

DISABLING BARRIERS

Social Movements, Disability History,
and the Law

Edited by Ravi Malhotra and Benjamin Isitt



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DISABILITY CULTURE AND POLITICS

**Series Editors: Christine Kelly (University of Manitoba)
and Michael Orsini (University of Ottawa)**

This series highlights the works of emerging and established authors who are challenging us to think anew about the politics and cultures of disability. Reconceiving disability politics means dismantling the strict divides among culture, art, and politics. It also means appreciating how disability art and culture inform and transform disability politics in Canada and, conversely, how politics shape what counts as art in the name of disability. Drawing from diverse scholarship in feminist and gender studies, political science, social work, sociology, and law, among others, works in this series bring to the fore the implicitly and explicitly political dimensions of disability.



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Foreword

BRYAN D. PALMER

Capitalism disables.¹ This was understood by those early figures, such as William Dodd, who experienced directly the physical toll the Industrial Revolution exacted on the first factory labourers, some of whom were children. Dodd, author of *A Narrative of the Experience and Sufferings of William Dodd, a Factory Cripple* (1841), was born in 1804 and was working eighteen-hour days in England's textile mills before he reached his teenage years. He earned his first meagre wage as a five-year-old. Thirty years later, his body wracked by the consequences of textile toil, he had to have an arm amputated, and in the 1830s he became associated with Lord Ashley's investigations into the conditions of child labour.

In *The Factory System: Illustrated* (1842), Dodd outlined how proletarians bore the marks of capital on their bodies, a point that, as Mark Leier notes in his contribution to this volume, would also later be made by the Wobbly agitator "Big Bill" Haywood, who by the age of nine had lost an eye and entered the mining workforce. Dodd wrote that factory labourers could be distinguished by their physical appearance: "Either the knees are in, the ankles swelled, one shoulder lower than the other, or ... [they are] round-shouldered, pigeon-breasted, or in some other way deformed."²

Marx's more poignant passages in *Capital*, addressing the disabling consequences of a working day that too often extended well into the night, detailed the disfiguring of working-class bodies. He drew on a plethora of sources, including medical assessments of workers in the pottery districts.

“Each successive generation of potters is more dwarfed and less robust than the preceding one,” testified one physician. Another doctor, in charge of an infirmary, regarded the potters as “a degenerated population” that, as a rule, was “stunted in growth, ill-shaped, and frequently ill-formed in the chest; they become prematurely old, and are certainly short-lived.”³ Engels’ *The Condition of the Working-Class in England in 1844* (1845) quoted copiously from similar reports, detailing malformations of the spine, knees that were bent inwards, and enfeebled ligaments.⁴

This was but the half of it. Industrial accidents took lives and limbs at random. In Canada, where the factory system came later than it did in England, a Royal Commission on the Relations of Labor and Capital resulted in extensive published commentary in 1889. Its six volumes of testimony were riddled with accounts of disabling, often lethal, industrial accidents.⁵ Eric Tucker, author of the final chapter in the present volume, has provided a pioneering and comprehensive account of the origins of the law and politics of occupational health and safety regulation in Ontario in the years 1850–1914.⁶ But this history and subsequent developments, however much they suggest an augmented sensitivity to disability and an enhanced apparatus of workplace protection and regulation in the modern era, have never really adequately addressed the disabling nature of capitalism, as many of the essays in this volume suggest. Death, disfigurement, and diseases spawned of industrial toxins stalk employment in Canada and throughout the world, to this day.⁷

This is not to suggest that our approach to disability narrow discussion, dialogue, and debate to the class dimensions of disability alone, telescoping all consideration into capitalism’s causation of problems and prejudice. As Anne Finger’s account of Franklin Delano Roosevelt’s disability suggests, and as critical disability studies have established, the ways in which physical impairment can limit human possibility reach past a simplified origin in the injuries of class, hidden or otherwise. That said, Roosevelt’s “management” of his disability was certainly facilitated by his class privilege, just as the inabilities of others to negotiate their way through and around specific disabling realities were not unrelated to their subordinate place in a class hierarchy.

The historical figure who first drew Ravi Malhotra and Benjamin Isitt to this project of exploring the historical conjuncture of social movements, disability history, and the law, E.T. Kingsley, certainly understood the class nature of capitalist oppression and exploitation. He did not dwell on his specific disability, which arose from an industrial accident that resulted in

the amputation of both of his legs. Recovering from this traumatic event, Kingsley read Marx, became a revolutionary and an advocate of Daniel DeLeon's Socialist Labor Party, gaining a reputation as an ardent propagandist in California during the 1890s. As the Socialist Party of British Columbia seemed poised to veer from its resolute conviction to wage "uncompromising political warfare against the capitalist class," Nanaimo's vigilantly class-conscious miners, in an attempt to shore up the theoretical acumen and political resolve of provincial socialists, brought Kingsley to Vancouver Island on what was supposed to be a short-lived propaganda tour in 1902. So great was Kingsley's influence and the respect he commanded that his advocates decided to retain him permanently, setting him up as a Nanaimo fish-seller and, subsequently, a printer. As Malhotra and Isitt recount in their introduction to this volume, Kingsley's influence in the British Columbia revolutionary left was, for the next decades, unrivalled.⁸ They point out, rightly so, that Kingsley's appearance in published works of political and labour history has often been cameolike, and he has never in such writing "occupied centre stage."⁹ That may be the case, but to the revolutionary socialists of pre-First World War Canada, Kingsley was himself something of the stage. A 1910 article in the *Western Clarion* assessing the history of the Socialist Party of Canada declared decisively that, "the movement today in Canada is the result of one man's interpretation of Marx."¹⁰ That man, of course, was Kingsley.

I understand exactly what Anne Finger is suggesting in the concluding sentence to her chapter in this volume when she refers to what might be lost by simply assimilating Kingsley as "one of us." By this statement she is rightly accenting that his disability should not be discounted, as he perhaps himself understated its significance, in routinely stressing the disabling universalism of capitalism as a class system. In the particularity of Kingsley's special oppression as a double amputee – as someone who paid a very large price and whose life was irrevocably altered by the dangers of exploitative work under capitalism – lay an important social commentary that can never be simply and one-dimensionally distilled to a particular anticapitalist politics. After all, disability pre-dated capitalism and the making of class society, and it will continue to exist under socialism, even into the reaches of imagined utopias that may finally transcend the exploitative essence of class society.

What is evident in Kingsley's example, however, is the extent to which he himself sought out answers in the body of critical socio-political theory of his time, the ideas and orientations developed in revolutionary Marxism as

a critique of consolidating capitalism. That animating conceptualization of capitalism demanded that exploitation be recognized as the foundation of a market-oriented system elevating “individual freedom” to the commanding ideological heights of society; that this regime of accumulation for profit be appreciated as one in which various oppressions were intrinsic to the routines of material life; that an economic order of this nature must be overthrown so that production could be for social use, not individual acquisition; and that humankind must struggle to organize society so that each might be provided according to their needs, and that each would be called on to contribute according to their abilities.

Kingsley believed in this Marxist critique and understanding of the possibilities of human development with all of his being, a being that was truncated by capital’s insatiable appetite for profit. He was marked by capital in ways that many of us who are able-bodied find unfathomable. But he will always, given his legacy of intractable resistance to capitalism, be counted as “one of us” among socialists who strive to see capitalism itself disabled, so that its disabling imperatives can finally be brought to a halt.

This project of social transformation is a grandiose undertaking. Too often, its large vision obscures particular needs, and the difficult struggle to realize its ultimate goals can, at times, seem to obscure specific components of a complex and multifaceted effort to achieve far-reaching change. Within this anticapitalist endeavour, addressing disability usefully and humanely will be central. It will not be the end of efforts to achieve what needs to be accomplished, but it will be a fundamental leap in the right direction. Small steps are currently being taken, by labour historians and by others, to recognize the importance of disability in a variety of intellectual fields and research initiatives.¹¹ This important collection of essays on social movements, disability history, and the law, inspired by E.T. Kingsley, similarly prods us to where we need to be going, engaging with and contributing to critical disability studies the better to understand the social relations of our times and how they contain within them the potential seeds of human liberation and transformation.

NOTES

- 1 See the discussion in Marta Russell & Ravi Malhotra, “Capitalism and Disability” in Colin Leys & Leo Panitch, eds, *Socialist Register* (London: Merlin, 2002) 211.
- 2 William Dodd, *The Factory System: Illustrated* (1842) 112–13, quoted in E.P. Thompson, *The Making of the English Working Class* (Harmondsworth, UK: Penguin, 1968) at 363.

- 3 Karl Marx, *Capital: A Critical Analysis of Capitalist Production*, vol 1 (Moscow: Foreign Languages Publishing House, 1961) at 245.
- 4 Frederick Engels, *The Condition of the Working-Class in England in 1844* (London: George Allen and Unwin, 1968) esp. at 153.
- 5 See, for an abridgement, Gregory S Kealey, ed, *Canada Investigates Industrialism: The Royal Commission on the Relations of Labor and Capital, 1889* (Toronto: University of Toronto Press, 1973).
- 6 Eric Tucker, *Administering Danger in the Workplace: The Law and Politics of Occupational Health and Safety Regulation in Ontario, 1850–1914* (Toronto: University of Toronto Press, 1990).
- 7 See, for instance, among many possible texts: Charles E Reasons, Lois L Ross & Craig Paterson, *Assault on the Worker: Occupational Health and Safety in Canada* (Toronto: Butterworth's, 1981); Doug Smith, *Consulted to Death: How Canada's Workplace Health and Safety System Fails Workers* (Winnipeg: Arbeiter Ring, 2000); Robert Storey, "Social Assistance or a Worker's Right: Workmen's Compensation and the Struggle of Injured Workers in Ontario, 1970–1985" (2006) 78 *Studies in Political Economy* 67; Robert Storey, "'Their Only Power Was Moral': The Injured Workers' Movement in Toronto, 1970–1985" (2008) 41 *Histoire sociale/Social History* 99. On one particular industry in Atlantic Canada, see Elliott Leyton, *Dying Hard: The Ravages of Industrial Carnage* (Toronto: McClelland and Stewart, 1975); Richard Rennie, "The Historical Origins of an Industrial Disaster: Occupational Health and Labour Relations at the Fourspar Mines, St. Lawrence, Newfoundland, 1933–1945" (2005) *Labour/Le Travail* 107; Harry Glasbeek, *Wealth by Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy* (Toronto: Between the Lines, 2002) at 61–66.
- 8 Malhotra's and Isitt's forthcoming biography of Kingsley will no doubt provide much new detail and perspective on Kingsley's life. I rely on the undoubtedly partial and somewhat skewed account in A Ross McCormack, *Reformers, Rebels, and Revolutionaries: The Western Canadian Radical Movement, 1899–1919* (Toronto: University of Toronto Press, 1977), and the unpublished Ross A Johnson, *No Compromise – No Political Trading: The Marxian Socialist Tradition in British Columbia* (PhD Dissertation, University of British Columbia, 1975), as well as a selected reading of Kingsley's political journalism and pamphlets, which often hit hard at the lack of class consciousness among wage earners.
- 9 See p. 5 of this volume. Curiously, Ian McKay's representation of Kingsley in *Reasoning Otherwise: Leftists and the People's Enlightenment in Canada, 1890–1920* (Toronto: Between the Lines, 2008) is rather jaundiced. It presents Kingsley's critique of the "wage slaves" who embrace the project of capitalist acquisitive individualism as "dumber than wild animals," raises eyebrows at Kingsley's "arrogance" and "indifference" with respect to women's suffrage demands, and suggests that Kingsley was insensitive to Aboriginal peoples, denigrating their homelands in remote northern regions. This may all be true enough, if judged from present-day sensibilities, but it builds on selective use of quite restricted quotation and takes Kingsley very much out of his historical context. In McKay's strained effort to amalgamate quite different strands of left-wing experience into what he designates the common politics of "first formation leftists," he assimilates the experience of Kingsley and the discernibly

more moderately social democratic James Simpson. McKay also characterizes Kingsley as a member of the “petite bourgeoisie,” citing his occupations as “fish merchant, print shop proprietor, and publisher,” albeit acknowledging that “he was also a man who had lost both of his legs in an industrial accident – perhaps formally irrelevant to a strictly Marxist definition of his class location, but not likely to have been personally irrelevant to either him or to his own sense of class identity.” It is a bit much to mechanically label Kingsley a “merchant.” And while Marxist understandings of what McKay calls “class location” may tend towards an “objective” structuralism, they can hardly be weighted down with this kind of wooden reductionism. Kingsley was a professional revolutionary, an occupation that fits uncomfortably with the notion “petite bourgeoisie.” His British Columbia “occupations” were all funded by the cooperative impulses and material support of the working-class socialist movement he dedicated his life to advancing. It is difficult not to see Kingsley’s early labouring life as working class, his disabling injury as pushing his life in certain directions that were anything but a denial of proletarian status. All of this reveals the ahistorical social construction of the Canadian revolutionary left that animates McKay’s “reconnaissance,” in which awkward complexities are congealed in simplified categories. (Quotes and other comments from pp. 156–58, 162–63, 185, 196, 301, 393, 506, 518.)

- 10 Quoted in McCormack, *supra* note 8 at 61.
- 11 See, for instance, Audra Jennings, “The Greatest Numbers ... Will Be Wage Earners’: Organized Labor and Disability Activism, 1945–1953” (2007) 4 *Labor: Studies in Working-Class History of the Americas* 55.

Acknowledgments

We are grateful to a number of scholars, most notably the authors who have contributed towards this volume, as well as colleagues affiliated with the Canadian Law and Society Association (CLSA), for their ongoing support for the production of critical legal scholarship. Members of the CLSA Board, and Eric Reiter in particular, provided assistance at key stages in the production of this volume and at a symposium in Winnipeg that provided inspiration for several chapters. In addition to our respective families, Christine Malone, Frank Smith, Richard Jochelson, and Lynda Collins provided hours of support and encouragement. Superb copy-editing was provided by Robin Whitehead. Megan Rusciano, author of one of the chapters in this volume, prepared the index. We also wish to thank the anonymous peer reviewers. Randy Schmidt at UBC Press was endlessly patient as we progressed on the manuscript. Deans Bruce Feldthusen and Nathalie Des Rosiers at the Faculty of Law, Common Law Section, University of Ottawa, have been exemplary advocates of critical scholarship and superb mentors. We gratefully acknowledge the financial support of the Social Sciences and Humanities Research Council (SSHRC) and Ilia Starr for his erudite assistance on all things related to SSHRC. All remaining errors are our own responsibility.

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Introduction

Bringing History and Law to Disability Studies

RAVI MALHOTRA AND BENJAMIN ISITT

This volume of essays had both a long gestation period and a complicated history in its own right. The editors hail from different cultural backgrounds, scholarly traditions, and geographical spaces. Malhotra, a legal scholar and disability rights advocate in Ottawa, and Isitt, a historian and city councillor in Victoria, met fortuitously as a result of a long – and long-distance – collaboration on another distinct but related project. The duo came together in 2010 to research the life of double amputee and political radical Eugene T. Kingsley (1856–1929).¹ This was a vast project, involving dozens of meetings, intricate financial planning, and an army of research assistants who, under our direction, scoured archives across North America in search of any trace of the American-born Kingsley.

Almost completely forgotten today, Eugene Kingsley became a prominent member of the San Francisco branch of the Socialist Labor Party of America (SLP) in the closing decade of the nineteenth century, after experiencing a serious railway accident in 1890, when he was in his early thirties and working as a brakeman on a railway car in Montana. Despite losing his legs and requiring artificial limbs to ambulate, Kingsley went on to become a political radical and rabble-rouser, running in California as an SLP candidate for the US House of Representatives in 1896 and 1898. Hounded by the state in a forgotten “free speech fight” in San Francisco, and battered by inner-party strife, Kingsley moved to Nanaimo, British Columbia, in 1902 and ultimately to Vancouver, where he became a founder and leader of the

Socialist Party of Canada (SPC). Serving for many years as editor of the SPC organ, the *Western Clarion*, Kingsley soon became a household name in Vancouver and working-class communities around the province, running several times for election to both the BC Legislature as well as the Canadian House of Commons. Although he was never elected to public office, Kingsley remained a political radical and leading theoretician of the Canadian left throughout his life, and his impossibilist vision of socialism leaves a rich legacy that is all the more pertinent in these times of deep austerity and political contestation in Canada and globally.²

Our interest in Kingsley's story and his legacy led us to convene a workshop of scholars in Winnipeg in 2014. This symposium, convened in partnership with the Canadian Law and Society Association and financially supported by SSHRC, brought together Canadian and American scholars from a variety of disciplines to discuss and debate issues relating to disability rights and the place of people with disabilities in the world. The workshop provided the genesis for this anthology, which traces the thematic and theoretical contours of the worlds of disability studies, law, and the history of social movements.

Disability as both a topic of inquiry and basis for theoretical discussions has long been marginalized in both law and history. Too often, legal scholars have disregarded the fact that people with disabilities are one of the largest – and most marginalized – minority populations. Yet, people with disabilities are actors in their own right and make their own history. Since the publication of Michael Oliver's now classic text, *The Politics of Disablement*, there has been a sea change away from the medical model of disablement, which focused primarily on medical rehabilitation as the strategy to improve the quality of life of people with disabilities, to an embrace of the social model of disablement.³ The social model identifies barriers as the main problem facing people with disabilities. It marks a shift from a focus on correcting physiological impairment to one on removing those barriers that create disabilities – imposing a positive obligation on a host of institutions to provide resources and take action in pursuit of substantive equality. Whether one considers staggering poverty rates or dismal labour market participation rates, it is apparent that people with disabilities have been largely excluded from a society that has been filled with systemic physical and attitudinal barriers that have impeded their progress. Be it an inaccessible university campus or a workplace staffed by managers hostile to the presence of workers with disabilities and eager to speed up production to meet growing neoliberal demands for efficiency and just-in-time

production, people with disabilities face a litany of barriers to participation in everyday life. Yet relatively few established legal scholars, particularly in Canada, have devoted their full attention to analyzing disability rights issues.⁴ Even fewer have approached disability rights through an overt lens of social justice and critical scholarship. More often, disability is mentioned as an afterthought after a long list of identity categories, without any real engagement about the richness or diversity of the disability community. Or discussion of disability rights is glaringly absent, notwithstanding the fact that legal issues permeate every aspect of the lives of people with disabilities.

Similarly, despite some exciting new scholarship in the past few years and with the partial exception of biography, disability history as a discipline is largely in its infancy.⁵ People with disabilities have rarely been regarded as historical actors, despite significant evidence that they have participated in the political process, lobbied for change, and even mobilized against the state at times. Groundbreaking work in the area of social history since the 1970s – illuminating the stories, experiences, and struggles of working people, women, Indigenous people, immigrants, people of colour, and, more recently, members of the queer community – has failed to inquire into the lives of people with disabilities. This historiographical lacuna is apparent in the story of E.T. Kingsley. Widely recognized as the leading theoretician of the western Canadian left in the first two decades of the twentieth century, Kingsley has often made a cameo appearance in works on political and labour history, but he has never occupied centre stage. Historians in Canada and other lands have been more inclined to interrogate the past through the lenses of class, race, gender, and sexuality than through the prism of ability and disability. We hope that the chapters that follow are able to push the discussion forward, ask new questions about the past, present, and future, and encourage scholars from law, history, and disability studies to rethink their assumptions about people with disabilities and their place in the world. We hope this questioning will inform policy debates and play a role in transforming social, legal, economic, and political relations, with a view towards removing barriers and achieving substantive equality.

Our volume is divided into three parts, with a degree of overlap and fluidity between them. The first, entitled *Historical Debates on Work and Disability*, features chapters by historians and other historically minded scholars on a range of topics affecting people with disabilities. In the first chapter, Mark Leier provides an overview of working-class political struggles in British Columbia in the first two decades of the twentieth century. Leier

demonstrates the contradictions of a labour movement that sought to redress the injustices imposed by an exploitative system and yet too often excluded those whom it regarded as inferior, whether on the basis of race or gender, to the white men who dominated the movement. This critique of the exclusionary impulse within the labour movement helps to illuminate some of the prejudices and barriers that confront workers with disabilities, both then and now.

In [Chapter 2](#), Dustin Galer tackles disability rights in the workplace in a different setting and time period, post–Second World War Canada. Galer capably shows how returning veterans and civilian polio survivors played a pivotal role in leading campaigns to encourage the employment of people with disabilities. Yet, as Galer notes, returning veterans were typically entitled to services and benefits superior to those available to other disabled workers, creating tensions and frictions with the disability community. It would be some years before hiring campaigns seeking to alter ignorant and discriminatory attitudes of employers began to have a discernable impact, gradually culminating in the declaration by the United Nations of the International Year of Disabled Persons in 1981.

In [Chapter 3](#), historian Geoffrey Reaume uses the prisms of gender and work to examine several distinct areas of disability history, considering people with physical, sensory, and intellectual disabilities; the elderly; workers; and mad people. Interestingly, Reaume discusses how gender is most effectively addressed in “mad history,” showing how women confined to mental institutions were expected to perform work and how this work was defined and constrained on a gendered basis. Reaume’s insightful and engaging overview demonstrates a nuanced appreciation of the intersections between disability, gender, and class, pointing towards new approaches for historians of disability.

The second part of this volume, entitled *Debates in Disability Studies*, opens with a powerful contribution from the past president of the Society for Disability Studies, scholar Anne Finger ([Chapter 4](#)). She documents how American president Franklin Roosevelt undertook significant efforts to disguise the effects of his impairments, which were a result of what contemporaries and historians have generally assumed to be polio. At the same time, to the extent that his disability was public knowledge, Roosevelt sought to rearticulate the narrative of disability as one of overcoming adversity. In an era before television, the president’s iconic fireside chats effectively emphasized his voice and intellectual gifts. Finger documents the lengths to which Roosevelt and his aides went to minimize any negative press attention about

his impairments, even while Roosevelt privately enjoyed the company of others with disabilities.

In [Chapter 5](#), Mark Walters closely examines the history of the physiology of the ear to demonstrate how the construction of deaf people as having disabilities was critical to scientific understanding of the inner ear's role in regulating balance. Moving effortlessly between the traditionally discrete disciplines of sound studies, disability studies, and the history of the senses, Walters' imaginative contribution critically assesses three models of understanding balance and embodiment. He constructs an original intervention that shows how "disabled bodies defy translation, overflow with excessive meanings, and threaten commonly held beliefs about the proper relationship not only between sensory modalities but also of the sensory body to its world."

Finally, we close this part with a contribution from Jen Rinaldi and Jay Dolmage ([Chapter 6](#)). Combining disability studies, the field of rhetoric, and legal studies, they trace early twentieth-century Canadian immigration policy, using legislative histories, archival documents, and popular texts. Rinaldi and Dolmage effectively show how immigrant bodies were rigorously inspected for fear they were sites of contamination. Racial bigotry merged with eugenic conceptions of disability to create a highly invasive immigration policy. This confluence was manifested in the notorious anti-Asian head tax and a statutory framework enacted in British Columbia and elsewhere in the country to limit Chinese immigration, the response to which demonstrated deep divisions within the working class in Canada. The authors conclude by indicating how this racist and ableist legacy has relevance for current policy debates around immigration. Rinaldi and Dolmage's exploration of the relationship between race and ability complements the method advanced in the preceding chapter by Reaume.

[Part 3](#) is devoted to debates in legal theory and laws, regulations, and legal decisions affecting people with disabilities. In [Chapter 7](#), Odelia Bay examines the barriers experienced by people with chronic illness in the workplace in a Canadian context. She argues that antidiscrimination case law has to date largely failed people with chronic illnesses, according greater recognition and protection to people with visible rather than invisible disabilities. In order to make real progress, Bay argues that we should look to the experience of case law that concerns caregiving and addresses gender and family status discrimination. By emphasizing flexibility, work-life balance, and the importance of workplace benefits, Bay points to an effective and transformative strategy that can improve the lives of people with chronic illnesses.

In [Chapter 8](#), Megan Rusciano examines the issue of poverty among people with disabilities through an analysis of a single case: the Ontario Human Rights Tribunal 2014 decision in *Garrie v Janus Joan Inc.* That case concerned a woman with intellectual disabilities who was paid a training honorarium of one dollar per hour for her labour, far below the prevailing statutory minimum wage. Rusciano illustrates how the relevant domestic jurisprudence, the United Nations *Convention on the Rights of Persons with Disabilities*, and the *Accessibility for Ontarians with Disabilities Act* all provide limited remedies for people with disabilities facing discrimination in wages. One of the more challenging issues raised in this chapter is the possibility that the legal capacity of workers with intellectual disabilities to litigate may be called into question. This issue raises profound philosophical questions about inclusion in society: it seems deeply ironic that one may be qualified to perform wage labour for an employer yet have one's capacity to litigate to ensure that one is treated fairly on the job subject to legal challenge. Rusciano's discussion thus links to many of the reflections made in previous chapters on the exploitation of workers with disabilities.

Finally, in [Chapter 9](#), Eric Tucker eloquently traces the history of debates surrounding workers' compensation, with particular reference to Ontario, and how the law has been employed in the context of the market's desire to commodify labour and the concomitant tendency of injured workers to fight for decommodification under certain circumstances. Tucker demonstrates how the rise of the negligence model of liability came about as a result of deep dissatisfaction with the contractual principles that dominated the nineteenth century and largely exonerated employers from responsibility for workplace accidents. Yet the negligence model soon faltered, as employers were concerned about potentially significant liability claims, while employees were often reluctant to sue because they risked having to pay the legal costs of their employer should they lose. Furthermore, there was always a risk that an initial victory for an employee in tort might be overturned on appeal. Tucker's timely chapter traces this complex history and situates the circumstances of injured workers within the changing political times and the ebbs and flows of class struggle.

Collectively, the chapters in this volume provide a rich array of approaches, case studies, paradigms, and perspectives. They propel several fields of scholarly inquiry in exciting and challenging new directions, honouring the experiences and struggles of people with disabilities, who have hitherto operated on the margins of academic research and many societal institutions. Rather than slavishly following a single ideological or methodological path,

each chapter contributes in a small way to paint one facet of a larger picture: the deep and persistent inequalities that pervade the lives of people with disabilities today – and potential strategies for attacking inequality, removing barriers, and pursuing substantive equality. All the authors aim to interrogate critical questions in history, disability theory, and law to make a better world for people with disabilities. We hope that this volume raises new questions in history and law, challenges misconceptions about people with disabilities, creates pathways for new research, and offers hope for the future.

NOTES

- 1 Their resulting biography of Kingsley is in development with UBC Press.
- 2 For one account of impossibilism, see Frank Girard & Ben Perry, *The Socialist Labor Party 1876–1991: A Short History* (Philadelphia: Livra Books, 1991).
- 3 Michael Oliver, *The Politics of Disablement* (London: Macmillan, 1990).
- 4 Some major exceptions include the landmark anthology by Dianne Pothier and Richard Devlin, Michael Lynk's work on the duty to accommodate people with disabilities in the workplace, and a recent volume on disability and narratives by Ravi Malhotra and Morgan Rowe. See Dianne Pothier & Richard Devlin, eds, *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* (Vancouver: UBC Press, 2006); Michael Lynk, "Disability and the Duty to Accommodate: An Arbitrator's Perspective" in *Labour Arbitration Yearbook, 2001–2002* (Toronto: Lancaster House, 2002) 51; Ravi Malhotra & Morgan Rowe, *Exploring Disability Identity and Disability Rights through Narratives: Finding a Voice of Their Own* (London: Routledge, 2013).
- 5 See, e.g., Kim E Nielsen, *A Disability History of the United States* (Boston: Beacon Press, 2012); Susan Burch & Michael Rembis, eds, *Disability Histories* (Urbana-Champaign: University of Illinois Press, 2014); Paul K Longmore & Lauri Umansky, *The New Disability History: American Perspective* (New York: New York University Press, 2001). Canadian disability history remains more tenuous. For a full discussion in the context of gender, see Chapter 3 by Geoffrey Reaume in this volume. There has also been growing interest in the life story of Deaf-blind radical activist Helen Keller, yet many people remain unaware of Keller's radical politics. See, e.g., Keith Rosenthal, "The Politics of Helen Keller: Socialism and Disability" (2015) 96 *Intl Socialist Rev*, online: <<http://isreview.org/issue/96/politics-helen-keller>>.