

CHILD LABOR LEGISLATION.

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It is most desirable that the present widespread agitation for child labor legislation may achieve permanent results of a uniform character. Such laws as now exist are alike in no two states; they are enforced differently when they are enforced at all; they are uniform only in their failure to afford adequate protection to the rising generation of the working class.

It is the aim of this paper to set forth some essential points of an effective child labor law efficiently enforced; for whatever the local differences of industrial conditions may be, certain fundamental needs of childhood are constant and child labor legislation must ultimately be framed with regard to these.

This fact is somewhat recognized in the statutes already enacted; for all these begin with a restriction upon the age at which the child may begin to work. This minimal age has varied from ten to fifteen, differing in some states for boys and for girls, while the statutes prescribing it have been weakened in some states by exemptions and strengthened in others by educational requirements. The fundamental provision of all child labor legislation has always been the prohibition of work before a specified birthday.

Akin to the restriction of the age of employment is the restriction of the hours of work. The former secures to the child a fixed modicum of childhood; the latter assures to the adolescent certain leisure, all too little, for growth and development.

No one law can be selected as containing all the provisions needed or even as containing all the provisions now in

LEGISLATION RELATING TO THE EMPLOYMENT OF WOMEN

State	Prohibiting employment of women in— Mines, smelters, etc. Places where intoxicants are made or sold Cleaning or operating dangerous machinery	Regulating working time of women: Hours of labor limited Night work prohibited or restricted Requiring for females in factories, etc. Seats for rest when not at work Separate toilet facilities
U.S.		
Ala.		
Alaska		
Ariz.		
Ark.		
Cal.		
Colo.		
Conn.		
Del.		
D.C.		
Fla.		
Ga.		
Hawaii		
Idaho		
Ill.		
Ind.		
Iowa		
Kans.		
Ky.		
La.		
Me.		
Md.		
Mass.		
Mich.		
Minn.		
Miss.		
Mo.		
Mont.		
Neb.		
Nev.		
N.H.		
N.J.		
N.Mex.		
N.Y.		
N.C.		
N.Dak.		
Ohio		
Okla.		
Oreg.		
Pa.		
P.R.		
R.I.		
S.C.		
S.Dak.		
Tenn.		
Tex.		
Utah		
Vt.		
Va.		
Wash.		
W.Va.		
Wis.		
Wyo.		

LEGISLATION RELATING TO CHILD LABOR

State	Prohibiting employment of children under— 16 years, in mines 14 years, in factories, etc. 14 years, in mercantile establishments 14 years, in mines, smelters, etc. 13 years, in factories, etc. 13 years, in mercantile establishments 12 years, in factories, etc. 12 years, in mercantile establishments 12 years, in mines, smelters, etc. 10 years, in factories, etc. 10 years, in mercantile establishments	Prohibiting employment of children in— Places where intoxicants are made or sold Gymnastic, mendicant, etc., occupations Running elevators Cleaning or operating dangerous machinery	Regulating working time of children: Hours of labor limited Night work prohibited or restricted
U.S.			
Ala.			
Alaska			
Ariz.			
Ark.			
Cal.			
Colo.			
Conn.			
Del.			
D.C.			
Fla.			
Ga.			
Hawaii			
Idaho			
Ill.			
Ind.			
Iowa			
Kans.			
Ky.			
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Me.			
Md.			
Mass.			
Mich.			
Minn.			
Miss.			
Mo.			
Mont.			
Neb.			
Nev.			
N.H.			
N.J.			
N.Mex.			
N.Y.			
N.C.			
N.Dak.			
Ohio			
Okla.			
Oreg.			
Pa.			
P.R.			
R.I.			
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S.Dak.			
Tenn.			
Tex.			
Utah			
Vt.			
Va.			
Wash.			
W.Va.			
Wis.			
Wyo.			

force. It is not possible to say to students of the subject, the law of Massachusetts should be copied everywhere, for the laws of Ohio and Illinois contain single provisions in advance of that of Massachusetts.

Among the best child labor laws in the United States are those of Illinois and Indiana, which are almost identical. In Illinois no child under the age of fourteen years can be legally employed in any mine, manufacturing establishment, factory or workshop, mercantile institution, office, or laundry. The Indiana law adds, to the foregoing list, renovating works, bakeries, and printing offices. This prohibition is absolute throughout the year, admitting no exemptions or exceptions. Herein lies the superiority of these laws. Under the New York law, children at work in stores are exempt from restrictions during half of December—from December 15 to December 31—and also during the vacations of the public schools, when they may be employed from the age of thirteen years everywhere outside of the factories, which happily they may not enter before the fourteenth birthday. This exemption in New York has been given such elastic construction that children have been employed on Saturday and even on school days out of school hours.

The laws of Illinois and Indiana are humane; they set the highest age limit without exemptions yet attained; they are equitable since they place mine owners, manufacturers, and merchants in the same position in relation to this particular source of cheap labor. The employment of children under fourteen years of age is prohibited to all three sets of employers alike.

Treating these laws as standard or normal, for purposes of comparison, the law of Pennsylvania, for instance, is seen to fall below, because under it children may work in certain mines at twelve years and in factories at thirteen years of age; while lowest in the scale among all the northern and middle states stands New Jersey, whose child labor law permits boys to work at twelve and exempts all children, on grounds of poverty, at discretion of the factory inspectors.

From the foregoing brief statement it is clear that the subject of exemptions is a varied and complicated one. The

most insidious form of exemption, and therefore, perhaps, the most dangerous, is that prescribed in the law of Wisconsin. Under it, no child may be employed under the age of fourteen years in manufacture or commerce, unless it is exempted on grounds of poverty by a judge of a local court. In practice, a judge has no time to investigate the economic condition of hundreds of families; hence he follows the recommendation of the deputy factory inspector. This overworked officer is drawn away from his proper duties to perform an economic investigation for which he possesses no special fitness. His own work suffers. Children are exempted from school attendance and permitted to work, who more than any other children in the community need education because of the poverty or shiftlessness of their parents. Too often, drunken fathers are encouraged to further drunkenness because their young children, under exemption, are earning money which the parents spend. Finally, this exemption rests upon the pernicious principle that a young child under fourteen years of age may be burdened with the support of itself or its family.

It is not a legitimate function of the judiciary to investigate the poverty of individual families. It is not a legitimate function of the factory inspectors to investigate family life. Both officers are interrupted in the performance of their legitimate duties by every attempt to perform this alien task. Moreover, children under fourteen years of age are undesirable additions to the body of wage earners, pressing by their competition upon the wages of their seniors and therefore tending to produce in other families the same poverty which serves as a pretext for their own exemption. The number of exempted children, under such a provision, tends to increase continuously, because greedy and pauperized parents are tempted to follow the example of the really needy, in urging applications for exemptions.

Besides being free from all the undermining effects of exemption clauses, the child labor laws of Illinois and Indiana profit by several reinforcing clauses. Chief among these is the requirement that children under sixteen years and over fourteen years must keep on file in the office of the place of employment an affidavit of the parent or guardian, stating

the date and place of birth of the child. In Indiana, this must state also that the child can read and write the English language. While some parents are undoubtedly guilty of perjury, and others carelessly take the oath perfunctorily administered by a notary public, thousands of honest people are deterred by the requirement of the affidavit from sending their children to work before reaching the fourteenth birthday.

Employers must produce, on demand of factory inspectors, affidavits for all children under sixteen years of age in their employ. The penalty prescribed for failure to do this is the same as for employing a child under the age of fourteen years. The value of this provision for the protection of the children depends wholly upon the policy of the inspectors. If every failure to produce the affidavit is followed by immediate prosecution, manufacturers become extremely cautious about employing young children; children under fourteen years of age virtually cease to be employed; and the number of those employed under sixteen years of age diminishes because many employers refuse to be troubled with affidavits, inspections and prosecutions. On the other hand, employers of large numbers of children find it profitable to make one clerk responsible for the presence in the office of an affidavit for every child between the ages of fourteen and sixteen years. In these cases, the children who have affidavits acquire a slight added value, are somewhat less likely to be dismissed for trifling reasons, and become somewhat more stable in their employment.

Where, however, inspectors fear to prosecute systematically, lest they be removed from office, the provision requiring an affidavit to be produced by the employer, on demand of an inspector, is not rigorously enforced; children soon come to be employed upon their verbal assurance that they are fourteen years of age, and the protection which might be derived from this very useful reinforcing clause is lost for the children under fourteen years of age, as well as for the older ones.

A farther reinforcement of the prohibition of employment of children under fourteen years of age is the authority conferred by the Illinois law upon inspectors to demand a certificate of physical fitness for children who may seem unfit

for their work. This provision enforced with energy and discretion can be made, in the case of children, conspicuously undersized, largely to counteract the tendency to perjury on the part of parents, besides relieving healthy children from overstrain of many kinds. The difficulties encountered are chiefly two:—physicians grant certificates without visiting the place of employment. This occurs quite uniformly to the disgrace of the profession. Physicians also grant certificates, in many cases, without careful examination of eyes, heart, lungs, and spinal column of the child, simply upon the parent's statement of poverty. To make this reinforcement thoroughly effective, every factory inspection staff should include a physician, preferably two, a man and a woman, appointed expressly to follow up the children and the conditions under which they work.

Several states require that children under sixteen years of age must be able to read and write simple sentences in the English language before being employed. This is of the highest value in those states which receive large streams of immigration from Europe. In New York, every year, numbers of children are dismissed from factories by order of factory inspectors, because the children cannot read; while in Massachusetts, French Canadian children find school attendance at a high premium because of the difficulty of securing employment without it. The influence of the foreign voting constituency has defeated in several states, for several years past, the effort to secure a statutory requirement of ability to read and write English, or a specified attendance at school, as a prerequisite for work on the part of children under sixteen years of age. This is conspicuously true of Illinois, where such a provision was defeated in the legislatures of 1893, 1895, and 1897.

The most powerful reinforcement of the child labor law is a compulsory school attendance law effectively enforced. For want of this, the child labor law of Illinois suffers severely. The school attendance law requires children between the ages of eight and fourteen years to attend school sixteen weeks, of which twelve must be consecutive. Children under ten years of age must enter school in September, children under twelve

must enter school not later than New Year's. Meagre as these provisions are, they are not uniformly and effectively enforced by the local school boards; and the state factory inspectors are therefore burdened with frequent prosecutions of employers because children under fourteen years of age are sent to work by parents who should be rigorously prosecuted by the school attendance officers.

In Indiana, the reinforcement afforded by the state truancy law is of great value, for children must attend school to the age of fourteen years, throughout the term of the school district in which they live, generous provision being made for truant officers. This difference accounts, perhaps, for the fact that Indiana has but three and one half thousand children under the age of sixteen years at work, compared with nineteen thousand such children in Illinois; and this despite the rapid development of the gas belt in Indiana, where the temptation is very great for parents to put excessively young children to work with the help of perjured affidavits. Truant officers, watching young children, from the eighth to the fourteenth birthday, every day of the school term, are the best preventive alike of perjury by parents and of child labor. They constitute the best possible reinforcement of the child labor law.

Among the most advanced restrictions upon the hours of labor of children is that of New Jersey, which prohibits all persons, men, women, and children, alike, from working in manufacturing establishments longer than fifty five hours in any week, or after one o'clock on Saturday. This provision applies throughout the year. Massachusetts and Rhode Island prohibit the employment of women of any age and of youths under eighteen years, longer than fifty four hours in any week, or ten hours in one day, or after nine at night or before six in the morning.

These laws have the advantage of precision. They require that the hours of work of the persons concerned must be posted conspicuously, and that the posted hours shall constitute the working day—work beyond the posted hours constituting a violation of the law—thus rendering the enforcement of the law simple and easy.

The extent to which children are employed at night is not generally recognized. In any state in which such employment is not explicitly prohibited, it is very general in all branches of industry in which children are employed by day. Glassworks, nut and bolt works, tin can factories, furniture factories, cutleries, and scores of miscellaneous industries employ boys regularly at night. Girls are regularly employed in garment and candy factories during the busy season; and in some factories this work continues all through the year, as in the cotton mills of Georgia, Alabama, and the Carolinas. Wherever the prohibition is not explicit and sweeping, the night work of children is the rule, not the exception. In Illinois and Indiana boys are not prohibited from working at night, and are regularly employed in the glassworks in both states under circumstances of great hardship. In Indiana, girls are forbidden to work after ten o'clock; but Illinois, cruelly belated in this respect, merely restricts the work of children under sixteen years of age to sixty hours in any week, and ten hours in one day, failing to proscribe night work even for girls.

• Large numbers of working children remain wholly unprotected by legislation. Not only have the four great cotton manufacturing states, Georgia, Alabama, and the Carolinas, defeated all bills presented to their legislatures for the purpose of protecting young children, but in the north, also, newsboys, bootblacks, peddlers, vendors, and the thousands of children employed in the tenement houses of New York and Chicago, and in the sweatshops of Philadelphia, remain wholly outside of the law's protection, so far as statutory regulation of the conditions of their work is concerned. The problem of abolishing the overwork of school children in tenement houses, under the sweating system, appears at present insoluble except by a prohibition of all tenement house work.

To secure the enforcement of child labor legislation, there are needed factory inspectors, both men and women, equipped with ample powers and supplied with adequate funds for traveling and other expenses. These inspectors need good general education, long experience, and vigorous public opinion reinforcing their efforts. Massachusetts enjoys the unique

distinction, among the American states, of possessing a large staff of factory inspectors meeting all these requirements; and Massachusetts is, accordingly, the only state of which it may be confidently asserted that its child labor law is uniformly and effectively enforced at all times and in all its provisions. A faithful officer serving a full quarter century at the head of the department, with subordinates equally assured of permanent tenure of office during good behavior, has been able fearlessly and intelligently to enforce the laws securing to the children of Massachusetts fourteen full years of childhood, with opportunity for school life, followed by safety of life, limb and health after entering upon the years of work.

In all of the other states it is extremely difficult for an inspector who faithfully enforces the law to retain his position. The interests which oppose such legislation and object to its enforcement, are enormously powerful and are thoroughly organized. The people who procure the enactment of child labor laws are usually working people unacquainted with the technical details of the work of inspection; busy in the effort to earn their own living; not able to keep vigilant watch upon the work of the inspectors, the creation of whose office they achieve. Thus the officials are subjected to pressure in one direction only. If they are idly passive, they may be allowed to vegetate in office several years. If they are aggressively faithful to the oath of office, enforcing the law by prosecuting offenders against its provisions, the children who profit by this are unable to reward their benefactors; the working people who obtained the creation of the office have no arts of bringing pressure to bear effectively to reward faithfulness in public service by appointed officers; while the offending employers are amply able to punish what they decry as officious overactivity, if they do not go farther and charge persecution and blackmail. For these reasons it may almost be stated as a general proposition that the more lax the officer, the longer his term of office; and the history of the departments of factory inspection, the country over, sadly substantiates the statement.

It is to be borne in mind in all discussions of child labor laws that they are drawn in the interest of the weakest ele-

ments in the community. It is the recently immigrated family in the north and the poor whites in the south whose children are found at work. It is, therefore, probable that a rigid exclusion of all work of children under the age of sixteen years, while inflicting hardships upon some families already here and involving, perhaps, some need of assistance for them on the part of the community, would act as a check upon the immigration of the least desirable foreigners—those who come in the hope of exploiting their young children—and would somewhat deter the migration of the mountain whites in the south to the mill towns.

In the century since the movement for child labor legislation began with Sir Robert Peel's act of 1802, effort has been devoted chiefly to placing about the labor of children restrictions based upon age or school requirements, and these have been found unsatisfactory by reason of the defective registration of births and the readiness of parents to perjure themselves. It is the tendency of the present to consider the physical fitness of the child itself; and to establish an objective test of fitness for the occupation which the child enters. This has taken primarily the negative form of prohibiting for all children certain specified industries in Massachusetts and New York; and of prohibiting in general, in Ohio, any occupations dangerous to life and limb or whereby its health is likely to be injured or its morals may be depraved. In Illinois, the idea is tentatively expressed in the authority given the factory inspector to require a certificate of physical fitness for any child who may seem physically unfit for the work at which it is engaged. A law enacted by the legislature of New York provides that a child must be of normal development and is in sound health before receiving the certificate of the local board of health enabling it to begin work.

Effective legislation dealing with child labor involves many differing elements, including the child, the parent, the employer, the officials charged with the duty of enforcing the statutes, and finally the community which enacts laws, provides schools for the children when they are prohibited from working, supports and authorizes officers for the enforcement of the laws, prescribes penalties for their violation, assists

dependent families in which the children are below the legal age for work. In the long run, the effectiveness of the law depends upon the conscience of the community as a whole far more than upon the parent and the employer acting together.

With the foregoing reservations and qualifications duly emphasized, the following schedules are believed to outline the substance of the effective legislation which it seems reasonable to try to secure in the present and the immediate future. They deal only with provisions for the child as a child, taking for granted the provision for fire escapes, safeguards for machines, toilet facilities and all those things which the child shares with the adult worker.

An effective child labor law rests primarily upon certain definite prohibitions, among which are the following:

LABOR IS PROHIBITED.

- (1) For all children under the age of fourteen years.
- (2) For all children under sixteen years of age who do not measure sixty inches and weigh eighty pounds.
- (3) For all children under sixteen years of age who cannot read fluently and write legibly simple sentences in the English language.
- (4) For all children under the age of sixteen years, between the hours of 7 p. m. and 7 a. m., or longer than eight hours in any twenty four hours.
- (5) For all children under the age of sixteen years in occupations designated as dangerous by certain responsible officials.

Of the foregoing prohibitions Number 1 is in force in a number of states so far as work in factories, stores, offices, laundries, etc., is concerned. In New York and Massachusetts recent statutes restrict, though they do not yet prohibit outright, work in the street occupations for children under the age of fourteen years. The movement in this direction gained marked headway during the past winter. Number 2 is not yet embraced in any statute, but is vigorously advocated by many physicians and others practically acquainted with working children. Number 3 has long been the law in New York state, and is of the highest value to the immigrant

children so far as it is enforced. Number 4 is in force in Ohio. Number 5 is in force in Massachusetts.

Effective legislation requires that before going to work the child satisfy a competent officer appointed for the purpose, that it

- (1) Is fourteen years of age, and
- (2) Is in good health, and
- (3) Measures at least sixty inches and weighs eighty pounds, and
- (4) Is able to read fluently and write legibly simple sentences in the English language, and
- (5) Has attended school a full school year during the twelve months next preceding going to work.

Effective child labor legislation requires that the parent

- (1) Keep the child in school to the age of fourteen years, and
- (2) Take oath as to the exact age of the child before letting it begin to work, and
- (3) Substantiate the oath by producing a transcript of the official record of the birth of the child, or the record of its baptism, or some other religious record of the time of the birth of the child, and must
- (4) Produce the record of the child's school attendance, signed by the principal of the school which the child last attended.

Effective child labor legislation requires that the employer before letting the child begin to work,

- (1) Obtain and place on file ready for official inspection papers showing
 - (a) The place and date of birth of the child, substantiated by
 - (b) The oath of the parent, corroborated by
 - (c) A transcript of the official register of births, or by a transcript of the record of baptism, or other religious record of the birth of the child, and by
 - (d) The school record signed by the principal of the school which the child last attended, and by
 - (e) The statement of the officer of the board of education designated for the purpose, that he has approved the papers and examined the child.

- (2) After permitting the child to begin to work, the employer is required to produce the foregoing papers on demand of the school attendance officer, the health officer and the factory inspectors.
- (3) In case the child cease to work, the employer must restore to the child the papers enumerated above.
- (4) During the time that the child is at work, the employer must provide suitable seats, and permit their use so far as the nature of the work allows; and must
- (5) Post and keep in a conspicuous place, the hours for beginning work in the morning, and for stopping work in the middle of the day; the hours for resuming work and for stopping at the close of the day; and all work done at any time not specified in such posted notice constitutes a violation of the law. The total number of hours must not exceed eight in any one day or forty eight in one week.

Effective legislation for the protection of children requires that the officials entrusted with the duty of enforcing it

- (1) Give their whole time, not less than eight hours of every working day, to the performance of their duties, making night inspections whenever this may be necessary to insure that children are not working during the prohibited hours; and
- (2) Treat all employers alike, irrespective of political considerations, of race, religion or power in a community;
- (3) Prosecute all violations of the law;
- (4) Keep records complete and intelligible enough to facilitate the enactment of legislation suitable to the changing conditions of industry.

The best child labor law is a compulsory education law covering forty weeks of the year and requiring the consecutive attendance of all the children to the age of fourteen years. It is never certain that children are not at work, if they are out of school. In order to keep the children, however, it is not enough to compel attendance—the schools must be modified and adapted to the needs of the recent immigrants in the

north and of the poor whites in the south, affording instruction which appeals to the parents as worth having, in lieu of the wages which the children are forbidden to earn, and appears to the children as interesting and attractive. These requirements are so insufficiently met in the great manufacturing centers of the north, that truancy is in several of them, at present, an insoluble problem. No system of child labor legislation can be regarded as effective which does not face and deal with these facts.

The evolution of the vacation school and camp promises strong reinforcement of the child labor laws; which are now seriously weakened by the fact that the long vacation leaves idle upon the streets children whom employers covet by reason of the low price of their labor, while parents, greedy for the children's earnings and anxious lest the children suffer from the life of the streets, eagerly seek work for them. Nothing could be worse for the physique of the school child than being compelled to work during the summer; and the development of the vacation school and vacation camp alone seems to promise a satisfactory solution of the problem of the vacation of the city child of the working class.

Effective child labor legislation imposes upon the community many duties, among which are

- (1) Maintaining officials—men and women—school attendance officers, health officers, and factory inspectors, all of whom need
 - (a) Salary and traveling expenses,
 - (b) Access at all reasonable times to the places where children are employed,
 - (c) Power to prosecute all violations of the statutes affecting working children,
 - (d) Tenure of office so effectively assured that they need not fear removal from office in consequence of prosecuting powerful offenders;
- (2) Maintaining schools in which to educate the children who are prohibited from working;
- (3) Maintaining vital statistics, especially birth records, such that the real age of native children may be readily ascertained;

- (4) Maintaining provision for the adequate relief of dependent families in which the children are not yet of legal age for beginning work.

More important, however, than the enactment of the foregoing provisions is the maintenance in the community of a persistent, lively interest in the enforcement of the child labor statutes. Without such interest, judges do not enforce penalties against offending parents and employers; inspectors become discouraged and demoralized; or faithful officers are removed because they have no organized backing; while some group of powerful industries clamors that the law is injuring its interest. Well meaning employers grow careless, infractions become the rule, and workmen form the habit of thinking that laws inimical to their interest are enforced, while those framed in their interest are broken with impunity.

Upon parents there presses incessant poverty, urging them to seek opportunities for wage earning even for the youngest children; and upon the employers presses incessant competition, urging them to reduce the pay roll by all means fair and foul. No law enforces itself; and no officials can enforce a law which depends upon them alone. It is only when they are consciously the agents of the will of the people that they can make the law really protect the children effectively,