Ferguson-Glass Oration
THE ILLNESS OF WORK INCAPACITY

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- Those who need not work
- Those who can work
- Those who can’t work
- Those who won’t work
THE PEOPLE OF THE ABYSS

JACK LONDON
David Lloyd-George
Birmingham Town Hall
June 11, 1911
**Prussian “Welfare Monarchy”**

<table>
<thead>
<tr>
<th>Level of <strong>Worthiness</strong></th>
<th>Insurance Fund</th>
<th>Indemnification</th>
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</thead>
<tbody>
<tr>
<td>Consequence of a work-related injury</td>
<td>Workers’ Accident Insurance</td>
<td>Medical Care Wage Replacement Permanent Partial Awards</td>
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<tr>
<td>Consequence of an illness in a wage earner</td>
<td>Public Pension</td>
<td>Medical Care Support While Treated Pension if Totally Disabled</td>
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<tr>
<td>Never a substantial wage earner</td>
<td>Public Aid</td>
<td>Medical Care Sustenance</td>
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<tr>
<td>Clinical Decision Node</td>
<td>Criterion</td>
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<tr>
<td>Causation</td>
<td>Injury Arising out of the Course of Working</td>
<td></td>
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<tr>
<td>Consolidation</td>
<td>Maximum Medical Improvement</td>
<td></td>
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<tr>
<td>Disability</td>
<td>Impairment Rating</td>
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</table>
Semiotics and the Prussian “Welfare Monarchy”

Injury
Consolidation
Disability Determination
“rapidity of the movement, the momentum of
the person injured, the suddenness of its arrest,
the helplessness of the sufferers, and the natural
perturbation of mind that must disturb the
bravest, are all circumstances that of a necessity
greatly increase the severity of the resulting
injury to the nervous system....paralytic
symptoms”

John Erichsen, 1866
Ruptured Disc and the “Injury” notion


Franz Kafka
1883-1924
Franz Kafka

• Doctorate in Jurisprudence in Prague
• Died in 1924 of “pulmonary fever” at age 41, imploring Max Brod that his manuscripts be “burned unread.”
• 1908-1913 worked in the Workers’ Accident Insurance Institute for the Kingdom of Bohemia in Prague
• Wrote *THE TRIAL* in 1914-1915
Regional LBP afflicts working-age adults who are otherwise well and who have suffered no violently traumatic precipitant. It hinders the performance of tasks that are customary and customarily comfortable.

- **CAUSAL PREMISE**: The backache is the symptom of damage caused by the physical demands of the tasks that are hindered.
- **CLINICAL PREMISE**: Intervention for the acute backache will thwart chronicity.
FINE STRUCTURE OF THE CAUSAL PREMISE
Backache is the symptom of damage caused by the physical demands of the tasks.

• Social Construction of Illness: Absenteeism for Backache is Compensable but not absenteeism for “flu”.
• Sophistical inferences: “Wear and Tear” notions persist despite robust genetic deductions.
Processing Regional Low Back Pain

Person with the Predicament of Regional Low Back Pain

- Remain a Person
- Become a Patient
- Become a Claimant
Whitehall Study

<table>
<thead>
<tr>
<th>PSYCHOSOCIAL WORK CHARACTERISTICS</th>
<th>EXPANATORY VARIABLE FOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Control</td>
<td>• Short-term LBP absences</td>
</tr>
<tr>
<td>• Satisfaction</td>
<td>• Metabolic Syndrome</td>
</tr>
<tr>
<td>• Justice</td>
<td>• Mortality</td>
</tr>
<tr>
<td>• Pace</td>
<td></td>
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<tr>
<td>• Social support</td>
<td></td>
</tr>
<tr>
<td>• Conflict</td>
<td></td>
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</tbody>
</table>
“Good news. The test results show it’s a metaphor.”
Processing Regional Low Back Pain

Person with the Predicament of Regional Low Back Pain

- Remain a Person
- Become a Patient
- Become a Claimant
Worker with the Predicament of Regional Musculoskeletal Pain at Work

Context COPING IS THWARTED Content

CLAIMANT

Causation CONTEST Consolidation
work relatedness
peer pressure
resentment
veracity?

unfounded expectations
invalidity prescribed
convalescence
quest for cure

MAXIMUM MEDICAL IMPROVEMENT
Worker with the Predicament of Regional Musculoskeletal Pain at Work

Contest of Causation  THE GANTLET  Contest of Consolidation

VORTEX OF DISABILITY DETERMINATION

? impairment
? Whole man
? Residual function
? Malingering

IMEs
Pain Clinics
Work Hardening
Rehabilitation

INVALIDITY
Missouri WC Cohort Study

- Raymond Tait PhD and John Chibnall PhD Professors, St Louis University
- Elena Andresen PhD Professor of Epidemiology, OHSU
- Nortin Hadler MD
Missouri WC Cohort

• Claimants with Low Back “injuries”
• Claim settled between 1/1/01 and 6/1/02
• 2934 eligible: 1475 participated (50%), 432 (15%) refused, 1027 (35%) not located
• About 60%: male, white, 35-55 years old
• 85% had legal representation
• 80% radiculopathy, 21% surgery
Missouri WC Cohort
Disability Ratings

• At settlement the Disability Rating correlated with a diagnosis of discal disease, surgery, and overall medical costs

• AT SURVEY, THE DISABILITY RATINGS AT SETTLEMENT DID NOT CORRELATE WITH FUNCTION OR EMPLOYMENT
"IT ONLY HURTS WHEN HE LOOKS!"
If you have to prove you are ill
You can’t get well

NM Hadler
Spine 1996;21:2397-400
Sociopolitical Constraints on such Social Constructions as

• Clinical Judgment
• The Experience of Illness
• Disease and Impairment
• Disability and its Determination
• Etc.
NDIS ACT
Determining Eligibility

• “Whether a person has a disability...is essentially a question of fact”
• “Delegates are to consider all of the available evidence including diagnostic evidence”
• “May refer people without diagnostic information for a specialist assessment”
• If the person has a LISTED condition, it is “expected that generally there will be sufficient evidence” of eligibility. (These are very rare conditions.)
NDIS ACT (s.24, Part 5)
Becoming a Participant

• A person meets the disability requirement if the person has a disability...and
• ...impairment(s)...are or are likely to be permanent and...
• ...result in substantially reduced functional capacity...and
• ...affect...capacity for social and economic participation and
• ...likely to require lifetime support
THESE UNTENABLE PREMISES

Task demands are the proximate cause
Intervention will thwart chronicity
Impairment and Disability are causally related

ARE AN ENTROPY DEBT

- Stakeholders: health care providers and insurers
- Common Practice, Common Sense
- Unions
- Ergonomists
- Bureaucrats

FOSTER VAST SOCIAL IATROGENESIS
Person Coping With A Regional Musculoskeletal Symptom

(volition)

Persist In Coping
Person With A Predicament
(common sense)
(alternative care)
Persisting Predicament

Seek Medical Care
Patient With An Illness
(differential diagnosis)
(proven or empiric therapy)
Well Person
Persisting Illness
Invalid

Seek Care In Workplace
Claimant With An Illness/Injury
(contest of causality)
(gauntlet of consolidation)
(vortex of disability determination)
Return To Work
If you don’t know where you’re going, all roads will get you there

• The Disabled
• The Disallowed
• The Disaffected
• The Disavowed
Man wishes to be confirmed in his being by man, and wishes to have a presence in the being of the other...secretly and bashfully he watches for a YES which allows him to be and which can come only from one human person to another.

Martin Buber

_The Knowledge of Man_