# "Saving Something Invaluable to Our Country": Railroaders' Bodies, Citizenship, and the Politics of Accident Liability, 1870-1910

John Williams-Searle, Ph.D.
Director, The Center for Citizenship, Race, and Ethnicity Studies
searlej@strose.edu

In a work culture shaped by constant risk, heroic self sacrifice, disabling injury, and random death, it made sense that railroad workers and their supporters viewed the railroader's world in martial terms. In the 1870s, railroaders employed the soldierly metaphor to celebrate the bodily vigor and bravery required for membership in the railroad brotherhoods. By the 1890s, railroaders recognized that military veterans used their privileged citizenship status to radically expand and increase their participation in a federal pension system. Railroaders then began to use military metaphors to make their own more specific claims on the federal state. Appealing to a Congress reluctant to protect workers as a class, railroad brotherhood members pointed out that thousands of men suffered career-ending injuries every year as willing soldiers of capital. Surely, these sacrifices deserved federal gratitude.

After the Civil War, members of the railroad running trades – locomotive engineers, firemen, conductors, and brakemen – compared their work with a soldier's trials as a way of communicating to the public railroading's risks. In 1870, a member of the Brotherhood of Locomotive Engineers (BLE) explained,

"The life of the engineer was like a constant cavalry or artillery charge."[1] He did not exaggerate. In 1889, the first year the Interstate Commerce Commission (ICC) compiled national accident statistics, railroad companies reported that 1 out of every 375 employees had been killed in the previous year, while 1 out of 35 had been injured. Running trade members faced an even greater risk of harm. Nationally, one out of every 117 men employed directly in the running trades had been killed. The ICC further reported that 1 out of every 12 trainmen had been injured on the job during the previous year.[2] The report confirmed what the railroad brotherhoods, as well as the state railroad commissions had claimed for years: The danger of railroading compared well with military service.

This comparison was quickly adopted by supporters of the railroad brotherhoods' efforts to pass federal railroad safety legislation after the ICC made the report public. Edward A. Moseley, secretary of the ICC, quickly responded to the casualty findings in an address to the Brotherhood of Railroad Trainmen. He exclaimed,

> There is something appalling in the statement that more hard-working and faithful railway employees in the United States went down in sudden death last

---

[1] Letter of R. R. M. (Louisville, Kentucky) in *Locomotive Engineers' Monthly Journal* 4 (April 1870): 170.

[2] Expressed in whole numbers, 1,972 railroaders were killed and 20,028 were injured on the job. *Second Annual Report on the Statistics of Railways in the United States to the Interstate Commerce Commission for the Year Ending June 30, 1889* (Washington, D.C., 1890), 36-38; Walter Licht, *Working for the Railroad: The Organization of Work in the Nineteenth Century* (Princeton: Princeton University Press, 1983), 190-191.

> year than the entire number of Union men who died at the Battle of the Wilderness.[3]

Although public and government support for federal railroad safety legislation could be measured in fits and starts, there was some support at the highest levels. In his first annual message to Congress, President Benjamin Harrison threw his weight behind the idea of federal safety legislation when he commented – in a sentence frequently repeated in the pages of the *Railroad Trainmen's Journal* – "It is a reproach to our civilization that any class of American workmen should, in the pursuit of a necessary and useful vocation, be subjected to a peril of life and limb as great as that of a soldier in time of war."[4]

In 1891, as the first attempt to pass federal railroad safety legislation died in the last session of Congress, L. W. Rogers, editor of the *Railroad Trainmen's Journal*, pointed out, "It is as though the railroad men are an army going on duty in the morning, and knowing that by eventide five of their number must die and fifty be crippled."[5] When Congress failed to act on a new version of the safety

---

[3] James Morgan, *The Life Work of Edward A. Moseley in the Service of Humanity* (New York: The MacMillan Company, 1913), 60. Moseley was particularly fond of comparing railroad accident statistics with Civil War battle casualties. He recycled this section in a speech that he gave at the BRT's 1893 convention. See *Railroad Trainmen's Journal* 10 (November 1893): 938.

[4] "President Harrison on Safety Appliances," *Locomotive Engineers' Monthly Journal* 24 (January 1890): 39. The BRT frequently used this quote in the early 1890s to remind BRT members that they had a legitimate protective claim – similar to soldiers – on the federal government. See *Railroad Trainmen's Journal* 7 (January 1890): 18, 27.

[5] *Railroad Trainmen's Journal* 8 (February 1891): 84. For a report of the political wrangling that prevented the passage of the first safety appliance act, see Lorenzo S. Coffin, "What Congress Didn't Do, and Why it Didn't Do it," *Railroad Trainmen's Journal* 8 (April 1891): 249-250; and Coffin, "Safety Appliances on the Railroads," *Annals of Iowa* 5 (January 1903): 569-571.

appliance bill in the fall of 1892, D. L. Cease, the new editor of the *Trainmen's Journal* took up where Rogers had left off. He used the ICC's unfavorable comparison of military casualties in several historic battles – such as Waterloo, Gettysburg, and Shiloh – with railroaders' yearly death and injury tolls to criticize what he viewed as an uncaring public.[6] The message was clear: if the public wanted the excitement of a war, there was one being fought everyday on the nation's railroads should they care to notice.

Gradually, the public and its representatives did take notice. During the final debate on the bill, Mr. Wise, of Virginia, the chairman of the ICC, explained that railroaders were "serving in their quasi-public capacity, as no other class of wage-earners ever do."[7] After overcoming resistance from railroad companies and a protracted debate in the Senate, the Fifty-second Congress passed the Safety Appliance Act on March 2, 1893. The successful campaign demonstrated that comparing railroaders with soldiers worked; they could now argue for an even more privileged relationship with the state based on their position as indispensable soldiers of capital.

Railroad running trade members may have recognized that the late-1880s and early-1890s was an ideal time to make new citizenship claims. Other workers and their supporters were beginning to argue that industrial workers, because of

---

[6] D. L. Cease, "Put to Sleep," *Railroad Trainmen's Journal* 9 (October 1892): 720.
[7] Lorenzo S. Coffin, "Safety Appliances on the Railroads," 578.

their contributions to the nation's welfare, should receive federal pensions. In 1887, for example, George McNeill, First Deputy of the Massachusetts Bureau of Statistics and the Secretary-Treasurer of the Knights of Labor's District Assembly 30, argued "the scandal may no longer continue that a man is pensioned for wounds received in the destruction of property and life, but must be pauperized when receiving injuries in the peaceful pursuits of life."[8] As legal historian John Witt has revealed, other unions, such as the United Mine Workers would also make the claim that "if disabled soldiers were pensioned, so too should the injured soldiers of the industrial army."[9] "The war analogy," according to Witt, "came quickly to have a political significance."[10] The comparison of the dangers experienced by railroaders with those of soldiers was especially persuasive during this time because of several political and cultural developments.

President Harrison uttered his oft-quoted remark in support of the railroad safety movement; its existence, however, within a broader political context is significant. The 1888 presidential election turned on the issue of expanding pension provisions for Civil War soldiers and their dependents. In 1887, Grover Cleveland unwisely vetoed legislation that would ultimately become the

---

[8] George McNeill, *The Labor Movement: The Problem of To-Day* (Boston: A. M. Bridgman & Co., 1887), 490.
[9] John Fabian Witt, *The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of American Law* (Cambridge: Harvard University Press, 2004), 24.
[10] Ibid.

Dependent Pension Act of 1890.[11] This legislation extended military pensions to veterans who later became disabled for manual labor. The claimed disability did not have to be the result of a war-related injury. This was the culmination of a new Civil War military pension program begun in 1862 to help recruit Union soldiers during the second, less popular, year of the war by convincing them that should they make the ultimate sacrifice the state would care for their dependents.[12]

During the next thirty years, pension benefits increased, filing deadlines became more lenient, and the evidence required to demonstrate a claimed disability was relaxed.[13] By the 1888 presidential election the pension system had become an important political weapon that allowed the Republicans and Democrats to differentiate themselves from each other, win over the highly significant veteran vote, and distribute patronage.[14] Although Cleveland claimed that his rejection of the 1887 Pension Bill was an attempt to control widespread corruption within the pension system, his veto handed the "old soldiers'" vote and

---

[11] Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge: The Belknap Press of Harvard University Press, 1992), 127. "Vetoed by the President: The Pauper Pension Bill Not Yet A Law," *New York Times*, 12 February 1887, 1.
[12] Megan J. McClintock, "Civil War Pensions and the Reconstruction of Union Families," *Journal of American History* 83 (September 1996): 460.
[13] Skocpol, 110-111; McClintock, 463.
[14] Donald L. McMurry, "The Bureau of Pensions During the Administration of President Harrison," *Mississippi Valley Historical Review* 13 (December 1926): 343-344; Skocpol, 120-127; McClintock, 464-465.

the election to Harrison.[15] The publicity surrounding the pension issue and the political power that it gave to veterans and political candidates was not lost on railroaders who wanted to establish their own privileged citizenship status.

The successful campaign for passage of the Safety Appliance Act coupled with a potentially favorable political environment would lead railroaders and their allies to pursue federal pensions. The nation's renewed interest in martial matters at the end of the nineteenth century aided railroaders' arguments that they were soldiers of capital who deserved a privileged citizenship status based on their willingness to sacrifice themselves for the welfare of the United States.
The previously moribund Grand Army of the Republic veterans' fraternity experienced a rebirth as it rapidly grew to 428,000 members in 1890 – a fourteen-fold increase since 1878.[16]

Contemporary observers tried to explain this new martial mania as a response to a turn-of-the-century crisis of manhood. Writers as varied as William James, Oliver Wendell Holmes, Jr., Henry Cabot Lodge, and Theodore Roosevelt, expressed fears that the developing corporate and commercial culture had undermined the vitality of American men. It is unlikely that the nation's railroaders were all that concerned about their own manliness. Even though successful locomotive engineers and conductors often achieved the domestic

---

[15] Skocpol, 127. "Vetoed by the President."
[16] Gerald F. Linderman, *Embattled Courage: The Experience of Combat in the American Civil War* (New York: The Free Press, 1987), 275.

comforts of middle-class life, they had little to worry about regarding their own masculinity. They had plenty of opportunities to demonstrate their bravery and heroism in the face of battlefield-like working conditions.

Unlike men who saw examples of heroic manhood in the lives of Civil War veterans, running trade members looked to use the crisis of masculinity and the nation's new infatuation with warfare to draw comparisons between themselves and soldiers. Railroaders argued that because they faced the same dangers that soldiers met, this could undermine their ability to fulfill the requirements of patriarchal citizenship. A disabling accident, for example, could cause a male railroader to relinquish his position as the head of his household and protector of his family. It was, therefore, in the state's interest to support railroaders as it did soldiers.

It was significant that the Civil War soldier's pension was non-stigmatizing aid. The federal government granted aid to disabled males to replace lost wage-earning potential and to allow soldiers to remain at least the titular heads of their families. The pension system also rewarded ex-soldiers for services previously rendered – it was not a charitable scheme.[17] The absence of stigmatizing charity and the chance to secure their patriarchal prerogative caused running trade members to view Civil War veterans and their government-

---

[17] Patrick J. Kelly, *Creating A National Home: Building the Veterans' Welfare State, 1860-1900* (Cambridge: Harvard University Press, 1997), 26-27.

administered pension plan as the ideal relationship to be cultivated between the state and themselves. This was the fundamental reason why running trade members were interested in shaping the relationship between martial manhood and citizenship.

Railroaders may have died like soldiers, but could they actually make the public believe that their sacrifices were as vital to the nation as those of soldiers? To demonstrate their vital relationship with the nation, railroaders fell back on a pre-existing ideology to help make the case for a new civil status. Since railroading's early days, some commentators had referred to running trade members as "Knights of the Rail." According to the BRT, the knight of the rail sprang selflessly to the defense of the nation "when the national life [was] threatened." The *Railroad Trainmen's Journal* explained,

> The soldier enters a battle knowing that many must fall, and that his chances for life are no better than the chances of others. Just so with the trainman. He is a soldier in the great American army of commerce, and goes upon his duty in the morning knowing that according to past experience, before the day has closed six of the number will be crippled and killed.[18]

[18] "Knights of the Rail," *Railroad Trainmen's Journal* 7 (March 1890): 154.

The BRT's editor argued that a railroader's willingness to sacrifice himself for the greater national good gave him the right to expect the gratitude of the state.[19]

Should the public have failed to see the justice of railroaders' developing claims of privileged citizenship, running trade members took to the streets during annual memorial day celebrations to claim their place as peacetime soldiers of capital. By 1900, railroaders across the nation had generally adopted June 14 as Railroader's Memorial Day. Should anyone have missed the point, a 1908 editorial argued that the BRT's memorial day was in the same spirit as Decoration Day for Civil War veterans. Fallen BRT members were "as deserving of this special service as are our soldiers and statesmen, although their work was performed in the great battles of peaceful industry."[20]

Despite the passage of the Safety Appliance Act it appeared that by the beginning of the twentieth century not enough people cared about the railroader's fate. Railroad companies found it easy to delay their compliance with the Act. In 1899, the Brotherhood of Locomotive Firemen (BLF) reported on company efforts to install automatic couplers and air brakes. Thirty-one percent of freight cars still lacked automatic couplers; fifty-six percent did not have air brakes.

---

[19] Ibid., 155.

[20] "In Memoriam," *Railroad Trainman* 25 (June 1908): 518. For additional memorial day reports, see letter of S. B. C. (Kent, Ohio) in *Railroad Trainmen's Journal* 15 (November 1898): 886; "Brotherhood Memorial Service," *Locomotive Engineers' Monthly Journal* 33 (August 1899): 583; Letter of Mrs. M. L. Cook (Concord, New Hampshire) in *Locomotive Engineers' Monthly Journal* 35 (November 1901): 675; "Memorial Day at Galesburg, Illinois," *Railroad Trainmen's Journal* 24 (August 1907): 702; letter of P. O. Garrahan (Philadelphia, Pennsylvania) in *Railroad Trainman* 25 (July 1908): 636; and letter of William Hunt (Ironton, Ohio) in ibid., 637.

Delays in implementing the Safety Appliance Act allowed railroad companies to continue killing or disabling running trade members at an alarming rate.[21]

Few railroaders needed official reports to convince them that their workplaces remained battlefields. Left with few alternatives, the railroad brotherhoods and their allies stepped up their claim that as foot soldiers in an economic war they merited the same type of special relationship that soldiers had with the federal government. After 1900, railroaders would argue that they actually *were* soldiers, serving in a profession that kept them ready for battle. One commentator, for example, discussed the idea that railroaders made good soldiers by telling an anecdote about William Tecumseh Sherman:

> The last time I saw General Sherman, he told me that in the event of a war he could conceive of no better fortune for a general than to have an army composed exclusively of railroad men, because they are men whose profession means that they of necessity would make great and successful soldiers.[22]

Renewed interest in military matters also may have signaled an attempt by soldiers whose claims were caught up in the politics of the pension system to argue for their worthiness as pension recipients. This was a time when soldiers

---

[21] "Safety Appliances," *Locomotive Firemen's Magazine* 26 (January 1899): 93.
[22] John E. Miles, *The Railroads, Their Employes, and the Public: A Discourse Upon the Rights, Duties and Obligations of Each Toward the Other* (Plymouth: The Memorial Press, 1906), 95.

published their battle-filled memoirs at a rapid clip.[23] Railroaders also published their own memoirs that included tales of accidents and near misses making clear the connections between railroading and battle.[24] BLE members supported the argument that railroaders actually *were* soldiers when they recounted their experiences working on military railroads during the Civil War. Veterans, concerned that "their valor [had] not been enough recognized to deserve mention in history" made clear that the hardships they experienced made them indistinguishable from soldiers. "On one trip," engineer W. E. Hoyt explained, "I was hemmed in by guerrillas for two days, with nothing to eat but hardtack soaked in the water of the tank."[25] Letters from veteran engineers like Hoyt encouraged others to write the *Monthly Journal* with their own hair-raising stories.[26] This renewed interest in the wartime locomotive engineer established yet another link between the railroader and the soldier.

---

[23] John Pettegrew, "'The Soldier's Faith': Turn-of-the-Century Memory of the Civil War and the Emergence of Modern American Nationalism," *Journal of Contemporary History* 31 (January 1996); 57-58.

[24] See, for example, Nimrod J. Bell, *Southern Railroad Man: Conductor N. J. Bell's Recollections of the Civil War Era*, ed. James A. Ward (DeKalb: Northern Illinois University Press, 1994); Joseph Bromley, *Clear The Tracks! The Story of an Old-Time Locomotive Engineer* (New York: Whittlesey House, 1943); Chauncey Del French, *Railroadman* (New York: The MacMillan Company, 1938); Neason Jones, *Tom Keenan Locomotive Engineer: A Story of Fifty Years on the Rail as Told by Himself* (New York: Fleming H. Revell Company, 1904); William John Pinkerton, *His Personal Record: Stories of Railroad Life* (Kansas City: Pinkerton Publishing Company, 1904); J. Harvey Reed. *Forty Years A Locomotive Engineer: Thrilling Tales of the Rail* (Prescott, Wash.: Chas. H. O'Neil, Publisher, 1912); J. J. Thomas, *Fifty Years on the Rail* (New York: The Knickerbocker Press, 1912).

[25] Letter of W. E. Hoyt (Antioch, Illinois) in *Locomotive Engineers' Monthly Journal* 36 (December 1902): 782.

[26] See letter of J. H. Courtenay (Nashville, Tennessee) in *Locomotive Engineers' Monthly Journal* 37 (January 1903): 29-30; letter of W. M. Laud (Hinton, West Virginia) in *Locomotive Engineers'*

Despite ongoing legislative reform, railroading's dangers continued to increase during the first decade of the twentieth century. The number of railroaders injured for every thousand employed steadily rose from 32.75 in 1895 to 57.17 in 1908.[27] When the editor of the *Railroad Trainmen's Journal* revealed an increasing death and disability rate on the nation's railroads as an argument in favor of an Employers' Liability Law, he explained, "If war were as dangerous as a job on the freight trains or in the railroad yards of this country there would be no need for long drawn out peace conferences to prevent it."[28]

Other commentators echoed this view. *McClure's* author John M. Gitterman observed, "Trainmen are at least as necessary as soldiers – and their occupation is distinctly the more dangerous."[29] Railroaders deserved government pensions because as soldiers of capital they suffered death and disability to support the nation. Gitterman explained, "The State assumes that if it goes to war somebody is bound to be hurt; and the State, as a matter of course, shoulders the inevitable burden of these injuries. Railroading is virtually a state of war."[30] For

---

*Monthly Journal* 37 (January 1903): 30-31; D. J. Brown, "United States Military Railway: Recollections of a Retired Engineer," *Locomotive Engineers' Monthly Journal* 37 (February 1903): 100-103; and letter of W. Y. Rohrbach (Newark, New Jersey) in *Locomotive Engineers' Monthly Journal* 37 (February 1903): 103-105.

[27] Morgan, 133.

[28] "Criminal Carelessness On the Part of Railroads," *Railroad Trainmen's Journal* 24 (December 1907): 1075.

[29] John M. Gitterman, "The Cruelties of Our Courts," *McClure's* 35 (June 1910): 164.

[30] Ibid.

the railroader, being a soldier appeared to be the sure route to obtain a federal pension.

Railroad workers argued that the creation of a protected citizenship status was necessary because safety appliance legislation only addressed accident prevention. It did nothing to lower the legal barriers that injured railroad workers faced when they tried to launch liability suits against their employers. If fellow employees had helped cause their accident or if they had contributed to their own injury in any way, their cases were thrown out.[31] Sympathetic commentators argued that railroaders' critical role as soldiers of commerce should merit some protection from capitalism's worst excesses. As ICC secretary Moseley testified, railroaders were an important national resource:

> [E]very one of these employees is a workman who is more than ordinarily worth saving, one of those men most able to defend his country and to value its institutions. There are nowhere any stronger, more able, and intelligent men; and when you safeguard them, you are saving something invaluable to our country as well as to their own families.[32]

---

[31] Lawrence M. Friedman and Jack Ladinsky explained in their assessment of the fellow-servant rule that "the doctrine left an injured worker without any effective recourse but an empty action against his co-worker." "Social Change and the Law of Industrial Accidents," *Columbia Law Review* 67 (January 1967): 53.

[32] Congress, House, Committee on Interstate and Foreign Commerce, *Automatic Coupler Bill: Hearings Before the Committee on Interstate and Foreign Commerce of the House of Representatives on H. R. 11059*, 57th Cong., 2nd Sess., 27 May 1902 (Washington: Government Printing Office, 1902), 33.

While government pensions for workers in private industry only became a reality in 1935 with the passage of the Social Security Act, the federal government had long administered extensive welfare coverage through Civil War pensions. By the close of the nineteenth century, it was clear that the military pension system had become a federal social welfare program that compared favorably with the European pension and social insurance efforts that had signaled the creation of the modern welfare state. In 1893, over 40 percent of the federal budget was used to finance the military pension system in the United States.[33] Clearly, by the time that railroaders portrayed themselves as soldiers of capital who deserved a privileged citizenship status, there was familiar precedent. BRT member W. J. Daily wrote,

> We are too prone to accept the casualties of industrial warfare as a matter of course. The old soldier of the Civil War is pensioned. This is right. But what of our soldiers of peace. The nation could not do without them a single day. They furnish prosperity in peace and the utilities and substance for national defense. Some pension system should be evolved.[34]

---

[33] Ann Shola Orloff and Theda Skocpol, "Why Not Equal Protection? Explaining the Politics of Public Social Spending in Britain, 1900-1911, and the United States, 1880s-1920," *American Sociological Review* 49 (December 1984): 728. For a comparison between European, Australia, New Zealand, and U. S. pension and welfare systems during the decades surrounding the turn-of-the-century, see Skocpol, 130-135; McClintock, 458.

[34] W. J. Daily, "The American Juggernaut," *Railroad Trainmen's Journal* 24 (May 1907): 426.

Although they did not ultimately obtain federal pensions, railroaders did achieve their special citizenship status through the passage of the Federal Employers' Liability Act (FELA) in 1908. This Act revised common law liability defenses and removed legal barriers to winning damage suits. It abolished the fellow servant doctrine, adopted a comparative negligence rule for accidents, and outlawed companies' use of employee-signed waivers as a strategy to avoid negligence suits.[35] When states began to implement the first workers' compensation laws – New York enacted the first statute in 1910 – the FELA continued to govern accidents involving railroad employees in interstate commerce.[36] This set railroaders apart from all other workers, a condition to which they initially objected. It was not initially clear whether courts would respect the FELA's terms.

At first railroad companies resisted workers' compensation legislation, condemning the proposed statutes as an unconstitutional foray into class legislation.[37] They placed their faith in legal victories under the FELA. Soon, however, railroaders regularly won their cases under the FELA. Railroad companies then urged adoption of a workers' compensation system that would restrict suits in favor of standardized payments. Their worker-soldiers had the last

---

[35] John Fabian Witt, "Workmen's Compensation and the Logics of Social Insurance," Columbia Law School Public Law & Legal Theory Working Paper Group, Paper Number 02-41, April 12, 2002, 67; Mark Aldrich, *Safety First: Technology, Labor, and Business in the Building of American Work Safety, 1870-1939* (Baltimore: The Johns Hopkins University Press, 1997), 189.
[36] Witt, "Workmen's Compensation and the Logics of Social Insurance," 1, 8.
[37] Witt, *The Accidental Republic*, 65-66.

laugh: the FELA governs railroad employee accidents to this day.[38] Running trade members had always known that they played a special role in the life of the nation. Half a century of martial metaphor had allowed the soldiers of capital to finally win the field.

By the beginning of the twentieth century, running trade members had managed to transform national debates about the relationship between citizenship, manhood, and military service into a federally recognized expansion of their citizenship rights. They ultimately established the idea that industrial workers deserved greater protections from the federal government because of their physical sacrifices in support of the state's economic health and their willingness to fulfill their obligations as male citizens to sacrifice themselves for the good of the nation. This idea that workers' rights derived from their economic production in support of the nation would provide a new underlying basis of citizenship as the system of welfare capitalism developed during the Progressive Era.



[38] Ibid., 70-71.