Gov. Martin Brumbaugh signed the Workers’ Compensation Act of Pennsylvania on June 2, 1915. Unlike the contentious debates and acrimony that surround today’s social net legislation, there was consensus even before 1915 that regulatory reform of the workplace was long overdue. The key component of the Pennsylvania Workers’ Compensation Act at that time was that employees gave up their right to sue their employers for negligence, when work injuries occurred, in exchange for an employer-paid “no-fault system” of defined benefits that came into effect when an acknowledged injury occurred.

This idea of an employer paid “no-fault” system was not a revolutionary concept. The Code of Hammurabi from 1750 B.C. detailed compensation due for injuries to workers’ body parts. In 1884, Germany through the iron will of Otto Von Bismarck, enacted a workers’ accident insurance system in order to stave off more revolutionary programs. The change from an agrarian to an industrial economy where large numbers of workers operated machines in factories created massive problems. By 1900, there were an average of 100 fatal industrial accidents per day and 500,000 workers a year were maimed.

The problems in the workplace were crystallized in Upton Sinclair’s 1906 novel “The Jungle” and its tale...
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of workers falling into tanks and then ground up with meat renderings and by the horrific Triangle Shirtwaist Factory fire of 1911 in New York City. The pictures and public accounts of workers leaping to their deaths or being burned alive were seared into the public consciousness. When the owners of the Triangle building, who managed to get out of the building, were acquitted on manslaughter charges, there was a public uproar. Matters were made worse when the employers were able to collect approximately $400 for each casualty from their insurance carrier. By 1915, more than two dozen states had enacted some type of workers’ compensation system in order to ensure against these types of actions occurring again.

While the implementation of the 1915 Act cannot be overstated, it had its limitations. The law covered only “injuries” defined as “...violence to the physical structure of the body...” Despite or because of the large mining industry in Pennsylvania, there was no coverage for occupational diseases. Miners inhaling coal dust or airborne crystalline silica and hat workers exposed to mercury vapors in the curing of felt still had to assume the medical risk of their employment.

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Like any other social legislation, pressure to expand the Act’s original scope began early. In 1921, compensation for work-related facial disfigurement was added as a compensable condition. To ensure the workers’ compensation proceedings were taken seriously, the Supreme Court in Shortz v. Farrell, 193 A. 20 (Pa. 1937) required corporate defendants to be represented by counsel and barred lay individuals from representing injured workers. In 1939, the Pennsylvania legislature passed the Occupational Disease Act. Now recognition was given to these specific diseases: silicosis, anthraco-silicosis, coal worker’s pneumoconiosis and asbestosis. Nonetheless, any further efforts to improve the Act stalled after World War II.

By 1970, it was apparent that further changes to the Act were needed. The maximum weekly payment for an injured employee was only $60. Medical benefits were limited for one year with the right to additional treatment allowed only if the Workers’ Compensation Appeal Board found that treatment would increase the likelihood of an injured worker’s return to employment. This meant that those workers with the most severe injuries were the least likely to receive additional medical care.

Prompted by threats of the federal government nationalizing the state workers’ compensation programs, Pennsylvania overhauled the Act. In Act 61 of 1972, the legislature empowered the Department of Labor and Industry to calculate a yearly statewide average weekly wage that would represent the maximum amount of compensation an injured worker could receive. In short, benefit increases were no longer dependent on legislative will. The change was dramatic. The $60 weekly maximum benefit rose to $284 by 1982, $455 by 1992 and $951 as of 2015.

The legislation also changed the triggering event for the application of the Act from a work-related “accident” to a work-related “injury.” This subtle change put in play micro-trauma and repetitive injuries such as carpal tunnel syndrome and allowed cases where the injury was psychological rather than physical.

In addition to the legislative changes, the intervention of the appellate courts continued the expansion of the Act. The Pennsylvania Supreme Court in Pawlosky v. WCAB, 525 A.2d 1204 (Pa. 1987), effectively, merged the Occupational Disease Act with the Workers’ Compensation Act. The court expanded the definition of an injury to include diseases caused by employment. The result of this change was a dramatic
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increase in the number of petitions filed by workers. The holy triangle of more money, more injuries in play, and more judicial authority attracted the attention of attorneys who flocked to a newly lucrative practice.

As the litigated cases became more complex and varied, both the courts and the legislature recognized that it was necessary to empower the triers of fact. In Universal Cyclops Steel Corporation v. WCAB, 305 A.2d 757 (Pa. Cmwlth. 1973), the court deemed that the then workers’ compensation referees were “sophisticated fact finders” with the final authority to determine the credibility of lay and expert witnesses. With one decision, the status of workers’ compensation referee had morphed from a master rendering suggested findings that the Appeal Board could overturn at will to a trial judge with ultimate fact finding authority.

More judicial authority eventually led to calls for more judicial accountability. In Act 44 of 1993, the legislature formally amended the title of a workers’ compensation referee to a workers’ compensation judge. In Act 57 of 1996, all workers’ compensation judges appointed by the Secretary of Labor and Industry were required to be attorneys in good standing before the Supreme Court with five years of compensation experience or its equivalent. A Judicial Code of Conduct and yearly training were specifically mandated by the Act.

In an effort to provide an improved mechanism for the resolution of a case, the legislature threw off the last bit of paternalism remaining in the Workers’ Compensation Act. The settlement of cases, which was made difficult by the inability to resolve the obligation of the employer to pay for ongoing medical benefits, was changed to allow the parties to negotiate all aspects of the benefits provided under the Act at any stage of the proceeding. Subsequent amendments in 2006 permitted mediations to be conducted by a workers’ compensation judge in order to assist with the resolution process.

The growth of the workers’ compensation system resulted in the creation of strong workers’ compensation sections of county and state bar associations, such as the Philadelphia Bar Association Workers’ Compensation Section, that enhance and protect the system and its goals. The Philadelphia Bar’s Workers’ Compensation Section prides itself not only on its dedication to the law, the Act and the Bar but also the community as a whole. Recently, the Workers’ Compensation Section created a subcommittee dedicated to community service. The section’s motto is “little gifts, big hearts” and makes a difference with monthly collections of small items for various charities within Philadelphia. Additionally, the section contributes annually to the Philadelphia Bar Foundation, Philadelphia VIP and the Pennsylvania Bar Association Workers’ Compensation Section’s official charity, “Kid’s Chance,” which raises money to fund educational scholarships for the children of injured workers.

In anticipation of and to commemorate the centennial anniversary of the Act, the Workers’ Compensation Section created an “Arts in the Court” subcommittee in 2008. The subcommittee commissioned eight paintings of iconic Philadelphia companies to educate and show today’s Philadelphians how their grandparents lived, labored, created and played in the early 20th century in a city known as the “Workshop of the World.” Six of these monumental four-foot by six-foot paintings hang in the public corridor surrounding the courtrooms at 8th and Arch streets and are available for viewing by the general public.

The workers’ compensation community will meet in Hershey on June 1 to commemorate the 100th anniversary of the Act. While we toast all those who came before us, we will prepare to carry the torch and assume the responsibility to ensure the workers’ compensation system continues to serve all citizens of Pennsylvania for the next 100 years and beyond.

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