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Jamie L. Bronstein's Caught in the Machinery: Workplace Accidents and Injured Workers in Nineteenth-Century Britain

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Jamie L. Bronstein, *Caught in the Machinery: Workplace Accidents and Injured Workers in Nineteenth-Century Britain,* Stanford: Stanford University Press, 2007. Pp. 240. $55.00 (ISBN 978-0-804-70008-5).

It is a convention of histories of British and American workplace accidents that during the nineteenth century such accidents were treated differently in law and understood differently in society than they had been in the eighteenth century and than they would be in the twentieth century. An eighteenth-century regime of paternalism, in which injured workers could look to their masters or to a generous poor law for support, gave way in the nineteenth century to a harsh and restrictive poor law and to a tort regime which left many injured workers without legal recourse against their employers. By the twentieth century, this regime had itself been displaced by one that imposed legal responsibility for workplace accidents on employers; in the United States this change was most often implemented through the establishment of workers' compensation systems.

Although she makes clear that evidence from the eighteenth century is not definitive, the logic of Bronstein's argument requires her to adopt this basic narrative structure. The nineteenth-century regime governing workplace accidents is portrayed, by and large, as the outgrowth of a particular set of ideas about individual

free agency that represented a sharp break with eighteenth-century conceptions. No longer would adult working men be viewed as a kind of legal dependent of their employer. The doctrine of free agency that emerged during the early nineteenth century held, by contrast, that adult working men were and should be their own persons, the dependent of no man, and under no man's control, but at the same time no other man should be responsible for their protection and support. Through the lens of this ideology, appeals for safety legislation, legislation mandating maximum hours or mandatory compensation for workplace accidents, were viewed as attempts to turn workmen back into dependents, undermining their status as independent, self-governing, free agents.

The nineteenth-century tort regime governing workplace accidents is said to have grown out of this ideology. Its three principal legal pillars, the Fellow-Servant rule, assumption of the risk, and contributory negligence were all based on its premises. Assumption of the risk held that in contracts of employment, workmen impliedly assumed all the ordinary risks of a job in return for which they were impliedly compensated with a higher wage, an imaginary bargain struck between completely informed, equal free agents, the terms of whose freely undertaken implied agreement had been incorporated into the contract. The first doctrine, the Fellow Servant rule, maintained that where a workman was injured as the result of the negligence of a co-worker, he could not look to their common employer for compensation in tort.

The consequence of these doctrines was that workers could almost never recover from their employers for workplace injuries. Bronstein proceeds to give interesting accounts of two aspects of this system. She shows that the costs of workplace accidents did mostly fall, as we would expect, on individual workers and their families, but that they were also borne to a lesser extent by a number of other parties. In some cases, paternalistic employers undertook to compensate injured workers on a voluntary basis, in exchange for the gratitude and continued deference of workers. In other cases, especially dramatic accidents involving multiple deaths, the public was asked to subscribe to funds for the victims and their families, and did surprisingly often. In certain trades, workers made regular contributions to friendly societies or union welfare funds, collectively bearing the costs of workplace accidents. In other cases, workers purchased individual insurance policies.

Bronstein proceeds to examine the everyday understandings that helped to sustain this regime for many decades. Accidents were commonly viewed as a matter of individual bad luck, or divine providence; workers were frequently stoical about their circumstances. Bronstein shows that one of the obstacles to change was that workers themselves had internalized the ideology of free agency, creating divisions within their own ranks about the desirability of safety laws and laws that would make employers responsible for the costs of workplace accidents. A considerable number of workmen believed, according to Bronstein, that protective legislation would subvert their independent manhood. Indeed, in one of the most interesting sections of the book she shows that the early British Factory Acts covered industries in which workers were overwhelmingly women and children, reinforcing the notion that such protective legislation was appropriate only in the case of workers who were less than fully independent free agents. The doctrine of free agency was a

two-edged sword for working men: it may have hobbled them in their determination to seek protective legislation, but it supported their sense of manhood, and more importantly, underwrote their claim to the suffrage.

This is mainly a book about Britain though Bronstein does include some U.S. material as a way of pointing out differences and similarities. The turning point in Britain came in 1867 when the Second Reform Bill expanded the suffrage so that many more workmen were entitled to vote. Momentous changes in the accident regime followed, though not for a number of years. Here the form of Bronstein's explanation begins to shift; ideological factors are displaced by political and economic developments. Having won the suffrage, British workmen quickly discarded their earlier reluctance to agitate for safety and mandatory compensation legislation. Their increasingly powerful unions now spoke with one voice about the need for reform, persevering over many years in campaigns to pass protective legislation. Bronstein does not seem to consider the possibility that workmen had failed to agitate aggressively for this kind of legislation earlier, not primarily because they viewed it as a threat to their manhood or to their claim to the suffrage, but quite simply because, lacking economic and political power, they felt hopeless about its prospects.

The power that grew out of the vote contributed to transforming economic as well as political relations. During the 1870s, parliament removed many of the legal restrictions that had operated to weaken trade unions up until that time. The great change in the legal treatment of workplace accidents was just one of the changes that transformed the position of working people in British life over the next several decades. New statistical ideas about workplace accidents were certainly part of this transformation in the same way that the ideology of free agency had been part of an earlier ideal/material system which, however, had also been constituted by a politics that excluded working people from the vote, a legal system that was antagonistic to unions, and a harsh poor law.

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