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Protective Labor Legislation: How Oregon Attached Motherhood to Working Women

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Professor Patricia Goldsworthy-Bishop

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Drenched in sweat, nauseous, nursing burned hands and sore feet, 259 female laundry workers go home tired and overworked in Portland Oregon. A little less than half of these women will go home to families and take care of their children.¹ At the turn of the century redefining and challenging the social norms of the past came with the changing industrial environment and no group was as particularly affected as women. As industrial work became more prominent and the cost of living higher, women sought out work but were often met with contention. While many know the Progressive Era (1870-1920) for woman suffrage, labor activists also took on the challenge of improving the status of working women. Working conditions, like those of the laundries in Portland Oregon, fair wages and shorter days were all prominent goals for labor reform in the early 1900s. While protective labor legislation in Oregon between 1900 and 1913 aimed to help protect women in industry work, it subsequently isolated them within the workforce by attaching motherhood to the definition of what a working woman was.

There were three prominent beliefs held by many Americans and the Supreme Court on what an early 1900s woman could be: the social activist or reformer, the long familiar housewife and the newer “woman adrift.” Woman adrift was defined in the “Report on Women and Child Wage Earners in the United States,” as the women that flowed into industrial centers during the progressive era without family to maintain them.² Ideas of independence challenged the notions of economic hierarchies and the way families, women’s organizations and the government handled questions and fears about unmonitored women adrift led to the connection of working

¹ Consumers’ League of Oregon, “Report of Survey Committee” in *National Consumers’ League, Report of the Social Survey Committee of the Consumers’ League of Oregon on the Wages, Hours and Conditions of Work and Cost of Standard Living of Woman Wage Earners in Oregon with Special Reference to Portland* (Keystone Press: Portland Oregon, 1913), 20.

² Janice Dilg, “For Working Women in Oregon: Caroline Gleason/Sister Miriam Theresa and Oregon’s Minimum Wage Law,” *Oregon Historical Quarterly*, Vol. 110 no. 1 (Spring 2007):96-129.

women to the expected motherhood of all women. Ideas of difference between men and women and the constitutionality of reforming the workplace extended out of the concern for working women. The intersection of questions about women's places and how to help them within the workforce is what this research explores. The ten-hour law of 1903 and the 1913 Consumers' League of Oregon Survey are two important documents specific to Oregon not analyzed as extensively despite the clear connections to the landmark case *Muller v. Oregon*. I hope to add these analyses to my own *Muller* analysis to provide an additional lens into the Oregon story of women's labor.

There are two cases connected to *Muller v. Oregon* in which laundry owner Curt Muller allowed women workers to work more than the limit of 10 hours,³ that highlight the importance and effectiveness of Muller and protective legislation. One is *Lochner v. New York* in which the bakers of New York challenged the contract that Joseph Lochner proposed as an offense to New York's ten-hour law. The ten-hour law was not upheld in the final ruling in 1905, insinuating that workers (regardless of sex) could not have restricted hours. This was decided only three years before *Muller*, which upheld women could have restricted hours for their safety. The support of protective labor legislation secured the ability for the 1903 Oregon ten-hour law to be upheld.⁴ The second case, *Bunting v. Oregon* in 1917, occurred nearly a decade after and reaffirmed the strategy of protective labor legislation by upholding hour laws for all industrial workers.⁵

There are four concepts key to understanding the protective labor legislation discussed in this paper: class differences, difference theory, breadwinner ideology, and the right to contract.

³ Janice Dilg, "For Working Women in Oregon," 104.

⁴ Nancy Woloch, *Muller v. Oregon: A History with Documents* (Boston: Bedford Books, 1996), 51.

⁵ Nancy Woloch, *Muller v. Oregon*, 150-151.

These four concepts are important in understanding the complexities of women's identities as laborers. These complexities of legislative support for women workers are not unique to this paper and protective labor legislation has been intensely written about by historians and scholars since gender studies became its own field in the 1970s. Historian Alice Kessler Harris' works are important in identifying that protective labor legislation definitively re-established the motherhood ideal.⁶ In Kessler-Harris' chapter "Protective Labor Legislation" from her book *Out to Work* (1982), Kessler-Harris asserts that protective labor legislation is partly to blame for the successful institutionalization of women' labor positions because it split workers into those that could and those that could not perform certain roles.⁷ Similarly, Nancy Cott's 1987 *The Grounding of Modern Feminism* discusses the conflicts and divisions between women's organizations within the context of feminism. Alice Kessler-Harris and Nancy Cott establish connections between protective labor legislation and the establishment of women as secondary to men in labor through their works,⁸ but Jan Dilg's investigation of Oregon's legislative impact on the national context of women's labor is the most influential in this research.

In "For Working Women in Oregon" Jan Dilg sets the scene of Oregon, specifically the Portland area, through the eyes of Caroline Gleason a woman from Massachusetts that worked closely with the Consumers' League of Oregon (CLO) on protective reform matters including the 1913 report. With a focus on the Minimum Wage Bill and report of 1913, Dilg outlines the hopes of the CLO in securing protective labor reform for all workers, as well as the important

⁶ Alice Kessler-Harris, *Out to Work: A History of Wage-Earning Women in the United States*. New York: Oxford University Press, 1982, 184.

⁷ Alice Kessler-Harris, *Out to Work*, 181.

⁸ Nancy Cott, *The Grounding of Modern Feminism*, (Yale University Press: New Haven), 1987, 119-126

decision to limit the effort to women only in the hopes of securing an “opening wedge”⁹ for the collective welfare.

Dilg describes the link between the CLO and the National Consumers’ League (NCL) and the motivations behind the partnership in detail. The National Consumers’ League (NCL) was one of the most pivotal organizations involved in labor reform during the progressive era. The leagues motto, “Investigate, Agitate, Legislate,” encompassed the function of the group quite well, and was no different when they helped with legislation in Oregon between 1905 and 1913.¹⁰ The NCL defined itself on the principles of conducting and presenting surveys of statistical data to support the bills the league proposed or backed. The Consumers’ League of Oregon (CLO) was one branch of the NCL that actively embodied the leagues motto. The CLO was founded in 1903 but did not find its footing in the community until 1905 when the NCL started working more directly with the CLO on legislation.¹¹ Dorothy Sue Cobble’s research asserts that labor feminists valued being a wife, mother and daughter, but that “...their familial commitment did not preclude the development of a strong identity as a wage earner...” women wanted to be both things and choosing a side felt extreme.¹² Women did not need to abandon the right to bear children to secure the right to work safely.

On the other side, reformers from the National Woman’s Party were trying to secure the vote and saw protective labor reasoning as a method of securing needed reform at the cost of women’s independence. Instead, they demanded an Equal Rights Amendment (ERA). The ERA

⁹ Opening Wedge meaning the hopes that one smaller case success would lead to the expansion of application to all people.

¹⁰ Janice Dilg, “For Working Women in Oregon,” 104.

¹¹ Janice Dilg, “For Working Women in Oregon,” 104.

¹² Dorothy Sue Cobble, *The Other Women’s Movement: Workplace Justice and Social Rights in Modern America* (New Jersey: Princeton University Press, 2004), 12.

movement demanded equal rights for all citizens of the United States regardless of sex. Decidedly more radical, supporters of the ERA wrote labor feminists off as opponents of feminism because they directly aimed for sex-based legislation. This split between ideals divided the efforts of women's organizations and convoluted the intent of reformers goals.¹³ Scholar Nancy Woloch describes this as "a split between two strategies for change, two factions of politicized women, and two colliding sets of goals: labor standards and equal rights."¹⁴ Neither party wanted to give in, so they operated separately. Dorothy Sue Cobble framed the split as a defining moment for the whole of women's reform, "They wanted equality and special treatment, and they did not think of the two as incompatible."¹⁵ However, protective labor legislation had an immensely better chance of being passed in the courts, especially before women secured the vote, so sex-based legislation preoccupied the courts for the length of the progressive era.

The importance of class difference emerges in the silences in the protective labor legislation method of reform. Historians Nancy Cott, Dorothy Sue Cobble and Alice Kessler-Harris engage in class difference discussions noting that supporters of the Equal Rights Amendment were middle-class and had less economic responsibilities allowing them to *choose* to support the ERA.¹⁶ The women representing working women, including the members of the Oregon Consumers' League, represented the societal ideal of middle-class women that remained centered around the home in all their endeavors. The middle-class women who desired independence within the societal norms turned to education in an attempt to find "the sense that

¹³ Dorothy Sue Cobble, *The Other Women's Movement*, " 7.

¹⁴ Nancy Woloch, *Muller v. Oregon*, 18-20.

¹⁵ Dorothy Sue Cobble, *The Other Women's Movement*, " 7.

¹⁶ Alice Kessler-Harris, *Out to Work*, 184-185.

one is being equipped for the work of the world, for usefulness.” But being educated proved to only promote the sense of helplessness that women were feeling, “having rejected marriage, they pushed to extend their sphere of action. Yet society made no provisions for them.”¹⁷ Thus, the desire to pursue something meaningful after being educated often led to positions regarding reform. As Jan Dilg elaborated, “With the limited range of professions open to women, social work was attractive as a field that offered college-educated women an outlet for their professional ambitions while remaining within accepted gender roles.”¹⁸ It is at the juncture of middle-class women’s search for purpose and the height of poor working conditions where the middle-class social reformers applied their usefulness by selling social work as the housekeeping of the city. If they could sweep their homes, then they could sweep the streets too;¹⁹ and as Alice Kessler-Harris described it, “some brave women interpreted their social functions more broadly, reaching across class lines to become involved in the struggles of poor wage-earning women for higher wages and better working conditions.”²⁰

However, this middle-class perspective meant necessity was not often accounted for in the legislation because the ideal women were middle or upper class and would not need to work to live. Yet single mothers, mothers of many children, sisters and daughters that needed to help their parents, were working to be able to live, not because they found some greater purpose in making shirtwaists, but because without it they could not afford to live. In *From Working Girl to Working Mother*, written by Lynn Weiner in 1985, Weiner splits worker reform into two eras,

¹⁷ Alice Kessler-Harris, *Out to Work*, 114.

¹⁸ Janice Dilg, “For Working Women in Oregon,” 101.

¹⁹ Maureen A. Flanagan, *America Reformed: Progressives and Progressivisms 1890s-1920s* (New York: Oxford University Press, 2007), 60.

²⁰ Alice Kessler-Harris, *Out to Work*, 114.

working girls 1890s-1920s, and working mothers 1930s-1940s.²¹ The progressive era period falling in the working girls' era in which focus of society and of legislation was to protect working girls.²² Weiner argues that the controversy caused by women moving into the work force led to cycles of reactions and reform based in the desire to reaffirm that women belonged in the framework of middle-class domestic values,²³ however, Weiner also notes that the only reason that women laborers were noticed at all was because "respectable" groups of women joined in over-shadowing the women that did not meet middle-class expectations.²⁴ Either way, the idea of women adrift had established the need to watch over "...all cases of the girl practically without a home."²⁵ Kessler-Harris phrases this societal outlook as, "In the unfortunate event that women were forced into the wage labor force their special sensibilities must be preserved."²⁶ The use of the word unfortunate is the key in understanding the justification from some Americans to keep women out of work entirely. Women's situation was unfortunate, but there was not anything sensible to be done to help because upholding the right to contract was more important.²⁷

Sister Miriam Theresa, formerly Caroline Gleason and the investigator in the 1913 CLO report, states in her 1924 dissertation that women were a fixed part of the workforce after the reform efforts she aided and otherwise witnessed in the Portland Oregon area.²⁸ However, she

²¹ Lynn Y. Weiner, *From Working Girl to Working Mother: The Female Labor Force in the United States 1820-1980* (Chapel Hill: University of North Carolina Press, 1985), 13.

²² Use of "girls" verses women in texts and legislations are sometimes seemingly interchanged. The Oregon 1903-hour law uses "females" revealing it would apply to any female hired. The age limit for factory workers was 14 years of age in Oregon. While the use of the word girl would insinuate the female is fourteen, it is important to note that use of the word girl does not exclusively apply to any age range and full-grown women with children can be called girl in some cases.

²³ Lynn Y. Weiner, *From Working Girl to Working Mother*, 3-5

²⁴ Lynn Y. Weiner, *From Working Girl to Working Mother*, 4.

²⁵ Consumers' League of Oregon, "Report of Survey Committee," 21.

²⁶ Alice Kessler-Harris, *Out to Work*, 185.

²⁷ Alice Kessler-Harris, *Out to Work*, 185.

²⁸ Sister Miriam Theresa, *Legislation for Women in Oregon* (New York: C.P Young Company, 1924), 111.

also claims that “the very nature of women” is that “they are more inclined to domesticity than they are to any other mode of life.” Theresa, a former member of the CLO, highlights notions of the middle-class reformers she worked with that stability of the future and stability of the home relied on women and that keeping them safe in workplaces kept the future safe. According to Sister Miriam Theresa, the aid in workers was a grave discussion that had the whole future riding on it, “gainful employment for the vast majority of young women who seek it must be only a steppingstone to a marital career if our nation is to continue to exist.”²⁹ Theresa believed that good education and good wages would help keep women focused on the home by easing worry. The intersection of women’s needs as workers, mothers of the future, individuals and reformers showcase the complex reasons for supporting protective labor legislation.

Another argument against women being free to work was the dangers they would succumb to if allowed such freedoms. Prostitution was the biggest concern and all these women moving away from their families without a husband to return to made society nervous.³⁰ While some of it was genuine concern that girls would be swept away on their walk home from the factory, a lot of the arguments relied on women being weak or helpless in nature and most of which were based in a place of male dominance.

Discussion of “breadwinner” ideals applies to the societal notion that men were dominant and that women who had to work were in an unfortunate situation because they would not have to work if the male “breadwinner” were doing their job correctly.³¹ Alice Kessler-Harris defines “breadwinner” ideas as the economic and social structure that places men at the center of monetary protection of a family unit. In short, the fears of men losing their place as providers

²⁹ Sister Miriam Theresa, *Legislation for Women in Oregon*, 112.

³⁰ Alice Kessler-Harris, *Out to Work*, 185-186.

³¹ Alice Kessler-Harris, *Out to Work*, 185.

bolstered the male dominance context around the right to contract.³² Economic independence was guarded as a male right and women challenged it.

The introduction of “difference theory” by protective labor reformers of the period asked for the formal establishment of the differences between men and women in order to bypass the right to contract under the 14th Amendment.³³ The right to contract is understood as the states’ inability to interfere with employer and employee contracts. This proposal led the Supreme Court to intense deliberation over the exact reach a state could have in regulating the behaviors of its citizens, otherwise known as police power. The ability or inability to modify the right to contract became an overarching theme in labor legislation for the period and the rule would prove difficult to break, as many industries tried. It was not until *Muller v. Oregon* in 1908 that an effective reasoning swayed the court, however, the *Muller* reasoning only affected women’s rights rather than a collective welfare for all laborers.

In Kessler-Harris’s book *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in the 20th Century America* from 2004, ideas about “breadwinner” ideology in the labor structures between men and women, have intensely attributed to the contextual ideas around being a woman, as well as the legislative analysis in this paper.³⁴ The introduction of a male centered rational for woman centered legislation added great context and insight to the predominantly women analyzed topic across the historiography. The labor legislation passed to protect women in the work force directly reinforced the ideal of the male breadwinner on the

³² Alice Kessler-Harris, *Out to Work*, 21-23.

³³ The right to contract being understood as the freedom between employers and employees to negotiate a contract upon being hired. This could have looked different for every person hired based on negotiations and favored employers.

³⁴ Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th Century America* (New York: Oxford University Press, 2001), 19-63.

basis that males did not need the aid that women did. Keeping greater society's ideas of who did what was important in maintaining enough regularity amidst drastic change. If all went well, then later legislation could address the same issues for men. Some of the first examples of this opening wedge are found in hour law legislation.

The Maximum Hour Law of 1903 in Oregon was not the first maximum hour legislation, in fact hour laws served as the first wave of labor legislation across the United States with the first sex-based hour law being in Massachusetts in 1874.³⁵ Hour legislation started out ungendered in the 1870s but the interest of the state in workers' health was decidedly minimal and until 1874, were denied.³⁶ Across the United States, hour laws were reduced to cover women-only, and were some of the first to be based on reproductive reasoning. This was true for Oregon as well.

The 1903 Maximum Hours Law restricted the number of hours women could work in a single day to ten hours. There were only some establishments that it applied to, namely "mechanical or mercantile establishment, laundry, hotel or restaurant," and the law relied heavily on the perceived notion of what jobs were "women's jobs."³⁷ This Ten-Hour Law excluded office positions and allowed a twelve-hour maximum for retail positions.³⁸ Any women working in establishments outside these categories were unprotected by the hour law. The law's protections are divided into three sections. Section One defined the hours worked per twenty-four hours as limited to ten. Section Two covered providing seats for women to sit in when not performing their work duties. Section Three outlined punishment if the above sections are

³⁵ Lynn Y. Weiner, *From Working Girl to Working Mother*, 71.

³⁶ Alice Kessler-Harris, *Out to Work*, 183-184.

³⁷ "An Act to Regulate the Hours of Working Women," OR Laws, [Chapter 200], 1903, 360.

³⁸ "An Act to Regulate the Hours of Working Women," 360.

violated.³⁹ Across the first two sections there are silences and gaps that limit the effectiveness of the law itself.

The word “mercantile” covers a wide variety of establishments under a definition of buying and selling goods, but the law is not explicit in what kind of buying and selling would qualify under the hour laws, leaving enough wiggle room for employers of trade style establishments to dictate a higher maximum.⁴⁰ Jobs like bakers, tailors and trinket shops all have different environments while maintaining a buying and selling aspect, are they covered equally? Additionally, retail is listed separate from the general use of mercantile, but retail is buying and selling goods on a large scale. The law viewed these two jobs as separate but did not explicitly state what *is* covered under mercantile.

Section Two detailed the requirement for employers to provide chairs for women workers to use, however the line “when not engaged in the active duties of their employment” is troublesome.⁴¹ The implication that if women are never not doing their duties, then they never sit in the chairs provided. So, while intended to help women stay off their feet, there was no requirement for allotting time for sitting, so employers did not have to let women use the chairs if they covered it in the guise that they were always actively working. This is a more obvious exception made within the law than the distinctions of jobs, but both examples showcase that the right to contract, even when being overruled by women’s health, was still more important than fully aiding women workers. Second, the law served as the steppingstone to sex-based legislation by isolating women from men.

³⁹ “An Act to Regulate the Hours of Working Women,” 360-361.

⁴⁰ “An Act to Regulate the Hours of Working Women,” 360.

⁴¹ “An Act to Regulate the Hours of Working Women,” 360.

If the purpose of this law was to regulate and protect women workers from being overworked, it did a poor job as the law was riddled with discrepancies and loopholes that made it less effective. The constitutionality of the 1903 law would be taken all the way to the U.S Supreme Court only two years after being applied and in 1908 the definition of sex-based work was solidified in *Muller v. Oregon*.

Muller v. Oregon:

Muller v. Oregon started when Curt Muller challenged the Maximum Hour Law of 1903 by requiring his employee Emma Gotcher to work overtime.⁴² The law was upheld in the Oregon Supreme Court in 1906 but when Curt Muller's appeal to the U.S Supreme Court was granted, the Consumers' League of Oregon grew worried that their legal team would not be able to convince the U.S Justices that the hour law was not an infringement of the right to contract.⁴³ The *Lochner* case dictated that without reason to believe the public would be affected by a lack of regulation, that all interference with employer and employee relations would be unconstitutional. The CLO feared the U.S Justices would uphold that ruling over the hour law and asked the NCL for help. In response the National Consumers' League sent attorney Louis D. Brandeis.⁴⁴

Brandeis joined Josephine Goldmark, Secretary of the NCL's Legal Defense committee, in writing a fact-based legal brief of 113 pages. The compiled data was gathered across the United States and Europe primarily utilized statistical evidence to prove that long hours directly affected women's health and their ability to fulfill their future role of mother. The statistical

⁴² Janice Dilg, "For Working Women in Oregon," 105.

⁴³ Janice Dilg, "For Working Women in Oregon," 105.

⁴⁴ Janice Dilg, "For Working Women in Oregon." 104.

approach was eventually called “legal realism” and it in itself challenged the practiced legal debate style called “legal formalism”. The root of the brief relied on the difference theory outlined by labor feminists.⁴⁵ Another method that, at the time, was quite innovative was the gathering of sources across many decades, in order to provide “facts of common knowledge.”⁴⁶ This tactic inserted expert commentary and rational into the case, albeit in an ineffective or uncredible way by today’s standards of evidence or facts. At the time utilizing facts of common knowledge was a new (and lengthy) way to demand increased listening to an argument. Something that benefitted the defense as the court already had prejudice against overruling the right to contract.

The Brandeis Brief:

Brandeis did not have many options when framing the case. With the *Lochner* ruling in opposition to his argument only a couple years before, he had two options. He could either challenge it directly and argue that all industrial workers needed hour restrictions no matter what the job was, or he could narrow the pool of workers that needed the protection. He chose, alongside the NCL, to defend only women to have a more effective case that could stand up against *Lochner*.⁴⁷

With a legacy of maintaining the right to contract ideal, the brief needed to not only prove that women were harmed by long hours, but also to connect it to the public welfare. By expanding benefits to the whole of society, there was a greater chance of persuading people to support it. There was a definite conclusion to be reached; that the 10-hour law was not an

⁴⁵ Nancy Woloch, *Muller v. Oregon*, 27.

⁴⁶ Nancy Woloch, *Muller v. Oregon*, 109.

⁴⁷ Nancy Woloch, *Muller v. Oregon*, 27-28.

overstep on the 14th Amendment, but a protective measure for the women workers and by extension future generations. If Brandeis succeeded it could be concluded later down the line that additional legislation might be able to be passed for other labor issues. Nancy Woloch argues that *Muller v. Oregon* had two sides; one that moved forward labor standards and another that overcame the right to contract obstacle at the expense of women's identities separate from motherhood.⁴⁸ The simplicity of this distinction allows the complex ties between the two goals to shine through.

While the brief's intense evidence-based argument earned its praise, there are many silences that are found in the application. For instance, in the second section of the brief titled, "The Dangers of Long Hours," Brandeis relied on professionals' statements with vague claims that women are "more marked" for symptoms of "overreaction and debility of the nervous system," but with no testing or rationale to back them.⁴⁹ The first explanation to how women are more susceptible to health issues comes from Dr. Ely Van der Warker in a 1875 publication, "Women is badly constructed for the purposes of standing eight or ten hours upon her feet. I do not intend to bring into evidence the peculiar position and nature of the organs contained in the pelvis, but to call attention to the peculiar construction of the knee..." in which is worse at supporting ones "sustaining column" or weight than in the male form.⁵⁰ This evidence is still vague and deliberately states it will not go into specifics despite that being exactly what was needed. However, it does use anatomic differences to point to leg strength, counting as minimal evidence.⁵¹ Another common theme across the data shows that studies from doctors were

⁴⁸ Nancy Woloch, *Muller v. Oregon*, vii-ix.

⁴⁹ Louis Brandeis, "The Dangers of Long Hours," 1908, in Nancy Woloch, *Muller v. Oregon: A History with Documents* (Boston: Bedford Books, 1996), 113.

⁵⁰ Louis Brandeis, "The Dangers of Long Hours," 113.

⁵¹ Louis Brandeis, "The Dangers of Long Hours," 113.

focusing on the effects of factory work on men, “factory work... produces very unfavorable effects upon the development of young men,” and then extending it to the women claiming it would be even worse for them, “It is even more conspicuous in the case of women.”⁵² Ironically, the case subconsciously or indirectly made the case that work conditions were bad for men as well. This hidden message of sorts can also be extended to the evidence that did not specify gender. The effort in proving a woman’s distinct lack of ability goes as far as a Dr. Kidd’s recommendation that “it is not good for women to stand...at all really.”⁵³ Which by that standard women should not work at all, let alone for a ten-hour maximum, but the case still needed to prove that there was public interest in the hour law.

The evidence for public interest centered strongly around childbirth and the effects of long hours on the uterus. “I have seen many cases in families where certain members who have pursued the calling of shop-girl assistants have been sterile, while other members of the family, not shop-girls, have borne children...” claimed Dr. W. Chapman Grigg of Westminster London. Dr. J. H. Bridges of Bradford similarly states that “the evils occurring in women...indirectly affect the more perfect growth of the child in utero, and dispose it when born more easily to become diseased.”⁵⁴ This claim that the potential motherhood of all the new women adrift was in danger because of long hours appealed to the welfare of humanity and laid the groundwork for the win. Perhaps the most convincing evidence for this came from the French Senate proceedings in 1891 and an M. Jules Simon:

“When I ask, when we ask, for a lessening of the daily toil of women, it is not only of the women that we think; it is not principally of the women, it is of the whole human race. It is of the

⁵² Louis Brandeis, “The Dangers of Long Hours,” 114.

⁵³ Louis Brandeis, “The Dangers of Long Hours,” 119.

⁵⁴ Louis Brandeis, “The Dangers of Long Hours,” 122-123.

father, it is of the child, it is of society, which we wish to reestablish on its foundation, from which we believe it has perhaps swerved a little.”⁵⁵

Another huge gap in the evidence provided in the Brandeis brief is the context surrounding each source used. There are many uses of quotes that do not have any context to tie them down, or pinpoint the exact reason the words were said, but are still being used with great severity. Perhaps in some cases if the contexts were provided it would prove the misuse or stretch of evidence. Additionally, the lack of worker testimony (there are a couple sparse additions, but not nearly enough for a case about workers), is also striking. The testimony is made primarily by doctors or factory inspectors. What is particularly interesting is the lack of state representation within the evidence. Time was a factor in the collection process and certainly a survey would not be a quick task, but a couple witness testimonies would have made a great impact. Perhaps this is because it would be ineffective or unimpressive to the justices, but it feels like a major gap to not have the people being defended state why they want or need the help. Perhaps it would be too risky to rely on a worker to agree that they were incapable beings that wanted babies. Finally, an assumption this brief made was that all women would have babies or even wanted to have babies. This assumption placed the women’s uterus and the use it might provide above the woman herself.

The Official Ruling:

David J. Brewer’s opinion and reflections on the Brandeis Brief demonstrates the effect that difference theory had on his ruling: “That woman’s physical structure and the performance

⁵⁵ Louis Brandeis, “The Dangers of Long Hours,” 129.

of maternal functions place her at a disadvantage in the struggle for subsistence is obvious...As healthy mothers are essential to vigorous offspring, the physical wellbeing of woman becomes an object of public interest and care in order to preserve the strength and vigor of the race.”⁵⁶

The “facts” that the Brandeis brief utilized appealed to Brewer’s innate and predetermined belief that women could not handle as much as men, “Still again, history discloses the fact that woman has always been dependent upon man. He established his control at the outset by superior physical strength, and this control in various forms...has continued to the present.”⁵⁷ Brewer takes the difference theory a step further by claiming that even if women were on equal footing with men, they would still look for the help from the men in their lives. That they would never be able to do anything alone.⁵⁸

The reasoning for this entire case is the protection of freedom of contract as a right which aims to reaffirm the “fact” that men should be worked as much as is needed or wanted due to their need to be breadwinners or providers for their families. These ideas were no doubt instilled in Brewer and most men from birth and are of course key elements to why his opinion is this reassertion. His citation of multiple cases in which the Supreme Court upheld the right to contract, including *Lochner*, provides evidence of the support remaining for that ideal, and serves as the method for a sort of reconciliation with the employers he knows will be frustrated.⁵⁹ These methods brought credibility and a sense of security in the decision that was reached. It calls attention to the research or forethought that went into the Justice’s process of finding a

⁵⁶ David J. Brewer, “*Muller v. Oregon*,” 1908, in Nancy Woloch, *Muller v. Oregon: A History with Documents* (Boston: Bedford Books, 1996), 148.

⁵⁷ David J. Brewer, “*Muller v. Oregon*,” 149.

⁵⁸ David J. Brewer, “*Muller v. Oregon*,” 149.

⁵⁹ David J. Brewer, “*Muller v. Oregon*,” 148.

conclusion. With all U.S citizens as the audience, Brewer's and his fellow Justice's decision had to be well thought out.

Some of the silences in the Supreme Court ruling are related to the employer's role. There is a clear bias from Brewer and the other Justice's for employers that can be seen in the language used in discussing the right to contract. This case ruling does not address physical actions to protect women's physical health. Examples being railing or making chairs available to sit in on breaks, or heat protection. By allowing that silence this document assumes that the problem is one only of gender and not of conditions.

According to Kessler-Harris, *Muller* justified the protection of mothers but affirmed the denial of women's rights as individuals.⁶⁰ Overall, this decision to uphold the law sent the message that change to conditions could be made and, while it needed to be watered down to only women and created distinct lines for how men and women could never be the same, it showed that labor rights were worth fighting for through legislative means.

1913 OCL Report:

After *Muller*, the CLO continued with full force to take advantage of the opening that was created by the Brandeis Brief with a report in support of a Minimum Wage Bill. The report was a continuation of the National Consumers' League efforts to protect women that had been upheld in *Muller v. Oregon*, with an Oregon "Bill for an Industrial Welfare Commission" attached directly to the report itself.⁶¹ The Bill outlined the creation and application of a

⁶⁰ Alice Kessler-Harris, *Out to Work*,

⁶¹ Edwin v. O'Hara, "Welfare Legislation for Women and Minors" in *National Consumers' League, Report of the Social Survey Committee of the Consumers' League of Oregon on the Wages, Hours and Conditions of Work and Cost of Standard Living of Woman Wage Earners in Oregon with Special Reference to Portland*, (Keystone Press: Portland Oregon, 1913), 13-17 +73-64.

commission of five unpaid, appointed people to monitor and correct any workplace issues that endangered women or children. The three governor-appointed positions were staggered in terms so that positions never got filled *en masse* and the other two positions were filled by the current Commissioner of Labor Statistics and the Secretary of the Child Labor Commission. The commissioners were granted police power over workplace reform projects and issues.⁶²

An additional example of the CLO's continuation of the work done in *Muller* is found in the "Principles and Facts" section of the report. The fourth fact lists reasons justifying the report and the need for the proposed law: "The present conditions of labor for women in many industries are shown by this report to be gravely detrimental to their [women's] health; and since most women wage-earners are potential mothers, the future health of the race is menaced by these unsanitary conditions."⁶³

However, hours were not the only concern of the National Consumers' League and its chapter in Oregon. The members of the Consumers' League of Oregon recognized that women needed more support than just the ten-hour law. The workplace conditions and minimum wages stipulated in the report and by extension the Commission Bill, were not supported in hour law cases and would need further proof of constitutionality. As the first minimum wage bill, the CLO expected this and provided evidence of support from social workers in Washington and California and a letter from the Attorney General of Oregon within the foundation of the report itself.⁶⁴ Attorney general Crawford's rationalization for the constitutionality of a minimum wage law has strong statements of support within them: "If the police power extends to all great public needs...it must be conceded that sufficient earnings to procure a reasonable and comfortable

⁶² Edwin v. O'Hara, "Welfare Legislation for Women and Minors," 13.

⁶³ Consumers' League of Oregon, "Report of Survey Committee," 6.

⁶⁴ Consumers' League of Oregon, "Report of Survey Committee," 6-7.

existence...on behalf of women and minors, are some of the prime and greatest needs of the public, then this proposed bill is certainly well within the police power of the state.”⁶⁵

Attorney General Crawford’s letter supported the continuation of the state’s power to overrule the 14th Amendment and the right to contract wholeheartedly. The inclusion of the bill in conjunction with the report also reveals that the committee’s motivations for the report revolved around finding ample evidence. Without good enough evidence, the bill would not be passed, and because of this the report becomes distinctly persuasive. It is not a survey of findings witnessed from anyone off the street, but instead a group that searched with specific hopes of finding the examples they needed. Much like the Brandeis brief, it was determined that, despite the optimism that the *Muller* win had given the COL and NCL, the minimum wage bill would have an easier passage if it adhered to the women-only ideal that they had accepted for the *Muller* case. Jan Dilg discusses at length the back and forth that the revisions of the bill had about whether to include men, describing the CLO’s desire to include men in the minimum wage effort after the success of *Muller*. Yet the worry that the *Muller* ruling had not had time to concretely overturn the right to contract in all situations of women’s labor reform prevented an easy decision-making process. Adding men to the bill would “...only endanger legislation that could benefit women and minors.”⁶⁶ In the end, it was decided that a minimum wage bill could not be passed for both genders, “and would only endanger legislation that could benefit women and minors.”⁶⁷ So the report went on with the edit that men would not be included, and that the

⁶⁵ Consumers’ League of Oregon, “Report of Survey Committee,” 8.

⁶⁶ Janice Dilg, “For Working Women in Oregon,” 110.

⁶⁷ Janice Dilg, “For Working Women in Oregon,” 110.

report would serve as an “opening wedge” that would secure the minimum wage for men as well, similarly to the hour law rationale.⁶⁸

The evidence the investigators needed was 1) proving conditions were bad across multiple industries 2) that wages were too low to support a year of basic needs due to 3) the high cost of living without being in debt.⁶⁹ The method for securing the data involved bringing on a private investigator that had experience investigating conditions related to women workers and for that Caroline Gleason was brought on as the director of the survey. Gleason arrived in Portland in 1908 and was an active participant in social work under the Catholic Women’s League, but under the recommendation of the Survey Committee chair Reverend Edwin O’Hara, Gleason was appointed to direct the creation of the report. The CLO sponsored her classes on scientific method in Chicago in order to uphold the credibility of the report, and it gave her the ability to network with important figures like Florence Kelley of the NCL.⁷⁰ In 1912 the investigators under Gleason’s direction would start collecting data.

It is important to note that the survey committee captured the stories of many women within their canvassing, including women adrift, women at home, and women with families of their own. The location for most of the survey centered around Portland, Oregon, but surrounding areas were included in small ways. As a major societal concern, it is not surprising to find this specification, but the inclusion of women who had children but were widowed or single in the reports definition of “adrift” is different.⁷¹ The committee deemed them fit for the category, albeit “difficult to classify, and for the purposes of simplicity adopted this description,”

⁶⁸ Janice Dilg, “For Working Women in Oregon,” 111.

⁶⁹ Consumers’ League of Oregon, “Report of Survey Committee,” 18.

⁷⁰ Janice Dilg, “For Working Women in Oregon,” 106-109.

⁷¹ Consumers’ League of Oregon, *Report of Survey Committee*, 21.

which slightly expands the definition previously mentioned of a girl “practically without a home.”⁷²

The collection method for data was threefold starting with cards that were given to women at their place of work that asked specific questions and were to be turned back in. The questions covered wage and cost of living inquiries. Over 500 cards were submitted back to the survey committee. (See figure one for the questions asked.)

Second, Caroline Gleason and other members of the survey committee observed the workdays within the twelve factories and noted any issues in conditions. Third, the committee asked the employers to submit their wage schedules and any comments they had to compare with the women’s descriptions.⁷³ The survey committee made sure to preface that the survey did not attempt a total retrieval of data from all working women in every factory visited.⁷⁴ In Gleason’s own words later as Sister Miriam Theresa, “The report did not pretend to be complete but only a true showing of some conditions...” and due to that, there are some silences within the data sets on the off chance that the one person that had a great experience all the time was not surveyed. However, this silence can be deemed minimal in the final consensus. Across all the data sets there was substantial evidence to support the committee’s goals. The 1910 census established that nearly 4,500 women worked in Oregon and that around 19,500 of them worked in the Portland area where the survey took place.⁷⁵ Sister Miriam Theresa noted in her dissertation that the survey was able to reach about 5,000 of those women outside of domestic services.⁷⁶ In

⁷² Consumers’ League of Oregon, “Report of Survey Committee,” 21.

⁷³ Consumers’ League of Oregon, “Report of Survey Committee,” 20.

⁷⁴ Consumers’ League of Oregon, “Report of Survey Committee,” 19.

⁷⁵ Sister Miriam Theresa, *Legislation for Women in Oregon*, 92.

⁷⁶ Sister Miriam Theresa, *Legislation for Women in Oregon*, 92.

short, the report had impressive coverage and a good grasp on the greater scope of women workers in Oregon in the 1910s.

MINIMUM WAGE INVESTIGATION

1. WHAT kind of ESTABLISHMENT are you working in?
2. WHAT is your work.....
3. WAGES—Week..... or Month.....
4. HOURS employed—Day..... or Week.....
5. LIVING at Home? (Yes or No).....
6. VACATION with pay?.....
7. HOW long with firm?.....
8. FIRST wage here?.....

COST OF LIVING

1. HOUSE or Room rent, per year.....
2. FOOD, per year.....
3. CLOTHING, per year.....
4. CARFARE, per year.....
5. LAUNDRY, per year.....
6. DOCTOR Bills, per year.....
7. CHURCH Dues, per year.....
8. LODGE Dues, per year.....
9. EDUCATION, per year (books, newspapers, etc).....
10. RECREATION, including vacation, per year.....

NOTE.—On reverse side of card, give all other items of expense that you deem proper, or information concerning working conditions.

Example of the questions on the cards distributed in factories by the Survey Investigators. (Consumers' League of Oregon, *Report of Survey Committee*, 19.)

Working Conditions:

The committee found conditions within twelve factories across Portland and the immediate surrounding areas to be abysmal. Layouts of the factories visited emphasized a lack of comfortable working environments: “Smaller establishments, such as tailoring shops, furriers, and millinery stores, are often located on one or two floors in downtown shops, which have a front facing of not more than twenty feet in width; in the rear the windows open onto a court yard, or there may be no windows at all. The front half of the shop is used for show and

salesrooms, the rear half curtained or partitioned off for workrooms.”⁷⁷ Poor layout of the workspace was common: “Sometimes the ceilings are so low that a girl can scarcely stand up straight in the workroom,” said one worker and even if it seemed an easy enough fix, managers refused to change the layouts.⁷⁸ The space for the workers took a backseat to the needs of the customer, but described features like, “... the toilet is placed in the workroom without even a curtain protecting it,” emphasize the degradation and humiliation the workers faced in addition to cramped spaces.⁷⁹ If workers could not comfortably use the bathroom, then one might work all day hoping that they could avoid using it. Additionally, lack of proper ventilation from smells and protection from possible airborne diseases/sicknesses allowed women to become sick easier, in one instance nothing was done “...until one of the girls came down with scarlet fever.”⁸⁰ The negligence to provide a space where women could properly use the space granted to them without getting sick was made a general claim for all factories, however special conditions were noted too.

Some of the danger was just carelessness from the managers, but some of the conditions clearly disregarded human safety in general. The biggest example of this would be fire safety. Everything about factories welcomed fires. From poorly lit stairwells to insufficient fire escapes and lack of tools to stop a fire if one were to start, fires were not a question of if but of when. The inclusion of fire safety in the report, while also a genuine problem, appeals to the empathy of readers who had heard of the national horror of the Triangle Shirtwaist Factory Fire in New

⁷⁷ Consumers’ League of Oregon, “Conditions of Labor” in *National Consumers’ League, Report of the Social Survey Committee of the Consumers’ League of Oregon on the Wages, Hours and Conditions of Work and Cost of Standard Living of Woman Wage Earners in Oregon with Special Reference to Portland*, (Keystone Press: Portland Oregon, 1913), 46.

⁷⁸ Consumers’ League of Oregon, “Conditions of Labor,” 46.

⁷⁹ Consumers’ League of Oregon, “Conditions of Labor,” 46.

⁸⁰ Consumers’ League of Oregon, “Conditions of Labor,” 46.

York. Only two years before the survey in 1911, 146 women died in a fire completely fueled by terrible working conditions.⁸¹ There is mention of this in the report, “A needless exposure to danger is in the heaps of paper cuttings which cover the floors in some workrooms...to drop a lighted match in one of these places would mean instant conflagration,” something that was preventable by managers with any amount of consideration.⁸²

One of the worst conditions a woman could be under was working at a laundry facility, “In one laundry, where the temperature sometimes reached 135 degrees, six girls fainted at work within three weeks.”⁸³ The heat was so intense that the floorboards above the washer level would get so hot that it would melt the soles of the workers’ shoes. Often there were no windows to open, so no fresh air was received, and the heat would sit and bake the workers. To further drive home the laundries many issues, Gleason declared that only three laundry facilities were deemed safe and clean enough in the Portland area for workers.⁸⁴ Statistics like this really capture the factory trap that women had to endure. Yet, managers maintained the same high expectations and demands because it was easier and cheaper to tell workers to endure harsh environments than to provide good environments for workers. Especially when workers could not quit due to financial need. Women dealt with poor conditions to be more efficient in their work because then they would make more money, no matter how detrimental to their health it was. If having a window open made their work harder, then they would deal with the consequences and push through. Often women saw it as a necessary evil that was usually dismissed with the remark that the workers get used to it.⁸⁵ The report done by the CLO

⁸¹ Maureen A. Flanagan, *America Reformed*, 56.

⁸² Consumers’ League of Oregon, “Conditions of Labor,” 53.

⁸³ Consumers’ League of Oregon, “Conditions of Labor,” 47.

⁸⁴ Consumers’ League of Oregon, “Conditions of Labor,” 48.

⁸⁵ Consumers’ League of Oregon, “Conditions of Labor,” 49.

emphasized this concept: “They get used to it, as the bent twig does by growing into a crooked tree.” One girl talked to the investigator about this concept quite well, “How they stand it all the time, I don’t know. The girl next to me said that she suffered much on account of her back and feet at first, but now she is used to it.”⁸⁶ Health issues were common in factories because breaks were not often allowed, and women did not want to take them because it would lose them money.

Minimum Wage:

Proving that the wages women were receiving were less than what was necessary for basic accommodations required two steps. The importance in proving the constitutionality of the minimum wage bill relied heavily on this portion of the report because employers wanted to be able to set their own prices to what they could afford (or the lowest they felt comfortable with). All total costs including rent, food, clothing, and services, had to be outlined and then compared to the reported wages to see the gap. However, after *Muller* upheld the need for protection of women it was not a far reach to demand wage reform. This report by extension also only attempted aid for women and children after deciding the collective effort was too risky, further isolating women within the workforce as weaker when things like conditions and minimum wage were also needed for male workers. With extensive data provided by the survey committee, the report clearly favored the minimum wage bill and the extension of aid to female workers.

The average room and board, food, and essential services/supplies costs were all considered in making the proposed minimum wage. The average cost of room and board together

⁸⁶ Consumers’ League of Oregon, “Conditions of Labor,” 49.

was twenty-five dollars, and that was with ten dollars allocated for rent.⁸⁷ Yet, “Rooms at \$12 begin to verge on the comfortable state,” and if a “pleasant” room was secured, fourteen or fifteen dollars was needed for rent alone. Food costs separate from rent sat around six dollars a week. The survey makes it clear that room and board’s minimum cost did not get women into amazing flats, it did not even earn them access to running water.⁸⁸ This method of providing minimum averages may have appealed to sympathizers who read these numbers and realized that even the minimum wage was not enough for a comfortable life. Services and Supplies were also listed under necessities and cover medical costs, laundry costs and clothing and shoes.⁸⁹ This allocated a bare minimum of \$107 a year, but also a minimum for quality pieces of clothing that would last longer at \$187 a year. The variables in spending were carefully analyzed here as well with investigators noting wear and tear across some occupations like laundries and appearance requirements in others like office spaces. The final number also accounts for home mending and leaves the recommended total at \$130 a year. For medical and laundry services the total allotment was \$40 but not every woman would have the ability to devote time to going to a medical professional even with hour laws enacted. If a woman wanted to economize and do laundry at home to save the \$25 a year, that would come out of the time an hour law saved her.⁹⁰ Additionally, twenty-two of the women interviewed had families they helped contribute to and an additional fifteen were supporting kids.⁹¹ Room needs, services and supplies for families- sometimes listed with as many as nine people- all required more than the minimum listed in the

⁸⁷ Consumers’ League of Oregon, “Cost of Living” in *National Consumers’ League, Report of the Social Survey Committee of the Consumers’ League of Oregon on the Wages, Hours and Conditions of Work and Cost of Standard Living of Woman Wage Earners in Oregon with Special Reference to Portland*, (Keystone Press: Portland Oregon, 1913), 60.

⁸⁸ Consumers’ League of Oregon, “Cost of Living,” 58.

⁸⁹ Consumers’ League of Oregon, “Cost of Living,” 67

⁹⁰ Consumers’ League of Oregon, “Cost of Living,” 65.

⁹¹ Consumers’ League of Oregon, “Cost of Living,” 22.

survey. While the data certainly supported a minimum wage, there are still gaps in the effectiveness and coverage listed.

Outside of the realm of necessity, there was an allotted, but hesitant, cost set aside for recreation. As recreation could have mean anything from seeing a show to buying supplies for a hobby, popular societal examples were thought to lead women down a dangerous path (as stated in the women adrift section) and it is not surprising that the included data is listed for accuracy but is accompanied by a warning line: “There is not the same temptation for the girl at home to seek fun outside as there is for the girl adrift, whose lonesomeness in her room drives her innocently to seek diversion that eventually ends disastrously for her.”⁹² Due to the stipulation that recreational funding could lead a woman to nefarious activities the cost of recreation is not listed as a necessity. The committee dictated that the minimum needed weekly wage for “bare necessities”, based on the total data gathered, was ten dollars a week.⁹³

The CLO identified two reasons for low wages and poor conditions. Both were the result of inconsistency from employers in training and in wages across employed women. The investigators essentially boiled the issue down to employers refusing to pay for good training and then paying only what the resulting work was deemed worth, which caused disparities of sometimes twelve dollars within the same factory.⁹⁴ The identification of what the OCL called “inefficiency”⁹⁵ encompassed all of the issues they found and directly tied them to the employers “careless standards.”⁹⁶ The wages women were working for often were under “piecework”

⁹² Consumers’ League of Oregon, “Cost of Living,” 66-67.

⁹³ Consumers’ League of Oregon, “Cost of Living,” 67.

⁹⁴ Consumers’ League of Oregon, “Wages, Hours, Unemployment Study” in *National Consumers’ League, Report of the Social Survey Committee of the Consumers’ League of Oregon on the Wages, Hours and Conditions of Work and Cost of Standard Living of Woman Wage Earners in Oregon with Special Reference to Portland*, (Keystone Press: Portland Oregon, 1913), 31.

⁹⁵ Consumers’ League of Oregon, “Report of Survey Committee,” 23-24.

⁹⁶ Consumers’ League of Oregon, “Report of Survey Committee,” 24.

payments, which meant that the quantity of labels, shirtwaists, or other products were what determined the wages, not the time spent making them. Any time spent not actively working on a product would take away from the wages of the day. In some factories getting supplies or dealing with machine issues made working slower and the payment for the workers was affected. Not only was this method ineffective time use, but it directly affected the way women were working in a similar way that conditions were. The endure mentality applied here as well, with women pushing through because that meant more money at the end of the day. The refusal to train, not exclusively women and children, but disproportionately so, resulted in cheap work. However, the lack of training was not a burden woman were supposed to carry, and the employer's expectations or carelessness were identified as the key issue. Overall, "The investigators in Portland have found that only an insignificant fraction of the women workers could afford to live at home without work," and many women would end the year in debt with unstandardized wages.⁹⁷

A strength of the report is the inclusion of women's voices from factory settings. There is a bias within this section because all the included data has been filtered or reduced to a number, and the Social Survey Committee and Caroline Gleason had the ability to eliminate certain narratives if they felt it needed. This distinction is important because this data set could have been edited to remove anything that was an example of something the Oregon Consumers' League did not support. Similarly, the personal stories section is not written out as direct quotes from the women interviewed besides a couple phrases and instead are paraphrased. The personal stories included in the report, even edited, highlight the necessity that many families faced financially. Nine of the listed personal stories identify that the wages earned by women in the

⁹⁷ Consumers' League of Oregon, "Cost of Living," 77.

factories supported multiple people. Ranging from children of workers to sisters and mothers escaping abusive fathers and husbands, further inquiries into these situations of necessity could have added greater evidence to the minimum wage portion of the report.⁹⁸ Some quotes are provided supporting previous sections of the report like “the dirtiest place I have ever worked in” and “I thought it was too much work for only 20 dollars a month” referring to the working conditions and cost of living examples. While these are good examples, the benefit of expansion allows individual women to identify specific examples as witnesses rather than filtered participants. In Sister Miriam Theresa’s dissertation, she mentions this difficulty in securing interviewees that allowed the use of the information, “many women and girls were interviewed but fear of losing their ‘jobs’ made large numbers of them reticent about giving exact information...” and while the reasoning is sound, the reduction of the personal stories pages leaves more questions than answers.⁹⁹ The reader wants to know more about these women. The opportunity for the committee to showcase emotional examples of why the bill was needed is essentially passed up in this formatting and instead the women’s personal examples are reduced to fact-like statements with inserted words like “sensible” displaying the bias of the surveyor at the time of talking to the worker. In summary, instead of letting the women speak for themselves the OCL’s investigators attempted to add credibility to the interviewees with language choice and phrasing styles. While the report certainly adds data to the overall picture of women’s labor reform it is colored in such a way that it serves the OCL Bill first.

The Bill was a success and with data more concrete and directly related to Oregon, was passed with ease in 1913 after only twelve minutes of deliberation.¹⁰⁰ In the words of Sister

⁹⁸ Consumers’ League of Oregon, “Cost of Living,” 68-71.

⁹⁹ Sister Miriam Theresa, *Legislation for Women in Oregon*, 92.

¹⁰⁰ Janice Dilg, “For Working Women in Oregon,” 115.

Miriam Theresa, "...the Survey Committee and its investigators worked very quietly...in order to avoid all possible opposition from employers..." and in fact there was no opposition until after the bill had been passed.¹⁰¹ Even with opposition going to the state supreme court the bill was upheld. The Justice even extensively quoted the *Muller* case from years before.

Conclusion:

With *Muller* passing in 1908 and supporting an hour law for women, an opening wedge was created for worker reform, including the minimum wage bill, to be defensible for all workers. Within the breath of this research, the minimum wage bill created another opportunity for an opening wedge to collective wage reform. *Muller* did not only aid the passing of the minimum wage bill, but it also proved that opening wedge ideas could work long term to secure reform for all workers when in *Bunting v. Oregon* in 1917 the ten-hour law for all industrial workers regardless of sex was upheld. Nearly a decade after *Muller* was decided. It did take a good chunk of time, but protective labor legislation worked in gradually leading to reform for all workers just as labor reformers had hoped.

In the end protective labor legislation "satisfied the perceived need," to address women at work for the greater society and gave way to future reform initiatives for those supporters of protective labor legislation.¹⁰² However, equal rights feminists would have to face the isolating effect sex-based legislation gave women for many years after. The maximum hour law in 1903, the *Muller* case in 1908 and the 1913 CLO report all attempted to do the same two things. 1) support women that society feared would fall into dangerous situations after leaving the

¹⁰¹ Sister Miriam Theresa, *Legislation for Women in Oregon*, 93.

¹⁰² Alice Kessler-Harris, *Out to Work*, 212.

traditional home ideal and 2) maintain the sense of a right to contract so that the male economic duty was secured. Balancing the two somewhat contradicting ideas proved difficult and in the end women's independence from men was sacrificed for their safety in the evolving industrial world.

Yet the notion that reform for one group could lead to reform for all is also proven within these sources. Without the narrowing to women, the legislation could not have passed. This complicates the notions of women being reduced to their motherhood capabilities because in the long run the cause was for the good of worker safety for all not only in Oregon, but the nation. Yet the lasting effects of women being acknowledged within the workplace as different and often lesser than because of the capability to bear children carried clear until the present day. Wage gaps, difficulties in securing maternity leave if one chooses to have children, and unequal opportunity for positions are lasting effects of cases like *Muller* that established the specific motherhood identity to women in the workforce, and its continuing effects in the 1913 minimum wage report and bill which stood on the same basis of sex-based reform. Nancy Cott engages with ideas of the lasting effects of protective labor legislation on women through present day, noting the feminists' movements of the 60s and 70s happened as extensions of the reformers of the progressive era.¹⁰³

Ideas of identity both from society and from other women complicate the notions of identity further as financial necessity and middle-class ideals did not often complement each other. While some middle-class reformers genuinely wanted to help women in need, and to protect the sanctity of motherhood, other women like Sister Miriam Theresa secured the idea that

¹⁰³ Nancy Cott, *The Grounding of Modern Feminism*, 3-10.

women were inherently domestic and continued to find that more fulfilling no matter the reform that occurred.¹⁰⁴

On the national scale Oregon was the first to successfully pass legislation on an enforceable minimum wage and *Muller* provided a template for other states to secure maximum hour laws. Protective labor legislation put Oregon on the mainstage allowing the CLO and other organizations to prove that labor reform was not only worth fighting for, but achievable. So, while legislation did champion concepts of a right to contract, and women supporting households challenged breadwinner ideals, the inherent ideas of a proper or ideal woman remained prominent features that society expected of working women. Additionally, an emphasis on surveying real women within the workforce proved a successful and meaningful use of time. The addition of women's voices, no matter how edited, was an important development for Oregon and the nation.

This research highlights sources across the progressive era in attempt to prove Oregon's significance in the discussion of women's identities within the workforce and how protective labor legislation both helped and hindered them. While motherhood and the ways motherhood made women different and weaker to men remained a part of workplace identities because of protective labor legislation, because of the wake it caused, working conditions and wages were solidified.

¹⁰⁴ Sister Miriam Theresa, *Legislation for Women in Oregon*, 12.

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