More than 200 years before modern workers’ compensation laws, pirates on the high seas adopted their own form of permanent partial disability compensation. In considering modern permanent partial disability, it is worthwhile to examine the roots of the plans adopted by pirates.

We like to believe there is a little pirate in all of us. Fiction writers, Walt Disney, and Hollywood imbued us with romantic notions of piratical adventures: sailing the high seas, visiting deserted islands, and searching for buried treasure. The reality of pirate life was a far cry from literary fiction. Besides being illegal and contrary to any concept of a fair and just society, it was filthy, dangerous, and unpredictable. Yet, our fascination has remained strong for generations. Charles Ellms, in The Pirates Own Book: Authentic Narratives of the Most Celebrated Sea Robbers, wrote in 1837:

In the mind of the mariner, there is a superstitious horror connected with the name of Pirate; and there are few subjects that interest and excite the curiosity of mankind generally, more than the desperate exploits, foul doings, and diabolical career of these monsters in human form.

Our image of unforgettable pirates includes unfortunate victims of dismemberment. In Robert Louis Stevenson’s Treasure Island, Long John Silver was missing a leg and walked with crutches. J. M. Barrie’s Peter Pan introduced us to the handless and aptly named Captain Hook. We associate pirates with individuals who, as a result of their dangerous travails, have suffered physical loss.
Because piracy presented numerous risks, pirate crews considered matters of social insurance. Pirates faced injury and dismemberment, the same risks addressed in modern workers’ compensation systems. A pirate crew in the 1700s would have understood the United States’ Supreme Court’s reasoning in *Ward & Gow v. Krinsky* centuries later:

> “[T]he conspicuousness of the loss guaranteed that awards could be made with no controversy whatsoever.”

To this day, permanent partial disability provides a fair measure of compensation to approximate, albeit arbitrarily, a presumed future wage loss in a manner designed to avoid disagreement and litigation through the use of well-defined statutory benefit provisions.

**Workers Compensation and Permanent Partial Disability in Virginia**

Virginia's Workmen's Compensation Act, adopted on March 21, 1918, became effective January 1, 1919. The Virginia Workers' Compensation Commission now administers this law.

Virginia compensates injured employees for permanent partial disability and is a scheduled loss state. Title 65.2, section 503 of the Virginia Code grants compensation for the loss of specified parts of the body, e.g., an arm, a leg, a hand, a foot, an eye, through payment for a designated number of weeks at the weekly employee's gross pay averaged over the year preceding an accident.

**Permanent Partial Disability**

Most modern workers’ compensation laws incorporate benefits for permanent partial disability. Injured workers who suffer the loss or loss of use of various parts of the body are entitled to a one-time series of compensation payments. Payment is intended to compensate an injured worker for the incremental loss of earning capacity he will suffer in the future on account of permanent loss. Many states employ “scheduled loss” for permanent partial disability, where the loss or loss of use of listed body parts provides a defined amount of compensation.

Permanent partial disability reflects acceptance of the notion of social insurance. Compensated injuries either actually or presumptively produce disability and presumably affect earning power. Permanent partial disability affords injured workers a sum that, when added to their residual earning ability, will enable them to exist without being an unreasonable burden on society.

We like to believe there is a little pirate in all of us. Fiction writers, Walt Disney, and Hollywood imbued us with romantic notions of piratical adventures: sailing the high seas, visiting deserted islands, and searching for buried treasure.

Permanent partial disability presents advantages: predictability through well-defined benefits and economy. This benefits labor, management, and government through avoidance of litigation. Early 20th century policymakers concluded in cases such as dismemberment, the gravity of the impairment supported a conclusive presumption that actual wage loss would sooner or later result.

**Permanent Partial Disability in the Great Age of Piracy**

Many pirates adopted a unique informal form of government in which permanent partial disability compensation appears to have enjoyed a central role. In sharp contrast to the highly-regimented naval and admiralty systems, pirate crews employed the power of one man-one vote, a uniquely democratic form of government.
This was codified in the articles drawn up by the pirate crew.\textsuperscript{18}

Pirate crews considered their votes, agreements, and articles as their form of water-borne government. “The first Thing they had now to do, was to chuse Officers, draw up Articles, and settle their little Commonwealth, to prevent Disputes and Ranglings afterwards . . . When this was done, one of them writ out the following Articles . . . and all swore to ’em upon a Hatchet for want of a Bible.”\textsuperscript{19}

An early account of pirate articles occurs in *Buccaneers of America*, written by Alexander Exquemelin\textsuperscript{20} and first published in English in 1684.\textsuperscript{21} Exquemelin departed Tortuga in 1666 on a French West India Company ship and later joined Caribbean buccaneers as their surgeon.\textsuperscript{22} He recorded the pirates first convened a council to determine how to obtain the supplies for their adventure. After these were secured, often liberated from Spanish livestock keepers, the pirates returned to their ship and convened a second council where:

[T]hey agree upon certain articles, which are put in writing, by way of bond or obligation, which every one is bound to observe, and all of them, or the chief, set their hands to it. Herein they specify, and set down very distinctly, what sums of money each particular person ought to have for that voyage, the fund of all the payments being the common stock of what is gotten by the whole expedition; for otherwise it is the same law, among these people, as with other Pirates, No prey, no pay.\textsuperscript{23}

The pirate articles provided rules for the ship, including how shares of plunder were to be divided, and punishments for wrongdoing. Exquemelin wrote:

Lastly they stipulate in writing what recom pense or reward each one ought to have, that is either wounded or maimed in his body, suffering the loss of any limb, by that voyage. Thus they order for the loss of a right arm six hundred pieces of eight . . . for the loss of a left arm five hundred pieces of eight . . . for a right leg five hundred pieces of eight . . . for the left leg four hundred pieces of eight . . . ; for an eye one hundred pieces of eight . . . ; for a finger of the hand the same reward as for the eye. All which sums of money, as I have said before, are taken out of the capital sum or common stock of what is got by their piracy.\textsuperscript{24}

Exquemelin attributes this account indirectly to François l’Olonnéas, a Frenchman who ended up in Tortuga, “the common place of refuge of all sorts of wickedness, and the seminary, as it were, of all manner of Pirates and thieves.”\textsuperscript{25} L’Olonnéas ventured out with a massive pirate fleet\textsuperscript{26} and captured Gibraltar in Northwest Venezuela. The force continued to Maracaibo,\textsuperscript{27} where they collected a ransom on threat of sacking the city. They then returned to Isla de la Vaca in Hispaniola, where they unloaded their ill-gotten cargo. According to Exquemelin, the bounty was divided and each pirate received his share in money, silk, linen, and other commodities. He noted, “those who had been wounded in this expedition received their part before all the rest,” consisting of the, “recompense . . . for the loss of their limbs which many sustained.”\textsuperscript{28}

Although Exquemelin did not describe most pirate wounds in detail, he treated a Portuguese buccaneer who was bitten by a crocodile. After infection set in, he amputated the leg. The pirate died while Exquemelin was preparing to fit him with a wooden leg.\textsuperscript{29}

Another account from the adventures of Captain John Phillips cried out for some form of compensation, if not for loss of a limb, then for the suffering endured as a result of it. After capturing a “snow,”\textsuperscript{30} three of Phillips’ crew decided to double cross their captain. Phillips skirmished with them:

Wherein Wood was kill’d and Taylor wounded in his Leg; upon which the other two surrender’d. There was no Surgeon aboard, and therefore it was advis’d, upon a learned Consultation, that Phillips’s\textsuperscript{31} Leg should be cut off; but who should perform the Operation was the Dispute; at length the Carpenter was appointed, as the most proper Man: Upon which, he fetch’d up the biggest Saw, and taking the Limb under his Arm, fell to Work, and separated it from the Body of the Patient, in as little Time as he could have cut a Deal Board in two; after that he heated his Ax red hot in the Fire, and cauteriz’d the Wound, but not with so much Art as he perform’d the other Part, for he so burnt his Flesh distant from the Place of Amputation, that it had like to have mortify’d; however nature perform’d a Cure at last without any other Affiance.\textsuperscript{32}

John Phillips captained the Revenge. Its articles stated “If any Man shall lose a Joint in time of an Engagement, shall have 400 Pieces of Eight; if a limb, 800.”\textsuperscript{33}
Prior to a 1670 voyage, Captain Henry Morgan’s pirates agreed:
As to the recompences and rewards, they were regulated in this voyage much higher than was expressed in the first part of this book. Thus, for the loss of both legs, they assigned one thousand five hundred pieces of eight or fifteen slaves, the choice being left to the election of the party; for the loss of both hands, one thousand eight hundred pieces of eight or eighteen slaves; for one leg, whether the right or the left, six hundred pieces of eight or six slaves; for a hand, as much as for a leg; and for the loss of an eye, one hundred pieces of eight or one slave. Lastly, unto him that in any battle should signalize himself, either by entering the first any castle, or taking down the Spanish colours and setting up the English, they constituted fifty pieces of eight for a reward. In the head of these articles it was stipulated that all these extraordinary salaries, recompences and rewards should be paid out of the first spoil or purchase they should take, according as every one should then occur to be either rewarded or paid. 34

Articles attributed to Captain Bartholomew Roberts were adopted in 1721 and provided:
ARTICLE IX – No Man to talk of breaking up their Way of Living, till each had shared a 1,000 l. If in order to this, any Man should lose a Limb, or become a Cripple in their Service, he was to have 800 Dollars, out of the publick stock, and for lesser Hurts, proportionately. 35

In 1721 George Lowther sailed from the Thames as second mate on the Royal African Company’s Gambia Cattle. On arriving in Africa, Lowther later instigated a mutiny. The crew refitted the ship by making it “flush fore and aft.” They “prepared black Colours,” renamed the ship Delivery, and drew up new Articles. These included:
He that shall have the Misfortune to lose a Limb, in Time of Engagement, shall have the sum of one hundred and fifty Pounds Sterling, and remain with the Company as long as he shall think fit. 36

Pirate PPD Versus Modern PPD — a Comparison and Contrast
This article does not attempt to compare the financial value of pirate permanent partial dis-ability directly to that under Virginia’s modern day scheme. 37 But examining both systems reveals striking similarities.

Proportionate Loss Compensation:
Bartholomew Roberts’s pirate articles contained measures for particular losses and prescribed compensation for, “lesser hurts proportionately.” The current Virginia statute, Va. Code § 65.2-503 provides, “for the permanent partial loss or loss of use of a member, compensation may be proportionately awarded.” The similarity, separated by almost 200 years of adoption, 38 is uncanny.

Extraordinary Compensation for Multiple Scheduled Losses: Henry Morgan’s crew found the loss of two body parts deserved extraordinary compensation as compared to combining the two losses. For the loss of a hand or a leg, the pirates awarded 600 pieces of eight. But for the loss of both hands, proportionately higher compensation of 1,800 pieces of eight, or a 900 piece of eight single hand equivalent, was awarded. For the loss of both legs, 1,500 pieces of eight, or a 750 piece of eight single leg equivalent, was granted.

Virginia Code § 65.2-503 provides extraordinary compensation, consisting of lifetime weekly wage benefits, for permanent and total disability. Most indemnity compensation is payable only for a maximum of 500 weeks. 39 Permanent partial disability awards are granted for shorter time periods. 40 Permanent and total disability benefits, for the injured employee’s lifetime, are awarded for, “loss of both hands, both arms, both feet, both legs, both eyes, or any two thereof in the same accident.” 41

Measuring Units of Compensation for Permanent Partial Disability: In modern permanent partial disability, the loss is “scheduled” by statute to be paid for a specified number of weeks. The weekly payment amount is defined by a statutory formula. In Virginia, for instance, this is 66 2/3 percent of the average weekly wage, 42 calculated by averaging gross earnings for the fifty-two weeks preceding the injury. 43 The number of weeks paid for a loss is arbitrarily assigned by statute, but the amount of a weekly payment is directly related to the wages an injured worker earned before the physical loss or loss of use. By contrast, pirates typically 44 were paid on a share system. The pirate articles granted injury compensation in arbitrary fixed amounts.

The Purposes of Permanent Partial Disability Compensation
In modern workers’ compensation, permanent partial disability serves the goals of recognizing
and compensating for presumed loss of earning capacity for the loss or loss of use of certain parts of the body and fixing the compensation payment to avoid the uncertainties and costs associated with litigation. In the pirates’ unique democracies, a “roguish Common-wealth” of criminals, it is worthwhile to examine the roots in the pirate world of permanent partial disability compensation.

**Always Ready for Combat:** Why did the pirates adopt permanent partial disability? This probably was not out of concern for the long-term care and financial security of disabled pirates. Was it the need to ensure full and competent participation in armed confrontation? Taking a ship by force presented the risk of injury or death. Success was dependent upon full participation and cooperation. All of the pirates had signed on to an openly illegal adventure. Was the attack more vigorously, and more hastily to run aboard the great ship. “A ship by force presented the risk of injury or death. Success was dependent upon full participation and cooperation. All of the pirates had signed on to an openly illegal adventure. Was the attack more vigorously, and more hastily to run aboard the great ship.”

Historical accounts validate the need to ensure bravery among the pirate crew, both from within and without their number. Exquemelin described a crew who vowed “to behave themselves courageously in this attempt [of seizing another ship], without the least fear or fainting.” But to make sure cowardice would not confound the operation, “they gave orders to the surgeon of the boat to bore a hole in the sides thereof, to the intent that, their own vessel sinking under them, they might be compelled to attack more vigorously, and more hastily to run aboard the great ship.”

The prospect of financial gain encouraged bravery and undermined cowardice. Sir Henry Morgan proposed an assault on Portobello to a small band of pirates. When the pirates suggested they were too few to succeed, Morgan replied: “If our number is small, our hearts are great. And the fewer persons we are, the more union and better shares we shall have in the spoil. Hereupon, being stimulated with the ambition of those vast riches they promised themselves from their good success, they unanimously concluded to venture upon that design.”

Exquemelin recounted other similar rallies to courage through appeals to greed.

Professor Peter T. Leeson has written extensively on how economic incentives shaped pirate conduct. He argues that provisions for injury compensation in pirate articles created incentives for crew member productivity and prevented shirking. Social insurance for pirates encouraged everyone to participate without fear of uncompensated injury.

Leeson also suggests that pirates were better off developing a reputation for aggressiveness without actually having to engage in battle. Adopting a rational choice analysis, he argues that if pirate victims were multiple and could observe a pirate’s past actions, pirates could maximize their long-run payoff by building a reputation for mercilessness toward resisters that deterred future merchantmen from resisting.

**Familiarity with Other Compensation Schemes:** Were the pirates’ permanent partial disability schemes derived from their exposure to military disability compensation? Belgium’s industrial accident schedule was closely associated with comparable compensation for war wounds, as was also France’s original schedule. Some researchers have suggested that most pirates were ex-merchant or Royal Navy sailors.

The Royal Navy had a pension system for injured sailors dating back to at least 1590. Sir Francis Drake, Sir John Hawkins, and Lord Howard of Effingham created a benevolent fund for the English Navy. Seamen paid sixpence a month for the benefit of the wounded and widows of those killed in action. The money was supposed to be collected and stored in a large iron chest, the “Chatham Chest,” which became a pseudonym for the fund. The Chatham Chest is preserved at the Historic Dockyard in Chatham, England. It was fitted with five locks, the keys to which were held by different individuals who met monthly to open it and consider pensioners’ petitions. A pensioner was required to obtain a “smart ticket,” a certificate declaring the part of the body injured, the time when, and the manner how the wound was received. The ticket was filled out, signed, and delivered to the injured sailor as soon as he was “cured” onboard or before he was set from the ship for cure, “and not afterwards.”

Pirates probably knew about these pension systems. The pirates were engaged in an illegal enterprise, and therefore when they disbanded to go their separate ways, they likely did not want a fixed address for benefit payments. That would be too easy a target for the recovery of ill-gotten gain. So the scheme for a fixed injury pension approximated the Navy system while preserving anonymity.
Paying a Price to Maintain Order: The pirates’ permanent partial disability compensation program may have limited dissension among the pirate crew. Dissension could lead to mutiny, and re-codifying the social contract. In an unstable criminal enterprise taking place on the unpredictable high seas, the compensation scheme likely played a role in quelling dissension in those circumstances where economic gain and a sense of justice conflicted. It is economically rational to give the “wounded warrior” pirate a greater form of compensation from a prize, given the personal cost to him. Many of the other pirate code provisions were aimed at maintaining order, so the compensation scheme was a natural complement.

Conclusion
Most of the pirate flags ended up at the bottom of the sea. Many pirates were hanged or left to rot in the gibbet, a metal cage where the body was displayed in harbor view as a reminder to anyone with thoughts of going-a-pirating. The stories of the pirates live on in transcripts of their trials and in writers’ imaginations. Evidence of their motivation is sparse.

There are uncanny similarities between 20th century workers’ compensation laws granting permanent partial disability and the democratic articles adopted by the pirates of the early eighteenth-century. But there is a disconnect between the purpose of modern workers’ compensation and that adopted by the pirates.

In a November 15, 1912, speech, Professor Francis H. Bohlen of the University of Pennsylvania Law School discussed the dual purpose of a permanent partial disability provision in Pennsylvania’s proposed workers’ compensation law:

The determing consideration was that by rendering the amount definite litigation would be prevented and certainty attained, since whenever a mutilation of this sort occurred there could be no question as to the extent of disability of the sufferer or the amount payable to him.59

In his workers’ compensation treatise Professor Larson stated:

The ultimate social philosophy behind compensation liability is belief in the wisdom of providing, in the most efficient, most dignified, and most certain form, financial and medical benefits for the victims of work-connected injuries which an enlightened community would feel obliged to provide in any case in some less satisfactory form, and of allocating the burden of these payments to the most appropriate source of payment, the consumer of the product.50

The pirates’ compensation scheme may have been efficient, dignified, and “most certain,” in terms of financial recovery. But it is questionable whether they were an, “enlightened community,” who felt obliged to pay compensation. In no way did the cost of pirate physical impairments ultimately fall on the consumer of the product. All of the cost of the enterprise fell on victims unconnected to the pirates’ social contract. The pirates’ workers’ compensation scheme was dressed up as a moral principle in the midst of a highly immoral venture. However, the pirates’ need for order and to display a willingness to fight may have paralleled the modern need to avoid litigation in the promotion of certainty and efficiency.

The opinions expressed in this article are comments, “concerning the law, the legal system, the administration of justice and non-legal subjects,” in accordance with Canon 4(B) of the Canons of Judicial Conduct for the State of Virginia, are personal, and they are not official opinions of the author in his role as a judge, the Virginia Workers’ Compensation Commission, or any other court or governmental agency. The author extends gratitude to staff attorneys Brian Larson, Wanda Dotson, and Diane F. Dusseau for their assistance in researching and editing this article.

Endotes continued on page 65

Wesley G. Marshall was appointed as commissioner at the Virginia Workers’ Compensation Commission in May 2012. Previously, he was in private law practice for more than twenty-three years, mostly representing plaintiffs in workers’ compensation, employment, and other civil litigation. He litigated thousands of cases before the Workers’ Compensation Commission, the Court of Appeals of Virginia, the Supreme Court of Virginia, and other federal, state, and administrative courts and agencies. He is a member of the Southern Association of Workers’ Compensation Administrators, the National Association of Workers’ Compensation Judiciary, the Lewis F. Powell, Jr. American Inn of Court, and other bench and bar organizations.
Endnotes continued from page 21:

1 “By the universal law of nations, robbery or forcible depredation upon the “high seas,” animo furandi, is piracy. The meaning of the phrase “high seas,” embraces not only the waters of the ocean, which are out of sight of land, but the waters on the sea coast below low water mark, whether within the territorial boundaries of a foreign nation, or of a domestic state. Blackstone says that the main sea or high sea begins at low water mark. But between the high water mark and low water mark, where the tide ebbs and flows, the common law and the Admiralty have divisum imperium, an alternate jurisdiction, one upon the water when it is full sea; the other upon the land when it is ebb.” CHARLES ELLMS, THE PIRATES OWN BOOK: AUTHENTIC NARRATIVES OF THE MOST CELEBRATED SEA ROBBERS, at ix (Marine Research Soc’y 1924) (1837).

2 “Piracy is an offence against the universal law of society, a pirate being according to Sir Edward Coke, hostis humani generis. As, therefore, he has denounced all the benefits of society and government, and has reduced himself to the savage state of nature, by declaring war against all mankind, all mankind must declare war against him; so that every community has a right by the rule of self-defense, to inflict that punishment upon him which every individual would in a state of nature otherwise have been entitled to do, for any invasion of his person or personal property.” Id. at x.

3 Id. at iii.

4 Captain Hook’s hand was cut off by Peter Pan and fed to a saltwater crocodile. The Captain later remarked “It liked my arm so much . . . that it has followed me ever since, from sea to sea and from land to land, licking its lips for the rest of me.” J.M. BARRIE, PETER PAN 49 (Centennial ed., Henry Holt & Co. 2003) (1911).


6 1 LARSON, supra note 10, at § 1.03(4).

7 This contrasts with tort theories of recovery which attempt to restore an injured individual to his status before injury and to replace what he has lost. Id. § 1.03(5).

8 4 id. § 80.05(4).

9 Virginia has its own unique connections to piracy. In 1718, Governor Alexander Spotswood provided funds for two light sloops to pursue the infamous pirate Blackbeard at Ocracoke Inlet, now in North Carolina. George Humphrey Yetter, When Blackbeard Scourged the Seas, available at https://www.history.org/Foundation/journal/blackbea.cfm (last visited October 15, 2014).

10 Ch. 400, 1918 Va. Acts 637 (codified as amended at VA. Code §§ 65.2-100 to -1310 (2013)).

11 Ch. 400, § 78, 1918 Va. Acts 637, 659.

12 VA. CODE § 65.2-200.

13 The method for calculating the “average weekly wage,” is set forth in the Workers’ Compensation Act. § 65.2-101. The weekly compensation rate for permanent partial disability is based on $66 2/3 percent of the average weekly wage. § 65.2-503(B).

14 § 65.2-503(D).

15 Id.

16 “The claimant has the burden of proving maximum medical improvement.” Montalbano v. Richmond Ford, LLC, 57 Va. App. 235, 250, 701 S.E.2d 72, 79 (2010). “Permanent partial disability benefits are ‘not awardable until the injury has reached a state of permanency, i.e. maximum improvement, when the degree of loss may be medically ascertained.’” Id. (quoting Brown v. United Airlines, Inc., 34 Va. App. 273, 277, 540 S.E.2d 521, 523 (2001)). “[A]n employee has reached maximum medical improvement if no reasonable expectation exists that the employee will obtain further functional improvement from medical treatment, even though the injury remains symptomatic and disabling.” Montalbano, 57 Va. App. 250, 701 S.E.2d 79 (quoting Guest Corp. v. Childress, 29 Va. App. 701, 707, 514 S.E.2d 383, 386 (1999)).

17 Democratic principles extended beyond the concept of one pirate, one vote. They included limited power invested in the executive, in this case the captain. The majority retained a right to override the captain’s mandate. They even employed a democratic judicial function. The interpretation of their laws was left up to a Jury, “appointed to explain them, and bring in a Verdict upon the case in doubt.” CHARLES JOHNSON, A GENERAL HISTORY OF THE PYRATES, FROM THEIR FIRST RISE AND SETTLEMENT IN THE ISLAND OF PROVIDENCE, TO THE PRESENT TIME 233 (London, T. Warner 2d ed. 1724), available at https://openlibrary.org/books/OL23301158M/A_General_History_of_the_Pyrates_from_Their_first_Rise_and_SETTELEMENT_in_the_Island_of_PродовИЕnce_to (last visited June 19, 2014) (discussing provisions for trial aboard the pirate ship commanded by Bartholomew Roberts).

18 The articles sometimes were drawn up under the, “exhilarating influence,” of “a large bowl of punch.” ELLMS, supra note 2, at 202-03.

19 JOHNSON, supra note 35, at 397 (discussing the adoption of articles by the crew of the pirate ship Revenge, commanded by John Phillips).

20 Exquemelin’s name in some texts is spelled “Esquemeling,” “Exquemeling,” or “Oexmelnin.”

21 ALEXANDER EXQUEMELIN, DE AMERIACENSCHE ZEE-ROOVERS (Amsterdam, Jan ten Hoorn 1678), English translation available at http://home.online.nl/m.bruyneel/archive/tboa/tboa001.htm (last visited June 19, 2014). It was subsequently published in various other versions, some with substantial additions, in German, Spanish, English, and French. Quotations and page numbers in this article are from the online English translation.

22 CORDINGLY, supra note 7, at 40.

23 EXQUEMELIN, supra note 39, at 45.

24 Id. at 46.

25 Id. at 59.

26 l’Olonnais was a pirate leader with an entrepreneurial flair, or at least laudable skills of recruitment and organization. His first pirate adventure to Gibraltar and Maracaibo was recorded as including approximately 660 pirates. His second expedition included over 700 pirates. Id. at 61, 72.


28 EXQUEMELIN, supra note 39, at 71.

29 Christian Regnier, Alexander Exquemeling and the 17th- and 18th-Century Surgeons to Pirates, Corsairs, Freebooters, and Buccaneers, 93 MEDICOGAPHIA 373, 378 (2007). This article quotes a case report prepared after the capture of Chagre (Panam a) and cites as its source EXQUEMELIN, supra note 39. However, the quoted text does not appear in the online English translation.

30 “The snow was a form of brig-rigged vessel that was in frequent use before the nineteenth century.” JOHN ROBINSON & GEORGE FRANCIS DOW, SAILING SHIPS OF NEW ENGLAND 1607 – 1907, at 30
Johnson apparently lost track of his pirates because the wounded leg suffered by Taylor is, without further explanation, amputated from William Phillips, a co-conspirator.

Johnson is describing the pirate company led by Bartholomew Roberts. JOHNSON, supra note 35, at 233.

Roberts’ code was adopted in 1721. The Virginia provision for proportionate loss was formally codified in 1920. Ch. 172, § 32(s), 1920 Va. Acts 256, 659 (“In construing the foregoing section the permanent loss of the use of a members shall be held equivalent to the loss of such member, and for the permanent partial loss or loss of use of a member compensation may be proportionally awarded.”). However, the Commission began awarding compensation for proportionate loss and loss of use as early as 1919, the first year the Act was in effect. See Bowles v. Va. Bridge & Iron Co., 1 O.I.C. 179, 181 (1919) (“While the Act does not specifically provide compensation for the loss of a portion of a hand, the Commission is of the opinion, and has so held on numerous occasions that the spirit of the act permits an award wherever the evidence shows that a substantial part of a member has been lost as the result of accident.”); Glasgow v. Travis Arts & Crafts Shop, 1 O.I.C. 64, 65 (1919) (“It is manifest that by loss of eye [the statute] was intended to allow compensation for the loss of sight, which is the true function of the human eye.”).

Permanent and total disability benefits also may be awarded for injury for all practical purposes resulting in total paralysis, as determined by the Commission based on medical evidence, and for injury to the brain which is so severe as to render the employee permanently unemployable in gainful employment. Id. See § 65.2-503(B).

One peculiar “gentleman” pirate hired out a ship to go pirating and paid wages to his crew rather than offering them a share of prizes. Bonnet’s enterprises did not fare well and ultimately he was captured and hanged in Charleston, South Carolina in 1718. CORDINGLY, supra note 7, at 97.

Clearly, pirates suffered injuries. The description of the Jossamee Chief, Rahmah-Ben-Jabar in Charles Ellms’s THE PIRATES OWN BOOK, demonstrates this:

Rahmah-ben-jabar’s figure presented a meagre trunk, with four lank members, all of them cut and hacked, and pierced with wounds of sabres, spears and bullets, in every part, to the number, perhaps of more than twenty different wounds. He had, besides, a face naturally ferocious and ugly, and now rendered still more so by several scars there, and by the loss of one eye. When asked by one of the English gentlemen present, with a tone of encouragement and familiarity, whether he could not still dispatch an enemy with his boneless arm, he drew a crooked dagger, or yambeah, from the girdle round his shirt, and placing his left hand, which was sound, to support the elbow of the right, which was the one that was wounded, he grasped the dagger firmly with his clenched fist, and drew it back ward and forward, twirling it at the same time, and saying that he desired nothing better than to have the cutting of as many throats as he could effectually open with his lame hand.

Ellms, supra note 2, at 54-55.

Monseur Bertram Ogeron, former governor of Tortuga, inspired pirates gathered on Hispaniola after his escape from the Spanish in Puerto Rico: “After having embark’d all the people which the surgeon had levied at Samana, he made them a speech, exhorting them to have good courage, and telling them: You may all expect great spoil and riches from this enterprise and therefore let all fear and cowardice be set on side. On the contrary, fill your hearts with courage and valour, for thus you will find yourselves soon satisfied, of what, at present, bare hopes do promise.” Id. at 177.

Ellms, supra note 2, at 54-55.


See, e.g., ARDIE GEERTS, BORIS A. KORNBLITH & W. JOHN URMSON, COMPENSATION FOR BODILY HARM: A COMPARATIVE STUDY 112 (Fernand Nathan 1977), 4 LARSON, supra note 10, at § 80.05(4).

Leeson, supra note 69, (manuscript at 10). See also LEESON, supra note 54.


Len Barnett, Chatham Chest, BRITISH MARITIME HISTORY, http://www.barnettmaritime.co.uk/navalchathamchest.htm (last visited June 23, 2014) (transcription of “smart ticket” for an
In his account of the pirate Bartholomew Roberts, Charles Ellms described the death of pirate captain Davis. Upon Davis' death, the pirates convened a council of the "lords." One addressed the assembled lords, saying, "that the good of the whole, and the maintenance of order, demanded a head, but that the proper authority was deposited in the community at large; so that if one should be elected who did not act and govern for the general good, he could be deposed, and another be substituted in his place." Ellms, supra note 2, at 83.

4 Larson, supra note 10, at § 80.05(4).

1 id. § 1.03(2).