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Marcin Graban (*Adam Mickiewicz University*, Poznań)

LABOUR UNIONS POSTULATES AND THE DEVELOPMENT OF FEDERAL LABOUR LEGISLATION TO THE NEW DEAL ERA IN THE UNITED STATES OF AMERICA

The second part of 19th century and the beginning of 20th century is a time of rapid growth among labour unions in the United States. During this period labour unions and associations changed from trade unions to common unions accepting a wider spectrum of workers. In this article, I present the development of the labour legislation in the United States from the point of view of the labour union postulations, starting from the first regulations through to the legislation of the New Deal era. I focus on three specific areas: the child labour problem, the minimum wage question and the working hours regulations. Along these lines, I compare labour union and workers association postulates with state and federal legislation and the solutions of problems, from the beginning of American labour unions to the New Deal era.

Keywords: *US labour relations from 19th century to the New Deal era, American labour unions, Child labour legislation, Working hours legislation, Minimum wage legislation.*

From the 19th century American labour unions started to grow in number very rapidly. The fluctuations of union's membership had been hardly connected with the changing economy. For example, during the economic depression between 1873 and 1880, the growth of unemployment resulted in trade unionism breakdown; only about 20% of the workers' associations survived.[1] Another big depression hit the American industry in 1893-1897, with similar results for the unionism movement.[2]

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[1] Faulkner Harold U., *American Economic History*, HarperCollins, New York 1960, p. 452.

[2] Scheiber Marry N., Vetter Harold G., Faulkner Harold U., *American Economic History*, Harper&Row, New York 1976, p. 194.

Depressions and prosperous times fluctuated in the American economy and had an important impact on the development and changes in the labour union movement.

Prosperous times made labour unions grow in numbers and power. Lower levels of unemployment attracted more workers to trade unions; better salaries made it possible for workers to pay membership fees. Those members, usually well skilled and better paid, obviously used trade unions to protect their jobs and salaries. Periods of economic downturn and depression were usually hard times for labour unions. Even more highly skilled workers had problems with finding a job; sometimes they had to accept positions below their skills. In case of losing a skilled job, they could lose the right to be a member of a particular trade union, as unions were very reluctant to admit other professions, especially unskilled workers.

However, periods of economic depression were also a time for changes for American labour unions. The most important trade unions realized that they had to accept a wider scope of workers. This question was open for unskilled workers, immigrant workers, black workers and females. Worker postulates also had to be changed.

In their initial stages labour organizations in the United States were focused on preservation of small groups of very high skilled privileges at the work place. Usually, they operated in conspiracy, and their area of activity was limited to one city or the most industrialized areas, sometimes only to one particular industrial plant. One of the first labour unions in the United States were Federal Society of Journeymen Cabinet and Chair-Makers and Federal Society of Journeymen Cordwainers, both founded in the late 18th century.[3] Such organizations were founded mostly for the short term, for example, only to increase pressure in times of conflict with the employer.

Because such labour organizations had limited scope of activity, the problems they postulated were in the hands of state administration. That is why the first labour regulations had very limited range.

In this study, I will try to present the development of the labour legislation in the United States from the point of view of the labour unions' postulations, starting from the first regulations to the legislation of the New Deal era. I am going to focus on the child labour problem, the minimum wage question and regulations of working hours. Since the child la-

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[3] M. Lause, *Philadelphia Journeymen Conspiracy Strike (1806)*, [in:] *Encyclopedia of U.S. Labor and Working-Class History*, ed. E. Arnesen, Routlege, New York, 2007, vol. 3, p. 1083.

bour problem seems to have been the most important for American society, I will focus my attention mainly on this problem. In order to focus better on labour issues, I will treat workers as one group, and avoid bringing up the question of women, black and immigrant workers.

CHILD LABOUR PROBLEM AND SOLUTIONS IN STATE AND FEDERAL LEGISLATION PRIOR TO THE NEW DEAL ERA

On the Library of Congress web sites one finds a large collection of photographs from the beginning of the 20th century. The subject of all those period pictures is child labour. One of those pictures shows a boy, three-year old Fred Hill. The picture was taken in 1916 in Comanche County (Oklahoma), and Fred is a cotton picker working without shoes on a field of cotton.[4] On another impressive picture there is a ten-year old girl; she is looking out of a window in the textile mill in Lincolnton (North Carolina). She had been working for more than a year as a spinner at the time.[5] There are thousands of similarly interesting and equally disturbing pictures at the Library of Congress. For us, nowadays, it could be just a curiosity, but for those children hard work was their reality.

Child labour was a very serious problem, as well as a social and economic phenomenon. From the economic point of view, it was obvious that children had to work because of high costs of living; they had to earn money for food and clothing. Their parents usually also worked, but they were not able to earn enough to provide for the whole family. From the social point of view child labour is destructive. In second part of the 19th century the situation deteriorated even further as large number of immigrants came to the United States from Europe. Immigrant families usually had many children, and they tried to find jobs also for them. This situation led

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[4] Hine L. W., *Fred Hill, 3 years old, sometimes picks 20 pounds of cotton a day, Comanche Country Oklahoma*, October 11, 1916, Library of Congress Prints and Photograph Division, Washington D.C., http://www.loc.gov/pictures/resource/nclc.00617/ (access date, May 30, 2011).

[5] Hine L. W., *Rhodes Mgf. Co. Lincolnton, N.C. Spinner. A moment glimpse of the outer world Said she was 10 years old. Been working over a year.*, November 1908, Library of Congress Prints and Photograph Division, Washington D.C., http://www.loc.gov/pictures/resource/nclc.01345/ (access date, May 30, 2011)

to abuses; children were employed in factories and coal mines with dangerous working conditions, with shifts of up to 10-13 hours per day; moreover they were paid a very low salary.[6] The working kids started becoming a kind of "young adult", and started to behave like adults with all the negative implications, including alcoholism, gambling and prostitution. They were not educated; they had no opportunity to improve professional skills, so they had no chance to find better jobs, and therefore no opportunity for a better life.

Such a situation could not leave the politicians and socially-interested people indifferent. Also, members of the labour unions drew government's attention to the problem. It was clear that the federal legislation was needed to address those issues. In 1832 the New England Association of Farmers, Mechanics and other Working Men condemned child labour in factories "from morning till night". The argumentation was that such work was unhealthy for kids and did not let them develop their mental and educational skills. The Association was disturbed of children exploitation especially in textile mills, and because of a lack of education, of keeping children in ignorance. Their report on child labour proposed mandatory education for children workers. Working's Man Party, the first labour union in the United States, founded in Philadelphia in 1828, also proposed in 1876 to forbid employment of children under fourteen.[7]

One of the most influential labour organizations, The American Federation of Labour (AFL), got interested in child labour because of two reasons: child workers were simply a competition for adult workers, and the ruinous effects of such work for children. At the first national convention in 1881 AFL prepared a resolution addressed to states governments demanding a ban to employment of children under fourteen. Pressure to enact federal legislation by AFL was even stronger in the years that followed. In 1901 the AFL Committee of Education suggested that it would be necessary to add a new announcement to the Constitution of the Unites States to make changes in child labour at the level of federal law. [8]

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[6] Northrup Cynthia C., *Child Labor* [in:] *The American Economy: A Historical Encyclopedia*, vol. 1. *Short Entries*, ABC-Clio, Santa Barbra, Denver, Oxford, 2003, p. 44.

[7] Zonderman David A., *New England Association of Farmers, Mechanics and Other Working Men*, [in:] *Encyclopedia of U.S. Labor…*, v. 3, p. 996.

[8] Walker Roger W., *The A.F.L. and Child-Labor Legislation: an Exercise in Frustration*, "Labor History", Summer 1970, v. 11, Issue 3, p. 325-326.

The National Child Labour Committee (NCLC) was founded in 1904 to promote abolition of child labour as well as a federal educational system for working children. The Committee also made an important contribution in collective data and information about child labour in United States. In the Progressive Era (from around 1890 to the World War I) many people from the middle-class established organizations fought against problems of the American society. The NCLC was one such organization, which at the turn of the 20th century became very powerful. Members of this Committee were afraid of the social and moral after-effects of child labour. NCLC and many other similar organizations pressed for the federal government to establish child labour legislation at the national level. None of the Southern states had any restrictions on child labour until 1902. The largest number of child workers were employed in Southern states, such as North and South Carolina. The South also had lower level of school attendance because of very weak state regulations regarding child labour. It was no uncommon for entrepreneurs in the North to complain about unfair competition from the South, because lower costs of child work, especially in textile industry.[9] Cooperation between labour unions and social organizations slowly led toward establishing state and federal child work legislation.

It was Massachusetts that was the most advanced state in labour legislation in the 19th century. From this state the impulse for advancing labour legislation spread to the rest of the United States. Beginning in 1836 the Massachusetts state authorities established restrictions relating to child (under fifteen years old) work, requiring that children must attend school for at least for 3 months in a year.[10] Another restriction on child labour in Massachusetts was enforced in 1842. That restriction concerned the maximum working hours, set at twelve for children under twelve. In 1866 (and once again) state legislation limited working hours to 6 for children under sixteen. Those first but still insufficient limitations aimed to protect the youngest kids against overly intensive work. It was also a positive development from the point of view of labour unions because it helped to reduce unemployment, especially among unskilled, labourers. After favourable response to those first steps, the government of Massachusetts took care of child education, which also, but not directly, limited the employment of

[9] English B., *National Child Labor Committee*, [in:] *Encyclopedia of U.S. Labor* ..., p. 945-947.

[10] *Child Labor Public Education Project*, http://www.continuetolearn.uiowa.edu/laborctr/child_labor/about/us_history.html (access date May 30, 2011).

children. In 1873 the school year lasted 20 weeks, and it was compulsory for children under twelve years of age, which meant that during that time kids had to go to school and were not able to work. The trend to limit working hours for children and, at the same time, to extend the length of the obligatory school year was kept, and in 1889 the school time for children under fourteen was increased to 30 weeks per year. In other states the child labour legislation was also improved but slowly and not in such a comprehensive way. In 1914 the average age of children to take up work was from twelve to fourteen, but there were some specific restrictions in different states. For example, in Utah, New Mexico and Wyoming limitation of working age for children applied only to hazardous jobs, like mining; while in Washington D.C. child work during the night was forbidden. [11]

The federal response to the postulate of standardization of labour legislation at the nationwide level started with the forming of the Bureau of Labour Statistics in the Department of Interior, established in 1884. Carroll D. Wright was chosen for the post of the commissioner of the Bureau; he was a commissioner of the Bureau of Labour Statistics in Massachusetts. Under his leadership the bureau was so successful in collecting information about labour that by 1883 further 12 states opened similar institutions. The Bureau of Labour Statistics in the Department of Interior was established for collecting, compiling and publishing information about the conditions of labour in the United States. After four years of development, in 1888, the independent Department of Labour was established by the Congress.[12] In my opinion this was a turning point for establishing federal labour legislation. At the beginning of the 20th century the effects of limitation of child labour were radical and well noticed. In 1870 even eight-year olds had been employed in factories and workshops, but by 1905, following the implementation of state and federal restrictions, only teenagers over fourteen could be employed in industry. The time before reaching the age of fourteen was reserved for school education.[13]

To deal with the question of child labour, the Department of Labour established the Children's Bureau in 1912. The results of the Bureau's work were one of the important factors in preparing propositions of federal law according to child labour. One of the first interstate regulations was

[11] Faulkner Harold U., *American Economic History…*, p. 470.

[12] Lewis, James G., *Department of Commerce and Labor*, [in:] *St. James Encyclopedia of Labor History Wordwide*, ed. Schlager N., v. 1, p. 237-238.

[13] Whittelsey Sarah S., *Massachusetts Labor Legislation* [in:] *Trade Unionism and Labor Problems*, ed. John R. Commons, Boston, New York, Chicago, London, 1905, p. 506.

the Federal Child Labour Act (1916), also called the Keating-Owen Child Labour Act of 1916. In this act we read among other things:

> That no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate or foreign commerce, any article or commodity the product of any mine or quarry situated in the United States, in which within thirty days prior to the time of the removal of such product there from children under the age of sixteen years have been employed or permitted to work, or any article or commodity the product of any mill, cannery, workshop, factory, or manufacturing establishment, situated in the United States, in which within thirty days prior to the removal of such product there from children under the age of fourteen years have been employed or permitted to work, or children between the ages of fourteen years and sixteen years have been employed or permitted to work more than eight hours in any day, or more than six days in any week, or after the hour of seven o'clock antemeridian: *Provided*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any article or commodity under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such article or commodity before the beginning of said prosecution.[14]

As the quoted section shows, restrictions on child labour were not established directly. They actually applied to trading in products made by children rather than effected limitations on child labour. However, in this short part of the Federal Child Labour Act, for the first time in federal legislation, we had a very clearly stated child age limit, namely: for general work over 8 hours daily – the age of sixteen, and for 8 hours or less – fourteen. For children between fourteen and sixteen years of age the limit was no more than 6 working days per week, and work had to finish at least at 5 p.m. Those limitations were applicable to interstate or foreign commerce for goods production in which child workers were exploited.[15] This means that they were not relevant for local commerce. The responsibility for enforcement of this law was with the U. S. Secretary of Labour. Thus, a clear outline of the child labour law was a good sign for the following legislation acts, even if the Federal Child Labour Act remained in force only until 1918. In this time it affected only about 150,000 child workers out of a total of 2 million, so the total impact of Keating-Owen Child Labour Act of 1916 was very weak.[16] The Supreme Court of the United States pronounced this

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[14] *Transcript of Keating-Owen Child Labor Act of 1916*, Section 1, http://www.ourdocuments.gov/doc.php?doc=59&page=transcript. (access date May 30, 2011).

[15] Leiter Robert D., *Federal Regulation of Child Labor*, "American Journal of Economics and Sociology", April 1950, v. 10, p. 293.

[16] Felt, Jeremy P., *The Child Labor Provisions of the Fair Labor Standards Act*, "Labor History" Fall 1970, v. 11, p. 471.

act as unconstitutional, mostly in order to secure the rights of the private enterprise as well as to preserve economic liberty.[17]

There was a similar problem with The Supreme Court's acceptance of the Revenue Act of 1919, also called Federal Child Labour Tax Act of 1919. The argumentation against this Act stressed the fact that imposing taxes has to be justified by the need to collect taxes, and taxation cannot be a way to achieve any other aim, even if it is correct from a social point of view.[18] However, Federal Child Labour Tax Act did not bring anything new in the child labour question. (The Act imposed a 10% tax on those who employ children under the age of fourteen and children between fourteen and sixteen working more than 8 hour a day or more than 6 days in week.) It was recognized as unconstitutional by the United States Supreme Court in 1922.[19]

Another attempt to press for full federal legislation restricting child labour came two year later, as a Constitutional amendment was passed in 1924 (unfortunately there was a problem with ratification of this law by individual states; in the event only 28 states ratified it, the last one in 1937). Child Labour Constitutional Amendment of 1924 postulated the following regulations:

> Section 1. The Congress shall have power to limit, regulate, and prohibit the labour persons under eighteen years of age.
> Section 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress.[20]

The problem with the ratification of this amendment was probably related to the need to restrict the power of individual state legislation as oppose to the national legislation. Many interest groups, like farmers, or workshop owners, feared the unlimited power to "limit, regulate, and prohibit" child labour, which they considered to be a threat to the freedom of trade and entrepreneurship. It was clear that for President Franklin Delano

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[17] It was connected with so called *Lochner era*. See: Choudhry S., *The Lochner era and Comparative Constitutionalism*, International Journal of Constitutional Law, vol. 2, nr 1, 2004, p. 4-5. http://www.law.utoronto.ca/documents/Choudhry/Lochner_Comparative_Constitutionalism.pdf (access date May 30, 2011).

[18] *Child Labor Laws - Further Readings*, http://law.jrank.org/pages/5181/Child-Labor-Laws.html (access date May 30, 2011).

[19] Felt, Jeremy P., *The Child Labor Provisions...*, p. 471.

[20] *The Child Labor Amendment*, http://www.usconstitution.net/constamfail.html (access date May 30, 2011).

Roosevelt the Amendment was the only way to legalize the propositions of the Keating-Owen Child Labour Act of 1916.[21]

During the time of the Great Depression the child labour problem was even more acute. There was not enough work for adult workers; child workers were in a much worse situation. Only coherent federal legislation was able to address this problem, and in my opinion it was ultimately found in the New Deal legislation.

CHILD LABOUR REGULATIONS IN THE NEW DEAL LEGISLATION.

In the New Deal era there were two important legal acts that were trying to address and resolve the problems of child labour. The two bills in questions were the National Industrial Recovery Act (NIRA) and the Fair Labour Standards Act (FLSA).[22]

NIRA legislation did not directly explain any regulations in the case of child labour. However, there was a section about "codes of fair competition":

> Upon the application to the President by one or more trade or industrial associations or groups the President may approve a code or codes of fair competition for the trade or industry or sub-division therefore, represented by the applicant or applicants (…)[23]

The government policy encouraged employers to use the codes of fair competition to limit the use of child labour or eliminate it altogether. Almost every approved code regulated the minimum age of workers at 16 years of age; several of them prohibited employment for hazardous work below 18 years. Due to codes of fair competition the tendency for a growing number of child workers lessened in 1934, especially in the manufacturing industries and commerce. Of course lots of children continued to work, but most of them found employment in family businesses, small workshops, and in agriculture. There were a number of occupations that were not included into codes.[24]

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[21] Felt, Jeremy P *The Child Labor Provisions…*, p. 473.
[22] Felt, Jeremy P., *The Child Labor Provisions…*, p. 468.
[23] *National Industrial Recovery Act*, 1933, Section 3 (a).
[24] Leiter Robert D., *Federal Regulation of Child Labor…*, p. 294.

In 1935 the Supreme Court stated the National Industrial Recovery Act was unconstitutional. Consequently, the codes of fair competition became illegal. Between 1935-1936 the U. S. Congress itself established codes for different industries, for example the textile industry, air lines, the truck transportation and sawmills.[25] The Public Contract Act of 1936, and the Sugar Act of 1937 also contained restrictions concerning child labour. In 1936 Congress established restrictions referring to child labour in government contracts (originally nearly $10.000 of total value of contract) for males under sixteen and for females under eighteen years of age. This regulation was changed during World War II by permitting employment of female from sixteen. However, it was only a wartime contingency measure, and after the war the regulation reverted to its original version. In the Sugar Act of 1937 the child labour limitation was not so direct; the law set financial penalties for sugar beet and sugar cane producers for employing children under fourteen years "in connection with rising", and children between fourteen and sixteen for more than eight hours per day.[26] Both of those regulations were not perfect and had a lot of limitations, but they did fill a gap between the first and second part of the New Deal legislation process.

Child labour was prohibited in FLSA for kids less than fourteen years of age in general jobs, and for less than sixteen years in heavy industrial jobs. However, as in other acts, child labour was not restricted directly; only some regulations were added to common labour law, just like FLSA had been. There was strong pressure brought by social organizations like the Child Labour Committee's to legislate child labour regulation as a separate law. There was an agreement between politicians and social activists that a reform of the labour law including: child labour, wages and hours regulation was badly needed and had to be introduced. The question was which method should be used. There were two main options: first – to prohibit the interstate transportation of goods in production of which child workers had been employed, or second – to prohibit the shipment of goods produced by child workers "into any state where they were to be sold or used in violation of the laws of that state".[27] In the FLSA regulation the first option was established.

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[25] Jones Rusell D., *National Industrial Recovery Act (NIRA) 1933* [in:] *The American Economy:...*, p. 198.

[26] Leiter Robert D., *Federal Regulation of Child Labor...*, p. 295.

[27] Felt, Jeremy P., *The Child Labor Provisions...*, p. 475.

The limitation was made for child labour in interstate commerce for children under sixteen for oppressive work like mining and manufacturing. For children between fourteen and sixteen, work was permitted in other non-hazardous occupations, if they were employed by parents or a guardian. Also, the Head of the Children's Bureau could give permission to work for children between fourteen and sixteen years of age in cases where the job did not interfere with the child's school duties, and was not a hazard to their health and well-being.[28] The Child Labour Provisions in FLSA was formulated as follows:

> No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to removal of such goods there from any oppressive child labour has been employed: *Provided*, That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further,* That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipment or delivery for shipment of any such goods before the beginning of said prosecution.[29]

The law established the term "oppressive labour" for child workers in hazardous conditions. Another problem was to come up with a satisfactory definition of what "oppressive labour" is. The FLSA specified "oppressive child labour" as:

> "Oppressive child labour" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or person standing in place of a parent employing his own child or a child is his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labour to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labour shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labour shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations

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[28] *Ibidem*, p. 477.

[29] *The Fair Labor Standard Act of 1938, as Amended,* (FLSA) U. S. Department of Labor, Employment Standards Administration, Wage and Hours Division, 2004, Section 12 (a).

> of the Secretary of Labour certifying that such person is above the oppressive child labour age. The Secretary of Labour shall provide by regulation or by order that the employment of employees between the age of fourteen and sixteen in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labour if and to the extent that the Secretary of Labour determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.[30]

Another step was to define what kind of work could be hazardous for children. The task of identifying and defining hazardous occupations was entrusted to the Children's Bureau of the Department of Labour. During the Second World War the number of child workers employed in industry considerably increased. That is why the FLSA was amended (in 1947) on the question hazardous work for children. The Bureau during time of duty had recognized as hazardous work for children in the following occupations:

- work in plants manufacturing explosives;
- employment as a motor vehicle driver or helper;
- coal mining work;
- operating power-driven wood-working machines;
- logging operations;
- occupations involving exposure to radioactive substances;
- operating power-driven hoisting apparatus;
- operating power-driven metal-working machines;
- mining work other than coal;

In addition to the limitations included in the FLSA, the Bureau also established restrictions in other occupations. For children under sixteen years (but not less than fourteen) such occupations included public messenger service, transportation, warehousing and storage, communications, public utilities and construction. Furthermore, children under this age could not work if their occupation interfered with school duties, so the Bureau limited the working hours to 3 hours daily and 18 weekly during the school year, and 8 hours daily and 40 weekly out of the school year. According to the Bureau, limitation the children between fourteen and sixteen could work only between 7 a.m. and 7 p.m.[31]

FLSA became the most important regulation in federal legislation in the case of child labour. During the 20th century this act was amend-

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[30] *Ibidem*, Section 3 (l).

[31] Leiter Robert D., *Federal Regulation of Child Labor…*, p. 297.

ed several times. Unfortunately, the original version was not perfect, especially in regard to the question of children working in agriculture (on farms belonging to their parents). Those flaws concerned children younger than the school age. According to FLSA regulation, if they did not work in hazardous occupations, they were not subject to working hour regulations as was the case with children between ages of fourteen and sixteen.[32] So, there was still plenty of room for abuses in child labour.

WORKING HOUR'S EXPECTATIONS AND STATES AND FEDERAL LEGISLATION TO THE NEW DEAL ERA

At the beginning of the 19th century workers had to work from morning till night; there was nothing unusual in a 14 to 16 hour working day, 7 days in a week. Such situations and exploitation of workers drew the attention of different social associations and labour unions. The first limitation of working day hours was made in the Middle Atlantic States in the 1840s. In New York the members of Workingman's Platform postulated a ten-hour work day, as well as common education and guaranties of workers' salaries in the case of employer's bankruptcy.[33]

In 1842 one of the first labour organizations was founded to fight for labour hour limitations. It was The Ten–Hour Republican Association. The Association established its offices in different cities in Massachusetts; they campaigned to legalize a limitation of working hours to 10 per day. The argument for a 10-hour working day was that longer working day was immoral and it deprived workers of energy for the rest of the day.[34]

The 10-hour working day was established as a state law in Massachusetts in 1874.[35] Prior to that, it was established for example in New Hampshire (1847) and in Pennsylvania (1848), but with a clause that if workers consent they can work longer. Of course, such limitations were accessible only for skilled workers, who usually worked in big corporations.

A limitation of working hours was justified from a social and moral point of view. The first reaction to working hours restrictions was the

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[32] Felt, Jeremy P., *The Child Labor Provisions...*, p. 477.

[33] Rayback Joseph G., *A History of American Labor. Expanded and updated*, Free Press, New York 1966, p. 65-66.

[34] *Ibidem*, p. 92-93.

[35] Whittelsey Sarah S., *op. cit.*, p. 483.

more intensive development of modern factory machinery and equipment and the modernization of work management. Faster and more efficient machinery was put into place to offset and reduce potential financial loss forecasted by factory owners. The same effect had been expected from the new kind of labour organization and management, for example a system of "gang work".[36] Very soon another aspect of working hour limitations became evident. In 1901 the United States Industrial Commission prepared a report on working hours. The Commission Report concluded that the worker who worked 10 hours daily is able to produce similar efficiency if he works for just 9 hours because he can work faster and is more focused on his job. A psychological aspect was also noticed; workers were conscious of the improvement of job conditions, so they were more satisfied with work, which had a positive effect on efficiency. The Commission Report also observed that the same effect of better work efficiency could be achieved with limitation to 8 working hours, but over a long period of time (for example from a yearly perspective).[37]

Table 1. Working Hours Structure in New England, 1840 and 1860.

Percentage of workers and working hours in 1840	Percentage of workers and working hours in 1860
52% - 9-11 hours per day	67% - 9-11 hours per day
36% - 11-13 hours per day	31% - 11-13 hours per day
12% - over 13 hours per day	2% - over 13 hours per day

Source: Rayback Joseph G., *A History of American Labour. Expanded and updated,* Free Press, New York 1966, pp. 96-97.

On the basis of information from Table 1, we may notice interesting tendencies. We may assume that New England was representative of highly industrialized areas of the United States. Between 1840 and 1860 the number of workers spending 13 hours and more in their jobs radically decreased, and in the same time 9 to 11 hours of working day become more popular. We may conclude that the Ten–Hour Movement achieved their goal.

[36] *Ibidem,* p. 489.

[37] *Hours of Labor, U. S. Industrial Commission (final report 1901),* [in:] *Trade Unionism and Labor Problems ...,* p. 457-458.

When this first step was achieved, the limitation to 8 hours daily, establishing a 40-hour work week became another goal. In 1863 Ira Steward initiated the movement for 8 hour days. He was one of the organizers of International Union of Mechanists and Blacksmiths (Boston), and through this organization he tried to enforce his ideas. Unfortunately, skilled workers were very sceptical about the possibilities of working hour reductions; they were afraid such reductions would result in salary cuts. Steward created the slogan "a reduction of hours in an increase in wages". He believed that the level of workers' salaries is the consequence of their cultural level. This idea was inspired by the works of Thomas Malthus and John Stuart Mill. Ira Steward was convinced that when workers changed their habits and customs, together they could demand a better salary to achieve a new level of needs. It should be also stimulating for industry and commerce because better workers' salaries would have an impact on consumption. In 1869 Steward founded The Boston Eight-Hour League, which has an important contribution in establishing the Massachusetts Bureau of Labour Statistics, the first in the United States. Ira Steward died in 1883, before the 8-hour work day was introduced.[38]

The 8-hour movement grew much stronger in the 1890s. The idea had united different groups of workers, including skilled and unskilled both native-born and immigrants.[39] The National Labour Union was founded in Baltimore in 1866. At the same convention the Union delegates passed a resolution about fighting for 8-hour working days.[40] A number of labour organizations postulated 8-hour working days. They included, among others, Federation of Organized Trade and Labour Unions, Knights of Labour and American Federation of Labour. Some labour unions of skilled workers were in power to bring pressure for establishing 8 hours on their members. It happened in the case of United Mine Workers in 1898 or The Building Trade Council of San Francisco in 1900. The true revolution, however, came from the big corporations. In 1914 Ford Motor Company doubled the salaries to $5 per day and at the same time cut working hours from 9 to 8. The results of this move were amaz-

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[38] Messer-Kruse Timothy, *Steward Ira,* [in:] *Encyclopedia of U.S. Labor …,* v. 3, p. 1328-1329.

[39] Calavita Kitty, *U. S. Immigration Law and the Control of Labor, 1820-1924,* Academic Press Inc., New York 1984, p. 74.

[40] Messer-Kruse Timothy, *National Labor Union* [in:] *Encyclopedia of U.S. Labor …,* v. 3, p. 969.

ing; the Company increased revenues radically, and became one of the most respected employers.[41]

Some legal acts established by states legislatures (for example: Illinois in 1867), and even federal act were passed in 1867, but none of them was effective.

The Congress established 8-hour days for government employees in 1912, and in 1916 the same working time was established for interstate railway workers.[42] The Adamson Act of 1916 established as following:

> Eight hours shall, in contracts for labour and service, be deemed a day's work and the measure of standard of a day's work for the purpose of reckoning the compensation for services of all employees who are now or may hereafter be employed by any common carrier by railroad, except railroads independently owned and operated not exceeding one hundred miles in length, electric street railroads, and electric interurban railroads, which is subject to the provisions of subtitle IV of Title 49, and who are now or may hereafter be actually engaged in any capacity in the operation of trains used for the transportation of persons or property on railroads, except railroads independently owned and operated not exceeding one hundred miles in length, electric street railroads, and electric interurban railroads, from any State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from one place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States: Provided, That the above exceptions shall not apply to railroads though less than one hundred miles in length whose principal business is leasing or furnishing terminal or transfer facilities to other railroads, or are themselves engaged in transfers of freight between railroads or between railroads and industrial plants.[43]

Railway labour unions were satisfied with the Adamson Act. Not only did it give the 8 hours for the railway workers but also secured payment terms.[44]

The first federal step to regulate maximum working hours was taken by National Industrial Recovery Act (1933). NIRA established "codes of fair competition", in which one of the conditions was regulating the maximum working hours:

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[41] *Ford Motor Car Company History. The Assembly Line*, http://www.fordmotorhistory.com/history/assembly_line.php (access date, May 29, 2011)

[42] Faulkner Harold U., *American Political and Social History*, Appleton-Century-Crofts, New York 1943, p. 563.

[43] *The Adamson Act of 1916*, Section 1.

[44] Zieger Robert H., *From Hostility to Moderation: Railroad Labor Policy in the 1920's*, "Labor History" 1968, v. 9, p. 25-26.

> Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (...) (3) that employers shall comply with the maximum hours of labour, minimum rates of pay and the other conditions of employment, approved or prescribed by the President.[45]

NIRA did not give any answers about the limit of maximum working hours, leaving terms to be agreed upon between employers and employees. The platform of common agreement shall be a code of fair competition, and this was a good opportunity for the labour unions and associations to take a leadership in work over such codes.

The final solution of the maximum working hours legislation for all workers was made in 1938 with the Fair Labour Standards Act. This Act and its amendments is still the most important labour legislation in the Unites States. On the question of maximum working hours FLSA established that no employer shall employ:

> (...) for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.[46]

The FLSA was introducing maximum labour restrictions gradually. The pay of overtime salary was brought in 1938 for more than 44 hours per week, through 42 hours per week in 1939, and finally, from 1940, for over 40 hours per week.[47]

MINIMUM WAGE QUESTION – WORKERS POSTULATES AND PROBLEM SOLUTIONS IN STATES AND FEDERAL LEGISLATION TO THE NEW DEAL ERA

For labour unions and associations the problem of wage level was the most important question to be solved. One of the first labour unions in the United States was established by skilled labour to protect their salaries and secure working conditions; they were usually fighting against

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[45] *National Industrial Recovery Act*, (1933), Section 7 (a) (3).

[46] *The Fair Labor Standard Act of 1938, as Amended*, (FLSA) U. S. Department of Labor, Employment Standards Administration, Wage and Hours Division, 2004, Section 7 (a) (1).

[47] Costa Dora L., *Hours of Work and the Fair Labor Standard Act: A Study of Retail and Wholesale Trade, 1938-1950*, "Industrial and Labor Relations Review", vol. 53, no. 4 (July 2000), p. 650.

unskilled labour and immigrants. On the other hand, the level of salaries was very much dependent upon the economic conditions of the country. In time of prosperity workers could expect better salaries; for example between 1836 and 1837 skilled workers' wages improved about 50% from $1,00-1,20 per day to $1,50-2,00 per day. On the contrary, in time of recession, salaries dropped. After the economic crisis in the United States in 1873, there was a hard winter 1877-1878 for workers when unemployment rose to 3 million and wages decreased by 30-40%.[48] In 1880s the labour organizations succeeded in securing an increase in real wages, but only for skilled workers.[49] The unskilled workers were in the worst situation. They were the first to be fired in times of depression, and had big problems in finding another job. The situation was even worse considering the fact that unskilled workers were easy to replace in case of a strike.[50]

The most significant strikes in the history of American labour were organized to defend the level of wages or in order to demand better salaries. In 1892 the Amalgamated Association of Iron and Steel Workers organized a strike against the wages reduction in Homestead, Pennsylvania. The Homestead Strike turned into a battle between workers and Pinkerton agents. In 1894 the Pullman Strike, which brought railway traffic in the Chicago area to a halt, was proclaimed in the wake of wage cuts. Just like in Homestead, members of the American Railway Union did not accept the reduction of wages. To secure the connection between different parts of the country the government decided to use U. S. troops to protect railways.[51] Probably the most important strike for the development of the labour situation was the Coal Strike which started in 1902, organized by the United Mine Workers. In Eastern Pennsylvania about 150,000 miners took part in the strike. The government did not want to use force to solve the problem as was the case in the Pullman and Homestead strikes. Negotiations with workers were conducted following an initiative by President Theodore Roosevelt. The miners won a 10% wage increase and shorter working day, and what is more, they also won the right to be represented by labour unions.[52] This was a great success

[48] Rayback Joseph G., *A History of American Labor...*, p. 77 and 129.

[49] Perlman Selig, *Upheaval and Reorganizations (since 1876)*, [in:] *History of Labor in the United States*, ed. John R. Commons, v. 2, Macmillan, New York 1921, p. 357.

[50] Rayback Joseph G., op. cit., p. 147.

[51] Faulkner Harold U., Starr Mark, *Labor in America*, Harper & Brothers, Publishers, New York 1958, p. 107-108.

[52] Arnold Andrew B., *Anthracite Coal Strike (1902)*, [in:] *Encyclopedia of U.S. Labor...*, v. 1, p. 113-115.

both of workers and for the Roosevelt administration, and it led to the announcement of the New Deal program. This was also the announcement of President Roosevelt's concept of social problem solving.

Between 1909 and 1918 stabilization of the American dollar brought an increase in income per capita in the United States, 1910 - $340; 1915 - $358; 1918 - $580. The stabilization of the dollar kept the prices stable. This could mean that every increase of salaries helped to improve living conditions for American workers.[53]

Table 2. Real wages in the United States in 1865-1915 (based on the dollar purchasing power in 1914)

1865-1869	$347
1875-1879	$395
1885-1889	$503
1895-1899	$532
1901-1905	$606
1911-1915	$685

Source: Scheiber Marry N., Vetter Harold G., Faulkner Harold U., *American Economic History*, Harper & Row, New York 1976, p. 247.

Table 3. Wages and living costs comparison between 1913-1920 (based on the dollar purchasing power in 1914)

Year	Wage	Living costs (1913 = 100)
1913	$675	100
1914	$682	101.4
1915	$687	99.2
1916	$765	108.8
1917	$887	130.7
1918	$1115	159.1
1919	$1272	180.3
1920	$1489	208.8

Source: Scheiber Marry N., Vetter Harold G., Faulkner Harold U., *American Economic History*, Harper & Row, New York 1976, p. 324.

[53] Faulkner Harold U., *American Economic History...*, p. 580-581.

Looking at the dates found in Table 2 and Table 3, it becomes clear that the situation of workers during the second half of the 19th century and at the beginning of the 20th century gradually improved. It was a result of labour unions and organizations' agitation and of the rapid growth of the American economy and American industry.

For the first time the minimum wage law was established in Massachusetts in 1912. In the next few years other states and the District of Columbia passed similar regulations.[54] Unfortunately, they were not accepted by the Supreme Court which protected the right to free negotiations of wages between employers and employees.

The New Deal legislation tried to enact federal regulation for minimum wage level twice. National Industrial Recovery Act which set the minimum wage was the first attempt.[55] Unfortunately, NIRA was recognized as unconstitutional by U. S. Supreme Court in 1935. The final solution, like in the case of child labour and maximum working hours, was established by Fair Labour Standard Act of 1938.

FLSA created a Wage and Hour Division in the Department of Labour.[56] Wage and Hour Division is a federal office with the specific responsibility for enforcing some federal labour laws like minimum wages, overtime pay, recordkeeping, child labour requirements.[57] There were also minimum wage levels established by FLSA:

> Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of good for commerce, wages at the following rate: (…)[58]

Of course the minimum wage level has changed many times since 1938. Originally, the minimum wage established by FLSA was $0.25 per hour, today the federal minimum wage is $7.25 per hour.[59]

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[54] Faulkner Harold U., Starr Mark, *Labor in America…*, p. 131.

[55] *National Industrial Recovery Act*, (1933), Section 7 (a) (3).

[56] *The Fair Labor Standard Act of 1938 …*, Section 4 (a).

[57] *Wage and Hour Division Mission Statement*, United States Department of Labor, Wage and Hour Division. (http://www.dol.gov/whd/about/mission/whdmiss.htm) (access date, May 29, 2011)

[58] *The Fair Labor Standard Act of 1938 …*, Section 6 (a).

[59] Luce Stephanie, *Minimum Wage Laws* [in:] *Encyclopedia of U.S. Labor …*, v. 3, p. 899; *Minimum Wage*, U. S. Department of Labor. (http://www.dol.gov/dol/topic/wages/minimumwage.htm) (access date, May 29, 2011).

CONCLUSION

The labour union movement in the United States experienced plenty of problems and disappointments in the times leading up to the Great Depression. During the Great Depression the situation deteriorated even further. But it was also a time for challenge and learning. Labour unions and worker associations collected a lot of experiences during the 19th century and at beginning of the 20th century. After a time of bitter fighting, there came a time of cooperation with state and federal government. Two important legal acts were a result of this cooperation, and a clash of ideas in the time of New Deal, namely the Federal Labour Standard Act and Social Security Act. Both those acts continue to be a key part of the American labour law. All the main problems of labour, such as child labour, maximum working hour and minimum wage, have been successfully dealt with and ultimately solved with the help of those acts.

Marcin Graban – PhD in History (2005) at Kazimierz Wielki University in Bydgoszcz. Assistant professor at Economic History, Adam Mickiewicz University, Poznań. Areas of interests: American history, labour and labour unions history, 19th century industrial and social history, history of emigration.