring it within the view of the inquiry; only the non-occurrence of a fatality would keep it out. Thus the method commonly employed by the physician or scientist in studying the occurrence of a disease with the hope of learning something as to its causes and effects was applied to the problem at hand. It is my belief that this outspoken, pioneer presentation will open up to public consideration, a situation which in our industrial districts has been weakly surrendered to inertia and trepidation.

The lives of men, the fair living of families--these are worth conserving to the uttermost against the risks of work. These the industries of America waste without tally.

Paul U. Kellogg
Director Pittsburgh Survey

## THE PROBLEM STATED

I. On December 4, 1906, James Brand a young structural iron worker, employed by the Fort Pitt Bridge Company, while passing over a scaffold to get to his work on the Walnut Street Bridge, fourteenth ward, Pittsburgh, fell 35 feet to the ground and was killed. Testimony at the coroner's inquest brought out the fact that a plank broke under him. The two pieces of the plank were picked up where they fell. At the broken end of each, the frost and dirt had worked into the wood several inches, testifying eloquently to an old crack, a crack of at least two weeks' existence according to the statements of those who looked at the pieces. Brand had nothing to do with the building of the scaffold.

II. On May 1, 1907, Frank Koroshic, a Lithuanian angle-shearman employed by the McClintic and Marshall Company, at Rankin, Pa., had finished his work for the day and, in order to get some waste with which to clean his hands, went over to a big punching machine with which he was familiar. It had a heavy fast-revolving wheel, boxed in with iron down to within two or three inches of the floor, to guard the workmen from accident. At one corner of the machine, in a hole, was some waste. According to the statement of the superintendent, Koroshic got down on his knees and, leaning with his left hand on the greasy platform a few inches from the wheel, reached with his right hand for the waste. As he bore his weight on his left hand, it slipped and slid into the wheel. In a second the hand was crushed.

III. On October 17, 1906, Adam Rogalas, a Russian laborer employed at $1.60 a day by the Iron City Grain Elevator Company of Pittsburgh, was sent with two other men to do some work in an adjoining building, used by the company for storage. On the floor above them grain was stored in bags. The supports of the floor gave way and it fell. One of the workmen escaped, another was injured, Rogalas was killed. At the inquest a building inspector testified that the floor supports were obviously inadequate. Rogalas had a wife, and four children, aged ten, six, five, and two; but he had no savings. According to Mrs. Rogalas, the claim agent of the company offered to settle with her for $400, which she refused. She put her case in the hands of a lawyer, and suit was entered for $20,000. Mrs. Rogalas got some washing to do; the city poor relief gave her $6.00 worth of

groceries a month; she begged at the door of her Catholic church on Sundays; her sister, with a family of six, did what little she could; an occasional $10 was advanced by her lawyer. She was seen in severe winter weather, with shoes so old that her feet were exposed. Six months after the accident another child was born; it was the end of the year before the suit came to trial. The court instructed the jury to return a verdict for the defendant. The woman had lost her case.

IV. On August 5, 1907, Robert Reeve, a United States postal clerk, was working the Baltimore and Ohio yards in Pittsburgh. The engine to which his car was attached collided slightly with another, so that by the jar he was thrown against one of the iron hooks on which mail pouches are hung and a bone behind his ear was injured. He was four days in the hospital, the charges for which the railroad company paid. He did not go back to work for four weeks. During this time his salary was paid in full by the government, $83.30. He received in addition $64 from a Mail Clerks' Association to which he belonged and to which he paid dues. He settled with the railroad for $250, of which his lawyer's fee took $100. Thus Reeve's slight injury, resulting, so far as we know, in nothing permanent, gave him a month's vacation on full pay, with $150 thrown in.

A social investigation is justified when there are grounds for belief that wrong exists in certain relations between individuals, a wrong of sufficient importance and extent to warrant concerted interference on the part of the community. When to such a belief is added a general conviction that this wrong results in a great public tax, a drain upon the productive forces of the community, the need for investigation becomes urgent. With regard to the work-accident problem, such a belief and conviction has long existed,--based not only upon newspaper stories, magazine articles, and hearsay, but upon the common knowledge and experience of working people. On the strength of it, this investigation was undertaken. It should give us facts, not isolated and unrelated, but massed and classified.

The incidents related above are isolated facts, the first two bearing especially upon the causes of work-accidents, the third and fourth upon their economic cost to the workman and his family.

If adequate investigation reveals that most work-accidents happen because workmen are fools, like Frank Koroshic, who reached into danger in spite of every precaution taken to protect him, then there is no warrant for direct interference by society in the hope of preventing them. If, on the other hand, investigation reveals that a considerable proportion of accidents are due to insufficient concern for the safety of workmen on the part of their employers, as in the death of Brand, then social interference in some form is justified.

If, again, investigation of a large number of cases shows that workmen and their families do not suffer economically from work-accidents, and that they often make money out of injuries, as Reeve did, then we are not warranted in interfering between employers and employes for the sake of further protecting the rights of the latter. But if investigation shows that the majority of work-accidents result in serious deprivation to the workers' families and consequent cost to the community, and that the economic loss is inequitably distributed, as in the Rogalas case, then we shall be warranted in advocating interference to adjust that burden more wisely.

The present study thus divides itself into two parts. Its purpose is to determine in the cases studied, (1) What are the indications as to responsibility? (2) What material loss and privation, if any, resulted to the injured workmen and their families? But these are not two distinct questions; there is an obvious inter-relation between them. It is a fundamental doctrine of the civil law that if a loss is to be suffered he who is at fault shall suffer it, in order to both to secure justice between individuals and to prevent future faults of the same kind. Therefore, we shall consider responsibility for work-accidents in its bearing on the determination of a just distribution of the economic loss; and we shall consider the distribution of the economic loss in its bearing on the prevention of these accidents.

This discussion is based upon the study of a year's industrial fatalities and of three months' industrial injuries in Allegheny County, Pennsylvania. Together they make something over a thousand cases. What could be learned about them,--the circumstances of the accident, the nature and extent of the injury, the family responsibilities of the killed or injured worker, how large his income, what provision he had made for misfortune, how great the financial loss suffered by his family, what share of this was shouldered by his employer and by what means it was adjusted, what was the effect of the accident on the economic life of his family,--these facts were gathered. Such facts are needed if society is to solve

justly the problems involved in work-accidents and to determine the extent to which its own interests are involved in that solution.

For fatalities, the period from July 1, 1906, to June 31, 1907, ending six months before the inquiry began, was selected in order that the economic consequences in each case might be the more closely estimated.

To begin with, we secured access to the coroner's files, and made a record of every industrial fatality reported during the year, including, whenever these items were given, the name and address of the man killed, his age, occupation, and conjugal condition, the name of his employer, the circumstances of the accident, names of important witnesses, and the verdict. Armed with these records we set out to complete each story. During this part of the work an Italian and a Slavic investigator were on our staff--the latter an engineer. In the majority of cases we found the family itself, and talked with wife, mother, father, son, daughter, sister or brother of the man killed. In many instances, however, the information came second hand, from neighbors or relatives, and in some cases no trace of the family could be discovered. In this visiting we often talked with fellow workmen, and sometimes with witnesses of the accident, and could supplement the inquest record of the fatality, as well as learn its economic outcome. Finally, an effort was made to verify the whole story from the employer's records. Here we met with opposition, however, and succeeded in seeing the employers' records in only one-third of the cases. But the request led to interviews which threw light on the accident problem as a whole.

Many tours of inspection, of great help in analyzing the causes of accidents, were made with competent guides to steel mills, railroad yards and mines. Interviews with workmen and superintendents concerning the prevention of accidents have made it possible to enrich the statistical story with some real though second hand experience.

The same course was followed with regard to the three months' injuries, substituting hospital records for inquest records. It was impracticable to cover a full 12 months' injury cases in the time at the disposal of the investigating staff. For the three months chosen--April, May and June--the injuries found on the hospital records equalled approximately the deaths of the whole year.

It is not maintained that so limited an inquiry will give a complete view of the industrial accident situation, but it will add to an understanding of it. Following the scientific method, we have taken a small "cross section" from the very heart and center of the problem. Allegheny County, which roughly corresponds with the famous Pittsburgh "Steel District," has a population of 1,000,000, of whom 250,000 are wage-earners. Seventy thousand in the steel mills, 20,000 in the mines, 50,000 on the railroads,--these are the great employment groups in Allegheny County; they are also the great accident groups. Most of the lesser industries in which accidents commonly occur are also represented in this district, as well as all the dangerous trades of a great and growing city not connected with manufacture. A concrete intensive study of Pittsburgh's accidents, therefore, should give us a practical exposition of this problem as it exists today in American industrial communities. Such is the aim of this book.

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