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## Education and Legislation: Affluent Women's Political Engagement in the Consumers' Leagues of the Progressive Era

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## Education and Legislation: Affluent Women's Political Engagement in the Consumers' Leagues of the Progressive Era

### Cover Page Footnote

The author would like to thank Professors Paul Murphy and Carolyn Shapiro-Shapin (Grand Valley State University) for their encouragement and guidance in the completion of this paper.

Over the course of the past century, many historians have portrayed the Progressive Era as one of the most dynamic periods in American history, a time in which a vast series of reform movements constituted the urgent attempt of an entire country to recover from the wounds left by several decades of rapid and mostly unregulated industrialization.<sup>1</sup> Indeed, the origins of reform-minded progressivism are so numerous and diverse as to appear bewildering at first glance. By the end of the nineteenth century, a disparate array of social groups in the United States – including western and southern farmers, impoverished inhabitants of sprawling urban slums, and even some members of the business elite<sup>2</sup> – were clamoring for changes ranging from mandatory factory inspection to shorter workdays and the abolition of child labor.<sup>3</sup> One particularly fascinating and significant transformation of the age came not as the result of any specific call for reform, but instead from a dramatic reconceptualization of the individual citizen's role in stimulating national economic growth. In other words, it was during the Progressive Era that the lopsided perception of national commerce as being improved only by citizens acting as *producers* became more balanced by a greater emphasis on the importance of *consumption* in supporting economic prosperity and influencing social politics.<sup>4</sup> Consequently, an emerging conception of the “consumer-citizen”<sup>5</sup> was articulated by some of the most astute observers of American civilization beginning in the early twentieth century. In *The New Democracy*, a well-known progressive treatise of 1912, social commentator Walter Weyl claimed, “In America to-day the unifying economic force ... is the common interest of the citizen as a consumer of wealth,”<sup>6</sup> a sentiment echoed by famed political analyst Walter Lippmann two years later with his statement that the organizational impetus of the consuming public seemed to be “growing very much faster” than even the laborer-oriented interest groups long known for their political activity.<sup>7</sup>

Ultimately, the insights offered by Weyl and Lippmann suggested much about the two decades that had passed immediately prior to their writings, a period during which many associations formed to mobilize the purchasing power

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<sup>1</sup> Lewis L. Gould, “Introduction: The Progressive Era,” in *The Progressive Era*, ed. Lewis L. Gould (Syracuse: Syracuse University Press, 1974), 1.

<sup>2</sup> David P. Thelen, “Social Tensions and the Origins of Progressivism,” *The Journal of American History* 56 (September 1969): 323.

<sup>3</sup> *Ibid.*, 335.

<sup>4</sup> Richard Hofstadter, *The Age of Reform: From Bryan to F.D.R.* (New York: Alfred A. Knopf, 1961), 170-171.

<sup>5</sup> Wendy A. Wiedenhoft, “An Analytical Framework for Studying the Politics of Consumption: The Case of the National Consumers' League,” *Social Movement Studies* 7 (December 2008): 293.

<sup>6</sup> Walter E. Weyl, *The New Democracy: An Essay on Certain Political and Economic Tendencies in the United States* (1912; reprint, New York: Harper and Row, 1964), 250.

<sup>7</sup> Hofstadter, *Age of Reform*, 171.

of American consumers as a means to achieve positive reform in the industrial and mercantile workplaces and thereby to grant greater freedom to workers oppressed by the widespread absence of humane business practices.<sup>8</sup> Most prominent among these associations was the National Consumers' League and the smaller localized leagues that collaborated to create it, all of which successfully contributed to the improvement of working life across the United States in the late nineteenth and early twentieth centuries. This amelioration was achieved not only through attempts to educate the consuming public by actively promoting the businesses that maintained good standards in their treatment of employees, but also through effective support for the passage and upholding of fair labor laws. Thus, it was the aforementioned consumer citizen, as well as the political and judicial *activist* citizen, who made significant contributions to labor reform during the early Progressive Era. Through these two modes of civic involvement, the consumers' leagues actually provided American *women* of both the middle and upper classes with a clear source of empowerment that they had not previously utilized to such a large extent: the ability to bring real change to their newly industrialized society by (1) altering their shopping patterns to support the stores and manufacturers that met the standards put forth by the leagues, and (2) influencing legislators and judges to draft, pass, and defend legislation that acted against oppression in the workplace, especially following the formation of the National Consumers' League.

Prior to the establishment of the National Consumers' League in 1898, supporters of local leagues that represented individual states, large cities, and universities expressed the belief that all consumers were morally responsible for the well-being of the workers who produced the things they chose to buy.<sup>9</sup> However, proponents of the consumers' leagues did not justify this idea through unsubstantiated appeals to a vague utopian ideal. Rather, they considered their viewpoint to be a logical conclusion drawn from the most basic law of the modern industrial economy:<sup>10</sup> increased demand for a good or service will lead directly to an increased supply of said product to satisfy the desires of the consuming public, and thus the things "we hire others to do we are responsible for the doing of"<sup>11</sup> in the words of John Graham Brooks, a Unitarian minister who became the first president of the National Consumers' League.<sup>12</sup> Indeed, Brooks demonstrated his belief in the logical righteousness of the work performed by the consumers' leagues even more firmly when he wrote that "to buy products made by laborers

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<sup>8</sup> Lawrence B. Glickman, *Buying Power: A History of Consumer Activism in America* (Chicago: University of Chicago Press, 2009), 175.

<sup>9</sup> *Ibid.*, 160.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

working in unwholesome surroundings is to help perpetuate those evil circumstances,"<sup>13</sup> an unfortunate process that Brooks thought could be halted if consumers learned about the social consequences of their purchases and thus altered their shopping habits to support those factories and retailers that did not abuse their workers.<sup>14</sup>

In a period of time that roughly equated to the last decade of the nineteenth century and the first decade of the twentieth, the National Consumers' League and its local counterparts promoted the aforementioned moral imperative most effectively by using three main tactics: the compilation and publication of lists featuring the names of retail stores that met or exceeded various standards of worker treatment; the application of a "Consumers' Label"<sup>15</sup> to goods made in factories that met a similar set of standards for labor conditions; and ardent defense of legislation that protected the health and safety of low-ranking workers – especially women and children – in many areas of employment. In simpler terms, these three tactics can be concisely referred to as "lists, labels, and legislation."<sup>16</sup> The first two tactics directly sought to mobilize consumers by influencing their decisions about where to shop and what to buy, with the ultimate goal of changing *consumption* patterns to reduce the exploitation and abuse of workers occurring at various places of *production* and *sale*.<sup>17</sup> The important task of supporting protective legislation, however, took place at the point of interaction between consumers' league members and various institutions of local, state, and federal government, especially courts and legislatures across the country.<sup>18</sup> Considering that league members initially believed lists and labels alone would make consumers aware of how important their purchasing behaviors were in determining the quality of working conditions for sales clerks and industrial laborers alike,<sup>19</sup> many individuals including Brooks felt that the original role of the leagues was predominantly *educational* in nature, to instruct shoppers in "how to buy, so that the strain, the burden, the squalor of much of the industrial life about us may be diminished."<sup>20</sup>

The first educational tactic utilized by the consumers' leagues – the writing and dissemination of lists offering praise to stores that met worker treatment standards set by the league residing in that particular area – was actually developed many months before the creation of even the first official local league,

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<sup>13</sup> John Graham Brooks, *The Consumers' League* (Cambridge: Co-Operative Press, 1899), 4.

<sup>14</sup> *Ibid.*

<sup>15</sup> Allis Rosenberg Wolfe, "Women, Consumerism, and the National Consumers' League in the Progressive Era, 1900-1923," *Labor History* 16 (June 1975): 385.

<sup>16</sup> Wiedenhoft, "Politics of Consumption," 281.

<sup>17</sup> *Ibid.*, 285.

<sup>18</sup> *Ibid.*, 289.

<sup>19</sup> Glickman, *Buying Power*, 161.

<sup>20</sup> Brooks, *Consumers' League*, 33.

and almost a full decade before the formation of the National Consumers' League. In the winter of 1889, an investigation into the employment conditions of female sales clerks in an array of New York City department stores was conducted by a labor organization known as the Working Women's Society.<sup>21</sup> Not surprisingly, the investigation confirmed that highly unclean conditions and unreasonably long working hours were the norm in the stores that had been inspected, all of which were made known to the public at a meeting of the Society in the spring of 1890.<sup>22</sup> Several of the city's wealthiest and most influential women were present at the meeting, and found themselves appalled to learn about the suffering endured by their less affluent female counterparts.<sup>23</sup> In order to fight against the source of their disgust, these women created a committee dedicated to assembling and promoting a list of stores where all employees were treated with a fair level of respect for their basic needs. This committee soon came to be known as the "Consumers' League"<sup>24</sup> and was formally recognized as such in 1891 with the official establishment of the New York City Consumers' League, which featured Josephine Shaw Lowell as president and an entirely female advisory board and assembly of vice presidents.<sup>25</sup>

During the earliest years of activity for the New York City Consumers' League, it was Lowell and Maud Frederick Nathan (a founding member of the City League and vice president of the National Consumers' League in the following decade)<sup>26</sup> who wrote the lists after agreeing upon the specific requirements that a retail store would have to meet to be considered a "fair house."<sup>27</sup> These obligations included a minimum wage of at least six dollars per week for all employees, compensation for overtime work, lunch breaks of at least 45 minutes each day, a store policy prohibiting the employment of any child under 14 years of age, and a guarantee to remain closed before eight o'clock every morning and after six o'clock every evening.<sup>28</sup> Furthermore, mercantile businesses could only be placed on the list if they closed for half a day at least once per week during the summer and provided at least one week of paid vacation to all employees during this season.<sup>29</sup> Additionally, seats needed to be provided

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<sup>21</sup> Wiedenhoft, "Politics of Consumption," 285.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Kathryn Kish Sklar, *Florence Kelley and the Nation's Work: The Rise of Women's Political Culture, 1830-1900* (New Haven: Yale University Press, 1995), 148.

<sup>26</sup> Florence L. Sanville et al., "The Consumers' Control of Production: The Work of the National Consumers' League, Report for Two Years Ending March 2, 1909," *Annals of the American Academy of Political and Social Science* 34 (Supplement, July 1909): 1.

<sup>27</sup> Wiedenhoft, "Politics of Consumption," 285.

<sup>28</sup> Ibid., 285-286.

<sup>29</sup> Ibid., 286.

for all female sales clerks so that they had a greater opportunity to rest during the workday if needed; all existing sanitary and labor laws had to be obeyed; and separate rooms had to be provided for work, eating, and maintaining personal hygiene.<sup>30</sup> Considering that American women of the middle and upper classes were still urged at this time to stay in the home and serve society by providing moral leadership to their own families in both instruction and example,<sup>31</sup> the activities of the New York City Consumers' League constituted an early and successful attempt by these largely disenfranchised women to project their reform-based visions for a better future onto the general public as a whole, rather than their separate and individual households.<sup>32</sup>

As the last decade of the nineteenth century progressed, the lists produced by Lowell and Nathan on behalf of the New York City Consumers' League proved highly effective in compelling local retailers to meet the rules of the fair house. At first, only eight stores were convinced to make reforms to meet the given standards in 1891, but the impact of the lists grew stronger as this number tripled to 24 by 1893 and grew to 41 stores by 1898.<sup>33</sup> Maud Nathan reported during this decade that the list campaign proved successful for the New York City Consumers' League because it provided a competitive advantage to the businesses on the list that benefited from its publication in the city's most prominent newspapers<sup>34</sup> and in pamphlets<sup>35</sup> to League members. In other words, employers understood that being on the list was equivalent to having a free and very popular source of advertisement for their stores.<sup>36</sup> Upon learning from and being inspired by the accomplishments of the New York City Consumers' League and its list campaigns, consumers' leagues that were founded later on in other areas of the country would generate similar sets of standards and create their own lists, a practice which was left to the local leagues even after the National Consumers' League was established in 1898.<sup>37</sup> Thus, the list campaigns were the first effective *educational* tactic embraced by the consumers' leagues at any level, bringing significant change to working conditions in the retail stores of many American communities even before the local leagues worked together to form the National Consumers' League.

While the idea to compose and circulate lists featuring the names of retailers that met or went above various standards of employee treatment

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<sup>30</sup> Ibid.

<sup>31</sup> Paula Baker, "The Domestication of Politics: Women and American Political Society, 1780-1920," *The American Historical Review* 89 (June 1984): 630-631.

<sup>32</sup> Wolfe, "Women," 379.

<sup>33</sup> Wiedenhoft, "Politics of Consumption," 286.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid., 285.

<sup>36</sup> Ibid., 286.

<sup>37</sup> Wolfe, "Women," 384.

ultimately led to the formation of the New York City Consumers' League in 1891, it was a second tactic of consumer education – the application of special labels to goods made in factories that adhered to a separate but similar set of labor standards – that served as the main organizing catalyst for the National Consumers' League, established not long before the end of the nineteenth century. On May 24, 1898, a conference was held in Albany, New York for the few dozen local consumers' leagues that had already formed in several (predominantly eastern) states.<sup>38</sup> This conference had been arranged for the specific purpose of generating serious discussion between the different leagues about the possibility of creating a unique type of product label and granting the right to use it to manufacturers who satisfied a series of requirements that would be agreed upon by all of the leagues, so that the same label could be provided to manufacturers from multiple states, including Massachusetts, New York, and Pennsylvania.<sup>39</sup> Many of the delegates to the conference argued that the leagues needed to consider themselves responsible not only for the well-being of retail employees who helped to *sell* goods to consumers, but also for the health and safety of the industrial workers who actually *produced* the goods that were being bought.<sup>40</sup> It is in this way that the use of the Consumers' List differed from that of the Consumers' Label: while the former was directed at ameliorating the adverse circumstances that caused employees of retail stores to suffer, the latter was aimed at improving conditions for factory workers.<sup>41</sup> The discussions that took place at the Albany conference in May 1898 led directly to the formation of the National Consumers' League before the end of that month, with an open understanding that this new organization would promote the Consumers' Label across the United States as soon as the local leagues could agree on the standards that manufacturers would have to meet in order to be awarded use of the label on their products.<sup>42</sup>

Debate continued for the rest of the year over what standards should be required for manufacturers to be considered worthy of using the label, prompting John Graham Brooks, the first president of the National Consumers' League, to travel to Chicago in January 1899 to encourage a colleague named Florence Kelley to become the first General Secretary of the League.<sup>43</sup> Kelley, who was appointed Chief Inspector of Factories for the state of Illinois by Governor John P. Altgeld in 1893,<sup>44</sup> gave careful thought to the request made by Brooks, and

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid., 384-385.

<sup>41</sup> Wiedenhof, "Politics of Consumption," 287.

<sup>42</sup> Sklar, *Florence Kelley*, 309.

<sup>43</sup> Ibid., 310.

<sup>44</sup> Clement E. Vose, "The National Consumers' League and the Brandeis Brief," *Midwest Journal of Political Science* 1 (November 1957): 269.



decided by the middle of March in 1899 to accept the position he had offered her, keeping the post until her death in 1932.<sup>45</sup> Two weeks after becoming General Secretary, Kelley submitted a written outline of her views on how the label program should work for consideration at a special executive meeting of the National Consumers' League, including not only a set of standards to determine what factories would be eligible to use the label, but also a contract between manufacturers and the national league stipulating that use of the label would be allowed only as long as all standards were met, as well as a plan for advertising the label to all manufacturers who might be interested in it.<sup>46</sup> Kelley's set of standards, formally accepted by the end of 1899, included the following obligations: that all manufacturers using the label abide by the factory laws of any state in which they operate; that the label could only be used on goods made entirely in a factory owned by the manufacturer; that no individual below sixteen years of age would be employed by the manufacturer; that no factory employee would be allowed to work more than ten hours on any day or sixty hours in any week; that the factory always remain closed between nine o'clock in the evening and six o'clock the following morning; that the factory could be inspected and evaluated by volunteers from the National Consumers' League at any time during hours of operation; and, finally, that the manufacturers comply with all suggestions made by league volunteers to improve factory conditions after the inspections were carried out.<sup>47</sup>

Additionally, the officers of the National Consumers' League concluded that, rather than allowing the label to be placed on many different types of products, it would instead be more effective to push for real change within one particular industry by targeting a specific product to which the label could be applied.<sup>48</sup> It was decided that the label would only be granted to manufacturers of women's and children's white cotton muslin underwear,<sup>49</sup> a choice that was made in hopes of pressuring the manufacturers of said product to dramatically improve conditions for workers at the factories where the undergarments were made: the garment industry was, after all, notorious in the early Progressive Era for rampant use of child labor and extreme worker exploitation in urban sweatshops.<sup>50</sup>

Taking heed of Florence Kelley's call to spread the word about the new Consumers' Label to any (and all) potentially interested manufacturers within the selected industry, a survey was prepared by the National Consumers' League with

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<sup>45</sup> Sklar, *Florence Kelley*, 310.

<sup>46</sup> *Ibid.*

<sup>47</sup> Florence Kelley, "The National Federation of Consumers' Leagues," *The Independent* 51 (December 14, 1899): 3354.

<sup>48</sup> Wolfe, "Women," 385.

<sup>49</sup> *Ibid.*

<sup>50</sup> Wiedenhof, "Politics of Consumption," 287.

the intent of gathering the thoughts of undergarment manufacturers about their willingness to improve factory conditions in exchange for use of the new label.<sup>51</sup> A total of 22 manufacturers were polled, and 17 responded that they would be willing to guarantee the minimum workplace standards put forth by the National Consumers' League – and thus earn the right to use the label – if the League would work to create greater demand across the country for the aforementioned type of underwear, most likely as a type of compensation for the fact that the manufacturers would face higher production prices by adhering to the numerous standards put forth by the League.<sup>52</sup> The National Consumers' League agreed to these terms, and over the next decade the League successfully managed to mobilize the consuming public in such a way as to increase demand for the different undergarment brands endorsed by the label while simultaneously expanding the League's influence across the country. Indeed, the use of the "white label" (as it was called in reference to the type of underwear to which it was applied)<sup>53</sup> grew to 43 manufacturers operating in 11 states by June of 1903<sup>54</sup> and increased further to 69 manufacturers in 13 states by March of 1909.<sup>55</sup> During the same period of time, the actual size of the National Consumers' League grew steadily as well, with membership increasing from 53 localized leagues in 18 states in the summer of 1903<sup>56</sup> to 61 leagues in 19 states by the beginning of spring in 1909.<sup>57</sup>

As evidenced by the granting of label usage to several dozen manufacturers in many states over the first decade of the twentieth century, as well as by the growth of the National Consumers' League itself during the same period, the label campaign – at least for a few years – was a successful and cohesive multistate consumer education tactic, compelling manufacturers to improve their treatment of workers in factories of the Atlantic Coast and Midwest as shoppers in these areas grew increasingly interested in the brands of undergarments that had the label of the National Consumers' League stitched on every pair. Simply stated, the label campaign was a clear success for the consumer education movement on the level of multiple states in much the same

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<sup>51</sup> Wolfe, "Women," 385.

<sup>52</sup> Ibid.

<sup>53</sup> Wiedenhoft, "Politics of Consumption," 287.

<sup>54</sup> Florence Kelley, "The Consumers' League," *The Independent* 55 (June 4, 1903): 1359.

<sup>55</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 21. These states included Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Wisconsin.

<sup>56</sup> Kelley, "Consumers' League," 1359.

<sup>57</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 20. The states were Connecticut, Delaware, Georgia, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, and Wisconsin.

way as the list campaign had been on the level of local communities: both tactics appealed directly to the consuming public as a means of pressuring employers – first in department stores and then in factories – to improve the quality of life for thousands of American workers.

While the list and label campaigns did much to increase the influence of the consumers' leagues on the local and state levels in a period roughly spanning 1890-1910, these triumphs certainly had their limits. As previously mentioned, the dozens of local leagues created in response to the success of the New York City Consumers' League never consolidated their list campaigns into a single national list compiled according to a uniform set of standards during the aforementioned two decades.<sup>58</sup> Furthermore, although the right to use the label of the National Consumers' League was granted to a steadily increasing number of manufacturers during the first ten years of the twentieth century, the manufacturers who gained this authorization were not spread evenly throughout the country at the time. Throughout these ten years, Massachusetts featured a far greater number of factories whose products were permitted to include the Consumers' Label than any other state, owing this preponderance to state laws protecting industrial laborers (and limiting factory work by women and minors) that were more stringent than elsewhere in the United States.<sup>59</sup> Manufacturers in Massachusetts were not allowed to demand exhausting overtime work from their industrial employees, and no woman employed by any manufacturer operating in the state could work in a factory past ten o'clock in the evening, a limit that was moved up to six o'clock for all women and minors employed in the textile industry.<sup>60</sup> Thus, undergarment manufacturers with factories located in Massachusetts were more likely to be authorized to use the Consumers' Label than manufacturers from other states, as the strict factory laws in Massachusetts were more consistent with the standards of the National Consumers' League than were the laws in other states.<sup>61</sup> The reach of the Consumers' Label was also limited by the fact that it was restricted to just one type of product (women's and children's white cotton muslin underwear) in just one industry (garment production) of an increasingly diverse manufacturing economy.<sup>62</sup> Furthermore, the regional breadth of the National Consumers' League was still rather limited at the time: most of the local and statewide consumers' leagues formed by 1909 were located in areas near the Atlantic Ocean or in the Midwest, while the deep

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<sup>58</sup> Wolfe, "Women," 384.

<sup>59</sup> Kelley, "Consumers' League," 1359.

<sup>60</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 21.

<sup>61</sup> Kelley, "Consumers' League," 1359.

<sup>62</sup> Wiedenhoft, "Politics of Consumption," 287.

southern and far western regions of the country, still largely agrarian, were left unrepresented during the formation and early activities of the national league.<sup>63</sup>

As it became apparent to the earliest officers of the National Consumers' League that the list and label campaigns (while steadily becoming more influential over several years' time) were ultimately limited in their ability to precipitate truly *nationwide* improvements in working conditions for retail and industrial employees, the organization's focus upon lobbying for and defending protective labor legislation (the third and final main tactic embraced by the leagues) increased dramatically,<sup>64</sup> thus revealing a shift in the nature of the League's activities from a rather singular focus on the *consumer* citizen to a greater utilization of political and judicial *activism*. By 1906, the National Consumers' League had worked with the General Federation of Women's Clubs to investigate industrial food preparation and lobby Congress to pass the Pure Food and Drug Act, now considered a hallmark of the Progressive Era.<sup>65</sup> However, the most important instance of the national league's desire to protect laborers from abuse came in the form of a 1908 Supreme Court case known as *Muller v. Oregon*.<sup>66</sup> This case originated when a laundry employer named Curt Muller challenged an Oregon statute limiting the working hours of adult women to no more than ten per day on the grounds that the law violated the 14<sup>th</sup> amendment of the U.S. Constitution. This amendment orders that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States,"<sup>67</sup> leading Muller's counsel to argue that the Oregon law challenged his right to purchase labor and the right of his female employees to sell their services to whatever extent they wished.<sup>68</sup> Supporters of Muller believed that his claim was strengthened by the existence of judicial precedent: in the 1905 case of *Lochner v. New York*, the Supreme Court had cited the 14<sup>th</sup> amendment to rule against male bakers who were attempting to establish a legally recognized eight-hour working day for the baking industry.<sup>69</sup> However, the Supreme Court included in its final decision on *Lochner* a clause declaring that all states retained the right to implement laws limiting working hours if doing so would benefit the "health, safety, morals, and ... general welfare"<sup>70</sup> of the

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<sup>63</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 20.

<sup>64</sup> Wiedenhoft, "Politics of Consumption," 288-289.

<sup>65</sup> *Ibid.*, 289.

<sup>66</sup> *Ibid.*, 296.

<sup>67</sup> U.S. Constitution, Fourteenth Amendment, Section 1.

<sup>68</sup> Wiedenhoft, "Politics of Consumption," 296.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.* The right of individual states to promote the health, safety, morals, and general welfare of their citizens is also referred to as the states' right of police power, provided by the Tenth Amendment of the U.S. Constitution (which declares that all powers not explicitly granted to the federal government in the Constitution shall be "reserved to the states respectively, or to the people").

demographic groups (often women and children) on which such legislation was focused.

Believing that this clause from the 1905 case could be used to persuade the court that female laborers needed limited workdays in ways that male bakers did not, the National Consumers' League offered its full support to Louis D. Brandeis, a future Supreme Court justice who was hired in 1908 by the state of Oregon to defend the law that Muller had challenged by arguing that such legislation was indeed valid as an exercise of the police powers left to the states by the U.S. Constitution.<sup>71</sup> Josephine Clara Goldmark, Secretary of the Committee on Legislation and Legal Defense of Labor Laws for the National Consumers' League,<sup>72</sup> worked assiduously in the interest of the league by helping Brandeis (her brother-in-law)<sup>73</sup> to compile an *amicus curiae* brief that provided the Supreme Court with an extensive array of sociological evidence and medical reports supporting the argument that the biological differences between males and females necessitated a legal limit on the amount of time that women could spend performing physical labor each day.<sup>74</sup> Consisting of 111 pages of empirical data and two pages of legal argument, this brief marked the first time that the Supreme Court had ever accepted sociological work as valid evidence.<sup>75</sup> The decisive victory of Brandeis (achieved in part through Goldmark's valuable research assistance) had consequences that reached far beyond the state of Oregon. Indeed, the decision made by the Supreme Court in the *Muller* case confirmed the legitimacy of similar laws already implemented in 19 other states.<sup>76</sup> By early 1911, three more states had passed their own laws prohibiting employers from allowing female laborers to work more than eight (in California)<sup>77</sup> or nine (in Missouri and Utah)<sup>78</sup> hours per day. In Oregon itself, the ruling of the Supreme Court soon resulted in the passage of laws limiting the daily hours of female employees in areas outside of industrial labor, including transportation and communications.<sup>79</sup> By 1917, 39 states had implemented women's working-hours

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<sup>71</sup> Meg Jacobs, *Pocketbook Politics: Economic Citizenship in Twentieth-Century America* (Princeton: Princeton University Press, 2005), 49.

<sup>72</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 2.

<sup>73</sup> Wiedenhoft, "Politics of Consumption," 296.

<sup>74</sup> *Ibid.*, 296-297.

<sup>75</sup> *Ibid.*, 297.

<sup>76</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 21. The states were Colorado, Connecticut, Louisiana, Massachusetts, Maryland, Maine, Michigan, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, and Wisconsin.

<sup>77</sup> Josephine Goldmark et al., "Work of National Consumers' League: Report for Year Ending February 7, 1911," *Annals of the American Academy of Political and Social Science* 38 (Supplement, September 1911): 26.

<sup>78</sup> *Ibid.*

<sup>79</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 22.

legislation.<sup>80</sup> For the first time in its short history, an endeavor undertaken by the National Consumers' League had produced an outcome that was genuinely nationwide in its implications. Moreover, a *female* leader – Josephine Goldmark – had played an invaluable role in one of the most significant engagements in League history to date, several years before American women were even allowed to exercise their right to vote (with the passage of the Nineteenth Amendment to the U.S. Constitution in August 1920).

Outside of Oregon, the ruling handed down in the *Muller* case perhaps had no greater significance than in the state of Illinois, where a decision made by the state supreme court in a May 1895 case known as *Ritchie v. People* had ruled the passage of any protective legislation for female laborers to be in violation of the state constitution.<sup>81</sup> This ruling increasingly became the subject of public scrutiny and criticism as the brief submitted by Brandeis (and prepared with Goldmark's help) for the *Muller* case was widely distributed throughout the country in response to demand from publicists, economists, lawyers, and even college professors.<sup>82</sup> The brief had even earned the attention of officials at the Russell Sage Foundation, a New York City research institution dedicated to the social sciences, which provided the National Consumers' League with a grant of \$2,500 in 1909 to conduct a comprehensive review of contemporary scholarly literature on the relationship between fatigue and excessive working hours amongst industrial employees.<sup>83</sup> By winter of that year, material from this review was used by Brandeis to prepare a 600-page court brief<sup>84</sup> (again with the collaboration of Josephine Goldmark) that helped him to make a successful argument supporting the reversal of the 1895 decision in a new Illinois state supreme court case called *Ritchie v. Wayman*, for which the final decision was handed down in April of 1910. Immediately following this decision, a law was passed in Illinois that established a ten-hour working day for women employed in factories, marking another success for the National Consumers' League stemming from the judicial work of Brandeis (bolstered by Goldmark's research).<sup>85</sup> Occurring at the same time as the Illinois case were similar deliberations in the courts of Virginia, Missouri, Michigan, and Louisiana, all of which were concerned directly with the constitutionality of maximum-hour laws for female laborers.<sup>86</sup> In all of these

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<sup>80</sup> Daniel T. Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge: Belknap Press, 1998), 238.

<sup>81</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 21.

<sup>82</sup> Vose, "Brandeis Brief," 287.

<sup>83</sup> *Ibid.*, 278.

<sup>84</sup> Josephine Goldmark et al., "The Work of the National Consumers' League During the Year Ending March 1, 1910," *Annals of the American Academy of Political and Social Science* 36 (Supplement, September 1910): 30.

<sup>85</sup> Vose, "Brandeis Brief," 278.

<sup>86</sup> Josephine Goldmark et al., "Year Ending March 1, 1910," 31.

cases, copies of the Illinois brief were supplied to litigants supporting the limited workday laws, which were soon sustained as constitutional and legitimate in all four previously mentioned states.<sup>87</sup>

The victories in Illinois and elsewhere for Brandeis (and thus his allies in the National Consumers' League) further increased public demand for the dissemination of the kinds of sociological data that had been compiled by Goldmark and Brandeis and effectively used by the latter in court. Therefore, the Russell Sage Foundation again provided Brandeis and Goldmark with a grant that they used to produce a book entitled *Fatigue and Efficiency*, published in 1912.<sup>88</sup> The first 302 pages of this work sought to establish a relationship between fatigue and excessive hours in a labor-intensive workplace for women, and also discussed the ways in which protective legislation could effectively end the problem.<sup>89</sup> The next 289 pages of the book constituted a section called "The World's Experience upon which Legislation Limiting the Hours of Labor for Women is Based,"<sup>90</sup> and included excerpts from the thick briefs submitted to courts by Brandeis after being prepared by him and Goldmark. This book assisted other lawyers attempting to defend protective legislation for female industrial employees in even more states, demonstrating the fact that the work of Brandeis and Goldmark enabled the National Consumers' League to emerge on a veritably nationwide stage as the second decade of the twentieth century began.<sup>91</sup>

While Brandeis was defending the interests of the National Consumers' League in courts across the United States with assistance from Goldmark in the preparation of briefs, other league members were heavily involved in lobbying state legislatures for the passage of laws reducing child labor. This is a clear indication that the recognition of citizens as political (and, as seen through the work of Goldmark, judicial) *activists* had indeed provided the National Consumers' League with additional ways to realize its goals outside of consumer education tactics (such as the lists and labels). By March of 1909, the National Consumers' League had successfully lobbied for the implementation of state laws limiting children under the age of sixteen in all areas of employment from working more than eight hours a day in eight states and the District of Columbia.<sup>92</sup> In Ohio, the same law was put into effect for girls under 18 and boys under 16 years of age.<sup>93</sup> Arizona was added to this list in early 1911,<sup>94</sup> the same

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<sup>87</sup> Ibid.

<sup>88</sup> Vose, "Brandeis Brief," 279.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

<sup>92</sup> Sanville et al., "Report for Two Years Ending March 2, 1909," 21. The states were Colorado, Illinois, Kansas, Nebraska, North Dakota, Oklahoma, New York, and Wisconsin.

<sup>93</sup> Ibid., 24.

<sup>94</sup> Goldmark et al., "Report for Year Ending February 7, 1911," 26.

year in which boys under 16 years old were restricted from working at night in the glass works of New Jersey and Indiana.<sup>95</sup>

Still other members of the National Consumers' League drafted legislation and lobbied state legislatures in support of laws establishing minimum wages for all females in the workforce. These efforts were first incorporated into the program of the National Consumers' League following an international meeting convened by the Consumers' League of France in Geneva, Switzerland in September of 1908, during which the topics of sweatshops and minimum wage legislation were addressed.<sup>96</sup> By 1910, the National Consumers' League had written a model minimum wage bill based on the British Trade Board Act of 1909.<sup>97</sup> This model bill authorized the creation of special boards to investigate wages, labor, and profits in any industry where employers were suspected of paying their workers a wage below the amount needed for the maintenance of physical health. If these boards found that such suspicions were true, they could establish a legal minimum wage in that industry.<sup>98</sup> With the help of the arguments presented in this model bill, the League successfully lobbied in 1911 for the creation of a state commission in Massachusetts to examine the insufficient payment of female wage workers in textile mills, candy factories, steam laundries, and department stores.<sup>99</sup> The findings of this commission confirmed the concerns of the National Consumers' League, and as a result a minimum wage law was established for Massachusetts women in 1913, based on the model bill drafted by the League three years earlier.<sup>100</sup> In fact, a total of nine states adopted variations of the League's model bill in 1912 and 1913.<sup>101</sup> A very similar series of minimum wage laws for women followed in twelve other states and the District of Columbia, a process in which both the national and state leagues were very heavily involved.<sup>102</sup> The widespread impact of the activities undertaken by the National Consumers' League in terms of writing, supporting, and defending various pieces of legislation in governmental institutions ranging from the U.S. Supreme Court to dozens of state legislatures clearly shows that this third and final main tactic embraced by the national league and its local affiliates – the use of direct political and judicial activism – enabled these organizations to cause significant political and social change in the United States during the Progressive Era.

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<sup>95</sup> Ibid., 18.

<sup>96</sup> Wolfe, "Women," 386.

<sup>97</sup> Ibid.

<sup>98</sup> Rodgers, *Atlantic Crossings*, 238.

<sup>99</sup> Wolfe, "Women," 386.

<sup>100</sup> Ibid.

<sup>101</sup> Rodgers, *Atlantic Crossings*, 239.

<sup>102</sup> Wolfe, "Women," 386-387.



The social and political impact of the three main tactics utilized by the National Consumers' League (and the smaller leagues over which it presided) were made even more significant by the individuals who participated in developing and actualizing these forms of influencing the business and politics of the United States. Throughout this period and beyond, the membership of the National Consumers' League was overwhelmingly female,<sup>103</sup> demonstrating that the organization provided women with a real opportunity to have their voices heard for the cause of social justice in the workplace before they were even granted the right to vote. This phenomenon extended into the leadership of the National Consumers' League, which by the end of the twentieth century's first decade featured twelve top officers, ten of whom were women.<sup>104</sup> Furthermore, the abundance of female participants in the National Consumers' League likely helped to develop the talents of at least a few strong female political leaders who became more influential later in the twentieth century; both Eleanor Roosevelt and Frances Perkins (Secretary of Labor under President Franklin Delano Roosevelt and the first female Cabinet member in U.S. history) were active members of the National Consumers' League during its earliest years.<sup>105</sup>

While it may be true that the process of industrialization which occurred for the United States mainly during the late nineteenth century undermined women's traditional role as that of the homemaker by increasingly removing individuals from the domestic scene to work in new stores and factories,<sup>106</sup> women in fairly comfortable economic situations drew power from the shopping that they did for their children, their husbands, and themselves, a function which during the Progressive Era was largely considered to be a woman's responsibility.<sup>107</sup> Considering that the list and label campaigns of the leagues prove that the concept of citizenship and the act of consumption were increasingly associated with one another as progressivism rose to prominence in American political life,<sup>108</sup> it becomes clear that women of the middle and upper classes were indeed empowered by their involvement in an organization that sought to organize their purchasing power into a significant political force, pressuring manufacturers, retailers, and officeholders alike to view labor reform as a just and worthwhile cause to embrace.<sup>109</sup>

Moreover, as previously discussed, many women took on new leadership roles in organizations such as the National Consumers' League, through which

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<sup>103</sup> Sklar, *Florence Kelley*, 308-309

<sup>104</sup> Josephine Goldmark et al., "Year Ending March 1, 1910," 1.

<sup>105</sup> Vose, "Brandeis Brief," 268.

<sup>106</sup> Wolfe, "Women," 391.

<sup>107</sup> Glickman, *Buying Power*, 180.

<sup>108</sup> Weyl, *The New Democracy*, 250.

<sup>109</sup> Jacobs, *Pocketbook Politics*, 47.

they actively lobbied legislatures and prepared court materials to advance their political goals well before they were even allowed to vote in most states. Simply stated, political progressivism greatly expanded the role of women in American politics through a conceptualization of the *citizen*, the *consumer*, and the *activist* as all being one and same. Thus, the supposedly feminine activity of shopping began to appear “key to the exercise of modern citizenship,”<sup>110</sup> and women became more directly involved than ever before in the actual production and legal defense of legislation. Through the political and social power that existed in their newfound roles as “industrial society’s chief consumer[s]”<sup>111</sup> and newest group of potential political leaders, women of both the middle and upper classes found their work with the National Consumers’ League to be very important, as it provided them with a new way to steer the fate of American society toward outcomes that they deemed favorable.<sup>112</sup>

Florence Kelley, herself a privileged child of Pennsylvania Congressman William Darrah Kelley<sup>113</sup> and one of the first women to graduate from Cornell University,<sup>114</sup> articulated one form of empowerment to be had for women through involvement in the National Consumers’ League quite well when she said that “Since the exodus of manufacture from the home, the one great industrial function of women has been that of the purchaser ... It is, therefore, very natural that the first effort to educate the great body of miscellaneous purchasers concerning the power of the purchaser should have been undertaken by women, among women, on behalf of women and children.”<sup>115</sup> Indeed, Kelley’s words were reflected very clearly in the earliest practices of the local consumers’ leagues, whose list campaigns sought primarily to help female sales clerks at prominent department

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<sup>110</sup> Glickman, *Buying Power*, 180.

<sup>111</sup> Wolfe, “Women,” 379.

<sup>112</sup> From a different perspective that also had a significant following in the Progressive Era, female support of protective legislation for employed women might actually have been counterproductive in the struggle for women’s rights, through its implied acknowledgment of the incorrect and antiquated notion that females cannot work as hard as males. However, in order to truly comprehend the political importance of the National Consumers’ League, it is crucial to understand that the organization’s mostly female membership considered the work of the League to be undertaken largely *by women for women*, even if its goals were occasionally criticized.

<sup>113</sup> Sklar, *Florence Kelley*, 3.

<sup>114</sup> Vose, “Brandeis Brief,” 268.

<sup>115</sup> Wolfe, “Women,” 379. Although Kelley deliberately attempted to distance herself from her elite background by embracing the principles of socialism and translating *The Condition of the Working Class in England* by Friedrich Engels (with whom she corresponded during her time in Europe in the 1880s), it is clear that her upbringing continued to influence her economic views. The impact of Kelley’s affluent origins is illustrated quite well through her claim that the primary function of women in an industrial economy was solely to purchase goods rather than become involved in the process of their production and sale, as many veritable working-class women were indeed doing at the time.

stores most frequently visited by women of a higher socioeconomic standing.<sup>116</sup> Kelley's claim was also echoed by the national league's label campaign, which specifically targeted women's and children's underwear in part because the purchasers of these products were mostly female,<sup>117</sup> and were thus more likely than men to support the label campaign because it presented them with a rare opportunity to shape public policy by shopping for social justice.<sup>118</sup> Men, on the other hand, could influence policy decisions simply through the act of voting, a right which was not yet granted to American women on a national scale. Additionally, Josephine Goldmark's provision of research and writing assistance for Louis Brandeis indicated that the consumers' leagues provided women with a very close view from which to learn about (and participate in) the affairs of government. Simply stated, the National Consumers' League gave women from affluent families (more frequently and vehemently urged to stay in the home than their working-class counterparts)<sup>119</sup> a coveted opportunity to vote "with their purses"<sup>120</sup> (and with their voices and writings) long before they were granted the right to vote at the ballot box. The National Consumers' League even enabled them to develop their political and legal leadership skills in new ways, with first-hand experiences such as preparing court briefs and lobbying legislators.

The National Consumers' League and the localized organizations which preceded and formed it brought political and social change to the United States significant enough to warrant examination in present times. These changes began during the early Progressive Era with the successes of the New York City Consumers' League, whose list campaigns compelled local retailers seeking a free and positive form of advertisement to make store policies consistent with the labor standards developed by the league (at least until the movement began to fade as the second decade of the twentieth century progressed). When the New York City League inspired the creation of similar organizations in communities throughout the Atlantic Coast and Midwest, an opportunity for interstate collaboration emerged in the form of the Consumers' Label campaign, which necessitated the formation of the National Consumers' League in May of 1898. However, the tactic which enabled the National Consumers' League to emerge on a truly nationwide stage was the legislative work performed by its members, which included writing new laws, lobbying legislators at local, state, and national levels, and defending protective labor legislation for women and children in courts across the country. Although the National Consumers' League supported the legal limitation of working hours for female industrial employees – a

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<sup>116</sup> Wiedenhof, "Politics of Consumption," 293.

<sup>117</sup> *Ibid.*, 293-294.

<sup>118</sup> *Ibid.*

<sup>119</sup> Wolfe, "Women," 379.

<sup>120</sup> Wiedenhof, "Politics of Consumption," 294.

constraint which was justified through the now outmoded idea that women needed more protection from employers than men because of their biological differences – this organization actually empowered American women of both the middle and upper classes by enabling its mostly female membership to effectively politicize their consumption habits and leadership abilities to push for legislation that they perceived as beneficial to the common good. As an autonomous political organization consisting mostly of women from affluent socioeconomic backgrounds who sought to protect their working female counterparts as well as laboring minors from abuse at the hands of employers, the National Consumers' League provided meaningful opportunities for extensive political engagement to women who were otherwise largely removed from the political life of the United States during the Progressive Era.

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