

Think of the Children: Child Labor through the Progressive Era in Early Twentieth-Century
America

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Abstract

Child labor in America was a pivotal component of the Progressive reform movement throughout the first half of the twentieth century. Beginning my research, I looked into the role of child labor in the creation of the Fair Labor Standards Act of 1938. The FLSA was the first federal law to abolish child labor successfully. Throughout my research, I noticed a trend of law passage and Supreme Court denial.

The most referenced events involving child labor as an evil to society came in the early part of the twentieth-century. The two most famous events were Mary “Mother Jones” Harris and her “March of the Mill Children” and photographs taken by Lewis Hine. I knew I had to include these events, for my research to be complete, so I set out to find a connection between these early events and those of the FLSA.

This led me to notice the Progressive Era was not one continuous era, but rather an era split in two parts. The first Progressive reform movement lasted from 1900-1917, and then the Progressive Era was broken apart by the Conservative Counter Movement until somewhere around 1933 when Franklin Roosevelt took office. FDR brought Progressivism back in style as he would eventually culminate the era of Progressivism with the FLSA. A final conclusion is that child labor is the only major issue to last from the beginning of the Progressive Era to the end.

Introduction

Throughout United States history, there have been many movements that had to fight their way through uphill battles to accomplish a desired goal. One such movement advocated the abolishment of child labor and the American ideal of childhood. The Fair Labor Standards Act of 1938 was the first federal law passed, and upheld, abolishing child labor in America. The role of child labor in the creation of the FLSA brought a constant struggle that, once becoming a nationwide public issue, took nearly forty years to come to pass. Overall, child labor in America was a pivotal component of the Progressive reform movement throughout the first half of the twentieth century.

The Progressive reform movement refers to the legislative changes put forth during the Progressive era; the time period between 1890-1920 during which people believed that the problems in society such as, poverty, greed, and class warfare could be improved upon through social policies including education improved work conditions.¹ The movement is considered to have ended as a direct result of President Woodrow Wilson's entry into the First World War.² The 1920's were met with a Conservative Counter movement, stalling the Progressive movement. Unrelenting, the Progressive movement came back stronger than ever with Franklin Delano Roosevelt in the 1930's. Theodore Roosevelt, a distant cousin of FDR, was the face of the Progressive movement in the early twentieth-century and FDR became the face of a new kind of Progressive movement in the 1930's. First, Theodore Roosevelt as part of his Progressivism

¹ "The Progressive Era (1890 - 1920)," The Progressive Era (1890 - 1920), accessed March 08, 2017, <https://www2.gwu.edu/~erpapers/teaching/glossary/progressive-era.cfm>.

² Ibid.

created what would be known as the “square deal” focusing on better working environments, later when FDR began his run of Progressive reforms they became known as the “new deal.”³

In this paper, I am going to discuss the movement of child labor abolishment and how it is a pivotal component of the Progressive reform movement. While a few states had passed child labor legislation in the 1800’s it was not until later that the public saw child labor as a nationwide problem. Mary “Mother Jones” Harris brought child labor to national attention in the early 1900’s, and subsequently the first nationwide organization dedicated to abolishing child labor was formed, named the National Child Labor Committee. Lewis Hine was hired, by the National Child Labor Committee, to take photographs to help give widespread visualization of the horrible conditions of working children. Shortly thereafter, the U. S. Children’s Bureau was established. Two times the U. S. Supreme Court ruled federal bans on child labor to be unconstitutional, and a failed amendment to the Constitution, and the Great Depression were all bumps in the road toward child labor abolishment.

Historiography

Franklin Delano Roosevelt was elected as the United States President in four consecutive terms starting with the 1932 election. Roosevelt created a list of policies that would be known as “new deals,” including the Wages and Hours Bill also known as the Fair Labor Standards Act of

³ PBS. Accessed March 08, 2017. <http://www.pbs.org/kenburns/the-roosevelts/classroom/snapshot-lessons/>.

1938.⁴ The Fair Labor Standards Act (FLSA) established a minimum wage, forty-hour workweek, and abolished child labor in almost all industries.⁵

Child labor reform did not garner national attention until the early twentieth-century with the “children’s crusade.”⁶ This was followed by the Keating-Owen Act in 1916 which set eight-hour workdays for under-sixteen year-old laborers and prevented goods from being shipped over state lines if produced by children under fourteen. However, this would be declared unconstitutional by the Supreme Court.⁷ In the 1920s there were not enough states to ratify a child labor amendment to the constitution.⁸ Historical literature suggests that previous attempts to regulate child labor laws led to the FLSA--the first time child labor laws passed at the federal level in the United States.

When writing on the topic of child labor legislation there are two main historical styles, social and political. Child labor falls into the social history school, more specifically in the subcategory of labor history. History was typically written from the perspective of politicians, leaders, and innovators in what is typically referred to as a “top down” approach to history. Historians had largely ignored what is sometimes referred to as a “bottom up” approach which included the working class and lower-class citizens. It was not until sometime shortly after the Civil Rights movement in the United States that historians started thinking about lower-class

⁴ William D. Pederson, *A Companion to Franklin D. Roosevelt*. Blackwell Companions to American History. Chichester, West Sussex, U.K.; Malden, MA: Wiley-Blackwell, 2011.

⁵ Andrew J. Seltzer, "The Political Economy of the Fair Labor Standards Act of 1938." *Journal of Political Economy* 103, no. 6 (1995): 1303. The FLSA did not abolish child labor in agriculture, paper delivery, or wreath making.

⁶ Todd Postol, “Public Health and Working Children in Twentieth-Century America: An Historical Overview.” *Journal of Public Health Policy* 14, No. 3 (1993): 349.

⁷ *Ibid*, 351.

⁸ *Ibid*.

working families, minorities, women, and children in a historical context. It took even longer before children started receiving the “bottom up” approach to become one of the last groups included being only sparsely discussed until recent years.⁹

When historians looked into child labor in the late 1970’s it was to give a comparison to adult labor. Jonathan Grossman wrote in “Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage” on the importance of wages in the economy; Grossman argues that the child labor issue was only truly used as a tool to gain more votes to pass the legislature regulating wages and hours.¹⁰ In the 1990’s, historians started looking into the health (or lack thereof) and unsafe working conditions that children were dealing with in the early twentieth-century.

In 1993, Todd Postol argued in “Public Health and Working Children Twentieth-Century America: An Historical Overview” that the continued fight from the “children’s crusade” to the FLSA was largely driven by concern for health of American children while discussing the multiple failed attempts at creating child labor laws for twenty years.¹¹ In the latter half of the twentieth-century historians started writing more complete histories of child labor to explain what child labor was in America, what the effects of child labor were, and how it came to an end. The purpose of these historians’ analysis of child labor was to find the causes of child labor and

⁹ Jesse Lemisch, Preface to *Jack Tar vs. John Bull: The Role of New York's Seamen in Precipitating the Revolution (Studies in African American History and Culture)*, (New York: Garland Pub., 1997) x.

¹⁰ Jonathan Grossman, "Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage." *Monthly Labor Review* 101, no. 6 (1978): 25.

¹¹ Postol, “Public Health and Working Children in Twentieth-Century America,” 348-354.

how to prevent it as well as how to lead to its end in third world countries that practice child labor today.¹²

From the late 1970's through the mid 2000's there were a few different interpretations of how child labor was eliminated. Grossman argued the FLSA as getting created due to wages, or rather a lack of a minimum wage and high adult unemployment leading to low wages.¹³ Fifteen years after Grossman wrote about wages Todd Postol gave his interpretation of a lack of labor standards for children and the fight for child labor laws over the course of twenty years that led to the FLSA.¹⁴ Miriam Cohen in her article "Reconsidering Schools and the American Welfare State" argues that it was public education laws that put children in school instead of the workforce and that is what led to the end of child labor.¹⁵ Kriste Lindenmeyer in "An Historical Perspective on Child Labor in the United States" makes the claim that children strikes and the Great Depression led to the creation of child labor laws.¹⁶ All of these views focused on the end of child labor, which did not occur at the federal level until the creation of the Fair Labor Standards Act of 1938.

While it should be obvious that child labor would be viewed as part of labor history, the social aspect might not be as obvious. Social issues can include health as well as educational issues. Postol looks at child labor from the perspective of health and thus focuses his attentions on things such as girls suffering spinal damage from working at sewing machines over long

¹² Hugh D. Hindman, *Child labor: An American history*. (New York: ME Sharpe, 2002), 9.

¹³ Grossman, "Fair Labor Standards Act of 1938," 26.

¹⁴ Postol, "Public Health and Working Children in Twentieth-Century America," 348-354.

¹⁵ Miriam Cohen, "Reconsidering Schools and the American Welfare State." *History of Education Quarterly* 45, no. 4 (2005): 513.

¹⁶ Kriste Lindenmeyer, "An Historical Perspective on Child Labor in the United States." *Employee Responsibilities and Rights Journal* 18, no. 2 (2006): 133-137.

periods of time, boys working without masks or proper ventilation in glass factories, and children working long hours even after losing hands and fingers.¹⁷ Cohen looks at history through social programs related to education and therefore does not put a heavy focus on child labor. Her look mainly deals with the increased levels of education as a way for Franklin D. Roosevelt to establish his new deals in a way to eradicate child labor.¹⁸ Cohen therefore claims that Roosevelt was struggling to create child labor laws and therefore created education laws since there would be less resistance; that in turn would take more children out of labor markets to gain an education.¹⁹ Another form of the social and labor history is that of labor movements or strikes. Lindenmeyer writes about labor movements from Mary “Mother” Jones in 1903 through the Great Depression and the failure those strikes had in gaining public sympathy.²⁰ She goes on to discuss that sympathy for child labor movements picked up because of high unemployment rates amongst adults.²¹

Although writing from a social aspect of history, Grossman blends in some political and economic historical views as well. Grossman examines Supreme Court cases and how wage laws were viewed from a political viewpoint. Grossman also looks into wages and the concerns some had about setting minimum wages and the effect on the economy as a whole.²² Seltzer analyzes the FLSA from a purely political outlook. Similar to Grossman, he looked into Supreme Court cases and the failure to pass child labor legislator as well as who was behind the arguing for and against the passing of child labor.²³ Seltzer specifically states in his first sentence that “This

¹⁷ Postol, “Public Health and Working Children in Twentieth-Century America,” 348-349.

¹⁸ Cohen, “Reconsidering Schools and the American Welfare State,” 515.

¹⁹ Ibid.

²⁰ Lindenmeyer, “An Historical Perspective on Child Labor in the United States,” 133-135.

²¹ Ibid, 137.

²² Grossman, “Fair Labor Standards Act of 1938,” 28.

²³ Seltzer, “The Political Economy of the Fair Labor Standards Act of 1938,” 1302-1342.

paper examines the congressional passage of the American minimum wage law, the Fair Labor Standards Act of 1938.”²⁴

What these historians show us about child labor is that it was, and is, a very complicated issue. There were labor movements, wage disputes, health issues, and questions as to whether child labor was unconstitutional. All of these historians touch on many of the same events with similar ideas and seem to agree with each other while focusing on slightly different aspects of the history of child labor. All authors, while having similar ideas yet different focus, combine to create a full and complete story of how child labor went from a normal part of everyday life to being eliminated through the Fair Labor Standards Act in 1938. Once the “bottom up” approach became widespread, children started getting more attention. The role of child labor in the creation of the Fair Labor Standards Act seems to be something that was built upon and gained momentum for decades. Eventually, child labor abolishment was included in the FLSA’s wages and hours legislation with little opposition.²⁵ What I am attempting to show with my research is the connection between both social and political histories of child labor reform throughout the early twentieth century.

Early Child Labor in America and the Birth of the Public Conscience

If the beginning of United States with the America history is the American Revolution, then the beginnings of child labor in America are older than American history itself. Child labor in America first began in rural farm lands, where children helped work their parents’ lands. Beginning in the mid seventeenth-century, children from poor families started going to work as apprentices. With the increase in factories and unskilled labor, children became progressively

²⁴ Ibid, 1302.

²⁵ Grossman, “Fair Labor Standards Act of 1938,” 25.

more prominent in the labor force. The mid 1800's saw the first states pass forms of child labor laws, yet meanwhile child labor continued to increase. By 1870, thirteen percent of all children between ten and fifteen were working, and by 1900 the number increased to eighteen percent. Dangerous, unsafe work conditions and the increased competition that lowered wages for adults were all concerns brought about by child labor, but the main concern surrounding child labor in the United States was that is caused a lack of an education.²⁶

The conditions of child labor did not receive wide scale discussion in the United States until the beginning of the twentieth-century. Mary "Mother Jones" Harris, a popular labor activist in the late nineteenth and early twentieth-centuries, set out to bring national attention to the topic of child labor in an effort to develop national legislature abolishing the practice.²⁷ On July 7, 1903 Mother Jones led a labor march that became known as the "March of the Mill Children."²⁸ She attempted to gain national attention through newspaper coverage at the beginning of the march in Philadelphia, but was turned down by local newspapers due to mill-owners also being shareholders in the papers. Only when other newspapers from outside the area started covering the march did the Philadelphia papers begin their coverage.²⁹ The march began with a rally at the City Hall in Philadelphia, where Mother Jones showed the public children with crushed hands and fingers.³⁰

In the beginning of the march, there were almost 300 hundred children, but the 125-mile march in the summer heat took a massive toll. When they reached their final destination,

²⁶ Harold Goldstein, "Child Labor in America's History," *Journal of Clinical Child Psychology* 5, no. 3 (1976): 47.

²⁷ Russell E. Smith, "The March of the Mill Children," *Social Service Review* 41, no. 3 (1967): 300.

²⁸ Lindenmeyer, "An Historical Perspective on Child Labor in the United States," 134.

²⁹ Smith, "The March of the Mill Children," 300.

³⁰ Ibid.

President Theodore Roosevelt's summer home, only a handful of children marchers remained.³¹

At a stop in New Jersey, Mother Jones spoke in front of a crowd of approximately three hundred people denouncing child labor, claiming that children “were pitched from the cradle to the factories to sweat out their lives for capitalists.”³² Nearly at the final destination in New York, Mother Jones stopped to give another speech where she stated: “We will ask him [President Roosevelt] to recommend the passage of a bill by Congress to protect children against the greed of the manufacturer. We want him to hear the wail of the children, who never have a chance to go to school, but work from ten to eleven hours a day...”³³ Mother Jones finished her march with the children in New York, and while no federal legislation immediately came to pass, the nation was finally exposed of the atrocity that is child labor and momentum for its abolishment had begun.

National Organizations and First Federal Law

While child labor movements got the ball rolling, the battle to abolish child labor would continue through national organizations. Shortly after the issue of child labor became public, national organizations started to form. The first formed was the National Child Labor Committee (NCLC), founded in 1904 by Edgar Gardner Murphy.³⁴ When Murphy created the NCLC, he was working closely with a Felix Adler, who was a member of the New York Child Labor Committee.³⁵ The NCLC's purpose, according to the organization's Secretary Samuel Lindsay,

³¹ Postol, “Public Health and Working Children in the Twentieth-Century America,” 349.

³² “Mother Jones’ Keeps Moving,” *New York Times*, 13 July 1903.

³³ “Mother Jones Speaks to Coney Island Crowd: Delivers Address in a Menagerie and Lions Interrupt: Anti-Child Labor Crusader Rebukes Young Man in the Audience Who Smiled-On to Oyster Bay Next Week,” *New York Times*, 27 July 1903.

³⁴ Hindman, *Child Labor*, 50.

³⁵ Walter I. Trattner, *Crusade for the children: a history of the National Child Labor Committee and child labor reform in America* (Chicago: Quadrangle Books, 1970), 56.

was to, "...investigate the conditions under which children are engaged in gainful occupations in all parts of the country, and to help create a healthy public sentiment in favor of giving every child the best possible chance to make the most of its life."³⁶ The beginning of the NCLC shows that the focus was more on state legislatures rather than federal, but required national public awareness to advance that far. Hitting the ground running, the NCLC quickly garnered support from highly influential individuals of the time as "...the Committee's leaders were widely respected, highly capable, and genuinely interested in the cause."³⁷ Not only had the leadership earned high respect, because "The Committee's general membership was equally impressive. Social workers, church and labor leaders, businessmen, bankers, lawyers, educators, and government officials appeared on its rolls."³⁸ The NCLC appeared to be off to a good start.

Not everyone was on board with the NCLC mission to abolish child labor. Southern mill owners made claims that groups from the North were backing the NCLC in order to destroy "the Southern way of life."³⁹ Many knew child labor in the south was holding wages down for labor unions, which led to more support of NCLC by those unions.⁴⁰ Accordingly labor unions were under the impression that Southern mill owners were supporting child labor practices because "poorly educated child laborers tended to become poorly educated adults who often were docile employees unlikely to demand higher wages or get involved in union organizing."⁴¹ This is what

³⁶"To Brighten Young Lives: National Child Labor Committee Organized, with Prominent Members," *Washington Post*, 22 July 1904.

³⁷ Walter I. Trattner, *Crusade for the children*, 64.

³⁸ *Ibid.*

³⁹ Michael Shuman, "History of child labor in the United States—part 2: the reform movement," *Monthly Labor Review* January 2017, <https://www.bls.gov/opub/mlr/2017/article/history-of-child-labor-in-the-united-states-part-2-the-reform-movement.htm>

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

led unions to support the NCLC while leading anti-union manufacturers to oppose the NCLC's attempts at eliminating child labor.⁴²

Unsurprisingly, the first federal bill brought to Congress was not met with as much support. The first federal bill focusing on child labor abolishment was introduced in 1906 by Senator Albert Beveridge of Indiana.⁴³ Senator Beveridge looked to the NCLC for support, explaining his bill to NCLC members on November 23, 1906.⁴⁴ The bill was initially designed to "... prohibit the interstate transportation of articles produced in any factory or mine that employed children under fourteen years of age."⁴⁵ While many supported a federal child labor law, some feared it would lead to the government becoming too involved in labor relations, which many believed to be more a state than federal issue.⁴⁶ Too much of a divide, between those for and against, had occurred. In the end the proposed bill led to an attempt for the Bureau of Labor conducting investigations of women and children's working conditions, which was approved by congress in January of 1907, and the bill not passing.⁴⁷ Despite the failure to pass a federal law, states started to create their own child labor laws more frequently, although the primary motive was occasionally to prevent federal laws in the future.⁴⁸

In spite of widening advancement in child labor reform, the number of child workers continued to grow. The 1910 census showed that between ages ten and fifteen there were two million children in the labor force; this was 18.4 percent of all children in that age group.⁴⁹ Comparatively, the 1900 census, measured the number at 18.2 percent of the labor force,

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Trattner, *Crusade for the Children*, 87.

⁴⁵ Ibid.

⁴⁶ Ibid, 89.

⁴⁷ Ibid.

⁴⁸ Hindman, *Child Labor*, 70.

⁴⁹ Trattner, *Crusade for the Children*, 107.

showing an increase in the percentage of working children.⁵⁰ While those numbers give the impression that early opposition to child labor seemed futile, tactics were adjusted and the fight continued.

The NCLC hired Lewis Wickes Hine to photograph working children. Hine was born in Oshkosh, Wisconsin in 1874.⁵¹ He worked in a furniture factory until he obtained a Master's degree from the University of Chicago. Hine then became a teacher in New York City and worked as an amateur photographer until hired full time by the NCLC.⁵² For many of his photographs Hine would have the children "lined up outside mills as evidence of who was working, where, and at what age."⁵³ He did this to "manifestly reveal the social injustice of child labor to which mill managers were blind."⁵⁴ His work quickly became one of the most integral pieces of the anti-child labor movement.⁵⁵ Hine's photographs were able to arouse "... public sentiment against child labor in a way that no printed page or public lecture could."⁵⁶ Looking back at Lewis Hine's work, there is a clear path from his photographs of the time period that led to the creation of the United States Children's Bureau and the 1916 Keating-Owens Act. The Progressive Party even took up child labor reform as part of their presidential platform around the time of Hine's work.⁵⁷

While the majority of Americans would begin to agree on child labor being a moral wrong, there were still skeptics even after seeing some of Hine's work. Hine set out to show that,

⁵⁰ Ibid.

⁵¹ Peter Seixas, "Lewis Hine: From 'Social' to 'Interpretive' Photographer," *American Quarterly* 39, no. 3 (Autumn, 1987) 381.

⁵² Trattner, *Crusade for the Children*, 105.

⁵³ Seixas, "Lewis Hine," 389.

⁵⁴ Ibid.

⁵⁵ Ibid, pg. 393.

⁵⁶ Trattner, *Crusade for the Children*, 106.

⁵⁷ Seixas, "Lewis Hine," 393.

in his mind, street work was the worst that children could endure.⁵⁸ He attempted to show this through visual demonstrations, yet others did not have the same sentiment. There were groups of people who opposed child labor in the mills and factories, but others looked at Hine's work and saw little entrepreneurs working their way up in the world.⁵⁹ Yet in the big picture, Hine's work, portraying the immorality of child labor did not fall in front of blind eyes.

The Federal government created another national organization that looked into the problem of child labor. While not limited to child labor and looking into the overall welfare of children, the United States Children's Bureau was created in 1912.⁶⁰ The early work of the Children's Bureau involved taking surveys and conducting research into the conditions in which children were exposed.⁶¹ As a result of this research, the Children's Bureau became a federal advocate for child labor abolishment.

The Largest Hurdle: the Supreme Court

A combination of forces was starting to come together in 1916 when President Woodrow Wilson signed the Keating-Owens Act signed into law. Not surprisingly, the name of the bill is based on the last names of the two U.S. Representatives who drafted it, Edward Keating and Robert Owen. The act set the work day to eight hours for children under 16 and prohibited interstate business with any product made using children under 14 years old.⁶² Enforcement was

⁵⁸ Oenone Kubic, "Reading Lewis Hine's Photography of Child Street Labour, 1906-1918," *Journal of American Studies* 50, no. 4 (2016), 876.

⁵⁹ Ibid.

⁶⁰ Hindman, *Child Labor*, 65.

⁶¹ U.S. Department of Health, Education, and Welfare, *Four Decades of Action for Children: a Short History of the Children's Bureau*, By: Dorothy E. Bradbury and Martha E. Eliot, Washington D.C.: Children's Bureau, 1956, 16.

⁶² An act to prevent interstate commerce in the products of child labor, and for other purposes, September 1, 1916; Enrolled Acts and Resolutions of Congress, 1789-; General Records of the United States Government; Record Group 11; National Archives.

left to the Children's Bureau, which created a Child Labor division.⁶³ With a vote of 343 to 46, the bill passed in the House of Representatives on January 26, 1916 and on August 3, 1916, the Senate passed the bill with a final vote of 52 to 12.⁶⁴ However, the joyous occasion shared by all those who fought for child labor reform did not last long.

Roland H. Dagenhart filed a Supreme Court case in his two sons' names in 1918. *Hammer v. Dagenhart* was, named after Dagenhart and the U. S. Attorney General W. C. Hammer.⁶⁵ Eventually, after only nine months from the time the bill went active, the Supreme Court ruled the Keating-Owens Act to be unconstitutional, citing the matter was a local matter and therefore not under federal jurisdiction.⁶⁶ According to the ruling, regulation of interstate trade is considered exceeding the power of the federal government.⁶⁷ Afterward, one of the sons spoke out against the decision. When asked by journalists what kinds of benefits child labor provided, Ruben Dagenhart responded, "'I don't see that I got any benefit,' complained Dagenhart. 'I guess I'd be a lot better off if they hadn't won it.' He continued, 'Look at me! A hundred and five pounds, a grown man with no education, I may be mistaken, but I think the years, I've put in the cotton mills have stunted my growth ...I don't know—the dust and lint maybe. But, from 12 years old on, I was working 12 h a day—from 6 in the morning until 7 at night, with time out [only] for meals ...'"⁶⁸ Yet, the Supreme Court's decision led to two more decades of failed attempts at child labor abolishment at the federal level.⁶⁹

⁶³ Postol, "Public Health and Working Children in Twentieth-Century America," 351.

⁶⁴ Trattner, *Crusade for the Children*, 128, 131.

⁶⁵ "Files Child Labor Law Brief: United States Contends Evils Are Immoral, Unfair and Harmful," *Washington Post*, 1 April 1918.

⁶⁶ *Hammer v. Dagenhart*, 247 U.S. 251 (1918).

⁶⁷ Postol, "Public Health and Working Children in Twentieth-Century America," 351.

⁶⁸ Lindenmeyer, "An Historical Perspective on Child Labor in the United States," 136.

⁶⁹ Postol, "Public Health and Working Children in Twentieth-Century America," 351.

It did not take long until unrelenting advocates proposed another federal child labor law. In 1919, a Child Labor Tax came to Congress to be attached to the Revenue Act.⁷⁰ The senate passed the Amendment by a 50 to 12 vote followed by a 310 to 11 vote in the House of Representatives.⁷¹ However, once again the Supreme Court ruled on the tax that federal child labor laws were unconstitutional.⁷² Claiming in familiar fashion that the amendment is an invasion of states' rights, the Supreme Court nullified the amendment with an 8 to 1 vote, in 1922.⁷³

With two attempts at federal law destroyed, supporters of a federal child labor legislation realized the path to victory might be through a Constitutional Amendment. An opportunity for the amendment to be included in the Constitution occurred during the sixty-eighth Congress in 1924. Representative Frothingham from Massachusetts was the first to speak on February 7, when he explained that the United States needed this amendment since all other attempts had failed and the issue of child labor is an issue of humaneness.⁷⁴ During this session, Congressmen presented more than twenty bills to abolish child labor.⁷⁵ Most of the bills shared the same goal to "limit, regulate, and prohibit the labor of persons under eighteen years of age."⁷⁶ Eventually, it came to a vote, on April 26, 1924 and the House approved the amendment by a vote of 297 to 69; on June 2, 1924 the Senate approved the amendment 61 to 23.⁷⁷ Thus, the only thing standing

⁷⁰ Trattner, *Crusade for the Children*, 140.

⁷¹ *Ibid.*

⁷² *Ibid.*, 141.

⁷³ *Ibid.*, 142.

⁷⁴ U.S. Congress, House of Representatives, Committee on the Judiciary, *Proposed Child-Labor Amendments to the Constitution of the United States: Hearings before the Committee on the Judiciary*, 68th Cong., 1st sess., 1924, 1-2.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*, 311.

⁷⁷ Bill Kauffman, "Child Labor Amendment Debate of the 1920's; or, Catholics and Mugwumps and Farmers," *Journal of Libertarian Studies* 10, No. 2 (1992): 151.

in the way of victory for those fighting to abolish child labor over more than twenty years was the ratification by the states, which never came.

Great Depression and a New Deal

The Great Depression was a time of economic turmoil not just in the United States but worldwide. The question, however, still remains, what was the cause of the Great Depression? As more states developed child labor laws, the total number of children in work force began to decline. However, when 1929 came about the economy in the United States started a rapid decline; consequently with slow recovery by 1932 businesses started seeing lower retail sales forcing prices to go down. While prices dropped, business leaders needed to access cheaper labor, and there was an uptick in hiring of children began once again.⁷⁸ The increase in child labor sparked opposition amongst those who did not hire children, since they were priced out of the labor markets.⁷⁹ Increased hiring of children led the NCLC to respond with concerns about the absurdity of ten million adults unemployed while more than a million children were hired prematurely, taking away their education.⁸⁰

The Great Depression stifled the Conservative Counter Reform movement as the economy plummeted. Four years into the Great Depression Franklin Delano Roosevelt was elected President of the United States, and with the Presidency FDR would bring back Progressive policies believing them to be what the country needed. He gave his inaugural address on Saturday March 4, 1933 where he addressed the current situation head on in his

⁷⁸ Trattner, *Crusade for the Children*, 185.

⁷⁹ *Ibid*, 186.

⁸⁰ *Ibid*, 185.

speech most well-known for his statement “the only thing we have to fear is fear itself.”⁸¹

Franklin Delano Roosevelt (FDR) addressed the Depression, explaining its effects as:

In such a spirit on my part and on yours we face our common difficulties. They concern, thank God, only material things. Values have shrunk to fantastic levels; taxes have risen; our ability to pay has fallen; government of all kinds is faced by serious curtailment of income; the means of exchange are frozen in the currents of trade; the withered leaves of industrial enterprise lie on every side; farmers find no markets for their produce; the savings of many years in thousands of families are gone.

More important, a host of unemployed citizens face the grim problem of existence, and an equally great number toil with little return. Only a foolish optimist can deny the dark realities of the moment.⁸²

FDR here addresses taxes increasing, wages falling, unemployment getting out of hand and how these things contribute to downward spirals of the nation’s economy. Continuing, FDR discusses how banks are seeing credit lines fail and believe the answer to be increasing the loans issued.⁸³ Knowing the difficulties that face the American people and the increase in social issues arising as a result, FDR suggests “the measure of the restoration lies in the extent to which we apply social values more noble than mere monetary profit.”⁸⁴ Unsurprisingly, one of the social values referenced here is that of child labor.

Foreshadowing what was to come next in FDR’s inaugural address was his statement “we must act and act quickly.”⁸⁵ True to his word, during the first hundred days President Roosevelt

⁸¹ Franklin Delano Roosevelt, “First Inaugural Address,” March 4, 1933, transcript and Adobe Flash audio, 18:59, Miller Center of Public Affairs, University of Virginia, <http://millercenter.org/president/speeches/detail/3280>.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

enacted a multitude of programs. One of them, named the National Industrial Recovery Act, created a National Recovery Administration consequently making child labor a main target for abolishment.⁸⁶ Finally for the first time in thirty years, child labor laws were being passed with little opposition.⁸⁷ Furthermore, from the time of the first code passing in July 1933 through the remainder of 1933, more than one hundred thousand children under the age of sixteen were taken out of industrial work and between thirty and fifty thousand more “taken out of hazardous occupations.”⁸⁸

Fair Labor Standards Act of 1938

Culminating more than three decades of work, a bill finally passed abolishing child labor and it has been upheld ever since. This 1938 bill was the Wages and Hours Bill, most well-known as the Fair Labor Standards Act (FLSA) of 1938. The bill originally was only intended to produce a minimum wage and a ceiling for hours to be worked, however FDR decided to add abolishing child labor for those under sixteen since child labor measures were become more popular in Congress.⁸⁹

In the home stretch of child labor abolishment, FDR sent the FLSA before congress on May 24, 1937. Included with the bill was his message to Congress. Stating that no democracy with any self-respect can justify the existence of child labor. Subsequently, during Congressional hearings, supporters claim that one third of the population lacked proper nourishment and housing, also noting that those working long hours were preventing others from working. Thus,

⁸⁶ Trattner, *Crusade for the Children*, 190.

⁸⁷ *Ibid*, 192.

⁸⁸ *Ibid*.

⁸⁹ Grossman, "Fair Labor Standards Act of 1938," 25.

supporters argued that setting limits to hours would create new jobs for those without work. At the Congressional hearing, one supporter explained “during depressions the ability to overwork employees, rather than efficiency, determined business success. The economy, he reported, had deteriorated to the chaotic stage where employers with high standards were forced by cut-throat competition to exploit labor in order to survive.”⁹⁰

Not everyone agreed with the FLSA. Those opposing the Act believed it set the tone for the government to exercise tyrannical rule over industries. Additionally, the FLSA was considered a diversion from socialist planning, some opponents of the FLSA felt that government regulations would prevent businesses from addressing their own needs and that prosperity in business came from the American business’ genius.⁹¹ Union organizations were split on the FLSA, yet despite this and resistance in Congress, the FLSA passed in the Senate on July 31, 1937, with a vote of 56 to 28. The House Rules Committee lingered on a vote until the end of summer.⁹²

Reacting to the lack of a vote by the House, President Roosevelt called a special session of Congress for mid-November. At this new session, representatives were hesitant to support the Fair Labor Standards Act’s five man board believing that they would have too much widespread power. The result was changing the bill to have an administrator from the Department of Labor oversee the enforcement of the bill. Subsequently, the House voted just before Congress’ break over Christmas 1937, voting 218 against to 198 in favor, shutting it down for the time being.⁹³

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid, 26.

⁹³ Ibid.

Getting to work immediately, President Roosevelt and Secretary of Labor Frances Perkins went to work adjusting the FLSA. Shortly after the House rejection, FDR addressed Congress on January 3, 1938 and stated “We are seeking, of course, only legislation to end starvation wages and intolerable hours; more desirable wages are and should continue to be the product of collective bargaining.”⁹⁴ Additionally, “In the long run, the profits from Child labor, low pay and overwork ensure not to the locality or region where they exist but to the absentee owners who have sent their capital into these exploited communities to gather larger profits for themselves.”⁹⁵ President Roosevelt and Secretary Perkins were able to work the FLSA down to ten total pages in length from an original forty pages before sending it back Congress in late January 1938.⁹⁶ After a little resistance, mainly from southern Congressmen, the House and Senate both passed the FLSA and the President signed it into law on June 25, 1938.⁹⁷

The FLSA included measures for minimum wage, maximum hours, and the abolishment of child labor. Additionally the FLSA created a Wages and Hours Division to be a part of the Department of Labor. The minimum wage was set at twenty five cents in the first year, thirty cents for the next six years, and finally, forty cents an hour. In addition to wages, the FLSA included a forty-four hour work week in the first year, forty-two hour work week in year two, and forty-hour work week after the second year. Furthermore, the FLSA determined that if an employee was to work more hours in a given week than the maximum they would be paid one and a half times their wage per hour. The child labor provisions protected anyone under sixteen and anyone under eighteen in occupations determined to be hazardous by the Chief of the

⁹⁴ Franklin D. Roosevelt: "Annual Message to Congress," January 3, 1938. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=15517>.

⁹⁵ *Ibid.*

⁹⁶ Grossman, "Fair Labor Standards Act of 1938," 27.

⁹⁷ *Ibid.*, 28.

Children's Bureau. However, a couple of industries are exempt from the FLSA, agriculture and newspaper delivery.⁹⁸ Concluding the long fight to abolish the exploitative labor of children, just like every attempt before, the Supreme Court would determine whether the law should be upheld or thrown out. Finally, nearly forty years after Mother Jones marched mill children from Pennsylvania to New York making child labor a national issue, the Supreme Court upheld the FLSA in 1941.⁹⁹

Conclusion

From Mother Jones, the thought of child labor reform in the minds of Americans was born. Continuing forward, the newfound attention child labor received at the turn of the twentieth century led to national organizations dedicated to eradicating oppressive child labor practices. Consequently, the national organizations' work led to federal laws regulating child labor passing in Congress, only to be overturned by the Supreme Court. Meanwhile, attention from the public continued to grow. Knowing the failure of reform was coming from unconstitutionality of the laws, the fight turned toward a child labor amendment, but once again failed. After forty years child labor would finally be abolished at the federal level and the one continuing battle of both progressive and new deal eras in American history came to a close.

⁹⁸ Fair Labor Standards Act of 1938, 29 U.S.C. § 201 (1938).

⁹⁹ Hindman, *Child Labor*, 84.

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