Injury Impoverished

The late nineteenth- and early twentieth-century US economy maimed and killed employees at an astronomically high rate, while the legal system left the injured and their loved ones with little recourse. In the 1910s, US states enacted workers' compensation laws, which required employers to pay a portion of the financial costs of workplace injuries. Nate Holdren uses a range of archival materials, interdisciplinary theoretical perspectives, and compelling narration to criticize the shortcomings of these laws. While compensation laws were a limited improvement for employees in economic terms, Holdren argues that these laws created new forms of inequality, causing people with disabilities to lose their jobs, while also resulting in new forms of inhumanity. Ultimately, this study raises questions about law and class and about when and whether our economy and our legal system produce justice or injustice.

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And even after the new society shall have come into existence, the happiness of its members will not make up for the wretchedness of those who are being destroyed in our contemporary society.

—Max Horkheimer, "Postscript"

If I had a list and if I only knew
I'd write down their names and sing them to you.
And when I got done, I'd sing them again
so you'd all know each one had a name.

—Utah Phillips, "Yuba City"

Yet there is hope. Time and tide flow wide.

—Herman Melville, *Moby Dick*

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My maternal grandmother, Audrey Miller, passed away while I was writing the dissertation this book is based on. She generously typed many of my papers for me when I was in high school, despite repetitive stress

injuries to wrists due to her years employed as a secretary. As usual, I did not understand the significance of this until well after the fact. I have thought of her often as I sat at the keyboard working on this book.

My interest in going to graduate school and many of the intellectual preoccupations that I still have today first arose from my time at Valparaiso University, in the Philosophy Department and in Christ College. Classes with Tom Kennedy, Sandra Visser, Kevin Geiman, and Charles Elder were foundational intellectual experiences for me, as was the mentorship provided by Mark Schwehn. Mark told me to become a historian; as with much of his advice I took a very long time to realize he was right. It was within that context that Angelica and I first became good friends (an early bonding experience we had was reading the philosopher Immanuel Kant and concluding that capitalism was fundamentally immoral; we still talk about that to this day). I also learned a great deal, and deepened my love of intellectual excitement, as a result of conversations with my friends Colin McQuillan and Tzu Chien Tho.

I became a historian largely by accident, by stumbling into courses taught by Barbara Welke and Tracey Deutsch. I have often felt that this was a kind of lottery that it was my great luck to win. Barbara and Tracey became my co-advisors, and soon afterward Susanna Blumenthal became a de facto third advisor. I benefited inestimably from working with the three of them in graduate school and ever since. They have encouraged me to take bigger intellectual risks and to work harder than I otherwise would have. I am a much better historian for it.

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The quote from Utah Phillips that forms part of this book's epigraph appears with the permission of Joanna Robinson. I thank her for that permission and her enthusiastic response when I described the book. I thank Utah Phillips as well; it was my great pleasure and privilege to have lunch with him before his passing, and to hear so many of his songs and stories. Parts of Chapter 5 of this book previously appeared as

"Incentivizing Safety and Discrimination: Employment Risks under Workmen's Compensation in the Early Twentieth Century United States," *Enterprise & Society* 15, no. 1 (March 2014): 31. I am grateful for Philip Scranton's editorial feedback and the input of the two anonymous reviewers on that article, as they improved the article and helped me to better formulate my larger project in valuable ways. Two other anonymous reviewers at Cambridge University Press gave feedback on my book at an especially key moment, both pressing me on points where I needed to clarify my argument and encouraging me to try to write boldly. I have written a better book for it and I thank them for that.

I have had three academic employers over the course of this project. Given the ongoing crisis of higher education employment as I write this, I wish to state clearly that in my view, employment – and thus the benefits it provides, when it does so – is distributed largely through luck, though that luck is allocated through hierarchical and unequal social structures. As the poet Bertolt Brecht once wrote, "It is true: I work for a living / But, believe me, that is a coincidence. Nothing / That I do gives me the right to eat my fill. / By chance I have been spared. (If my luck does not hold, / I am lost.)"[1] I am grateful for the luck I have had and what I have been provided as a result. I wish that everyone had similar good fortune (*omnia sunt communia*, as it were, everything for everyone) and hold out hope that eventually someday we all will.

The first of my academic employers, the University of Minnesota History Department, was a fantastic place to learn how to be a historian and how to teach, a place of vibrant but never self-important thought. The work-in-progress workshops that the Department hosted are where I learned the most about how to actually do academic writing and where I developed my ongoing love of reading work in progress. The Legal History Workshop and the community that crystallizes around it were especially important to me. It was a joy and a privilege to come back as an alumnus and present a version of Chapter 1 of this book, to an audience even more responsive, energetic, and rigorous than I had remembered.

The Center for Law, Society, and Culture at Indiana University's Mauer School Law hosted me as a Jerome Hall Postdoctoral Fellow. The community of scholars in residence at Indiana and the visiting scholars who came to present work was mind-expanding. Being there

[1] Bertolt Brecht, "To Those Who Follow in Our Wake," translated by Scott Horton, *Browsings: The Harper's Blog*, https://harpers.org/blog/2008/01/brecht-to-those-who-follow-in-our-wake/ , accessed June 10, 2016.

encouraged me to make bolder claims about the significance of my work and think more deeply about law. I am especially grateful to Ajay Mehrotra and Ethan Michelson, who directed the Center of Law, Society and Culture, while I was there; Mike Grossberg; Jeannine Bell; Ilana Gershon; Tim Lovelace; Alex Lichtenstein; and my fellow postdoctoral fellow Stacey Vanderhurst.

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Readers could understandably describe this book as a bit dour. As the long list of people acknowledged here demonstrates, the book has been created in a context of a great deal of intellectual community, which is a genuine gift and joy to be part of. Finally, and in all sincerity, thank you for reading my book.