

“Age Ought to Be a Fact”: The Campaign against Child Labor and the Rise of the Birth Certificate

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In 1898, two decades after it had passed its first law restricting the employment of children, the state of Wisconsin still found it difficult to enforce its child labor laws. Although these laws used age as the basis of legal employment, children's ages were nearly impossible for officials to determine. The problem, the state's commissioner of labor explained, was twofold. First, he alleged, parents lied about children's ages. Second, this deception was made possible by Wisconsin's "notable lack of reliable or complete birth records." Unable to rely on any official documentation of children's ages, state factory inspectors were forced to accept parental affidavits of age. And this testimony-based system gave rise to widespread duplicity. "Cases have even been met with," the commissioner complained, "where parents . . . have changed the records of their [children's] ages in the family Bible and other places." His complaints were typical: wherever states relied on parental affidavits of age, child labor reformers and state factory inspectors complained that children's ages were misrepresented, even when affidavits were notarized.¹

Child labor reformers were not alone in worrying about how to determine children's ages. A host of Progressive Era reforms restricted access to rights and protections by chronological age: reforms ranging from compulsory schooling and the juvenile court to age of consent and eligibility for benefits under workmen's compensation and mother's pension programs. Yet age has factored little in scholarly discussion of citizenship. Historians have ably demonstrated how categories such as race, gender, class, and sexuality have tempered and limited the benefits of U.S. citizenship. But age, as much as any other category, defines the boundaries of inclusion in the nation by limiting a person's ability to vote, hold public office, marry, drive, hold a job, serve in the military, and receive social insurance and welfare benefits, as well as by determining who legally must go to school. Today, a person's age is regarded as an objective fact easily verified by a birth certificate.

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¹ Halford Erickson, "Child Labor Legislation and Methods of Enforcement in Northern Central States," *Annals of the American Academy of Political and Social Science*, 25 (May 1905), esp. 56–57.

But the Wisconsin commissioner's complaints indicate that this is a surprisingly recent state of affairs.²

In the late nineteenth and early twentieth centuries, not everyone had a birth certificate: between one-half and three-quarters of births in the United States went unregistered. The United States institutionalized the world's first regular population count, in the form of the decennial census, but on the eve of the twentieth century the nation lagged far behind most European nations in adequately recording "vital events" such as birth, death, and marriage. Recording of vital statistics was not a federal matter and, left to localities and states, births in particular escaped routine recording. The interest of child labor reformers in using age to regulate employment—and their campaign to end the use of parental affidavits of age—played an important role in spreading the practice of birth registration and in transforming the birth certificate into the epistemological foundation of individual identity.³

Between 1900 and 1940, reformers successfully lobbied state legislatures and the federal government to eliminate affidavits and to rely instead on paper records and government-issued documents, ranked in order of reliability. At the top of the list was the birth certificate. As a New York State agent of the National Child Labor Committee explained, the birth certificate was "the most satisfactory proof of age to be obtained." The solution to the problem of enforcing child labor laws was, ironically, to shift the authority to authenticate a child's birth away from the people who had actually witnessed it—the parents. Professionally produced, birth certificates objectified a child's age and identity, making a truth that existed apart from the personal relations that created the child. The replacement of affidavits with government documents represented a shift in epistemological authority, one that made age an objective fact and gave state-produced documents the status of truth.⁴

Reliance on birth certificates and other "documentary evidence" to establish numerical age was part of a much larger shift in authority from families to the state and from personal, testamentary knowledge to written documents. This transition was, in other words, part of the bureaucratization, standardization, and quantification of information that accompanied modernization in the United States. Modern management techniques privileged writing and documentation over the oral and the transient. Like the new middle managers in corporations, reformers rationalized forms of identification to manage an increasingly complex and polyglot population. While age certification under child labor laws began as a local process dependent upon personal relations, it ended as an impersonal, formal, and institutionalized procedure. The experience of child labor reform shows that in the United States these transitions were not inevitable, but rather were the work of a coalition of reformers invested in changing the meaning of chronological age and the social power of documents.⁵

² For important examples of the voluminous literature on citizenship and its limitations, see Corinne T. Field, *The Struggle for Equal Adulthood: Gender, Race, and the Fight for Citizenship in Antebellum America* (Chapel Hill, 2014); Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, 2009); Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill, 1998); Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York, 1998); Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, 2004); and Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven, 1997).

³ Cressy L. Wilbur, *The Federal Registration Service of the United States: Its Development, Problems, and Defects* (Washington, 1916), 18, 39.

⁴ Jeanie V. Minor, "Proof-of-Age Records," *Annals of the American Academy of Political and Social Science*, 35 (March 1910), esp. 127.

⁵ On modernization and rationalization, see Robert H. Wiebe, *The Search for Order, 1877–1920* (New York, 1967); Alfred D. Chandler Jr., *The Visible Hand: The Managerial Revolution in American Business* (Cambridge,

Historians of the United States have traced both the campaign to end child labor and the increasing importance of age as a social category, but we know almost nothing about how the birth certificate became the foundational form of identification—the proof not only for age but also for name, family relations, and citizenship. Historians in fields outside the United States have, however, begun to scrutinize the production of state and ecclesiastical documents (such as birth, death, and marriage certificates, censuses, and passports) to recover the logics and practices behind their creation, and to consider the critical role that information gathering played in statecraft. Collecting facts about population, territory, and trade, argues the scholar Bernard Cohn, “lay at the foundation of the modern nation state” in both its metropolitan and colonial incarnations. Recent scholarship on race and immigration in the United States shows that documentation practices are critical to the construction of basic categories of identity, but accounts of the rise of a documentary regime in the United States are surprisingly thin, with only the federal census receiving much attention.⁶

By showing how government-produced birth certificates rose to prominence as a form of identification, child labor law enforcement provides a window onto the formation of

Mass., 1977); and James C. Scott, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, 1998). On modernization and control of information more specifically, see JoAnne Yates, *Control through Communication: The Rise of System in American Management* (Baltimore, 1989); JoAnne Yates, “Business Use of Information and Technology during the Industrial Age,” in *A Nation Transformed by Information: How Information Has Shaped the United States from Colonial Times to the Present*, ed. Alfred D. Chandler Jr. and James W. Cortada (New York, 2000), 107–36; and Josh Lauer, “From Rumor to Written Record: Credit Reporting and the Invention of Financial Identity in Nineteenth-Century America,” *Technology and Culture*, 49 (April 2008), 301–24. For a work that points out that age consciousness grew from modernization but that neglects the development of birth records, see Howard P. Chudacoff, *How Old Are You? Age Consciousness in American Culture* (Princeton, 1989).

⁶ Walter I. Trattner, *Crusade for the Children: A History of the National Child Labor Committee and Child Labor Reform in America* (Chicago, 1970); Hugh D. Hindman, *Child Labor: An American History* (Armonk, 2002); Shelley Sallee, *The Whiteness of Child Labor Reform in the New South* (Athens, Ga., 2004). For an exception, see the discussion of employment certificates in New York State in Jeremy P. Felt, *Hostages of Fortune: Child Labor Reform in New York State* (Syracuse, 1965). Holly Brewer, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* (Chapel Hill, 2005); Chudacoff, *How Old Are You?*; Stephen Robertson, *Crimes against Children: Sexual Violence and Legal Culture in New York City, 1880–1960* (Chapel Hill, 2005); Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton, 1996), esp. 4. On the history of information gathering, including both population counting and identity documentation, see Michel Foucault, *The History of Sexuality*, Vol. I: *An Introduction*, trans. Robert Hurley (London, 1979); Valentin Groebner, *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe*, trans. Mark Kyburz and John Peck (Brooklyn, 2007); Libby Schweber, *Disciplining Statistics: Demography and Vital Statistics in France and England, 1830–1885* (Durham, N.C., 2006); Edward Higgs, *The Information State in England: The Central Collection of Information on Citizens since 1500* (New York, 2004); Jane Caplan and John Torpey, eds., *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton, 2001); Bruce Curtis, *The Politics of Population: State Formation, Statistics, and the Census of Canada, 1840–1875* (Toronto, 2001); Silvana Patriarca, *Numbers and Nationhood: Writing Statistics in Nineteenth-Century Italy* (Cambridge, Eng., 1996); and Christopher Dandeker, *Surveillance, Power, and Modernity: Bureaucracy and Discipline from 1700 to the Present Day* (New York, 1990). On birth registration specifically, see Dominique Marshall, “Birth Registration and the Promotion of Children’s Rights in the Interwar Years: The Save the Children International Union’s Conference on the African Child, and Herbert Hoover’s American Child Health Association,” in *Registration and Recognition: Documenting the Person in World History*, ed. Keith Breckenridge and Simon Szreter (Oxford, 2012), 449–73; and Simon Szreter, “The Right of Registration: Development, Identity Registration, and Social Security—A Historical Perspective,” *World Development*, 35 (no. 1, 2007), 67–86. On the link between knowledge production and colonial governance, see Kathryn Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham, N.C., 2010). On population counting and documentation in the United States, see Robert Gutman, *Birth and Death Registration in Massachusetts, 1639–1900* (New York, 1959); James H. Cassedy, *Demography in Early America: Beginnings of the Statistical Mind, 1600–1800* (Cambridge, Mass., 1969); Margo J. Anderson, *The American Census: A Social History* (New Haven, 1988); and Craig Robertson, *The Passport in America: The History of a Document* (New York, 2010). On the importance of documentation in histories of race and immigration, see Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York, 2009); Ngai, *Impossible Subjects*; and Erika Lee, *At America’s Gates: Chinese Immigration during the Exclusion Era, 1882–1943* (Chapel Hill, 2003).

an American “information state” and also shows that, like other forms of documentation, birth certificates have productive power. A birth certificate is not a simple reflection of a “real” event (a birth) or of a fact (a child’s age). Rather, the document makes precise chronological age into a meaningful social fact. In so doing, birth certificates have changed the epistemological foundation of both individual identity and American citizenship.⁷

“Merely a Matter of Speculation”: Age and Labor under the Affidavit System

Though historians disagree about when childhood became a distinct category and when chronological age first became important, there is a widespread consensus that modern, sentimentalized childhood is largely a product of the nineteenth century. While colonial-era children spent their days working, worshipping, and living alongside their parents, masters, and guardians, over the course of the nineteenth century a host of institutions and regulations combined to construct childhood as a stage of life, to define it in opposition to adulthood, and to mark its boundaries by chronological age. Part of this transformation was political. The same contractual and consent-based ideology that underlay the American Revolution also helped make the distinction between children and adults more important legally and politically. As the historian Holly Brewer has demonstrated, monarchical regimes relied on status to delimit individual rights, privileges, and disabilities. Republics, by contrast, idealized consent and used age as a proxy for the individual rationality that made agreements (legal, economic, or political) valid. From jury and military service to the right to make contracts for labor or marriage, “age . . . began to assume a central role in determining the exercise of public obligations and rights, replacing, as it did so, ideas both of perpetual obligation by birth and of rights associated with property ownership.”⁸

No longer able to serve on juries, act as competent witnesses, or make contracts, children also began to be cordoned off in age-stratified institutions. During the nineteenth century, destitute children were taken from poorhouses, where they had lived alongside their parents, and shepherded into orphan asylums, state schools for dependent children, and religiously based foundling homes. Children were likewise removed from the institutions of the criminal justice system and, eventually, with the formation of juvenile courts, even from its procedures. The movement for common schools, begun in antebellum Massachusetts, created a separate environment for children to master basic literacy skills, a task once understood to be the province of families. Having segregated children from adults in matters of social welfare, education, and criminal justice, child welfare advocates extended the line between the two through campaigns to raise the age of consent for marriage and sexual intercourse.⁹

Although these legal and institutional changes helped segregate childhood from adulthood, the changing relationship of children to labor was one of the most important

⁷ I borrow the term *information state* from Higgs, *Information State in England*.

⁸ James D. Schmidt, “Restless Movements Characteristic of Childhood’: The Legal Construction of Child Labor in Nineteenth-Century Massachusetts,” *Law and History Review*, 23 (Summer 2005), 315–50; James D. Schmidt, *Industrial Violence and the Legal Origins of Child Labor* (New York, 2010), 118–63. Brewer, *By Birth or Consent*, 149.

⁹ Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (New York, 1996), 107–13; Walter I. Trattner, *From Poor Law to Welfare State: A History of Social Welfare in America* (Boston, 1999), 108–26; Stephen Mintz, *Huck’s Raft: A History of American Childhood* (Cambridge, Mass., 2004), 90–92, 156–61; Chudacoff, *How Old Are You?*, 29–48; Robertson, *Crimes against Children*.

features of modern childhood. As the advent of market economies ostensibly segregated home from work, and as middle-class parents began having fewer children, they came to regard the purpose of childhood as preparation for adulthood through education, rather than through household labor or formal apprenticeship. A developmental view of childhood, combined with a romantic notion of children as essentially innocent unless tainted by precocious contact with the world, also encouraged middle-class parents to worry that being put to work prematurely would fetter, stunt, or debilitate their children. By the dawn of the Civil War, an infancy full of play followed by a childhood spent in school was the middle-class ideal.¹⁰

When such ideals confronted the industrialization of children's work in the years following the Civil War, "child labor" emerged as a moral problem and an object of reform. In 1870, the first year that the U.S. Census Bureau collected information about children's paid employment, some 765,000 children between the ages of ten and fourteen were working for wages. As industrialization intensified, this number peaked at 1.75 million in 1900. Reformers responded by creating national organizations—the National Child Labor Committee (NCLC) and the National Consumers' League—to combat child labor. And, as industrialization increasingly undermined the skilled trades, labor unions too came to view cheap child labor as a scourge to be eliminated.¹¹

The earliest efforts to regulate labor by age were undertaken in New England before the Civil War, with more widespread efforts beginning in the postbellum period. From the 1870s through the late 1930s, states passed a flurry of restrictive child labor laws. Over time, laws expanded in a piecemeal fashion to cover more types of employment, to raise the minimum age for employment, to regulate the hours and conditions of labor, to increase the standards for proof of age, and to require children to meet certain educational or literacy requirements. The first child labor laws targeted employment in manufacturing. Between 1879 and 1909, for example, the number of states restricting factory work by age increased from fourteen to forty. Throughout the 1910s and 1920s, many states expanded labor laws to restrict child employment in mercantile establishments and in street trades. Minimum age limits also increased over time. In 1879 the typical age limit was ten, but in the 1890s it had increased to twelve and after 1900 most new and revised laws put the limit at fourteen. Before the 1890s, many state rules limited children to no more than ten hours of work per day and no more than sixty hours per week, but by the 1920s, many states had further lowered the limit to eight hours per day and no more than forty-eight hours per week. While most states established increasingly restrictive child labor laws, in sectors that were least public and industrial in their appearance—agriculture, sweatshops, and homework—labor laws were largely ineffective in regulating children's employment.¹²

From their inception, child labor laws were resisted, or simply ignored, by many employers and working-class families. For both immigrant and native-born working-class

¹⁰ Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790–1865* (New York, 1981); Viviana A. Zelizer, *Pricing the Priceless Child: The Changing Social Value of Children* (1985; Princeton, 1994); Schmidt, *Industrial Violence and the Legal Origins of Child Labor*, 43–47; Peter N. Stearns, *Childhood in World History* (New York, 2006), 54–63.

¹¹ Hindman, *Child Labor*, 31–36, 45–48; Schmidt, *Industrial Violence and the Legal Origins of Child Labor*, 3–31; Trattner, *Crusade for the Children*, 32–33.

¹² Miriam E. Loughran, "The Historical Development of Child-Labor Legislation in the United States" (Ph.D. diss., Catholic University of America, 1921), 6–8; Trattner, *Crusade for the Children*, 145–60; Hindman, *Child Labor*, 187–212, 248–90.

children and their parents, age-restrictive laws contravened a household economy in which all able family members contributed materially to the family's well-being. Whether this domestic practice was dictated by poverty or by a producerist world-view, parents and children alike assumed that work, waged or otherwise, was something that children could and should do. As the historian James Schmidt has shown, working-class understandings about a child's readiness for labor typically measured a boy or girl's perceived size and capacity as it intersected with a family's needs. That children reared in such families expected, and wanted, to work was something that even child labor reformers could sometimes admit. Owen Lovejoy, an NCLC agent investigating child labor in Pennsylvania coalfields, reported that the youngest boys, employed to separate coal from rock, enjoyed working. "The typical breaker-boy," Lovejoy wrote, "is proud of his breaker and boasts of its daily output." Boys not only bragged about their speed and acumen, but each was also "proud of the independence which personal economic value gives him in the home."¹³

Child labor laws not only violated working-class household economy but they also imposed an arbitrary boundary around work by substituting contextual calculations about necessity and maturity with precise chronological age. While opponents of child labor often accused working-class parents of lying about their children's ages to circumvent labor law, their complaints reveal that reformers and working-class families understood age differently. For many working-class parents, their children's ages were not a calendrical fact. In the 1887 report of New York State's very first team of factory inspectors, the authors recorded their shock at finding out that in the manufactories they visited, "very few American-born children could tell the year of their birth." Connecticut school board officials, who issued the state's employment certificates, expressed similar outrage in 1888. "It is almost impossible to secure definite information as to the ages of many of the children," complained board agent John Jennings. The problem, Jennings explained, was that "in too many instances the age of the children is merely a matter of speculation with the parents; they preserve no record, and their memory on the subject is worthless." The need for enforcement officials to adjudicate conflicting age claims between mothers and fathers and parents and children was not uncommon. Illinois's factory inspector Florence Kelley made similar observations as her fellows in Connecticut and New York. "Large numbers of foreign parents," she wrote, "keep no record of births and deaths, and literally do not know what to swear to in making affidavit to their children's ages."¹⁴

¹³ Schmidt, *Industrial Violence and the Legal Origins of Child Labor*, 165–74. On working-class parents' and children's ideas about children's economic contributions, see Stephen Lassonde, *Learning to Forget: Schooling and Family Life in New Haven's Working Class, 1870–1940* (New Haven, 2005); Jacquelyn Dowd Hall et al., *Like a Family: The Making of a Southern Cotton Mill World* (Chapel Hill, 1987), 60–65; David Nasaw, *Children of the City: At Work and at Play* (New York, 1986); Sallee, *Whiteness of Child Labor Reform in the New South*, 38–41; and Christine Stansell, *City of Women: Sex and Class in New York, 1789–1860* (Urbana, 1987), 52–54. Owen R. Lovejoy, *In the Shadow of the Coal Breaker* (New York, 1907), esp. 6.

¹⁴ New York State Department of Labor, *First Annual Report of the Commissioner of Labor and the Sixteenth Annual Report on Factory Inspection* (Albany, 1902), 136; New York State Factory Inspectors, *First Annual Report of the Factory Inspectors of the State of New York, for the year ending December 1, 1886* (Albany, 1887), 15; Connecticut State Board of Education, *Annual Report of the Board of Education of the State of Connecticut, Submitted to the Governor, January 9, 1888* (New Haven, 1888), 42; *Second Annual Report of the Factory Inspectors of Illinois, for the Year Ending December 15, 1894* (Springfield, 1895), 16. See also "Child Labor Reports, 1887–1888," Records of the Education Department, RG 010 (Connecticut State Archives, Hartford); "Child Labor Reports, Windham County, 1886–1887," *ibid.*; "Child Labor Reports, Sept. 1894–1895," *ibid.*; Sarah McGarvey to Mary Bickford, Feb. 19, 1918, folder 25-4-1, box 114, U.S. Children's Bureau Papers, RG 102 (National Archives, College Park, Md.); Florence Clark to Grace Abbott, Jan. 19, 1918, folder 25-6-3, box 125, *ibid.*; Lydia Beasley to Miss Moore, July 1, 1918, folder 25-3-1-1-3, box 105, *ibid.*

These findings were not peculiar to child labor law enforcers. For many Americans and immigrants on the margins of literacy, imprecise knowledge of age—their own and their children’s—was commonplace. When asked to verify their own ages at the polling place, few nineteenth-century Americans could do so with any precision. Likewise, when, in 1900, the Census Bureau’s decennial enumeration sought to record both the age and date of birth of individuals, bureau demographers found not only significant discrepancies between the two but also many individuals unable to supply such information. Discrepancies and missing information increased in likelihood among foreign-born, nonwhite, and illiterate men and women. While many such respondents could not give their date of birth, they offered their age in what bureau analysts called “round numbers,” proof that they understood their age in approximate terms. In the absence of records, or of a need to recall precise birth dates, ordinary Americans often reckoned their own or another person’s age by “collective memory,” keying it to important community events, or determining it by physical signs. One South Carolina father, for example, who wished to get his daughter a job in a textile mill, was unable to say the month or year of his daughter’s birth. But to prove her of age to work, he summoned neighbors. One of them recalled that the girl had been born when “they were all working together on a railroad which was being built thru their town the summer after President McKinley was killed.” Like time-consciousness, age- and calendrical-consciousness spread unevenly and gradually across the United States.¹⁵

Although child labor laws regulated employment by precise chronological age, early efforts at enforcement did not necessarily disturb such casual understandings of age. Under the child labor laws of the 1880s and 1890s, a child’s age was verified through direct parental testimony, if at all. In most states, with the exception of some in the South, child labor laws required parents to swear a child’s age before “a person authorized to administer oaths.” This person was most commonly a notary public. Notarized statements of age were to be presented to employers before a young person could legally be hired. Child labor reformers dubbed this the affidavit system. Relying on sworn parental testimony of age conformed to long-standing legal norms for proof of age. In legal cases where the age of a party was a material issue—such as those involving inheritance, statutory rape, sale of intoxicants, or the validity of contracts—legal manuals and court decisions held that personal testimony under oath was the best proof of age. In the authoritative *A Treatise on the Law of Evidence*, for example, the Harvard University professor Simon Greenleaf outlined rules of evidence that gave clear precedence to direct, familial testimony. In a case where a defense of infancy was involved (such as when a minor entered into a contract and then tried to use his or her age to breach it), the underage person could prove his or her age “by the testimony of person acquainted with him from his birth; or, by proof of his own admissions.” Citing Greenleaf, nineteenth-century courts consistently favored oral over written evidence of age. Courts explained that children’s and parents’ testimony as to age was preferable because, unlike a written document produced at another time and place, it

¹⁵ Richard Benschel, “The American Ballot Box: Law, Identity, and the Polling Place in the Mid-nineteenth Century,” *Studies in American Political Development*, 17 (April 2003), 1–27; Bureau of the Census, *A Discussion of Age Statistics* (Washington, 1904), 7–15, esp. 14; Karen Oppenheim Mason and Lisa G. Cope, “Sources of Age and Date-of-Birth Misreporting in the 1900 U.S. Census,” *Demography*, 24 (Nov. 1987), 563–73; Robertson, *Passport in America*, 96; Mollie Ray Carroll to Abbott, Feb. 11, 1918, folder 25-4-1, box 110, Children’s Bureau Papers; Mark M. Smith, *Mastered by the Clock: Time, Slavery, and Freedom in the American South* (Chapel Hill, 1997); Michael O’Malley, *Keeping Watch: A History of American Time* (New York, 1990).

was made under oath. A written document establishing age was to be admitted only when a child's parent was unable to attend court to offer a sworn statement.¹⁶

Because notarized affidavits were the product of parental testimony, they left the power to determine readiness to work—translated into the idiom of age—in the hands of parents. Investigations into child labor undertaken in 1895 by the New York state legislature—dubbed the Reinhard Committee—revealed that notarized affidavits of age bore little relationship to when a child was born. In an attempt to expose the ineffectiveness of the affidavit system, the committee called notaries to testify and probed other witnesses about their experiences obtaining employment papers through notaries. In one case, a newspaper reporter named John McLean had approached several notaries on the Lower East Side of Manhattan with the story that he wanted an employment certificate for his eleven-year-old son who, he claimed, was big enough to pass for fourteen. On one occasion, McLean enlisted a twelve-year-old boy, Benjamin Siren, to act as his son and brought him to the office of Magnus Levy, a notary. When Levy asked Benjamin how old he was, the boy replied that he was twelve. According to McLean, Levy told him that “He will have to be 14; he could not be legally employed unless he was 14 years old,” at which point McLean offered to swear that the boy was in fact fourteen. Levy replied that “if you swear he is 14 it is nothing to me; you ought to know his age.” On the stand, Levy affirmed much of McLean's story but added that he did not find it suspicious that Siren's alleged father had changed the boy's age. “He said it was a mistake,” was Levy's reasoning. Pressed by the committee's attorney, Levy averred that, based on the father's claims and on the boy's appearance, he would “guess” the boy really was fourteen.¹⁷

Like most of the notaries the Reinhard Committee interviewed, Levy hid behind what the committee regarded as a technicality: in taking an affidavit of a child's age for employment, the notary was not certifying that the child was any particular age, but only that a parent had taken an oath that his or her child was a particular age. The actual age of the child was, most notaries claimed, not their business—liability for the truth or falsity of the claim lay with the parent. Said the notary Jacob Denenholz, “I do not set up my impression as against the oath of a man on the question of the child's age; I don't know the child's age, I was not at the christening.” Notaries' testimony revealed that they regarded their role as formal rather than substantive—they executed a process rather than ascertaining the truth.¹⁸

Though child labor opponents such the Reinhard Committee blamed parents and notaries for duplicity, officials tasked with enforcing child labor laws also often took a casual attitude toward age verification. Records from late nineteenth-century Connecticut reveal that factory inspectors, when confirming age, often dispensed with affidavits and relied on their own judgments—or on children's own testimony. Connecticut law required youth to obtain state-issued certificates proving their age to work, but inspectors repeatedly found children working without these papers. Instead of requiring that those

¹⁶ Neal L. Anderson, “Child Labor Legislation in the South,” *Annals of the American Academy of Political and Social Science*, 25 (1905), 79, 81; New York State Factory Inspectors, *First Annual Report of the Factory Inspectors of the State of New York*, esp. 8; Simon Greenleaf, *A Treatise on the Law of Evidence*, vol. II (Boston, 1842–1853), esp. 289. Emphasis in original. *Dobson v. Cothran*, 34 S.C. 518 (1891); *People v. Mayne*, 118 Cal. 516 (1897). See also Elmer W. Ehler, “The Legal Importance of Birth Registration,” in *Transactions of the Third Annual Meeting, American Association for the Study and Prevention of Infant Mortality* (Baltimore, 1913), 105–7.

¹⁷ Philip W. Reinhard, *Report and Testimony Taken Before the Special Committee of the Assembly Appointed to Investigate the Condition of Female Labor in the City of New York* (2 vols., Albany, 1896), II, 1016–17, 1012–13.

¹⁸ *Ibid.*, 1257.

children obtain formal verification of their ages, state agents often assessed age on the spot. After an 1887 visit to a manufactory in Norwalk, agent H. J. Curtis reported that a boy working there without a certificate “did not look very *young*.” At a silk manufacturer in South Coventry, agent C. E. Ward noted that though he had received reports of under-age employment, “in personal investigation I see that none looked to me less than even 16 years.” Presumably, Curtis and Ward, like many working-class parents and employers, relied on physical signs of maturity to adjudge if a child should be working.¹⁹

Whether parents lied or not, the affidavit system did not fundamentally alter parents’ calculations about when to send their children to work. Instead, the system made statements of age into an administrative convenience and rendered age a product of the testimonial process rather than an immutable, biologically based fact. For child labor reformers, who believed that childhood was universal and age biological, this was a travesty. As decades of protest against the affidavit system attest, the problem of enforcing child labor laws was as much epistemological as administrative. How could the truth about age be ascertained? Who—and under what conditions—could certify the age of a child? As the notary Denenholz correctly pointed out to his inquisitors, parents, not notaries, were present at their children’s births. But parents, reformers came to believe, could not be trusted to tell the truth. As a *pro forma* process, affidavits, they alleged, formed a shaky foundation upon which to build child labor law.

“The Parent’s Word Is Not Recognized”: Dismantling the Affidavit System

Between 1900 and 1940, child labor reformers dismantled the affidavit system. Frustrated with its flaws, they lobbied state legislatures and the federal government to change the rules of age certification for employment. Reformers urged a shift to reliance on documentary evidence to establish a child’s date of birth. Documents represented an entirely different system for generating the truth about age. Affidavits were the result of eyewitness, oral testimony and operated on the assumption that those who witnessed the event in question—the birth of a child—were in the best position to recall its details. This system permitted indeterminacy about age and allowed working-class family calculations to persist despite age-restrictive legal requirements. Documents, however, were generated and tended by institutions that claimed a different authority—not being a party to the birth made them disinterested, neutral, objective. Documents, reformers hoped, would tell the truth about age and fix it as something concrete, absolute, and independent of family calculations.

In a pattern typical of the Progressive Era, child labor reformers initiated state-level legislative reform of age verification and then federalized those standards. Passed in 1903, New York’s amended child labor law became a model for other states and for the federal government. The Child Labor Committee (which later spawned the National Child Labor Committee) was formed in 1903 in New York City to advocate for the expansion and improvement of child labor law. Led by Robert Hunter, a former resident of Chicago’s Hull House and now the head of the University Settlement in New York City, the Child Labor Committee (CLC) gathered a coalition of reformers, trade unionists, and ministers for this purpose. In concert with the state Department of Labor, the CLC drafted new leg-

¹⁹ “Child Labor Reports, Fairfield County, 1886–7,” Records of the Education Department. Emphasis in original. “Child Labor Reports, Tolland County, 1886–7,” *ibid*.

islation and presented it to the state legislature. In addition to restricting child labor in the previously unregulated mercantile and street trades, and requiring licensure of newsboys, the 1903 bill changed the procedure for the issuance of employment certificates to children. New York reformers used the new law to express not only their preference for documents over affidavits but also their preference for birth certificates above all other documents. The law abolished certificates based on affidavits alone. Instead, it required parental affidavits to be corroborated by documentary evidence: a signed school record, a passport, or a baptismal certificate. A birth certificate, by contrast, was considered *prima facie* evidence of age and required no corroboration. In the absence of a birth certificate, parents would swear their oaths before Board of Health employees, not notaries. “Under the new law,” explained the *New York Times*, “the parent’s word is not recognized as proving age. For every certificate issued there is filed some official or religious paper as evidence of age.”²⁰

After the law passed in New York, other states followed suit. By 1907, eighteen states had passed legislation requiring “documentary proof” of birth and eliminating notaries’ role. Just eight years later, thirty-one states and the District of Columbia required documentary proof of age for employment, while the remaining fourteen states with child labor laws still relied on parental affidavits. By 1917, thirty-nine states and the District of Columbia operated what most reformers considered to be “a reasonably satisfactory certifying system”—one requiring documents over affidavits.²¹

Child labor opponents also made documentary proof of age central to federal child labor law. In 1916 and 1919 they successfully pressed the U.S. Congress to pass laws regulating child labor. Reformers believed that Congress had the ability to regulate child labor under either its power to regulate interstate commerce, its power to tax, or both. The 1916 Keating-Owen Act forbade interstate commerce in products manufactured by children under the age of fourteen in factories or by children under sixteen in mines or quarries. The U.S. Children’s Bureau was given authority to enforce the new law by issuing federal employment certificates, the chief purpose of which was authenticating the age of child workers. The task of administering the federal certificate system was given to the Chicago-based reformer Grace Abbott, who became the head of the bureau’s newly created Child Labor Division.²²

Before the provisions of the Keating-Owen Act went into effect on September 1, 1917, Abbott attended a series of meetings with representatives from the Children’s Bureau, the Department of Labor, state factory inspection departments, and the National Child Labor Committee to promulgate federal standards for employment certificates. In her notes

²⁰ New York State Department of Labor, *Third Annual Report of the Commissioner of Labor* (Albany, 1904), 54, 81, 88; Mary Stevenson Callcott, *Child Labor Legislation in New York: The Historical Development and the Administrative Practices of Child Labor Laws in the State of New York, 1905–1930* (New York, 1931), 21–27; “Child Labor Decreasing,” *New York Times*, Feb. 15, 1904, p. 14.

²¹ National Consumer’s League, *Child Labor Legislation* (New York, 1904), 35–37; National Child Labor Committee, *Uniform Child Labor Laws, Proceedings of the Seventh Annual Conference* (New York, 1911), 17–23, 194; National Child Labor Committee, “The Uniform Child Labor Law,” *Child Labor Bulletin*, 1 (Aug. 1912), 78–107; Charles Thaddeus Terry, *Uniform State Laws in the United States, Fully Annotated* (New York, 1920), 371–72. U.S. Children’s Bureau, *The Employment-Certificate System: A Safeguard for the Working Child* (Washington, 1921), 4; Josephine C. Goldmark, *Child Labor Legislation: Schedules of Existing Statutes and the Standard Child Labor Law*, supplement to *The Annals of the American Academy of Political and Social Science*, 18 (Jan. 1907), 18; Helen L. Sumner and Ella A. Merritt, *Child Labor Legislation in the United States* (Washington, 1915), 100–183; U.S. Children’s Bureau, *Administration of the First Federal Child-Labor Law* (Washington, 1921), 16, 17, 21.

²² On the Keating-Owen Act, see Trattner, *Crusade for the Children*, 119–42; and Stephen B. Wood, *Constitutional Policies in the Progressive Era: Child Labor and the Law* (Chicago, 1968).

on these meetings, Abbott wrote that all parties agreed that the “provision for proof of age was all important,” and indeed, the bulk of the planning for the new law revolved around what kinds of proof of age should be required. In the end, the requirements largely conformed to the ideals promoted by the National Child Labor Committee and embodied in New York’s 1903 law: the new program called for a precise, hierarchical list of documents with minimal room for interpretation by local officials. The federal protocol specified that every child seeking an age certificate must appear in person with a parent or guardian and “documentary evidence of age.”²³

Once again, first preference was given to the birth certificate. If no birth certificate was available, inspectors were authorized to accept a baptismal certificate, showing date of birth and place of baptism, “a bona fide contemporary record of the date and place of the child’s birth kept in the Bible in which the records of the births in the family of the child are preserved, or other documentary evidence” such as immigration records showing arrival in the United States, a passport, or a life insurance policy. Parental affidavits and school records would only be accepted in conjunction with a public health or school physician’s certificate certifying the “physical age” of the child. Inspectors were required to proceed down the list of documents in order. Where a state’s laws for evidence of age met those of the federal government’s, the Children’s Bureau empowered state officials to issue federal certificates, but in those states that did not have adequate requirements for documentary proof of age—North Carolina, South Carolina, Georgia, Virginia, and Mississippi—the bureau directly issued the certificates. Before the law was declared unconstitutional in 1918, over 19,000 children in these five states had received federal certificates. Under the terms of the 1919 Child Labor Tax Law, which imposed a tax on employers who did not comply with federal child labor restrictions, the federal certification system worked the same way, and with the same standards, as it had under the 1916 law.²⁴

Both the Keating-Owen and the Child Labor Tax laws were declared unconstitutional on the ground that, under the Tenth Amendment, the power to regulate labor belonged solely to the states. Nevertheless, federal standards for child labor—and for evidence of age for employment certificates—remained an ideal for most child labor reformers. While opponents of child labor spent much of the 1920s unsuccessfully campaigning for a constitutional amendment that would permit Congress to regulate child labor, during the New Deal the reformers again had the chance to urge the federal government to issue standards for employment of the young. Under both the 1933 National Industrial Recovery Act, which issued a series of codes for different industries (and was declared unconstitutional in 1935) and in the Fair Labor Standards Act (FLSA) of 1938, reformers fought hard to make federal standards for proof of age match those of the defunct 1916 and 1919 laws. Under the FLSA, the Children’s Bureau, as it had under the 1916 law, determined which states could issue age certificates and helped those that did not conform

²³ Grace Abbott, untitled notes, ca. 1917, folder 4, box 34, Edith and Grace Abbott Papers (Special Collections Research Center, University of Chicago Library, Chicago, Ill.); A. J. McKelway to Florence Kelley, June 30, 1917, *ibid.*; National Child Labor Committee to Children’s Bureau, “Suggestions for Proofs of Age to Be Required for Issuance of Federal Certificates,” ca. 1917, memorandum, folder 25-1-1, box 103, Children’s Bureau Papers; Children’s Bureau, *Administration of the First Federal Child-Labor Law*.

²⁴ Children’s Bureau, *Administration of the First Federal Child-Labor Law*, 23; Loughran, “Historical Development of Child-Labor Legislation in the United States,” 92. On the 1916 law being declared unconstitutional, see *Hammer v. Dagenhart*, 247 U.S. 251 (1918).

to federal standards establish a document-based protocol. By 1940 the documentary protocol for proof of age was once again the national standard.²⁵

“Age Ought to Be a Fact”: The Campaign for Birth Registration

Though child labor reformers were largely successful in convincing legislatures to enact laws requiring documentary evidence of age for employment, they quickly came to believe that not all documents were created equal. Increasingly, opponents of child labor vested more authority in one document above all others: the government-issued birth certificate. Unlike most other forms of documentary proof—baptismal records, family Bible entries, passport or other immigration papers, school records, or life insurance policies—birth certificates, reformers believed, were unassailable. Because the certificates were produced and superintended by disinterested government officials, reformers believed they were free from the taint of personal influence or “interest.” Birth certificates, explained one child labor reformer, “being official, are usually to be depended upon.” By preferring the birth certificate to all other documents, child labor reformers not only made it clear that they considered state-generated information as more empirically stable than all other kinds but they also helped promulgate the notion that the birth certificate was the foundational document for establishing personal identity, including age.²⁶

In their objections to other kinds of documentary proof, child labor reformers revealed their preference for official, state-generated information and their belief that knowledge could best be established through uniform rules and procedures. Though most child labor opponents considered church records as a sound source of information about children’s ages, they also worried—and sometimes knew—that such records were not, as one reformer put it, “above suspicion.” State and local officials who issued employment certificates were often unsure how “official” church records were required to be. Laws usually mandated that baptismal records be “duly attested,” but what did this mean? Signed by the priest? Stamped and sealed? Moreover, different churches had different forms and seals, making church records profoundly dissimilar and thus difficult to authenticate at a glance. Sometimes, complained Children’s Bureau issuing agent Mary Moran, baptismal records “are on official paper and sometimes they are not.” How could she tell which were authentic? The lack of uniformity was more than simply annoying: it was epistemologically destabilizing. More troubling, however, was the fact that so many baptismal records were fake. U.S. Department of Labor agents who investigated child labor in Maine, Rhode Island, New Jersey, and Massachusetts reported that forged and altered baptismal

²⁵ On the 1919 law being declared unconstitutional, see *Bailey v. Drexel Furniture Co.*, 259 U.S. 20 (1922). Kriste Lindenmeyer, *“A Right to Childhood”: The U.S. Children’s Bureau and Child Welfare, 1912–46* (Urbana, 1997), 196; Hindman, *Child Labor*, 81–84; Frances Perkins to George Buckley, July 18, 1934, memorandum, folder 5, box 35, Abbott Papers; Clara M. Beyer to Secretary of Labor [Perkins], July 26, 1934, memorandum, folder 35, *ibid.* On the National Recovery Act being declared unconstitutional, see *Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935). “Statement of the National Child Labor Committee on the Fair Labor Standard Bill, Submitted to the Senate Committee on Education and Labor and House of Representatives Committee on Labor, by Courtenay Dinwiddie, General Secretary, National Child Labor Committee,” June 8, 1937, typescript, folder 1, box 65, *ibid.*; Senate Committee on Education and Labor and House Committee on Labor, *Fair Labor Standards Act of 1937, Part 2: Hearings on S. 2475 and H.R. 7200* (Washington, 1937), 381–410, esp. 408; Gertrude Folks Zimand, “A Study Outline on Pending Federal Child Labor Legislation,” Sept. 15, 1937, typescript, Abbott Papers, folder 5, box 64; Katharine Du Pre Lumpkin, “The Child Labor Provisions of the Fair Labor Standards Act,” *Law and Contemporary Problems*, 6 (Summer 1939), 391–405; Elizabeth La Hines, “Women Leaders Join in Combat on Child Labor,” *New York Times*, Oct. 29, 1939, p. D4.

²⁶ Ward, “Weakness of the Massachusetts Child Labor Laws,” 191.

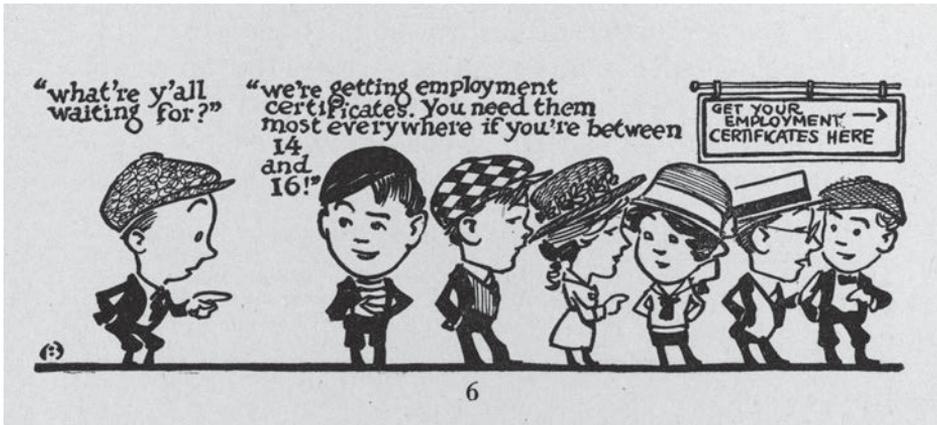


Figure 1. Handbooks such as the one in which this illustration appears, issued by the Massachusetts Child Labor Committee, introduced children to the fact that they would be required to obtain a certificate to work. Proving one's age was the centerpiece of the certification process. The long line makes it clear that the experience is a bureaucratic one. *Reprinted from Massachusetts Child Labor Committee, When You Go Out to Work (Boston, 1919), 6.*

certificates were common. Likewise, in May 1918 Children's Bureau agents discovered that Providence, Rhode Island, resident Benedetto Santurri made a business of selling forged birth and baptismal certificates to fellow Italians. For a fee of \$15 each, paid in installments, American-born children of Italian immigrants could obtain baptismal certificates certifying their birth in Italy.²⁷

Besides using baptismal records—which in parts of the United States were the most commonly used evidence of birth—many children also produced family Bibles to serve as proof-of-age records. But what was true of baptismal certificates—that they were disturbingly inconsistent and easily forgeable—proved even more troubling for Bible records. Bible records, like affidavits, were produced by the very people whom reformers suspected of exploiting underage workers: their parents. As one Children's Bureau official wrote, because “this record is in the possession of the family interested, alterations are frequently made.” Under the federal child labor law of 1916, family Bibles were the most-used source of age evidence in the southern states where the Children's Bureau administered federal employment certificates. Bureau officials remained vexed about how to handle such records. In some families, “the Bibles were excellent records” carefully kept by family members who entered births and deaths “at the time the event occurred.” But in a great many other instances, bureau agents found reason to doubt the veracity of these records. They told stories of Bibles with pages cut, dates erased and rewritten, and entries where “the ink was hardly dry.” Such experiences led the bureau to conclude that “accepting the Bible record often leads to fraud and misrepresentation.” Obvious fraud aside, officials simply had no way of determining if Bible records were honest and reliable.

²⁷ Mary Moran to Abbott, May 9, 1918, folder 25-6-1, box 125, Children's Bureau Papers; Helen L. Sumner and Ethel E. Hanks, *Administration of Child Labor Laws, Part 2: Employment-Certificate System in New York* (Washington, 1917), 38; U.S. Department of Labor, *Report on Condition of Woman and Child Wage-Earners in the United States*, vol. 1: *Cotton Textile Industry* (Washington, 1910), 159, 161; U.S. Department of Labor, *Report on Condition of Woman and Child Wage-Earners in the United States*, vol. 4: *The Silk Industry* (Washington, 1911), 79–80; Ward, “Weakness of the Massachusetts Child Labor Laws,” 192. On the Benedetto Santurri case, see Edith Hall to Abbott, May 23, 1918, folder 25-3-1-1-1, box 105, Children's Bureau Papers; and Mathilde L. Selig to Abbott, May 3, 1918, folder 25-6-1, box 125, *ibid.*

Agents were left scratching their heads. Many Bibles had no publication date, or had their handwritten entries made in pencil and not ink, or had entries “so badly written as to be illegible” or written by multiple hands. Bureau agents also confronted the migratory patterns of many southern workers—who left family farms to enter work in textile mills—which complicated the possibility of keeping family records intact. Instead of a Bible, some families presented issuing officials with what they claimed were transcripts of their Bible records, copied by “neighbors who could write when the family left the mountains.” These circumstances led to a great many cases in which officials “could find no internal evidence whatever” to guide their decision about whether or not a particular Bible was reliable. In more than one case, bureau agents traveled to a family’s “old homestead” in search of original Bible entries. As the bureau’s concerns indicate, the problem was more than simply fraud or manipulation; more serious was the nonstandard character of the Bible record, the lack of “internal evidence” to certify a particular Bible’s information as either true or false.²⁸

Along with using baptismal records and family Bibles to ascertain age, child labor laws also typically provided that children could establish their age by using less traditional kinds of information: school records, immigration records, and life insurance policies. Though such evidence was “documentary” and came in the form of papers produced by agencies outside a child’s family, the empirical basis for each was usually the unsworn claim of the child’s parent at some time in the relatively recent past. In the end, most reformers concluded that these sources were all little better than a parental affidavit.²⁹

Opponents of child labor increasingly identified the trouble with child labor law enforcement as a problem of inadequate birth registration. Reflecting on the Children’s Bureau’s experience enforcing the Keating-Own Act, one official wrote that “age ought to be a fact which could be quickly and finally established; but as vital statistics have not been kept in a large part of the United States, much time must be spent in the search for proof of age, and in many instances unimpeachable evidence can not be obtained.” Child labor opponents had known that birth registration practices in many states were spotty and, among foreign-born children, birth certificates could be hard to obtain even when they did exist. No national laws governed birth registration and, as a state and local matter, vital statistics registration was uneven, irregular, and often nonexistent. While reformers interested in public health and vital statistics had been trying to regularize and improve state birth and death registration practices since the 1840s, by the early twentieth century birth registration in particular remained virtually neglected. In 1903 the Census Bureau began trying to improve birth registration by encouraging states to pass and enforce a “model law” for vital statistics collection. The bureau also issued a blank birth registration

²⁸ Grace Abbott, untitled notes, 1917, folder 4, box 34, Abbott Papers; Children’s Bureau, *Administration of the First Child-Labor Law*, 24, 29–30, 165, esp. 29; “Experiences in Child Labor-Labor Law Administration,” U.S. Department of Labor, Children’s Bureau, Broadcasted through N.A.A., Jan. 30, 1923, Radio Release No. XV, “Radio Talks, Scrap Book, Department of Commerce and Labor,” scrapbook, box 40, Abbott Papers. For agents’ complaints about Bible records that were difficult to verify or patently altered, see Ethel Biedent to Abbott, April 5, 1918, folder 25-4-1, box 110, Children’s Bureau Papers; Ethel Hanks to Abbott, Aug. 19, 1917, folder 25-4-1, box 112, *ibid.*; Elizabeth Hughes to Abbott, Nov. 4, Oct. 9, 1917, folder 25-4-1, box 112, *ibid.*; and Nila Allen to Abbott, Oct. 1, 1917, folder 25-4-1, box 115, *ibid.* On problems with original Bible records located far from southern mill villages, see Elizabeth Hughes to Abbott, Sept. 1917, Nov. 9, 1917, folder 25-4-1, box 113, *ibid.* On trips by bureau agents and mill employees to search for Bible records, see Amazon Cotton Mills to Children’s Bureau, Sept. 3, 1917, folder 25-4-1, box 110, *ibid.*; and Elizabeth Hughes to Abbott, Dec. 17, 1917, folder 25-4-1, box 113, *ibid.*

²⁹ W. L. Bodine, “Child Labor and School Attendance,” *Chicago Daily Tribune*, May 31, 1903, p. 17; *Report of the Board of Education of the State of Connecticut to the Governor* (Hartford, 1899), 47.

form as a template to encourage uniform reporting procedures in the states. (See figure 2.) In 1915 the federal Census Bureau began collecting birth statistics from states to tabulate national data about population growth, the birth rate, and infant mortality. But the bureau stipulated that it would only include statistics from states that could demonstrate that they registered 90 percent of live births. States that met this standard became part of what the bureau dubbed the birth-registration area. In 1915, only ten states (Connecticut, Maine, Massachusetts, New York, Pennsylvania, Michigan, Minnesota, New Hampshire, Rhode Island, and Vermont) and the District of Columbia were allowed to join the birth-registration area.³⁰

As the Census Bureau's list indicates, inadequate registration was partly, though not entirely, regional. In the five southern states where the Children's Bureau issued employment certificates under the Keating-Owen Act, birth certificates were used to verify age in only 150 out of a total 19,696 cases—a rate of less than 1 percent. Likewise, a Children's Bureau investigation found that although Maryland's laws expressed a clear preference for birth certificates to serve as proof of age for employment, officials could not reasonably expect, even as late as 1918, that children born in the state fourteen years hence would have had their births registered (Maryland entered the birth-registration area in 1916). The shortfall was particularly acute in the eastern counties of the state where "colored children" made up most of the certificate seekers but where births were often unattended and unregistered, and baptisms were likewise unrecorded. In these counties, only 14 percent of children could present birth certificates to prove their ages; nearly three-quarters of all certificates were instead based on Bible records or parental affidavits. Throughout the states (even those in the birth-registration area), a birth was more likely to be registered if it occurred in a city, was attended by a doctor, and if the mother was native born and white.³¹

After 1913 the Census Bureau was no longer alone in trying to improve birth registration. One of the first tasks undertaken by the newly formed Children's Bureau was a campaign to encourage states to either enforce existing registration requirements or enact effective laws. Throughout the Children's Bureau's multidecade campaign to secure better birth registration practices, its publicity stressed that birth registration benefitted both individuals and society and was essential to reducing infant and maternal mortality, increasing compulsory schooling, and stemming the tide of illegal child labor. As she introduced the Children's Bureau in the pages of the NCLC's *Child Labor Bulletin*, bureau

³⁰ Children's Bureau, *Administration of the First Child-Labor Law*, 22. Lindenmeyer, "Right to Childhood," 17–18; Florence Kelley, *Some Ethical Gains through Legislation* (New York, 1905), 94–100. Wilbur, *Federal Registration Service of the United States*, 20; W. Stull Holt, *The Bureau of the Census: Its History, Activities, and Organization* (Washington, 1929), 130.

³¹ Francis Henry Bird and Ella Arvilla Merritt, *Administration of Child Labor Laws, Part 3: Employment Certificate System, Maryland* (Washington, 1919), 35–39; Bureau of the Census, *Birth Statistics for the Registration Area of the United States, 1916, Second Annual Report* (Washington, 1918), 4. Frances Sage Bradley and Margaretta A. Williamson, *Rural Children in Selected Counties of North Carolina* (Washington, 1918), 101–2; Estelle B. Hunter, *Infant Mortality: Results of a Field Study in Waterbury, Conn., Based on Births in One Year* (Washington, 1918), 20–21; Nila F. Allen, *Infant Mortality: Results of a Field Study in Saginaw, Mich., Based on Births in One Year* (Washington, 1919), 18–19; Mary V. Dempsey, *Infant Mortality: Results of a Field Study in Brockton, Mass., Based on Births in One Year* (Washington, 1919), 65; Florence Brown Sherbon and Elizabeth Moore, *Maternity and Infant Care in Two Rural Counties in Wisconsin* (Washington, 1919), 27, 33–35, 54; "Birth Registration," ca. 1920, typescript, file 12-8-3-1, box 142, Children's Bureau Papers; Helen M. Dart, *Maternity and Child Care in Selected Rural Areas of Mississippi* (Washington, 1921), 41; Elizabeth Hughes, *Infant Mortality: Results of a Field Study in Gary, Ind., Based on Births in One Year* (Washington, 1923), 63–64; William H. Davis to Frederic V. Beidler, June 7, 1924, folder 4-2-1-2, box 185, Children's Bureau Papers; John Hughes to Davis, May 10, 1924, *ibid.*; L. E. Ross to Robert Woodbury, June 16, 1924, *ibid.*

THE STANDARD CERTIFICATE OF BIRTH.

PLACE OF BIRTH

County of _____

Township of _____

Village of _____

City of _____ (No. _____ St.; _____ Ward)

DEPARTMENT OF COMMERCE
BUREAU OF THE CENSUS
STANDARD CERTIFICATE OF BIRTH

Registered No. _____

FULL NAME OF CHILD _____ (If child is not yet named, make supplemental report, as directed)

Sex of Child	Twin, triplet, or other?	Number in order of birth	Legitimate?	Date of birth
	(To be answered only in cases of plural births)			(Month) (Day) (Year)

FATHER	MOTHER
FULL NAME	FULL MAIDEN NAME
RESIDENCE	RESIDENCE
COLOR	COLOR
AGE AT LAST BIRTHDAY	AGE AT LAST BIRTHDAY
(Years)	(Years)
BIRTHPLACE	BIRTHPLACE
OCCUPATION	OCCUPATION

Number of children born to the mother, including present birth _____

Number of children of this mother now living _____

CERTIFICATE OF ATTENDING PHYSICIAN OR MIDWIFE*

I hereby certify that I attended the birth of this child, who was _____ at _____ M., on the date above stated.

(Born alive or Stillborn)

(Signature) _____

(Physician or Midwife)

*When there was no attending physician or midwife, then the father, householder, etc. should make this return. A stillborn child is one that neither breathes nor shows other evidence of life after birth.

Given name added from a supplemental report _____ 19 _____

Address _____

Filed _____ 19 _____

REGISTRAR

Figure 2. U.S. Census Bureau officials advocated uniform registration forms to aid in the collection of comparable national data. Child labor reformers valued uniformity across the states to easily authenticate a child's age and identity. The Standard Certificate of Birth, shown here, aided both groups. *Reprinted from Cressy L. Wilbur, The Federal Registration Service of the United States: Its Development, Problems, and Defects (Washington, 1916), 25.*

chief Julia Lathrop explained that her agency wished to help “awaken America to its responsibility for publicly recording the birthdays of its children.” Among the benefits of registration, Lathrop said, was helping ensure that “no parent shall be tempted to make a false statement as to a child's age.” Unlike the Census Bureau, which regarded birth registration as important mainly for statistical purposes, the Children's Bureau regarded the token of registration—the birth certificate—as a vital form of both statistical data and identity documentation.³²

The Children's Bureau did not design child labor laws to increase birth registration, but the two campaigns clearly dovetailed. In 1917, while the Children's Bureau was designing the proof-of-age standards it would use to enforce the Keating-Owen Act, the secretary of the Kentucky State Board of Health wrote Julia Lathrop suggesting that in all states “having birth registration under the model law” (that is, those in the Census Bureau's birth-registration area), the Children's Bureau should require a birth certificate as the only

³² Julia Lathrop, “The Federal Children's Bureau,” *Child Labor Bulletin*, 2 (May 1913), 58, 59; U.S. Children's Bureau, *Birth Registration: An Aid in Protecting the Lives and Rights of Children* (Washington, 1914), 10; Jacqueline K. Parker and Edward M. Carpenter, “Julia Lathrop and the Children's Bureau: The Emergence of an Institution,” *Social Service Review*, 55 (March 1981), 60–77; Children's Bureau, *Administration of the First Child-Labor Law*, 21; Children's Bureau, *Employment-Certificate System*, 4. On the maternalist feminism of the Children's Bureau, see Robyn Muncy, *Creating a Female Dominion in American Reform, 1900–1935* (New York, 1991); Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, Mass., 1992); Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare, 1890–1935* (Cambridge, Mass., 1994); and Molly Ladd-Taylor, *Mother-Work: Women, Child Welfare, and the State, 1890–1930* (Urbana, 1994).

acceptable proof of age. “Nothing else,” the secretary’s letter concluded, “would help birth registration so much.” Lathrop agreed. Child labor enforcement that rested on the use of birth certificates would, Lathrop replied, “help all campaigns for registration.”³³

At the same time that the Children’s Bureau was enforcing new proof-of-age standards under federal child labor laws, it was also campaigning for better birth registration across the states. Beginning in 1915 the Children’s Bureau partnered with the Census Bureau, the General Federation of Women’s Clubs, state Federations of Women’s Clubs, and the Association of Collegiate Alumnae to conduct “birth registration tests” in towns and cities across the United States. Tests were designed both to measure how well communities were registering their births and to act as “an advertisement . . . to put before the public the value of birth registration.” In participating communities, volunteer committees conducted house-to-house canvases in search of all babies under one year of age. They then compared this list of names with those on file with the local registrar of vital statistics. This gave communities a measure of how many births went unreported; it also gave parents of unregistered babies a chance to correct the situation. Canvassers reported that most parents happily gave the information and looked with interest on the prospect of their baby’s registration. “One white man,” wrote a canvasser, “was so glad to hear about it [the birth registration drive]—they had been ‘guessing’ at” the age of their children.³⁴

While such campaigns did not bring all states into the Census Bureau’s birth-registration area, in the years the Children’s Bureau conducted these tests the number of states included increased from the original ten to twenty-two. Between 1922 and 1929, the Children’s Bureau administered funds provided by the 1921 Sheppard-Towner Act for the Promotion of the Welfare and Hygiene of Maternity and Infancy. Many states used the funds to improve their birth registration practices. They conducted surveys of their birth registration, hired clerks to process vital-statistics records, carried out publicity campaigns, and instructed midwives in their registration duties. The Children’s Bureau detailed fieldworkers to assist in these efforts. By the time Sheppard-Towner funds ran out in 1929, thirteen more states had been admitted to the Census Bureau’s birth-registration area.³⁵

Continued coordinated campaigns involving the Children’s Bureau, the Census Bureau, and private organizations brought all forty-eight states into the birth-registration area by 1933, five years before the Fair Labor Standards Act again made birth certificates

³³ J. N. McCormack to Julia Lathrop, Feb. 7, 1917, folder 25-3-1-1-1, box 105, Children’s Bureau Papers; Lathrop to McCormack, Feb. 9, 1917, *ibid.*

³⁴ Estelle Hunter to Miss Titzell, Sept. 17, 1918, memorandum, folder 12-8-3-1, box 142, *ibid.*; “Letters and Extracts from Letters of Women Taking Part in the Investigation of Birth Registration,” ca. 1915, folder 8-2-1-7, box 75, *ibid.*; U.S. Children’s Bureau, *Outline of a Birth Registration Test* (Washington, 1919); U.S. Children’s Bureau, *Second Annual Report of the Chief, Children’s Bureau to the Secretary of Labor* (Washington, 1914), 10–11; U.S. Children’s Bureau, *Third Annual Report of the Chief, Children’s Bureau to the Secretary of Labor* (Washington, 1915), 13–14.

³⁵ S. Shapiro, “Development of Birth Registration and Birth Statistics in the United States,” *Population Studies*, 4 (no. 1, 1950), 93; U.S. Children’s Bureau, *The Promotion of the Welfare and Hygiene of Maternity and Infancy: The Administration of the Act of Congress of November 21, 1921, for the Period March 20, 1922, to June 30, 1923* (Washington, 1924); U.S. Children’s Bureau, *The Promotion of the Welfare and Hygiene of Maternity and Infancy: The Administration of the Act of Congress of November 21, 1921, Fiscal Year Ended June 30, 1924* (Washington, 1925); U.S. Children’s Bureau, *The Promotion of the Welfare and Hygiene of Maternity and Infancy: The Administration of the Act of Congress of November 21, 1921, Fiscal Year Ended June 30, 1925* (Washington, 1926); U.S. Children’s Bureau, *The Promotion of the Welfare and Hygiene of Maternity and Infancy: The Administration of the Act of Congress of November 21, 1921, Fiscal Year Ended June 30, 1926* (Washington, 1927); U.S. Children’s Bureau, *The Promotion of the Welfare and Hygiene of Maternity and Infancy: The Administration of the Act of Congress of November 21, 1921, Fiscal Year Ended June 30, 1928* (Washington, 1929).

prima facie evidence of age for employment. (See figure 3.) More comprehensive birth registration made a clear difference in the enforcement of child labor laws. In 1936, when the National Child Labor Committee submitted its materials to a Senate hearing on the child labor provisions of the FLSA, they focused on this point. NCLC officials testified that it would be even easier for the federal government to issue employment certificates under the proposed federal child labor bills than it had been under the Keating-Owen Act. "In the last 20 years," the NCLC wrote, "it has become possible in practically all parts of the country to obtain better evidence of age with less expenditure of time and effort." Because so many states had improved their birth-registration practices in the interim, "birth records should be available to a larger number of the children." In North Carolina, for example, under the Keating-Owen Act, Children's Bureau officials had been able to secure birth certificates for less than 1 percent of all children. But in 1935, state officials reported that 15 percent of all employment certificates utilized birth certificates as proof of age.³⁶

In theory many more than 15 percent of North Carolina's working children should have been able to produce birth certificates in 1935 since the state had entered the birth-registration area in 1917. That so few still did might reveal the reluctance of both working-class families and low-level state officials issuing employment certificates to treat the birth certificate as an especially authoritative document. Indeed, even as it pursued legislative reform to make birth registration and documentary proof of age compulsory across the states, the Children's Bureau conducted research that showed that enforcers of labor laws often strayed from the documentary protocol. A survey conducted in New York State in 1914, for example, revealed significant discrepancies in practice, especially in low-population areas. In large cities such as New York and Buffalo, state officials issuing employment certificates kept a copy of the city's birth registry in their office and largely managed to certify age, even for foreign-born children, based on birth certificates. In smaller town and cities, however, certificating officers commonly accepted baptismal certificates, passports, and other "lesser" proofs of age without investigating whether an applicant's birth registration was available. "Thus birth certificates as evidence of age are made practically unavailable for the very children for whose benefit in large part these communities maintain their system of birth registration," complained the Children's Bureau. Worse still, in some towns, certificating officers still operated entirely on the affidavit system, despite the fact that it was illegal. A similar situation prevailed in Wisconsin. Children living in Milwaukee nearly always had their ages verified by birth certificates before being issued employment certificates. But children living in Oshkosh and Kenosha could bring in a baptismal certificate and never have their birth registration checked, while children living in even smaller places such as Marinette routinely received permits based on parental affidavit alone.³⁷

These findings made it clear that, while opponents of child labor vested the birth certificate with special epistemological power, ordinary Americans, including those who

³⁶ U.S. Children's Bureau, "Administrative Practice under the Barkley Bill as Compared with That under the Federal Child Labor Act of 1916," prepared as part of material for Senate hearing on child labor bills, May 12, 1936, folder 10, box 35, Abbott Papers.

³⁷ Sumner and Hanks, *Administration of Child Labor Laws, Part 2*, 33–58, 90–91; Ethel E. Hanks, *Administration of Child Labor Laws, Part 4: Employment-Certificate System, Wisconsin* (Washington, 1921), 55–57. See also Department of Labor, *Report on Condition of Woman and Child Wage-Earners in the United States*, vol. 1, p. 159; Department of Labor, *Report on Condition of Woman and Child Wage-Earners in the United States*, vol. 4, p. 79; Bird and Merritt, *Administration of Child Labor Laws, Part 3*, (Washington, 1919), 35–39; and Ward, "Weakness of Massachusetts Child Labor Laws," 194–98.

enforced the labor laws, did not. Researchers for the Children's Bureau often interpreted such deviation from the law's documentary protocol as evidence that a state's labor laws were ineffectively administered. No doubt true, this assessment nonetheless ignored how profoundly the laws requiring documentary proof of age sought to alter the culture of age in working-class communities and the epistemological authority of families and of the spoken word. That it took so long for the birth certificate to be venerated in all corners of the United States is a measure of how profound the proposed changes were. Well into the twentieth century working-class families, employers, and enforcement officials continued to blur the distinction between age and size. Writing to the U.S. Children's Bureau in 1918, a Mississippi man explained that although he knew his son was not of legal age for employment, he pleaded that his son be allowed to work since the boy was "Over Grown to his age" and "can do as much work as I can." Defending himself against a suit for violation of child labor standards, a Wisconsin employer explained that an allegedly underage boy he was employing "was 5 feet 11 1/4 inches in height, weighed 163 pounds, and had every appearance of being at least 20 years of age." Why should chronological age dictate, or documents be required to prove, what the evidence of common sense could so clearly ascertain?³⁸

The notion that bureaucrats and outsiders could find documents to contravene what a parent said was, for many, a bitter pill to swallow. When the Keating-Owen Act took effect in 1917, parents, children, and enforcement officials in northern and midwestern states had a decade or more of experience with a documentary system of age verification. But many southern states still only required parental affidavits of age. Thus, for many southern families the new federal proof-of-age standards came as a shock. In Georgia, Children's Bureau officials denied an employment certificate to a boy whose life insurance policy listed him as younger than his mother claimed him to be. The boy's mother was indignant. She wrote to the bureau promising to sue the agency "to test whether a mother's word will not hold in court." Likewise, an obviously frustrated father from Tarboro, North Carolina, J. A. Rideout, wrote to the Children's Bureau asking why the bureau would "accept evidence obtained from people who don't know only what they was told," when he, unlike such outsiders, was "in a position to *know*" his son's date of birth and age. Contrasting the secondhand knowledge lodged in documentary records with his own firsthand knowledge, Rideout had trouble believing that the former would carry greater weight.³⁹

"I Am under the Law": Conclusion

What parents such as Rideout failed to understand—but what they quickly learned—was how profoundly state and federal laws had altered their autonomy over their children. Birth registration not only made age absolute but it also shifted epistemological authority from families to documents and from oral to written forms of knowledge. After it began promoting birth registration, the Children's Bureau received scores of letters every year from mothers and fathers who wished to know whether their children's births had been registered. Some parents were concerned to secure evidence of birth to use as proof of age for employment. In 1921, for example, Mrs. Louis Bergeron of Chicago, wrote to the bureau asking for "information concerning the Birth Registration of my two

³⁸ C. L. Allgood to Abbott, Jan. 28, 1918, folder 25-4-1, box 117, Children's Bureau Papers; Ellen Nathalie Matthews, *The Illegally Employed Minor and the Workmen's Compensation Law* (Washington, 1932), 69.

³⁹ Grace Ward to Abbott, May 2, 1918, folder 25-6-1, box 125, Children's Bureau Papers; J. A. Rideout to M. E. Gardner, March 15, 1918, folder 25-4-1-1, box 117, *ibid.*

boys." She reported that the Catholic church in which they had been baptized "is burn to the ground" and she could locate no other record of the boys' birthdates. The boys, she explained, "need to work for we are poor people and eight children's in the family."⁴⁰

Bergeron clearly understood that she needed to supply state employment officials with documentary evidence of her boys' ages. "They all claim for those paper," she wrote, "because they are law." And, she noted, "I am under the law." In 1923 Mrs. Lelah H. Garel of Grand Rapids, Michigan, likewise wrote the bureau seeking a birth certificate for her daughter. The girl, Garel explained, was ready to leave school for work and needed the certificate to prove her age. Like Bergeron, Garel too was "under the law" and understood what its priorities were. Indeed, Garel's letter indicated that she had learned what many of the basic parts of the birth certificate were: she listed her daughter's full name, exact birthdate, her and her husband's names, and the name of the attending physician at the birth.⁴¹

That parents such as Bergeron and Garel wrote the Children's Bureau seeking help locating birth certificates—and that they tied the matter to employment—is a measure of how much had changed since Wisconsin's commissioner of labor had complained in 1898 that he was helpless to enforce child labor laws because proof of age rested on testimony, not documents. When he wrote, age verification was almost entirely in the hands of parents. Though Wisconsin's laws, like many at the time, required parents to swear affidavits of age for their working children, parents were not required to supply any external or "objective" evidence to corroborate their oaths. And unless someone enforcing the labor laws could supply contradictory documentary evidence, such parental affidavits were impossible to disprove. In 1921, by contrast, when Bergeron wrote the U.S. Children's Bureau, it was she who was helpless to prove her children's ages. The Illinois law requiring documentary evidence of age had been in effect for eighteen years. Significantly, Bergeron did not claim ignorance of her children's birth dates or ages; rather, she lacked the authority to make her own knowledge, however accurate it might have been, cognizable by the state. She was "under the law," and she needed paper.

Though the transfer of authority from oral to written statements, and from families to the state, is a hallmark of "modernization," this transformation was neither smooth nor inevitable. In the case of age verification, documentary evidence gained epistemological authority only after a multidecade campaign by opponents of child labor to change both labor and vital statistics registration laws, local practices, cultural assumptions about age, and standards for producing empirical truth about age. Moreover, scattered evidence suggests that through the twentieth century, the documentary regime became a fact of life for many working-class parents and children. In 1915 the Massachusetts State Child Labor Committee reported that when young boys were found selling newspapers on the streets without the proper employment certificates, they were quick with their excuse: "Waiting for my birth certificate." Even as the boys circumvented the state's laws, they were well aware of its requirement for documentary proof of age.⁴²

Though child labor reformers initially regarded many kinds of documents as similar or equal in their evidentiary value, their experiences enforcing laws and investigating the practice of issuing employment certificates convinced them that not all documents deserved the same credence. Affidavits, baptismal records, family Bibles, school records, and

⁴⁰ Mrs. Louis Bergeron to U.S. Children's Bureau, Nov. 24, 1921, folder 4-2-1-2, box 185, *ibid.*

⁴¹ Bergeron to U.S. Children's Bureau; Lelah H. Garel to Children's Bureau, Oct. 29, 1923, *ibid.*

⁴² Massachusetts Child Labor Committee, *Child Scavengers: Report of the Massachusetts Child Labor Committee* (Boston, 1915), 9.

life insurance policies all lacked the stable empirical foundation that the shift to documentary proof had been intended to supply. By contrast, reformers believed, “public birth records” could remove all taint of interest and any possibility of mutability from the process of age verification. The information they contained was normally supplied by people outside the family—birth attendants such as doctors and midwives—and the length of time between the registration of a birth and a child’s employment was sufficient to remove incentives to lie. Just as important, birth certificates recorded and presented information uniformly, making the knowledge they contained stable and easy to authenticate. Ostensibly marking singular individuality and unique identity, birth certificates also became mechanisms for managing populations as faceless masses. “The public birth record,” wrote the Children’s Bureau in 1916, “affords absolutely unimpeachable and uniform proof. There can be no falsification which may defraud the child of years of school, and the official record of one State is accepted, of course, in all others.”⁴³

Strictly speaking, birth certificates *were* falsifiable since retroactive birth registration was permissible. Indeed, the more important birth certificates became to proving age, the more families clamored for such post hoc certification. In the wake of the campaign to make child labor law rest on documentary proof of age, many states and localities began requiring pupils to present proof of age for school enrollment. And when the federal government initiated social security, it asked for birth certificates to prove eligibility for benefits that depended on both age and kinship. Likewise, when the United States entered World War II, the federal government required that all workers in defense industries provide proof of their citizenship. Vital statistics bureaus around the country were flooded with requests for delayed registration of birth, and states scrambled to come up with uniform protocols to meet such demands.⁴⁴

The more protections and entitlements that states and the federal government offered, the more important both age and documentation became to the basic functioning of social institutions. Remarking on the importance of birth certificates to modern citizenship, Robert Lenhart of the Census Bureau observed in 1940 that “each step we take toward the goal of social and economic security for everyone makes more precious each individual’s proof of his rights to such benefits.” In making the birth certificate the threshold of modern citizenship, child labor law led the way, transforming the epistemological grounds for rights and protections, inclusions and exclusions.⁴⁵

⁴³ U.S. Children’s Bureau, *Fourth Annual Report of the Chief, Children’s Bureau to the Secretary of Labor* (Washington, 1916), 17.

⁴⁴ *Report of the Board of Education of the State of Connecticut to the Governor* (Hartford, 1906), 96; State Registrar of Virginia to Children’s Bureau, Aug. 24, 1917, folder 25-3-1-1-1, box 105, Children’s Bureau Papers; Florida State Board of Health to Children’s Bureau, Aug. 29, 1917, *ibid.*; Mar. A. Carson to Abbott, May 13, 1918, *ibid.*; Children’s Bureau, *Administration of the First Federal Child-Labor Law*, 150; Helen Sumner Woodbury, *Administration of Child Labor Laws, Part 5: Standards Applicable to the Administration of Employment-Certificate Systems* (Washington, 1924), 56–57; “Birth Registration Cards and Vaccination Required of Virginia School Children,” *Public Health Reports* (1925), 1764; Henry F. Vaughan, “Public Health Administration,” *American Journal of Public Health*, 17 (April 1927), 396–99; W. J. V. Deacon, “Tests and Promotion of Registration of Births and Deaths,” *American Journal of Public Health and the Nation’s Health*, 27 (May 1937), 492–98; Willard C. Smith and I. S. Falk, “Social Security Needs for Vital Statistics Records,” *ibid.*, 29 (May 1939), 452–547; Attorney General’s Committee on Administrative Procedure, *Administrative Procedure in Government Agencies, Part 3: Social Security Board*, Senate Doc. 10, 77 Cong., 1 sess., 1941, p. 5; A. W. Hedrich, “Delayed Birth Registration,” *American Journal of Public Health and the Nation’s Health*, 32 (April 1942), 365–68. “Report of Vital Records Committee of the State and Territorial Health Officers,” Feb. 12, 1943, typescript, TFM: Vital Statistics (1942) folder, box 85, Records of the Bureau of the Census, Records of the Assistant Director for Statistical Standards, RG 29 (National Archives, Washington, D.C.).

⁴⁵ Robert F. Lenhart, “Completeness of Birth Registration in the United States in 1940,” *American Journal of Public Health and the Nation’s Health*, 33 (June 1943), 685–90, esp. 690.