

## Protective Legislation for Women

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### Overview

This lesson can be integrated into a unit on Progressive Reform (1890-1925).

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**Compelling question: Who has power to improve conditions in the workplace?**

### Introduction

The number of women workers grew tremendously at the beginning of the 20th century. Women workers moved out of the field of domestic service to become clerks, factory operatives, and, in our study below, metal polishers. Historians often ask questions about

agency: Who has the power and how do they use it?

With many unions not allowing women to join, reformers often looked to the state government to protect workers in the workplace. Using a public hearing as primary source, students can analyze and evaluate the testimonies of union members, industrial investigators, Progressive Reform groups, women workers, and factory owners.

### **Supporting questions**

- How did economic, political, and social conditions of the late 19th and early 20th century help or hurt different groups of people?
- How successful were the Progressives in achieving economic, political, and social reforms during the period?

Connecticut State Standards:

Page numbers refer to the [Connecticut Social Studies Frameworks](#)

- Progressivism: Analyze how economic, political, and social conditions of the late 19th and early 20th century helped or hurt different groups of people. Evaluate the successes and failures of the Progressives in achieving economic, political, and social reforms during the period, p. 133.
- Gender Roles in Economic, Political, and Social Life: Analyze the role of women and men in key events, such as the women's suffrage and temperance movements, World War II, civil rights movement, etc. Evaluate how the role of women and men in American society changed over time, p. 133.

### **Purpose**

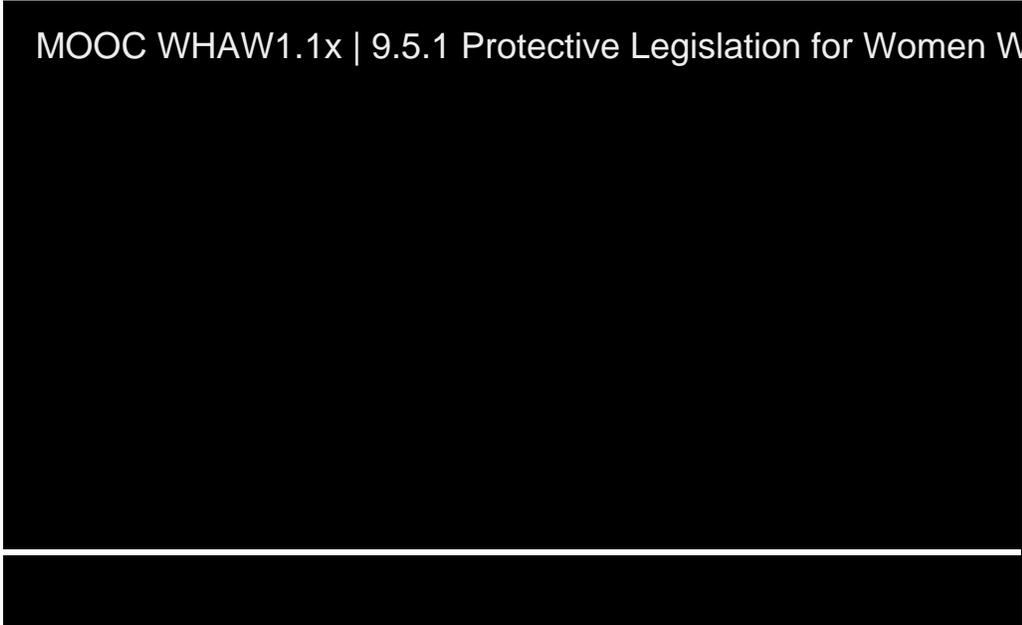
To analyze the continuum of voices on the issue of protective legislation for women; to understand how these voices fit within the context of the times; to evaluate who has power and why.

### **Historical Context**

Teachers should read the Background Content, modified from the

Library of Congress website. They may ask students to read this as well.

You could also watch the following video, narrated by Women's Historian Alice Kessler-Harris, CCNMTL. "[MOOC WHAW1.1x | 9.5.1 Protective Legislation for Women Workers.](#)" YouTube. March 24, 2017. Accessed May 30, 2017.



MOOC WHAW1.1x | 9.5.1 Protective Legislation for Women W

### [Background on protective legislation](#)

Adapted from Law Library of Congress. Accessed May 25, 2017

#### **Protective Legislation**

Before the passage of the Civil Rights Act of 1964, a federal law, employment issues that affected women were governed solely by state law. After the Civil War, large numbers of women went to work outside their homes. In his speech before his colleagues in the U.S. House of Representatives to encourage the extension of equal suffrage in Alaska on Wednesday, April 24, 1912, Congressman Edward T. Taylor of Colorado stated:

But today one-fifth of all the women of this country are compelled to earn their own living by their daily labor. Nearly 7,000,000 women are wage earners today, and the number is constantly increasing. Woman suffrage is not responsible for bringing about that condition. It is the economic change that is going on in the life of this Republic. If the right to vote was taken

away from the laboring men of this country tomorrow, they would within one year, and in many places within one week, be reduced to a condition of practical slavery; and it is little less than inhuman to compel the 7,000,000 women to work in this country under conditions that would be absolutely intolerable to men.<sup>64</sup>

Included in this workforce were married women, especially black and immigrant women, whose families required two incomes, as well as women who were single, widowed, or had been deserted. Some of them held jobs as school teachers or worked in other professions. Most jobs held by women were low-paying and involved substandard conditions. Some suffrage organizations advocated improvement of working conditions for women. These groups were largely responsible for the changes in labor laws that are referred to as “protective legislation.”

Protective legislation limited the number of hours that a woman or child could work in certain jobs and guaranteed them a minimum wage. The legal result, however, was that men and women were treated differently in the work place. The major justifications were that

- physical differences between men and women would make it dangerous for women to work;
- the chronic fatigue of long hours would result in the deterioration of women's health; and
- future generations would be affected by this deterioration in women's health.<sup>65</sup>

Wisconsin, the first state to pass this legislation, enacted a protective law in 1867, but a law passed in Massachusetts in 1874, and amended in 1902, provided the most common model:

. . . no woman shall be employed in laboring in a manufacturing or mechanical establishment more than ten hours in any one day, except as hereinafter provided in this section, unless a different apportionment in hours of labor is made for the sole purpose of making a shorter

day's work for one day of the week; and in no case shall the hours of labor exceed fifty-eight in a week. . . .<sup>66</sup> [full item]

Although the laws were designed to protect the working woman's health, welfare, and morals until she married, not all employers and employees were satisfied with the legislation. Employers filed suit to have the statutes voided for being unconstitutional. *Muller v. Oregon* was one of the most famous of these cases.<sup>67</sup> In it, the U.S. Supreme Court upheld the constitutionality of protective laws. Oregon's defense team was led by Louis D. Brandeis, a progressive attorney who became an associate justice of the Supreme Court before *Muller* was decided.<sup>68</sup>

Promulgation of minimum wage laws for women in the states followed their legislation of maximum hours. An example is the 1918 District of Columbia law that later became the subject of litigation:

Sec. 23. That this Act shall be known as the "District of Columbia minimum-wage law." The purposes of the Act are to protect the women and minors of the District from conditions detrimental to their health and morals, resulting from wages which are inadequate to maintain decent standards of living; and the Act in each of its provisions and in its entirety shall be interpreted to effectuate these purposes.<sup>69</sup>

Employers contested these laws too; law suits were filed declaring them unconstitutional and in violation of the liberty-of-contract doctrine.<sup>70</sup> In 1923, *Adkins v. Children's Hospital* was appealed to the U.S. Supreme Court, which ruled the law unconstitutional.<sup>71</sup> Other state courts, following the precedent set by the Supreme Court, ruled that their state statutes were likewise unconstitutional. Fourteen years later, however, the U.S. Supreme Court reversed its decision and held that a law concerning the minimum wage for women in the State of Washington was constitutional.<sup>72</sup>

Although these laws guaranteed a minimum wage for women

and children, they created unintentional inequities. Protective legislation gave courts the grounds for rendering inequitable decisions. It was not until the Civil Rights Act of 1964 that women enjoyed legislation granting equality in the workplace and the firm legal grounds to enforce such laws in court.

In employment, as in suffrage and possession of property, the legal history of women's struggle for equality mirrored what was happening in the society at large and amplifies our understanding of it.



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### How To

#### Classroom Setup

Students will work in groups representing Metal Polishers Union, Industrial Investigators, Connecticut Consumer's League, Factory owners and women workers. They will participate in a whole class discussion as well.

#### Activity 1

Teachers should provide a context for Protective Legislation, have students read the Background, and [watch the video, "Protective Legislation for Women" \(5:27\)](#).

MOOC WHAW1.1x | 9.5.1 Protective Legislation for Women W

The teacher should give background on and describe what a legislative hearing is: the setting in the state capitol, the presence of both Representatives and Senators, and the collection of information to decide how to vote on a bill.

Then students can start the exercise on a 1913 bill to the Connecticut State Legislature on keeping women and boys out of metal polishing. Divide students into five groups and assign them the point of view of one of the groups. They should read the testimony and answer the four questions in their notebooks.

The teacher should set up a chart on the board that includes:

	<b>Metal Polishers Union</b>	<b>State Factory Investigators</b>	<b>CT Consumers League</b>	<b>Factory Owners</b>
<b>Support/Oppose Bill</b>				
<b>Argument and evidence</b>				
<b>Ulterior Motive/Self-interest</b>				
<b>Rank in power compared to other groups</b>				

After the students fill in their column of the chart, they should share with the larger group. Students should rate the power of each group and justify their decision. The teacher should ask students whether they think the bill was passed - relative to who has power.

The bill did not pass.

Does this match with their evaluation of power? Does money = power?

## **Background on Progressive Legislation Inquiry**

During the Progressive Era, many different groups and individuals tried to reform society. Often times these reformers worked at cross purposes: what one group saw as a means to safeguard a portion of the population, another group interpreted as taking away their freedom of choice. Protective legislation for women was one of these issues.

On March 12, 1913, the Connecticut State Legislature Committee on Labor held a hearing on a bill to prohibit women and minors from working on polishing machines. You will be asked to read the testimony from one group at the hearing. The groups include: Metal Polishers Union, Industrial Investigators, Connecticut Consumers' League, Factory Owners, and Women Polishers.

Please answer the following questions from the point of view of your group:

1. Who does your group represent?
2. Does your group support or oppose the bill to keep women and boys out of polishing?
3. What evidence does your group use to support their argument? What is their tone in the argument?
4. Are there reasons for your group's position on the issue besides what they say in their testimony? That is, do they have a self-interest related to the work of women and boys?

Are there reasons for your group's position on the issue besides what they say in their testimony? That is, do they have a self-interest related to the work of women and boys?

### **1. Metal Polishers Union**

An AFL Union organized around the skill of metal polishing, exclusively male workers.

T.J. Spellacy:

I appear as the attorney for the Metal Polishers Union, an attorney without a retainer, or hope of compensation. (he is not getting paid) This bill prohibits the employment of any person under the age of 18 and it prevents the employment of any female at any age. For the enlightenment of the committee, we have prepared by The Prudential Insurance company, of Newark, New Jersey, charts showing the experience of that Company, which is an industrial insurance company, with people employed in the dusty trades. This occupation is known as one of the dusty occupations.

These charts show that a large percentage of the people employed die of tuberculosis. We think that such a law will prevent, as far as possible, with the least possible harm or detriment to our industrial workers in Connecticut, the breeding of tuberculosis. (1)

We find there are approximately 400 women employed in the State of Connecticut, and about half as many boys, out of a total of 10,000. (5)

H.M. Daly, Cincinnati:

I am the President of the National Polishers union.

On the part of the women, there is an added danger to the community where they contract tuberculosis at our business. They can transmit the disease to future generations more effectively than the men can. (7-8)

There is one real inducement offered to the manufacturers to employ women at this business and that is the fact that women are generally employed at lower rates than the men. Their general health is used to grind great profits.

In some places they take them as young as 14 years. Ten years ago it was as low as 12. The nature of the work is degrading to a woman. The dust of the rouge that they work with is so penetrating, that it goes right through the clothing they wear. . . The women are more susceptible to

it than the men. They need our protection. They are not employed at the business because of the scarcity of men. They are employed at it because they will work at a lower rate.

Eli Brunnel, Head of CT AFL:

In behalf of the organized labor of the State, I wish to state that we are highly in accord with this proposed measure. Every state should, in our opinion, take up this legislation that will better the welfare of the rising generation, for upon them our state must depend for its future existence. (11)

## **2. Industrial Investigators/Factory Inspectors**

Progressive reformers wanted the government to investigate and fix hazardous working conditions. They investigated industrial accidents, and daily working conditions, published reports and testified at public hearings about these conditions. If you want to know more, follow this link.

Mr. Conway, factory inspector:

I feel it is my duty to appear before this Committee today in favor of this bill. In connection with the work of the Industrial Commission, we come across this industry in our investigations, and find women working upon polishing, grinding and buffing wheels. I have come across factories where women operate four glazing machines at a time. She is continually engaged from seven in the morning until six at night. In my opinion, this is not work for women. It is a man's work, and it should be safeguarded more than it is at the present time in order to allow men to work at it. (4-5)

Mr. Wells, legislator:

Do you know of any female polishers who have contracted tuberculosis on account of their occupation? (5-6)

Mr. Terry, factory inspector:

I know of a great many and will give you their names and addresses. (7)

### **3. Consumers' League of Connecticut (1902-1946)**

A Progressive Reform group that worked to mobilize public opinion to improve the lives of working women through consumer power of boycotting stores and goods produced.

Mr. R.E. Potter:

I speak for a group of people whom I think have not been represented here. The Consumers League of the State is interested in the question of the women and children particularly. The League has a committee which considers general matters of this sort. Our committee voted at the last meeting to approve this bill. (12)

### **4. Factory owners**

Mr. D.C. Rice:

I represent the Underwood Typewriting Company. We employ in our Polishing Department about 160 hands, 19 of whom are women. We have employed women for about 10 ½ years. The steadiness, with which those women work, so far as loss of time is concerned, is ahead of any department in our plant. For those 19 women it figures 7.23 days per year lost time. In the other departments they average from 7 to 9 lost time per year. We have never had a tubercular case. Our polishing room is as clean in every particular as our office. I realize that grinding, as an occupation is unhealthful. Our women have protested personally against this bill. They do not see the justice of being disturbed when they are doing as well or better than they could do elsewhere. As near as the records show, there are less who leave positions in that department than compared with any of the other departments. The women are more efficient in handling the small parts than the men are and they can do the work

as good as the average man.

It is an ideal occupation for them, and I do not see why they should not be privileged to work there the same as men. I cannot but feel, as has been stated, that the men feel that this work belongs to them. I do not see why it belongs to them any more than washing dishes does. (13-14)

Chairman:

How do the wages of the girls compare with the men?

Mr. Rice:

The girls make from \$9 to \$10 per week.

Chairman:

How much do the men make?

Mr. Rice:

I do not know as I care to tell you.

Chairman:

If the women are proficient in this work why should they not be paid as much as the men? (15)

Mr. Baldwin, New Britain:

I extend to the committee an invitation to go to New Britain at our expense, and inspect one or two of our polishing departments, in which we have both men and women working. They earn good wages there. It is more healthy there than at any department store. The girls can sit down at their work. If you are looking for any information, come and see us. (20-21)

## **5. Women Polishers**

Miss Daly:

I am employed at the Royal Typewriter Company. I have worked there about 4 years. We are on piece work and it is very light work.

Mr. Spellacy (lawyer for Metal Polisher's Union):

How many girls are there employed in your department?

Miss Daly:

About 7.

Chairman:

About how much do you average a week?

Miss Daly:

About \$11.

Clerk:

How did you know about such a bill as this?

Miss Daly:

I read it in the paper.

Clerk:

Did any of the manufacturers ask you to come here?

Miss Daly:

No sir.

Mr. Spellacy:

Did you ask for permission to take the day off?

Miss Daly:

We asked for permission to take the afternoon off.

Mr. Spellacy:

Did they ask what you wanted to get off for? Do you get

paid for today's work?

Miss Daly:

No sir.

Miss Harris:

I am employed at the Royal Typewriter Company. I like the work. It is very easy for us. I would rather do it than any other work in the factory. I am 18 years old and have been working there nearly two years. (19)

Miss Green:

Corroborated the statements of the other girls. I have worked there about one year and like it very much. I worked twice as hard in the Rubber Works for half as much pay, and it was very unhealthy there.

Clerk:

Have you heard any talk in the shop about this bill? How did you know it was coming up today?

Miss Green:

I read about it in the paper.

Mr. Spellacy:

I want to call the committee's attention to the fact that this bill did not appear in the paper until today. It was dropped from the bulletin, and restored at my request. It was not published last night.

Clerk:

When did you first hear of this bill?

Miss Daly:

I read it in the papers about a month ago. (20)

## Activity 2

Teachers can use this information to talk about changes in the workplace at the turn of the 20th century. All of the following topics are mentioned or serve as a context for this attempt to pass this legislation:

#### Metal Polishers Union

- Inside contracting system being replaced by Personnel Offices (factory owners hired contractors who were the head of the union and the head of the union then hired the workers to complete a job -- this way the unions controlled the employment. If the union did not allow women to join, then they could not work at this job. In the early 20th century, factory owners added Personnel Departments to hire, thus taking away power from the unions and opening up employment to women. Workers became employees of the factory, not of the union)
- De-skilling with new machine tools (with new machine tools, semi-skilled people could do the work, thus taking away the power of skilled union workers, and opening up jobs to women)
- Discrimination against women in AFL craft unions
- Fear of women undercutting men's wages; job loss

#### State Industrial Investigators

- "Need" for government intervention in a capitalist economy to protect workers
- Support for organized labor
- Appropriations for investigations always less than needed
- Governmental concern for health of workers

#### Connecticut Consumers' League

- Middle-class reformers trying to protect working class women who didn't want to be protected
- Protective Legislation: Lochner v. NY (1905); Muller v. Oregon (1908)

## Factory Owners Manufacturers

- Paid women lower wages
- New factories like typewriter factories had new blower systems which made them cleaner, safer
- Gave women a chance at a new occupation
- Women made more than at a typical “woman’s job” - in sewing/garments - about \$6/week

## Women Polishers

- Increase in number of women in the workforce
- Making choices for higher paying job
- Willingness to speak at a public hearing - at a time when women did not have the right to vote
- Discrimination against women - lower wages
- Categorizing all women as childbearing

## CONSUMERS' LEAGUE AND RECENT ENACTMENTS

Organization Tells What the Legislature of 1913 Accomplished.

The Consumers' League of Connecticut has issued a pamphlet, telling of its work at the recent session of the General Assembly and of the results accomplished. It says that it introduced three bills, one to establish a state board of labor and industries, a second to investigate the conditions of labor of women and girls in mercantile establishments, hotels, restaurants and the like, and a third to shorten the hours of labor of wage-earning women and children.

The first bill, as to a board of labor and industries, was held over because of the interest in the compensation act and will be introduced at the session of 1915, though a section of it, adding to the number of deputy factory inspectors, was enacted. The second bill, as to the condition of labor of women and girls in certain occupations, was passed, after some delay, in a modified form and the bill shortening the hours of women and children was also passed in a slightly modified form. The league gives the following synopsis of the latter act:—

The statute has three features: (1) The exemptions are struck out of the old law, which permitted a longer day than ten hours in the factories to make a shorter day one day in the week or to make up for time lost in the repair of machinery; sixty hours of employment a week through nine months in the year in both factories and stores, provided a fifty-five hour week was the schedule for the three summer months; and the employment of women and children after 10 o'clock at night in the stores, provided a double shift was employed, neither one of which might work more than ten hours in any day; (2) The hours of employment of women and children under 14 years of age are not to exceed fifty-five a week or ten hours in any day, in manufacturing and mechanical establishments; (3) No child under 16 may be employed after 8 p. m. in manufacturing and mechanical establishments, and not in mercantile establishments more than one evening in the week excepting from December 17 to December 26, and no such minor and no woman may be employed in any of these establishments after 10 o'clock at night.

The passage of this bill secures a Saturday half-holiday through the year in all factories where the time-schedule for the rest of the week is not less than ten hours a day and not over ten hours a day at any time in our factory women and children, and incidentally will secure the same privileges for many men; it will bring all of the mercantile establishments which employ women into the same practice about a closing hour; and by removing the exemptions from the law, it has made its strict enforcement possible, and simplified the work of the factory inspector and his deputies. The law will take effect January 1, 1914.

The Consumers' League also alludes to certain other bills, which it did not introduce, but which it supported. One of these regulated the employment of boys in bowling alleys. Another prohibits the employment of women for four weeks before and four weeks after childbirth and a third safeguards the work of women and minors employed on polishing and buffing machines. The organization also approves of the vocational guidance and the trade school laws. In conclusion the leaflet, which is signed by Miss Mary C. Welles, secretary of the league, and by the committee on legislation, says:—

"Never in the history of our General Assembly has such advance been made in labor legislation in a single session. The state seems to have become awake to the progress around it and likely to take the lead in such work instead of lagging behind, as has been its reputation."

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### What's Next

#### **Informed action**

Find out if there is protective legislation for workers under 18. Who supports it? Why? Who would be against it? What is the same and different today from the 1913 hearing? [Read Employment of Minors.](#)

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### Related Resources

- Bazelon, Emily. "Do Women Need Legislative 'Protection'? *New York Times*, 2/17/2016
- "Consumers' League and Recent Enactments: Organization Tells What the Legislature of 1913 Accomplished," *Hartford Courant*, September 17, 1913, p. 5.
- "[Do We Discard Protective Legislation for Women?": Two Labor Union Officials Voice Opposition to the ERA.](#)" HISTORY MATTERS - The U.S. Survey Course on the Web. Accessed May 25, 2017. This article takes the issue of Protective Legislation to 1970. Here are the words of two women union activists who support protective legislation for women and oppose the Equal Rights Amendment.
- Wilson, Tracey M. "Women in the Workplace: From Steno Pool to Factory Floor." *Connecticut Explored*. Winter 2013/14. Web. 30 May 2017.

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