Representative Attitudes Toward Child Labor

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REPRESENTATIVE ATTITUDES TOWARD CHILD LABOR

BY

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A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF MASTER
OF ARTS IN LOYOLA UNIVERSITY

JANUARY
1948
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CHAPTER I
INTRODUCTION

At the beginning of the twentieth century there were manifestations of an awakening on the part of the American public to the magnitude of the child labor problem that had arisen as a result of the expansive industrialization of the nation. A strong sentiment against the exploitation of children in industry began to develop. Public-spirited individuals and organizations made surveys of the conditions under which children worked, propagandized their findings and sponsored legislative measures for the abolition of child labor. Organized labor lent its support to the new movement, and the state, aware of its obligations to its ward - the child, began to enact legislation in its behalf.

Labor legislation is always resisted. This movement to deprive industry of a sector of cheap labor was looked upon as an encroachment upon its rights and Big Business waged out and out resistance against any interference with its status quo.
The purpose of this study is to trace this emergence of a social consciousness of child labor abuses in five representative industrial states of the North, by discussing the interplay of forces which promoted or thwarted legislation, the judicial interpretation of some of the measures, and the increasing power of the state over the child. Concurrent with the aroused public opinion that resulted in the widespread enactment of state laws there was an attempt to bring child labor under federal control. Consequently the first and second national child labor laws and the child labor amendment are discussed.

As experience has proved that the enforcement of child labor legislation is a dead letter without its being supplemented by compulsory school attendance laws, the preventing of premature school withdrawal was another problem for the reformers.

No attempt has been made to include all the measures enacted for the welfare of the child laborer during the first two decades of the century. The aim has been to stress the outstanding reforms and to present the trend of the times as exemplified in the widespread support of reform groups, the entrenched opposition of industry, the response of public opinion and the new protective attitude of the
state. All these were indicative of the workings of forces arrayed in the struggle for equality for the child, the potential citizen of the nation.
CHAPTER II

CHILD LABOR AT THE BEGINNING OF THE CENTURY

Child labor is not a new problem confronting the nation. It was extant in the colonies from the earliest days and was sanctioned by law throughout the seventeenth and eighteenth centuries. Public opinion for the most part condoned and even approved of it as "being good for the child's soul." This attitude was the natural consequence of the traditional English system of apprenticing the children of the pauper class, but primarily it was engendered by the puritanical belief in the "virtue of industry."¹ But as the children of this period were generally engaged in domestic or agricultural activities and received a fair education, the conditions under which they worked were not obviously harmful.²

In dealing with the subject of work done by children the question "What is child labor?" naturally arises. The

United States census defines it as "Any work done by children which contributes substantially and regularly to a general undertaking."\(^3\) This includes domestic and agricultural work as well as industrial employment. In general child labor laws apply to persons under twenty-one but as a rule they are specifically defined in statutes as applying to those of a younger age.\(^4\) Essentially it is the work of children under sixteen, with or without remuneration, that deprives them of a fair start in life in terms of play, health, and education.\(^5\)

The particular type of child labor that we are concerned with here developed as an inevitable concommitant of the industrial revolution. With the establishment of mills and factories a marked impetus was given to child employment as an economic asset to further the industrialization of the nation. Alexander Hamilton's plea in his *Report on Manufactures* that children would be "more early useful than they otherwise would be", reflects the accepted viewpoint of the

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With the advance of the nineteenth century the new industries expanded and child labor and its attendant evils grew accordingly. There was however practically no recognition given to the child exploited in industry. This was due to a number of causes, among which was the peculiar status of the child in statutory law. Here his rights in respect to health, education, protection from physical or moral hazards or excessive labor were the same as those of the adult. The state's first duty seemed to be the protection of property rights rather than the safeguarding of the child. In cases of extreme child neglect, philanthropy was resorted to in most instances in lieu of state aid. Another contributing factor was that the economy of the country was still largely rural in character and thus the factory child did not command a great deal of attention. The firmly rooted opinion that child labor was an economic asset in enhancing national wealth, and the viewpoint that labor was morally desirable still persisted. However it soon became obvious that the

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8 United States Labor Bulletin 175, 230.
child-worker was not receiving an adequate education and the potentialities of a large uneducated factory class loomed as an anachronism in a democratic society. Newly enfranchised working men became vocal in their demands for improved working conditions for themselves and better educational advantages for their children.9

This awakened spirit of reform bore fruit in Massachusetts in 1836 when the commonwealth passed the first child labor law in the United States. This measure which is sometimes regarded as a compulsory education law required all children under fifteen to attend school for at least three months of the school year. It was the forerunner of the educational requirements that most child labor legislation of later years contained.10

A gradual recognition that the employment of children is a challenge to adult labor and is a factor in keeping wages low brought organized labor into the ranks of those opposed to its continuance. It was mainly through labor's efforts that the legislature of Massachusetts in 1842 enacted the first hours regulation for children in certain manufacturing establishments. From this time until the early part of the

9 Kirkland, 335.
10 Loughram, 36.
twentieth century Massachusetts was the criterion on which the other states modeled their legislation.\textsuperscript{11}

By 1860 there was a general recognition that the child was the ward of the state and a consequent attitude that it was within the jurisdiction of the state to enact laws for the child's welfare.\textsuperscript{12} No effective laws were passed however. It was not until the period of accelerated industrialization following the Civil War that the question began to assume the proportions of a problem which in another generation would culminate in a national campaign for its removal. The organized laboring class had grown in numbers, power and prestige. The Knights of Labor were active during the years between 1870 and 1890 but after that their influence was superseded by that of the American Federation of Labor. The new organization was not so aggressive in its policy of abolishing the conditions that were conducive to child labor\textsuperscript{13} and as a result there was not much new legislation except in Chicago and New York where some of the grosser aspects of child labor were

\begin{footnotes}
\item[12] Labor Bulletin 175, 240.
\end{footnotes}
improved under public duress. 14

By 1900 the conditions in the textile mills, canneries, glass works and coal mines accentuated the problem to such an extent that it could no longer be overlooked. The census figures of that year revealed one and a quarter million children were gainfully employed. Public opinion was aroused at this extensive exploitation of the young. The consensus was that it was a contradiction of the basic principles of our way of life, was detrimental and must be eradicated. 15

This recognition of the blighting effects of premature labor on the child induced a study of the conditions that fostered it, with the idea of eradicating or at least remedying the most obvious aspects. The causes were many and varied, but perhaps the most manifest is inherent in our American economic system which creates an ill-paid poverty-stricken working class that supplies the child worker. 16

Child labor is cheap labor. It represents increased profits and low production costs. Consequently there is great em-

16 Lumpkin, 283.
ployer demand for this type of work. This ingrained feature of Big Business supplemented by its wealth and political strength constituted the bulk of out and out resistance against which the new advocates of reform waged a long and relentless warfare. 17

Twentieth century America opened upon an era of unprecedented economic power and expansion. Industry was dominant and brooked no interference with its phenomenal growth and success. Rather, the vested interests felt competent to regulate their own affairs and in accordance with the traditional American attitude toward government interference in business, vehemently opposed all efforts of legislative control. The textile interests, glass industry, coal corporations, American Manufacturers' Association, to mention a few of the opposition group, strove to influence public thinking through subtle propaganda. They based their disapproval of control on the premise that the movement was un-American. The right of contract was at stake, as were also state rights, the sanctuary of the home was invaded, the parent had the right to determine in matters relating to the child.

17 Ibid., 196.
were reasons they gave for this stand.\textsuperscript{18} The hardships encountered in trying to compete on terms of equality with low standard states was another stock reason. Concern for the child's welfare was another threadbare argument. The insistent plea was that work moulds character, engenders habits of thrift and industry, makes the child a skilled operative, an economic asset for its future life.\textsuperscript{19} While employer demand is responsible for the bulk of child labor there are other factors that have contributed in different degrees to its growth. "Greed of parents, largely but not exclusively due to poverty" is one of the foremost reasons according to Florence Kelley of the Consumers' League, whose indefatigable work in behalf of working children made her an authority on the subject.\textsuperscript{20}

The most complete surveys of why children of fourteen or younger leave school show that the chief reasons are poverty and dissatisfaction with school.\textsuperscript{21} An educational

\textsuperscript{18} Ibid., 237.
\textsuperscript{19} Lois Mac Donald, Labor Problems and the American Scene, Harper and Brothers, New York, 1938, 651.
system that does not make provision for the needs of the child of the working class is culpable of creating conditions favorable to child labor. These and other conditions but primarily the widespread poverty and economic insecurity of the worker on one hand and the great demand for such work on the part of industry created a situation that made for the permanency of the system. 22

These conditions precipitated the question, long impeded by public inertia and resisted by the industrial interests, into a national issue. Public opinion now thoroughly aroused sought legislative means to prevent the excessive toil, the long hours of labor, the loss of educational opportunities and other attendant evils of child labor. 23

Probably the greatest single factor in the struggle for the recognition of children's rights came directly or indirectly from organized labor's ability to coerce legislators' support of remedial legislation. This interest is sometimes thought to be ulterior—that in reality the labor acted

22 Lumpkin, 191.
through a motive of self-protection against the competition encountered in the labor market by cheap child labor.\textsuperscript{24} However organized labor was instrumental from the very beginning in furthering the welfare of the young worker. The foremost labor leaders of the day, John Mitchell, President of the United Mine Workers of America and Samuel Gompers of the American Federation of Labor were in full sympathy with the new movement.\textsuperscript{25} But labor was not the dynamic force it had been in the previous century. It seemed to have lost some of its aggressiveness and to have assumed a more negative role as far as child legislation was concerned. This was especially true of the American Federation of Labor whose greatest concern in this period was the organization of trade unions. "The typical A.F.L. approach" prevailed however. Lobbyists were sent to Washington and the state capitals, perfunctory conferences were held with reformists, but beyond this the organization rarely went. Despite this passive attitude the tremendous influence of labor supplemented the efforts of other organizations and proved a vital factor in


\textsuperscript{25} \textit{Ibid.}, 339.
forcing new prohibitive measures through the various legislatures. 26

Leadership in the new movement was left to liberals from both the middle and influential upper classes, a heterogeneous grouping of educators, lawyers, business men, clergymen, social workers and others philanthropically inclined. 27

With this added enthusiasm for the cause, the campaign was accelerated. The vast number of articles on child labor appearing in the current periodicals of the day was one indication of the new trend. As the greater part of the circulation was among people of the middle-class bracket it was a fair sign that from this sector of the American public came the greatest support. 28 The foremost groups, representative of these people, were the National Consumers' League and the National Child Labor Committee. In point of time the National Consumers' League was first. It was organized in New York City in 1899 to educate the shopping public "to the need for better working conditions and protect the consumer from goods

26 Lumpkin, 274-5.
27 Commons, 405.
28 Ibid., 405.
produced under unwholesome conditions." When the agitation for more effective control of child labor was becoming a question of the day the members joined the cause and through their policy of "educate the public first," became a very powerful means of disseminating child labor propaganda.29

To consider launching the problem on a nation-wide scale a meeting was held in New York City in the spring of 1904. The result was the formation of the National Child Labor Committee which was to prove the leading reform organization of the new era. Perhaps no welfare organization was better executed and supported by people of means and influence and by those of only moderate wealth. Felix Adler then professor of political and social ethics at Columbia was chosen president and Samuel McCune Lindsay professor of sociology at the University of Pennsylvania was made secretary. Among the more prominent members were James Cardinal Gibbons, Charles Eliot, president of Harvard, Jane Addams of Hull House fame, Honorable Ben.B. Lindsay, judge of the Juvenile Court of Denver, Gifford Pinchot, Forester of United States

Department of Agriculture, Mrs. Florence Kelley, secretary of the National Consumers' League and former chief factory inspector of Illinois.30

Although commonly associated with political activities, the National Child Labor Committee has never been a political organization. It was created by Congress as a private agency for making investigations, educating the public and for drafting legislation for children in industry.31

The committee began its long and arduous campaign for prohibition and prevention by a crusade to arouse the public to a realization of the fundamental economic fallacy of child labor. At this time there was practically no literature on the subject other than a few pamphlets by Jane Addams and Mrs. Kelley.32 With this in mind and with the idea of getting the facts before the public, surveys were made of industries where child labor was most prevalent—textile mills, canneries, glass works and mines. These reports which were an indictment

against industry were made accessible to the public through magazine articles, pamphlets, special reports and the annual reports of the National Child Labor Committee.33

Their ideals were high. Realizing that the child is the nation's greatest asset, the potential citizen of tomorrow, and that civilization advances in proportion as the child progresses over the preceding generation, they set as their norm the opportunity for every child to lead the normal life of a child. America's industrial might was not to be founded on the labor of little children deprived of this legitimate right.34

The influence of the new reformers however was outweighed by the wealth and political control of the vested interests. Here is where organized labor played a major part. The two proponents for control merged their interests, and united, they became a formidable force. Nearly all new legislation was obtained because in the background loomed organized labor endorsing the movement.35 This effective

33 Ibid., 165.
35 Forest Chester Ensign, Compulsory School Attendance and Child Labor, The Athens Press, Iowa City, Iowa, 1921, 235.
cooperation indicated that a vast cross-section of the American people sanctioned control of child employment. Nevertheless the struggle was an uphill process. Reform was being attempted in an economic situation inimical to the standards proposed. The pressure brought to bear on measures before legislatures, the years of struggle to achieve even rudimentary measures testify eloquently to the determination of the proponents and to the uncompromising attitude of the opposition. 36

Besides these two prominent organizations university groups were active in educating the public by means of lectures and articles on the subject. The General Federation of Women's clubs were staunch advocates and did much to rally support for the measures before the state legislatures. In some states progressive governors urged the passage of remedial measures. Sometimes factory inspectors were instrumental in initiating better laws. All these and others, combined with the factual studies made, were a powerful force operating for the rights of children.

36 Lumpkin, 196.
37 Ensign, 247.
From the beginning it was recognized that there was no single solution of the problem, but that adequate protection of the child involved a number of requirements. To follow the evolution of the modern child labor law means tracing progress on a number of fronts more or less related. The more important requisites are a minimum age below which employment is prohibited, a maximum number of hours of work a day, a minimum of education before entering employment, protection against dangerous occupations, documentary proof of age and the issuance and use of employment certificates.38

Child labor legislation at the end of the nineteenth century contained most of these regulations. The problem facing the new century reformers was to broaden the scope of the laws, write effective laws that would withstand the scrutiny of the judiciary, and set new specific standards.39

As most legislation at this time was confined to manufacturing and mercantile establishments, one of the first improvements sought was the inclusion of all occupations in the new laws. This was accomplished to some extent by the term "all gainful occupations". Domestic and farm labor

38 Commons, 410.
39 Ibid., 409.
however did not come under this heading and remained outside the pale of regulation despite the fact that three-fourths of all children in "gainful occupations" were employed on farms. 40

Further reduction of the minimum hours of employment, raising the minimum age, abolition of night work, listing specific occupations dangers to life or limb, or de­
praving to morals, were obvious needs that were among the first achievements. 41

Perhaps the outstanding accomplishment in the years after 1900 was the development of the employment certificate as an effective check on the child. The early permits con­
tained evidence of age alone, generally accepted on the parents' affidavit. The improved form demanded documentary proof in the form of birth or baptismal certificates, passport or other legal papers and evidence of certain educa­
tional attainments and physical fitness. 42

41 Children's Bureau Publication No. 197, 6, 7.
As one of the primary reasons for child labor reform is to insure the child an adequate education the question of improved schools and educational requirements was widely stressed. The new trend was emphasis on regular attendance for the full time that school was in session and the establishing of a definite grade as a standard instead of the former requirements of ability to read and write. 43 Realizing that the vast number of children between fourteen and sixteen leaving school to enter industry was creating a potential class of citizens with scarcely more than an elementary school education the reformers emphasized the need of night and continuation schools. Vocational schools were also advocated. 44

Greater emphasis was put on inspection as a means of making laws more effective. The responsibility was placed on many and various officers with many and various results. 45

As the reform organization became more proficient at framing laws the tendency was to combine many or all the

important phases of the question into one complete law.46

The problems facing the new proponents were many and
difficult of solution as is exemplified in the campaign for
reform in the states here considered.

46 Ibid., 204.
CHAPTER III

MASSACHUSETTS

To Massachusetts belongs the distinction of being the pioneer state in initiating statutory protection for the working child. From 1836 until the reform movement of the twentieth century brought competitors to challenge her position the Bay State was the recognized leader in child labor reform.¹

The opening years of the new era so significant in the changing attitude toward the child found much to be desired in the child labor laws on the statute books of the commonwealth. The current law, long regarded as a standard, which legalized an eight hour day and sixty hour week for children of fourteen was still in force.² Despite the fact that this code was considered the criterion for the other states there was still a notorious abuse of child labor conditions. According to the census of 1900 there were nearly fifteen thousand children between the ages of fourteen and sixteen

¹ Loughram, 36.
² Ensign, 72.
at work. The greater part of this labor force was engaged in manufacturing.\textsuperscript{3} Another vitally significant fact revealed by the report was the parallel growth of illiteracy and industry. In 1900 Massachusetts ranked fourth in the scale of states in the value of manufactures but in the matter of literacy of children ten to fourteen years of age, held ninth place. Ten years previous the rating of the state was second highest in the nation. This decline from a relatively better position was perhaps due in part to the great influx of French Canadians, Italians, Portuguese and other foreigners.\textsuperscript{4}

From 1896 to 1905 immigration had increased to such an extent that some concern was felt lest their low standards threaten American ideals. To some extent this apprehension was a factor in influencing the early legislation of the new century as the revision of the laws in 1902 chiefly concerned educational requirements.\textsuperscript{5} Under the new law the applicant for an employment certificate had to attend school for the full term prior to the fourteenth birthday, be able to read

\textsuperscript{3} B. O. Flower, "Topics of the Times," \textit{Arena}, XXVIII, 308, (September, 1902).

\textsuperscript{4} Florence Kelley, "Fall of the Great Industrial States in the Scale of States," \textit{Charities and the Commons}, IX, 567, (December 6, 1902).

\textsuperscript{5} University of State of New York State Library Bulletin, No. 19, IV, 848, (1903).
and write simple English sentences, and give satisfactory proof of age. Enlarged powers were given to truant officers and the issuing of work permits was in the hands of the superintendent of schools.\(^6\) These revolutionary school standards caused the National Consumers' League to endorse the law as the "most effective statute dealing with the employment of children, enacted by any state" and highly recommended it to the other states for adoption.\(^7\)

However by 1903 New York and Illinois had enacted laws that outdistanced Massachusetts in respect to shorter hours and greater educational requirements.\(^8\) It had become increasingly hard to maintain first place. As we have seen there was an abundant supply of child workers due to the large immigrant population. The pressure of southern competition and the low standards of the less progressive states in the North also tended to thwart the progress of the erstwhile leader among the states.\(^9\) The textile

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\(^6\) United States Department of Labor Bulletin No. 71, 740, (July, 1907).

\(^7\) National Consumers' League Handbook, New York, 1902, 7.


industry, which perhaps employs more children than any other enterprise was a factor in the situation in so far as the number of children involved was concerned. However the powerful textile unions were to play an effective role, directly or indirectly in supporting all legislation for the welfare of the working child. Organized in 1901 to combat the puissant Arkwright Club, the mouthpiece of the textile interests, the United Textile Workers of America became an influential force in dictating the labor policies of Massachusetts.  

The abolition of night work, one of the most glaring evils of child labor was one of the first problems attacked at the insistence of organized labor. In this legislation the child benefited incidentally because of the fact that his work interlocked with that of women textile workers for whom the textile workers had for years introduced a bill prohibiting the employment of women and minors between 6 P.M. and 6 A.M. but had met with no success. To increase their profits the manufacturers ran the mills until 10 P.M. and were most insistent in their arguments for this prolongation of working

They contended that they were unable to compete with states having lower standards, that freight rates on cotton were excessively high, and besides the operatives were not in favor of the reduction in hours that the curtailment of night work would involve. Labor persisted and the bill was passed in 1904 only to be vetoed by the reactionary Governor Bates. Mainly through the efforts of labor he was defeated for reelection. His successor Governor Guild urged the passage of the bill but this time a conservative senate caused its defeat. The senate leaders were ousted in the fall of 1906. The following spring the night work law prohibiting the employment of women and minors between 6 P.M. and 6 A.M. was passed with no debate and only one dissenting vote. The defeated manufacturers were vehement in their denouncement of the law, blaming the reformers for making malcontents of the workers and attributing the legislators' action to the ulterior motive of passing the legislation through sheer fear of loss of political power. The law applied only to textile factories and remained unchanged until 1913 when as the result of pressure by the Massachusetts Child Labor Committee the Consumers' League and other

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11 Ibid., 50.
12 Ibid., 52.
13 Ibid., 53.
organizations a new law was passed prohibiting the employment of girls under twenty-one and boys under eighteen in workshops, mercantile establishments or as messengers between 9 P.M. and 5 A.M.14

Toward the end of the first decade of the new reform era proponents of reform began to realize that the state was falling behind in child labor standards and started action for improved laws. Whether this situation was the result of smug satisfaction with standards acquired or incident to a more or less prevalent idea that the labor laws of the state were already too stringent for industrial progress, is hard to determine.15 The Massachusetts Child Labor Committee formed in 1908 to carry on the work formerly done by the Consumers' League conducted an intensive study of labor conditions. In February 1910 they presented to the General Court a program of reform measures which they considered necessary to bring the commonwealth in line with the more progressive states. The plea for an eight hour day was the first and most important of the bills proposed.16

14 Ibid., 54.
15 Ward, 160.
Investigation by the Child Labor Committee revealed children at work ten or more hours a day. In some places there were vocational schools and evening classes but the long work day made it impossible to take advantage of these opportunities for self-improvement. It was to abolish conditions such as these that they urged the passage of the eight hour day for all children under sixteen.17

During the hearing on the bill an effort was made to make it an all inclusive law, bringing the neglected farm child within the pale of the law but this innovation was rejected.18

All possible arguments were resorted to on both sides. As was to be expected there were most strenuous objections on the part of the manufacturers with their same stock excuses of southern competition and the stringency of the laws that were already detrimental to industrial progress. They proposed the lowering of wages and lengthening of the working-day as the only way of solving the problem. The strongest contention was that it was not practical to employ children for

17 Ibid., 244-5.
18 Ibid., 266.
eight hours in factories where the adults worked and machines were in operation for ten hours. Evolving out of this attitude of vigorous opposition into one of passive indifference, the manufacturers assumed the position that if the measure were conducive to the best interests of the child they would not impede legislation but would eliminate all workers under sixteen if the pending measure were passed. This ruse to delude the laboring class was not very effective as the majority were on the side of the proponents. Originated with socially minded groups, the bill could not be passed without labor's support. The textile workers had made repeated efforts to shorten the hours of the working child and by 1911 had succeeded in obtaining a fifty-four hour week for minors under eighteen in factories and workshops.

It is noteworthy that the rising tide of reform that was part of the Progressive Movement sweeping the nation made conditions propitious for the demands of labor at this time.

21 Loughram, 41.
After a campaign extending over two years the first eight hour law for minors under sixteen was passed in the nation's leading textile state.23 The law became effective September 1, 1913, and immediately it was a great controversial issue. The advocates of reform hailed it as a great advance,24 but from the opposition there was an immediate outcry in the mill town press greatly exaggerating the number of children evicted and the attendant suffering of the poor. There was a move on the part of mill owners to dismiss the children in an attempt to make the law so unpopular as to cause it to be repealed. So much contention resulted that a special committee was appointed to study the law in operation. Conflicting reports were the result. The majority were of the opinion that the law had not had enough time to prove its merit and that the manufacturers could adjust their time schedules to the new legislation. It was denounced as a "dismal failure" by the minority, and had to be radically modified or repealed at once.25 The law was given its chance but at the next session of the legislature the opposition was lined up for

23 Lovejoy, "Eight Hours for Children," 58, (October 11, 1913)
24 Ibid., 59.
its repeal. Mainly through the zealous energy of the Massachusetts Child Labor Committee was the law sustained.\(^{26}\)

The enforcement of the law was delegated to the State Board of Labor and Industries created in 1912 for the enforcement of labor legislation. Some of the board were entirely out of sympathy with "such innovations" that played havoc with the state's industrial supremacy.\(^ {27}\) By all signs however the majority of the workers between fourteen and sixteen were reemployed within a short time, no drastic hardships resulted, labor had not been disrupted\(^ {28}\) and by 1914 the law was being well enforced.\(^ {29}\) The child's drudgery was lessened by two hours and there was now more time for recreation and part-time education.

Another significant move toward progress in 1913 was the establishment of a Commission on Social Welfare delegated by the General Court to secure progressive child labor legislation. Shortly after its formation it was petitioned by the Massachusetts Child Labor Committee to adopt the Uniform Child Labor Law then being presented to the public as the best child protection measure. This law drafted by the


\(^{27}\) Ensign, 79.

National Child Labor Committee and endorsed by the American Bar Association was formulated in 1911 by the Commission on Uniform State Laws as a definite standard for progressive legislation. It embodied the best provisions of the various state laws together with new advanced features. By this act children under sixteen could not be employed more than eight hours; night work was prohibited under eighteen; the list of hazardous occupations was extended as were educational requirements. Fourteen was still the minimum age in all employments other than hazardous occupations, and domestic and agricultural work still remained outside the scope of the law.

In the two year campaign for its adoption the greatest opposition was waged against the eight hour provision. Despite the strenuous efforts of the textile owners the Uniform Child Labor Law was enacted without modification in 1913.

The educational requirements of the law were inadequate especially in the light of the census report of 1910 which showed an increased exodus from school by children between ten and fifteen years of age. The conditions in Massachusetts...

30 "A Model Uniform Child Labor Law," The Outlook, IX, 401-2, (October 21, 1911).
32 Ibid., 48.
33 United States Census 1910, IV, Occupations, Table 33, 77.
setts were but a reflection of the country as a whole, as the same report indicated that child labor in the United States reached its peak in 1910, then gradually declined. Pressure of public opinion was primarily the reason for this decline. America had at last come to a recognition of the costs of child labor and began to realize that we did not rank among the more enlightened nations of the world in the care and education of our working children but that our status was more nearly on a par with that of Russia. It was to be a long and up-hill struggle to bring public opinion to a realization that the modern democratic state not only can but must foster an educated electorate. Legislation not supplemented by compulsory school requirements was nugatory in its results, experience had shown. While it was instrumental in keeping children from premature work it did not enhance their potentialities or assure the republic of an intelligent citizenship a generation hence. The problem in Massachusetts was

34 Ibid., 28.
accentuated as has been noted by the illiteracy of a vast foreign population and by a major industry that employed a large number of children. Despite these handicaps the state endeavored to keep in stride with the trend gaining prominence in the nation, that of adjusting its scheme of education so as to benefit the many. 37 Illiterates were barred from employment until sixteen and were further curbed between the ages of sixteen and twenty-one by compulsory attendance of part-time school. 38 Realizing how little progress was being made by most children in school, a move was made for the attainment of a specific grade standard before employment. This culminated in the act of 1906 designating a fourth grade equivalent as a prerequisite for obtaining an employment certificate. 39 Literacy had come to mean more than mere ability to read and write. This determination of society to further the welfare of the child is reflected in two measures passed in 1906. One which made no physical or mental condition capable of correction as an excuse for

38 Loughram, 41.
evading the compulsory education laws. The other made an annual physical examination of each child of school age mandatory. The child of Massachusetts now protected more or less from exploitation in industry, promised an increased education, was further assured, as far as possible, of normal physical development.40

But an equally important problem and perhaps one affecting a greater number of children was that of adapting the schools to the modern industrial needs. The chief complaint was that the curriculum was cultural and the professions stressed despite the fact that the vast majority of children never completed grammar school.41 A movement on the part of the reformers, for a more practical system of education to prepare the child to meet the great problem of making a living, began to take form in 1905. The General Court at the behest of the business interests directed the governor to appoint a committee to study industrial and technical education systems. Governor Douglas himself a manufacturer took an intense interest in the investigation. The findings of the committee revealed a dearth of skilled workmen. The

40  Ensign, 73.
majority of child workers had drifted or were engaged in "dead-end" occupations. A radical modification of the public school curriculum was the result. Some elementary knowledge of industry was introduced and legislation was enacted for the establishing of trade schools and of continuation schools for those who had left school too early. Erection of the schools not mandatory nor was attendance made compulsory. In view of the fact that the movement was initiated at the request of the business interests and that it was highly beneficial to the laboring classes the reaction of these two groups was somewhat paradoxical. It was from them the greatest dissatisfaction was voiced. The manufacturers protested against any absence from work for class attendance. Organized labor was alarmed at the prospect of being outclassed by the workers trained in the proposed schools. To offset this attitude and also to accelerate the establishment of the schools, the legislature of 1913 authorized municipalities maintaining continuation schools to make attendance for four hours during working hours compulsory.

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44 Ensign, 77.
for minors between the ages of fourteen and sixteen. Some attempt was made to make the law mandatory but Massachusetts' traditional regard for local government in addition to hostile resistance acted as a deterrent. The Smyth Hughes Act of 1917 which guaranteed the states dollar for dollar to support vocational schools gave some impetus to the growth of the movement. The passage of the federal child labor law also necessitated the establishment of more vocational schools for children under sixteen. It was not until 1919 that attendance at continuation schools was made compulsory throughout the state. Massachusetts had come to realize that the challenge to her industrial prestige could be met only by offering specialized training to its laboring class, and by making its public school system a more effective means of serving the majority of its future citizens.

A natural corollary of this new philosophy of education was the development of a thoroughgoing system of issuing the employment certificate. It has sometimes been said that

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45 Editorial, Charities and the Commons, XVII, 9. Ensign, 78.
46 Commons, 452.
the development of the employment certificate is the history of effective child labor legislation. This check on the child's leaving school was also initiated by Massachusetts. As early as 1878 affidavits of age were issued by the school authorities affirming the child's age and educational attainments. The validity of the parents' sworn statement of age sometimes was found to be valueless, especially in time of industrial depression when perjury was not uncommon. Nor were the issuing officers always conscientious in fulfilling their duties. To strengthen the law a measure was passed in 1908 making it obligatory that documentary proof in the form of baptismal or confirmation certificate, passport or school record be given before an employment certificate be issued to minors under sixteen. 50 Another loop-hole in the old law was the retention of the certificate by the child. This sometimes led to the use of the permit by others than those to whom it was issued. An act passed in 1909 provided that the employment certificate be issued by the local school

authorities to the individual employer and be returned by him to the issuing office not later than two days after the child left his employment.\(^{51}\) Now every new employment meant a new certificate. The revolutionary eight hour legislation of 1913 was bolstered by another law establishing higher standards for acquiring an employment permit. Minors between the ages of sixteen and twenty-one as well as those in the fourteen to sixteen age bracket were required to obtain certificates. Special discrimination of illiterates was one of the outstanding features of the bill. Applicants that were unable to qualify for fourth grade standards were compelled to attend day or evening school. During 1919 the law was amended and the minimum standard was raised to sixth grade level.\(^{52}\) It is not possible to gauge the effect these restrictions had on school attendance or how far responsible they were for the falling off of the number of children in industry but Massachusetts made striking progress in its earnest endeavor to insure every child the advantage of an education.\(^{53}\)


\(^{52}\) Ibid., 3.

That child labor legislation should take into consideration not only the educational attainments and chronological age of the child but its physiological development as well was gradually coming to be recognized. Statutory provisions based on chronological age were not sufficient protection against premature employment. Early in the campaign for reform it was found that the majority of working children were below normal, physically. Wide publicity was given to this phase of the problem and state supervision of child health was advocated. There was need of scientific research in order to bring the public to a realization of the physical effects of exposure to occupational diseases, exhaustion by fatigue and other ills and hazards resulting from early employment.

About 1907 there was a nation-wide campaign launched for the safeguarding of the worker against occupational hazards and diseases. The American Safety Movement was inaugurated for the purpose of making the public "accident conscious". What was perhaps a greater factor in educating public opinion was the merciless attacks of the "muckrakers" on the needless

expenditure of life, health and efficiency in industry.

These articles appeared in some of the better known magazines of the day and concurrent with them came the awakening of the public conscience.\textsuperscript{55}

At the turn of the century Massachusetts listed a number of dangerous occupations from which minors under eighteen were banned. Beyond this no measure protected the child from the terrible physical toll of excessive or dangerous work. This negative form of legislation however was not meeting with much success. The new trend was toward an effective physical test to determine the child's fitness to enter employment.\textsuperscript{56} The National Child Labor Committee in an effort to secure a physical standard specified forty-eight occupations as being detrimental to the health or morals of children under sixteen. But in 1910 Massachusetts surpassed these requirements. The General Court passed legislation requiring a physical examination and certification of all working children and a definite guarantee that the intended

\textsuperscript{55} Commons, 367.
employment would not injure the child. The state board of health was to determine whether any occupation was sufficiently dangerous as to be a menace to life, limb or morals of those children under sixteen.57

This vitally important advance made Massachusetts the first state to make a physical examination a mandatory requirement for an employment certificate. There was no recognition of the physical strain resulting from street work or labor on the farm, but on the whole it was a great step forward and some measure of protection from the state over their health, morals and life was assured its weakest members.58

While the educational side of child labor presents a serious problem children's out-of-school activities in modern cities poses a situation about which the public was exceedingly recreant.59 In the progress of child labor reform the "street trades" were among the last of the types of work done by minors to receive consideration. This term is applied

to the selling of newspapers, peddling and other economic activities of children on city streets. Perhaps no other form of child labor is more exploitive and less regulated. Even when child labor legislation covers "all gainful occupations" the street worker is excluded because the law is generally interpreted as applying only to those whose labor is hired. 60

Before 1900 there was no regulation of street trades except an ordinance passed by Boston in 1892 forbidding children under ten to sell newspapers or act as bootblacks. These children were removed from the protection of the minimum standard of fourteen years and ten hour day as the street trades did not come under these restrictions. There was little done to remedy this objectionable form of work during the early days of the new movement and as a consequence the system thrived. Thousands of children under fourteen were working without any legal restriction. 61

The general crusade for reform that had gripped the whole country had its effect in arousing some sentiment toward the neglected street worker. Reformers aware of the compla-

61 Ward, 212.
cent attitude of the generality of people toward work which involves so many hazards and great costs began to arouse public opinion to the absurdity of legislating for children who have at least the supervision of adults who employ them while hosts of street workers with no restrictions had not been safeguarded by prohibitory legislation. 62

The arguments against such employment were many. One of the earliest and strongest was the great danger to morals resulting from exposure to the vice of the streets. Many of the boys felt "above the law" and as a result an alarming number of street workers, newsboys particularly, made up the greatest percentage of juvenile delinquents in Boston. 63 While most street occupations required time outside of school hours, the long hours, excessive fatigue and tendency to truancy were not conducive to good scholarship. Night work was another feature of this type of work that needed to be eradicated. 64

Perhaps one of the greatest drawbacks to efficient control of street-trading was the typical Massachusetts

63 Ibid., 106.
attitude of delegating to the local government full power in matters that would function more effectively under state control.65 There was only one state law and that a very wholly inadequate one, barring children ten years of age from selling newspapers. The vital question of responsibility for the enforcement of the law was not definitely stated and as a result all police powers disclaimed duty in this respect. There was no adequate penalty for violation and responsibility was placed, not on the parent or employer, but on the exploited child.66

Boston was the only city in the state that worked earnestly to bring about some measure of control. The Massachusetts law of 1902, amended in 1906, in which the school authorities were charged with regulating and licensing of street peddlers worked admirably well in this city where the law was first tried. Here children eleven to fourteen were required to have a license and work was prohibited between 8 P.M. and 6:30 A.M.67 In 1910 the General Court passed legislation

65 Ward, 213-16.
67 Ward, 214.
that was revolutionary as viewed from street trades' principles, and that placed Boston in the front ranks as concerned their regulation. This new law penalized the employer rather than the child where there was question of illegal employment. This placing of the blame where it belonged made convictions easier and more frequent, as previous to this ruling the courts had been unwilling to punish the victimized child. Proper enforcement designated specifically by the law tended to make it the most effective protection yet accorded the street worker.\(^68\) In 1913 the age limit for all street merchants other than newsboys was raised to twelve for boys and eighteen years for girls in cities of 50,000 or more.\(^69\) The newsboy remained the most discriminated against of all the class. Several attempts had been made to prohibit night work and raise the age limit but the powerful newspaper interests blocked legislation. Finally in 1919 the minimum age was raised to twelve years for all newsboys. This sector of exploited childhood received not only very tardy but pitifully inadequate protection.\(^70\)

Despite all the campaigns pushed with vigor and intelligence, all the prohibitory and regulatory laws enacted

\(^{68}\) Ward, 216.

\(^{69}\) United States Children's Bureau Publication No. 10, 723.

\(^{70}\) Commons, 435.
all the large scale sentiment against child labor, the largest percentage of the child workers still remained outside the scope of child labor legislation. Although a number of laws applied to "all gainful occupations" and would thereby nominally cover tenement, domestic and agricultural work, the only protection afforded in these industries was the indirect coverage of the compulsory education laws. And upon the degree of enforcement of these laws depended the amount of protection afforded.

The census reports of 1910 showed that three-fourths of all children in the United States between the ages of ten and fifteen who were gainfully employed were engaged in agriculture. It was generally assumed that work on the farm was not injurious. On the contrary an idyllic conception of country life was the generally accepted opinion despite the fact that farm labor was sometimes sufficiently harmful as to be serious. More often than not the country child was overworked and undereducated.

An effort to bring the child engaged in farm work within the scope of the progressive legislation of 1913 was attempted by the reform element, but the provision was struck from the bill. This left the child to the mercy of the compulsory education laws. Observance of school laws is notably poor in rural districts. Thus much to be desired in child labor progress was still unaccomplished. 74

Employment of children in industrial homework had long been a source of deep concern to the reformers. This exploitation of little children within their own homes had flourished because of the popular tradition that the child belonged to the parent, the home is a man's castle, therefore no interference. 75 Massachusetts had no restrictive measures covering this vicious form of child labor other than a licensing law enacted in Boston. This act prohibited work being given to a tenement that had not complied with certain sanitary standards and was thereby unlicensed. Here too the school laws were the only check on the child. This indirect form of regulation was inadequate even at its best. 76 It was plain

74 Clopper, 364.
75 Lovejoy, "Child Labor and Health," 59.
76 Kelley, Some Ethical Gains Through Legislation, 18.
that Massachusetts had not progressed far enough to realize that the tenement worker and the farm child were an integral part of the child labor system and must be treated as potential citizens, despite the traditional attitude of the parents' exclusive ownership of the child.

As has been stated before, child labor legislation was not the sole means of mitigating the evils that beset the child laborer, but frequently legislation was enacted for women that also affected children. This is particularly true of the movement for a minimum wage for women and minors which was launched in Massachusetts in 1912. The impetus behind the movement came with the publication of the findings of the government investigation conducted in 1910 which revealed the shockingly low wages of women and minors throughout the United States. The Consumers' League, the Massachusetts Child Labor Committee and a number of public-spirited middle-class groups sponsored a campaign for minimum wage legislation. Organized labor gave only nominal support to the enterprise. The main arguments for the measure were that society was bearing a disproportionate part of labor costs that should be

77 Women's Bureau Bulletin No. 66, 55.
legally borne by industry. Unpaid labor was one of the greatest causes of dependency and delinquency and hence an added burden on the taxpayer.

The committee appointed by the governor in 1911 made a detailed survey of stores, laundries and candy stores. Low wages prevailed in all these establishments. In a four to one decision the committee recommended a mandatory minimum wage law with rates to be fixed by wage boards for each separate industry. 78

There was immediate opposition from the textile owners and the American Manufacturers' Association. They maintained they couldn't raise wages and meet with competition from Great Britain and the South. They challenged the right of the state to fix wages, termed it socialism, violation of the right of contract guaranteed by the fourteenth amendment.

Obviously the minimum wage proposal was a revolutionary departure from current American ideology. However labor had made an excellent showing in the previous state election and could not be ignored. Besides this was 1912, the heyday for remedying labor's ills through state legislation. The

78 Ibid., 57.
bill was passed as a compromise measure mandatory only through pressure of public opinion. To meet the objections of employers who claimed they would not be able to raise wages the financial condition of the concern was to be taken into consideration before new rates were set. The reformers wanted rates based solely on "the cost of living to maintain the worker in health." The names of those who would not conform to the law once it was made mandatory were to be published.79 Thus after two years strenuous campaigning the first minimum wage legislation in the United States was placed on the statutes of Massachusetts. The bill was under constant fire from the beginning. Four different legislatures were petitioned to repeal it and its constitutionality was twice called into question and upheld. The question naturally arises as to whether or not higher wage scales resulted. Wages were increasing in all lines of work at this time but whether as a result of general conditions rather than the new legislation is difficult to determine.80

79 Ibid., 59-60.
80 Ibid., 61.
Finally in appraising the progress made in the commonwealth we must apply the test appropriate to all legislation were the statutes enforced, or prove in practice to be enforceable. Experience had taught Massachusetts that the best law was a dead letter unless effectively executed. During the early years of the century the district police were responsible for enforcement but men and appropriations were inadequate and inspection was confined to factories and mercantile establishments. There was dire need of truant officers and more comprehensive state inspection. By 1910 there was an improvement in the enforcement of child labor laws when fifteen factory inspectors and fourteen state board of health officers were intrusted with seeing that there was no unlawful employment of minors. Two years later there was a movement toward centralizing the powers of government. All departments charged with the enforcement of labor laws were consolidated in one body, the State Board of Labor and Industries. This board worked so effectively that the

reformers termed it the only state where child labor laws were enforced in any appreciable degree. 83

In the matter of school laws Massachusetts did not assume the responsibility but adhered strictly to her traditional policy of local responsibility in this matter. Perhaps this weakness in the law may have had a detrimental effect on her educational system. While the enrollment was high the advance over the years had not been notable. 84

An important detail of enforcement is the legal procedure incident to prosecution. Here the enforcing officer can directly or through an attorney bring cases before the court. The penalties are rather drastic. There is no fixed minimum but rather the tendency is to leave wide discretionary powers to the courts. 85

In certain respects other states have surpassed Massachusetts in the protection of the child, yet almost every advance in the development of child labor legislation was initiated or advanced by this state. Under the heavy handicap of a large immigrant population and the prevalence of

83 United States Labor Bulletin 175, 51.
84 Ensign, 83.
85 United States Children's Bureau Publication 10, 19.
industries that draw heavily on child labor, retarded occasionally by the inertia of public opinion, impeded by selfish interests, progress was slowed down, even seemed to retrogress sometime, but the reformers kept up the fight.

After 1910 there was a marked reduction in child employment. This was due in part to technological changes in industry which made the employment of the immature unprofitable, to the demands of the powerful labor unions to the untiring zeal of the public spirited reformers, but primarily to the pressure of public opinion made apparent in the gradual increase of protection of the child worker. This decrease in the number of children employed was more marked in some industries than in others. In textiles the reduction was nearly 85%.

An unprecedented demand for child labor was occasioned by the outbreak of World War I and practically all standards achieved were suspended for the duration of the war. With America's entry in 1917 and the induction of a large number of the men laborers into the armed forces, the industries drew heavily on child labor. Between 1916-1918 there were

twice as many children between the ages of fourteen and fifteen engaged in work while the number of certificates issued in Lowell during that period increased four hundred percent. All restrictions were removed from employment of adults and children until six months after the cessation of hostilities. There was an immediate extension of hours and resumption of night work, but wages were high. The end of the war brought about the closing of war plants and the return of the adult workers. This situation and a minor depression in 1920 tended to retard the number of children working in industry. However for that generation of children of working age the harm had been done.

Gradually and persistently, year after year, the proponents of reform secured higher age limits, reduced hours, established physical safeguards, abolished night work, black-listed hazardous employments and increased educational requirements. The principles of American government had been developed.

89 Watkins, 128.
The masses were given greater educational advantages, the will of the people was expressed in increased extension of state control. A standard for child protection had been acquired for which no apologies need be offered. Some states at points bettered Massachusetts. Not many had laws that had gone so far toward meeting the needs of its future workers. 90

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90 Ensign, 86.
The need of legal protection for the working child had for years been a fundamental principle of the public policy of New York. Prior to 1900 the Workingmen's Federation, Society for the Prevention of Cruelty to Children and the Consumers' League were instrumental in securing the public support necessary for passing legislation affecting children in industry. The standards achieved during the last decade of the century were the result of aroused public opinion following the investigation in 1895 by the Rheinhart Commission. This was the first extensive study of child labor conditions made by the state, and the startling disclosures made of the deplorable conditions under which children worked moved the legislature to action. The laws enacted made fourteen the minimum age and forbade employment of such minors for more than ten hours a day. This legislation was

2 Ibid., 7.
a dead letter from the start as the provision giving the board of health the enforcement of the law, made the application of the measure practically impossible. However there was a general feeling of satisfaction that the child labor problem had been fairly well solved and a relatively high standard achieved. ⁴

Further agitation subsided until 1902 when the New York Child Labor Committee was organized. ⁵ This public-spirited group was formed in response to a very definite need. The philanthropic organizations that had been largely responsible for the progress made in child labor reform were not well enough organized to combat successfully the powerful industrialists who blocked every movement for reform. ⁶

By 1903 there was a tendency to consolidate all forces interested in the welfare of the child worker. The newly organized Child Labor Committee was the directing force of this all-out effort to secure for the child his rightful place in society. With organized labor and the department of education throwing their strength into the fight, and having enlisted the support of the major political

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⁴ Ensign, 126.
⁵ "Child Labor Reform in New York," Charities and the Commons, X, 53, (January 10, 1903).
⁶ Ensign, 132.
parties, they felt certain of securing really effective legislation.7

The first task was obtaining data on the conditions under which children were employed throughout the state. In 1902 the New York Child Labor Committee launched a thorough-going investigation which revealed the lamentable inadequacy of the laws in effect and the vast number of young children being exploited outside the scope of any law.8

The widespread lack of education among the greater number of children at work was another disturbing revelation. This condition of affairs was due, in part, to New York's position as chief port of entry in the United States. Vast numbers of illiterate immigrants settled in New York and it was from this class that came the child that was exploited in the streets, textiles and needle trades of New York City.9 One of the greatest evils of the whole method was the "sweat shop" system where the "worker's life blood was sweated out by the pressure of the profit-seeking contractor."10 These immigrant children, ignorant of the customs and language

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7 Ibid., 131.
8 Commons, 416.
9 Editorial, The Outlook, LXXIV, 444, (June, 1903).
of the country were largely exploited by the garment trades. Nine-tenths of the clothing manufactured in New York at this time was said to have been made in these tenement workshops. Here extremely young children frequently worked for as little as a few cents an hour, for fourteen to sixteen hours at a stretch often times. Besides depriving the child of an adequate education the system was highly conducive to maiming him physically and morally. Other than a law requiring a certain degree of sanitation requisite for a license, no restriction was placed on this insidious child labor evil. Obviously, one of the greatest needs of the working child was the enactment of a law that would take this form of work out of the home and transfer it to the factory where the worker would be subject to inspection.

The lack of cohesion between the labor laws and the compulsory education requirements was another defect that made for so much illiteracy among these children. The compul-

11 Ibid., 329.
12 Mary Van Kleck, "Child Labor in New York City Tenements," Charities and the Commons, XIX, 1412-15, (January 13, 1908)
14 Editorial, Charities and the Commons, X, 52, (January 10, 1903).
sory education law required that the child attend school for an average of eighty days per year up to the age of twelve. On the other hand the child labor law forbade employment before fourteen.\textsuperscript{15} This discrepancy between the two laws resulted in New York's ranking fourteenth in the matter of literacy of children between the ages of ten and fourteen.\textsuperscript{16}

All this was an indictment of public inertia in combating the perils threatening the child, and incidentally, American ideals. As the public schools afford one of the best means of thorough preparation for citizenship there was urgent need of passing legislation that would secure this safeguard for the child.\textsuperscript{17}

Damaging evidence of neglect was also apparent in the case of the street worker. The incipient evils of this practically ignored sector of child labor were engendered primarily through the vicious environment of the streets.

\begin{footnotesize}
\begin{enumerate}
\item Editorial, \textit{The Outlook}, LXXIII, 373, (February 4, 1903).
\item Kelley, "The Fall of the Great Industrial States in the Scale of States," 567.
\item Kelley, \textit{Some Ethical Gains Through Legislation}, 11.
\end{enumerate}
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The extreme youth of many of the workers, the irregularity of the hours of work, the hazards to health and morals, the detrimental effect on education, were reasons for demanding reform. 18

Nothing was left undone to arouse favorable public opinion. The child labor committee waged a vigorous state-wide campaign for the legislative program it had slated for presentation at the coming session of the legislature.

The press and the clergy, as a general rule, were in full sympathy with the reform issue. The findings of the investigators were disclosed and an awakened sense of justice on the part of the public gave increased impetus to the movement. 19

The primary innovation of the proposed legislation was the widening of the scope of control, as was apparent in the Agnew law, the so-called "Newsboy's Law". This initial protective measure given to the newsboy asked for a minimum age of sixteen for girls and twelve for boys in cities of the first class—New York and Buffalo—and no night work after

9 P.M.  

The controversial issue, however, was the documentary proof-of-age requirement, the most effective preventive of premature employment. To bring the school laws in line with the labor enactments the compulsory attendance measure required one hundred thirty days attendance during each term prior to the fourteenth birthday. A physical test of fitness for employment was also another feature of the new legislation.

These relatively high standards however did not go unchallenged. The "Newsboy's Law" was such a departure from the usual type of legislation that it was the subject of widely divergent opinions. Some of the antagonists derided a system that "first dosed the newsboy with education, then branded him with a badge." Perhaps the most perverted viewpoint was that of Elbridge T. Gerry, prominent member of the Society for the Prevention of Cruelty to Children who vigorously opposed the restriction of street trading as unconstitutional and "making the unhappy boy's life more unhappy." Of an entirely different viewpoint was Jacob Riis,

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20 Editorial, Charities and the Commons, X, 403, (February 14, 1903).


22 Editorial, Charities and the Commons, XI, 188, (September 15, 1903).

23 Editorial, The Outlook, LXXIII, 602, (March 14, 1903).
who considered it the greatest boon yet accorded the neglected street trader. 24

The greatest opposition however came from the State Canned Goods Packers' Association. They tried to nullify the fourteen year minimum by introducing a provision which would permit children under fourteen to be employed from June 20 to September 20, the harvest period. 25 But this time the powerful canning industry failed. Although some members of the legislature were of the opinion that the new measures were too advanced, the spirit of the times was reform, and could not be gainsaid. The public clamored for immediate action and the new governor advocated the child labor program. 26 Confronted by this turn of events the legislators dared not thwart their constituents' wishes. All five laws drafted by the child labor committee became laws, effective by October 1, 1903. 27

This far reaching legislation, inadequate as some of it soon proved to be, placed New York in advance of any

24 Ensign, 135.
26 Editorial, Charities and the Commons, X, 252, (January 3, 1903).
other state in the Union in the documentary proof-of-age requirement and in establishing a definite scholastic standard as a prerequisite for an employment certificate.28

For the first time child labor legislation in New York was complemented by an effective compulsory school law which made attendance for one hundred thirty days each term obligatory upon children between the ages of eight and fourteen. Those between fourteen and sixteen who had not completed fifth grade were obliged to attend night school three nights a week for a four month period.29 This statutory prohibition of illiterate children from employment hit at one of the most revolting forms of child labor—the padrone or contract system wherein thousands of young illiterate foreigners, mostly Italians and Russians were exploited. Under the new ruling these unfortunate children would not have some rudimentary knowledge of English and better preparation for future citizenship before entering employment.30

29 Ensign, 134.
30 Florence Kelley, Some Ethical Gains, 11.
The much talked-of "Newsboy Law" was shorn of some of its more salient features when it passed the legislature. These provisions were evidently too advanced for the times. The compromise measure restricted the selling of newspapers to girls over sixteen and boys more than ten years of age, and no night work after 10 P.M. for those under sixteen. This applied to New York and Buffalo. 31

One of the most important measures enacted, which singularly enough, aroused very little opposition, was the nine hour day for minors under sixteen. 32

These laws were a definite and comprehensive advance in protective legislation, but the tenement child worker was still the prey of the sweated industries. Manufacturers could not lawfully employ children under fourteen in a factory, but the same work could be given out to be done in tenements by children ranging from five years of age. 33

But the age old tradition of the priority of the parent over the child still took precedence over the new theory of state

authority. There was evidence that in many cases, parents as well as manufacturers, held the law in contempt. Frequently officials not in sympathy with the reform measures were unwilling to prosecute those violating the law.

The "Newsboy Act", while probably the best street trade law passed by any state at the time, soon proved thoroughly unsatisfactory in its administrative provision. This feature was delegated to the local police and while enforcement was rigid for a while, vigilance soon relaxed. The schools could not accommodate all those affected by the new law and the result was an increase in truancy. Furthermore, the truancy force was not adequate enough to cope with the workings of the new law and the result was New York had added another dead letter to her statutes.34

This laxity in administering the new legislation was generally attributed to the State Commissioner of Labor who was thought to be associated with the manufacturers in an attempt to neutralize the new laws. The New York Child Labor

Committee clamored for his removal and succeeded in having p. Tecumseh Sherman, who was to prove an admirable choice, made the chief commissioner. 35

Another cause for rejoicing on the part of the proponents was the favorable decision handed down by the State Supreme Court in the New York City vs. Chelsea Jute Mills case. In an effort to test the constitutionality of the compulsory education law, a suit had been instituted by the Chelsea Jute Mills to recover a fifty dollar penalty imposed for employing children in violation of the law. The lower court was upheld and the penalty sustained. 36

But in 1905 the canners scored their triumph. Unsuccessful in their efforts in 1903 to obtain total exemption from the factory law restricting the employment of children to a nine hour and a fourteen year minimum they renewed their attempts to circumvent the law each year. 37 The perishable nature of the crops, the shortness of the season and the fact that the work to a great extent was done out of doors, making

35 Ensign, 138.
36 Editorial, Charities and the Commons, XII, 309, (March 26, 1904).
37 Ellen N. Matthews, 154.
it more of an agricultural nature, warranted special exemp-
tion, the canners contended. 38 Their long struggle was at
length rewarded when an attempt was made to enforce the law
in its application to canneries. The State Canned Goods and
Packers' Association secured a ruling from the state attorney-
general to the effect that cannery sheds were not factories
because they were not equipped with machinery. The work was
declared to be agricultural in character, and as such, there
were no restrictions on ages or hours of labor of those em-
ployed. 39 Child labor was now a closed issue as concerned
canneries. However credit must be given to the twenty-six
canning establishments that the New York Child Labor Committee
reported as not taking advantage of the court's decision. 40
On the other hand, as was to be expected, the vast majority
looked upon child labor as their rightful inheritance—the
life line of industry. Despite the fact that the labor de-
partment of the state later officially declared that all
canning sheds investigated were on a factory basis, the local

38 Pauline Goldmark, "Child Labor in Canneries," Annals of
    the American Academy of Political and Social Science,
    XXXV, 152, (March, 1910).
39 Zenas L. Potter, "Child Laborers in the Canneries of
40 Ibid., 137.
courts steadfastly abided by the attorney-general's opinion. The result was the employment of children of five, six, and seven years of age for as many as fourteen hours per day. 41

The documentary proof of age requirement was passed primarily as a check on immigrant children but it now acted as a boomerang as it was found impossible in a great number of cases for these children to procure the necessary evidence of age. As a result nearly two thousand children in New York City went to work illegally. To alleviate this situation the law was amended in 1905, making an examination by two physicians and an interval of ninety days after examination stand in lieu of documentary proof. 42

The new labor chief worked earnestly with the child labor organizations in introducing legislation, in securing better enforcement and in prosecution of violators. Insufficient appropriations, an inadequate inspection force, the perversity of some magistrates in dealing leniently with offenders and a manufacturing class disposed to disregard the law obstructed their efforts for reform. 43

41 Ibid., 136.
42 Harriet Van De Vaart, 219.
advanced measures were continually sought however. A measure prohibiting night work after 7 P.M. for those under sixteen put New York in line with Illinois in this matter. 44 Another progressive step was the reduction of hours for minors working in factories. In 1907 a law was passed restricting the hours of these children under sixteen to eight hours. The bill had been vigorously opposed by the factory owners, and while some few made an attempt to enforce its provisions, the greater number ignored the law and continued to employ children under the earlier regulations; some reduced the wages in proportion to the difference in time. 45

This legislation emphasized the discrimination between the standards established for children working in factories and those employed in department stores. The same year that the eight hour factory law was passed, the New York Child Labor Committee and the Consumers' League of the City of New York introduced a bill for the transfer of administration of the mercantile law to the labor department and for the repeal of the Christmas exemption clause which permitted young children to be employed long hours day and night during

45 "The Children's Eight Hour Law," Charities and the Commons, XIX, 950-51, (November 2, 1907).
the holiday rush. The bill was opposed by the merchants of New York and Buffalo on the plea of large losses incumbent upon regular closing hours during the pre-Christmas season. Despite the solid backing of the labor department, the national and state child labor committees and the Consumers' League, the bill was never reported out of committee.46

Following this defeat the reform organizations concentrated their efforts on securing better enforcement, as the temper of the times did not seem favorable for new advanced legislation. The holiday clause was dropped but the transfer of the enforcement of the mercantile law from the local boards of health to the state labor department was pushed with renewed vigor. The same support was given this measure as had been given to the previous attempt. The commissioner of labor introduced the bill and appeared before the legislature to plead for its enactment. Governor Hughes also backed the measure. The Association of Retail Dry Goods Merchants of New York City sent powerful lobbies to Albany to influence the legislature and used their status as the biggest adver-

46 George A. Hall, 435.
tisers to use the press to their advantage.\textsuperscript{47} Their contention was that the inspection by the health department was sufficient and that the new regulation would subject retail stores to double inspection and hence conflicting orders.\textsuperscript{48} Despite the tremendous pressure put on the legislators, the bill became a law June 10, 1908. That this increased state control was for the child's benefit was made apparent in the first state investigation. More than half the children at work in mercantile establishments were of illegal age.\textsuperscript{49}

One of the most glaring weaknesses of the whole child labor program was the lack of efficient enforcement of the laws enacted. An important step in this direction was the permanent census act of 1908. This law required that all children be registered by the police in each precinct two weeks before they reached legal school age. The law was never fully enforced but it proved effective to the extent that over thirty thousand children who had not been detected by the truant officers were returned to school.\textsuperscript{50}

\textsuperscript{47} "A Legislative Victory for Working Children," Charities and the Commons, XX, 392, (June 20, 1908).
\textsuperscript{48} U.S. Women's Bureau Bulletin No. 66, 77.
\textsuperscript{49} Ensign, 148.
\textsuperscript{50} Ibid., 148.
Progress was continuous at this period and the advance gratifying to those backing the movement, despite the obstacles in the way of complete enforcement. There was a steadily growing demand for a merging of the different departments concerned in the administration of child labor and compulsory education laws in order to formulate some sort of state regulation. The need for this centralization of powers under state control was tragically brought to public notice by the disastrous Triangle Waist Factory fire on March 25, 1911 and the investigation following it. 51

One hundred forty five persons, mostly women and children were trapped by barred doors and barred fire-escapes and burned to death. The consensus was that failure to comply with the factory regulations had caused this catastrophic loss of life. Public indignation was so incensed at such disregard for human life that a protest meeting was held in the Metropolitan Opera House on April 2. Out of this grew the Committee on Safety for New York City. A superficial investigation made by this committee revealed conditions in workshops

and factories that were a menace to the health and safety of the children employed. The plea for a state commission resulted in the creation of the State Factory Investigation Commission in June, 1911. This commission of nine prominent men was headed by Senator Robert F. Wagner, the chairman and Assemblyman Alfred E. Smith, vice chairman. The duties devolving upon this group of public-spirited men were the investigating of factories and tenement workshops with special regard to the safety and health of the operatives and the recommending of needed legislation.

The entire country was shocked at the revelations of the survey. The most atrocious conditions prevailed in New York City tenements where nothing could legally prohibit the employment of the youngest child. This method of evading the provisions of the factory laws had long been excoriated by the reformers but nothing had been done to alleviate this menace to health, morals, education and good citizenship.

52 Ibid., 78.
53 Ibid., 79.
Another equally shocking disclosure was the report on the canneries. The reform element had battled year after year to gain some measure of control over this particular sector of child labor but never with any measure of success. In an effort to gain specific data on the situation, Pauline Goldmark made a study in 1907 for the Russell Sage Foundation in cooperation with the Consumers' League of New York City. It showed extensive employment of young children for long hours in direct violation of the law. However no action was taken against the industry until the new commission made its study of the fruit and vegetable canneries of the state in 1912 and revealed the real extent of child labor in this occupation. Most of the canneries were located in rural districts where an adequate labor supply was generally furnished through the padrone system. It was not uncommon for whole families, mainly Italians and Poles, to be housed in barracks for one to four months during the harvest season. The children of these families, ranging in age from four

56 U. S. Women's Bureau Bulletin No. 66, 85.
years upward, worked long hours—the typical day being fourteen hours at the height of the season. The commissioners were of the opinion that the canners' exemption from the labor law was entirely unwarranted.

Five new laws sponsored by the commission and actively supported by the New York Child Labor Committee were put before the legislature in 1913 and enacted without any sensational opposition. The law forbidding the employment of children under fourteen "at any place upon work for a factory or entering into the products of a factory" gave the child engaged at work in a cannery or a tenement the protection long withheld. The terms were made so clearly definite as to leave no grounds for misinterpretation.

Other progressive legislation passed was the raising of the minimum age for newsboys to twelve years, and forbidding their employment after 8 P.M.

The widening control of the state was evidenced in the new authority given to the state department of labor to

58 Ellen N. Matthews, 154.
59 George A. Hall, 89.
supervise the issuing of employment certificates by the local boards of health. Another indication of progress was the increased interest in the physical welfare of the worker. A physical test before employment was mandatory and minors under eighteen were excluded from dangerous employment.61

One of the most important advances was the extension of the time spent in school before entering industry. Prior to 1913 the ability to read and write simple English sentences and an elementary knowledge of geography and arithmetic were the only educational requirements necessary for procuring an employment certificate. As there was no definite standard and the decision of educational requirements rested with the local authorities, the provision was differently interpreted. The new law established a sixth grade standard as the minimum educational requisite for leaving school for work.62

In their investigations the commissioners were convinced that all labor legislation in the state was based on faulty principles. The laws were too rigid, leaving no provision

61 George A. Hall, 89.
62 Ibid., 90.
for adjustment. They proposed a complete reorganization of the labor department and recoding of the labor laws so as to make possible the delegation of powers to a responsible central authority. The proposal was acted upon in 1915 and the Industrial Board consisting of the commissioner of labor and four members appointed by the governor was created. They were invested with power to adjust difficulties in the interest of both employers and employees. This was another measure of defense for the child labor as the employers were always adept at finding loop holes in any measure passed for child protection. 63

That the Factory Investigation Committee was greatly responsible for the rapid advance in child labor standards achieved in the state during the years 1912-13 cannot be gainsaid. Their efforts culminated in success not so much because of any virtue on the lawmakers' part but mainly because the public, reacting to the general reform movement prevailing in the nation at the time, demanded more adequate defense of the child laborer. 64

This outstanding legislative progress marked New York as peerless among the states in the protection afforded its

63 Ensign, 151-3.
64 Ibid., 153.
working children. By 1913 the most serious defects in child labor legislation had, apparently, been corrected. The years intervening between this period and the outbreak of World War I were generally given over to strengthening laws already in operation.

A significant movement for safeguarding the health and morals of working children, specifically those engaged in the motion picture industry, gained prominence at this time. The New York Child Labor Committee had succeeded in having the penal code amended in 1916 so as to include children in the movies. The provisions were the same as those relating to children on the legitimate stage. They were not to be employed without a written permit from the mayor; forty-eight hours notice was to be given, and a hearing, if requested, to be held, before performing. The wages were attractive and many children were enticed to break the law. However reform groups vigilantly watched the workings of the law and were instrumental in bringing court action for violations.65

Another reform of the same year was the amendment to the school law that was suggested by the Industrial Commission. In New York City it had been found that nearly sixty-five percent of the applicants for work certificates had not completed eighth grade. This low standard was traceable to a number of sources. Parochial schools had not cooperated to any appreciable degree in enforcing the compulsory requirements. In the isolated foreign groups, the alien languages were retained to a large extent. American ideals and institutions did not thrive under these conditions. To counteract these conditions higher standards were embodied in the law drafted by the National Child Labor Committee. All those under fifteen years of age were required to complete eighth grade before a work permit could be secured. In 1917 two inspectors were appointed to give most of their attention to the schools attended by foreign groups. Gradually the parochial schools became more amenable to the education laws.

Continuation schools had never been a factor in enhancing the education of the child that had left school with only

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67 Ensign, 147.
rudimentary instruction. The system was not popular with either the educators or the children. In 1910 a law requiring the attendance of those under sixteen for six hours a week for sixteen weeks was a complete failure. Again in 1911 and in 1913 attempts were made to provide schooling during working hours but the indifferent attitude of both school authorities and the workers spelled failure for both laws. By 1919 there was a complete change of sentiment. Pressure by the reform elements brought about the enactment of a law making continuation schools mandatory throughout the state. All minors between fourteen and eighteen who were not employed and had not completed four years of high school were compelled to attend school four hours a week. This advanced legislation was put under the jurisdiction of the Commissioner of Education, the Industrial Commission and the Commissioner of Agriculture. 68

To meet cases where the enforcement of the new standards involved undeniable hardship the New York Child Labor Committee established the so-called scholarships. The sum

68 Ensign, 159.
of money, as nearly as could be ascertained, was equal to what the child would earn. Ordinarily this sum was between two and three dollars a week. This financial aid was from an endowment fund set up by philanthropists and civic groups anxious to see the child in school until fourteen. The surprisingly few granted—ninety-five, out of a city with a population close to five million people—was an indication of how little the child's earnings were needed to support others. 69 Later when the educational requirements demanded a certain amount of schooling until sixteen the same aid was given to those between fourteen and sixteen. 70 The scholarship work included a considerable amount of vocational guidance. Children with certain aptitudes were given opportunities for higher technical education. 71 Those mentally retarded were trained along special lines and given an opportunity to develop some trade rather than become the "dull tools of scheming and cruel employers" who were formerly free to exploit children. 72

However all the hard-won gains of a decade and a half were endangered at the outbreak of World War I. It seemed the opportune time for the manufacturers to seek the repeal of the measures they had so vehemently opposed. Shortly after the entry of the United States into the conflict, a bill was introduced in the state legislature asking for the suspension of all labor laws for the duration of the war. A mass meeting was held at Madison Square Garden May 2, 1917 in proposed action. The tragic example of the havoc wrought in France and England as the result of the wholesale exploitation of women and children in war industries was held up as one good reason for desisting from enacting such legislation.73

Despite this vigorous protest the law was passed by both houses. Many legislators disapproved of the measure but voted for it through fear of being thought unpatriotic did they act otherwise. Before Governor Whitman took action on the bill he called a public hearing. The overwhelming sentiment manifested by civic, social and welfare groups against the enactment of the measure largely influenced the governor's

73 U.S. Women's Bureau Bulletin No. 66, 90.
The next year the attack was renewed but the same organized passage of the first bill was again successful. The young worker was thus guaranteed to a great extent, the protection given him under the existing laws.

The shortage of labor during the war led to the employment of young girls in new and unregulated occupations, such as running elevators, messenger service, and railroad employment, which in some cases were considered morally dangerous. The New York Child Labor Committee was instrumental in having such employment limited to those twenty-one years of age or over. The suspension of the compulsory education laws from April first to November first for the duration of the war brought many into industry that otherwise would not be employed.

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74 Ibid., 112.
75 Ibid., 113.
No great change was made in the laws immediately following the war. This was the period when the attention of the reformers was focused on the national regulation of the evil. 77

Looking back over the period covered by the first two decades of the century there was cause for much satisfaction over the progress made. In the state, as a whole, the standards achieved were comparatively high and fairly well endorsed. But as is always the case in reform matters there was room for improvement and need for constant vigilance over gains already made.

In the matter of education New York was excelled by none of the states under consideration. The eighth grade standard for all those under fifteen years of age had been achieved and an extended school period with sixteen as the age minimum for leaving school was the goal set by the reformers. 78

Much of the modern legislation had been enacted through the efforts of the Child Labor Committee, Consumers' League, organized labor and the factory inspectors. The uniting of

77 Lumpkin, 260.
these forces wrung from the vested interests the right of the child to live under the principles upon which this democracy was founded—"equality of opportunity in the struggle for individual and intellectual freedom." 79

79 Ensign, 258.
CHAPTER V

ILLINOIS

From the miners came the first measure of protection afforded the working children of Illinois. In 1873 a law excluding children under fourteen years of age from the mines was passed at the insistence of the mine unions. This was the only effective legislation passed for nearly a quarter of a century despite the fact that after 1885 there was phenomenal increase in manufacturing and a consequent growth of child labor. The conditions in the sweat shops and tenements of Chicago's west side became so acute by the early nineties that Mrs. Florence Kelley, long conversant with child labor and its blighting consequences induced Governor Altgeld to commission a state-wide investigation of labor conditions as they concerned the child.¹

Organized labor joined the forces of Mrs. Kelley and through their united efforts the legislature of 1893 passed

¹ Kelley, Some Ethical Gains Through Legislation, 38.
the factory act prohibiting the employment of minors under fourteen.\textsuperscript{2} The provision for enforcement was the most important feature of the enactment. Governor Altgeld appointed Mrs. Kelley first chief factory inspector of Illinois with twelve assistants to aid her in enforcing the law. She carried on her work with a crusader's zeal, too effectively in fact for the powerful glass manufacturers, and in 1897 was superseded by an inspector more to their liking. Nevertheless she carried the children's cause to the people, never letting Illinois forget that nothing but a promising beginning had been accomplished.\textsuperscript{3}

However, the inevitable slowness of the statutory recognition of the evils to be encountered and the many obstacles to be eradicated delayed the alleviation of the child worker's plight. At the beginning of the century a ten hour day, sixty hour week for minors under sixteen, and fourteen year minimum were the outstanding measures effected. Despite this


\textsuperscript{3} \textit{Ibid.}, 74.
negligible legislation, Illinois ranked among the more pro-
gressive states. Yet, paradoxically enough, the rate of
illiteracy was mounting, an indication that the task was not
being dealt with effectively.

There were many deficiencies in the law that the re-
formers took care to keep before the eyes of the public in
their campaign for better legislation. Minors other than
those employed in mining, manufacturing, or commerce were
wholly without protection. The safeguarding of those that
had reached fourteen was a dead letter as the health certi-
ficate provision was not mandatory. There were no restric-
tions on the hours of labor at night, and a child of fourteen
could work seven days a week and in the most dangerous occupa-
tions. The rate of illiteracy was shockingly high. Especially
was this true of Chicago where vast numbers employed in the
stock yards, sweat shops, tenement work shops could not read
or write. This was a logical outcome of the educational
policy of Illinois then in force. School and child labor

4 Florence Kelley, "Child Labor Legislation," Annals of the
American Academy of Political and Social Science, XX, 155,
(July, 1902).

5 Fourth Annual Report of the Factory Inspectors of Illinois,
1896, 27.
laws interlock so closely that ineffectual educational laws act as a drawback on effective child labor legislation. The compulsory attendance laws were practically useless. School attendance was required only sixteen weeks during the year for children from seven to fourteen years of age. Enforcement, left to local authorities, was merely nominal, and while the law banned those under fourteen from working, there was no limitation placed on the employment of illiterates above that age.

The situation in Illinois was primarily one of inaction because of a legislature largely controlled by the vested interests, a reactionary supreme court that had not kept pace with the industrial development of the state, and a public not thoroughly aroused to vigorously contest the right of industry to blight children's lives by premature and excessive employment. The State Federation of Women's Clubs was the leading force behind the movement for raising the standard of the state.

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7 Kelley, Some Ethical Gains Through Legislation, 149.
The eight hour day and abolition of night work for minors under sixteen, the revolutionary measures sought, were especially odious to the glass manufacturers. The glass industry, traditionally dependent upon "boy labor" to supplement the work of the adult glass-blowers, waged the most powerful and persistent opposition especially to the night work provision. Glass manufacturing had reached a high degree of development in Illinois and for years had successfully fought legislation that would deprive it of this source of cheap labor. The skilled blowers, too, because their wages depended upon the skill and agility of nimble young boys, opposed the elimination of minors from night employment. Thus these wretched little "blowers' dogs" were the victims of both manufacturers and the union laborers.

The first factory law of Illinois passed in 1893 prohibiting the employment of children under fourteen, had been

9 Commons, 421.
11 Ibid., 15.
successfully evaded by the glass interests. The most notorious violations were in Alton, Illinois where unscrupulous persons took from the poor homes and orphanages, children ranging in age from seven to ten and made affidavits that they were of legal age. These dissolute people lived on the wages of these unfortunates. An investigation on the part of the state in an effort to enforce the fourteen year minimum enraged the glass manufacturers and brought down the wrath of the Alton press. The general opinion was that education was not for children of the working class and that enforcement of the law would inflict an intolerable burden of poverty on the community. The investigators found a disproportionate number of children suffering the inevitable consequence of such conditions on health and morals.

The new chief factory inspector that was appointed about the close of the century had previously been in the employ of the Illinois Glass Company at Alton. Throughout his term the

12 Kelley, Some Ethical Gains Through Legislation, 50-51.
13 Ibid., 51.
manufacturers were unmolested. There were no prosecutions for violations, no protests from any union for his removal. Unhampered by labor and government, the glass interests grew extensively, as did child employment. It is not surprising that in the matter of literacy of her children Illinois fell from sixth to fifteenth place in the Census report of 1900.\footnote{Kelley, "Fall of the Great Industrial States in the Scale of the States," 567.}

It was in the face of this unremitting and powerful opposition that the reformers waged their campaign to improve the lamentably inadequate protection afforded these wretched exploited victims.

The storm center of this legislation was the demand for an eight hour day. The struggle for shorter hours received a decided set-back in the decision handed down by the Illinois Supreme Court in 1895 annulling the law of 1893 that granted an eight hour day to women employed in manufacturing.\footnote{Harriet Van der Vaart, "Children in the Glass Works in Illinois," Annals of the American Academy of Political and Social Science, XX, 77, (July, 1902).}

The court, reactionary in the extreme, based its decision on a unique interpretation of the "due process" clause of the fourteenth amendment. This perverted construction held that the eight hour law interfered with freedom of
contract, and hence, deprivation of property and liberty; that it was class legislation, and denied equal protection of the law.\textsuperscript{16} As the judiciary act then stood, the decision could not be appealed to the United States Supreme Court.\textsuperscript{17} Immediately, doubts were raised as to the constitutionality of all hour laws and an unlimited working day for thousands of children resulted.\textsuperscript{18}

The court had made a statement that the labor of minors could be controlled by law but the retrogressive step on the part of the highest court in Illinois in annulling the eight hour law had the effect of paralyzing all efforts to legislate for limitation of hours. This was the condition until 1898 when the United States Supreme Court in the Holden Vs. Hardy decision ruled that the regulation of hours of labor was within the jurisdiction of state legislatures.\textsuperscript{19} This ruling which contradicted that of the Illinois Court gave renewed courage to the crusaders for shorter hours. The next eight hour law enacted in Illinois they felt assured would stand

\begin{flushleft}
16 Kelley, Some Ethical Gains Through Legislation, 147.  
17 Commons, 667.  
18 Kelley, Some Ethical Gains Through Legislation, 142.  
19 Ibid., 158.  
\end{flushleft}
as a good law. Furthermore, the decision acted as a curb on
the tendency of the state court to minimize the power and
efficiency of the state legislature.

The reformers pressed for enactment of the eight hour
law and as the abolishment of illiteracy had not been dealt
with effectively, they bent their energies on obtaining an
enactment compelling children from seven to fourteen to
attend school for the entire term. To safeguard the state
and to make intelligent and useful citizens out of the vast
immigrant population, a rigid compulsory education law was
an indispensable requisite.20 Interest in this angle of the
subject was widespread among civic groups in Chicago where
juvenile delinquency was rampant and thought to be enhanced
by the discrepancy between the minimum age for employment
and the requirements for school attendance. Children of
fourteen who had completed sixteen weeks of school fulfilled
the requirements under the existing law and could not be
compelled to remain in school. Often children came under

20 Ibid., 158.
demoralizing influence of idleness and street life and developed into delinquents. Youth of this type made up a large percentage of cases before the Juvenile Court of Chicago. It was apparent that the compulsory attendance of school for the full term would be one solution of the problem. The General Federation of Women's Clubs embodied these requirements in a bill to be presented to the state legislature in 1903. Pressure for enacting this measure together with the eight hour and night work laws was an indication of the temper of the times. Public opinion had been educated to the point where it began to demand effective legislation for the protection of children.

The position of the legislature on the proposed reforms raised considerable doubt. The legislators, many of whom were for years in the toils of the vested interests were the target of a great deal of the propaganda disseminated by the reformers. When the bill was pending in Springfield, the

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22 Kelley, Some Ethical Gains Through Legislation, 15.
glass manufacturers sent a formidable lobby to the state capital to block the passage of the bill. The perennial pleas of "the salvation of industry", the absolute necessity of agile young workers and the threat to leave the state, were once more revived.\textsuperscript{23} The utmost pressure was exerted upon the law makers but the equal urgency of their constituents for reform could not be ignored. The heated contest culminated in an easy victory for the advocates of control, the only dissentients being the senator and the representatives from Alton.\textsuperscript{24}

The measure was signed by Governor Yates on May 3, 1903. This epochal step on the part of Illinois placed the state among those having the most advanced restrictions on child labor. The eight hour provision for minors under sixteen was the first of its kind to be enacted by any state.\textsuperscript{25} The forty-eight hour week, abolition of night work from 7 P.M. to 7 A.M. for those under sixteen and their exclusion from specified hazardous occupations, documentary proof of age

\begin{itemize}
\item \textsuperscript{23} Harriet Van Der Vaart, "Children in the Glass Works of Illinois," 77.
\item \textsuperscript{24} Kelley, "A Boy Destroying Trade," Charities, XI, 15, (July 4, 1903).
\item \textsuperscript{25} Ibid., 15.
\end{itemize}
and the ability to read and write before obtaining a work permit were provisions that marked a further stride in public recognition of the working child's need of statutory protection. The educational provisions made attendance at school for the entire term compulsory for children between seven and fourteen years of age; the appointment of truant officers was mandatory and parents could be prosecuted for the child's non-attendance. The special duty of inspecting, enforcing, and prosecuting for violations was entrusted to the factory inspectors. Through the joint action of these laws, compulsory school attendance was made a possibility. The "full term" clause and the documentary requirement for working papers did much to prevent fraudulent evasion by false affidavits and to keep the child in school. The night work provision lessened exploitation in the glass works. Another asset of the legislation was the absence of exemptions. Previous laws had been riddled with these drawbacks to such an extent as to make them practically impotent. Illinois had become cognizant of its apathetic attitude toward the educational requirements of the young and took measures to give its potential citizens

27 Ibid., 212.
28 Abbott and Breckenridge, 87-88.
wider advantages in this regard.

The new law placed upon the community, rather than on the shoulders of the young, the burden of maintaining those dependents that formerly were supported by the slender earnings of the child. A clause in the early law legalized work under fourteen, "if there be dependent upon such child any sick parent or relative." There was no such loop-hole in the new law. Soon after it went into effect there were complaints about the hardships suffered as a consequence of its high standards. The Illinois Federation of Women's Clubs financed the project. After thorough investigation, a sum equal to the child's former wages was paid each week to children under fourteen whose families would suffer otherwise. Satisfactory attendance at school was a primary requisite for such financial aid. The most striking fact of the whole undertaking was the few cases that after investigation required aid. In the Chicago and Cook County area only eight cases proved that the child's pittance toward the family income was of

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29 Kelley, Some Ethical Gains Through Legislation, 40.
absolute necessity.\textsuperscript{31} This was evident proof that the widely expressed fear that hardship would result from these restrictive laws was without foundation. No child contributed in any considerable degree to the support of families.\textsuperscript{32}

The decided reduction in the number of children employed and the phenomenal increased school enrollment were evident almost immediately. Many employers refused to hire children subject to the new restrictions. Nearly a thousand children left the stock yards within a week; an exodus of over two thousand from the mines followed,\textsuperscript{33} and hundreds were released from the sweat shops and factories.\textsuperscript{34} In 1901 the percentage of child workers was $4.1\%$ of the total labor force of the entire state. After the new law went into effect the number dropped to $1.9\%$\textsuperscript{35} This gave Illinois at this time the

\begin{itemize}
\item \textsuperscript{32} Kelley, Some Ethical Gains Through Legislation, 41.
\item \textsuperscript{33} Editorial, \textit{Charities and the Commons}, XVII, 858, (October, 1906).
\item \textsuperscript{34} Editorial, \textit{Charities}, XIII, 293, (December 17, 1904).
\end{itemize}
nation's lowest rating in child employment, and this notwith­
standing the fact that it was the third greatest industrial
state, and Chicago the country's second city. The enroll­
ment of the Chicago public schools was more than doubled.
Within a year there was an increase of eight thousand beyond
the natural increase due to the rise in population. The
progress achieved was especially noteworthy in the stock
yards district where the enrollment in the upper grades
increased almost three hundred per cent. The educational
 provision also abolished to some extent the abominable exploi­
tation of young immigrants who were often sent into employ­
ment for the welfare of distant relatives.

Nor was the child worker the only one to benefit by the
new legislation. The glass manufacturers instead of carrying
out their threat to leave the state had expanded by erecting
two new plants within the year. The determining test of the
effectiveness of any law however is the degree to which it

36 Jane Addams, Address at the Second Annual Meeting of the
National Child Labor Committee, Annals of the American
Academy of Political and Social Science, XXVII, 69-70,
(May, 1905).
37 38 Charities, XIII, 293, (December 17, 1904).
Jane Addams, 70.
is executed. No law accomplishes anything unless heartily endorsed and enforced. To the factory inspectors fell the prodigious task of seeing that the provisions of the new law were carried out. A pitifully inadequate force and an insufficient allotment complicated matters for the efficient Chief Inspector, Edgar Davies, who earnestly tried to make the state inspections with a limited force of twenty-five. Persistent prosecutions made the law one of the most operative in the nation at the time. Within three years there was a decrease of 80% in the number of children at work.

But despite the progress achieved neither the child labor bill nor the compulsory education law was adequate or satisfactory in many of the provisions. There was no justification for assuming that the standard was high. To a great extent the laws were modeled on those of Massachusetts, excelling that state only in the eight hour provision. On the other hand Massachusetts had given street traders some legal protection while such provision was conspicuously lacking in the Illinois legislation. No guarantee of physical

39 Editorial, Charities, XIII, 293, (December 17, 1904).
fitness was a requisite for employment.41

But the vital problem was the education of the hoardes of immigrant children that had come into the state. The minimum educational standard established by Illinois was not only shockingly inadequate but was surpassed by most of the great industrial states.42 In view of the fact that Chicago and lesser manufacturing cities attracted hundreds of thousands of immigrants into the state, the problem of immigrant child labor had to be met and recognized. The immigrant class as a rule lived in isolated colonies where English was not spoken or American principles were not inbibed. The indispensable means of remedying the situation was the enforcement of the compulsory education law raising the grade standard for leaving school and making the knowledge of English a pre-requisite for legal employment. The compulsory education law, while effective enough, did not function as a curb on child employment, once the school term ended.43 The term "in English" had been dropped from the school law in the

42 Ibid., 307.
43 Ibid., 303.
early nineties to appease those working in the interests of the parochial schools, and had never been restored. The law made a knowledge of "reading and writing" a standard. There was no officer or no department to see that the provisions of issuing working papers were enforced. The fact that the greater number of children went no farther than the fifth grade was another indication that the educational policy of the state was below par. Besides, as the law stood, it did not touch the child between the ages of fourteen and sixteen—unless he were illiterate which status required attendance at night school. The conviction that the state was negligent along many lines regarding its children and that remedial measures should be enacted, would require further development of public sentiment, the necessary element that must precede every reform.

Child labor was rampantly extending as a result of increased immigration, and the extensive use of improved machinery which could be manipulated by children. Illinois could not rest contented with her present attainments if she

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44 Abbott and Breckenridge, 73.
45 Kelley, "Has Illinois the Best Laws?", 306.
were to combat successfully the ravages of illiteracy or maintain a ranking position among the states first in line in child protection.46

The first progress achieved was the revision of the mine law, occasioned through a technicality in the law of 1903 blacklisting certain hazardous employments for minors under sixteen. In this enactment Illinois was the pioneer state to work out a fairly comprehensive list of dangerous employments. By the terms of the law, no child under sixteen was to be employed in occupations dangerous to life, limb or health, or depraving to morals. This provision, Chief Factory Inspector Davies contended, applied to mines and that the mine law permitting boys of fourteen to enter the mines, was no longer effective. A test case was brought before the Appellate Court of Illinois by William Struther of Macoupen County who had employed boys under sixteen. In this instance he was complying with the mine law but the penalty was imposed under the "dangerous occupation" section of the law of 1903.47

46 Department of Commerce and Labor Bulletin No. 71. 689, (1907).
47 Editorial, Charities and the Commons, XIII, 113, (November 5, 1904).
Here were two state laws in direct conflict. Both sides agreed on the dangerous aspect of mining and in the decision handed down, Judge Puterbaugh maintained that while the legislature did not intend to include mining as a dangerous occupation, nevertheless, it was, and the new law nullified that section of the mine law making fourteen a minimum for mine workers.\textsuperscript{48} The ruling was sustained by law in 1905, raising the legal minimum to sixteen. The state mine inspectors were empowered to enforce the law.\textsuperscript{49} Of significant interest was the remarkable increase in the number of foreigners particularly Slavs and Italians that enrolled in the public schools; children that under the previous law would have been deprived of this advantage.\textsuperscript{50}

The expanding concern of the reformers over the increasing illiteracy enhanced by the large scale immigration and the growing recognition that the school was a potent factor in reducing child labor brought about a movement for more advanced age requirements for acquiring work certificates. The law passed in 1903 was amended by the legislature in

\textsuperscript{48} Ibid., 113.
\textsuperscript{49} Harvey B. Hand, Revised Statutes of Illinois, Chicago Legal News Company, Chicago, 1912, 1562.
\textsuperscript{50} John R. Commons, Trade Unionism and Labor Problems, Ginn and Co., N.Y., 1905, 345.
1907, making attendance at school for the entire period compulsory for children between the ages of seven and sixteen. But the startling provision exempting those over fourteen "if lawfully and necessarily employed" made the law a fiasco.\(^5\) Once more Illinois had failed to coordinate child labor laws with those in the related field of education. Nominally the education law made school attendance compulsory until sixteen, but as the child labor act legalized the child's entering employment at fourteen the amended law was practically non-operative.\(^2\)

Another default was the lack of provisions for enforcement. There was no way of determining whether the child who had obtained a work permit was employed, or, as was often the case, spending the time in demoralizing idleness. A contributing factor to this condition of affairs was the system of allowing the child to retain the certificate instead of returning it to the issuing board. This to some extent would act as a check on the child's whereabouts.

\(^5\) Abbott and Breckenridge, 317.
\(^2\) Ibid., 318.
Virtually as the situation in Illinois now stood, the child under sixteen because of the restrictions of the child labor law was practically banned from most employments but not compelled to go to school, literally, taken out of the factory and left on the street. It was because just such a situation materialized that the proponents, seeing the inadequacy of the laws and the absolute necessity of having age limits of factory and school laws coincide, pressed for the realization of this ideal. Furthermore, the "in English" requirement had not been added to the elastic reading and writing requisite, and the fifth grade standard still remained.

The widening control of the state was recognized in a movement to remove the issuing of work papers from local school superintendents and place the control in the hands of the state authorities. Another compelling motive in the new determination to attain higher standards was to make the immigrant class meet the terms prescribed for elementary education and maintain the child in school until it had

53 Ibid., 317.
54 Ibid., 312-13.
mastered English to a fair degree. In this respect, Illinois lagged behind other states, considering the welfare of their underprivileged children. In the last analysis the only way of assimilating the immigrant element was by inculcating the principles of government on which our democracy is founded and this could be done only through some knowledge of the English tongue. Until public sentiment awakened to the fact that every consideration of the welfare of society, good government and the advantage of the child demands an elementary education, the situation would persist. 55

The issue gained great headway in the years following. The press was for the most part reformative, and the educators brought to the public attention the grave defects of the law. But the child labor and compulsory education laws were fairly well enforced and by 1910 there was a decided falling off in the number of children employed despite the great increase in the state population. 56 On the whole, the legislation of 1907 met with popular favor, although

56 Abbott and Breckenridge, 325.
many manufacturers thought the laws were too drastic, too radical for industrial progress.

Little progress was made by the legislature in the years following 1907, other than the Civil Service Act of 1911. Under the provisions of this act, all factory inspectors were subject to the civil service examination. This placed the enforcers of child labor laws in a position where political influence would have less opportunity to interfere with the conscientious enforcement of the law.57

Another law before the same session of the legislature concerned an aspect of child labor baneful in its effects, yet seldom given any consideration, the status of the child actor. Chief Factory Inspector Davies had energetically prosecuted Chicago theatre managers under the fourteen year minimum law, but the theatrical interests contended that child acting was not work and they challenged the right of the state to bring children who were not residents of the state under the ban. The dire effect upon child labor legislation if this last point were sanctioned, was a cause of anxiety to the reformers.58 In a test case made of the issue, the Illinois

57 Charities and the Commons, 674, (January 16, 1909). Charities, XV, 393, (December 23, 1905).
Supreme Court ruled that theatrical performers were classified as workers and therefore child actors were bound by the child labor legislation of the state. To offset this the powerful Chicago theatrical interests sponsored a bill, modeled on the so-called "permit systems" whereby circuit judges could be empowered to issue permits to perform on the stage to children of any age. The fracas that ensued attracted nation wide attention. The Illinois Federation of Women's Clubs of Illinois, Mothers' Congress of Illinois, Illinois Federation of Labor, Illinois Child Labor Association, and National Child Labor Association were among the organizations that opposed such legislation. The theatrical interests were strongly represented also, prominent Broadway actors and playwrights testifying to the worth of the proposed bill. An interesting note, contrary to the tone of the theatrical world, was Blanche Bates' denouncement in the Dramatic Mirror that "a child was more apt to be completely and irrevocably

ruined by the artificiality of the stage than to be elevated
and ennobled." The contest was heated and the opposition on
both sides portentous but the legislature's action in respect­
ing the measure made it clear that Illinois was still iden­
tified with progressive and liberal opinion.

Further indication of this vigorous progressive senti­
ment of people that were well acquainted with economic prob­
lems was the advance made by the state in the matter of bet­
ter health safeguards. A movement sponsored by the American
Association of Labor Legislation for combating occupational
diseases met with enthusiastic response in the state and
within a year, Illinois had the best hygienic working condi­
tions of any state in the nation. This was a decided
measure of protection for the young worker for although
Illinois had prohibited employment of those under sixteen in
a large number of industries, there were many occupations in
which unsanitary conditions were taking their toll on the
health of the child. The "Dangerous Trades" law was chal­

61 Outlook, CIV, 356, (August 2, 1913).
62 Halford Erickson, "Child Labor and the Methods of Enforce­
ment in the North Central States," Annals of the American
Academy of Political and Social Science, XXV, 469, (March, 1905).
lenged as to its constitutionality and appealed to the United States Supreme Court. In 1913 the decision handed down in the Sturges and Burn Manufacturing Company v. Beauchamp case the court upheld the Illinois law. The general feeling now was the legality of child labor legislation had been definitely established. 63

One related feature of this specific field of child protection that had as yet received practically no consideration was that of compensation for the child injured while employed. It was commonly accepted in law that if a child below legal age were injured and suit were sought the employer was held liable for the injury. 64 This penalizing of the employer of an illegally employed minor was made a provision of several workmen's compensation acts in 1913 which specifically excluded such children from compensation. This meant judicial action for damages and as juries in such cases are generally lenient, the prospect of a heavy fine, in many cases acted as a deterrent to employing children illegally. 65

But despite this enlightened view of the working child

63 Children's Bureau Publication No. 10, 21.
64 Ibid., 16.
65 Ibid., 17.
no regulatory provisions had been made for those children engaged in agriculture or in street trades. Illinois emerging from its status as an agricultural state, might well have been expected to give some recognition to the child engaged in farm work, but the idea of associating child labor almost exclusively to industrial employment still persisted. So far as the home farm was concerned, reformers were of the opinion that the farmer would resist interference as an infringement on his domestic rights. Reform would have to come through education of the parents on the detrimental effects of farm work on the child employed too long or at work beyond its strength.

In commercialized agriculture extensive studies had been made by the Children's Bureau and other organizations which indicated that measures should and could be taken to enforce regulation. Farm work on the vast truck farms near Chicago had none of the idyllic qualities often associated with rural life. Here truck farming was carried on so extensively that in 1919, the Cook County was outranked only by the

66 Fuller, The Meaning of Child Labor, 70.
Imperial Valley and Los Angeles in the value of produce. Children were employed on a large scale, the larger portion of whom were not merely fourteen but not yet twelve years of age. They worked long hours, often under great pressure during seasonal rushes and for pitifully small wages, ranging from eighty cents to a little more than a dollar a day. As the autumn is the busiest harvest season, many of the workers did not attend school. This affected their educational development, statistics showed, by a marked retarding of pupils in the rural area. This was as high as 21.2% in the country schools, but Chicago was not affected. This was an indication of the effective compulsory attendance enforcement in the Chicago School System.

No efforts were made to redress this wholesale exploitation of the young, but several attempts were made to effect some regulation of the street trades which flourished in Chicago. The newsboy was made the object of a special study in 1903 by the Chicago Settlement Federation. In the "Loop" area alone, twelve percent of the boys were under ten years of age.

68 Ibid., 47.
69 Ibid., 24.
of age. A vigorous campaign to awaken the public to the 
rigors of the life of a child exposed to the dangers of the 
street day and night met with indifference on the part of the 
people and the strenuous opposition of the newspapers.

In 1913 the Chicago Vice Commission urged an amendment 
to the state child labor laws excluding minors under twenty-
one from night messenger service, but this movement met a 
fate similar to the newsboys. This failure to bring these 
unprotected child workers under some statutory protection 
makes a travesty of child labor legislation. To this day, 
Illinois has no specific street trades law.

The old question of raising the age limit for the employ-
ment of children from fourteen to sixteen came before the 
legislature in 1915 in the Shurtleff Bill. Besides this pro-
vision, it asked that the eight hour day be extended to girls 
under eighteen, that night messengers be barred from the 

70 Mary McDowell, "Report to the National Child Labor 
Committee, Sixth Annual Conference," Annals of the 
American Academy of Political and Social Science, XXV, 
229, (March, 1910).
71 Mary McDowell, "Report to the National Child Labor Com-
mittee, Fifth Annual Conference," Annals of the Ameri-
can Academy of Political and Social Science, XXXIII, 
238, (1909).
72 Good Housekeeping, LVII, 510, (October, 1913).
streets until twenty-one, and the provision so glaringly absent in Illinois regulations—mandatory physical examination as an essential for employment certificate—was added. The bill met with the usual opposition, but the testimony for the measure was much more striking than that against it. While the merchants deplored the ruination the proposed bill would wreak upon business, and the demoralizing of youth that would be another consequence, some manufacturers urged the passage of the law as the best interests of business demanded the child be kept in school until sixteen. Mothers appeared at the hearing of the bill to plead that the child be kept in school until sixteen.74 This demand for more extensive educational opportunities coming from some of those that formerly were most antagonistic toward such ideals gave evidence of a marked advance in public thinking. Yet the bill did not become a law.75 The wage earning minor would have to await further development of public sentiment before he would be compelled to acquire a higher standard of education or be safeguarded by a physical test prior to entering industry.

74 The Survey, XXXIV, 129, (May 1, 1915).
75 Ibid., 130.
By 1917 there was a slight advance in this direction. An entirely new law was passed with certificate of physical fitness and evidence of age requirements conforming to the Federal standard. The night work prohibition was advanced one hour, making 6:00 P.M. to 7:00 A.M. the period during which minors under sixteen could not be employed, the minimum age of sixteen was extended to cover boys employed in quarries. Formerly only mines came under this age limit. Perhaps the most worthwhile feature of the entire enactment was the mandatory requirement that the Working Certificate be returned to the issuing office upon the termination of employment. Promise of an employment before obtaining a certificate was also a decided advance. 76

A long delayed advance passed in 1915 was the vital statistics act which made the registration of births compulsory. 77 The demands of education, citizenship, property inheritance, public health as well as documentary proof of age, the greatest defense against perjury of parents, made this step one of manifold importance to the general welfare of the child. 78

76 Loughram, 26.
77 The Survey, XXIV, 341, (July 10, 1915).
The progress achieved in little more than a decade was retarded by the abnormal industrial conditions created by the outbreak of World War I. The increased demands for labor, the attractive wages and the cessation of immigration were all contributing causes of the great number of children under sixteen that left school for industry. The demoralizing effect of such conditions, the serious danger of overwork and the detrimental effects on education were all problems that arose but not much was accomplished in remedying the situation as contributing to the war effort was put above such considerations. With the close of the war came the inevitable slump in the labor market and child labor conditions reverted to their former pre war status.

Twenty years saw a significant evolution both in the attitude of the state and in the viewpoint of the public. Among the most striking features was the expanding concern of the state for the child, apparent in the increased number of measures passed for its welfare. The public had recognized that a highly industrialized state like Illinois with a large immigrant problem had need of using drastic means to

79 Abbott and Breckenridge, 345.
curb illiteracy, prevent physical and moral deterioration of the generation and insist that the child acquire an education that would prepare him for intelligent and useful citizenship. These safeguards as we have seen were provided in varying degrees of efficiency and under more or less duress at times but Illinois had laws that were among the most advanced restrictions in the nation. However, when compared with the standard set by the Children's Bureau in 1919 as the authoritative norm for child labor legislation Illinois fell short. The ideal minimum of sixteen years and the eight grade standard were the two goals not yet achieved. In the matter of hour regulation, night employment, and dangerous occupations, marked outstanding progress had been made. Child labor was on the decrease because under the restrictions, it had in most cases ceased to be profitable. Children that are restricted to certain work between fourteen and sixteen, who cannot work at night nor more than eight hours are not easily exploited and unless they can, their labor is not in great demand. 80

80 Ibid., 324-5.
The compulsory education requirements were in dire need of improvement; fourteen was still the age requirement for compulsory attendance. The minimum age still remained what it had been at the beginning of the century; street trades, domestic service, and agriculture still remained unprotected. Much credit is due the zealous reformers who carried the issue to the people; to the public itself who awakened to the peril and coerced their lawmakers in Springfield into action and to the increasing liberality of the courts which began to hand down decisions favorable to the child worker. Much had been accomplished, much remained to be done.
CHAPTER VI

PENNSYLVANIA

The second greatest industrial state in the nation was late in gaining legal concessions for the protection of its young workers. No state perhaps has been more highly criticized, and not without cause, for its procrastination in dealing with the problem and for the wide extent of child labor in some of its most vicious forms.¹

Some degree of protection was legalized by 1900 but the laws were meagre and far from ideal. Thirteen was the minimum age limit. Children of that age were legally employed for twelve hours a day. Ability to read and write were the educational requisites. Illiterates were barred from employment until they were sixteen. To some extent the existence of dangerous trades had been recognized and minors were excluded from a number of hazardous employments.²

² Mary Rice Morrow, Child Worker in Pennsylvania, Department of Commerce and Industry, Harrisburg, 1940, Appendix.
This insufficient legal protection was one factor in creating a wholesale exploitation of children, but there were other contributing circumstances that made the number of children employed in the state equal to the sum total of child workers in Illinois, New York, and Massachusetts. All the industries that create a great demand for child labor were here - needle trades, steel and iron mills, coal mines, glass works and textile factories. The legislature dominated by the big interests, particularly the glass industry, blocked every endeavor to eliminate the employment of children. But the most potent force in securing reformatory measures, an enlightened public opinion demanding remedial legislation, was lacking.

The utter uselessness of the laws, the alarming increase in the number of working children and the recognition of the advanced legislation of other industrial states occasioned an awakening. Forces were aroused to take action against further victimizing of the young. The reforms to be pressed and the

5 Kellogg Durand, "Child Labor in Pennsylvania," Outlook, LXXIV, 124, (May 9, 1903).
odds encountered were manifold. Not only was there a dis-proportionately large number of children in industry but in the matter of literacy of children between the ages of ten and fourteen, the census of 1900 placed the commonwealth at the foot of the listing of leading industrial states. 6 Thousands of girls in the thirteen to sixteen age bracket were employed at night in textile factories. 7 Night work, an alleged essential feature of glassmaking, was one of the most blighting menaces to be reckoned with. The opposition of the glass manufacturers to restriction was more stubborn and more effective here than in any other state. 8 This was due to a great extent to the tremendous influence wielded by the manufacturers over the legislature. For years they were unremitting in their efforts to retain night work for minors. 9 For years they exerted undue influence in controlling legislation and indirectly negated the statutes already enacted by influencing the choice of the chief factory inspector. 10

7 Durand, 125.
9 U. S. Bureau of Labor Bulletin No. 175, 130.
10 Durand, 125.
Facing these tremendous odds the reformers strove vigorously for legislative action. The State Federation of Women's Clubs and the Consumers' League were among the prominent forces pushing the reform.11 Realizing the futility of pressing for legislative reform before the public conscience was aroused, they introduced a bill in the legislative session of 1903 for the purpose of publicizing the plight of the child worker. The bill called for a ten hour day and fifty-five hour week for boys under sixteen and girls under eighteen years of age. Night work was prohibited between 9 P.M. and 6 A.M. Fourteen was set as the minimum age.12 Public sympathy was further indicated by the support given the movement by the United Mine Workers of America.13 The glass manufacturers denounced the night work provision, ridiculed the section providing for a minimum education standard of the ability to read and write, and lest their erstwhile indisputable invulnerability against reform be threatened they sent a powerful delegation to Harrisburg to protect their interests.

11 Editorial, Outlook, LXXIII, 602, (March 14, 1903).
13 Durand, 124.
The bill received scant courtesy at the hands of the legislature.\textsuperscript{14} It never got beyond the senate committee, but one gratifying result was the unification of the forces that were determined to press the issue by seeking the enactment of prohibitive legislation in the next session of the legislature two years hence.\textsuperscript{15} There was however some compensation for the young miner under sixteen as legislation prohibiting employment under that age was enacted at this session.\textsuperscript{16} This progressive step is accounted for to a great extent as the result of an investigation committee sent by President Roosevelt into the anthracite coal fields during the coal strike of 1902. The hearing of this committee revealed an inveterate abuse of child labor and an almost total disregard for the labor regulations in force in the state. This wholesale violation of the law was greatly enhanced by the perjury on the part of the parent.\textsuperscript{17} In this section of the state

\begin{itemize}
  \item \textsuperscript{14} Kelley, "A Boy Destroying Trade,\textquotedblright. Barnard, 125.
  \item \textsuperscript{15} From the "Report of the Pennsylvania Child Labor Committee," \textit{Annals of the American Academy of Political and Social Science}, XXI, 107, (March, 1903).
  \item \textsuperscript{16} Owen Lovejoy, "Child Labor in the Coal Mines," \textit{Annals of the American Academy of Political and Social Science}, XXVII, 293, (1906).
\end{itemize}
there had developed among the working class a deepseated dis­
trust of the efficiency of education as a preparation for
earning a livlihood. A natural consequence was an unusually
large number of children employed at an illegal age.18

This token legislation was scarcely on the statute books
when it was challenged. While pending in the Superior Court
of Pennsylvania, the Chief Inspector of Mines publicly rec­
ommended a revision of the law, making it legal to employ
boys of thirteen on the breakers, and that fourteen years be
the legal age for underground work. This masked plea for
the operators was in the guise of aid to destitute people for
whom the new law was supposedly working hardship.19 In the
case of Beatty Vs. Commonwealth, Judge Schaefer held the
"Mine Boys' Law" unconstitutional on groundless technical­
ities. The case was appealed to the Supreme Court of Pennsyl­
vania which sustained the decision of the lower court. Once
again children at thirteen could be employed as many as twelve

18 United States Labor Bulletin 175, 32.
19 "Boys in Coal Mines," Editorial, Charities, XIII, 113,
(November 5, 1904).
hours a day, five days a week or at night for ten hours six times a week. 20

The forces lined up to formulate legislation to be introduced at the next meeting of the legislature felt the way paved for reform in the signs of the awakening public conscience. Their numbers were greatly augmented by formation of the Pennsylvania Child Labor Association in 1904. 21 Governor Pennybacker removed the chief factory inspector, a tool of the Glass Workers' Union. This powerful force joined with the glass manufacturers in thwarting every effort toward child labor reform. The new appointee, Captain J. C. Delaney was more amenable to the ideals of the new reform movement. 22 Meanwhile, the National Child Labor Committee had been organized in New York City and offered its services in helping solve the intricate problem confronting the Pennsylvanians.

The first field investigation launched by the new organization was conducted in the anthracite coal district. The federal commission's findings of the 1902 investigation led

21 Barnard, 91.
22 Ibid., 92.
the National Child Labor Commission to believe that conditions existed in this region, that if propagandized would bring the evils of premature child labor before the nation, and once known, would arouse public opinion to demand legislative action. The commission undertaken during the summer and fall of 1904, investigated the effects of premature labor on the health, morals and intellect of the child. Child labor existed everywhere. The average age for leaving school for work was eleven years, generally about the third grade level. Children of thirteen could work twelve hours a day and there was no prohibition at all for street trades. The average weekly wage was $3.70. Besides, child labor was replacing adult labor.

On the basis of information gathered, it was seen that any effective child labor legislation would have to be bolstered by an equally effective compulsory education law. The most expert advice was sought in drafting the bill in order to effect a measure that would include the essential standards and stand up under any test of its constitutionality.

24 Barnard, 97.
As drawn up, the bill specified that the age of the child applying for a work permit was to be established by documentary proof rather than by affidavits; night work was prohibited for all under sixteen from 9 P.M. to 6 A.M.; minimum age was thirteen, and a twelve hour day was legalized.25 These last two provisions appeared as a retrogression from the goal set in the proposed legislation of 1903 which asked for a ten hour day and a fourteen year minimum. The Pennsylvania Child Labor Association was severely criticized for these low standards, but realizing the possibilities of defeat in the face of enormous opposition arraigned against any child labor legislation, they postponed more ideal measures until a more propitious time. It was deemed the wiser course to make certain of a moderate advance than to advocate greater restrictions and thus engender even more entrenched opposition.26

Another active proponent was the Trades Union Legislative Committee of Pennsylvania made up of textile workers who were active in the legislative action of 1905. They advocated a fifty-five hour week and fourteen as the legal age for entering employment. A third bill sponsored by the

25 Ibid., 97.
26 Editorial, Charities, XIII, 462, (February 11, 1905).
chief factory inspector called for a sixty hour week, prohibition of night work for minors under sixteen and a minimum age of fourteen years. 27 This proponderance of bills complicated the situation. Opposition to certain features, especially by the chief factory inspector, necessitated a compromise with his forces, but finally, after a long drawn out contest, two bills dealing with the employment of children were passed. One law regarded the work of children in mines and the other, the factory law covering all other occupations except agricultural and domestic work. 28 The factory law did not accomplish all the Pennsylvania Child Labor Association desired, but it was an improvement over the preceding laws in effect. 29 The minimum age was advanced to fourteen, night work for minors under sixteen was forbidden. The employment certificate was to be issued by school authorities or factory inspector upon adequate proof of age. 30

The mine act forbade the employment underground of

29 Platt, 127.
30 Ensign, 186.
minors under sixteen and in the coalbreakers, fourteen was the minimum age. The chief of the department of mines or any citizen could bring suit in the court of Common Pleas and the employer fined $1.00 for each day the child under age was employed.\textsuperscript{31} This legislation was not secured without the well organized efforts of the Pennsylvania Child Labor Association and the very active support of the textile unions.\textsuperscript{32} Backing all their efforts was the National Child Labor Committee.\textsuperscript{33}

But Pennsylvania was far from being in line with the other industrial states of New York, Illinois and Massachusetts. The twelve hour day was still legal and the night work clause was a farce. The Pennsylvania Child Labor Association succeeded in forcing that through the legislature only by compromising that an exemption be extended to such manufacturing as necessitated night and day employment.\textsuperscript{34}

Thus the glass manufacturers had won a signal victory. The enforcing department, the factory inspectors, did not approve of the employment certificate being in the hands of school

\textsuperscript{31} Bulletin of the U.S. Bureau of Labor, XV, 784, (1907).
\textsuperscript{33} Barnard, 104.
\textsuperscript{34} Commons, 421.
authorities so enforcement became a dead letter. However, final disposition of the whole legislation was the successful revoking of the most essential provisions of both laws. The mine law was declared unconstitutional almost as soon as it went into effect. The lower court based its decision on the grounds that the law placed duties on school officers compensated by the state for other services. The case was appealed to the Supreme Court of the state which denied its constitutionality on some of the technicalities relating to its administration. Children furnishing documentary proof of age were not held to the same educational requirements as a child lacking such proof, thus discriminating against children of equal age, and by presumption, of equal qualifications.

The factory act met with a similar fate. The Supreme Court of Pennsylvania, on March 12, 1906, held that the educational provisions requiring an ability to read and write simple English sentences was in direct contravention of the

35 Ensign, 187.
36 Senate Document No. 645, 208.
fourteenth amendment which guarantees that one may not be deprived of life, liberty or property without due process of law.38 These decisions struck at the most vital feature of any child labor legislation, the educational provisions, which the reformers had fought so hard to secure as the first requisite for the child's proper development.39 The provisions of the law that remained were a travesty. Confusion ensued and in the confusion the interests of the child suffered. With no effective statutory protection, children were permitted to work. Five months after the law went into effect the federal government made an investigation into conditions existing in the state. As the law stood, the affidavit of parent or guardian was sufficient proof of age.40 The night law was practically inoperative; large numbers of the children left school under fourteen before completing fifth grade, and children constituted 18.7% of all persons employed.41

To relieve this intolerable condition the proponents

39 Ensign, 187.
40 Ibid., 188.
began again to frame legislation. Chief Delaney demanded a "Practical law" rather than the rash legislation" of the reform element. The salient features of the new legislation sponsored by the child legislation association were a minimum age of fourteen, prohibition of night work under sixteen and employment certificates for all minors under sixteen to be obtained from school authorities on documentary evidence only. Great care was taken in drafting the law in order to avoid the technicalities on which the previous legislation had been declared unconstitutional but to no purpose as the measure was not reported out of committee. Another bill endorsed by the chief factory and the glass manufacturers inspector removed the issuing of the employment certificate from the school authorities, permitted children to work at twelve if wages were deemed a necessity, and night employment was legalized for minors of fourteen years of age. The Pennsylvania Child Labor Association made the extensive development of the glass industry in Illinois since the law

42 Ensign, 187.
of 1903 prohibited night work, one basis for their plea, but the manufacturers were able to convince the legislature that the employment of child labor was beneficial to the poor, an asset to national wealth and the life line of industry. Consequently the legislature adjourned without passing any child labor legislation.45

Despite the fact that three laws had been discredited within four years and the recent attempt to restore these laws in constitutional form had failed, the child labor committee began plans for a measure to be brought up in the legislative session of 1909.46 Child labor grew by leaps and bounds. Because children as young as eight years in some cases could be employed, industrial migrations to Pennsylvania increased the state's already enormous number of child laborers.47 Conditions were such that all the various interests backed the measure sponsored by the Pennsylvania Child Labor Association. The National Child Labor Association,

45 Editorial, Charities, XVIII, 243, (June, 1907).
The Consumers' League, State Federation of Women's Clubs, Federal Labor and even the Department of Factory Inspection gave their united support to the bill.\textsuperscript{48} The essential features of the new law were a ten hour day, fifty-eight hour week for girls under eighteen and boys under sixteen;\textsuperscript{49} employment certificates were required for children under sixteen to be issued by the school authorities upon documentary proof of age, or if that be impossible, an affidavit of age; ability to read and write intelligently; two lists of occupations regarded as hazardous, one from which minors under eighteen were banned; another less hazardous from which minors under sixteen were excluded; Night work was illegal between 9 P.M. and 6 A.M. for girls under eighteen and boys under sixteen except in manufacturing processes requiring continuous operation where boys over fourteen could work.

It was a distinct advance for the safeguarding of young workers but still contained many loop-holes that the antagonists would use to their advantage. The school and labor

\textsuperscript{48} Ensign. 188.
\textsuperscript{49} Morrow, \textit{Child Workers in Pennsylvania}, Appendix.
interests were brought into harmony by this new legislation and it was anticipated that enforcement of compulsory attendance at school would be far less difficult. Great illiteracy was found among the hundreds of children that were sent back to school because of their inability to comply with the requirements of the law. The compulsory attendance laws administered through local authority soon proved very ineffectual. The courts were lax in their dealings with both school and labor laws and soon conditions reverted to their former state.

The fall of 1910 saw the launching of another campaign for a sixteen year minimum in mines, prohibition of night messenger work under twenty-one and the repeal of the "glass exemption" clause. Vigorous opposition was waged against this last provision by the glass industry that had defeated the same proposal in 1905, 1907, and 1909. The Western Union and Postal Telegraph were arrayed against the night messenger measure. With these powerful forces lined

50 Ensign, 189.
51 Ibid., 190.
up to defeat the issue, the efforts of the advocates of reform again failed. The state was enthralled by a political machine controlled by the powerful foes of legislative reforms that would curtail the supply of cheap labor.

But there were unmistakable signs before the next legislature met that the people were aroused in some degree to the backward position of the state in its protection afforded its child workers. Truly significant of this awakened attitude was the pressure put on the governor to dismiss Chief Delaney, the delinquent factory inspector, the tool of the glass manufacturers, and for years the target of criticism by organized labor and reform organizations. No action had been taken by an administration unheedful of the will of the constituents, but the report of a searching investigation of the Pennsylvania Child Labor Association in 1912 exposed so grave a dereliction of duty on the part of the chief factory inspector that the governor was forced to ask for his resignation.53

The next move was to unite all forces in a determined fight to gain the measures so long sought and which had met with such stubborn and intrenched opposition year after year. The era of reform was at high tide in the nation at this time and prospects for reform seemed favorable. The Child Labor Association of the state working with the National Child Labor Committee drafted a bill based on the Uniform Child Labor Law, but adopted to the peculiar labor conditions of the state. A minimum age of fourteen, eight hours employment, no night work or dangerous occupation for those under sixteen, no minor engaged in night messenger service, twelve year limit for newsboys and compulsory medical examination, documentary proof of age and the equivalent of fifth grade educational rating were the standards embodied in the bill.\textsuperscript{54}

The child labor organizations were backed by the Republican State Committee and the State Federation of Labor. The campaign was waged in the face of the greatest out-and-out opposition yet encountered. The glass industry, telegraph

companies and the textile interests exerted most powerful pressure. At the public hearing of the measure, two thousand manufacturers went to Harrisburg to block the enactment of this model bill. Simultaneously the Federation of Labor came in a body to press the working child's claims.

To view the situation clearly it is necessary to have some knowledge of the make-up of the two houses of the legislature at this time. While the house was made up for the most part of Progressives and Democrats of liberal mold, the Senate was reactionary in the extreme. The bill reported out of committee was so mutilated that the sponsors doubted the advisability of sanctioning a law legalizing a ten-hour day—fifty-four hour week and so riddled with exemptions favoring canneries and glass works. The house refused to pass the modified bill and once again Pennsylvania had failed her helpless child labor victims.

The same legislature that defeated this measure inaugurated legislation providing state aid up to two-thirds of the sum spent by any district erecting industrial school or

departments. Within a year one fourth of the state took advantage of this offer. Three types, day, evening, and continuation schools were supported. 59

By 1915 Pennsylvania was the only great northern industrial state that had not taken definite action to afford adequate protection for the child worker. Apparently beaten by their relentless foes, the advocates however did not desist from their purpose but just as resolutely carried their battle to the next legislature. By 1915 prospects seemed better than at any time. Among the newly elected legislators there was an appreciable number in favor of improved child labor legislation, wide-spread propaganda had been given to the proposed new laws and the crowning achievement was the support given the new program by the new executive, Governor Martin Brumbaugh.60 This distinguished and progressive educator had Representative Cox of Philadelphia introduce a bill providing an eight-hour day and forty-eight hour week for children between the ages of fourteen and fifteen, with at least one full working day a week in a school

59 Ensign, 191.
approved by the superintendent of public instruction. Those between fifteen and sixteen could work nine hours and attend school for one-half day a week. Street trades were strictly regulated by prohibiting girls under eighteen and boys under fourteen from engaging in these occupations.61

The bill drafted by the child labor association advocated an eight hour day, no night work under sixteen, and no minor engaged in night messenger work; eighteen was the minimum for girls engaged in street trades; a sixth grade standard was required for an employment certificate which was to be obtained only on documentary proof of age and after proof of physical fitness.62

To compete with this legislation the Becker Bill, the weapon of the manufacturers, demanded a ten hour day for children over fourteen. The industrialists' recurrent outbursts of the "destruction of industry" and threat to dismiss all children under sixteen if the eight hour provision were enacted, was met with the governor's approval as he advocated

education for all children under sixteen. 63

A compromise was effected, and the new law that resulted after a near revolution in the senate, was the most striking gain yet achieved. 64 In almost every respect it conformed with the ideal child labor law and placed Pennsylvania well in the front ranks of the states endorsing child labor reforms. The most important provisions were: fourteen the minimum age of employment except for street trades where boys of twelve may be employed; the equivalent of a sixth grade education, also those under sixteen compelled to attend continuation school; nine hour day and fifty-one hour week was established; minors under sixteen forbidden to work between 8 P.M. and 6 A.M.; dangerous occupations prohibited to minors under eighteen; employment certificates for all under sixteen years of age. 65

The new law was not to be effective until January 1916, in order to give child employing industries time to readjust themselves. There was considerable opposition at first in industrial centers but that subsided after the attorney general's ruling that the law was not retroactive and minors holding work permits prior to January 1, 1916 did not come

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63 Furman, 646.
65 Morrow, Appendix.
under the new ruling. The cooperation of both school and labor forces to secure for the child the opportunity of obtaining supplementary education while employed necessitated the establishing of over three hundred fifty-one continuation schools the first year the law was in operation. \(^66\) On the whole the law met with little opposition once its merit was apparent. There was rather, a new feeling of pride in the realization that Pennsylvania now ranked among the more progressive states in respect to protection afforded its working children. \(^67\) The credit was due in most part to the unmitigated zeal of the civic organizations who more than any other group sought reform measures year after year despite the opposition of powerful interests, hostility of factory inspectors, rejection of their measures by hostile legislatures or the annulling of the laws by the courts. Yet notwithstanding these delays and obstructions deliberately placed by the industrial leaders to delay progress, Pennsylvania by the end of the second decade of the new century had on her statutes child labor legislation that required only honest, fearless

\(^{66}\) Ensign, 196.
\(^{67}\) Ibid., 195.
administration to make her a leader among the industrial states of the North.
CHAPTER VII

OHIO

Ohio entered the twentieth century with standards that were among the highest in the United States. A ten hour law passed in 1898 carried a penalty for violation. These fines were set aside for the furtherance of public school education.¹ The feature that placed child protection in this state on a high level was the unusually high minimum age requirement of fifteen years.²

It was the period when Mark Hanna's power was at its zenith—an era of great industrialization and its natural concomitant child labor expansion.³ Despite these conditions the literacy rating of children in the child labor grouping surpassed that of all the other great industrial states of the nation. This high rating was in no small part the result of the state's active campaign against ignorance

² Loughram, 66.
of the masses which was being primarily conducted through the medium of the public schools. The support of these schools was maintained through the only direct tax levied in the state.

In this period of rapid industrialization the fifteen year standard was soon considered too high. The child labor and the compulsory education laws were in conflict. Under the law the child was legally released from school at fourteen but could not enter industry until fifteen years of age. This discrepancy of one year frequently engendered dissolute habits, encouraged truancy and often was a source of juvenile delinquency. The child factory inspector advocated that both laws complement one another by lowering the minimum age for entering industry to fourteen years. This reactionary step was taken in 1902, apparently on the recommendation of the factory inspection department. Other legislation enacted in 1908 was of a more progressive nature. Night work for boys under sixteen and girls under eighteen years of age was

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forbidden between 7 P.M. and 6 A.M. The compulsory education law was amended making twenty-four weeks the minimum requisite for each school term, and those under sixteen not employed, were to be in attendance for the whole term. The night work clause of the new legislation met with no marked success as it was practically a dead-letter from the beginning. A movement however to abolish this advanced law failed.

A catastrophic public school fire in which one hundred sixty school children lost their lives moved the General Assembly to take some action on child safety reforms. A bill supported by organized labor and the state and federal child labor committees called for a fourteen year minimum, exclusion from dangerous employment under sixteen and an eightour day for girls under eighteen and boys that had not reached sixteen. The last provision was fiercely contested by the textile manufacturers. They sent vast delegations to the hearings on the bill conducted in the Senate and the House. Lined up

6 Loughram. 66.
8 "Ohio's Child Labor Bill," Charities and the Commons, XIX, 1721, (March 14, 1908).
9 Ibid., 1721.
against them were representatives of the child labor committees, women's clubs and the factory inspectors. "Paternalism", "unAmerican" the industrialists termed this restriction of hours and in their usual shortsighted way contended that there was no such thing as child labor in Ohio, stressed the consequent suffering of the poor and disastrous results to industry were such curtailment of hours made legal.\(^\text{10}\) Their efforts failed to stem the wave of general approval for the pending legislation and by March, 1908 the law was passed. In the matter of years to which the eight hour provision was extended the law had no equal in any state enactment in the country.\(^\text{11}\)

Because "harm the poor" was the hue and cry of the opposition when the law was under consideration, the legislature took steps to alleviate any suffering engendered by this advanced legislation. They worked on the theory that since the state had been instrumental in reducing the earning power of the child it was incumbent upon the commonwealth, not

\(^{10}\) Ibid., 1722.

private charity, as was the case in Illinois and New York, to supplement the family income from community funds.\textsuperscript{12} The boards of education on recommendation of the truant officers provided books, shoes and whatever was necessary for keeping the child in school. This practical method of making the compulsory education laws and child labor measures function harmoniously was an indication that the state was taking cognizance of the fact that the whole problem of child labor had to be considered as one distinct entity. Keeping children from industry was but one phase of the question. Complete success depended in a great degree to supplementary legislation that kept the child in school until he had acquired at least a rudimentary education.\textsuperscript{13}

To insure better enforcement of all child labor laws the Department of Inspection was increased to thirty-four inspectors, eight of whom were to be chosen from the electors of the state.\textsuperscript{14} A further improvement was the vesting of truant

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\item\textsuperscript{12} Report of the Ohio Child Labor Committee, \textit{Annals of the American Academy of Political and Social Science}, XXXIII, 190, (March, 1909).
\item\textsuperscript{14} "Ohio Child Labor Bill," 1722.
\end{enumerate}
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officers with police powers, enabling them to enter any establishment employing children. Parents or employer or both could be prosecuted. These inspectors greatly forwarded the movement for control not only by their effective enforcement of the law but by their constantly keeping before the public the need for future restrictions. Ohio was one of the most advanced states in the matter of legislation and enforcement of child labor laws at this time.

The eight hour measure was not welcomed by the manufacturers who had so strenuously fought it and an attempt to have it and the night work law declared unconstitutional was defeated. The decision of the United States Supreme Court in the "Oregon Case" granting a state the authority to limit working hours, had a direct bearing on the case. A more liberal viewpoint on the restriction of hours was becoming more prevalent throughout the country. Within a short time.


time the problem was solved by having the laborers work in shifts. Manufacturing thrived, outstripping those states that had no restrictions.18

There was a growing tendency to grant discretionary powers to the inspectors. One of the greatest benefits to the child labor cause as a result of this advanced viewpoint was the removal from industry of children who were legally of age but who were not physically able to perform the tasks allotted to them. The new legislation left to the inspectors the right to determine what work was dangerous to minors. The next advance was a definite list of employments rated as dangerous to life, limb or morals of those under sixteen.19 By 1915 Ohio had two comprehensive lists of such industries one restricting children under sixteen and another affecting minors under eighteen.20

Industrial training as a child saving measure began to be considered about 1909. That year an elementary industrial school was established in Cleveland. It was not merely a

19 Erickson, 467.
20 Children's Bureau Publication No. 10, 29.
trade school, although industrial training predominated; academic subjects were included also. Children likely to leave school at an early age and who had not been stranded more than two years in sixth grade were eligible. Continuation schools came in about 1910. They were not made compulsory however and were more educational than vocational. The same year the educational requirement for a working certificate was raised to fifth grade standard and employment certificates were required of all between the ages of fourteen and sixteen. Those not employed were to attend school. These requirements accelerated the industrial school movement.

Further proof of Ohio's keen interest in the education of its children was evidenced in the compulsory education law of 1912 which increased the age limit to sixteen years for girls and fifteen for boys. A sixth grade standard was the minimum. The cooperation of educators, truant officers and the strict ruling of enforcement made this an exceptionally effective measure and many children were in school who

22 Loughram, 66.
would not be otherwise. Penalties were stringent. Parents, employers and even teachers could be penalized.

Adequate evidence of age for the acquiring of an employment certificate and the requirement that the employer return the certificate to the issuing office at the termination of the child's employment were further checks on the child worker enacted at this time.

Reforms were being pushed in other phases of the problem also. Prohibition of night work for messenger boys under eighteen set a criterion in this particular field.

Another indication of progress was the appointing by the state of a Children's Code Commission for the purpose of recoding the state laws pertaining to child labor. The commission recommended the repeal of the archaic, contradictory and unenforceable statutes and suggested new legislation that would keep the state abreast of public opinion in all fields of child welfare. After many modifications the commission's

23 Children's Bureau Publication No. 10, 918.
25 Loughram, 66.
report was adopted. This gave Ohio one complete coordinated system by which the child labor and school attendance laws worked in harmony.26

Evidence of increased interest in raising the minimum educational requirements for those entering industry at an early age is evident in the legislation of 1913. The basic age minimum for employment in factories or mercantile establishments was fifteen for boys and sixteen for girls. The educational requirements were almost revolutionary—a sixth grade minimum for boys and a seventh grade standard for girls.27

Despite this progressive legislation there were no laws passed that contained provisions for the child engaged in street trades. Children unrestricted by any legal regulations sold papers and other articles common to this type of work in every city and town in the state. In absence of a state law some municipalities began to pass ordinances as a means of bringing about some measure of control. Especially was this true of the larger cities where children were sometimes on the streets as late as midnight.28

One great hindrance to effective legislation in this particular field of child labor was the attitude of the public toward the street worker. It was generally assumed that as most of the work was done outside of school hours no great harm could result. To educate the public opinion to the hazardous nature of the work, physical, mental and moral dangers encountered, was no small task. 29

Six Ohio cities, Cleveland, East Cleveland, Cincinnati, Toledo, Dayton and Columbus had municipal ordinances. The first street trades ordinance was passed in Cincinnati in 1909. Under it boys under ten years of age and girls under sixteen were prohibited from trading and night work between 8 P.M. and 6 A.M. was forbidden. 30 However the law proved an ineffectual weapon for combating the evil. No proof of age was required for a permit and the administration of the law was in the hands of the mayor instead of being under the direction of the school board. In 1919 the Trownstine Foundation made an intensive study of the newsboy situation which revealed startling retardation in school, delinquency truancy and physical deterioration. 31

29 Ibid., 81.
31 Ibid., 125.
In Columbus the movement for better protection was blocked by the city council which did not want to arouse the antagonism of the newspaper interests.

Cleveland had laws on her statute books since 1910 restricting boys under ten years of age and girls not yet eighteen, but these ordinances were not much more than dead letters. Newton D. Baker agitated for better laws when he became Mayor of Cleveland. At his behest the Consumers' League made a wide investigation and publicized their findings as propaganda for a new ordinance. Nothing came of this. In the summer of 1918 the Consumers' League again tried to effect some semblance of control by employing a police woman to enforce the ordinance but this also proved futile. The next move was toward state control. It is interesting here to note the attitude of the powerful newspaper interests. Naturally they were antagonistic against any measure that would interfere with their profits and used every subterfuge to prevent its passage. The technicality on which they did block enactment of the measure was the contention that in Ohio there was no constitutional definition of cities of first, second or third class. Another

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32 Ibid., 127.
families who came year after year from Kentucky in April and remained until November. These children received little education in their own state and none at all in Ohio. Local prejudice against providing educational facilities for migrant children ruled out the possibility of solving the problem that way. State officials obtained an opinion from the attorney general to the effect that industrialized agriculture was classified as industrial employment and therefore was subject to the minimum age requirement for factory employment. This ruling made it unprofitable to bring in children under age.

When problems arise which involve children from one state that are employed in another, the wisdom of federal control of some sort is emphasized. The children of Ohio however were the ones of most concern to the state. The ruling had no effect but later a law was passed which modified agricultural employment somewhat. No child of compulsory school age could be employed in agriculture during school hours unless he were sixteen and had completed seventh grade, or was not yet sixteen years of age but had completed

35 Fuller, Child Labor and the Constitution, 68.
high school, or was fourteen and incapable of profiting by school. This was a notable advance in this generally ignored sector of child labor. 36

Another feature of child employment that was just coming into prominence about the second decade of the century was compensation for illegally employed minors. In Ohio no specific mention is made in the workmen's compensation laws but they have been construed or interpreted as including illegally employed minors. 37

Two decades of child labor reform found Ohio among the states that had made the most significant advances in legislative protection. The progress toward elimination had been gradual but steady and by 1914 had earned for the commonwealth the distinction of being one of the representative states of high child labor achievement. 38 This high standard was to bring forth fruit in the following decade when Ohio had the lowest percentage of children employed. 39

38 Second Annual Report of the Chief of the Children's Bureau, 11, (1914).  
39 Millis, 424.
CHAPTER VIII

FEDERAL REGULATION

Much of basic importance in child labor legislation had been accomplished in these states under consideration but as has been noted, the measures differed from state to state and not all laws passed were properly enforced. This diversity of state legislation prevailed throughout the nation, creating inequitable economic conditions and unfair competition among the industrialists of the different states. The impracticality of prohibiting child labor in some states while it was permitted in others began to engage the attention of the reformers early in the century. While some advance had been made in the North it was the situation in the South that furnished the reason par excellence for national control.¹ There the standards were low and what measures had been passed were generally disregarded. In Southern mills conditions prevailed that were consonant with the New England


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system of a century previous. The mill owners who were expanding their textile industries on cheap labor denounced the movement for federal control as a weapon the northern capitalists were using to thwart the growth of southern industries. Quite in keeping with their ageless tradition, the supremacy of "states' rights" also entered into their viewpoint. 2

According to the census of 1900 there were close to two million children under sixteen engaged in gainful occupations throughout the United States. This vast number of children whose health, morals and education were in jeopardy constituted a problem, perhaps the most important confronting the nation, and could not long be ignored. 3

Following the publication of the 1900 census figures the National Child Labor Committee was formed for the purpose of securing child protection within the different states. Their efforts to improve standards through state legislation met with such little response that it soon became evident to many that the problem was national in scope, and could be

2 Ibid., 464.
effectively treated only through national legislation. 4

It was a period of general reform—the day of Florence Kelley, Jane Addams, Jacob Riis, Julia Lathrope, Grace Abbott and others who waged unremitting warfare against those interests exploiting the child and depriving him of his right to childhood. 5

Their mode of combating the evil was to bring the stark realities of child labor and its insidious evils before the public mind. The National Child Labor Committee, the state committees of the same organization, the National and State Consumers' Leagues were the forces primarily responsible for launching the nation-wide propaganda for abolishing premature employment of young children. 6 It was also the era of the "Muckrakers" and their exposé of conditions provided a "human interest" appeal that incited the public to demand retribution for the sins committed against the child. 6

The subject was analyzed from all viewpoints. One of the foremost arguments being that any government that allows

4 Commons, History of Labor in the United States, 407.
5 Lumpkin, 260.
6 Commons, History of Labor in the United States, 440.
children to bear the burden of economic responsibility, or fosters class cleavage engendered by developing a large class of uneducated citizens, is striking at the very roots of democracy.7

On the economic side, child labor was detrimental to adult employment. In normal times children are employed for one reason only—they work for less wages. These low paid children force down the wages of adult labor and hence decrease buying power.8

Race degeneracy was another subject of consideration for the nation. Men of science warned that a race of weaklings would result unless protective measures were enforced to insure the child normal physical, mental and moral growth. Parallels were drawn between the conditions existing in the United States at the time and the situation that prevailed in England a century previous. England had awakened too late to the tragedy that overwhelmed her for nearly a century. With the advent of the Industrial Revolution and the consequent influx of children into industry began the deterioration of the succeeding generations of English factory workers.

8 Millis, 419.
Despite the warnings of scientists that protracted work by the young was detrimental to the stamina of the nation, England ignored the prediction. Nothing was to interfere with the expansion of Britain's industrial might. The realization of this folly came when enlistments for the Boer War showed an appalling number of rejections. A weakened degenerate progeny was the result of unmitigated child labor. The proverbial John Bull, deep chested and broadshouldered, was supplanted by the colonials. The Irish and the Scotch won the war.\(^9\) The reformers predicted a similar fate for this nation unless drastic steps were taken to avoid such a catastrophic loss of life and vigor by protecting the child from premature labor. Twentieth century America still sanctioned long hours of work for young children and in some states no protection at all was afforded.\(^10\)

To arouse the nation to a realization of the actual conditions under which children worked and the real nature of the evils to be eradicated, the reformers knew that public opinion would have to be informed before legislation could be enacted or enforced. To effect this they asked Congress

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\(^10\) Ibid., 316.
to authorize an investigation into the conditions under which women and children of the nation worked.11

President Roosevelt endorsed the measure as being of far-reaching importance to the welfare of the nation, at the same time inferring that state control, if it would be made to function effectively, was preferable to federal jurisdiction.12

Presidential approbation and the favorable temper of the public for reform presaged an easy victory. But other factors entered into the case. There was considerable doubt as to the extent of Roosevelt's influence on the "malefactors of great wealth" by whom he was surrounded and to whom he was deeply indebted. August Belmont the multi-millionaire head of the Civic Federation blocked the movement as did Oscar Strauss the merchant-prince secretary of commerce and labor.13 Senator Aldrich of Massachusetts and Illinois' famed "Uncle Joe" Cannon, staunch friends of predatory wealth fought the issue. Failing in their attempt to prevent the survey, they were successful in crippling the efficacy of the

11 Editorial, Outlook, LXXXV, 730, (March, 1907).
12 Editorial, "Roosevelt and the Child Labor Investigation," Arena, XXXVII, 178, (February, 1907).
13 Ibid., 179.
investigation by having the appropriation cut to an inadequate sum. 14

Despite this open antagonism the investigation was approved January 1907. To the Department of Commerce and Labor was entrusted the duty "to investigate and report on the industrial, social, moral, educational and physical conditions of women and child workers in the United States wherever employed." 15

The investigation began in 1907 was hindered by lack of funds and was confined almost wholly to the states east of the Mississippi. By 1909, nineteen volumes held the findings of the committee; each volume a distinct subject. 16 Mainly through the efforts of Senator Smoot the "apostle and untiring tool of Special Privilege" the nineteen volumes of damning facts were reduced to a Senate Document containing only fourteen volumes of the completed book, thus practically making a secret document of it. 17 As no special appropriation

14 Judge Ben Lindsay and George Creel, "Children in Bondage," Good Housekeeping, LVII, 16, (July, 1913).
15 Bureau of Commerce and Labor Bulletin No. 73, XV, 397, (1907).
16 United States Department of Labor Bulletin 175, 429.
17 Lindsay and Creel, 16.
was made for printing, only fifteen hundred copies were made for the members of Congress and the libraries that are depositories for government documents. Just how influential the report was in securing new legislation is not certain as many organizations conducted surveys and publicized their findings in the years subsequent to this investigation. One thing however is certain—the data of the report was invaluable in further investigations along similar lines.

That there was urgent need of reform, the inquiry gave conclusive evidence. It revealed that twenty per cent of the textile workers in the South, nearly one fourth of those engaged in silk manufacturing in Pennsylvania, and ten per cent of the workers in the glass industry were children not yet sixteen. One of the most striking facts was the passiveness with which the parents of many of these workers looked upon child labor. They took it as a matter of course that the child should work as soon as it was legally possible.

18 United States Bulletin No. 175, 14.
19 Ibid., 429.
When the report was published in 1910 it was an important factor in bearing out the reformers' theory that a government bureau for disseminating reliable information concerning everything that enters into the life of a child, should be established.\(^{21}\) Because of the lack of such an authoritative source, they averred, child labor abuses had gone unchecked.\(^{22}\)

A bill calling for the establishment of a Children's Bureau had been drafted by the National Child Labor Committee and introduced in Congress in 1905. Though rejected, it was perennially presented in each succeeding Congress. The principal feature of the bill was the establishment of a bureau which was to investigate and report on all matters relative to child life and child welfare. Child labor was included in the last category.\(^{23}\)

After 1910 the movement was widely supported by the press and public opinion. Many national and state organizations such as child labor committees and consumers' leagues,


\(^{22}\) History and Functions of the Children's Bureau, U.S. Department of Labor, Washington, D.C., 1, (September, 1944).

\(^{23}\) The Survey, XXVII, 1723, (February 10, 1912).
humanitarians, among the more prominent, Jane Addams and Florence Kelley, and thousands of clergymen stressed the child's claim on society. President Roosevelt recommended the proposed bureau in a message to Congress. But there was strong opposition. A project for the scientific study of the child was considered by some as socialistic; the extending of federal control to the care of the child, with all that such ideology implies was regarded as usurping parental rights. Others denounced it as a violation of the principles of our democracy that guarantee the inviolability of the home; that it was an invasion of the powers of the states, destroying the essential element of local autonomy. The South took its usual stand on the last argument.

After six long years the proponents were rewarded for their untiring efforts. President Taft signed the measure April 9, 1912. Much credit for its successful termination

25 Ibid., 613.
26 Ibid., 614.
28 Ibid., 167.
was due to the efforts of Senator William E. Borah who sponsored the bill. Julia Lathrope long associated with Jane Addams at Hull House was appointed by the President as chief of the bureau. Her personal fitness and adequate training made her an auspicious choice. Under her leadership the new project functioned effectively.

Along with the development of sentiment for a national child bureau had come a growing realization of the fundamental economic fallacy of child labor and the inadequacy of the state to deal effectively with this sinister threat to the children of America. The open antagonism of the vested interests and their tremendous influence on the courts, legislators and the press were problems confronting the advocates of reform, that were of greater magnitude than could be controlled through local government.

Senator Beveridge of Indiana took the initial step in the direction of federal control by introducing a bill to that

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30 History and Functions of the Children's Bureau, 1.
31 Abbott, 613.
32 McConnell, 21.
33 Lindsay, 17.
effect in December, 1906. 34 As state and federal jurisdiction was a controversial issue, Beveridge's proposition was that the commerce clause of the Constitution gave Congress the power to enact child labor legislation. His bill provided that products of mines, quarries or factories that employed children under fourteen years of age were to be prohibited in interstate commerce. 35 His naiveté in expecting support from the capitalistic Morgan Wall Street interests was only the first of many disillusionments. Concurrently with the introduction of his bill, another measure to prohibit child labor in the District of Columbia was sponsored by Henry Cabot Lodge of Massachusetts. Beveridge was skeptical about a bill to outlaw child labor in Washington, D.C. where it did not present a problem, presented by a senator from a manufacturing constituency. He also had his doubts about Roosevelt, suspecting him as being the instigator of the bill as the President had recently advocated state con-

34 Editorial, Outlook, LXXXV, 156, (January 26, 1907).
trol. This then would be a subterfuge to block Beveridge's bill and thus protect Massachusetts' industries from federal interference. This only whetted Beveridge's determination to get the measure through Congress so he contrived to fasten the bill as a rider on the Lodge measure.

In his now-famous four day speech with which he introduced his measure to Congress, he deliberately tried to shock the sensibilities of the nation by revealing through sworn affidavits the abominable conditions in American factories, workshops and mines. With such authentic information the infamy of child labor was conceded but the opposition pointed their heaviest attacks at the unconstitutionality of federal control. Their line of argument was that control came under the police power of the states and not under the commerce clause. The powerful railroad interests became clamorous defenders of that handy argument that cost us a Civil War—states' rights. Roosevelt's support was

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37 Ibid., 251.
necessary but when asked to recommend the measure in his message to Congress he revealed his true colors in his hostile refusal. Gompers and organized labor were lukewarm.40

But most disillusioning of all was the stand taken by the National Child Labor Committee. The reactionaries in the group were recalcitrant toward federal control primarily because they believed it an infringement of states' rights.41 As a result a compromise was made until the survey ordered by the government on the working conditions of women and children gave more accurate information.42 The bill was buried in the committee mainly through the united efforts of the southern cotton mills, Pennsylvania Railroad, the glass and silk works of New Jersey and West Virginia.43

In the decade that followed, child labor bills were a perennial problem for Congress. These bills were either killed in committee or if reported out, were not brought to a vote.44 But some headway was made. In 1912 the Progressive

40 Bowers, 265.
41 Editorial, The Outlook, LXXXV, 583, (March 16, 1907).
42 Bowers, 265.
43 Ibid., 286.
44 Abbott, 617.
Party made child labor reform part of its platform and the Republicans and Democrats advocated the same reform in 1916.\textsuperscript{45} In June, 1913 a bill was introduced in the House as part of the Progressive Party program by Ira C. Copley of Illinois. The bill was patterned on the Beveridge bill of 1906, denying interstate commerce in products made by children under fourteen but unlike the Beveridge act which penalized the carrier of goods,\textsuperscript{46} this measure placed the responsibility on the producer.\textsuperscript{47} No hearings were ever held and the bill was carried into oblivion with the expiration of the sixty-third Congress.\textsuperscript{48}

The greatest impetus to the movement however came in 1914 when the National Child Labor Committee, convinced that adequate child protection could never be attained through forty-eight competing commonwealths began a movement for national control.\textsuperscript{49} Much care and deliberation was given to the drafting of a new bill as the Damoclean sword of uncon-

\textsuperscript{45} \textit{Congressional Record}, 68th Congress, Second Session, January 8, 1925, Vol. LXVI, Part 2, 1438.
\textsuperscript{46} \textit{Congressional Record}, 64th Congress, First Session, January 26, 1916, LIII, Part 2, 12303.
\textsuperscript{47} Editorial, \textit{The Survey}, XXX, 615, (August 16, 1913).
\textsuperscript{48} \textit{Congressional Record}, 64th Congress, First Session, January 26, 1916, LIII, Part 2, 15721.
\textsuperscript{49} Commons, \textit{History of Labor in the United States}, 437.
stitutionality threatened any measure infringing on what was
considered "states' rights".50 But by 1914 child labor seemed
about to come into its own. The Supreme Court had recently
increased the scope of the interstate commerce clause to
protect public morals by sustaining the Mann White Slave Act
in the Hoke v. U. S. case.51 The National Child Labor Com-
mittee based the constitutionality of their proposed legis-
lation on similar grounds. Child labor conditions were
immoral and federal legislation was necessary to protect
consumers in one state from articles produced under such
circumstances in another state.52

The whole problem resolved itself into the question of
whether the clause "Congress shall have the right to regulate
commerce among the several states," authorized Congress to
exclude from interstate trade articles produced under circum-
stances considered harmful to public health, morals, safety
or welfare. The full scope of the commerce clause was as yet
an undecided question.53

50 Owen Lovejoy, "Federal Government and Child Labor,"
51 Thomas J. Parkinson, "Precedents for Child Labor Legis-
52 Commons, 439.
53 Congressional Record, 68th Congress, Second Session,
The bill was introduced by A. Mitchell Palmer in the House and by Robert L. Owen of Oklahoma in the Senate. The chief provisions of the bill made it unlawful for any association, corporation, manufacturer, dealer or producer to ship or deliver for shipment in interstate commerce goods produced in any mine or quarry in which children under sixteen were permitted to work; or the products of any mill, factory, cannery or manufacturing establishment where children under fourteen were employed, or where children between fourteen and sixteen were employed at night or worked more than eight hours a day.

The bill had a powerful backing. Besides the National Child Labor Committee, National Consumers' League, American Federation of Labor, Federated Council of the Churches of Christ in America and American Medical Association, the two major political parties and the newly formed Progressive Party gave wholehearted support to the measure.

56 Commons, History of Labor in the United States, 440.
of the consumer there was also a developing sense of being exploited also and a tendency to side with the child workers as fellow victims of business enterprise. 57

Opposition came chiefly from the cotton manufacturers of the south and from the National Association of Manufacturers. 58 The Democrats had come into power in the Wilson administration and the consequent strengthening of the South's position in the affairs of government was a powerful factor in blocking child labor measures during this period. 58 The opinion of congressman James A. Byrnes of South Carolina is interesting in the light of present-day affairs and is typical of the average southerner's attitude toward the question, "unconstitutional, unwise and unnecessary." 59 The "fire-eating" southerners challenged the power of Congress to regulate hours of industry, to take property without "due process" of law. It was an arbitrary extension of federal authority and the most poignant feature of all—it was an usurpation of "states' rights." 60

57 Kirkland, 548.
After an extended filibuster by the representatives from Georgia and despite the formidable lobbies of the southern textile owners, the bill passed the House on February 15, 1915 by a large majority. But it did not fare so well in the Senate. Although reported favorably out of committee, it was held back until the period just before adjournment when under the rules, it would be killed by a single objection. Senator Overman of North Carolina took advantage of this golden opportunity. The bill was revived in the sixty-fourth Congress as the Owen-Keating bill and despite another filibuster was passed in the House by an overwhelming majority. This time Georgia was favorable toward the bill but the South, otherwise, maintained their customary attitude. "Uncle Joe" Cannon was the only northern member listed among the opponents. The Senate added a rider prohibiting products made by establishments employing child labor, thereby closing interstate commerce to concerns that employed children.

regardless of whether the product in transit was made by child labor or not. 64

Since all parties in 1915 pledged support of the child labor legislation the issue in Congress resolved into a non-partisan contest. President Wilson who had not sanctioned federal regulation of child labor in his Constitutional Government had completely reversed his opinion on the subject and urged the speedy passage of the law. 65

In the Senate, Penrose and Oliver, Republicans from Pennsylvania, voted against the measure; two others paired, and ten Democrats from the cotton states followed the traditional attitude of the South on the matter. 66 The bill was ready for Wilson's signature by September 1, 1916—an interval of almost ten years since Senator Beveridge's futile attempt at federal regulation. The law became operative one year after it had been signed. 67

The "Warehouse Act" it was sometimes called because the law as enacted contained a clause that goods of child labor

manufacture could not be shipped in interstate commerce if children had been employed within thirty days prior to the removal of the goods. This apparent loophole was regarded by many as a deliberate device to circumvent the law, but it was not long before action was taken not only to make the law inoperative but to challenge its constitutionality.68

To effect a test case the powerful cotton interests influenced Ronald Dagenhart, the father of two boys employed in a cotton mill in Charlotte, North Carolina to challenge the constitutionality of the law. The district court declared the law unconstitutional as it was a contravention of the fifth amendment, depriving parents of the right to the services of their children; by use of the interstate commerce clause Congress was trying to do by indirection what it could not do directly.69 The case was immediately appealed to the United States Supreme Court where the poverty-stricken mill hand was represented by some of the most distinguished corporation lawyers of New York.70

The government based its case on the federal police power given to Congress in the commerce clause, claiming that the power to regulate includes the power to prohibit the transportation of any persons or property in the interest of public health, safety or morals. The Supreme Court had established this principle in the lottery case in 1903 when it upheld the decision in the Champion V. Ames case which involved the prohibiting the transferring of lottery tickets from state to state. From that time Congress had progressively extended this power to prohibit commerce in things not primarily related to trade, but deemed necessary to outlaw in the interest of the welfare of the public.\footnote{Commons, 438.}

Finding these elements lacking the Court in a five-to-four decision affirmed, on June 3, 1918, the verdict of the lower court on the score that the law was not a legitimate exercise of the power of Congress to regulate interstate commerce and was therefore unconstitutional. The majority opinion, handed down by Justice Day, distinguished between regulation and prohibition, between shipping goods inherently harmful and those harmless in themselves. The court found
the goods shipped were in themselves harmless—the harm having been done before they entered interstate commerce. The principle established here was that the power of Congress over interstate commerce was not prohibitory but regulatory, leaving the control over local trade and manufacturing to the states as reserved to them by the tenth amendment. 72

In dissenting from the majority opinion, Justice Holmes in a succinct statement said that the power to regulate included the power to prohibit, citing the lottery and pure food cases to prove the law was not beyond the power of Congress to regulate. Once goods cross the state line they are no longer under state control but Congress alone has the power to regulate them. 73 Justices McKenna, Brandeis and Clark concurred in this opinion while Chief Justice White, Justices Day, Van De Vanter, Pitney and McReynolds represented the majority. 74

This unfortunate opinion rendered by a divided court was generally considered a perversion of judicial reasoning.

73 Ibid., 4464.
74 Ibid., 440.
and not representative of public opinion.\textsuperscript{75} To further add to the ever-ready demand for child labor, the decision came in the midst of World War I when the shortage of manpower heightened the demand for this type of labor. Immediately upon the declaration of the law's unconstitutionality, children, especially in the southern textile areas, were set to work on a ten to eleven hour basis.\textsuperscript{76} To protect children working for government contractors an order was issued prohibiting the employment of children under fourteen, or between fourteen and sixteen years of age for more than eight hours or at night--an apparent repudiation of the court's recent decision.\textsuperscript{77}

American public opinion, however was aroused and was not to be thwarted by the reactionary South and other forces determined to build industrial might on cheap labor. The whole subject was reopened and new carefully drafted legislation was drawn up. Realizing that states' rights took

\textsuperscript{76} Raymond Fuller, "Child Labor and Democracy, The New Republic, XVI, 259, (September 28, 1919).
\textsuperscript{77} Report of the Chief, United States Children's Bureau, 21, (1919).
precedence over the federal commerce power in the recent test case, and anxious to effect a measure that would not arouse sectional prejudice or impair the local autonomy of the states the framers of the act resorted to the wide taxing powers given to Congress. As a precedent for this indirect method of dealing with the problem they had the Supreme Court's favorable ruling in the oleomargarine and white phosphorous match cases which involved the same principle of using a revenue act to abolish certain industrial operations.\(^78\)

The National Child Labor Committee sponsored the new law which provided for a ten per cent tax on the profits of all mines and manufacturing establishments that employed children in violation of the standards of the 1916 law.\(^79\)

The arguments for and against the bill were very similar to those brought to light in the previous attempt to gain federal control for child workers. The bill was passed by approximately as large a majority as the first law and was signed by President Wilson on February 25, 1919.\(^80\)

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ment was delegated to the Treasury Department under the direct administration of the Commissioner of Internal Revenue. 81

This law was to find its constitutionality challenged in the same manner as the one preceding it. Proceedings were again instituted by the Dagenharts; the case was appealed to the United States Supreme Court. In an eight to one decision the act was declared an invalid use of the taxing power of Congress, and its real object, the abolition of child labor was too remote from its avowed purpose of taxation. 82

Proponents of the law had every confidence that the use of taxing power would guarantee the constitutionality of the measure as the Supreme Court had long held that "the power to tax is the power to destroy." But apparently the Court decided that the taxing power would have to be curbed or its unlimited use might give Congress too much power. 83 Chief Justice Taft in handing down the majority opinion said such a grant of power would be a "serious break in our Ark of the

81 Ibid., 672.
82 Handbook on the Federal Child Labor Amendment, 11, 12.
83 Commons, History of Labor in the United States, 695.
Covenant", an usurpation of the rights granted to the states by the tenth amendment, and if carried far enough would completely wipe out the sovereignty of the states.84

No basis remained now for federal regulation and the question raised was should the matter be left to the states. The unmitigated opposition of the South to economic reform was one very good reason for rejecting state control. The apparent impossibility of obtaining a favorable judicial decision convinced those active in the movement that the best strategy was to press for a constitutional amendment that would give Congress indisputable power to legislate on the subject.85

There was a general demand for such a measure both in and out of Congress. More and more people began to realize that the states' rights issue was a smoke screen for selfish interests and that the increasing organization of business and transportation on a national scale made federal control the only answer to the problem. The enfranchisement of

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85 Millis, 448.
women also promised to be a potential force in coercing reform. 86

The protection afforded under the two federal laws had reached only a small sector of child labor, those engaged in establishments producing goods for interstate commerce. It was estimated that nearly one and three quarter million children, the majority of whom were engaged in agriculture, were untouched by the law. To bring all child workers within the scope of the law, power must be given to Congress to establish uniform standards for the elimination of harmful child labor wherever and in whatever occupations it may be found. 87

The amendment was the result of months of deliberation. A lay committee made up of representatives of twenty national organizations, including the National Child Labor Committee, The National Consumers' League and the American Federation of Labor prepared the original draft. Samuel Gompers was chairman and Monsignor John A. Ryan of the Catholic University of America, one of the prominent members. Some of the

86 Felix Frankfurter, "Child Labor and the Court," The New Republic, XXXI, 250, (July 26, 1922).
87 U.S. Children's Bureau Publication No. 93, 12, (1924).
foremost constitutional lawyers from the nation's leading law schools were consulted, as were also the lawyer members of the Senate Judiciary Committee, Senators Thomas Walsh of Montana, George Wharton Pepper of Pennsylvania and Samuel Shortridge of California. Unusual care was exercised in the working so as to avoid ambiguity of terms. The word "labor" was used instead of "employment" to protect the child that worked with its parents, but whose name was not on the pay-roll and therefore not held to be "employed." Because of the rapid development of industrialized agriculture which takes such a toll on child labor, agriculture was included. As the vast majority of cases calling for remedial legislation would cover those under eighteen years of age, that age limit was set. The term "children" was interpreted differently in the various states so the phrase "persons under eighteen years of age" was used.

The amendment as drawn up gave Congress power to legislate on whatever child labor acts it deemed necessary. It

89 Ibid., 13-15.
The support of the measure, drawn from a broad cross-section of Americans regardless of political, religious or other affiliation gave ample proof of the non-partisan nature of the measure. Current history makes it interesting to note that Robert A. Taft and Robert F. Wagner took similar sides on the issue— that of the proponents. The Railroad Brotherhoods, National Women’s Christian Temperance Union, the Presbyterian Church, National Council of Jewish Women were representative of the heterogeneous backing given to the issue.

On the other side of the question were arraigned the traditional foes of child labor reform, the National Association of Manufacturers and the Southern textile interests. In their appearances before the Congressional Committee while

the bill was pending they resorted to the most absurd arguments in their efforts to prevent legislation. The proponents were branded as Socialists, the measure as a subversive Socialist movement to nationalize America's youth and create conditions similar to those in Russia. The child would become the absolute property of the government. 91

The appearance of the American Farm Bureau Federation before the Committee came as an innovation, as no farm group had ever before challenged child labor reform. Alarm over the clause that gave Congress power to regulate "labor" instead of "employment" caused this agitation. They felt that this provision was directed at the farmer and that it would prevent farm children from doing the customary farm chores. 92

Objections raised by other groups were that the amendment conferred a dangerously broad grant of power which might be abused; that Congress could control education and would eventually abolish parochial schools; it violated the principle of states' rights and local self-government would be destroyed; the Fourth Amendment was nullified by federal invasion of the

91 Ibid., 32-33.
92 Ibid., 32-33. Millis, 450.
home. These and other far-fetched assumptions of the power granted to Congress show to what ridiculous lengths the opposition went to kill the measure. 93

Despite this tremendous campaign of opposition, Congress by a vote of 297 to 69 in the House and 61 to 23 in the Senate passed a joint resolution giving Congress power "to limit, regulate and prohibit the labor of persons under eighteen years of age." Party lines were wiped out in the roll-call on the bill. It had the endorsement of all parties, Republican, Democrat, Independent, Socialist and Farm Labor. 94 By June 2, 1924 it was sent to the states for ratification.

The consensus was that ratification would be quickly accomplished as the overwhelming majorities by which the first federal laws were passed seemed to indicate public approval of federal control. Even the opposition believed the country to be solidly behind the amendment. The successful enactment of the law brought a renewal of the campaign of opposition. By autumn child labor was the most popular of political issues of the day. Both sides spread their

93 Ibid., 450.
94 Handbook on the Federal Child Labor Amendment, 16.
propaganda from coast to coast. The most extensive and aggressive campaign was launched by the National Association of Manufacturers. Well organized and liberally financed, they flooded the country with literature misrepresenting the amendment, lobbied in state legislatures, where the measure was pending and lined up powerful interests against ratification. Directly traceable to their behind-the-scenes activities was the alienation of many farm groups.95 While the American Farm Bureau Federation had been hostile from the beginning, the National Grange supported the issue at first but this widely spread propaganda soon brought it and other agricultural organizations on the side of the opponents.96

The prestige of the Catholic Church was another effective weapon wielded by the opposition. The church took no official stand on the subject but some of the clergy had definite viewpoints on the issue. Catholics were divided in opinion, following either the leadership of Cardinal O'Connell of Boston who vehemently opposed the amendment, or they were

of the school of thought of Monsignor John A. Ryan who strongly endorsed it. 97

Cardinal O'Connell was of the opinion that there was "never a more radical and revolutionary measure proposed for the consideration of the American people...it would destroy parental control over children and commit this country to the communistic system of nationalization of her children." 98

The Cardinal executed tremendous influence, especially in Massachusetts and New York, two strategic states. The rejection of the amendment in these states is generally attributed to the active propaganda he launched against the movement. 99

The attitude of Cardinal O'Connell was not that of all the clergy however. Monsignor John A. Ryan, as has been stated, was an active exponent of federal control, and worked ardently for the adoption of the amendment. He wrote numerous articles for Catholic periodicals attacking the arguments concerning arbitrary interference of the federal government in the home and school, the curtailment of individual liberty

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and other charges hurled at federal control. 100 A Catholic Citizens' Committee, national in scope, that included distinguished priests, educators, civic leaders and industrialists was organized to bring about better understanding among Catholics. The underlying cause of Catholic opposition was the fear that Congress would regulate education, prescribe what should or should not be taught, and eventually abolish the parochial school system. In this opposition the Lutherans also joined. 101

Doctor Nicholas Murray Butler, President of Columbia University registered his antipathy along lines similar to those of Cardinal O'Connell and used his influence to prevent the ratification. 102

This accumulated opposition sufficed to retard acceptance by the states. The crucial issue came in November, 1924 when Massachusetts, considered a key state by both sides, rejected the amendment in a referendum vote of approximately

101 Handbook on the Federal Child Labor Amendment, 42.
three to one. Cardinal O'Connell's campaign had borne fruit. By 1926 it seemed that organized minority groups had killed the movement as only Arkansas, Arizona, California, and Wisconsin had adopted it and twelve states had acted unfavorably. From this time until 1933 interest was at a low ebb, only Montana and Colorado ratifying, making the total six states in favor of federal action while twenty-three states rejected the proposition. None of the great manufacturing states of the North had taken favorable action on the amendment and paradoxically one of the southern states, Arkansas, was the first state to ratify.

With the onslaught of the depression on the early thirties came a decided anti-child-labor sentiment. The spectacle of children being hired for low wages while adults stood in bread lines caused organized labor to demand that all available jobs be given to adult workers. This revival of interest in the subject brought Illinois, Ohio and Pennsylvania in on the side of the proponents by 1934. Besides

103 Ibid., 1443.
active exponents of ratification were President Roosevelt and ex-President Hoover. With this came a renewal of the campaign of opposition. A new organization, the National Committee for the Protection of Child, Family, School and Church was formed for the express purpose of defeating the amendment. The usual tactics were resorted to--lobbying, radio broadcasts, literature and the public press. As a result reaction against federal control again became prevalent and in the period between 1934-38 only eight additional states, all of them northern states except Kentucky, favored the amendment.

The validity of the ratification in Kentucky was challenged by that state's Supreme Court on the grounds that having rejected the amendment in 1926 and since more than a reasonable length of time had elapsed since the amendment was proposed by Congress in 1924 the action was not legal. A reversal of this situation occurred in Kansas where the amendment, rejected in 1925 was reconsidered in 1937 and ratified. The Kansas Supreme Court upheld the validity of

106 Commons, History of Labor in the United States, 449.
107 Abbott, "The Children's Amendment Moves on to Victory," 413.
ratification. Whether ratification after a previous rejection was legal, had never been passed upon by the Supreme Court. The Kentucky and Kansas cases were appealed to the United States Supreme Court which by a seven to two decision declared that the amendment was still open for ratification by the states.108

This eliminated the line of argument by the opposition, that the issue was no longer pending and gave the amendment a new lease on life. The National Child Labor Committee and other organizations interested in seeing the measure passed renewed their efforts to secure the eight states needed for the adoption of the amendment.

Nearly a quarter of a century had elapsed since the proposed amendment was offered to the states for consideration. That organized opposition has succeeded in preventing its ratification to date is patent to all. That they have been victorious is probably due in no small part to the wide grant of power given to Congress for potential child labor control;

108 "Supreme Court Declares Child Labor Amendment Still Open for Ratification," The American Child, XXI, 1, (June, 1939).
the eighteen year age limit perhaps is a too advanced standard, and the term "labor" instead of "employment" is the primary reason for the adverse attitude of many farm groups. However the submission of the amendment and the passage of the two federal laws did much to convert the general public to the necessity of protecting children against premature employment. Many states raised their standards and compliance with child labor laws was more easily secured under federal regulation.

Child labor clauses were included in some of the federal legislation passed in the early days of the New Deal. A sixteen year minimum was incorporated in many of the codes of the National Recovery Act of 1933 but as that law was repudiated in 1935, this standard was short-lived. In 1938 the Fair Labor Standard Act popularly known as the Wage-Hour Act contained child labor provisions. Its basic principles were patterned on those of the first child labor law.

109 Commons, 449.
It prohibited the shipment in interstate commerce of goods made in establishments that employed child labor, thirty days prior to shipment. Sixteen year minimum was fixed for such industries; children under eighteen were barred from industries declared hazardous by the Children's Bureau. Child actors and farm children outside of school hours were exempted. On February 3, 1941, the United States Supreme Court in a unanimous opinion upheld the constitutionality of the act, thus overruling the Hammer V. Dagenhart decision which declared the First Federal Child Labor Law unconstitutional.

This was an important advance in the control of child labor. It virtually eliminated the employment of children in factories, mines, mills and canneries that ship goods across state lines. There has been a decided occupational shift in these industries; fewer children have been working in these employments, the majority engaging in work in stores, hotels, restaurants, garages and other such establishments. Excluding those engaged in street trades and industrialized agriculture;

112 "Significance of the Supreme Court Decision," The American Child, XXIII, 1, (March, 1941).
it has been estimated that approximately only twenty-five per cent of the children at work when the act became operative were affected by it.113 The provisions are nation-wide in application and take precedence over state laws that do not attain standards set by this federal enactment.114 To this review must be added a brief reference to two Federal Laws not mentioned—the Walsh-Healy Act of 1936 which forbade employment of males under sixteen and girls under eighteen in government work and the Jones Sugar act of 1937 under which sugar-growers were denied the federal subsidy if children under fourteen years of age were employed.115

With close to a million children under sixteen employed in occupations which are not regulated, or only inadequately controlled, by state laws it is clear that the Child Labor Amendment is a necessity still. Child workers other than those that are working in industries which produce goods for interstate commerce also need federal protection.116

113 Courtney Dinwiddie, 432-3.
114 Gertrude Folks Zimand, Child Labor Facts, 33.
115 Ibid., 32.
116 Ibid., 10.
CONCLUSION

The review of state and national legislation considered here indicates that the interests of the working children of the nation were widely considered during the first quarter of this century. The constantly increasing volume of laws for the protection of the child worker that was enacted is evidence of the unremitting warfare waged against the great industrial interests by the proponents for reform.

The most glaring evils were attacked first and in the course of time the less obvious wrongs were alleviated. The eight hour day, one of the most fiercely contested issues was made the standard in all the states considered here except Pennsylvania.

The gradual raising of the age limit under which children may work made fourteen the basic minimum in these states with the exception of Ohio where a fifteen year standard was enacted.

The scope of the law was broadened so that most legislation included all gainful occupations. However the states failed to show any concern or set up any regulation for the child employed in agriculture, other than Ohio's curb during
school hours, despite the fact that the bulk of child labor is in this field. Children employed in domestic service and in street trades receive scant attention.

With the expansion of industry, and the concomitant increase of danger, measures were passed prohibiting the employment of children in hazardous occupations. Physical standards were gradually established as an additional protection.

To insure effective enforcement of the laws enacted employment certificates were required, generally under the age of sixteen and certain facts had to be established such as documentary proof of age, physical fitness and satisfactory completion of certain educational standards.

Education was gradually strengthened by the requirement of a certain grade standard or its equivalent. Great progress was made in making compulsory education laws effective instruments for enforcing child labor laws. There was decided impetus given to the erection of continuation and vocational schools after the enactment of the Smith-Hughes Act in 1917.

As it was sometimes difficult to compete with all problems through powers extended by the laws, some of the more progressive states delegated discretionary powers to those entrusted with the enforcement of the laws. This power to determine whether or not the law applied in specific
cases gave great flexibility to the powers of government.

There was a growing extension of state control and the injection of the national government into the investigation of women and child workers and in the creation of the Children's Bureau spurred action for federal control. The three attempts to effect federal legislation were repulsed.

The situation has changed greatly since the early days of the reform era not only in the number of children at work but also in the matter of occupational distribution. Children are now employed in filling stations, garages, restaurants, hotels and other present-day occupations. The worst phases of child labor have been eradicated or vastly improved but census figures indicate a tolerance of the evil despite all the legislation enacted. The census for 1920 showed nearly one million children between the ages of ten and fifteen still at work, of whom sixty-one per cent were agricultural workers.

The problem of safeguarding the child is still largely the responsibility of the state and the majority of state standards are not impressive. The commonwealths considered in this work were representative high standard states, but, as we have noted, there were many advances still to be made.

In the last analysis the exploitation of children is chiefly a by-product of an economic system that denies a
living wage to the adult worker, thus forcing the child prematurely into industry. It is futile to restrict the labor of the underprivileged until steps are taken to assure this class greater security.

The state has no higher duty than that it owes its children. The childhood of these American children must not be sacrificed to industrial might. Each child should be given the opportunity to develop its potentialities; should be educated to realize the purpose of its creation and be prepared at maturity to take its rightful place in society. Unrequited child labor does not foster these ideals.
CRITICAL ESSAY ON AUTHORITIES

I--SOURCE MATERIAL

II--SECONDARY WORKS


III--GOVERNMENT PUBLICATIONS

Clara N. Beyer, "History of Labor Legislation for Women in Three States," United States Women's Bureau Publica-

VI--CHILD LABOR BULLETINS

VII--NATIONAL CHILD LABOR COMMITTEE PUBLICATIONS


VIII--GENERAL WORKS


IX--PERIODICALS


" XXI, 1903, Florence Kelley, "An Effective Child Labor Law."

" Report of Ohio Child Labor Committee

" XXV, 1905, Myron E. Adams, "Children in American Street Trades."

" Halford Erickson, "Child Labor Laws and
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Proceedings of the First Annual Meeting of the National Child Labor Committee.
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" " " Mary McDowell, "Report to the Sixth Annual Conference of the National Child Labor Committee."

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" " " Harriet Van de Vaart, "Report to the National Child Labor Committee."

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APPROVAL SHEET

The thesis submitted by Sister Mary Loyola McDonald, C.S.J., has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Master of Arts.

[Signature]

Date: January 15, 1948

Signature of Adviser