

DYING TO WORK

*Death and Injury in
the American Workplace*

JONATHAN D. KARMEL

ILR PRESS
AN IMPRINT OF
CORNELL UNIVERSITY PRESS
ITHACA AND LONDON

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First published 2017 by Cornell University Press

Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Names: Karmel, Jonathan D., 1955– author.

Title: Dying to work : death and injury in the American workplace / Jonathan D. Karmel.

Description: Ithaca : ILR Press, an imprint of Cornell University Press, 2017. | Includes bibliographical references and index.

Identifiers: LCCN 2017021445 (print) | LCCN 2017023742 (ebook) | ISBN 9781501714382 (pdf) | ISBN 9781501714375 (ret) | ISBN 9781501709982 (cloth : alk. paper)

Subjects: LCSH: Industrial accidents—United States. | Industrial safety—United States. | Occupational mortality—United States. | Hazardous occupations—United States. | Industrial hygiene—United States.

Classification: LCC HD7262.5.U6 (ebook) | LCC HD7262.5.U6 K37 2017 (print) | DDC 363.110973—dc23

LC record available at <https://lcn.loc.gov/2017021445>

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CONTENTS

Preface	xi
Introduction	1
1. America Goes to Work	9
2. The Torch That Lighted Up the Industrial Scene	19
3. Keeping Americans Safe at Work	27
4. Just the Facts	39
5. Stories	47
Grocery Clerk	47
Hotel Housekeeper	60
Electrician	67
Coal Miner	77
Oil and Gas Worker	85

Dredging	93
Logging	101
Combustible Dust	107
Warehouse Worker	114
Packinghouse Worker	121
Manufacturing	129
Grain Handling	135
Registered Nurse	141
Elevators	148
6. What Can We Do?	154
7. Are There Really Any Accidents?	209
Epilogue	217
Notes	219
Index	241

INTRODUCTION

Here was a population, low-class and mostly foreign, hanging always on the verge of starvation, and dependent for its opportunities of life upon the whim of men every bit as brutal and unscrupulous as the old-time slave drivers; under such circumstances immorality was exactly as inevitable, and as prevalent, as it was under the system of chattel slavery. Things that were quite unspeakable went on there in the packing houses all the time, and were taken for granted by everybody; only they did not show, as in the old slavery times, because there was no difference in color between master and slave.

UPTON SINCLAIR, *THE JUNGLE*

At my place of employment, a busy law firm, the work can be demanding, the hours long and grinding. But it is, in large part, safe and unlikely to cause me any physical harm. For sure, lawyers, accountants, and other professionals and office workers may suddenly drop dead at their desks from aneurysms and ventricular fibrillation, or suffer some less deadly and common fate from stress or high blood pressure. But the most often reported injury to office workers is musculoskeletal, caused by sitting hunched over a keyboard for hours on end, word processing and surfing the Internet. After that, office injuries are caused by knocking objects from shelves, lifting file boxes, and bumping into open desk drawers. In other words, an office is a relatively safe place to work.¹ Workers there are unlikely to die from an explosion or electrocution. Workers in an office are

unlikely to become fatally ill from exposure to some toxic substance, or from the air they breathe at their cubicle.

The same cannot be said for millions of others working in America² who take care of us when we are sick, keep us safe in our persons and in our homes, build and repair our roads and infrastructure, provide us with shelter, teach our children, grow and make our food, sell and serve our food, clean our streets and buildings, make our hotel beds, get us from one place to the next, assemble our cars, and keep us virtually connected to one another. These workers daily affect our lives, often face to face. Without them, our lives as we know them today would be unrecognizable. The simplest experience of buying milk, eating a steak, or lying down to sleep in an upscale hotel room was brought to us unobtrusively and seamlessly by someone who risked injury and death in the workplace. Yet most Americans give little thought to the real and lurking dangers in the workplace that their friends, neighbors, and family are exposed to. Instead, we are made to fear by politicians and the media much more remote dangers in our lives.

The risk of workplace death is much greater than dying in a plane crash, or being a victim of a terrorist attack. The odds of dying in a plane crash are 1 in 11 million.³ The odds of being killed in a terrorist attack in the United States are 1 in 20 million.⁴ Yet, since 2001, the U.S. government has spent more than \$1 trillion in antiterrorism measures, excluding the wars in Iraq and Afghanistan.⁵ For these improbable events, we spend considerable more time, treasure, and worry than we do about the very real and personal risk to, for example, a hotel housekeeper. For workers in America, the workplace is a dangerous House of Horrors. Some would say it is a jungle.

Upton Sinclair's *The Jungle*, published in 1906, was dedicated to "the Workingmen of America." It was intended as an exposé of the lives and working conditions of immigrant workers, with vivid passages describing meatpackers falling into rendering vats and being sold for lard. However, the immediate reaction to the book had less to do with the safety of the meatpackers than with food safety. The public hue and cry from *The Jungle* produced the passage of the Meat Inspection Act and the Pure Food and Drug Act of 1906, the predecessor to the Food and Drug Administration. Comprehensive national legislation protecting worker safety would have to wait sixty-four years.

In the United States today, we have a complex web of federal, state, and local laws and regulations that are intended to protect workers from harm at their workplaces. But do they really? This regulatory structure appears to have meaningful laws and regulations but is left toothless by underfunding, the inability to enforce the laws because of a lack of resources, penalties that don't deter, and by the deliberate underreporting of workplace deaths and injuries. The defanging of worker safety laws is an act of political negligence brought to American workers by a powerful business lobby, spearheaded by the U.S. Chamber of Commerce and its allies. Worker safety laws and regulations are demonized by lobbyists and politicians of both parties as job killers, while real flesh-and-blood workers die, are seriously injured, or are exposed to deadly carcinogens every day on the job.

As a result, workplace death and injuries occur daily, and in plain view, to our loved ones, friends, and neighbors. No longer are worker deaths and injuries hidden behind plant gates, protected by armed guards. They are occurring right in front of us in public and in seemingly safe workplaces everywhere. No longer are deaths and injuries occurring only to workers handling known dangerous equipment or chemicals. Deaths and injuries happen to workers in all occupations. Miners, construction workers, oil and gas workers, and railroad workers have always been the poster children of workplace death and injury. Their jobs are knowingly dangerous. But there is another class of workers—including a growing group of millions of service workers—whose jobs may seem benign but can be fatally dangerous. They work in grocery stores, hotels, hospitals, and other public places, and the workers there are frequently the most vulnerable in the workforce. They are often undocumented, workers of color, women, and minimum-wage workers, with little or no benefits and protections. Yet these workers are hidden in plain sight because Americans choose not to see them, or because we are numbed by our own powerlessness to effectuate any meaningful change.

In 2015, the last year with complete data at the time of this writing, the U.S. Bureau of Labor Statistics (BLS) reported that 4,836 workers were killed on the job, or 13 workers every day. The 2015 fatality rate was an increase from 2014, and the highest since 2008. Add to this that the Centers for Disease Control and Prevention report that annually 50,000 deaths are attributed to work-related illnesses—an average of 137 deaths

each day.⁶ Do the math. One hundred and fifty workers die each day because of their work. Compare that to forty-five, which is the total number of deaths in the United States since 9/11 that have any tangential relationship to jihad.⁷

Moreover, as our workforce grows increasingly part-time, the number of contract workers, or temporary workers, has grown as well. In 2015, 829 contingent workers died on the job, an increase from 2014, accounting for nearly 17 percent of all fatal work injuries. Other ignoble highlights from 2015 include a 13 percent increase in fatal injuries among women, and 409 workplace homicides. Workplace violence continues to be a growing problem, in 2014 causing 26,540 lost-time injuries, and women workers suffered 66 percent of lost-time injuries due to workplace violence.⁸ All totaled, in 2015 more workers died in the United States from their work than in 2014. As for nonfatal work injuries, the number has remained stubbornly flat in recent years. In 2014, more than 3.8 million workers reported work-related injuries and illnesses.⁹ In 2015, the incidence rate of nonfatal work injuries requiring days away from work to recuperate was only marginally down, from 107.1 cases per 10,000 full-time workers in 2014 to 104.0 cases in 2015.¹⁰ Workplace injuries and illnesses are an enormous cost to the American economy of upward of \$300 billion every year.¹¹

Ten years into the new century, twenty-nine coal miners were killed in an explosion at the Massey Energy Upper Big Branch mine in West Virginia. It was the worst mine disaster in forty years. That same year, the front-page disasters kept coming. The BP/Transocean Gulf Coast oil platform exploded, hurling eleven oil platform workers to their deaths in burning waters, setting off a calamitous environmental and economic disaster.

What can we make of these events and statistics? With more than 150 million working in the United States, are these acceptable numbers? Arguably, the workplace is safer than it has ever been, so isn't that a good thing? Are work injuries just part of the cost of doing America's business? Life is risky, and work is part of life. Crossing the street has its risks. All these statements may be true, but they are beside the point. Instead, shouldn't we be asking whether we are doing everything that we can to make the workplace as safe as it can be? Can we do more? And, if we can, why have we failed?

It is one thing for me to make my way to work every morning, safely belted in an air conditioned car, later to be entombed in the protective shell of a downtown skyscraper office. It is quite another thing to get up every day and head back to your workplace in a hotel, hospital, or grocery store not knowing whether this may be the day that you get seriously injured, possibly fatally, often for only minimum wage, and with a tattered safety net of protections for you and your family.

But before we can make any change in this dynamic, we have to better understand the enormity of the problem. Let's start with the proposition that the health and safety of workers in America are matters of social justice, which, broadly defined, recognizes the humanity in all and our right to equal treatment in society and a fair allocation of its resources. All work and workers should be respected, whether the Nobel Prize winner or the day laborer. Yet, as I describe in this book, for most workers in the United States the right to a safe and healthy workplace has been made difficult to achieve over our country's history and remains so today in the twenty-first century.

I came to the acute awareness of the issue of workplace deaths and injuries embarrassingly late, even though I have spent more than thirty years as a union-side labor lawyer. Given my background and career choice, how did this happen? Well, for one, my focus broadly as a lawyer was in representing workers and unions in their organizing efforts and in collective bargaining, and on behalf of workers who had been wrongfully terminated. While these are kissing cousins to the issue of workplace safety, they are far enough removed that even for me, workplace safety was, more frequently than not, off my radar screen. Sure, I saw the headlines and knew that workers got injured and killed on the job. But those workers knew their risks, didn't they? Workplace death and injury were remote events, weren't they? What I didn't know is how much I really didn't know. I didn't really know the breadth and scope of the problem. I didn't really know that workplace safety was a matter of social justice, just as important as the right to organize for better wages and to be free from discrimination in the workplace, my focus. In the end, for me there wasn't a singular epiphany. I came to my awareness slowly, which led me to explore the issue more deeply and, eventually, to this book.

In getting there, I learned from many advocates for worker safety, some of whom are colleagues of mine in the labor movement. I learned

that apart from new laws and better enforcement (just to name a couple of obvious reforms), maybe it would help if we—Americans who go to work every day—wake up from our collective slumber and demand a safer workplace. But I know that social change does not just happen. It first requires, as I learned, a real awareness of the problem, an awareness that is currently lacking for most of us and, as a result, makes any broad debate about workplace safety impossible, drowned out by the noise and money of corporate and political interests hostile to change. Numbers and statistics are important to a point, and this book is chock full of them. However, they also act to anesthetize us from meaningful discussion and action, all the while sanitizing the dangerous conditions in which millions work in America. American workers have faces, names, families, homes, and personal histories. They are more than numbers and statistics in a Bureau of Labor Statistics report. Numbers and statistics alone prevent us from connecting with workers and their families who suffer real and horrific workplace injuries and fatalities. Behind the number 4,836 are husbands and wives, sons and daughters, life partners, and a permanent wake of grief and loss. And because change cannot occur by distancing oneself, a physical immediacy or nearness to the workers and their families is required to achieve awareness.

This book is set out in three parts. First, I discuss the problems of achieving a safe workplace, including a brief history of workplace safety laws in the United States, and the corporate and political forces that stand in the way of change. In the end, I offer some ideas and reforms that may make workers safer and healthier than they are today, and other next steps. Bookended by these sections is the heart of the book, a collection of stories about real workers who were killed and injured in their workplaces.

For more than three years, I traveled the country and met with injured workers and surviving family members to listen and become proximate.¹² I sat in the living rooms and at the kitchen tables of surviving family members, and met with them at coffee shops and at union halls. I listened to wives, sons and daughters, and sisters and brothers tell me about their losses. I sat with injured workers, now physically disfigured and broken, and listened to how their injuries have unalterably changed their lives. For them, in the telling of their stories, all different in the cause of their

injuries, there was a common refrain that was a miraculous shared sentiment in the midst of all the despair. To a person, each and every injured worker told me the same deepest wish. And it wasn't what I expected to hear. I expected, as a lawyer, to be told that they wanted to be awarded large sums of money for their injuries, their pain and suffering. Some reluctantly and, for the most part, unsuccessfully sought legal relief. But money was not their wish. Instead, they all told me: "I just want to work." In these most intimate settings, the family survivors and injured workers all shared their stories and family pictures, and their tears, fears, anger, and hopes. They gave me dog-eared file folders bound by rubber bands and stuffed with newspaper clippings, coroner reports, OSHA records, and court filings, entrusting to me these precious totems of their suffering. We exchanged phone calls and e-mails. I became proximate. I got as near as I could. And, finally, I began to understand.

My fondest wish for this book is that their stories will give readers a nearness to the experience of these workers and their families. Proximity is the beginning of awareness, and a necessary starting point of change.

Some of these workers' injuries or deaths were several years in the past at the time I wrote down their stories, while others are closer in time to the present. But all the stories are contemporary in the sense that preventable deaths and injuries like those retold in this book occur every day. I wrote this book over a three-year period. And during the writing, around fourteen thousand Americans died preventable deaths from their work. The stories are also contemporary in the sense that the grief and suffering never completely go away. I was put in contact with the survivors and the injured workers from many sources, including from introductions made by Tammy Miser and Tonya Ford at the United Support and Memorial for Workplace Fatalities, where they do great work bringing attention to these tragedies and great comfort to the families. In all cases, the families and injured workers entrusted me—a total stranger—with their most intimate and painful feelings, and I hope that I have done justice to their stories.

For many of the witnesses in this book, the American dream is elusive and illusory. Along with the millions like them, the workers in this book were only trying to get by, put food on the table and shelter over their heads. The workers that you will meet, and workers like them all around

us, are on the front lines of a war of attrition. But they are not soldiers, where injury and death are known, if not acceptable, risks. These Americans want only to work and to return home safely at the end of the day. The workers in this book are not heroes, except to their loved ones. And workers like them are your loved ones, your neighbors, and your friends. They are all around us. They are you.

AMERICA GOES TO WORK

Those who cannot remember the past are condemned to repeat it.

GEORGE SANTAYANA, *THE LIFE OF REASON*

In order to understand where America is today in terms of worker health and safety, as well as where it needs to change, it is important to understand the arc of history in the American workplace.

America before the Civil War was largely a rural agrarian society. Americans lived in isolated communities, tenuously connected to others living within a short distance by horse-drawn wagons traveling over poor and primitive roads. These Americans, living in isolation, were self-sufficient in housing, food, clothing, and other life-sustaining essentials. The farm was the primary workplace, staffed by family members. There, almost all of one's needs could be manufactured or grown. The industrial sector, as it was until around 1870, consisted mostly of small firms and workshops that relied on artisan technology to produce goods for local consumption. In communities with a river for a power source, there were small industries, primarily sawmills and grain mills.

Although there is little reliable information on worker safety from back then, the Eden of the pre-industrialized America could be a mean and

nasty place. Preindustrial workers risked injury from animals, hand tools, ladders, and water wheels. But for the most part, worker injuries were infrequent and thought to be the fault of the victim, who most often was also the “employer.” This all changed with the onset of the Industrial Revolution.

The workplace that Americans found at the end of the nineteenth century was created in the cauldron of the Industrial Revolution, beginning well before the Civil War. Between the Civil War and World War I, and fueled by a historic wave of immigration, the United States rapidly intensified its transformation from a rural-based economy to an industrial powerhouse, centered in its growing and teeming cities. There is little dispute among historians and economists that the American Industrial Revolution occurred because of the embarrassment of natural resources, the emergence and development of American-style manufacturing (including the rise of the managerial firm), the growth of the railroads and lowered costs of transportation, and the education of the workforce. But none of this would have been possible without the more than thirty-three million immigrants who, from 1820 to 1920, landed on the shores of America, mostly from Europe, seeking the promises of the United States.

In 1880, almost one-half of American workers were farmers. Less than 15 percent worked in any kind of manufacturing. By 1920, only a mere forty years later, the numbers were almost dead even. In this same period, manufacturing employment, centralized in growing cities, increased from 2.5 million workers to 10 million by 1920. While a portion of this workforce was a product of rural-to-urban internal migration, mostly it was a result of the flood of external immigration. More than 14 million foreign-born workers were the human fuel that powered the American Industrial Revolution. Counting their children during this forty-year period, 23 million strong, more than one-third of the 105 million Americans in 1920 were first or second generation. In 1900, three-quarters of the population in most large cities were immigrants and their children.¹

With this massive influx of immigrant labor into American cities, together with the power, transportation, and communication revolutions, the pieces were all falling in place for the industrial transformation of America. Electrical power replaced steam; railroads expanded and connected manufacturing output to markets all over the United States; telephone and telegraph altered the meaning of time and space. The final

piece was the development of the organizational firm. Large corporations were located in urban cities, where the source of cheap labor lived. Giant corporations developed and became the prototype of what would become a corporate society. American corporations became more formalized, organized, and integrated.

In 1925, half a century after the end of the Industrial Revolution, Calvin Coolidge surveyed America, whose transformation he had witnessed firsthand, and declared: "After all, the chief business of the American people is business. They are profoundly concerned with producing, buying, selling, investing and prospering in the world. I am strongly of the opinion that the great majority of people will always find these the moving impulses of our life." Some have argued that this statement has often been unfairly used by his detractors as evidence of Coolidge's pro-business philosophy. Fair or not, it is an accurate and clear-eyed description of the United States as an industrial and economic colossus, embodying the world's richest and most powerful industrial nation. But at what price?

The labor force that arrived on steamships from ports all across the Atlantic were not necessarily lured by the promise of factory jobs in American cities. They were mostly unskilled laborers, farmer and artisans with very little, if any, factory experience. The potato famine in Ireland, and crises and privation in other parts of Europe, were the primary causes of immigration at the end of the nineteenth century. It was in this period that the unskilled immigrant laborer became the "dominant factory manufacturing labor force."²

Fleeing from famine and other adversity, this nascent industrial workforce, largely unskilled and uneducated, was tossed into the grinder of America's Industrial Revolution. Immigrant workers who in Europe had only used small hand tools and animal-powered plows and wagons were now operating unguarded mechanical equipment, powered by steam, and later electricity, in a high-speed factory setting.

Enormous manufacturing output and productivity were spawned in the Industrial Revolution. But so were dangerous working conditions previously unknown in the history of humankind. And this increased output correlated with increased worker injury and death. As American industrial might grew to unprecedented heights, producing material riches for its owners and creating a consumer society, the risk of dying or becoming seriously maimed in the workplace grew as well. This all occurred within

a legal and regulatory climate that did not exactly encourage an employer to be concerned about the safety of his workers. As a result, American production methods were extremely productive, and extremely dangerous. Workers initially had little or no say about their safety, and legal liability for workplace injuries was usually shifted to the employee under assumption of risk or negligence theories, thereby making compensation for injuries nonexistent. Injuries were cheap, and workers were replaceable. There was simply no economic incentive for employers to create a safe workplace.

Nowhere was this correlation between increased production and dangerous working conditions as stark as in American coal mines and on its railroads, especially compared to their counterparts in Great Britain. Some of this can be explained by differences in mining methods, and the vast geography of the United States that railroads had to travel. But it is undeniable that in the decades immediately before and after the turn of the century, American workers were getting injured in these jobs at twice the rate of English workers. American mines yielded more coal per worker than British mines, but at double the injury rate.³ On the rails, geography and low population density turned American railroads into primarily freight haulers, a far more dangerous business for workers than hauling passenger traffic. "The slaughter of railroad employees began almost as soon as the first lines were built."⁴ Derailments and collisions were common and deadly, owing to the lack of signals and the poor condition of the track and rail bed. Worse, men had to work between moving train cars to couple and uncouple, and to work the brakes. At the end of the nineteenth century, railroad workers experienced an extraordinary level of risk, with a fatality rate of 3.14 per thousand, and likely much higher because of underreporting. By the new century, dubbed the Century of Progress, the slaughter continued. In 1907 alone, accidents killed 4,534 railroad workers.⁵

Mines and railroads were not the only dangerous workplaces. Garment workers, mostly Jews from Eastern Europe, were employed in sweatshops up and down the East Coast, but primarily in New York City, the home of the garment industry. By the end of the first decade of the twentieth century, more people worked in factories in Manhattan than in all the mills and plants in Massachusetts. Most of the workers there were employed in the garment industry.

Looking back, in 1791, treasury secretary Alexander Hamilton estimated that more than two-thirds of all clothing in America was home-made. Little changed over the next fifty years until Elias Howe developed the lockstitch sewing machine in the mid-1840s. This innovation made strong, straight seams and made possible the mass production of commercial clothing manufactured in a factory. Courtesy of the Civil War, demand for mass-produced clothing was created as hundreds of thousands of soldiers wore the same uniform manufactured and cut to standard sizes, differentiated only by blue and gray. The war experience, horrific as it was, spelled the death knell of homespun clothing. Such laboriously made clothing was eventually replaced by the convenience and quality of manufactured clothing, easily purchased off-the-rack in America's new department stores, or through the ubiquitous catalog. The next technological change occurred with the invention of the cutter's knife in the 1870s, which enabled a garment worker to cut pieces for identical garments in a few strokes.

With the technology in place, the millions of skilled and unskilled immigrant workers arriving daily in America from Eastern Europe, Russia, and Italy provided the final piece to the rise of the manufacturing garment industry.⁶ By 1900, homemade clothing was a preindustrial relic. In its place was a booming garment industry, centered in Manhattan, and dependent on immigrant workers, mostly women, who worked twelve-hour days, seven days a week, for a few dollars a day. Garment workers were crowded into dark and squalid tenement rooms and hallways on the Lower East Side, poorly ventilated, and with locked exits. The tenements became known as sweatshops, not so much for their deplorable conditions but because of the practice of "sweating" the workers for more work and less pay. In addition to receiving low wages for piecework, workers were charged for needles and thread and for the use of old sewing machines and the privilege to pump the sewing pedal with their feet for hours on end. At the end of their shifts, workers were lined up at the single unlocked exit and bodily searched, just in case they tried to take home a strand of thread or swatch of cloth. Communicable diseases were common for these workers crowded together in tiny rooms with little ventilation and no windows. Tuberculosis was known as "the tailors' disease," or "the Jewish disease."

On June 3, 1900, in response to the long hours, low pay, and dangerous working conditions in the garment industry, eleven delegates representing

local unions in New York, Philadelphia, Baltimore, and Newark formed the International Ladies' Garment Workers' Union (ILGWU). The local unions banding together were the United Brotherhood of Cloak Makers, the Skirt Makers Union No. 1 of Greater New York, the Cloak Makers' Protective Union of Philadelphia, the Cloak Makers Union of Baltimore, the Cloak Makers' Union of Brownsville (in Brooklyn), and the Cloak Makers' Union of Newark, New Jersey. They were composed primarily of Jewish immigrants who had recently arrived from Eastern Europe, many of whom were socialists and had been active trade unionists before coming to America. The ILGWU was granted a charter from the American Federation of Labor (AFL) on June 22, 1900.

The decade that followed in the garment industry, especially in Manhattan, was turbulent and marked by wildcat strikes and other actions, as workers struggled for better wages and working conditions. In the summer of 1909, hundreds of tailors, buttonhole makers, neckwear workers, and waist makers from shops all across Manhattan walked off work on wildcat strikes. The strikes were short-lived, lasting briefly until the owners gave the workers a modest wage increase.

But in September 1909, events occurred that fundamentally changed the relationship between workers and their employers. Workers, mostly women, at the Triangle Shirtwaist Factory in Manhattan went out on strike. The manufacture of shirtwaists, or blouses, was a rapidly growing industry. New York had more than five hundred "waist" factories operating, employing more than forty thousand workers. The strike began when workers at Triangle overwhelmingly voted to join the United Hebrew Trades, an association of Jewish labor unions, rather than continue participation in the company-run "benevolent" association. Triangle's owners, Max Blanck and Isaac Harris, once "greenhorns" themselves, were now wealthy Manhattan industrialists, living with servants near the Hudson River at their in-town mansions. Triangle was a million-dollar business, the largest shirtwaist factory in Manhattan, with more than five hundred employees. Blanck and Harris responded to the strike by firing the union organizers and replacing them with prostitutes. In sympathy, other workers at Triangle joined the strike. Doubling down, Blanck and Harris hired gang members, who worked for Tammany Hall bosses, to threaten and assault the striking women, sometimes with the assistance of the New York police.

After five weeks of being out on strike, shirtwaist workers held a meeting and rally in the Great Hall at Cooper Union. Samuel Gompers, president of the AFL, was there endorsing the strike. But it was Clara Lemlich who carried the day. Barely five feet tall, Lemlich backed down to no one. At age twenty-three, she was a seasoned union organizer. The Triangle strike was her third strike in three years. In today's parlance, she was a "salt," an organizer who, unknown to the employer, gets herself hired solely to work inside the workplace for the purpose of organizing the workers. She had already survived broken ribs and other injuries in a brutal beating by a hired thug who had twice done time for burglary. On this night, following Gompers, she stood at the podium, her curly hair tightly pulled back and parted on the right, and forcefully declared in Yiddish, "I have no further patience for talk. I move that we go on a general strike! Enough is enough!" *Genuv iz genuv!* A general strike was called across the Manhattan garment industry, and workers from other sweatshops, again mostly women, walked off their jobs. Known as the "Uprising of the Twenty Thousand," it is believed that more than forty thousand garment workers participated in the strike called by Lemlich.

Once again, the owners turned the gangs loose on the strikers. But it was public opinion that turned the tide in favor of the workers. The images and stories of young women being harassed, threatened, and in some cases beaten, by gangs, company guards, and police, helped build public support for the strikers. And much of the support came from the unlikely sources. Wealthy Manhattan women, many of whom undoubtedly owned the dresses painstakingly manufactured by the strikers, became their biggest supporters. These progressive socialites, who themselves were struggling for the rights of women's suffrage, found common cause with the immigrant women strikers. J. P. Morgan's daughter Anne announced in the *New York Times* her support for the strikers by joining the Women's Trade Union League:

If we come to fully recognize these conditions we can't live our own lives without doing something to help them, bringing them at least the support of public opinion. We can see from the general trade conditions how difficult it must be for these girls to get along. Of course, the consumer must be protected, but when you hear of a woman who presses forty dozen skirts for \$8 a week something must be very wrong. And fifty-two hours a week seems little enough to ask. . . . These conditions are terrible, and the girls must be helped to organize . . . and if public opinion is on their side they will be able to do it.⁷

Another supporter of the strike was Alva Vanderbilt Belmont, whose first husband was the grandson of Cornelius Vanderbilt. She divorced Vanderbilt as an adulterer and married August Belmont, whose father was a Jewish investment banker for the Rothschild family.⁸ His mother was the daughter of Commodore Matthew Perry. By her birth and social status, she seemed the most unlikely benefactor of immigrant women garment workers. But after August Belmont died suddenly, Alva used her considerable wealth in support of women's and workers' rights, including financial support for the Women's Trade Union League. She also kept the socialist newspaper *The Masses* from bankruptcy. And in the "Uprising of Twenty Thousand," she gave considerable financial support to the strikers, including paying the bail of arrested strikers.⁹ Anne Morgan, Alva Belmont, and others like them were bound together with Clara Lemlich, the small, skinny Jewish girl from the Ukraine. The right to vote, and the right to better working conditions and pay, were now united.

Their support proved pivotal, as the shirtwaist companies bowed to public pressure and agreed in early 1910 to negotiations and arbitration with the ILGWU. An agreement was reached on February 13, 1910, limiting the workweek to *only* fifty-two hours, while giving workers four paid holidays. In addition, employers were required to provide all the tools and materials necessary for the work, instead of charging workers for needles and thread. However, not all shirtwaist companies signed the agreement. Most notably, Blanck and Harris at Triangle did not.¹⁰ Their refusal to move with the progressive tide would prove fatal to 146 of their workers a little more than twelve months later.

But, before that, there was more unrest. On July 7, 1910, more than sixty thousand cloak makers, this time mostly men, went on strike, affecting around eighteen hundred shops and stores across the nation.¹¹ With public opinion still on the workers' side, pressure to settle came from a new source—retail store owners led by Abraham Lincoln Filene, owner of the Boston-based Filene's. Filene, born of German-Jewish immigrant parents ten days before his namesake was assassinated, was unusual among the wealthy businessman of his time. He was an early supporter of women's suffrage, and much later bucked the trend of his business class and supported Roosevelt's New Deal. He was what some might call an enlightened capitalist. Although his strong personal beliefs guided many of the decisions in his life, he also had an economic self-interest in resolving

the cloak makers' strike: he sold the coats and garments that they made, and without new merchandise arriving in his stores, his sales would fall off. So he would lead the effort to settle the strike, and sought the help of another Jewish Bostonian. He hired lawyer Louis Brandeis to negotiate and mediate a settlement.

Brandeis, born in Louisville, Kentucky, started his first law practice in Boston, after attending Harvard Law School, where he graduated first in his class. Graduating number two at Harvard was his partner, Samuel Warren. Brandeis soon became known as the "people's lawyer" for the many public-interest cases he handled, often for no fee. He was a brilliant lawyer and tactician, and later a United States Supreme Court justice. Filene also reached out to Meyer Bloomfield, a prominent Boston social worker and industrial reformer. Teamed with Brandeis, they were the perfect delegates for Filene to navigate the ever-widening gap between the cloak makers' manufacturers, who formed a protective association, and the striking workers and their union, the ILGWU.

Beginning in late July 1910, Brandeis and Bloomfield mediated and negotiated between the manufacturers and their corporate lawyer, Julius Cohen, and the union and its leaders. Brandeis attempted to craft a compromise, which early on the union had rejected and walked away from. This proved to be a tactical mistake, as for the first time public opinion began to turn against the union and the strikers, with the *New York Times* leading the way, writing that the workers were greedy and selfish. This setback made it harder for Brandeis to find a settlement. In the end, and after Cohen moved the strike into the courtroom, where he obtained an injunction against the ILGWU, a deal was reached on September 2. Dubbed the "Protocols of Peace," the agreement ushered in a new system of industrial relations. It was a watershed event in labor relations. It contained the common terms found in a labor contract today, covering wages, hours, and other working conditions, and was far better than most contracts of the day. Most important, and lasting into today, the protocols codified Brandeis's vision of industrial peace that would ban all strikes and lockouts during the term of an agreement, and replace strife with a grievance and arbitration procedure. Disputes would be resolved in arbitration and not on the streets. Finally, the protocols created the "preferential shop," which was, for all practical purposes, a closed union shop.

As 1910 came to a close, and with nearly 90 percent of all cloak makers now in the union and covered by the protocols, the manufacturers believed that the days of wildcat strikes and labor unrest were over. They could go back to making blouses and coats and other garments for the new American consumer, who was buying manufactured clothing at the rate of \$1.3 billion in sales per year. In today's dollars, they sold \$23 billion through stores like Filene's and in Sears, Roebuck catalogs.¹² Abraham Lincoln Filene, with Brandeis and Bloomfield, believed that they had created a template for industrial relations, built on mutual respect benefiting both capital and labor. Their peace, however, lasted only a short time. The revolution in industrial relations that the workers' strikes of 1909–1910 began would continue following the Triangle fire, but at the cost of 146 lives.

THE TORCH THAT LIGHTED UP THE INDUSTRIAL SCENE

The Triangle Shirtwaist Company was located on the corner of Greene Street and Washington Place, just to the east of Washington Square, in the heart of Greenwich Village. Blanck and Harris, the “Shirtwaist Kings,” moved their growing business from the dank tenements of Wooster Street to a modern, ten-story framed skyscraper with more than ninety thousand square feet of loft space to lease. The Asch Building was typical of the skyscrapers rising up all over Manhattan. In the first decade of the twentieth century, more than eight hundred new skyscrapers were added to the Manhattan skyline, many housing new loft factories.¹ The business model was simple. On the same-size footprint that the squalid tenement sweatshops occupied, modern factories boasting thousands of square feet rose one on top of the other. The home of commerce was going vertical.

Triangle leased the top three floors of the Asch Building. The added space was not for the benefit of the existing workforce. Instead, more workers were crowded into the new space. More of them were working in long rows of electric sewing machines and presses, all connected to a

single power source, where they churned out more work, more waists, and all at faster speeds. For Blanck and Harris, and others like them, the high-rise factories enabled them to have all their workers under one roof. All their operations—production, shipping, and sales—were also now under one roof. The efficiencies of these modern factories allowed them to expand their product lines and make more garments than ever before. And, at Triangle, the “greenhorns” from Russia would make even more money than they ever imagined. In March 1911, all housed in the Asch Building, the Triangle empire was at its zenith. It was also ten floors above the streets of Manhattan, far above where the New York firefighting equipment could reach.

March 25, 1911, was by all accounts a beautiful spring day in New York. By late that Saturday afternoon, New Yorkers were out and about enjoying the weather around leafy Washington Square. At around 4:30 p.m., workers at Triangle were getting ready to go home. It has never been definitively determined how many workers were at Triangle that day. There were always some who were sick, while others chose to observe the Sabbath at home, but at the cost of a day’s pay. Still, with sales people, office clerks, and management, including Harris and Blanck, and Blanck’s young daughter Mildred, there were nearly five hundred souls crowded into floors eight through ten that day.

Production was on the eighth and ninth floors, while pressing, packing, shipping, and the executive offices were housed at the top, on floor ten. On floor eight, around 150 workers cut and sewed shirtwaists, all stationed at rows of long wooden tables. The cutting tables at Triangle were designed with boards surrounding the table legs, effectively creating wooden bins into which the cutters would toss cotton scraps and the tissue paper from paper patterns that hung on wires above the tables. Cutters and sewers would assemble anywhere from ten to twelve thousand shirtwaists each week, which in turn created a highly flammable mix of thousands of pounds of tissue paper and fabric scrap jammed into the wooden bins. The cotton fabric, which was more flammable than even the tissue paper, created a “virtual firebomb” on the eighth floor. The blaze was likely ignited by a still lit cigarette or match, carelessly tossed into a wooden bin.

Floor nine housed 278 sewing machines. Again, it is unknown exactly how many workers, mostly women, were at work that day. But, together

with examiners, foremen, and bookkeepers, the best guess is that there were 250 employees on the ninth floor.

It was estimated that on the top floor of the Asch Building, on March 25, there were around seventy persons. Getting off the elevator on the tenth floor, one had to pass the reception area and switchboard. Beyond were the large offices of Blanck and Harris, looking down onto Washington Place through arched windows. Beyond the offices was a showroom where department store buyers and Triangle salesmen gathered to strike their deals. Finally, there were the pressing, packing, and shipping departments. The irons used to press the finished garments were connected by a web of tubing that supplied pressurized gas to heat them.

The exits from floors eight and nine were small, allowing only one person at a time to pass through a wooden partition. There, a guard would inspect the workers' handbags to make sure they were not stealing pieces of cloth. Still worse, the doors opened into, and not out from, the loft space. This was a fatal design flaw, as later, when jammed with bodies trying to escape, the exits were all but impassable.

From 4:45 p.m., when the first employee on floor eight yelled fire, and alarm box 289 was pulled, it took less than fifteen minutes for nearly 146 lives to perish in a firestorm. A few died later of their injuries. In that time, firefighters from New York engine companies converged onto the corner of Greene and Washington, including the tallest fire ladder from Hook and Ladder No. 20, but which still fell short of reaching the workers by some thirty feet. Lugging hundreds of feet of fire hose with them into the inferno, firemen bravely climbed the staircase as frenzied workers from the eighth floor fled past them to safety. Workers on floor nine were not so lucky. The exit doors were locked, or jammed, with the press of falling bodies. As many as ninety workers were hopelessly trapped on that floor.

At 4:50 p.m., the first worker jumped from the blaze on floor nine, falling to death on the pavement below. Soon, safety nets were deployed to catch the falling bodies, human missiles speeding more than one hundred feet down into the nets. Some of the bodies were on fire as they fell. A reporter on the scene wrote about "a new sound—a more horrible sound than description can picture. It was the thud of a speeding, living body on a stone side walk." Nonetheless, and probably emboldened by the nets, more workers jumped to their deaths, some two at a time, holding on to each other. Others struggled to remain vertical on the way

down, believing that landing feet first might somehow save them. Three minutes later, the firemen stopped using the nets, and still the bodies fell, until the last worker jumped at 4:57 p.m. She was a woman who fell to her death only after becoming impaled on a hook holding up a sign on the side of the building. It is believed that in this brief time span, fifty-four workers jumped, choosing death from the fall rather than from the fire. This toll was in addition to around twenty-four workers who fell to their deaths while trying to flee by the fire escape, which was too small and too narrow for hundreds of workers to traverse in a fire. Still others tried to escape down the elevator shafts, burning the skin off their hands as they slid down the elevator cable before losing their grip and falling to their deaths. Eventually, nineteen bodies were recovered from atop the elevator car, the weight of which prevented the elevator from climbing to rescue more trapped workers.

The fire was finally contained on the top three floors by 5:15 p.m. In the end, 146 employees of the Triangle Shirtwaist Factory, mostly all women, perished in less than thirty minutes. Compounding the tragedy, there was never a reliable list of the victims, with many bodies burned beyond recognition. Still, many more were lucky enough to survive, including Blanck and Harris and others from the tenth floor who found refuge on the rooftop.

The fire did not have to happen. The Triangle fire occurred at a time when firewalls, fire doors and stairs, and automatic sprinklers had been commonplace in cotton mills since the 1880s. But although many cotton mill owners implemented fire safety measures because the cost of fires was too expensive, the garment industry had a different take on the financial efficacy of factory fires.

Four days after the fire, more than a half million New Yorkers lined the streets of Manhattan and marched in a funeral parade for the Triangle victims. Politicians and the press tried to assess blame for the fire. It was the fault of the building owner, the New York building department for allowing too-tall buildings with little thought for fire safety, and even the vaunted fire department. On April 12, just three short weeks after the fire, the politically ambitious district attorney, Charles Whitman, indicted Blanck and Harris for manslaughter. Whitman and the grand jury charged that the doors on the ninth floor were locked when the fire erupted. Blanck and Harris were arrested while at work at their new factory. For

their defense, they hired Max Steuer, a former garment worker, who was known at the time as the greatest trial lawyer in America. On December 27, after nearly three weeks of trial and dozens of survivor witnesses, the jury acquitted Blanck and Harris on all counts after only a couple of hours of deliberations. The jury of twelve was made up of twelve businessmen, including a shirtwaist manufacturer. Blanck and Harris escaped the angry crowds camped outside the courtroom through the prisoner's exit.

After the fire, the upward trajectory of the Shirtwaist Kings collapsed. While they collected thousands of dollars from insurance, above the value of the inventory and machine losses, they were also forced to defend many civil lawsuits from the families of the victims. They turned to Steuer, who again successfully defended them from the civil claims. Blanck and Harris were never found guilty in the civil trials, and never paid a penny to the families. Yet they struggled to keep Triangle afloat. By 1918, the Triangle Shirtwaist Company was no more.

In terms of loss of human life, there were worse industrial accidents at the time of the Triangle fire. In 1908, 354 coal miners perished in the mines of West Virginia. But garment workers in Manhattan factories were not miners. They were cutting and sewing clothing in a modern office building. Although the work was grueling and the conditions were deplorable in many of the shops, working in a garment factory in Manhattan was not a known risk. The public response to this game changing event was swift and, once again, led by progressive forces from among New York's social elites. They lobbied at the capital in Albany, finding political support from Robert Wagner, a future United States senator, and Al Smith, a future governor and a presidential candidate in 1928. Together, they proposed legislation that created the Factory Investigating Commission. It was signed into law on June 30, 1911, just three months after the Triangle fire.²

The commission was empowered "to investigate the conditions under which manufacturing is carried on." Originally authorized for only one year, the commission lasted for four years. In addition to Wagner and Smith, the AFL president Samuel Gompers was a powerful member. Frances Perkins, who was a young Columbia graduate student from Boston when she heard the alarms for the Triangle fire while drinking tea nearby, was a frequent witness before the commission and a noted expert on workers' health and safety.³ She was later appointed by Franklin Roosevelt as his secretary of labor, the first woman to hold a cabinet position.

In its first two years, the commission held fifty-nine public hearings throughout the state, with 472 witnesses providing sworn testimony on the working conditions of men and women in New York. Their testimony filled more than seven thousand pages of public records. The commission staff investigated conditions at 3,385 workplaces, including 359 chemical plants, which in 1912 made up 28 percent of all production in the United States. In the end, the commission's report in 1912 concluded that "health is the principal asset of the working man and working woman" and that it is up to the government to do everything in its power to protect the health and safety of American workers. Toward that end, the commission drafted twenty-six bills to protect workers' health and safety. From 1912 to 1914, thirteen of seventeen bills it proposed were enacted into law by the New York legislature. The New York commission was the most important investigative body in the United States up to then.⁴ But it was not the only one. As Frances Perkins later noted, the Triangle fire was the "torch that lighted up the industrial scene."⁵

In May 1911, Wisconsin became the first state to enact workers' compensation laws.⁶ Before the year was out, nine more states passed workers' compensation laws. At the end of 1913, eleven more states created workers' compensation systems. By 1921, only a decade after the Triangle fire, forty-six jurisdictions had workers' compensation laws. The incentive for such laws came in large part from employers. Up until then, workers could sue for damages in civil courts, but success was far from guaranteed. Initially, it was difficult to persuade a jury to lay blame for workers' injuries on the employers, who time and again successfully asserted contributory negligence and assumption-of-risk defenses, which shifted liability and responsibility to the worker. But as public opinion began to move against employers and in favor of injured workers, large jury awards became more frequent, and workers' compensation was born. A pooled insurance system financed by employer premiums and run by the state, and which substituted a fixed compensation system for the vagaries of jury awards, was in the end in the employers' best economic interests. Organized labor at first opposed workers' compensation as depriving workers of access to the civil courts to sue for unlimited damages. However, led by Gompers, labor eventually threw its support behind workers' compensation in 1909.

In addition to workers' compensation, other Progressive Era reforms included the idea of state industrial commissions enforcing worker health

and safety laws. Conceived and promoted by John R. Commons, a professor at the University of Wisconsin, such commissions could establish regulations and guidelines by administrative rule making, without having to seek a legislative imprimatur every time health and safety rules needed to be implemented or changed. It took the politics out of workers' health and safety and put the latter into the hands of commissions with specialized expertise to develop rules and guidelines. The commission guidelines would make factory inspections clearer and more reliable for both employers and workers. Commons and his students drafted the Wisconsin Safe Place Statute of 1911, known as the "Wisconsin idea." When enacted, it created the first modern industrial commission with rule-making power. By 1936, administrative rule making would become the principal way states regulated worker health and safety. Yet the "Wisconsin idea" did not take hold as national legislation until 1970 and the act establishing the Occupational Safety and Health Administration (OSHA).

Finally, the Progressive Era produced the first investigations and reports on occupational diseases. The connection between work and workers' diseases had been widely known for decades. This was particularly true in New England textile mills, where poor ventilation and the inhalation of cotton dust led to chronic worker respiratory illnesses, including tuberculosis, while workers were also afflicted with skin diseases from the humid heat, deafness from the noise of weaving machines, and even cancers from carcinogenic lubricants. But it was not until 1911, when the State of Illinois published the results of a special occupational disease commission, that public awareness grew. Led by researchers and scientists from the University of Chicago, this commission identified thirty toxic substances commonly found in the workplace, including mercury, arsenic, and lead. The report's section on lead was the most damning, finding lead poisoning among workers in a wide range of industries, including smelting and refining, painting, printing, and battery making. In one enamel plant, the commission found 92 out of 148 workers "leaded." A version of the commission's recommendations became law in 1911, as the Illinois Occupational Disease Act, although it was watered down by business lobbying.

These Progressive Era reforms, in response to intensive industrialization, labor strife, and horrific worker deaths and injuries, were not without push-back from business interests and their politicians. In New York, just as the Factory Investigating Commission was experiencing its greatest