

report to the local school officials. Accordingly, in the few cases where the enforcement of the law has been pressed, it has produced some confusion. A child may be legally employed without molestation from the Department of Labor, and yet be taken from work by the school authorities for violating the attendance law. Indeed, the permits for employment, issued by the commissioner of labor to children apparently fourteen years old but unable to furnish the prescribed proof, would conflict directly with this law. Commissioner of Labor Bryant, under an opinion by the assistant attorney-general,<sup>10</sup> avoids formal conflict by adding to the permits a clause stating that the permits shall not be taken to exempt the holder from the provisions of the attendance law.

This law was passed under the pressure from its sponsor, Senator Price, without careful consideration by the legislators, many of whom have confessed that they misjudged its purport.<sup>11</sup> It was confidently expected by many persons that it would be amended or repealed at the next session of the legislature in 1909. An attempt by the friends of the child labor and compulsory attendance laws to sound the sentiment of that class on the law showed that there was a general feeling in favor of retaining it. The chief argument of the opponents was not that it should not be enforced, but that it could not be.<sup>12</sup> The law was much discussed before and during the session,<sup>13</sup> but no action was taken. The commissioner

<sup>10</sup> *Newark Star*, Oct. 22, 1908.

<sup>11</sup> *Trenton Times*, Oct. 27, 1908; *Newark Evening News*, Jan. 7, 1909.

<sup>12</sup> *Newark Evening News*, Mar. 14, 1909; *Passaic News*, Mar. 16, 1909.

<sup>13</sup> *E. g.*, *Trenton Times*, Oct. 7, 1908; Oct. 27, 1908; *Newark Evening News*, Jan. 7, 1909.

of labor has pointed out the present confusion and possible dangers to the whole child labor policy of the state if this law is retained and pressed.<sup>14</sup> This part of his report was most widely commented upon by the press notices. It is difficult to see how these two laws can remain as they are and be really effective in the case of those children for whom such legislation is passed. If it were seriously attempted to enforce it, the school officials would have to resort to such a liberal use of the power to grant exemptions to children fourteen years old that many of those whose attendance must be constrained would slip through their fingers, because the constraint is so often necessary on account of the need of employment of the children. On the other hand, if the power of exemptions is sparingly used, it would result in fatal confusion and imperil the whole policy of the state toward its children. The conflict would discredit the child labor law and destroy the prestige which it now has and which adds much to its effectiveness. And this loss would not be offset by the substitution of the attendance law, for it is beyond question that the people of the state are not yet ready to stand behind a fifteen year age limit for child employment.

The joint object of the two laws is defeated on the side of school attendance by the lax enforcement of the attendance law in many localities. This is due to the local option in the matter of providing the necessary means of enforcement. The enforcement can never be uniformly high without a centralized state administration of the law. Such an administration would encounter tremendous, if not insuperable, difficulties unless the state undertook to provide all needed facilities out of the state treasury, for the people would hardly yet submit

<sup>14</sup> *Rept. Dept. of Labor*, 1909, pp. 3-4.

to state interference in local affairs to the extent of state compulsion of local expenditure to meet those needs. Since that logical stage in the development of the policy embarked upon will probably not be reached in New Jersey for some time, this particular state policy will for some years have to depend for its enforcement upon the varying strength of local sentiment.

*Pertaining to Physical Fitness.*—The section of the law giving the commissioner and inspectors power to demand a physician's certificate of physical fitness for any child under sixteen in any occupation for which the child appears unfitted, is of doubtful efficacy. It is more specific than the earlier law. But it is fundamentally weak because it leaves the standard of physical attainment entirely undefined. That is left to each physician who may be called upon to give judgment in the case of any child. Indefiniteness in such a standard is in a large measure inevitable. Physical condition is not a thing that can be yet measured in terms of exact units. The various points to be considered are each so largely a matter of the judgment of the one who makes the examination, that opinion on the sum total of "physical fitness" admits of wide differences. A definition of a physical standard that would mean the same thing to all physicians called upon to apply it is therefore impossible. Yet if not all elements of physical fitness can be defined in the law with precision, there are some of them that can be prescribed with sufficient exactness to admit of a definite minimum in those respects with reference to specified kinds of work. This would not constitute a complete physical minimum. But it would afford a much more definite guide for passing upon a case. It would also be more effective for the purpose of such a minimum. For, with the matter so indefinite as at pres-

ent, inspectors hesitate to make any demands and physicians are unwilling to interpret "physical fitness" so as to set any precedent that means very much. Such a specific minimum, however, is probably one of those refinements requiring dispassionate and expert judgment to which American politics is not yet equal.

Besides indefiniteness in the standard, the law is weak also in leaving to the interested persons the selection of the physician from whom the certificate may be secured. Thus is opened the door to the influence of professional preference for a patron, or other personal considerations, on the expressed judgment of the child's condition. This can be avoided only by providing for the selection of a disinterested physician or by a permanent medical adviser to the department.

*Pertaining to Nedy Children.*—One other point of criticism of the minimum standards remains to be noted. The law permits no exceptions from the requirements of the minimum standards established by it. There is a widespread sentiment, among all classes of persons, that exception should be made for children under the minimum in the case of orphans and widows and even all poor families. When the law was drawn, Mr. Swayze was inclined to make provision for at least some of these cases. But the friends of the measure, fearful that such a section would prove a loophole for wholesale evasions, opposed that. The matter was dropped on the expectation of the charitable agencies that all cases of need would be cared for by local means.<sup>15</sup>

There can be no question but that any scheme for exempting children in cases of hardship would be a serious menace to the effectiveness of the whole policy. It is questionable, also, whether the desired end is best at-

<sup>15</sup> Mr. Swayze, in an interview with the writer.

tained by exempting such children even if done with perfect precaution against abuse. But if the matter be settled, as it is in the present law, by allowing no exemptions, there remains the problem of providing for needy cases. This problem is especially interesting here for its bearing on the administration of the policy. If the state, for the sake of the future of the children, undertakes to shut them out of employment until they have reached a certain age, there must be some means for "keeping their stomachs full" in the meantime, or else the state will find itself thwarted in the execution of its policy by an opposition somewhat in the nature of a struggle for existence. Against the urgent needs of the present, a law for securing a future benefit will not long stand. This is entirely independent of the question whether the urgent present needs in particular cases are the result of misfortune or misconduct. If opportunity is afforded to meet those needs by putting children to work, a desperate effort will be made to do so in spite of the law.

The expectation that local agencies would supply this need has not been met. Only the large towns and cities have any organized charities at all. And few of those which do have made suitable provision for this demand. Besides, the use of charities for this need is open to objections and, in any case, does not reach many whose commendable self respect of one sort leads them to seek to outwit the law rather than to obey it by asking aid of charity. There has been no attempt, moreover, to develop any form of the scholarship schemes employed in some cities or any other device to meet this situation. So it is that, regardless of questions of responsibility and culpability, the fact stands that the people of the state have, neither through local initiative nor by state action, provided any substitute for child employ-

ment, as a means of contributing to the support of the child, that is available with certainty to those whose economic condition impels them to put their children to work.

The administrative importance of this is seen in the number of people, including many in full sympathy with the main policy, who condone violations of the law in cases of hardship. This sentiment is an atmosphere extremely favorable to violation of the law. It has a more direct significance also, for it bears on notaries and even clergymen with a pressure tending to produce falsified documents, or to conceal falsification, under which children actually under age secure employment.<sup>16</sup> Some inspectors, too, are influenced by it. One inspector, in particular, committed himself to the writer as being indifferent to two or three months under age in specially needy cases. If this sentiment were organized, it would threaten the otherwise administrative excellency of the law at the first opportunity, unless the opponents of exemptions have an alternative proposal that meets the case.<sup>17</sup>

*Pertaining to Hours for Children.*—The law on hours for children is well enough drawn to meet the conditions encountered in enforcing it in factories. Ten hours has become almost universal in industries where children un-

<sup>16</sup> Charges of this are in the air, though are doubtless much exaggerated. The most direct testimony on the matter was the statement of a leader among the Italians in a manufacturing section. He said, in an interview with the writer, that Italian parents often come to him asking him to influence the priest to give a false copy of the baptismal record. In a few needy cases he had done so. The total number of such cases, however, is probably not large. A more serious leak is by way of the notaries who disregard alterations in documents of birth.

<sup>17</sup> This matter has received bare recognition in a sentence in the report of the Department of Labor for 1909, p. 4.

der sixteen are employed. When a longer day is worked, as in some textile mills, the excess over ten hours is so small that children can be dismissed at the end of ten hours without important interference with the running of the plant for the remaining time. An eight hour day for children in a ten hour day for the rest of the force, would require more specific limits of the time within which the eight hours should be worked. But there is now no opportunity for evasion of the law in the manner practiced where the day for children is much shorter than that usual for the adults with whom they work. This is not so true in the application to mercantile employment. Employment of children is forbidden between seven o'clock in the evening and seven o'clock in the morning. But many smaller stores are open all of the time between the stated seven in the morning and seven in the evening, which affords a period of twelve hours, less one meal time, within which the ten hours may be required.

A restriction upon hours meets peculiar difficulties of enforcement in that more reliance must be placed upon the testimony of employees in conducting prosecutions, and yet, employees are under pressure to shield the employer out of fear for their positions.

*Pertaining to Health and Safety.*—The sections pertaining to the health and safety of children are not very strong. An inspector can tell whether a factory is white-washed or clean, but it is difficult to see how any line can be kept on the employment of children at cleaning moving machinery or at work in dangerous positions with machinery. If it is done continuously, there is a risk of its coming to the attention of the inspector. But if it is intermittent, as much of it is, the inspectors may never discover it. The children, or other employees, will hard-

ly complain of it or even testify to it for fear of their positions. The law would be much more effective for its purpose if it specified certain dangerous and unhealthful occupations from which children should be excluded altogether. This has been recommended by the commissioner of labor.<sup>18</sup>

<sup>18</sup> *Message Gov. Abbett*, 1885, p. 28.



A SETTLED POLICY: ENFORCEMENT.

CHAPTER VII.

PROVISION FOR ENFORCEMENT

Thus far the account has been of the development of the ideals of the state concerning its child employees and of the increased precision with which the standard has been prescribed in the law. But experience has everywhere shown that special administrative officers are necessary to secure an observance of child labor laws, however well they may be drawn. It now becomes necessary to follow the growth in efficiency of the administrative department through which New Jersey has sought to give effect to her resolutions on child labor.

*Growth of a Corps of Inspectors: The Act of 1883.*— In New Jersey provision was first made for such officers in 1883 in connection with the child labor law of that year. That measure required the Governor to appoint, with the approval of the Senate, some person “as inspector” for a term of three years and a salary of \$1200. For authority and instructions as to duty he was “empowered to visit and inspect, at all reasonable hours and as often as practicable, the factories, workshops, mines, and other establishments in the state where the manufacture or sale<sup>1</sup> of any goods is carried on.” It was also made his duty “to enforce the provisions of this act and prosecute all violations.”<sup>2</sup> He was limited in the expense he might incur to \$500 a year.<sup>3</sup>

<sup>1</sup>This is probably a mistake. The bill originally applied to children in mercantile employments as well as manufacturing. But it was amended so as to exclude the former. The inspector then had no occasion to inspect mercantile establishments.

<sup>2</sup>*Pub. Laws*, 1883, pp. 59-61, sec. 5.

<sup>3</sup>*Ibid*, sec. 6.

The most commendable feature in this is that it recognized the need of a state officer to enforce factory laws and provided for his appointment. This is worth remarking when it is recollected how the measures vacillated, in the agitation leading up to the act of 1883, between the principle of centralized responsibility and that of local responsibility for the enforcement of such legislation, and how the legislature amended the vigor out of all thoroughgoing bills brought before it. And yet there were serious weaknesses in this initial provision for factory inspection.

Concerning form rather than efficiency, was the failure to give the inspector any official title by which he might be known. Of more weighty import was the insufficiency of the number of inspectors. According to the census of 1880 there were 7128 manufacturing establishments employing 126,038 persons, of whom 12,152 were under sixteen years of age.<sup>4</sup> One inspector could not possibly enforce the law over that field. The act was deficient, further, in not granting to the inspector the powers needed to secure observance of the law. He was authorized to visit and inspect factories, but he was not given any badge of that authority to secure his admission and no penalty was put upon those employers who refused to admit him.<sup>5</sup> Finally he had no authority to discharge a child found illegally employed. He could only bring prosecution upon the employer or the parent. And that, it was shown, was well nigh impossible to carry through successfully.

*The Enlargement of the Corps.*—The inspector at once

<sup>4</sup>Tenth Census. *Mfrs.* Vol. II, p. 151.

<sup>5</sup>The inspector reports that employers as a rule met him courteously and afforded him every opportunity to make his inspections, but that in some cases he was not recognized. *Rept.* 1884, p. 21.

urged the appointment of two assistants,<sup>6</sup> the need of whom was recognized.<sup>7</sup> A bill was introduced into the Senate in 1884. This gave the inspector the title of Inspector of Factories and Workshops and provided for two deputy inspectors to be appointed by him at salaries of \$1000, but without any specified term.<sup>8</sup> Owing to the extreme partisanship of the Governor toward appointed officials, the bill as enacted, while making the inspector's appointments subject to the approval of the Governor and the Comptroller, limited the terms of the two deputies to February first of the following year.<sup>9</sup> The deputies were given the same powers as the inspector, but were made subject to his control and direction.<sup>10</sup> The terms of these two deputies expired during the legislative session of 1885. It was expected that the legislature would make provision to meet this. Governor Abbett, in his message, remarked on the need and even recommended that more than two deputies be provided.<sup>11</sup> But a recommendation from a Democratic governor to increase the appointive offices was ill received by the legislature, now Republican in both branches and rankling under this Governor's extreme partisanship in

<sup>6</sup> *Rept.* 1883, p. 8.

<sup>7</sup> *Newark Daily Advertiser*, Mar. 5, 1884, editorial.

<sup>8</sup> Senate Bill 2, 1884.

<sup>9</sup> The Governor had followed, according to announcement, an extremely partisan program with reference to the civil service. He deliberately displaced office holders that he might make room for men of his own party. This fact caused to hesitate even those who recognized the need of more inspectors. See *Newark Daily Advertiser*, Jan. 21, 1884, on the recommendation of the factory inspector. The Governor did not have a united legislature behind him in 1884. The House was Democratic, as he was, but the Senate was Republican and stood in the way of creating any more offices for the Governor to fill.

<sup>10</sup> *Pub. Laws*, 1884, p. 200.

<sup>11</sup> *Message Gov. Abbett*, 1885, p. 28.

the disposal of the patronage. However, two bills were introduced. One in the House, fathered by the leaders of that body, gave the control of the appointments to the legislature.<sup>12</sup> The other in the Senate, put forward by the Federation of Trades and Labor Unions, was like the temporary measure of 1884, except that it provided for three deputies for terms of three years each.<sup>13</sup> The Federation got its measure through the Senate and the leaders of the House passed their measure through that branch. But neither bill could pass both houses.<sup>14</sup> So the session closed with nothing done.

<sup>12</sup> House Bill 273, 1885.

<sup>13</sup> Senate Bill 62, 1885.

<sup>14</sup> The committee of the House having the bills under consideration thought the labor leaders were trying to have offices created for themselves. Besides, they argued that three inspectors, as proposed in the Senate bill, were not enough to meet the needs. The committee took occasion to explain its position in a reply to a resolution of the legislative committee of the Federation of Trades and Labor Unions calling for the rejection of the House bill and the passage of the Senate bill. *Min. House of Assem.*, pp. 810-11.

The bill in the House was a product of the political contest for the patronage between the Democratic Governor and the Republican legislature. A number of bills transferring the appointments from the Governor to the joint session of the legislature, were passed that year, though always over the Governor's veto. This bill grouped the work of inspection, the work of the Bureau of Statistics, and the making of investigations in the field of charities and corrections under a "State Council of Labor, Charities, and Corrections," to be composed of certain officials *ex officio* and "four discreet persons" elected by the legislature. The work of inspection was placed in the hands of an inspector to be elected by the legislature and as many assistants as the council of labor and so forth thought best to provide. The Federation of Trades and Labor Unions, however, would have none of this "lunatic labor bill", but introduced their own measure into the Senate. This empowered the inspector to appoint, with the approval of the Governor and Comptroller, three deputies, one to be from the southern part of the state, and not more than two to be from

In his next report<sup>15</sup> the inspector complained of the impossibility of performing the duties alone, especially since the legislature had added to the work by passing the first general factory law, which was given to the inspector for enforcement. This time the legislature met his appeal. Again each house had its bill.<sup>16</sup> but the one originating in the Senate was the one to pass. It empowered the inspector to appoint, with the approval of the Governor and Comptroller, three deputy inspectors for terms of one year<sup>17</sup> at salaries of \$1000. They were given the same powers as the chief, but were to be under his control and direction.<sup>18</sup> After one year's experience, a still larger force was asked for, and received the recommendation of Governor Abbett in his last message.<sup>19</sup> A bill to that purpose was introduced into the Senate by Senator Griggs, later governor and United States attorney-general.<sup>20</sup> But the bill was all cut away by amendments until there remained only section 2, raising to \$2000 the limit on the expenses of inspectors which, by the act of 1884, had been raised to \$1000. This was the same party. Their terms were to be for three years and their salaries \$1000. The Secretary of State was required to give the inspector and deputies certificates of their authority. It was made illegal to impersonate an inspector, to forge his certificates, or to hinder him at his work or conceal any child from examination by him. And these were to be enforced with suitable penalties.

<sup>15</sup> *Rept.* 1885, pp. 9, 20.

<sup>16</sup> House Bill 399; Senate Bill 38.

<sup>17</sup> In the original bill, three years. The change was for the political reasons already named. Governor Abbett's term would expire in a year.

<sup>18</sup> *Pub. Laws*, 1886, pp. 106-7.

<sup>19</sup> *Message Gov. Abbett*, 1887, p. 30.

<sup>20</sup> Senate Bill 63, 1887. This provided five inspectors for terms of two years each, one deputy to be a sanitary inspector appointed by the state board of health. Other details were designed to improve the quality of the work of the department.

passed.<sup>21</sup> In the following year the same bill was again introduced minus the provision for a sanitary inspector.<sup>22</sup> But it failed to make headway.

In 1889, the legislature was Democratic in both branches, and the Governor was of the same party. The political jealousies of the opposite party thus had no foothold to oppose the creation of new offices. In this situation a new inspection bill had a clear field and became the law of 1889.<sup>23</sup> By this act the Governor alone was authorized to appoint six deputy inspectors for terms of three years at salaries of \$1000. These were to have the same powers as the chief inspector, but were to be at all times governed by and subject to the control of him. At the same time the term of the chief inspector was lengthened to five years and his salary increased to \$2500. This force, which at the time appeared to the inspector to be sufficient,<sup>24</sup> was continued until 1904.

When the agitation over child labor, which led up to the act of 1904, brought its renovation of the inspection department, it was seen that the number of inspectors was inadequate for the work which had been given them to do. The act of 1904 accordingly provided for eleven deputy inspectors besides the commissioner of labor and the assistant commissioner.<sup>25</sup> It was also provided that, when necessary for the work, the commissioner might employ additional inspectors for such time and such compensation as he may deem fit. A further extension of the jurisdiction of the department raised the question of a still larger force.<sup>26</sup> This was provided in 1908 by the

<sup>21</sup> *Pub. Laws*, 1887, p. 144.

<sup>22</sup> House Bill 92, 1888.

<sup>23</sup> *Pub. Laws*, 1889, pp. 157-8.

<sup>24</sup> *Rept.* 1889, p. 5.

<sup>25</sup> Sec. 45.

<sup>26</sup> *Message Gov. Stokes*, 1907, p. 11; *N. J. Rev. Char. and Cor.*, VII, 16, Jan. 1908.

addition of two deputy inspectors,<sup>27</sup> which raised the number specifically authorized to thirteen. Under the provision for extra assistance the commissioner of labor has appointed an additional inspector for special work in the Newark district.

*Appointment and Removal.*—In all but one of these measures, proposed or enacted, for enlarging the force of inspectors, the appointment of the chief inspector rested with the Governor and the Senate.<sup>28</sup> The absence of any power to discharge a chief inspector except by impeachment, and the passage of the act in 1902 giving the Governor that power, have been noted already. But the act of 1904 omitted any such authority to the Governor and left the matter where it was before the act of 1902. The present Governor, Mr. Fort, has sought to have the power of removal of several state officers conferred upon the chief executive, but the legislature has thus far refused it.

In the case of the deputies, the bill of 1884 placed the appointing power with the inspector alone, but the act as passed required his appointments to be approved by the Governor and Comptroller. This lodgment of the appointing power was retained in every bill and act, except one in 1885, down to 1889. This tended to a concentration upon the chief of the responsibility for the work of the department, for he had the initiative in selecting the assistants he had to use. The act of 1889,

<sup>27</sup> *Pub. Laws*, 1908, pp. 573-4.

<sup>28</sup> It was proposed in 1894 that the appointment of both chief and deputies be taken from the Governor and vested in the legislature in joint meeting. (House Bill 480, 1894.) This probably had its origin in the deadlock between the Democratic Governor and the Republican legislature over the appointment of a chief inspector for the new term beginning that year. (See below, page 142.) This bill, however, did not pass.

however, denied him even an advisory influence in the choosing of his assistants. This, probably in the interest of party control, tended toward the dissipation of responsibility. When it is noted also that the deputies were given from the first the same powers as the chief,—that is, they could make discharges and issue orders on their own initiative,—it is clear that all the elements were then present for disorganization and resulting ineffectiveness in the work of enforcing the law. The act of 1889 also gave the inspector power to discharge a deputy for cause, but only with the consent of the Governor. This limitation practically took away altogether the use of that power as against any political influence that might be injuring the organization of his force, unless the Governor happened to be a man unusually willing and unusually free to disregard political influences. Of course the chief inspector himself might be too considerate of such influences. But what is here in question is the possibility, under the law, of holding him alone responsible for the work of his force. When the quality of the work of inspection is examined, the effect of this feature in the law is noticeable. This provision is continued in the act of 1904 which vests the appointment of deputies in the Governor alone. The present commissioner of labor has, in fact, an influence with the Governor in the selection of deputies, but this must always be at the discretion of the Governor and “subject to political necessities.”

*Salaries.*—The matter of salaries for inspectors was early recognized as important for the character of the work that would be done, through its bearing on the quality of men available for the positions. The salary of the chief inspector was originally \$1200. In 1886 it was raised to \$1800 and in 1889 to \$2500, where it



was left by the act of 1904.<sup>28a</sup> The salary of deputies had been \$1000 annually from the beginning. In 1890 it was proposed to raise this to \$1200.<sup>29</sup> But popular interest in efficient service was not so great but that fear of disapproval of apparent extravagance checked this effort. The salary of deputies remained the same for the nearly doubled force provided in the act of 1904. In 1907 the situation was changed. In that year the salaries were raised to \$1500. That of the commissioner of labor, which had been placed at \$2500 in the act of 1904, was raised to \$3500 and that of the assistant commissioner from \$1500 to \$2000.<sup>30</sup>

*Provision for Women Inspectors.*—It was early believed that much of the work of inspectors could be better done by women than by men. Accordingly women have been attached to the inspection departments sooner or later everywhere. In New Jersey the Federation of Trades and Labor Unions began the agitation for women inspectors in 1898. That year the Federation introduced a bill increasing the number of inspectors to eight and requiring that two of them be women.<sup>31</sup> This was in effect to add two women to the force. The bill passed the House<sup>32</sup> but not the Senate. The opposition was based on the additional expenditure of \$2000 a year for salaries. Acting-Governor Voorhees opposed it for the same reason and for fear of criticism for making

<sup>28a</sup> The delegation mentioned above, pp. 75; 82, note 53, asked the Governor that the salary be put at \$5000, saying that manufacturers of the state did not want to be put at the mercy of a cheap official.

<sup>29</sup> House Bill 436, 1890.

<sup>30</sup> *Pub. Laws*, 1907, pp. 649-52. The original bill increased the salaries only for the deputies and the assistant commissioner, the former to \$1500 and the latter to \$1800.

<sup>31</sup> House Bill 87, 1898.

<sup>32</sup> *Min. House of Assem.*, 1898, p. 168.

more offices.<sup>33</sup> It may be suspected that the political impotence of women appointees was also a consideration. Every year thereafter the same bill, and sometimes others, was sent in.<sup>34</sup> In 1899 many petitions were laid before the Senate in behalf of the measure.<sup>35</sup> The New Jersey Consumers' League, organized in 1900, circulated petitions to now Governor Voohees praying that, when he made the appointments of deputy inspectors in 1901, he appoint one woman.<sup>36</sup> There was nothing in the law to forbid that. But all this availed not. In 1902 the proposal came before the legislature again; this time with success. But the bill which was introduced and passed simply amended the act of 1889 so as to provide for seven deputies, instead of six, and so as to refer to the deputies as "he or she" and "him or her."<sup>37</sup> This did not require that the additional appointee be a woman, but it permitted that; and it was generally understood that the intention of the bill was to provide for a woman inspec-

<sup>33</sup> *N. J. Fed. Trades and Lab. Unions*, 1898, pp. 33-35.

<sup>34</sup> House Bills 119, 1899; 119, and 319, 1900; Senate Bill 135, 1900; House Bills 9 and 45, 1901; 33, 1902.

<sup>35</sup> *Senate Journal*, 1899, p. 215.

<sup>36</sup> "This petition was sent to the women's clubs, to the W. C. T. U. organizations, to ministers, and to individuals of influence and prominence, who secured signatures of persons in their own localities. It was circulated widely throughout the state." (Mrs. G. W. B. Cushing, president of the League.)

<sup>37</sup> *Pub. Laws*, 1902, pp. 799-800.

It was reported that when the bill was taken to Trenton, it specifically provided that the new deputy should be a woman, but that Governor Murphy let it be known to his friends among the lawmakers that he would under no circumstances approve such a bill, and that the bill was therefore changed so as to make the appointment permissive instead of mandatory. *Newark Evening News*, Aug. 28, 1902, Editorial.

According to reports, it would appear that the Governor hesitated at first to sign even this bill. *Newark Evening News*, Aug. 23, 1902.

tor.<sup>38</sup> But even this sort of side door entrance did not open. The Consumers' League presented a candidate for the position and the labor organizations presented a candidate. Others also were in the field. The Governor was beset with the exhortations of the friends of these candidates. Finally, he said, by his secretary, Mr. Swayze, in reply to one such letter, that he did not then intend to appoint an inspector, because he did not feel that the necessity for another was yet clear enough to justify the expense.<sup>39</sup> This greatly disappointed the supporters of the bill of 1902, but met the approval of some.<sup>40</sup> In the course of the investigation of child labor, conducted by Mr. Swayze, in the fall and winter of 1903-1904, there was revealed the peculiar need of a woman to do some of the work of the department. Governor Murphy, therefore, appointed the first woman inspector, who assumed her duties February 1, 1904. For similar reasons, Mr. Swayze, when preparing the bill of 1904, included the requirement that two of the eleven inspectors should be women.

There was soon expressed a feeling that there was need of a third woman on the staff.<sup>41</sup> This desire profited by the growing need of more inspectors. In 1908 the Consumers' League was the originator of the bill

<sup>38</sup>*N. J. Rev. of Char. and Cor.*, I, p. 81, May, 1902, editorially; H. J. Gottlob, chairman of legislative committee of the N. J. Fed. of Trades and Lab. Unions, in same issue, p. 74; *Newark Evening News*, Aug. 28, 1902, editorially; and testimony to the writer by persons who were interested in the bill.

<sup>39</sup>Letter to Mr. J. P. McDonnell by Mr. Swayze. See the *Daily State Gazette*, Aug. 27, 1902.

<sup>40</sup>*Newark Evening News*, Aug. 28, 1902; *Trenton True American*, Aug. 28, 1902; *Daily State Gazette*, Aug. 28, 1902.

<sup>41</sup>The Essex Trades Council urged an additional woman for Essex County alone, which contains the densely manufacturing center of Newark and its environs. *Newark Advertiser*, Feb. 3, 1906.

adding two inspectors to the force and including the provision that one of the new appointees should be a woman. This was passed, thus increasing the number of women inspectors to three.<sup>42</sup>

*Jurisdiction of the Inspectors.*—Any judgment of the sufficiency of the number of inspectors must consider the amount of the work of the inspectors. That leads to the subject of the jurisdiction of the department of inspection. The act of 1883 first establishing the department required of the inspector to “visit and inspect” factories and “to enforce the provision of this act.” As that applied only to child labor, the duties of the inspector were not varied, although they were more than ample for one man. The act of 1884, providing for two deputy inspectors, made it the duty of the department to enforce all laws relating to the “sanitary condition of factories and workshops, and to the employment, safety, protection, and compulsory attendance at school of minors; and to institute all suits or actions in the name of the inspector.”<sup>44</sup> Under this direction, the inspector found nine different laws which he considered to fall within his jurisdiction and to which he called the attention of those to whom he sent his notices.<sup>45</sup> But some of these were included only by stretching the terms of the law’s instructions to inspectors.<sup>46</sup>

<sup>42</sup> *Pub. Laws*, 1908, p. 573-4.

<sup>44</sup> Sec. I.

<sup>45</sup> *Rept. Insp. Fact.*, 1884, p. 9.

<sup>46</sup> The inspector’s list included an act to protect children from neglect, an act forbidding the employment of children in mendicant and exhibition activities, an act to punish cruelty to children, and an act forbidding the sale of cigarettes or tobacco to minors. One of the laws properly coming under the terms of the instructions was the compulsory attendance act of 1874, but it may be questioned whether the intention was not to apply merely to the attendance required of working children under fifteen years old.

The factory acts of 1885 and 1887 added to the jurisdiction of the inspectors the enforcement of all the provisions for protecting the health, safety, and comfort of factory employees, male and female. The jurisdiction over fire escapes was disputed. The child labor law of 1883 applied to mining, hence the inspector was required to inspect mines with reference to child workers, but he was not given jurisdiction over other features of mining operations. In 1892 a commissioner of mines was provided for, after some intermittent agitation to that end.<sup>47</sup> But this law was repealed in 1894 and the duties placed upon the factory inspector.<sup>48</sup> Thus it remained until 1904, when the duties were omitted from those given to the new Department of Labor.<sup>49</sup>

In 1899 was passed an act requiring wages to be paid in money every two weeks. The enforcement of this law was put upon the factory inspectors.<sup>50</sup> By an amendment of 1904, the new Department of Labor created that year was charged with the enforcement thereafter.

In 1896 a bakeshop law was passed for the sanitary regulation of bakeries.<sup>51</sup> The enforcement of this law

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At any rate, the enactment of a compulsory attendance law in 1885, placed the enforcement of that act with local truant officers and thereby removed it from the inspectors.

<sup>47</sup> *Pub. Laws*, 1892, pp. 37-9. A bill had been proposed as early as 1886, House Bill 186.

<sup>48</sup> *Pub. Laws*, 1894, pp. 64-7.

<sup>49</sup> Mr. Swayze opposed the inclusion of this function in the new law because the work of mine inspection required an expert in mining, which no inspector on a salary of \$1000 was likely to be. He thought a separate law could better make that provision. The labor leaders, for their part, were satisfied because mining is not important in New Jersey. (*Hoboken Observer*, Feb. 9, 1904.) No law has since been passed and appears not to have been demanded.

<sup>50</sup> *Pub. Laws*, 1899, p. 69.

<sup>51</sup> *Ibid.*, 1896, p. 266.

was placed upon the factory inspectors. When the act of 1904 was prepared, the bakeshops were omitted from the jurisdiction of the Department of Labor both because of a doubt of the constitutionality of placing such a provision in a factory law, and because of the want of any direct relation between factory inspection and the public health as affected by the preparation of food. But in 1905, a revision of the bakeshop law placed this duty again upon the inspectors.<sup>52</sup> This anomalous arrangement is due probably to the urgent desire of the bakery workers who feared the law would not be enforced otherwise. Yet the commissioner of labor urged the proposal himself.<sup>53</sup>

*Powers of Inspectors: Power to Enter Factories.*—The inspectors have not always enjoyed sufficient powers to enable them to compel an observance of the law they have been supposed to enforce. This question of power is complicated by that of proper safeguards upon the abuse of the power. It has been fear of this abuse, as much as opposition to the policy involved, that has retarded the development of ample powers for the inspectors. Even yet the problem of administrative arrangements that will make the inspectors real enforcers of the law without resulting in unreasonable arbitrariness is not satisfactorily solved.

The original act providing for an inspector, the child labor law of 1883, was remiss in the important matter

<sup>52</sup> *Pub. Laws*, 1905, pp. 203-6.

<sup>53</sup> *Rept. Dept. of Labor*, 1904, p. 9.

This arrangement has been criticised as disturbing to the work of factory inspection because of its distracting demands upon the inspectors. But motives of economy will probably continue it for some time. The only other available disposal is to give the enforcement of the law to local boards of health. But that would create as uneven an observance of the law as is now had by the compulsory attendance law.

of legal authority to enter factories for inspection. The inspector was required to make inspections, but was not specifically authorized to enter factories. Nor was he provided with any badge or certificate of his office. The need was met in 1886 by the act which added three deputy inspectors.<sup>54</sup> This law provided for a certificate of authority from the Secretary of State. It also made it illegal to impersonate an inspector or to hinder him in the discharge of his duties or to conceal any children from his examination. And penalties were provided to give these directions effect. These powers were retained in the act of 1904, which also specifically conferred upon the inspectors the right to enter and inspect establishments at all reasonable hours.<sup>55</sup> This power has been finally passed upon by the courts.<sup>56</sup>

As affecting the inspectors' opportunity to inspect factories, although not pertaining to their powers, is the requirement that manufacturers report to the inspector the location of their establishments when they occupy them. A provision to that end was included in the factory bill of 1885,<sup>57</sup> but it was stricken out before passage. The same provision was before the legislature in 1886,<sup>58</sup> but was again rejected. In 1887 it was included and retained in the factory bill passed that year. This required every person, within one month after occupancy, to notify one of the factory inspectors of his occupancy.<sup>59</sup> The act of 1904 requires the same notice to be sent to the department at Trenton.<sup>60</sup>

<sup>54</sup> *Pub. Laws*, 1886, pp. 106-7, secs. 2-5. One of the bills which failed to pass in the legislature of 1885 had provisions to remedy this. Senate Bill 62, 1885.

<sup>55</sup> Sec. 45.

<sup>56</sup> See above, page 93.

<sup>57</sup> House Bill 154, sec. 3.

<sup>58</sup> House Bill 218, sec. 2.

<sup>59</sup> *Pub. Laws*, 1887, p. 243, sec. 1.

<sup>60</sup> Sec. 29.

*Power to Discharge Children.*—The act of 1883 applied only to child employment. But, besides the lack of authority to enter factories, the inspector was not given power to exercise his authority in that limited field. He was authorized only to prosecute offending employers or parents, but not to discharge a child found employed under age. An attempt was made to correct that in the act of 1884. That measure gave the inspector authority to discharge forthwith any child found employed under a false affidavit.<sup>61</sup> It would have been ample but for the insufficient requirement of the law as to the evidence of a child's age. The burden of proof was on the inspector. And proof was in many cases so difficult that his power to discharge could not be brought to bear upon many children whose employment he was morally certain was illegal. These provisions of the law, however, remained unchanged until the enactment of 1904. In that year, the burden of proving a child's age being shifted to the parent, the commissioner was empowered to discharge any child who can not prove himself to be of legal age within five days, as well as any who may be shown to be under age.<sup>62</sup> This authority has proved adequate. But it should be noted that the authority to discharge a child or issue any other order, except one to furnish proof of age or a certificate of physical fitness, is expressly conferred upon the commissioner alone. The inspectors merely report the facts as they find them and make recommendations. This is an important improvement over the old law.

*Required Attention to Duty.*—Much demoralization has been caused to the work of the department of inspection by the demands upon the inspectors of other business

<sup>61</sup> Sec. 5.

<sup>62</sup> See above, pp. 81-2.



interests. This and other influences caused them to give only part of their time to their duties. Such looseness in the inspection department did not pass without a protest, though the most urgent protestants, until the very end of the period, were the labor organizations. The unsuccessful measure before the legislature in 1887, for enlarging the force of inspectors, contained a section requiring each inspector to give at least eight hours a day to his work.<sup>63</sup>

After repeated efforts to get such a provision through the legislature,<sup>64</sup> it was incorporated in the act of 1902 which made way indirectly for a woman inspector. By this the deputies were required to give to their work eight hours a day, but only four on Saturdays. They were forbidden to engage in any business or employment that would prevent the full and faithful performance of their duties. Violation of this was to incur immediate suspension and loss of pay for such a period as the chief might deem proper, and even discharge with the consent of the Governor.<sup>65</sup> The act of 1904 incorporated the same requirement as to hours of service and as to non-participation in other distracting business.<sup>66</sup> The deputies at present appear to be held to this very generally. Only one clear instance came to the attention of the writer where the deputy, from his own account of his work, may be suspected of neglecting his duties on account of other business.

There is, however, plenty of political activity in some cases, although none of the deputies with whom the writer came in contact appeared to be letting his work

<sup>63</sup> Senate Bill 63, 1887, sec. 4.

<sup>64</sup> House Bill 92, 1888; House Bill 119, 1899; House Bill 119, 1900; House Bill 9, 1901.

<sup>65</sup> *Pub Laws*, 1902, pp. 799-800, sec. 2.

<sup>66</sup> Sec. 45.

suffer conspicuously on that account; and the one apparently most active in local politics has a very excellent record as an inspector.

This matter is difficult to control, in view of the conditions affecting the appointment and tenure of the inspectors. The one conspicuous delinquent noted by the writer justified himself on the plea that his position was a political one and very uncertain as to its renewal, so that he felt compelled to "put an anchor out to windward." While this does not justify a man's acceptance of \$1500 a year without due return of service, the argument has as a matter of fact much practical importance. Until appointment can be conditioned solely on qualifications and tenure on efficiency of record, the deputies will be bound by human nature to spend some of their time in providing insurance against the evil day. Nothing but the intense and sensitive interest of the people of the state in the subject of child labor could have enabled the present régime to free itself as much as it has of the demoralizing influence from this source.

*Politics and Personnel: The Chief Inspector.*—Governor Ludlow in 1883 first nominated to the new office of inspector of factories Mr. Richard Dowdell of Essex County. The nominee was an active leader in the labor unions of the day. The Senate, however, rejected the nomination on the ground that it was unfair to the manufacturers to put into such an office a man who represented the extreme labor union element.<sup>67</sup> The Governor then selected Mr. Lawrence T. Fell, a hat manufacturer and real estate dealer of Essex County. This nomination was approved by the Senate. Although a manufacturer, the inspector showed himself to be much in sympathy with

<sup>67</sup> *Newark Daily Journal*, Mar. 22, 1883, Editorial; *Newark Daily Advertiser*, Mar. 23, 1883.

the labor unions, to whom he gave much credit for the law and for assistance to him in enforcing it.<sup>68</sup> He also chose his first deputies from trade unionists. Yet he does not appear to have carried his sympathies to the extent of giving offense to manufacturers on that account. He was something of a politician, also, without any doubt.<sup>69</sup> Probably his selection for the office was influenced by that fact. Yet he denied that he made application for the office or in any way sought the appointment. However that may be, he showed a great deal of sympathy and enthusiasm for the object of the laws under his jurisdiction and appears to have made an earnest endeavor to enforce them throughout his official career.<sup>70</sup> He has left a record which appears to be a good one. According to testimony given the writer by two inspectors who served under him, he followed up the work of each deputy with critical scrutiny and exacted faithful performance of duty from them, so far as he had power to do so. Yet he did not escape criticism. His renomination in 1886 was adversely reported by the senate committee and was confirmed only after some delay by a small majority.<sup>71</sup> But that was doubtless due to the fact that the Senate was Republican while he and the governor who renominated him were Democrats. In 1889 his renomination was

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<sup>68</sup> See. *Repts. Insp. Fact., passim.*

<sup>69</sup> He was at one time, during his inspectorship, Mayor of Orange. After his appointment he was charged with earlier political dealing and with having sought to influence legislation affecting his office. All of this he denied. Letter by "Rex Hatter," dated Mar. 1, 1884, in *Newark Daily Advertiser*, Mar. 3, 1884. Reply by Inspector Fell, dated Mar. 4, 1884, in *Newark Daily Advertiser*, Mar. 5, 1884.

<sup>70</sup> This has appeared in the accounts of the enactment of the various laws during the early years of his official career.

<sup>71</sup> *Senate Journal*, p. 897.

confirmed unanimously by a Senate with a Democratic majority of only one.<sup>72</sup>

At the expiration of the first five-year term in 1894, his renomination was stoutly opposed. Whether this was due in any part to his attempt to give the fifty-five hour law of 1892 the vigor of judicial approval and then enforce it, the writer has not discovered. But probably politics had a large part in it. Inspector Fell had held office for eleven years. It was time to "give some one else a chance." The Senate was now Republican by a majority of one, so could defeat the renomination by the Democratic Governor Werts. The nomination was referred to committee,<sup>73</sup> but no report was made or other action taken. In 1895, Governor Werts renewed his nomination of Mr. Fell. This year the Senate was Republican by sixteen to five. The term of Governor Werts would expire in a year. The trend of political sentiment was toward the Republican party, so a further delay of a year might find a Republican governor in office. The nomination was accordingly rejected by a party vote.<sup>74</sup> Governor Werts did not nominate anyone else. Meanwhile Mr. Fell held over, but, of course, was not as aggressive on such an uncertain tenure. When the legislature met in 1896, the Republican Governor Griggs had been elected and the Senate was Republican by eighteen to three. This was the first Republican governor since the inspectorship was established. The event was, therefore, a signal for a redistribution of patronage. Senator John C. Ward, a farmer of Salem County, whose senatorial term was about to expire, was nominated by Governor Griggs and promptly approved by the Senate.<sup>75</sup> Inspec-

<sup>72</sup> *Senate Journal*, p. 887.

<sup>73</sup> *Ibid.*, 1894, p. 905.

<sup>74</sup> *Ibid.*, 1895, p. 947. The vote was 15 to 5.

<sup>75</sup> *Ibid.*, 1896, p. 893.

tor Ward held the office until the revulsion of sentiment forced him out in 1904 and reorganized the department under a new law.

Inspector Ward was the opposite in many respects of Mr. Fell. He was an easy-going official, without any aggressiveness. He had none of the enthusiasm for the factory laws displayed by Mr. Fell. He had no intimate knowledge of factory life or factory conditions, having come from a farming county, in the south of the state, where the only manufacture of importance was the glass industry. His selection was made almost entirely on grounds of political expediency. The administration of the department under him became thoroughly involved in the game of politics and showed no vigor at any time. Mr. Ward was severely criticised as purposely relaxing the enforcement of the law for the sake of employers who wished to violate it. It appears rather that he was not reactionary in his purpose, but too easily misled as to the actual observance and too solicitous about political consequences. His outgoing from office and the appointment of Mr. Bryant have been already described.<sup>76</sup>

The selection of Mr. Bryant appears to have been independent of political influence. He was not known to be a candidate for the place and his name had never been mentioned in connection with it. Governor Murphy is reported to have said "I have selected Colonel Bryant for this position entirely because of my personal knowledge of the man . . . . I shall give Colonel Bryant a free hand in the management of his department, especially in the selection of his subordinates, and shall only demand that the work so well begun by Mr.

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<sup>76</sup> See above, pp. 63 *et seq.*

Swayze shall be carried to a successful completion."<sup>77</sup> At least one candidate of the politicians of South Jersey was passed over in this appointment.<sup>78</sup> This was in accord with the declaration in his annual message that "above all, the head of this important department should be in perfect sympathy with the views of the people of the state."<sup>79</sup>

Mr. Bryant was in the hotel business, the irrelevancy of which to the work of factory inspection was made the point of some critical humor, especially as Mr. Ward had been criticised because, never having been anything but a farmer, he could not be expected to direct the inspection of factories understandingly. But Mr. Bryant's recommendation came from another source. He had been educated in a military academy, had served in the Spanish war as captain of a company in a regiment of New Jersey volunteers, had then served as assistant inspector-general in the New Jersey National Guard, in which position he was acknowledged to have made an excellent record for efficiency, and was at the time of his appointment secretary of the New Jersey Commission to the Louisiana Purchase Exposition. Although these were political offices, he seems to have given them more than the time-service of the politician and to have shown a capacity for organization and an integrity such as were needed in the work of directing the factory inspection. At any rate, the appointment was favorably noted by the newspapers, and the work of the department under his direction has found equal favor.

*The Deputy Inspectors.*—The office of deputy inspec-

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<sup>77</sup> *Newark Daily Advertiser*, Jan. 8, 1904; Also *Daily State Gazette*, Jan. 11, 1904.

<sup>78</sup> *Daily State Gazette*, Jan. 7, 1904.

<sup>79</sup> *Message*, 1904, p. 13.

tor was treated as a reward for political service. This is generally acknowledged, although in the nature of the case the exact details and reasons for changes on that account are difficult to ascertain with certainty. The following table presents a scheme of the changes of the deputies. Each space on a horizontal line represents a year. These are grouped into three-year periods corresponding to the terms of the several governors. The political faith of the governors is indicated by D for Democratic and R for Republican. The years are indicated by the last two figures of the number, beginning with 1883. The incumbency of the chief inspectors is indicated by their names placed at the beginning of their official careers. The different inspectors are indicated by different letters placed under the year of their appointment. Their terms of office respectively are indicated by the number of spaces after the letter until the next one. From 1887 to 1904, each horizontal line represents one office and the number of letters in the line the number of different inspectors who have held that appointment. In 1904 the districts were reorganized so that none of the inspectorships are identical with those preceding 1904.

TABLE V.

CHANGES OF INSPECTORS.

D	D	D	D	D	R	R	R
'83	'84-'86	'87-'89	'90-'92	'93-'95	'96-'98	'99-'01	'02-'04
FELL	D.	. . .	. . .	. . .	WARD	R.	. . .
		C E . . .	J . . .	. . .	. O . . .	. . .	. . .
	A	D . . .	. . .	M . . .	. P . . .	. . .	. . .
	B	B F . . .	. . .	. . .	. T . . .	V . . .	. . .
		G . . .	K . . .	N . . .	. Q . . .	. . .	. . .
		H . . .	. . .	. . .	. R . . .	. . .	. . .
		I . . .	L . . .	. . .	. S . . .	U . . .	. . .

By the diagram is shown that A and B were appointed in 1884 for the short term expiring February 1, 1885. Then came the period of two years when political jealousies prevented provision for any deputies. In 1887 three were provided for terms of one year each. Two of these were succeeded at the end of that term by other men. In 1889 came the new inspection law providing six deputies for terms of three years each. The three existing deputies, E, D, and F were reappointed with three new ones, G, H, and I. Three of these six were succeeded at the end of their terms by new appointees. One of the new and one of the old were succeeded at the end of the next term. Then came a change of administration with the appointment of chief inspector Ward and a clean sweep of the deputies. Only two further changes were made before the reorganization of



1904. In 1904 politics had its influence on the appointments, but did not determine them. Governor Murphy consulted the interests of local politicians. And it is evident that some of the appointees are active in local politics. But he insisted on getting competent and well-intentioned men. To each of them he sent a forceful letter giving him to understand that he would be held for his full duty.<sup>80</sup>

From 1887 to 1904 the average term of office for the deputy inspectors was 4.57 years. The time since 1904 has been too short to judge of the tenure of office.<sup>80a</sup> Thus far there has been a respect by politicians for the integrity of the force. But only one change of governors has been made affecting reappointments, and that did not involve a change of party. A third governor is now in office, but he is of the same political faith. He will not have the appointments to make until 1910.<sup>80b</sup> From his present record he is not likely to sacrifice them to politics. Whether, however, public sentiment is strong enough to enable the present composition of the force to withstand a change of politics in the administration is rather doubtful. There is a growing sentiment for a more permanent tenure in all state offices; and civil service laws have been agitated in recent years. But the politicians have thus far prevented very much of a check on their control of the patronage. In 1908 a civil service law was passed. But its provisions do not include

<sup>80</sup> *Trenton True American*, Sept. 3, 1904; *Newark Evening News*, Sept. 4, 1904.

<sup>80a</sup> Written early in 1909.

<sup>80b</sup> Written early in 1909. Since then, Governor Fort has reappointed Mr. Bryant, but only after some delay and after urgent requests to do so by various delegations and communications from the friends of the child labor law.

inspectors in the classified service.<sup>81</sup> So the department is still open to the raids of the politicians if ever a governor is elected who will give heed to them.

Labor organizations have taken an active interest in the work of inspectors. There is a wide feeling among wage earners generally that inspectors ought to be chosen from among wage earners on the ground that they are most familiar with the conditions which the law aims to improve and most interested in seeing the law enforced. This feeling has had some recognition, apparently, in selecting the inspectors. At least nine of the thirty-one men who have held such an office have been union men, and some others have been wage earners. Such selection has been confined, so far as the writer knows, to the northern half of the state.

The quality of inspectors appointed to the force under the conditions described has been of all grades from the worst conceivable to the best possible. Some of the deputies have shown a complete disregard for everything but the salary. One manufacturer interviewed said he had been threatened with blackmail prior to 1904. An employee for a long time in one of the industrial centers said the inspectors in his section long had had no respect from the workers, who even helped to conceal children from them and who refused to offer them any assistance. On the other hand there have been some who have left excellent reputations in their sections for honesty of purpose and diligence. Of the present inspectors, those concerning whom the writer has made inquiries enjoy in most cases good reputations. With eight of them the

<sup>81</sup> *Pub. Laws*, 1908, pp. 235-56. Among the numerous public officers excluded from the classified service are "all officers appointed by the Governor, with or without the approval of either or both branches of the legislature." As the inspectors are appointed by the Governor, they fall within this excluded class.

writer has been in contact sufficiently to form some opinion of them. Although he does not consider his association with them long enough or intimate enough to express a final judgment on their quality, his impressions may be added to the statement of their reputations. Taken as a whole they appear to average well above the usual political appointee. In only one case did the writer feel that the man was quite indifferent to his work. In two cases the writer would judge the men to be earnest and industrious, but somewhat easy for shrewd violators of the law to fool. This was said to be true of one of them by some in his district who were interviewed. The others appeared to have not only interest and pride in their work, but also a certain potential aggressiveness that is aroused by any attempt to hoodwink them. This has shown itself to the discomfiture of employers on several occasions. Yet it can hardly be said of more than two or three of them that they have that commanding interest in the law's observance and that missionary zeal for the results sought for that tend to an even carefulness to keep the work up at all times. Yet such strong devotion to duty is perhaps too much to expect from political appointees at present. The relative excellence of the force is more to be remarked upon than the absolute deficiencies.

*Administration of the Work: Organization.*—The organization of the department for inspection has gone through all stages. Until 1892 Inspector Fell had his headquarters at his place of business in Orange. After that he was established at the capitol. Since the fall of 1906, the department has maintained a branch office in Newark, which is open on certain days of the week, under the care of members of the force, for issuing the papers for working children and answering inquiries pertaining

to any part of the work of the department. This is a most valuable provision for the enforcement of the child labor law. Newark and its environs are a densely manufacturing district. The office of the department affords an opportunity for a great number of children to secure their papers under expert supervision of officials interested in having them correctly prepared. Many incorrect supplementary documents are discovered which would possibly have passed a notary unchallenged.<sup>82</sup> Much subsequent labor in discovering these cases is thus saved for the department. The usefulness of this office has led the department to open headquarters and office hours in other important centers of the state. By the end of 1909 offices were established in Hoboken, Paterson, Passaic, and Camden; and others were planned for Elizabeth, New Brunswick, Millville, and Bridgeton.<sup>83</sup>

The centralization in the chief inspector of authority over the work of the department was very limited in the early years. The several deputies had all the powers of the chief for initiating action except that no prosecution could be begun by them without the written direction of

<sup>82</sup>The preventive work accomplished by this office may be summarily stated in the following figures taken from the reports of the office to the commissioner of labor.

	1906-7	1907-8	1908-9
Number of affidavits, with accompanying papers, issued.....	2,660	2,289	2,945
Number of applicants below legal age..	286	158	153
Number without birth records.....	398	194	228
Sent abroad for proof of age.....	110	121	46
Falsified papers discovered.....	92	37	56

In 52 cases in 1906-7, in 75 cases in 1907-8, and in 202 cases in 1908-9, affidavits were taken and held for lack of supplementary proof of age. These were filed for possible assistance in prosecuting any employer who might illegally employ any of the children.

<sup>83</sup>*Rep. Dept. of Labor, 1909, p. 7.*

the chief inspector.<sup>84</sup> This resulted in great lack of uniformity in the administration of the law, and subjected employers to the unqualified exactions of men of all sorts of judgment and integrity. Under the law of 1904, all action by the department must be taken by the commissioner of labor alone. The deputies have powers only of inspection and recommendation.

Another point pertaining to the chief's control over the department is the matter of reports by the inspectors. This does not appear to have been worked out until the present law. The deputies made annual reports of their work. But there was much looseness in the reporting during the year, both as to frequency and as to the content of the report. Attempts were made to improve this by legal enactment, but without success. Under the law of 1904, however, the deputies are required to report in writing at least once a week. They are furnished forms upon which to make this report, showing their work for each day of the week. Besides, separate forms are provided for reporting their findings in each establishment inspected. The commissioner is thus given frequent and detailed information on what the deputies are doing. Also, the necessity of making frequent and detailed reports stimulates the deputies to have something to put in them.

Another matter affecting organization is the division of the labor of the department. This concerns more than the inspection of child labor, but it may be noted here as indirectly revealing the system with which the inspection of child labor is done. Prior to the present law, there appears to have been no division of labor except by division of the state into districts. In each district, the deputy looked after as much or little of the law under his charge

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<sup>84</sup> Act of 1884, sec. 1.

as he liked. But the whole of it was left to him. The proposal was made to provide a special sanitary inspector, but it did not receive support.<sup>85</sup> Since 1904 there has been a degree of specialization. The assistant commissioner has made a specialty of passing upon all reported needs for fire escapes. One of the deputies has made a special work of blowers or dust removing systems, throughout the state as well as looking after a district of his own. One of the inspectors is a plumber and is often used outside of his district to pass upon cases involving the installation of sanitary equipment when the commissioner is in need of expert advice. The women inspectors give their attention primarily to the interests of women employees and child labor, although the latter is a prime interest with all the inspectors.

The state has always been districted since the permanent provision for deputy inspectors in 1886. Since 1904 there have been nine districts. To each of these one of the original nine men inspectors was assigned. The two women were assigned to special work on child labor and the interests of women employees without regard to districts, except that one has worked in the southern part of the state and the other in the northern. The recent addition of one more man and woman has not yet caused any change in the districting of the state.

Formerly there does not appear to have been any systematic plan for following up orders issued by the inspectors. If a child was discharged for being under age, no check was provided upon his immediately securing employment elsewhere. If a certificate of school attendance was ordered, the inspector was left to return or not in order to see whether the certificate was secured. Likewise with orders for the betterment of factory condi-

<sup>85</sup> Senate Bills 63, 1887, and 191, 1891.

tions. Since 1904, the employment of a discharged child is checked up when the papers are sent to Trenton within the twenty-four hours after employment. If a child is ordered to be discharged, or if an order for betterments is made, a form accompanies the order upon which the employer reports when he has complied with the order. When this reply is received by the department, or when the time limit on the order has expired without such reply having been received, the local deputy is sent to ascertain whether the direction has been followed and, if so, whether in a satisfactory manner. If the matter needs further attention it is followed up.

Until the reorganization of the department under the present law, no adequate records of the work were kept at the central office. The department was crowded off in a corner of the state house without room for such files, even if there had been inclination to keep them. At the outset of the present régime, advice was sought from the experience of other states and a system of records, carefully planned to meet the needs of the administration of the law, was devised and has been kept up.

*The Work of the Women Inspectors.*—The work of the women inspectors greatly strengthens the department in the fields of child labor. A woman has a superior advantage in investigating doubtful cases of children. She will be better received in the home and with less suspicion, and can, therefore, discover more of the truth than the man in the same situation, especially in the case of foreigners ignorant of American ways. It was for this work that the need of women on the force was first felt and this was the work first assigned to the first woman appointed.

The women now, however, make regular inspections with chief reference to child labor and women employees.

In this work they are more criticised. They are said to be too idealistic. They want a factory kept as they would keep a parlor. They recommend orders for betterments with regard solely to the desirability of the improvement, and without regard to the cost or practicability of it to the employer concerned. They are too uncompromisingly insistent on immediate perfection. In the matter of child employment, they are swayed by sentiment and act on their woman's impulses, so as to be unjustly severe. And so forth. This doubtless has truth in it. But how far the women are judged "too much" of the character alleged and "too strict" depends on how far the critic would like to be undisturbed. It must be recorded also that most employers interviewed expressed approval of the work of the women and considered many of the results secured by them to be unattainable otherwise. On the whole the presence of the women is a good tonic to the work of the department for which their mistakes from overzealousness are not too much to pay, especially since inspectors can make no orders of their own will.

Criticism of the women comes from within the department also. They have no limit to their territory, except as the state is divided into large districts between them. They thus cut across the territory of the other inspectors. This frequently discloses a slackness by the men inspectors in keeping track of some factory or other, —a result of the women's activity not agreeable to the men. Hence some feeling by them against being "spied upon" in this manner. Yet there is a counter surveillance of the women's work by the district inspectors. This mutual checking up of work by two inspectors covering the same ground is certainly a valuable stimulus to better work by the department as a whole. The present arrange-



ment must be judged to have great administrative merit.

*Policy as to Enforcement.*—Inspector Fell, when he assumed his duties, was subjected to a demand, especially by workingmen, for a literal enforcement of all the labor laws at once. Instead, however, he adopted a policy of leniency for first offenses and for merely technical violations. This policy was repeatedly stated and defended by him.<sup>86</sup> Inspector Ward does not appear to have had any aggressiveness at all to his policy. Commissioner Bryant at first took somewhat the same view as did Inspector Fell, but with more firmness after the preliminary leniency. There had been felt so little force from the laws that to enforce the act of 1904 sharply and completely would have brought a sudden shock to the industries affected. The commissioner decided to take up one feature of the law at a time, get employers to understand that thoroughly and in the way of observing it, and then take up another. The age limit was the first of the child labor provisions to receive attention. Since then, the fifty-five hour week for children under sixteen has been taken up and pressed.

*Prosecutions.*—In the matter of prosecutions, Inspector Fell does not appear to have done much. His reports contain no statistics on that point, although he indicates that he did resort to prosecution.<sup>87</sup> Yet this was not often. He attributes it to want of necessity because of the favor with which the law was received.<sup>88</sup> That is a

<sup>86</sup> *Repts. Insp. Fact.*, 1885, p. 7; 1886, p. 8; 1893, p. 7.

<sup>87</sup> *Rept. Insp. Fact.*, 1887, p. 6.

<sup>88</sup> *Ibid.*

<sup>89</sup> Thus he reports in 1886, "There have been opportunities to prosecute parents and guardians. Investigation, however, showed in almost every case that the family was extremely poor. Realizing what a hardship a fine or imprisonment would be upon their dependents, I relied upon their promise of implicit obedience in the future, and dismissed the children from the factory." (P. 8.)

doubtful explanation. It is easier to think that his policy of leniency,—being a man of easy sympathies,<sup>89</sup>—and the difficulties of proving a case were the cause, so far as he was involved, and that indifference of the inspectors in some districts was another cause. During Inspector Ward's régime, the reports say nothing of prosecutions until 1901, when it was reported that violations of the child labor law had necessitated some prosecutions, in two of which the department was successful.<sup>90</sup> In the next year, he reported three successful prosecutions in all and two others pending.<sup>91</sup> This was most certainly due to the rising protest against his administration. That he was formerly indifferent to violations is indicated also by the testimony of earlier inspectors, who told the writer of repeated cases reported by them to no purpose.

From the advent of Mr. Swayze, and later the present Commissioner Bryant, a change in this matter at once appears. Accounts of suits became noticeably frequent in the newspapers. Under the old law, with all the difficulties upon the department of proving a child to be under age, twenty-three suits were brought in the year from October 31, 1903, to the same date in 1904, and nineteen judgments were secured,<sup>92</sup> out of the twenty cases then finally settled. This is illuminating testimony to what could be done even with the old law when the head of the department was resolved upon enforcing it. During the official year 1905 and 1906, thirty-two suits were brought under the new act of 1904, in which penalties were recovered in all but one of those concluded when the report was written.<sup>93</sup> In 1906 and 1907 twenty-two employers were prosecuted.<sup>94</sup> During 1907 and 1908 five suits were

<sup>89</sup> *Rept. Insp. Fact.*, 1901, p. 11. <sup>91</sup> *Ibid.*, 1902, p. 237.

<sup>92</sup> *Ibid.*, 1904, p. 7.

<sup>93</sup> *Rept. Dept. of Labor*, 1906, p. 5.

<sup>94</sup> *Ibid.*, 1907, p. 4.

brought.<sup>95</sup> During the year 1908 and 1909 suits were instituted for the illegal employment of forty children.<sup>96</sup> The falling off in the number of prosecutions in the year 1907 and 1908 may appear to indicate a slump in the activity of the department. But it may well be accounted for by the depression in business, which would be expected to reduce the occasion for illegal employment of children. This inference is strengthened by the coincidence of the increase of prosecutions in 1908 and 1909 with the revival of business.

*Compulsory Attendance: 1883 to 1904.*—To enforce the compulsory attendance law, it was necessary to provide sufficient accommodations, an adequate force of truant or attendance officers, and, considering the character of pupils whose attendance is compelled, provision for the segregation and appropriate handling of backward and incorrigible children. The responsibility for providing these rested upon the local school authorities. Besides this, the factory inspector was given authority to assist in the police duties. His activities may first be noted briefly.

The factory inspector, led by his own interest in the matter and by the relation between the compulsory attendance and child labor laws, as well as by his authority, took steps on his own account to stimulate localities to enforce the law. In August following the enactment of the law of 1885, he sent letters to the mayors of all New Jersey cities urging them to secure an observance of the act.<sup>97</sup> This he appears to have repeated, in some cases anyway.<sup>98</sup> More than that, he went in person before the local authorities in different cities to urge

<sup>95</sup> *Rept. Dept. of Labor*, 1908, p. 5.

<sup>96</sup> *Ibid.*, 1909, p. 8.

<sup>97</sup> *Rept. Insp. Fact.*, 1885, p. 35.

<sup>98</sup> *Ibid.*, 1887, p. 10.

them to provide the needed facilities.<sup>99</sup> This, be it noted, was the only centralized influence exerted upon the several communities. But it was merely an influence, for his authority went no further in that direction. How little his influence effected in the present case will be noted presently.

Turning to the activity of local authorities, the question of school accommodations was the leading one. The law on the matter has been noted.<sup>100</sup> The interest here is in the extent to which the necessary facilities were supplied. It was a persistent complaint that the school buildings were inadequate to accommodate all the children if attendance were required. These complaints appear in the reports of the inspector of factories and, especially, in those of the superintendent of public instruction.<sup>101</sup> They apply to all parts of the state. The charge, moreover, was admitted and the question of accommodations was put forward as the reason for a confessed neglect of the attendance law.<sup>102</sup> Yet the lack of accommodations was not always and everywhere accepted as the only reason for non-enforcement. It was frequently asserted, and illustrative examples were given, that, whether the existing buildings could accommodate all children within the compulsory age group or not, they could accommodate many more of those children than the authorities in many places were hunting up.<sup>103</sup>

<sup>99</sup> *Rept. Insp. Fact.*, 1891, p. 109.

<sup>100</sup> *Ibid.*, 1885, p. 35.

<sup>101</sup> *Ibid.*, 1886, p. 16; *Rept. Supt. Pub. Instr.*, 1886, p. 33; 1887, p. 33-34; 1891, p. 14; 1896, p. 162; 1898, p. 204; 1903, p. 114.

<sup>102</sup> *Rept. Insp. Fact.*, 1885, p. 35; 1887, p. 10; *Rept. Supt. Pub. Instr.*, 1885, App., p. 67; 1886, App., p. 85; 1887, p. 35; 1891, App., p. 73; 1892, App., p. 111; 1893, Part I, App., p. 76; 1896, p. 182; 1899, p. 236; 1902, p. 146; 1903, pp. 102-3.

<sup>103</sup> *Rept. Insp. Fact.*, 1890, p. 8; *Rept. Bur. Stat.*, 1888, p. 623; *Rept. Supt. Pub. Instr.*, 1892, p. 45; 1894, App., p. 96.

There was enough elasticity to the existing accommodations to permit a much greater observance of the law than was being secured. No inclination, moreover, has been discovered to take advantage of the law of 1899 making it possible to borrow from the state school fund for the purpose of providing accommodations.

Of the other requisites for an effective enforcement, the appointment of truancy officers proceeded very slowly. A year after the factory inspector sent out his letters to the mayors of cities, he knew of only one such officer having been appointed.<sup>104</sup> By 1890, he knew of only two additional cities having made the provision.<sup>105</sup> The following year he records a "number of additional truant officers" and "more attention" to the law.<sup>106</sup> From this time on more cities appointed officers to enforce the law. But it appears that these advances were only half way. The efforts of the officers were restricted in most cases to securing regular attendance by those already enrolled. In few cities was it attempted to get into school those not enrolled at all. Where this was undertaken, the number of officers was still inadequate for the purpose.<sup>107</sup>

The lack of attendance officers and the inadequacy of their service was chargeable in part to the grudging cooperation of the police, from whom the officers were to be drawn, as well as to the fault of school authorities. From the very first it was pleaded that the police force could not spare the men.<sup>108</sup> There was another bone of contention in the question as to whether the school

<sup>104</sup> *Rept. Insp. Fact.*, 1886, p. 14.

<sup>105</sup> *Ibid.*, 1890, p. 7.

<sup>106</sup> *Ibid.*, 1891, p. 8.

<sup>107</sup> *Rept. Supt. Pub. Instr.*, 1893, Pt., I, App. p. 63; 1897, p. 238; 1892, App., p. III.

<sup>108</sup> *Rept. Insp. Fact.* 1885, p. 35.

officials or the police authorities should control the truant officer.<sup>109</sup> Finally, because of this double authority over the officer, the police department frequently did not feel responsibility for the work, which thereby came to be performed perfunctorily.<sup>110</sup> Thus the coöperation of the police was so far withheld as to diminish the effectiveness of the provision by the school boards, a provision usually too inadequate at best. It is not to be concluded, however, that the police were always indifferent. Cases are recorded of sympathetic and faithful coöperation with the school authorities.<sup>111</sup>

The provision of ungraded or truant or parental schools was almost totally neglected. Proposals to that end appear to have been considered;<sup>112</sup> and Newark had long had a city home for incorrigible children which was used for that purpose.<sup>113</sup> But otherwise the interest in the matter never could surmount the obstacle of the expense of providing space or buildings and the special teachers required. It was said at the end of the period by a leader in the charitable and philanthropic activities of the day that "there are no parental schools in New Jersey, the only persistent effort which has been made in this direction is in the city of Newark, and even in Newark very little is at present being done."<sup>114</sup>

Turning from the provision of the means of enforcement to their use, such provision as was made seems not to have been employed with earnestness. This will be shown in the evidence of a lax observance to be examined

<sup>109</sup> *Rept. Insp. Fact.*, 1893, p. 25.

<sup>110</sup> *Rept. Supt. Pub. Instr.*, 1902, p. 146.

<sup>111</sup> *Ibid.*, 1899, p. 292; 1902, p. 149; *Annual Rept. State Charities Aid Assn.*, 1900, p. 10.

<sup>112</sup> *Rept. Supt. Pub. Instr.*, 1899, p. 310.

<sup>113</sup> See above, p. 22, note 29.

<sup>114</sup> *Rept. State Charities Aid Assn.*, 1900, p. 13.

presently. It is also indicated in the matter of prosecutions, concerning which it has to be recorded that no specific case in all this period has come to the attention of the writer.<sup>115</sup> Finally, there are the confessions from the school authorities of many cities that they were not making any effort to enforce the law, or at most were only trying to keep in regular attendance those who become enrolled without much resistance.<sup>116</sup>

Surveying the efforts made to enforce the law, the conclusion is reached that localities made no attempt to speak of to enforce the law until after 1890; that in many places even then no attempt whatever was made to that end; that in most of those which did make some provision, the enforcement was enervated by a lack of zeal in the school officials or an indifferent support from the police; that in only a few was a worthy struggle made with the problems of enforcement; and that in no case did this measure up to the vigor and comprehensiveness necessary to solve them.

*Compulsory Attendance: Since 1904.*—The strengthening of the compulsory attendance law, begun in 1900, does not appear to have wrought much improvement in conditions until the school law was finally settled by the act of 1903. While the act of 1900 and its immediate successor, the act of 1902, were in litigation, there was hesitancy in many places about taking any steps lest they prove to be wasted if the acts should be found unconstitutional. Besides, the sentiment in behalf of children was

<sup>115</sup> The experience of the attendance officer in one of the largest centers of child employment may be taken as illustrative. From his appointment in 1895 to 1903, he said, he was "simply working a bluff" on offending parents and children because the magistrate would never convict anyone.

<sup>116</sup> *Rept. Supt. Pub. Instr.*, 1899, p. 311; 1901, p. 274; 1902, p. 132; 1904, p. 105.

not then developed. Yet there was some endeavor to apply the law. When the uncertainties had been removed by the act of 1903, public interest in children had grown in many localities to the point of pressing for an improvement in school attendance. Accordingly, from about that time newspaper accounts of attention to the law and of the provision of truancy departments become increasingly frequent. The commissioner of labor, also, remarked upon this,<sup>117</sup> as did also Mr. Fox in his inquiry into the operation of the child labor law in 1905.<sup>118</sup>

The increased activity of the school authorities appeared, in the first place, in the greater provision of truant or attendance officers to enforce the law. This was made in all sections of the state, though not in all places. Newark and Jersey City, especially, detailed a large number of men from the police force to attend to truancy and non-attendance. Yet this improvement was very unequal throughout the state and even intermittent. Many places do not even now provide anywhere nearly adequately for this work and many places have, after half-hearted advances, relapsed into inactivity. Some of the larger factory cities have only one attendance officer. In such cases the results cannot be otherwise than as found in one large child-employing center, where efforts of the sole truant officer are made only to keep the children on the rolls in regular attendance. The truant officer, who stands in excellent repute, said there were hundreds of children not attending school at all whom he could not look after. Not to leave an untrue impression of neglect, however, the splendid achievement of Newark, the largest city of the state, and of some smaller

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<sup>117</sup> *Rept. Dept. of Labor*, 1905, p. 5; 1906, p. 5.

<sup>118</sup> *Annals Amer. Acad. Pol. and Soc. Sci.*, Vol. XXV.



towns should be set over against the delinquent communities.

Although the boards of education are at liberty to provide truant officers as they think best, they usually have used their right to call upon the police force for men, because this is the most economical course. The provision of truant officers has thus depended on the coöperation of the police. This, as usual, has been in most cases half-hearted. An agent of the New Jersey Consumers' League reported in 1905 that the assistance of the police seemed to be regarded as generally unsatisfactory.<sup>119</sup> This has been the testimony given to the writer in most cases. The reasons for this have been noted in an earlier criticism of the law in this respect.<sup>120</sup> Newark alone of the large cities seems to have secured an adequate detail of police officers who perform the work with care and interest. Some of the single officers who do the work unassisted in other places appear earnest and diligent, but are unable to do all the work alone.

The effectiveness of the truant officer is closely dependent upon the support he receives when a case reaches the stage where prosecution is the only resort left. In this respect the period under the present law shows marked contrast with the preceding era. Newspapers early report activity in this respect in the largest cities and in some smaller ones. In the prosecution of cases, the Society for the Prevention of Cruelty to Children has taken an active part in a few cities where it has been organized.

This greatly improved interest in the enforcement of the law is not without its opposite. Many boards of education do not push the policy to the point of prosecution. Truant officers have told the writer of repeated

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<sup>119</sup> *N. J. Rev. Char. and Cor.*, Vol. IV, p. 234, Dec. 1905.

<sup>120</sup> See above, p. 56.

recommendations to prosecute which have received no attention. Of course the offending parents continue to offend, and the officer's threats become impotent with others also. In smaller towns, especially the glass towns of southern New Jersey, the board of education often includes wage earners, who may work alongside of the man who ought to be prosecuted. One school official of a glass town put it well in saying that the members of the board were reluctant to prosecute their neighbors. It is not always a matter of neighborliness, however. In the small glass towns where the glass works is the only industry, and the population is almost entirely dependent on that factory, it is, in the natural order of things, impossible to arouse very much enthusiasm for the strict enforcement of a law which would affect the supply of boys required for the operation of the factory.<sup>121</sup> Then again, it has been a matter of expense. In one factory town, the justice of the peace who heard the cases brought for prosecution tempered the amount of the fines to the economic condition, as well as the deserts, of the defendant. The fines did not then aggregate enough to pay the costs. He sent the bill for the balance to the board of education. This body thereupon transferred all cases to the police justice, from whom they had been previously taken because he was too easy with offenders.

Sometimes the apathy is with the local magistrates. Indifference, sympathy, or partiality for the offending parents, and political influence have all had a part in foiling prosecutions brought by the truant officers.

Closely related to the matter of prosecutions is that of parental schools. A delinquent parent can be fined. But

<sup>121</sup> For an account of one factory inspector's experience with this local opposition from interest, see *N. J. Rev. Char. and Cor.*, Vol. V, p. 350-1, Jan. 1907.

if his fault is inability to control his child rather than indifference, the corrective measures of the state must reach the child directly. This often requires, for reasons before considered, that the child be segregated from the average school group and dealt with according to his special needs. This matter also was given attention. The State Council of Education of New Jersey, at its session in November, 1904, urged the provision of parental schools.<sup>122</sup> Newark had long had a city home for boys which it readily utilized for the treatment of truants. Elizabeth, at the urgent request of the superintendent, provided in 1905 a separate room with a special teacher for incorrigibles.<sup>123</sup> Hoboken, at the initiative of the woman's club, provided in 1906 for a truant class.<sup>124</sup> The proposal was considered in other localities as well, some of which probably carried it through in some form.

Yet even allowing for possible cases not known to the writer, the number of such rooms or schools was probably very few. At least one attempt was abandoned.<sup>125</sup> It is not unlikely that others were also considering the uncertain state of the public mind in many places. One obstacle was the expense. This was removed by the act of 1906 providing for county schools. But this presented a new obstacle in the difficulty of getting an agreement among the whole population of the county, for some district would feel that they would be taxed for the benefit chiefly of some other more populous district. So far as has been learned, this act has not been utilized very much yet. Another obstacle to parental schools, insup-

<sup>122</sup> *Camden Post-Telegram*, Nov. 15, 1904.

<sup>123</sup> *Elizabeth Times*, Dec. 15, 1904; *Rept. Supt. Pub. Instr.*, 1905, p. 120.

<sup>124</sup> *Hoboken Observer*, Jan. 26, Jan. 30, and Sept. 28, 1906.

<sup>125</sup> *Rept. Supt. Pub. Instr.*, 1903, p. 132; *Passaic News*, Nov. 29, 1905.

erable in some localities, is an opposition to them on principle as an unjustifiable interference with parental authority, or a cautious hesitancy on the part of some who looked favorably upon the purposes of the proposal.

Concerning accommodations, the reports of the state superintendent of public instruction contain local reports saying that the schools are able to accommodate all who apply for admission. Occasionally an admission is made that school facilities are inadequate. But in some of the places from which the favorable reports have come, the writer found the attendance law was enforced only for those on the rolls of the schools, and that the schools were crowded even at that. It appeared very doubtful whether they could accommodate all children if they were compelled to attend. One superintendent said, however, that the elasticity of a schoolroom is surprising and that room could be found if the children were brought in. Another criticism of the efforts at enforcement in many places is that too little attention is paid to the attendance of younger children. When they approach the age of twelve or fourteen they come within the cognizance of the truant officer. But meanwhile they have fallen far behind other children of their age and have acquired habits and a manner that increase the difficulty of compelling their attendance and tend to demoralize the school where they do attend.

Regarding as a whole, however, the efforts to enforce the attendance sections of the law of 1903, it is undeniable that a great deal more has been done than in preceding years. This must be said in spite of the half-way endeavors and the numerous shortcomings that can be asserted of many localities. In some places, most conspicuously Newark because of its size, the attention given to the law has been persistent and thorough, and a notably

complete organization has been effected to administer the law. And, in general, if the latest press reports can be taken as an index, there is a gradually increasing disposition on the part of local school boards to enforce the attendance of children. This is seen even in the case of the controverted amendment of 1908.

A SETTLED: SUCCESS.

CHAPTER VIII.

SUCCESS OF THE POLICY

1883 to 1904.

What has been the achievement of all this endeavor? From the examination of the state's ideals for its child workers and its measures for realizing them, attention must now be turned to the practical question of results. First, for the period from 1883 to 1904.

*Minimum Age Limit.*—As to what was accomplished toward establishing a minimum age limit, specific, though rare, cases have been found pointing to an earnest enforcement of the law in its early years,<sup>1</sup> but none for the later part of the period. The factory inspectors regularly asserted that illegal child labor had practically disappeared. But this testimony is put under suspicion by the fact that, however clean it reported the state in any one year, the following report always records a further marked improvement.<sup>2</sup>

<sup>1</sup>For example, *Newark Daily Advertiser*, Jan. 16, 1884. Editorial; *Rept. Insp. Fact.*, 1886, p. 24. See also Mrs. Lenora M. Barry, agent of the Gen'l. Assem., K. of L. in 1886 to investigate the condition of women wage earners, quoted in *Rept. Bur. Stat.* 1887, p. 204.

<sup>2</sup>*Rept. Insp. Fact.*, 1886, p. 7, "No extreme cases exist in New Jersey"; 1887, p. 7, notes a "vast improvement in the size of minors"; 1889, p. 6, modestly claims a decrease since 1888 of 1.45 per cent in number of children under 16 years of age; 1890, p. 54, the deputy for the district including Jersey City and Hoboken could "safely" say child labor had decreased 50 per cent since 1889; 1891, p. 7, reports that infant labor was "almost entirely" stopped; 1894, p. 13, the deputy for the southern part of the state, where the glass industry is the largest employer of children, naïvely reports that child labor was so nearly done away with in his district that only glass bottle manufacturers employed it to any extent; 1896, p. 9, reports "only a few" cases of violations;

This rather meagre evidence pointing to an observance of the law is overborne by the weight of evidence to the contrary. It was said in 1884, by a newspaper friendly to the policy at stake, that the effect of the law of 1883 had been "rather to expose the extent of this evil than to do away with it."<sup>3</sup> Less than a year was doubtless too short a time within which to expect much improvement. But reports from successive later dates still show a lax observance of the law.<sup>4</sup> The same general comment is supported further by the amount of well evidenced concealment of children and other practices to outwit the inspectors.<sup>5</sup> Internal evidence in the reports of the inspection department also testifies to a lax observance of the law. He reports in 1887<sup>6</sup> the discharge of 561 children, giving names for 186 of these. He then adds that many more under age were dismissed whose names the inspector did not get. Evidently not

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1902, p. 275, deputy for the district including Newark, the most intensely manufacturing section of the state, reports the law is "closely observed" and that employers are very particular as regards age.

<sup>3</sup> *Newark Daily Advertiser*, Mar. 5, 1884, Editorial.

<sup>4</sup> This is the tenor of the testimony of the superintendent of schools for the most heterogeneous manufacturing city of Newark in 1886 (*Rept. Supt. Pub. Instr.*, 1886, App., p. 101), and in 1888 (*Ibid.*, 1888, App., p. 122), and of the superintendents at the chief glass centers of Millville in 1894 (*Ibid.*, 1894, App., p. 108), and Bridgeton in 1897 (*Ibid.*, 1897, p. 208).

<sup>5</sup> Much skepticism has been shown concerning the practice of concealing children from the inspectors. The allegations have often been set aside as fabrications of the inspectors to cover their failure to find children illegally employed. But besides irresponsible rumors, there is abundant evidence, from a variety of sources, that the thing was repeatedly practiced. The writer heard from workingmen, both union and non-union, from former inspectors, and from observers from the outside, specified accounts of such particularity that they cannot be all set aside as worthless.

<sup>6</sup> Page 62. This year the inspector first had the assistance of three deputy inspectors.

a very good observance of the law had been secured<sup>7</sup> in the four years since its enactment, or there would not have been so many to discharge in a single year. Moreover, in the loose manner of the dismissals and in the absence of any records of the individual cases, there is no assurance that a large number of those discharged did not find reëmployment as soon as the inspectors were gone,—an event which has been shown was not forestalled by the form of the law and which, according to the traditions, happened frequently.<sup>8</sup>

An examination of the reports of discharges for the ensuing years contributes to this question. The following table is compiled from the annual reports of the Inspector of Factories. Such data is first reported for 1887, when the Inspector was given the assistance of three deputies.

TABLE VI.  
CHILDREN DISCHARGED  
1887-1902.

Year	Number Discharged	Year	Number Discharged
1887	186 <sup>2</sup>	1895	75
1888	134	1896	77
1889	<sup>3</sup>	1897	323
1890	<sup>3</sup>	1898	25
1891	284	1899	161
1892	255	1900	59
1893	257	1901	30
1894	74	1902	202

<sup>2</sup> The body of the report states 561, of whom the names of only 186 were taken. In the statistical summary the number of discharges is stated as 186.

<sup>3</sup> Not reported.

<sup>7</sup> It is not to be inferred necessarily that the effort at enforcement was weak. Other considerations enter which will be noted in discussing the work of the inspectional force.

<sup>8</sup> As late as 1903, an investigation of child employment by the Bureau of Statistics of Labor and Industry reports a specific case which came to the personal knowledge of its agent. *Rept. Bur. Stat.*, 1903, p. 274.



Such a variation in the number of discharges speaks emphatically of a fast and loose enforcement of the law, especially in the later years, which connotes a lax observance. The greater number and regularity of discharges before 1894, however, would indicate a better observance before that year than after.

It appears further that the inspectors used a discretion beyond the authority of the law which helped to defeat the observance of the age limit. The provisions of the law requiring twelve weeks' attendance at school each year for factory children, between the minimum ages and fifteen years, permitted the inspectors to excuse orphan children from this requirement. When the law first went into effect, the difficulties in the way of immediate compliance with the attendance requirement by all the children affected led the inspectors to grant permits under this provision to large numbers of children.<sup>9</sup> From this extension of discretion it was easy, in time, to grant permits to children actually under age because of family poverty. The use of this discretion not provided in the law was doubtless a result in good part of the pressure of that opinion which opposed the law at the time of its consideration on the ground of the alleged necessities of poor people. By the end of the period it had come to be a frequent practice of most inspectors, especially during vacation periods. Many children, whom the law intended to keep from the factories, were thus admitted under cover of administrative approval.<sup>10</sup>

<sup>9</sup> *Rept. Insp. Fact.*, 1884, pp. 13 and 16.

<sup>10</sup> *Rept. Insp. Fact.*, 1902, p. 275. A deputy inspector complains that children allowed to work during vacation do not return to school as expected. An investigation by an agent of the Bureau of Statistics in 1903 disclosed cases of abuse of the orphans' permit, and gave the practice some comment in the report. *Rept. Bur. Stat.*, 1903, pp. 268, 271, 274, 275.

During the last half of the period such public interest as had existed in the observance of the law appears to have become quiescent altogether. No contemporary testimony has been found for these years. But reminiscent statements published later and the recollections of persons interviewed agree in the opinion that the law came to be disregarded for the most part in these later years. This is borne out by the conclusions of an investigator for the Bureau of Statistics in 1903.<sup>11</sup> If we add these traditions to the meagre contemporary evidence, the whole may be summarized in the statement that the law received during the first half of the period a partial observance which was not fully maintained during the second half.

An examination of the available comparative statistics will show more precisely the results of the policy. In this case also, any hope, however, for a close cut answer will be disappointed. All the statistics available are for children under sixteen years of age. Although variations in these do not necessarily measure changes in the amount of child labor which the state has sought to restrict, a limited use of such statistics may be made for an approximation to the results of the state's policy.<sup>12</sup>

<sup>11</sup> *Rept. Bur. Stat.*, 1903, p. 274. "Up to a comparatively recent time there seems to be no doubt as to the law having been evaded, and even openly disregarded in certain establishments in the glass districts, and also to some extent in other lines of industry."

<sup>12</sup> The age limit during this period was twelve for boys and fourteen for girls. There was thus a large part of those employed under sixteen who were above the legal age and whose numbers bore no direct relation to the activity of the inspectors and might have varied under any of the economic or other influences acting independently of the observance of the law. Variations in the number of these children, moreover, might more than offset any changes for the whole group due to variation in those below the legal age. Before these figures can have any significance for the question on the results of the policy of restriction, allowance

The following table shows that the average number of children under sixteen years old, employed in manufacturing, as reported by the manufacturers themselves, nearly doubled between 1870 and 1880 and then more than halved between 1880 and 1890, after which it again increased about one-half, but even so only to two-thirds

TABLE VII.

## CHILDREN UNDER SIXTEEN IN MANUFACTURING.

Year	Total Employees in Manufacturing		Average Number Children Under 16		Per cent of all Employees	
	Number <sup>1</sup>	Per cent increase <sup>2</sup>	Number <sup>1</sup>	Per cent incr'se (+) decr'se (-) <sup>2</sup>	Per cent of all employees <sup>2</sup>	Per cent increase (+) decrease (-) <sup>2</sup>
1870	75,552	. . .	6,139	. . .	8.2	. . .
1880	126,038	66.	12,152	+94.	9.6	+17.
1890	173,778	37	5,313	-58	3.0	-69
1900	241,552	39 '91) <sup>3</sup>	8,042	+51 (-34) <sup>3</sup>	3.3	+10 (-66) <sup>3</sup>

<sup>1</sup> Twelfth Census, *Manufactures*, Vol. II, p. 540.

<sup>2</sup> Computed by the writer.

<sup>3</sup> Computed on 1880 as the base.

must be made for the effects of all these other influences on the older children under sixteen. The lack of any means for making this allowance accurately limits the closeness of the reasoning permissible upon these figures. But it does not necessarily render them worthless, except in the case of small changes. The greater the change in them, the greater must be the force of the other influences if they are to account for the whole change, and the easier to determine whether those other influences were present with sufficient force to cause the change, or whether a good part of it must be attributed to the plus or minus influence of the inspectors on children in the lower ages. The serviceableness of such statistics, within the general limitations because of their indirectness, thus depends on the amount of variation in them.

It may also be objected to the use of these statistics that, independently of the influence of other factors besides the policy of the state, there would be an increase or decrease in the number employed between the legal age and sixteen compensating a respective decrease or increase of those under the legal age. The

of the number in 1880. This falling off was notwithstanding an increase in the total number of wage earners in manufacturing between 1880 and 1890 of 37 per cent and between 1890 and 1900 of 39 per cent, or a total increase for the two decades of 91 per cent. More significant are the changes in the proportion which such children comprise of the total employees in manufacturing. That is to say, in spite of a steady increase of 91 per cent between 1880 and 1900 in all wage earners in manufacturing reported by the employers, the *number* of children under sixteen so reported decreased one-third and the *proportion* of such children decreased two-thirds:

elimination of illegal child labor would tend to increase the demand for children above the age limit and *vice versa*. It is conceivable that the additions from that source would keep the total number employed under sixteen unchanged; so that the transition to a perfect elimination of child employees under the legal age would be accompanied by no change in the total employed under sixteen. The converse movement is also conceivable. But it is highly improbable that the supply of child workers between the legal age and sixteen would be elastic enough to take up all the change in the number employed below the legal age, or even a large part of it. This has been forcibly felt in the glass bottle industry, since the tightening up of the child labor law in 1904. Further, the demand for child workers is not altogether indifferent as to their age. In some industries there is a premium on the younger children; in others, on the older. If a legal age limit cuts off the services of the younger children, the pressure to substitute machinery, or to reorganize processes so as to use mature help, may be increased, and a readjustment made without a compensating increase in the employees between the legal age and sixteen. This also is illustrated by the glass industry. The pressure for machinery to do the tending boy's work has been increased, though as yet it has not resulted in generally satisfactory devices. But there is a noticeable readjustment of part of the work whereby unskilled adults are each taking the place of two or more "carrying-in" boys. The probabilities are, therefore, that the tendency toward a compensation, within the whole group under sixteen, for any variation in the lower ages would be far from sufficient to keep the total for the group unchanged.

As bearing on the further question whether this decline was common to all child employments or was peculiar to manufacturing, comparison can be made with the changes for children in all gainful occupations, as reported by the children themselves or their parents to the enumerators for the population.<sup>13</sup> The following table shows that, although the total number of persons, and the number of children from ten to fifteen years inclusive, engaged in gainful occupations, each about doubled in the twenty years from 1880 to 1900, the proportion of children in gainful occupations only increased little more than one-tenth.

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<sup>13</sup> Here an additional qualification must be noted. The returns are for those gainfully employed persons *resident* in New Jersey, but not necessarily *employed* in the state. A large number of wage earners, as well as professional and business people, resident in the territory adjacent to New York, follow their occupations in the latter place. And this is not confined to the border cities like Jersey City. A machinist, whom the writer interviewed in Passaic, went to his employment in New York daily. This, he said, was not unusual. The same is true of residents of Camden and its suburbs who work in Philadelphia. Children under sixteen probably would not enter into this interstate movement as largely as their elders, so that the number of gainfully employed children resident in the state would not vary so far from the number who are both resident and employed in the state as would the respective numbers of adults. If this difference between such data for children and adults were constant, it could be disregarded altogether. But it is not necessarily so, and probably has decreased. Of course, there is a counter movement from New York and Philadelphia. But it is certainly much smaller than its opposite. These considerations, which render the occupational returns not quite comparable with the manufacturing returns, would need to be weighed in any close calculation. But the relative difference to the figures for the whole state would be small. And the degree of accuracy in the statistics themselves is not sufficient to justify such a refinement of calculation. In the comparison which the statistics permit, the qualification may be neglected.

TABLE VIII.

CHILDREN, TEN TO FIFTEEN, IN GAINFUL OCCUPATIONS.

Year	Total Persons in Gainful Occupations		Children 10-15 in Gainful Occupations		Per cent of all in Gainful Occupation	
	Number <sup>1</sup>	Per cent increase <sup>2</sup>	Number <sup>1</sup>	Per cent increase <sup>2</sup>	Per cent of all occupied	Per cent increase <sup>2</sup>
1880	396,879	. . . .	14,295	. . . .	3.6	. . . .
1900	757,759	81.	30,261	111.	4.0	11.1

<sup>1</sup> Twelfth Census, *Occupations*, pp. CXXIX-CXXX.<sup>2</sup> Computed by the writer.

It appears from the comparison of the two tables that some strong special influence wrought in the manufacturing group a marked decline in the number and proportion of child employees which was somewhat more than compensated within the whole class of gainfully employed persons. This marked decline of child employees within a particular group, equaling in 1880 31.7 per cent and in 1900 31.9 per cent of the whole class of wage earners, is clear, although uncertainty as to the accuracy of the statistics does not permit the change in the figures to be taken as a measure of the decline.<sup>14</sup>

When query is made as to the reasons for this decline, there do not appear to be any economic or social influences during the period sufficient to account for it. Indeed, some of them tended to the opposite result. When now it is considered that the law upon child labor applied only to manufacturing and mining,—

<sup>14</sup> The manufacturing census of 1890 returned 5313 children under sixteen years, as reported by the manufacturers. The returns of the inspectors, secured in the same way, amounted to 6897. In 1900 the discrepancy was reversed, the census reporting 8042 such children and the inspectors only 4132. But the demoralization of the inspectorial work at the latter date destroys all value in the inspectors' returns as a check on the census.

the latter being unimportant relatively,—the explanation that lies at hand is that the decline was mainly due to the state's restrictive policy. This view is further supported by the fact that the administration during the first ten years of the law's operation was far more vigorous than during the later years. This corresponds with the marked decline between 1880 and 1890 and the nearly stationary condition thence until 1900.<sup>15</sup>

Turning from the question comparing the conditions of the moment with those of the past to that comparing them with the attainable standard striven for, there is much more definite information as to the number of children employed at the close of the period below the legal ages of twelve and fourteen, as well as indirect indices of child employment. The returns of the United States census of occupations in 1900 show the following tabulated information as to the number of children

TABLE IX

AGES OF GAINFULLY EMPLOYED CHILDREN<sup>1</sup>

	Age Groups						Total
	10	11	12	13	14	15	
Males:							
Number employed....	106	246	833	2,108	4,820	8,226	16,339
Per cent of Pop.....	.6	1.5	4.7	12.7	28.6	50.3	15.8
Females:							
Number employed....	74	148	494	1,462	3,561	5,951	11,690
Per cent of Pop.....	.4	.8	2.8	8.7	21.2	35.7	11.2
Total:							
Number employed....	180	394	1,327	3,570	8,381	14,177	28,029
Per cent of Pop.....	.453	1.15	3.52	10.7	24.9	41.8	13.5

<sup>1</sup> Census Bulletin 69, pp. 176-181.

<sup>15</sup> Another line of evidence to check up with these would ordinarily be the reports of the factory inspectors, as to children under sixteen years. But the data for the later years is so clouded with suspicion as to destroy any significance for this purpose of the considerable decline shown by them.

gainfully employed in all occupations outside of agriculture.<sup>16</sup> There is given for each sex separately and for both together the number so employed in each age, and the percentage which they comprise of the total population of that age.

It appears that 352 boys and 2178 girls under twelve and fourteen respectively were gainfully employed in 1900. That is a total of 2532. It is not related, however, how many at each age were employed in the manufacturing group of occupations, to which alone, with mining, the law applied. If it is assumed that the proportion of these children who were in manufacturing was the same as for all children under sixteen, namely 59 per cent,<sup>17</sup> then 1494 of them were so employed. That estimate contains too many elements of error to be taken at its face. But even allowing for error and for the fact that not all occupations reported by the children as "manufacturing" were necessarily followed by them in establishments to which the law applied, still the estimate certainly argues from the census returns a large violation of the law.

A clear though less comprehensive index of children under age in factory employment is found in the figures prepared in the bulletin cited for certain industries. The following table presents those for the manufacturing industries included in the bulletin statement. These also, it will be noted, are from the returns of the census of occupations, which were based not on the statements of the employers, but on the replies of individuals as to

<sup>16</sup> There were in agriculture 2232 between ten and fifteen years of age inclusive. Twelfth Census, *Occupations*, p. 168.

<sup>17</sup> There were, according to the table, 28,029 children under sixteen years gainfully employed outside of agriculture. Of these, 16,593 (*Cen. Occup.*, p. *cliii.*), or 59 per cent, were in manufacturing occupations.



the occupations pursued by them and their families. There is given for each age stated the number of that age employed in the industry and the percentage that number comprises of all from ten to fifteen years in the industry.

TABLE X  
AGES OF CHILDREN IN SPECIFIED INDUSTRIES<sup>1</sup>

	Age Groups						Total
	10	11	12	13	14	15	
Cotton:							
Number .....	2	9	37	68	173	192	481
Per cent.....	0.4	1.9	7.7	14.1	36	39.9	100
Silk:							
Number .....	9	20	97	312	728	1,112	2,278
Per cent.....	0.4	0.9	4.3	13.7	32	48.8	100
Glass:							
Number .....	15	54	127	159	232	231	818 <sup>2</sup>
Per cent.....	1.8	6.6	15.5	19.4	28.4	28.2	100
Tobacco:							
Number .....	1	4	16	64	151	202	438
Per cent.....	0.2	0.9	3.7	14.6	34.5	46.1	100
Other Textiles....							
Number .....	1	7	36	154	462	938	1,598
Per cent.....	0.1	0.4	2.3	9.6	28.9	58.7	100
Total:							
Number .....	28	94	313	757	1,746	2,675	5,613
Per cent.....	0.5	1.6	5.5	13.6	31.1	47.7	100

<sup>1</sup> Census Bulletin 69.

<sup>2</sup> All but 43 were boys.

The figures for each sex are not given separately, so that the exact total of boys and girls under their respective age limits cannot be seen. The total under twelve years, 122, is too small by the number of girls between twelve and fourteen. The total under four-

teen years, 1192, is too large by the number of boys between those limits. In the preceding table the total children over twelve and under fourteen comprised 60 per cent boys and 40 per cent girls. That proportion would not necessarily hold for a few selected industries. But if it may be assumed to hold in this case, then, of the 1070 over twelve and under fourteen, 40 per cent, or 428, were girls under fourteen. Adding these to the 122 under twelve, gives a total of 550 children illegally employed in these industries alone.

There is an interesting accord between this figure and the 1494 estimated to be illegally employed in all manufacturing. These five industries were the leading child employing industries. According to the table they included 5613, or 34 per cent, of the 16,593 children under sixteen years in all manufacturing occupations. The 550 estimated to be illegally employed in these industries constitute 36 per cent of the 1494 above estimated to be illegally employed in all manufacturing.

In the light of the census returns, it is entirely reasonable to say that something over a thousand children under the minimum age were illegally employed. If attention be fixed on all occupations, instead of merely those to which the law applied, then 2532 children were employed under the ages set as the standard. If consideration be had, not for the legal age, but for fourteen years, which was coming to be the standard, then 5471<sup>18</sup> under fourteen were employed in all industries outside of agriculture, 3227<sup>19</sup> in manufacturing and 1192 in the five especially child employing industries. Some of these figures are estimates and cannot be taken entirely without reservation. But they reveal a very consider-

<sup>18</sup> See table IX.

<sup>19</sup> This is 59 per cent of 5471. For derivation of 59 per cent, see above, p. 178, note 17.

able distance between the success attained for the policy of the state and the goal of that policy.<sup>20</sup>

The conditions at the close of the period are further illuminated from two investigations by different state departments. Both of these were made in 1903 during the term of Governor Murphy. One was conducted by Mr. John L. Swayze, secretary to the Governor, and by

<sup>20</sup> Some further figures of interest, but for a limited area, have come to hand. The superintendent of schools for Trenton made in the year 1899-1900 an inquiry into the reasons for the withdrawals from school during that year. Some of those who left school removed from the city. Of those who left school and still remained in the city, the number who left to go to work and the percentage which they comprised of the withdrawals who remained in the city and of the total in the several grades, is given for each grade in the following table.

WITHDRAWALS FROM SCHOOL FOR WORK, TRENTON  
1899-1900<sup>1</sup>

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	All Grade <sup>5</sup>
Number left to work .....	23	32	72	83	107	91	53	12	473
Per cent of those remain- ing in city.....	13	32	55	58	77	81	79	31	55
Per cent of total in grade.	1.04	1.92	6.05	8.7	13	11.45	11.06	4.03	6

<sup>1</sup> Compiled from data in *Rept. Supt. Pub. Instr.*, 1900, p. 309.

The withdrawals for work increased rapidly between the second and third grades, which would be reached before the legal age even by the most backward. The withdrawals continued to increase rapidly to the fifth and sixth grades. There is no way of telling how many of those who withdrew for work were under the legal age. Probably most of those below the fifth grade anyway were under the age limit. This is not to say that the average age of those in the fifth and sixth grades is from twelve to fourteen years. But children who are taken from school and put to work are, from family hardship or indifference, usually more backward than the average for their age. So that they reach the legal age for employment at an earlier grade than the others. Also, there

him placed for the time being in active charge of the factory inspection department during the acute stage of the agitation for a reform of the administration of the law. The object was not to discover the precise amount of child employment, but to settle the question of fact, then in dispute between the critics and defenders of the inspection department, as to whether the law was being violated in an important degree. The work was done by a person engaged entirely outside of the corps of inspectors and supposedly unknown to anyone but those in charge of the investigation.<sup>21</sup> He began his work October 6, and continued throughout the fall and winter. By detective methods a large number of sus-

is no way of telling how many of these below age went into manufacturing employment, to which alone the law applied. Yet, even so, the condition revealed is very unsatisfactory from the point of view of the purpose of a restrictive policy on child employment. For, at the rate of withdrawal shown in each grade about nine out of every one hundred who entered the first grade left school *to go to work* before they had completed the fourth grade, and about fourteen out of every one hundred before they had finished the fifth grade. This computed rate, of course, would not necessarily be the true one, because the children of each succeeding year would not be comprised solely of those who had attended from the first grade in Trenton, or would the number each year be the same as if that were so. Some would have entered each advanced grade on moving into the city from other places. These would probably, in a growing population, more than offset those who had withdrawn. But it is probably sufficiently near the truth to be taken without much reservation. Moreover, this tells nothing of those immigrant children and others who, under the lax enforcement of compulsory attendance, never entered school at all, or who, after leaving for some other purpose than work, turned into some employment never to return to school.

<sup>21</sup> The labor unions had made investigations of their own and had accumulated a mass of evidence and affidavits which they laid before Governor Murphy. But Mr. Swayze did not consider the evidence of a conclusive character. If there were children illegally employed, he wanted the specific cases, with names, residences, family, and age thoroughly attested.

picious cases was easily accumulated. These were sifted by investigation of the addresses given, interviews with parents, reference to school records and officers, to parish records, official registries of births, family records and neighbors. By these methods, applied in Paterson, Passaic, Newark, and the glass factory towns, a residuum of apparently authentic cases of illegally employed children was obtained.<sup>22</sup> No statement of the

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Repeated efforts were made during the summer with the regular deputy inspectors, to see if there were such verifiable cases. But, even after transferring to the disputed centers men from other districts, the results were not convincing either way. It was then decided to try an independent investigator who would work incognito. Governor Murphy supplied the money for the investigation from his contingency fund. After trial of several unsuccessful men, the officials of the state labor organizations found the man who did the work.

<sup>22</sup>The reliability of these cases was hotly challenged during the agitation at the time, and the number of violations alleged was declared, therefore, without adequate grounds. The only specific and detailed impeachment which the writer has discovered, however, was that of a person who told him of being given a hundred or more names of suspected children to look up. Of these only a half dozen or so were shown to be under age. For fully a fourth of them, there was no such street number as the one given, or else it was that of a vacant lot. The remaining two-thirds proved to be of legal age. Such was the evidence, it was said, on which the alleged numbers of violations were based. This Mr. Swayze explained to the writer as follows. Before the special agent could sift all the suspected cases he accumulated in any place, it was necessary for him to move to some other point. The unfinished cases were then turned over at a later date to agents for examination. It was some of these names which were given to the person mentioned. The fact that so few of that lot were shown to be under age did not prove there were no more. Every one of the fictitious addresses should be highly suspected, for back of every address was a child who gave it to the investigator; and the wrong address may well have been given to throw him off the trail of a real violation. But in no case, said Mr. Swayze, were violations alleged on the ground of these unverified suspected cases. Only those children whose residence and family had been identified and whose age had been ascertained on trustworthy corroborated evidence were counted in the statements of the number of violations.

exact number of such cases in the aggregate was ever published, though the number in some districts was. As explained to the writer by Mr. Swayze, he refrained from committing himself exactly because the object of the investigation was accomplished without investigating every suspected case or pursuing to a certainty every case investigated; and without that the amount of violation could not with fairness be definitely stated. From the number of cases which were fully sifted, however, Mr. Swayze was convinced that there were "several hundred" children illegally employed in the state as a whole.<sup>23</sup> This, too, was after an agitation for a

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From an interview, also, for half the night with the man who made the investigation, in which he told of his methods and recounted some of his devices for gaining desired information, the writer is convinced that the results obtained must have had a high degree of accuracy.

On the whole, the weight of the evidence is for the approximate correctness of the returns from the investigation.

<sup>23</sup>This Mr. Swayze said in an interview with the writer. In a published interview in December 1903, he said of the textile district,—chiefly Paterson and Passaic,—that in the six weeks the investigator was there, he certified 73 cases of illegal employment and had over 200 suspected cases still. The ages of those illegally employed ranged from eight years up to the limit, then fourteen years. In one large mill, 26 cases were found. (*Newark Evening News*, Dec. 26, 1903.) In the report of the work of inspection for 1903, he said, speaking of a wider area, that there were several factories with from 6 to 20 cases. *Rept. Insp. Fact.*, 1903, p. 5.

The conclusions from this investigation were supported by the testimony of school officials. The Superintendent for Newark said that in September, 1903, all pupils of the preceding June, between twelve and fourteen years of age who had failed to return to school, were looked up. Out of 1000 or so, 200 were found employed illegally. (*Rept. Supt. Pub. Instr.*, 1904, p. III.) In the report of inspections for 1903 it was stated that returns from eighty schools in manufacturing centers showed 398 children attending who were working in factories the previous year. *Rept. Insp. Fact.*, 1903, p. 3.

year or two, which may have brought an improved observance of the law. It should be noted, also, on the other hand that the number of violations reported was not quite applicable to the period under discussion, because the act of 1903 raising the age limit for boys to fourteen years had taken effect in the preceding September. The industries chiefly involved, according to Mr. Swayze, were glass, cotton, woolen, silk, thread, handkerchief, hosiery, tobacco and cigars.

The other investigation was made by the Bureau of Statistics during 1903. It inquired into several aspects of child labor. For the results on some of these, recurrence will be made to this report. On the matter of observance of the law, it reached conclusions quite the opposite from those just noted. For this it was roundly criticised when the report appeared, at the height of the agitation for a stricter law in the winter of 1903 and 1904.<sup>24</sup> The bureau sent an agent into a number of the manufacturing districts of the state to look up factory children in their homes and inquire into their ages, school attendance, and the other points looked into. Data were collected for nearly a thousand children ranging in age, as stated, from twelve to eighteen. Of these 481 were under sixteen. No boys were reported under twelve years old and only nine girls were reported under fourteen. It was thus shown, ostensibly, that only nine of all those investigated were illegally employed.<sup>25</sup> But the fact that the data for the ages depended upon the statements of the children themselves or their parents

<sup>24</sup>This criticism was first provoked by the advance publication of a part of the report dealing with the relative position of New Jersey in the matter of child labor, based on census figures, and discussing the question of exempting certain children from the law's prohibitions.

<sup>25</sup>*Rept. Bur. Stat.*, 1903, pp. 253, and 273.

impeaches its reliability and renders the evidence on this point worthless.<sup>26</sup>

Although the returns have no value in this connection for the year in which the investigation was made, they do throw light on the observance in years immediately preceding. The report of the bureau for 1903 published the data for each child as well as the summaries for all. This included the present age of the child and his age when he began work. While, as stated, only nine confessed to an age *at the time* below the legal minimum, many more of them gave their age *at begin-*

<sup>26</sup>*Rept. Bur. Stat.*, 1903, p. 273, "The agent obtained his information on ages directly from either the children themselves or their parents." The reasons for suspecting the replies from these sources are (1) that the agent was from the Bureau of Statistics of Labor and Industry, and might therefore be easily confused by the indiscriminating and suspicious with the factory inspector; (2) he was making a special inquiry into child labor and would therefore have his motives for asking the ages put under suspicion. For these reasons children under age,—instructed always to give their age as up to the legal limit,—or their parents would be induced to conceal the true age. (3) Finally, the agitation of the preceding two or three years, which had continued with cumulative intensity, would have greatly increased the suspicions entertained by child workers and their parents for anyone prying into the ages of the children.

The suspicion of the figures is supported by internal evidence from the report. Though denying that any boys were seen who appeared to be under twelve (p. 273), the agent thought a large proportion of the children in one large factory were of "tender" years, "some boys appearing to be scarcely twelve" (p. 271). In one glass factory there were "several boys who were, undoubtedly, under twelve years, but their right to work was backed up by permits from the factory inspector, or affidavits of parents to prove that, notwithstanding appearances, the children . . . were over twelve years" (p. 274). The reliability of parental testimony, even when sworn to, is here questioned by the agent himself, and his suspicion recorded that the returns were, in this case anyway, incorrect. On the same page as the foregoing is the record that in one of the mills some children were found at work who had been dismissed by the inspector on his last visit.



ning work as below that minimum. From this information it was possible to compute the number who began work each year and the number of these who were under the legal age when they began. The results have been arranged in the following table. From this it ap-

TABLE XI  
CHILDREN BEGINNING EMPLOYMENT UNDER AGE<sup>1</sup>

Year	Total Began Employment	Under Age			Per cent of Total Beginning
		Boys	Girls	Total	
1896	1	0	0	0	0
1897	2	2	0	2	100
1898	11	2	4	6	55
1899	103	3	42	45	43
1900	309	9	82	91	29
1901	318	3	79	82	25
1902	173	1	59	60	34
1903	25	0	8	8	32
Total	942	20	274	294	31

<sup>1</sup> Arranged from data in *Rept. Bur. Stat.*, 1903.

pears that out of the 942 for whom this information was given 294, or 31 per cent, began work under age. The number beginning work each year is, except for the years 1899 to 1902, too small to support any deductions. Considering the years excepted, however, it appears from the children's own statements that the number and proportion of those beginning work who were under the legal age indicates a very loose observance of the law. The figures for 1903 are too small to be conclusive, but they suggest that the conditions had not improved as much as the children's statements of their present age would indicate. At any rate, if the results of this limited investigation<sup>27</sup> show on their face very

<sup>27</sup> The number included in the tabulation was 942. Although this included some over sixteen years old, it amounts to less than 12 per cent of the 8042 children under sixteen reported by the manufacturers in the census and less than 6 per cent of the 16,593 reported

little violation of the law in 1903, they also show that violations had been numerous up to the very moment the investigation was made.<sup>28</sup>

*Minimum School Attendance.*—Inquiring now as to the minimum attendance at school, the section of the law pertaining to that fared little better than the age limit. This attendance was to be evidenced by a certificate from the teacher to the employer. The administrative weakness of this requirement of school attendance has been discussed. The experience with it can now be briefly told.

An honest effort was made by the earlier inspectors at least to enforce this requirement.<sup>29</sup> But success in this matter required the cooperation of the school authorities. This was wanting, partly from a dislike

by the occupation census as engaged in manufacturing employments.

<sup>28</sup> If the report of the manufacturing census be taken that there were 8042 children under sixteen employed in manufactures and if it be assumed that their ages ranged from twelve to fifteen inclusive and that they were distributed throughout these ages in the proportions shown in table X, then 3860 were beginning employment each year. Taking now the figures for 1900 and 1901, the years for which the returns of the investigation by the Bureau of Statistics were largest, it appears that something more than 27 per cent of those beginning employment were under legal age. For the whole state, that would argue that 1032 of the 3860 beginning employment each year were under legal age. If the 16,593 children reported by the occupation census be taken, then 7964 began work each year, of whom 2150 were under legal age. Since some of the figures in the calculation are not above suspicion and since some important qualifications have been omitted from it, the results cannot be relied upon. But they suggest that in all probability the law was greatly disregarded.

<sup>29</sup> The factory inspector's report for 1884 gives evidence of that (pp. 13, 16, 17). The testimony of two of the deputy inspectors for that early period, whom the writer was able to find, also indicates that. Similar testimony from three of the later inspectors has the same import so far as their districts were concerned.

for the bother of the schooling certificates, but chiefly from insufficient accommodations. At first it was a lack of buildings so acute as to compel the inspector to wink at the law for a while.<sup>30</sup> This, for one thing, gave the traditions a wrong start. But in time the question of accommodations became a question of night schools,<sup>31</sup> attendance at which was accepted by the law. But these were not very widely provided. So it came to be that unless night schools were provided, little effort was made to enforce the law. In general, the activity in its behalf varied greatly as between the inspectors in the different districts and between successive inspectors in the same district.<sup>32</sup>

<sup>30</sup> *Rept. Insp. Fact.*, p. 16.

<sup>31</sup> *Ibid.*, 1887, p. 9. The employers disliked the changes in their working force occasioned by the children complying through attendance at day school. This, coupled with the desire of the children not to lose any time from work, induced the children to depend on night schools.

<sup>32</sup> The superintendent of schools for Paterson complained of the non-observance there in 1895. (*Rept. Supt. Pub. Instr.*, 1895, p. 271.) Some of the inspectors of the later years confessed to the writer their inability to enforce this provision, though in some cases the fault may well have been in the lack of enterprise by the inspector. That the provision failed of passable observance is also augured by the ill reputation it had at the close of the period. See, *e. g.*, *Message Governor Murphy*, 1903, p. 9-10, and testimony at committee hearing on the bill of 1903 to raise the age limit to fourteen years for boys and abolish the attendance requirement. *Newark Evening News*, Feb. 11, 1903.

The ununiform and intermittent character of the efforts at enforcement are shown in the inspectors' reports of the number of certificates of attendance ordered each year. The figures cannot be trusted for exactness, but they serve the present purpose. Even when certificates were ordered, it does not insure that the attendance requirement was then fulfilled, for, by the testimony of former inspectors interviewed, the children were seldom discharged pending the filing of a certificate. They were ordered to attend night school until the condition was met. But, as will be seen presently, there was inadequate provision for insuring their at-

Since compliance with this provision was by way of the night schools, it will be in point to note what was done through them. First as to the provision of them. The inspector's report for 1889 records that night schools had been opened in all the cities and in many of the small manufacturing towns and were well attended.<sup>33</sup> But either this was optimistically colored or there was a marked reaction leaving only intermittent provision in many centers. Later reports of the inspectors testify to this.<sup>34</sup> The lack of public provision is attested by the efforts of employers in certain cases to supply the need.<sup>35</sup> From the evidence it appears that fairly regular provision was made in some places, either by public authorities or employers; that in other centers irregular at-

tendance, unless the employer,—as many did,—saw to it. When the employer,—as many others did not,—took no interest in the matter, the child could disregard the order with impunity. For there was little to fear in most places from any truant agent, and before the inspector could return, the child might be beyond the age, or be employed elsewhere. The data are given in the following table:

SCHOOL ATTENDANCE CERTIFICATES ORDERED<sup>1</sup>

Year <sup>2</sup>	Number of Districts Reporting	Total Certificates Ordered	Year	Number of Districts Reporting	Total Certificates Ordered
1891	1 <sup>3</sup>	50	1897	4	217
1892	1 <sup>3</sup>	20	1898	2	44
1893	..	...	1899	4	411
1894	1 <sup>3</sup>	6	1900	5	1,233
1895	2	235 <sup>4</sup>	1901	6	2,162
1896	..	...	1902	6	928

<sup>1</sup> Compiled from *Rept. Insp. Fact.*

<sup>2</sup> Not reported before 1891.

<sup>3</sup> Same one of the six districts.

<sup>4</sup> There were 223 from a district not before reporting.

<sup>33</sup> *Rept. Insp. Fact.*, 1889, p. 6.

<sup>34</sup> *Ibid.*, 1893, pp. 45, 57; 1894, p. 29; 1896, p. 33; 1899, p. 49; 1902, p. 238.

<sup>35</sup> *Ibid.*, 1884, p. 16; 1889, p. 6.

tendance caused a discontinuance, to be followed, possibly, in a later year by a new effort; and that in many places the children lacked any opportunity for night school attendance. The condition in this respect, however, improved toward the end of the period.<sup>36</sup>

When it is inquired how large the attendance at night school was, the answer is rather unexpected after reading the complaints of want of facilities. From the first the inspector's reports contain testimony of an appreciable attendance by factory children.<sup>37</sup> This is supplemented in the later years by other evidence.<sup>38</sup> It should be noted, also, that many employers insisted on their child employees conforming with the law in this matter.<sup>39</sup> But at the same time there is evidence that, however gratifying this attendance was, absolutely considered, it was relatively less than a compliance with the law required. As early as 1887 the inspector noted an irregularity in attendance for want of truant officials connected with the night schools.<sup>40</sup> This complaint for the whole period survives in the recollections of persons interviewed by the writer. Later recorded testimony also points to a very important deficiency in the attendance demanded by the law.<sup>41</sup> Some measure of that deficiency is given in the following table compiled from the returns of the investigation by the Bureau of Statistics. There were 209 who reported their ages as

<sup>36</sup> See *Repts. Supt. Pub. Instr.*

<sup>37</sup> *Rept. Insp. Fact.*, 1885, p. 26; 1893, p. 45; 1894, pp. 39, 51; 1896, p. 69.

<sup>38</sup> *Rept. Supt. Pub. Instr.*, 1902, p. 132; *Rept. Bur. Stat.*, 1903, p. 259.

<sup>39</sup> *Rept. Insp. Fact.*, 1899, p. 135; *Rept. Supt. Pub. Instr.*, 1904, p. 133. Also testimony of some inspectors of that period.

<sup>40</sup> *Rept. Insp. Fact.*, 1887, p. 10.

<sup>41</sup> *Ibid.*, 1901, p. 229; *Rept. Supt. Pub. Instr.*, 1902, p. 157.

under fifteen years and also stated whether or not they attended night school.

TABLE XII  
ATTENDANCE AT NIGHT SCHOOL

Age	Total Reporting	Attended Night School			
		Yes	Per cent Total	No.	Per cent Total
12	5	0	0	5	100
13	21	2	9	19	91
14	183	52	28	131	72
All Ages	209	54	26	155	74

*Minimum Physical Condition.*—The power of the inspectors to require a certificate of physical fitness does not appear to have drawn enough attention to cause any records to be made concerning it. Nothing has been discovered in the inspector's reports bearing on the use of that power, or has any evidence from any other source come to the attention of the writer. It cannot be said that it was never used. But on the other hand, there is nothing to prove that it ever was. The silence of all persons concerning it points to a neglect of it.

*Hours For Children.*—The observance of the law limiting the hours for children under sixteen years to ten a day and sixty a week can be ascertained only in part. It was found that, at the close of the preceding period, the regular scheduled work day was pretty generally within ten hours, but that a great deal of overtime was exacted even from children, and that the exceptions to the ten hour day were mostly in industries employing women and children.<sup>42</sup> The report of the factory inspector in 1888 gives the hours worked in all the establishments inspected. From that data, it appears

<sup>42</sup> See above p. 25.

that there were 31 whose regular running time was over ten hours for the first five days of the week, though not over sixty hours for the whole week. There were 2 which ran eleven hours the first five days and sixty-one hours for the week. In all of these 31 establishments, there were 558 children under sixteen years of age, which is only 8.5 per cent of all children under sixteen years reported for the factories inspected. But as the returns for hours were incomplete, this percentage is probably small. All but 15 of these 558 were in textile industries of some sort. This would indicate a small amount of violation for the state as a whole, but a great concentration of it in one group of industries. Here again the regular scheduled day appears to have been within the law in all but a few cases, which affected only a small proportion, although an important number, of the children under sixteen years. But nothing was said of overtime. So that a fair comparison with the conditions before the law was passed cannot be made.

No other evidence for the period has come to hand until an insight into the practice at the close of the period is secured from the investigation by the Bureau of Statistics in 1903. This included 938 children from twelve to eighteen years of age. From the statements of these children, only 4.3 per cent of them had regular working days of more than ten hours.<sup>43</sup> That is about half the proportion in 1888, but the number of cases considered was only a fraction of those in the former year, so that the difference cannot be taken at its face. As to overtime in 1903, it was reported by only 8 males and 35 females. The number of hours of overtime ranged from five and a half to eleven hours a week. It is suspicious that all this was reported from the southern

<sup>43</sup> *Rept. Bur. Stat.*, 1903, p. 253.

part of the state, none being reported for the much greater manufacturing centers of the north, including the textile centers of Passaic County.<sup>44</sup>

Contemporary testimony on the observance of this law is not abundant. The reports of the inspectors do not give much attention to the enforcement of the law, although they frequently complain of the hardship of the long hours upon children. It appears, however, that some effort was made, though not uniformly by all the inspectors,<sup>45</sup> to secure a compliance with the law. But their influence could not have been great. No records of any prosecutions are made. The tendency of the time was in the direction of a shorter day and the compliance secured was probably that of the more willing employers who did not require much pressure to decide them. Certainly no very unwilling employers were among the number; for there were no contests such as would follow a vigorous attempt to enforce a law touching employers at so sensitive a point as the length of the working day and week.

The act of 1892, limiting hours to fifty-five a week, was never enforced, though many employers complied with it voluntarily so far as children were involved. The uncertainty during the years of litigation, followed by the appointment of a less energetic inspector, combined with the loss of prestige which the law suffered from the attacks upon its constitutionality, all contributed to a quiet relaxation of efforts in behalf of its observance. No one, not even the labor organization,

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<sup>44</sup> *Rept. Bur. Stat.*, 1903, p. 254.

<sup>45</sup> This appears from interviews with inspectors of that day. One said he never tried to enforce the law. He noted the pressure upon manufacturers to get out their orders and always told them to go ahead.



cared to spend energy on a measure suspected of having no vitality. Observance thus became entirely optional.

*Health and Safety of Children.*—The law for safeguarding the health and safety of children, like that to insure a minimum physical condition, appears to have received no attention. It is doubtful if it had any effect at all on the practice of employers and their foremen. Many would not endanger a child employee in such a manner, even if there was no law on the subject. The precautions of such as these were taken regardless of the law. Those who were indifferent to this interest of their child workers, probably felt little if any check upon their practice on account of the law.<sup>46</sup>

*Compulsory Attendance.*—As would be expected from the apathy disclosed, the results from the law were very meagre. As usual there is lacking any reliable measure of these results. On the negative side there is testimony showing that many children escaped from the requirement of the law.<sup>47</sup> Governor Abbett in his message of 1887 gave figures for twenty cities and

<sup>46</sup> A little light on the rigor of children's labor is found in the returns of the investigation by the Bureau of Labor. There were 485 children who reported their ages as under sixteen and stated the position in which they had to work. Their answers are tabulated in the table.

POSITION OF CHILDREN AT WORK 1903

Age	Total	Position at Work					
		Sitting	Per cent Total	Stand- ing	Per cent Total	Both	Per cent Total
12	5	1	20	2	40	2	40
13	21	5	24	9	43	7	33
14	183	73	40	51	28	59	32
15	276	99	35	91	33	86	32
All Ages	485	178	36	153	32	154	32

<sup>47</sup> *Rept. Insp. of Fact.*, 1887, p. 9; *Rept. Supt. Pub. Instr.*, 1887, p. 35; 1890, App., p. 78; 1897, p. 238.

towns showing that 12,365 children between seven and twelve years of age,—the period of compulsory attendance,—had attended school less than the required twenty weeks, and that 26,456 had attended no school, public or private, at all.<sup>48</sup> The present recollections of men of those days, also, agree that the law was far from bringing the results desired.

Yet the law was not without appreciable effects. That is shown by testimony<sup>49</sup> and is evidenced by the steady, though small, improvement in the percentage of the total enrollment in daily attendance in the twelve cities before considered.<sup>50</sup> The following table shows this improvement in average daily attendance.

TABLE XIII.  
PER CENT AVERAGE ATTENDANCE OF ENROLLMENT  
1881—1900<sup>1</sup>

Year	Average Attendance	Year	Average Attendance
1881	60.4	1891	65.3
1882	60.6	1892	67.2
1883	62.9	1893	65.3
1884	63.0	1894	66.6
1885	65.6	1895	67.0
1886	64.5	1896	68.8
1887	65.1	1897	69.5
1888	65.1	1898	70.5
1889	66.7	1899	67.3
1890	65.3	1900	67.9

<sup>1</sup> Compiled from *Repts. Supt. Pub. Instr.*

<sup>48</sup> The figures are not above suspicion since they were computed in part from the returns of the school census. (See above, p. 19, note 26). Yet, considering that they pertain to the ages 7 to 12 years, while the manipulation of the census was chiefly confined to the margins of the period of school age, they may be taken as sufficiently near the truth to conclude from them a considerable failure of the law to secure the results sought.

<sup>49</sup> *Rept. Insp. Fact.*, 1891, p. 11; *Rept. Supt. Pub. Instr.*, 1894, App., pp. 108 and 129; 1901, p. 296.

<sup>50</sup> See above, p. 22.

The percentage of enrollment in daily attendance averaged around 60 from 1876 to 1883 when it began to rise and continued until 1885. Since the compulsory attendance law was not passed until 1885, this abrupt improvement in the attendance could not have been due to that. It is not unreasonable to attribute it in some part, at least, to the child labor law of 1883. Be that as it may, from 1885 to 1890 the percentage in attendance fluctuated closely about 65. This suggests just such results as would be expected from the meagre and indifferent efforts to enforce the attendance law during those years. From 1892 a gradual but small improvement is noted until the end of the century. This is not enough change to prove the efficiency of the law, but it coincides with the slowly, although inadequately, widening attempts at enforcement.

## CHAPTER IX

### SUCCESS OF THE POLICY.

SINCE 1904.

The observance of the law since 1904 has been far superior to that at any time prior to that date. This has been due chiefly to the fact that the new department of inspection has made a noteworthy endeavor to enforce the law. There has been also a marked improvement in the local efforts to enforce the compulsory attendance law.

*Conditions Favorable to Observance.*—But besides the stronger endeavor to enforce the law, the observance of it has profited by some favorable conditions. One influence for better observance has been the wider militant interest in the law. The committees appointed by local trade unions during the agitation for the present law were continued as local vigilance committees.<sup>1</sup> Philanthropic societies took a corporate interest in the enforcement of the law, both in action at their larger conventions<sup>2</sup> and in observing and reporting to the inspectors the conditions in their several localities. These activities were all limited to reporting suspected cases to the inspectors and follow-

<sup>1</sup> Most active, probably, was the Essex Trades Council of Newark and vicinity. It early took steps to stimulate public interest in the law. See *N. J. Rev. of Char. and Cor.*, III, p. 215.

<sup>2</sup> Such were the State Federation of Woman's Clubs, *Newark Advertiser*, Oct. 24, 1904; the Convention of the New Jersey Congress of Mothers, *Ibid.*, Oct. 27, 1904; Annual Meeting of the New Jersey Consumers League, *Ibid.*, Oct. 25, 1904; and the Annual Convention of the Woman's Christian Temperance Union, *Hoboken Observer*, Oct. 29, 1904.

ing them up. But in a few localities independent prosecutions were conducted by the Society for the Prevention of Cruelty to Children.<sup>3</sup> These independent prosecutions were not always conducted with wisdom, but they added to the pressure for an enforcement of the law. Finally, the newspapers gave publicity, even if often in a sensational manner, to all that was going on. The public interest was thereby constantly stimulated and kept alert.

Another favorable condition was a far less resistant, if not a more sympathetic, attitude of the employers. The reports of the Department of Labor repeatedly comment on the apparent desire of the body of manufacturers to comply with the law, a desire expressed in various efforts to meet the department half way, and more, in observing the law. This same attitude was displayed in many interviews had by the writer, even after allowing for all appearances of dissimulation. There can be no doubt that experience since the law was passed has led employers to look with much less fear for their business upon the present age limit for child labor and, fearing less, to let their approval of the general purpose of the law dominate their opinion of it.<sup>4</sup> That there are still many whom the advocates of the law consider as unregenerate does not minimize the truth of the above statement as to employers at large.

*Conditions Unfavorable to Observance.*—Although the times have been far more conducive to observance, there has been no lack of resistance to the law. As a rule this has been most pertinacious among the small em-

<sup>3</sup> *Rept. State Charities Aid Assn., 1907, p. 11.*

<sup>4</sup> This change of sentiment on the part of employers was noted by Mr. Hugh F. Fox, in a review of the operation of the new law in 1905. See *Ann. Amer. Academy of Pol. and Soc. Sci.*, Vol. XXV, May, 1905.

ployers as a class, although individual pertinacity has nowhere excelled that of some large child-employing manufacturers. A good part of the resistance by the large concerns, however, is without the special sanction, or even the knowledge, of the heads of the business. Superintendents and foremen, under the pressure of their superiors who look only to the expense account and the output, resort to the employment of children under age when that promises to reduce expenses, or when no older children are immediately available to help get out the work on time. This is no part of the policy of the concern. Yet when this happens repeatedly, as is related of some manufacturing establishments, it must be regarded as tacitly sanctioned. Many concerns, in order to prevent such repetition, have placed the hiring of all children, if not all employees, in the hands of one person, to whom department heads and foremen send when in need of additional help. This brings every child with his papers under the eye of one responsible person.

That there has been intentional resistance to the law is shown by the attempts which have been made to thwart the inspectors by concealing children or by sending them home when the officer made his visit. This was done much more in the early years of the present law than has been done lately. Experiences related to the writer by some inspectors with concerns both in the glass country of the southern part of the state and in the varied manufacturing districts of the north, with direct and mutually supported testimony from employees, in both sections, indicate that many employers, especially glass manufacturers, determined to test the earnestness and determination of the new corps of inspectors at the outset. Much of this was probably looked upon by subordinates and foremen, as well as children, as a game which they

thought to enjoy with the inspectors. But the determination displayed by the department in spite of every baffled effort and the large number of prosecutions successfully undertaken apparently made the game too costly for most resistants, for testimony from the same sources indicates a great falling off in such tactics. Yet there still appear to be a few who seek to evade the law as far as they can.<sup>5</sup>

Another source of resistance to the law is the sympathy for the poor, in the absence of any provision to supply their needs while their children are kept from work. This influence will be plain from a foregoing criticism of the present law for lack of provision for cases of hardship.<sup>6</sup>

The influences resisting an observance of the law, when written by themselves, appear large. But in fact the balance between them and the influences supporting a good enforcement of the law is very much on the side of a high degree of observance. The present period is distinguished from the preceding one by nothing more than by the force, alertness, and universality of the opinion in behalf of the law.

<sup>5</sup> In examining the evidence pertaining to this matter, the writer has distinguished between the loosely formed, indefinite, and general assertions, which everywhere circulate in factory towns among all kinds of people, and specific cases cited to him with particulars. Not all of the latter, even, can be taken without some reservation. According to the former, the inspectors have always been and are still everywhere and always fooled. That is far from true. But a consideration of the latter sort of evidence, after allowing for varying reliability, has satisfied the writer that much effort was made, and not without success, to hoodwink the inspectors for a while, but that the persistency of the inspectors and their usual ultimate success has convinced many resisting persons of the futility of their course. The writer has not been convinced, however, that this resistance has ever been true of employers as a class during the present period, or that it is true at the present time of more than a very small number.

<sup>6</sup> See above, pp. 118 *et seq.*

*Minimum Age Limit.*—With the public mind in such a temper, a good observance of the law would be expected. And that is found. The newspapers during the first six months of the law were full of accounts of the discharge of children from factories. These usually employed a round number, well above the truth, to describe the event. But the fact of the discharges to an unusual degree may be noted regardless of the exaggerated reports of the fact. The child labor committee of the Essex Trades Council reported that the law was well observed in Essex County, which contains the large manufacturing city of Newark.<sup>7</sup> Mrs. Florence Kelly wrote that the new law was unquestionably obeyed in the glass factories far more than any law had ever been before.<sup>8</sup> The city clerk's office at Newark felt a new and extraordinary demand for birth certificates from the public registry.<sup>9</sup> The glass factories suddenly found themselves put to it to find boys enough over fourteen years of age, so great was the number who were discharged as being under the age.<sup>10</sup> Woodbury, a glass manufacturing town, closed its night schools because the former night school pupils had entered day schools. This was said to be a common experience in the South Jersey towns.<sup>11</sup>

The most comprehensive testimony to the observance of the law is found in the results of an inquiry by Mr. Hugh F. Fox, made in 1905. A list of questions on the operation of the new law was sent out to superintendents of schools in all the various cities, and also to others who

<sup>7</sup> *Essex County Observer*, June 26, 1905.

<sup>8</sup> *Charities*, XIV, p. 798, June 3, 1905.

<sup>9</sup> *Newark Evening News*, Sept. 6, 1904.

<sup>10</sup> This was reported at the time in various papers. It was also stated to the writer in every interview with glass factory officials.

<sup>11</sup> *Newark Advertiser*, Dec. 4, 1904. See also *Message Gov. Murphy*, 1905, p. 15.



were dealing with children of the poor, such as child-caring and charity organization societies, probation officers, truant officers, and priests whose parishes included large parochial schools, and some of the best informed clergy of other denominations, and labor leaders. "Replies to these questions indicate that, so far as their observation and experience extends, the persons to whom the inquiries were addressed are substantially convinced that the child labor laws are being enforced with remarkable thoroughness."<sup>12</sup>

This favorable testimony must be offset by some of a contrary sort. Contrast with former conditions made the success attained under the new law so conspicuous that it was the only thing noticed for the first six months or year. Then it had come to be taken somewhat for granted and violations were noticed with more attention. From the middle of 1905 on, the newspapers contain items and editorial comments alleging violations of the law. But these cannot be entirely relied upon. More trustworthy are a few early statements by other observers.<sup>13</sup> With the progress of time, complaints of violations were made with more deliberation. Mr. Fox said in December, 1907, that there was need of a more rigid enforcement of the law. The *New Jersey Review of Charities and Correction*, in an editorial of January, 1908, reflected complaints of a greater disregard of the law in the

<sup>12</sup> *Annals Amer. Acad. Pol. and Soc. Sci.*, Vol. XXV, May, 1905.

<sup>13</sup> The superintendent of schools at Millville in 1905 and 1906 showed skepticism of the observance of the law in that city. (*Rept. Supt. Pub. Instr.*, 1905, p. 135; 1906, p. 133.) The inquiry by Mr. Fox, referred to above, showed that the school superintendents of Bridgeton, Orange, and Perth Amboy did not think the law well enforced in those cities, although they were the only superintendents so reporting. Replies from others than superintendents of schools contained two to the effect that the law was not fully enforced, but they did not definitely reveal more than meagre violation.

glass factories.<sup>14</sup> The president of the Federation of Trades and Labor Unions in his annual report to the convention in August, 1907, said that in spite of prosecutions by the Department of Labor, illegal employment of children was still practiced in certain sections of the state.<sup>15</sup>

As to conditions at the present time, the writer has encountered widely varying opinions. Wage earners, trade-union officials, workers in charitable organization and philanthropic and civic societies, business men, clergymen, school officials, all are divided as to whether the law is being violated or not in their own localities. It would be bootless to repeat all this testimony, especially as much of it must be rejected. The valuation of it may be passed over for the moment until some considerations affecting any judgment are noted.

Before drawing any conclusions in this matter, it is due the reader to give some index of the unreliability of much of the testimony commonly offered on this point as the basis for judgments of the observance of the law. Many complaints of violations are worthless on their face. Some complaints show plainly an ignorance of the requirements of the law and charge as violation cases that are clearly outside of the law. Some charges are plainly so exaggerated as to appear to be made without any regard for the actual facts, but rather as sweeping general charges unrelated to specific cases. Many of the allegations of violation are but repetitions of a tradition concerning particular factories which won a bad name in years gone by. At times, charges have been made purely for purposes of agitation.<sup>16</sup> Many charges are carelessly,

<sup>14</sup> Vol. VII, p. 17.

<sup>15</sup> *Proceedings Conv. 1907*, p. 10.

<sup>16</sup> One labor leader publicly charged that the law was altogether disregarded in the glass factories. When asked by an inspector

if not culpably, made by persons without any adequate opportunity to observe the facts or without any effort to investigate and distinguish appearances from the truth.<sup>17</sup> The writer himself was regaled with a great many tales of wholesale violations, of which his informants, when pressed for more particularity, proved to have no personal knowledge, or any indirect knowledge of any specific cases, or any other basis worth considering for the large assertions so confidently made. Yet it is out of such as these, as well as *bona fide* violations, that rumors grow and circulate in a locality and are finally repeated or published throughout the state.

Most complaints of violation made in good faith are based merely on observation of children as they enter or leave a factory. Children are seen who appear to be under age, therefore it is charged that violations are practiced. This sort of evidence, however, is wholly unreliable taken by itself. Working children include so many who have grown up without proper care or nourishment that the appearance of children about a factory is very deceitful as to their true age. Charges of violation, based on this sort of evidence, cannot be considered

afterward for specific references so that investigation might be made, the leader replied that he was only creating a sentiment.

<sup>17</sup>A clergyman, who had taken part in the agitation against child labor, publicly stated before an annual meeting of the New Jersey Conference of Charities and Correction that there were hundreds of cases of illegal child labor right in Newark. A factory inspector who was present asked him at the close of the session if he was speaking of facts of which he knew. He hedged in replying and confessed that he was speaking only from hearsay and supposition. An inspector, who has been given many of the cases of alleged violation, reported by various persons, to run down and verify, said to the writer that only a very few indeed of such complaints ever prove to have any basis in fact. A number of specific cases described revealed the most flimsy grounds and most ill-considered conclusions from them.

in any careful attempt to estimate the degree of observance secured for the law.<sup>18</sup>

These facts have required that a great deal of the testimony that has come to hand, both published and oral, be rejected; and have tempered the positiveness of the conclusion drawn from that which has been retained.

The interpretation of that evidence has been influenced also by the writer's own observations, made partly in company with inspectors and partly alone. Those observations may be summarized in a few sentences. Some thirty factories were visited, ranging from the largest to the smallest, and including six glass factories ranging from one with but one "tank" to the largest two in the state. In selecting these thirty factories it was endeavored

<sup>18</sup>The writer's experience with this sort of evidence may be worth recording. A certain textile mill had been named by several persons as a persistent and wholesale violation of the law. The writer was told that if he would watch that factory dismiss he would see in the size of the children positive proof of the charges. He stood at the gate and watched the employees enter one morning and counted twelve children who, on their size and appearance, he was sure were under fourteen years and some he thought as low as twelve. When later in the forenoon he met by appointment one of the lady inspectors, he requested that the textile factory in question be visited. In this inspection, the names of seventeen children were taken whose appearance was suspiciously young. Of these seventeen, there were eight or nine whom the writer positively remembered as having seen enter in the morning. These at least were not "concealed" from the inspector. Judging by the number of young looking children found in the factory as compared with the number seen to enter, there was no probability that any were concealed. As child after child was added to the suspicious list, the writer began to think that the charges he had heard were going to prove true. On looking over the file of papers in the office, however, satisfactory papers were found for every one of the seventeen, except one girl whose affidavit was accompanied by no supplementary evidence. At the direction of the inspector, she brought a birth certificate the next morning. A baptismal certificate for one boy made him out to be sixteen years old, which seemed incredible. To satisfy the doubt, recourse was had to the local rectory from

to choose typical industries and to include those establishments popularly branded as the worst offenders. In ten of these the children were noticed individually and the names were taken of those appearing young for examination of their papers on file at the office. In only three cases were the proper papers wanting, in two of which they were on hand for the inspector the following day. The third case was that of a boy under fourteen in the office of a manufacturing concern. The proprietors had not observed that the law applied to children in the office as well as in the works of a factory. This boy's discharge was ordered by the commissioner of labor and promptly effected. Want of time forbade such a detailed inquiry in all of the places visited. But notice was taken of the size and appearance of children and comparison made with the appearance of those children whose papers had been examined. In all these remaining factories together, not as many children of suspicious size were found as in two textile mills where a careful and individual examination proved all to be of full age. The writer which the certificate was issued. The registry of baptisms for the year alleged showed the entry of the boy's name as stated in the certificate.

There was left this possibility of deceit. The papers filed in the office may have been issued to other and older children and transferred to those in the mill who assumed the names in the papers. Aside from the great improbability of so many children working in the same place under such a transfer of papers, was the experience of this particular inspector in running down just such remaining possibilities by looking up the family. On that experience, the chances were small that any of those in the mill would be found inaccurate. Reluctance to spend more time on the matter caused the writer to let that chance go unverified. This test, with a similar one on nearly the same scale in another mill in the same section, and the examination of a large number of papers in other sections, have satisfied the writer that the age of working children cannot be told with any reliability by the method of examining the teeth, so to speak.

does not say that there were none under fourteen years among these unexamined cases. He should want to verify each case first. But in the light of his experience with the appearance of children, he is far from asserting, without such verification, that any of them were under age. The chances are that not more than a very few, if any, would have proven too young.

It is not probable, as some will object, that any children were concealed. The writer, unaccompanied by any inspector, offered no occasion for fear on the part of any employer. Besides, while shown every courtesy, in most cases no apparent attention was paid to him as he loitered through the shops. Indeed, in one glass factory, with as bad a name formerly for child labor as any concern in the state, he was promptly given a pass and told to go where he wanted, the superintendent excusing his apparent lack of courtesy on the ground of a pressure of interests at the time requiring his attention.

The writer does not regard his own observations as sufficiently comprehensive or sufficiently minute in all cases to support of themselves any very positive general statement on the observance of the law. There is too much assertion of that sort after a running survey of a few spots in the field. It should be noted also that these observations were made in the summer and fall of 1908 when industry was still suffering from the depression. Especially in the glass industry was employment greatly reduced. Boys are usually at a premium in glass towns, but the writer was everywhere told that the slack times rendered more boys available than were needed. The usual pressure to take children under age was thus absent. The testimony from various persons leads the writer to think that he saw the factories in a better than average condition as to the employment of children.

When all this evidence is gathered together and weighed, it indicates, in the writer's opinion, that, with the cleaning up of the inspection department begun under Mr. Swayze, there began a rapid improvement in the observance of the law, which was continued as rapidly in the early years of the present law and has maintained a slower but steady improvement ever since. At the present time, it indicates a close, though hardly a complete, observance of the law.

Some statistical indication of the observance of the law is found in the fact that in the first of fourteen months of the law's operation some 7000 affidavits and accompanying papers were sent to the department at Trenton.<sup>19</sup> Of these, 3000 were sent in the first two months.<sup>20</sup> These would be large the first year because all children between fourteen and sixteen would be required to have them. That the new generation of factory children reaching the age limit each year has also complied well with the law is indicated by the fact that, since the beginning of the law's effect, some 26,000 such papers have been submitted to the department, of which 7000 were submitted during the year 1908-1909.<sup>21</sup>

Another index is found in the statistics of employment of children under sixteen. The following table affords a comparison between the year 1900 and the year 1904. The act of 1904 did not take effect until September 1 of that year. But the act of the previous year, raising the age limit to fourteen years for boys as well as girls, was in effect and the more vigorous enforcement of the law under the present commissioner of labor had begun.

<sup>19</sup> *Rept. Dept. of Labor*, 1905, p. 4.

<sup>20</sup> *Rept. Insp. Fact.*, 1904, p. 5.

<sup>21</sup> See above, p. 105 *et seq.*

TABLE XIV.

CHILDREN IN MANUFACTURING IN 1900 AND 1904.

	Average Total Employees <sup>1</sup>			Children under 16 yrs. <sup>1</sup>			Per cent Children Under 16 yrs. <sup>2</sup>		
	1900 <sup>3</sup>	1904	Per cent Increase	1900 <sup>3</sup>	1904	Per Cent Increase	1900	1904	Per cent Decrease
Whole State	213,975	266,336	24.5	7832	8002	2.2	3.6	3.0	16.6
Urban	163,037	200,711	23.1	5383	6453	19.9	3.3	3.2	9.09
Rural	50,738	65,625	28.8	2449	1549	-36.8	4.7	2.3	51.0

<sup>1</sup> Census of Manufactures, 1905, Pt. II., p. 645.<sup>2</sup> Computed by the writer.

<sup>3</sup> These figures for 1900 are somewhat smaller than those reported in the Twelfth Census. This is due to a selection to make the 1900 returns comparable with those of 1905. The census of 1905 omitted all the small establishments and took account only of the larger ones. These numbered 7010. For purposes of comparison, only those establishments reporting in 1900 were taken which were comparable with those reporting in 1905. These aggregated 6415 out of the 15,481 reported in 1900. But the totals for employees are only slightly lessened thereby.

The change in some of the principal child employing industries is shown in detail in the following table.

TABLE XV.

CHILDREN IN SELECTED INDUSTRIES IN 1900 AND 1904.<sup>1</sup>

Industry	Average Total Employees			Children under 16 yrs.			Percentage of Children Under 16 yrs.		
	1900	1904	Per cent Change	1900	1904	Per cent Change	1900	1904	Per cent Change
Cotton Goods	5518	5362	-3	641	498	-22	11.6	9.2	-11
Dyeing and Finishing	7074	7597	+7	168	119	-29	2.3	1.5	-35
Glass	5383	5507	+2	847	568	-33	15.7	10.3	-35
Hosiery and Knit Goods	1841	1742	-6	152	73	-52	8.2	4.2	-49
Linen Goods	1476	1827	+24	316	346	+9	21.4	19.0	-12
Silk and Silk Goods	24,157	25,481	+5	1199	1173	-2	4.9	4.6	-6
Cigars and Cigarettes	1640	6073	+270	79	351	+344	4.0	5.7	+42
Woolen Goods	2942	2676	-10	187	157	-16	6.0	5.8	-4
Worsted Goods	3910	6024	+54	456	616	+35	11.6	10.2	-12
All Industries	53,941	62,289	+15	4045	3901	-4	7.5	6.2	-18

<sup>1</sup> Figures for 1900 from Twelfth Cen., *Mnfrs.*, Pt. II., pp. 548-54; for 1904, from Cen. *Mnfrs.*, 1905, Pt. II., p. 674 8. The percentages were computed by the writer.



A comparison between 1904 and subsequent years is found in the following statistics for fifty-six industries collected by the Bureau of Statistics and published in its annual reports.

TABLE XVI.  
CHILDREN IN FIFTY-SIX INDUSTRIES, 1904-1908.<sup>1</sup>

	Average Total Employees	Average Children Under 16 Years		
		Number	Per cent of Total	Per cent De- crease of Proportion <sup>2</sup>
1904	147,488	6550	4.4	. . .
1905	165,499	6095	3.7	17.
1906	175,338	6188	3.5	6.
1908	181,822	5022	2.7	22.
				38.6 <sup>3</sup>

<sup>1</sup> Compiled from *Repts. Bur. Stat. of Labor and Industry*.

<sup>2</sup> Computed by the writer.

<sup>3</sup> From 1904.

Reviewing this evidence leads the writer to the conclusion that the present age limit is observed to a very high degree. In the case of such a law as the one in question, there are many who will observe it as law-abiding citizens because it is the law. Others will obey it because they do not wish to take any chances whatever by disregarding it. Many others are willing to take chances, but with widely differing amounts of daring. The number of these who observe the law thus varies with the risk of incurring the penalty. Then there are, finally, those who study ways to evade the law. Considering all together, there is an increasing intensity of resistance to the law as one passes from the first named to the last named, and even from one to another in each class. Each new conquest for observance against this rising resistance is at the expense of an increased pressure for en-

forcement by the various elements in the state pressing toward that end. It is probably true to say that the resistance, and hence the compelling force necessary to overcome it, increases more than proportionately with each degree of advance toward complete observance. Now there is a limit to the expense which a state will incur in providing for and equipping a force of officers to carry out its policy, and there is a limit to the perfection of the personnel possible under existing political traditions and political habits of mind. In both these respects, as concerns the child labor law, New Jersey stands fully as well as any other state. Yet it would not be possible, with the present provision of numbers and quality, relatively excellent as it is, to secure and maintain a complete observance of the law. What alone is possible is to cut down the amount of illegal child employment to that irreducible minimum set by all the conditions of the time. That is the answer alike to those who would say there is no child labor in New Jersey and to those critics who complain that it is not yet entirely suppressed. The writer is not convinced that there is no child labor. That there is some is proven by the fact that it is necessary to discharge some children each year.<sup>22</sup> It is probable that there will always be some, because each new generation of factory children each year contains

<sup>22</sup> Each succeeding year a new group of children grow within chance taking distance of the age limit. Some of these are bound to take the chance of being caught, even though the work of inspection be at the best possible. A certain number of illegal cases, therefore, will be found and discharged each year. The record of discharges, according to the reports of the Department of Labor, is as follows:

1904-5	1905-6	1906-7	1907-8	1908-9
238	361	399	195	260

This, of course, is not the number illegally employed at any one time, but the number found during the year.

many whose parents will insist on trying their shrewdness against the enforcement of the law. But it appears that the observance secured has reduced the amount of child employment close to that irreducible minimum which must be accepted for the present.

*Hours for Children.*—Not so much attention has been paid to the enforcement of the provision on hours for children as to the enforcement of the age limit. This has been due to the policy of the commissioner of labor to take up one feature of the law at a time.<sup>23</sup> In the spring of 1908, however, the commissioner began a campaign to enforce this section. He sent a circular letter to each employer in the state calling attention to the law and informing him that the department proposed thenceforth to hold employers to the requirements of the section.

So far as the length of the regular working day is concerned, the law has been very nearly observed, without any action by the Department of Labor, because the ten hour day has come into almost general vogue. The violation of the law has been almost wholly in exceeding fifty-five hours a week and in employing children, with the rest of the working force, when running overtime. Yet even in these respects many employers had already adopted a schedule within the law and many others promptly complied with the law when it was passed. That there have been numerous violators through overtime employment is, however, certain. In the first year of the law, the Consumers' League of New Jersey found within a week's inquiry in the northeastern part of the state sixteen factories which were or had been recently violating the law.<sup>24</sup> Similar testimony was given the writer for other sections.

<sup>23</sup> See above, page 155.

<sup>24</sup> *N. J. Rev. Char. and Cor.*, IV, p. 155, June-July, 1905.

Since the action of the Department of Labor in 1908, there appears to have been a noticeable readjustment by manufacturers to comply with the law. The commissioner of labor says that manufacturers have responded to the requirements of the law very generally, though not without vigorous protest on the part of some against the fifty-five hour week.<sup>25</sup> As to that the commissioner took the ground that he had no authority to set aside the requirement but must exact it as long as it was in the law. All the protesting employers accepted the situation. This statement as to recent compliance is corroborated by much that the writer heard in different parts of the state. He found a number of manufacturers who said they had adjusted their work so as to dismiss all children at the end of the prescribed limit of hours. Several manufacturers, who could not make a satisfactory adjustment of that sort, entirely dispensed with all help under sixteen years. Similar testimony was obtained from employees. All of this points to a very general observance of the law. Yet there do not lack complaints of intermittent violation under the stress of urgent orders requiring overtime work.

The limitation of weekly hours and night work for children in mercantile employments received no attention from the Department of Labor for a while because, in the opinion of the commissioner of labor, the force of inspectors was inadequate to carry successfully the additional work that law would require,<sup>26</sup> and because there was a

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<sup>25</sup> See below, p.

<sup>26</sup> *Rept. Dept. of Labor*, 1907, p. 8; 1908, p. 12. Two new inspectors, one a man and one a woman, were authorized in 1908. But the man was not appointed until June and then had to take the place of an old inspector who had been inactive for a time on account of poor health. The woman was not appointed until September.

prospect that a more comprehensive bill affecting child labor in mercantile employment would be introduced at the next legislature. In his report for 1908, the commissioner announced that he was prepared to take up the enforcement of this law.<sup>27</sup> In his report for 1909 he writes that he found "very little violation" of the fifty-eight hour limit for the week, but that on the one day a week when the limit is extended to nine o'clock<sup>28</sup> there is a tendency to stretch the hours to ten-thirty. The writer frequently met the opinion a year and a half ago that the larger establishments conform to the law without pressure, but that smaller firms offended grievously by employing children under sixteen late in the evening. He was not able, however, to check up the observance of the law on his own account. The enforcement of this law will meet great difficulties from the smaller stores. To watch every corner grocery and dry goods store during the evening would keep the whole force of inspectors busy. It is doubtful if this law can secure a wide observance unless local public sentiment gives constant assistance to the department.

*Health and Safety.*—There is little to be said on the observance of special provisions for the health and safety of children because those provisions are so few and so general. The protection actually enjoyed by children comes almost wholly through the general provisions for the health and safety of factory employees.

*Compulsory Attendance.*—From newspaper accounts and from more deliberately prepared items in the reports of the Superintendent of Public Instruction and in the *New Jersey Review of Charities and Corrections*, it appears that the more intensive activity to enforce

<sup>27</sup> Page 12.

<sup>28</sup> See above, p. 89.

the law has brought a correspondingly increased attendance at school. This can be said without qualification. But the improvement in attendance has not been any more than corresponding to the efforts at enforcement. The results have been greatest, naturally, where the efforts were greatest. If an attempt be made to state an average result for the whole state, the most that can be said is that those children who get on to the school rolls, either voluntarily, or through report of the Department of Labor as having been discharged from the factories, or because they happen to run afoul of the truant officer, are kept in regular attendance. But, with a very few notable exceptions, there has been little serious endeavor to hunt up children within the compulsory age to get them onto the rolls and keep them in attendance. The situation, however, is gradually improving. It may be said, by way of summary, that New Jersey has set a rather advanced standard for school attendance and is slowly moving over the long road toward that distant goal. But, as yet, one can find all degrees of backwardness in seriously setting out on the journey, which is truly no Sabbath day's journey for many communities.

## CHAPTER X

### SUMMARY AND PRESENT OPINION

During the period from 1883 to 1904 there was expressed for the first time a measurably strong and persistent sentiment for the restriction of child employment. Yet it lacked much in knowledge of its task, in steadiness, and in universality. This will appear from a consideration of the attitude toward the policy of different elements of the public. Beside the children themselves, the most directly interested were the employers and the parents of the children affected. There has already been noted the opposition from interest which was displayed by employers during the legislative history of the law. This antagonism, with much annoying indifference, continued to be shown by many of them to the law in operation. The first report of the factory inspector said that some manufacturers had complied with the requirements of the law on receipt of his notice calling their attention to it, but many of them had treated his warning with indifference. Some said other labor laws were not enforced, hence they did not expect this to be. Others said they were violating the law at the solicitation of parents and guardians. Quite a number expressed approval and sympathy with the law, but feared it would not be enforced uniformly and so disregarded it themselves. The inspector said these were very pronounced in their position.<sup>1</sup> After two years the inspector found the attitude more hopeful, for he reports that he met among employers "as a rule, a dis-

<sup>1</sup> *Rept. Insp. Fact.*, 1883, p. 4.

position to obey the laws."<sup>2</sup> Yet, notwithstanding the many expressions of approval, there is noticeable among employers during these early years an utter lack of sympathy with the object of the policy and open dissension from the project. There was a want of sensitiveness to the plea for the conservation of the adult's resources in his childhood. There is nothing in the present attitude toward child employment to be more remarked than the difference between the instinctive position of the employer of today and that of the employer of a quarter of a century ago.

Equally insistent, though far less influential, dissenters were the parents of children affected by the law. Expressions of this opposition are found in the early reports of the Bureau of Statistics. The inspector also records their protests. This was not universal among parents, however. For among the protests are found numerous expressions of approval even by some who would find the earnings of their children a great help in maintaining the family.

Another group of dissenters, but without direct interest, was those who pleaded the necessities of the poor. In the absence of any other known and practicable means for contributing to the support of the children affected, or of their families, this consideration took hold of a large number of people of the day. This group was probably larger than either of the others, but was not nearly so assertive.

Against this opposition the state committed itself to the policy of restricting child employment. But this it did chiefly under pressure from the labor organizations.<sup>3</sup>

<sup>2</sup> *Rept. Insp. Fact.*, 1885, p. 26.

<sup>3</sup> This seems to be indisputable, although the writer has not succeeded in finding much material bearing directly on the point. None of the publications of the labor organizations appear to have been preserved in any place of access anywhere in New



Aside from those, the writer found no evidence of organized agitation in support of the policy. The sentiment of the public in general seems to have been without leadership of its own. It is extremely doubtful whether it would have developed the resolution and organization needed to embody itself in a policy of the state if it had not been for the leadership, however imperfect, of the labor organizations. It was they that were most instrumental in stirring up the agitation to which the general sentiment lent sometimes its support, sometimes merely its approval. It was responsive to an agitation for a declaration of policy but not to the unemotional pleading for constant pressure on the administrative department to carry through the purpose of the enactment. Its resolution was strong when the principle was at issue, but when the excitement of contest was over, its will power was weak in the commonplace, day to day drudgery and antagonisms of seeing that concrete conditions conformed to the principle. Such enterprise in the enforcement and such success in results as was shown in the first half of the period was due almost entirely to the fact that the chief inspector and his first assistants were fully in sympathy with the policy they were supposed to enforce. When the state government changed its political faith about midway of the period, Jersey, and several labor leaders consulted knew of no one having them. But a few newspaper notices of the leading part taken by labor officials, some entries in the legislative journals, testimony in the early reports of the Bureau of Statistics, the fact the first inspector credited much of his assistance to the labor organizations, the traditions still current and the want of any contemporary evidence of any organized activity by other groups all point to the leadership of the labor unions. This was quite probable because the organization of the Knights of Labor in New Jersey dates from the last of the seventies, and the present State Federation of Trades and Labor Unions had its origin in 1879.

the public interest was not sufficient to insist that the inevitable change of inspectors should be made without sacrifice of efficiency. For the rest of the period, the chief inspector lacked aggressiveness and interest, and the deputies' positions were filled solely with regard to political exigencies. The labor organizations kept up a protest and attempted to secure an improvement. But organized workmen were now much less politically important and could do nothing without the support of the public at large.

When put into a consecutive statement, these shortcomings fill the view of the policy during the period before 1904. But they should not be allowed to obscure the fact that the policy did have considerable force while in the hands of a sympathetic and willing department for enforcing it, and that success to an important degree was realized. To the positive side of the account, therefore, should be credited the force of precedent, continued through twenty years, in all the elements of the standard of the policy and in the maintenance of a force of inspectors for enforcing it. There was also the stimulation from the taste of success during the first part of the period. All this inheritance enabled the advocates of the policy during the next period to set out from a more advanced position than would otherwise have been possible.

The present laws affecting the employment of children stand in striking contrast to those which preceded in respect to the deliberation and careful consideration of all interests with which they have been framed. This is due to the manner in which they were drawn. Previously, the various advocates of such legislation presented bills to the legislature, each embodying the special idea of its originator without necessary reference to or

consistency with the other measures or with existing laws. Also, most of those who drew such bills had no knowledge of the technique of administering the policy they advocated, or of the economic consequences of such laws, and, therefore, of the points where obstacles to the success of the policy would appear. A similar lack of knowledge of the business problems of employers prevented them from giving due consideration to the claims of those whose interests would be closely affected by the policy. These unrelated bills had to be hammered together in legislative committees. There the opposition of interested parties, intent only on protecting themselves, and inconsiderate of the social interests urged in support of the bills, added to the difference between the original proposals, inevitably prevented the construction of a well considered and consistent measure.

In the case of the act of 1904, the powerful public sentiment pressing for a more effective policy was as much divided as ever on the details of the law by which to realize such a policy and in its practical knowledge of the technique of such legislation. Moreover, powerful interests were entrenched in the legislature. In this case, however, the state administration was aggressively in support of the purpose of the agitation. The strategic advantage of the Governor in pressing legislation enabled him to provide a point of convergence where the different elements of the public sentiment could meet and reduce themselves to agreement with ample deliberation before going to the legislature to press their policy. It also permitted a full statement of the claims of employers and others in interest to be brought to the consideration of the advocates of the law before they committed themselves on details of the measure. Much opposition in the legislature was thereby forestalled and many de-

mands, productive of contention and bad spirit, were checked. Then also, the reduction into legal form of the points of compromise and adjustment was done by a lawyer with full consideration of legal consistency and constitutionality. When the bill, framed up in such a manner, was presented to the legislature, the advocates could join with the Governor in urging it and in opposing any amendments. Its passage without substantial change is due chiefly to this united support of the original form of the bill.

The attitude of various classes toward the laws affecting the employment of children is generally favorable. When the law was passed, there was much fear on the part of many employers that the use of older children would seriously increase their costs. This has not been the result as a rule. Many employers interviewed confessed that their early judgment of the effect of the law was erroneous. Few of them found that the displacement of the children under fourteen by older children had any important effect on their business. The only important exception to this found by the writer was in the glass industry, where almost every official interviewed said that the law had most seriously interfered with the business. Most of them, however, have adjusted themselves to the change and now accept the law with approval, although it still creates a scarcity of boys. The employers throughout the state, as a class, especially the larger ones, look upon the policy of the state approvingly and are desirous of obeying the law implicitly. Antagonistic opinion is found for the most part only among petty employers and subordinate bosses in large establishments. Yet there are some employers who frankly say they believe early employment for most children is the best discipline for them, is unharmed, and ought to be permitted.

Such opposition as appears by employers to the age limit is directed mainly at the form of evidence required for children and at the trouble incidental to being careful that a child has the proper documents. This has already been discussed. Another point of opposition is the fifty-five hour week for children under sixteen. This has been severely challenged by many manufacturers. In the case of those whose product is subject to a very seasonal demand, a great inconvenience is encountered because of the law. Their customers must be accommodated in rush seasons or orders will be taken away in other seasons. And the most practicable way to fill rush orders is by working overtime. Larger plants could be provided, though at an increased proportionate cost of investment, especially during those seasons when running far below the enlarged capacity. A more difficult obstacle is met in the inelasticity of the labor supply and in the increased labor cost of new employees, due partly to the lower efficiency frequent among those available at the time, and partly to the less developed organization possible with new hands.

But in the opinion of one large employer of children, the source of the opposition to this law is much more in the ambition of manufacturers to enlarge their business than in the exigencies of seasonal demand. Many of the opponents of the law are not subject in their business to much variation in demand on account of seasons, and the most open expression of opposition has been against the restriction of the fifty-five hour week, which does not permit New Jersey manufacturers to run as much time as competitors in other states. In Pennsylvania, the nearest competing state, the week allowed for children is sixty hours. That amounts to a difference of one month in a year, or, as the New Jersey

complainants put it, to one-twelfth less business possible to them than to manufacturers in Pennsylvania.

The law is defended as against this opposition as being a necessary restriction in the interest of children to which industry must adjust itself, just as it has to adjust itself to other conditions uncontrollable by manufacturers. The interest of the manufacturer in the more or less of his business and of his profits must effect a compromise with the interest of the children whom he employs. The latter, as well as the former, must be given consideration in his calculations according to its importance. If that entails sacrifice of business, it must nevertheless be accepted and taken for granted just as he accepts limitation of business from other uncontrollable factors affecting his enterprise. This defense must be conceded by everyone who is at all sensitive to the injury which unlimited hours of labor bring upon children. But a point of dissension remains in the question as to how much consideration each interest deserves. Most manufacturers are bound to value their interest unduly and most advocates of the child's interest are bound to overweigh his need of protection or have a too ambitious idea of the rapidity with which industry can be adjusted to their standards for protecting the interest of the children.

One attempt has been made to organize the employers' opposition to the law. When the commissioner of labor took up the enforcement of the fifty-five hour section of the law in the spring of 1908, the board of trade of Camden sent out in June a circular to the other boards of trade throughout the state to feel the temper of employers with reference to an agitation to change the law. It proposed to raise the question not only of hours, but also that of "some other of the obnoxious features of the

present law, such as the requirements of birth or baptismal certificates, passports, etc." If the replies warranted it, the president of the board of trade was authorized to call a conference of employers for the purpose of framing a law "which will be equitable and fair to employee and employer, to be submitted to the next legislature."<sup>4</sup> By October of 1908 only one reply had been received to the circular, and that was simply an acknowledgement of its receipt by the secretary of another board of trade.<sup>5</sup> Apparently the employers of the state as a whole did not feel the burden of this section enough to resist it. This opposition, however, is by no means vanished. It has again appeared in connection with the newly organized Manufacturers Association of New Jersey.<sup>6</sup>

The attitude of the parents of children is divided. Those of the poorer wage earners very largely resent the interference with their power over their children. This sentiment does not secure much public expression, though occasionally it appears in some form.<sup>7</sup> The plea is usually the necessities of poverty or large families. Many parents with better incomes also disapprove of the law, not because of family necessities but because they believe in a child, especially a boy, getting to work early. Going to school until fourteen years of age is to them foolishness. They also plead the hardships of poorer families. Other of the more comfortable parents accept the law on the ground of public policy. Organized

<sup>4</sup> Circular of Camden Board of Trade.

<sup>5</sup> Secretary of Camden Board of Trade to the writer in an interview.

<sup>6</sup> *Paterson Guardian*, Jan. 24, 1910.

<sup>7</sup> Unsigned letter from a workingman to a Paterson newspaper, reprinted in the *Boston Traveler*, Apr. 24, 1906.

labor, especially in its corporate expression of opinion and action, is in hearty approval of the law.

The general public is in thorough accord with the law. There can be no mistake about that. There are, however, many persons who take exception in varying degree to the present form of the law. The most important exception is to the lack of provision for families in poverty. This has already been noted. Less commonly met with is the feeling that there ought to be a wider choice of evidence of age open to parents. This has in mind only the forms specified in the law. It overlooks the unlimited choice of evidence that may be submitted to the commissioner of labor in support of an application for a permit. This matter also has been already discussed. The newspapers for the most part support the policy, although some are half-hearted about it. Some, also, approve the policy as an ideal to work toward, but think the present law is in advance of a just regard for all elements in the present situation.<sup>8</sup>

The aggressiveness and alertness of public opinion in favor of the policy is seen in the constant agitation for an extension of the law and in the quick detection of bills that would, designedly or otherwise, weaken it. The circular of the Camden board of trade immediately provoked newspaper attention and adverse comment and started the reorganization of the Children's Protective Alliance, so as to be prepared to meet the threatened reactionary movement.<sup>9</sup> In the 1909 legislature, a weakening measure was watched by friends of the present law, although it made no progress. Altogether it appears entirely probable that public sentiment is much

<sup>8</sup> For a good statement of this point of view, see a carefully written editorial in *The Trenton True American*, Dec. 10, 1906.

<sup>9</sup> *Newark Evening News*, June 20, 1908.



too virile to permit any weakening change in the law, although it has not been strong enough to carry through some of the extensions most desired by it.

There is agitation to extend the present policy to features of child employment not now affected by it. In most of these cases, the omission was deliberately made from the act of 1904 by Mr. Swayze for fear of jeopardizing the constitutionality of the measure. One of these features was an educational minimum to supplement the minimum age limit. This was strongly urged by many advocates. Against it was urged the practical problems of effective administration which have perplexed officials everywhere. Also was raised especially the question of the constitutionality of including an educational requirement in a factory law and the fear of in some way provoking friction between the school authorities and the inspectors. The administrative features of such a minimum requirement did not appear to the framers of the law to be sufficiently worked out. The omission has been severely criticised and discussed with reference to amendment of the law. But no vigorous and concentrated effort has been made to secure the change.

Another omission from the act of 1904 was that of mercantile and other employments from the operation of the law. This, too, was for fear of unconstitutionality. It was questioned whether the application to these employments could constitutionally be made in an act designed and entitled for the regulation of factory employment. Efforts have been made, as related, to make this extension by separate enactment, though not yet with success. The discrimination in the law, as it is, is frequently complained of by factory employers and admitted by advocates of the child labor policy of the state. There is a very general opinion indeed that the law should

apply to these other employments. But it has thus far lacked the enthusiasm necessary to press a bill through the legislature.

Another measure, frequently talked of but not yet systematically agitated or submitted to the legislature, is a centralized state force for administering the compulsory attendance law. This is the only means to a uniform observance of that law. But the difficulties in the way of such a scheme are many. At present, anyway, public opinion is not ready for such a move.

Excepting a few leaders among the trade unionists and philanthropic and civic societies, the aggressive interest in child labor legislation appeared, until the last legislative session, to have fallen off. The public, although sensitive to any attack on the present policy, appeared to be relaxed from the militant activity of a few years ago. Since then problems of the control of corporations and of governmental reforms have come to engross attention. Yet the interest in the extension of the child labor policy was latent and needed only an occasion to stir it to aggressive action. Such an occasion was presented in the form of the recent campaign for the bill against night employment which generated sufficient pressure to push that measure through. But public sentiment could not yet stir itself enough to include children in mercantile employments under its child labor policy.

The situation should properly be differently described. The child labor opinion of the people of New Jersey is not, truly speaking, declining in vigor. Recent events show that it is growing with that healthy, steady growth which gradually widens its understanding of the problem it has attacked and quietly accumulates strength for each extension of its policy. What appear to be lapses

into impotence are but the intervals of accumulating power after each conquest of strength. When its impatient leaders call upon it too soon to take a next step, it fails. It appears to be weakening. But in time it grows to the measure of the demands upon it. The proper criticism of the sentiment in New Jersey is not that it is disappearing, or that it is intermittent. The only criticism in point is that pertaining to its present attainments. Compared with a state like Massachusetts, New Jersey is not yet as sensitive to the needs of the problem it is called upon to deal with. But this criticism is mitigated in great part when it is considered that it became aware of the problem at all, in a state wide sense of awareness, only a half dozen years ago. Comparisons as to the rate of growth and thoroughness of such work as has been accomplished place New Jersey very high among the states of the Union. This suggests, however, another criticism, namely, that New Jersey people were far too long in becoming cognizant of the problem that was shaping itself among them.