

The Fair Labor Standards Act of 1938:
Strikes and Settlements

By Kayleigh Edmonds

Historical Paper

Junior Division

2,491 Words

Near the beginning of the 20th Century, hazardous work conditions in American factories sparked controversy, which led workers to fight for more workplace rights. Laborers rioted and organized strikes, creating turmoil in the United States.¹ Although previous labor laws had been nullified by the Supreme Court, after a year of congressional debate and compromises, a law was passed and later declared constitutional. The Fair Labor Standards Act (FLSA) passed in 1938 established a minimum wage, a maximum workweek, overtime compensation, and limited some forms of child labor.² Since then, the law has been amended to help prevent exploitation of its weaknesses.³ Despite its faults, the FLSA started the country on a path to regulating and improving work conditions.

Industrial Health Hazard

While the Industrial Revolution in the 1880s brought great prosperity for many, the working class suffered tremendously. The factories were often unsanitary and unsafe, with dangerous machines that caused workplace injuries. Factories were especially dangerous for women and children who entered the workforce. Labor unions began to form to help workers gain better rights although most were originally for men only. Unions helped workers organize strikes and publicize their issues. Workers also had poor conditions at home because the mass

¹ Christopher Klein, "The Strike That Shook America," History.com. September 03, 2012, Accessed January 10, 2018, <http://www.history.com/news/the-strike-that-shook-america-100-years-ago>.

² Frances Perkins and Adam S. Cohen, *The Roosevelt I Knew* (New York City, New York: Penguin Books, 2011), 253.

³ Milton Meltzer, *Cheap Raw Material* (New York City, New York: Viking, 1994), 141-143.

migration from farms to cities led to insufficient housing.⁴ These conditions led workers to fight for more rights in the workplace.

Haymarket Square Riot

As the labor movement gained ground in the 1880s, various groups of radicals, like socialists, communists, and anarchists, infected the labor movement. Some radicals even believed capitalism should be dismantled because it took advantage of workers. On May 4, 1886, a group of these radicals organized a protest over the killing of striking workers by Chicago policemen. As the rally neared its end, policemen tried to disperse the crowd. An unidentified person threw a bomb at the police. In return, the police opened fire, and the once-peaceful protest turned into a riot. Seven police officers and at least one civilian died that day, and many others were wounded. In August, eight Chicago men were convicted as anarchists. One of the men was sentenced to 15 years in prison while the other seven were sentenced to the death penalty. Four of those seven men were hanged on November 11, 1887, one committed suicide, and two were sentenced to life in prison instead.⁵ This was a setback to the labor movement because people started to connect the movement with the bomber at the Haymarket Square Riot and the men convicted as anarchists, giving the movement a negative connotation. The Haymarket Square Riot of 1886 was one of many conflicts caused by laborers protesting workplace conditions.

⁴ "The Industrial Revolution in the United States." Library of Congress Teaching Resources. Accessed February 27, 2018. http://www.loc.gov/teachers/classroommaterials/primarysourcesets/industrial-revolution/pdf/teacher_guide.pdf.

⁵History.com Staff, "Haymarket Square Riot," History.com. 2009, Accessed January 11, 2018, <http://www.history.com/topics/haymarket-riot>.

The Bread and Roses Strike of 1912

Another conflict sparked by poor labor conditions was the Bread and Roses Strike of 1912. On January 11, 1912, factory workers stopped weaving cotton at Everett Mills in Lawrence, Massachusetts. When asked why they had stopped working, they explained there wasn't enough pay. The workers discovered 32 cents had been cut from their paychecks, which had only been an average of \$8.76 per week previously. The cuts came after a law reduced the legal number of hours per workweek from 56 to 54 hours a week, and the paychecks were cut proportionally.⁶ Although proportional cuts seem fair, their original wages were devastatingly low compared to today.

Overnight, the news of the walkout spread across the town, so by the following morning, 10,000 textile workers walked out from mills across Lawrence. Strikers did more than just leave their jobs, they also held up protest signs outside the mills, and they destroyed machines, threads, and windows of the mills. They paraded through the streets, chanting protests. State militiamen protected factories, keeping strikers from doing more damage over the following weeks. Women played an important role in the strike, delivering passionate speeches and marching in picket lines with banners. One banner read, "We want bread and roses too," which signified their demands for both living wages and dignity. Workers struggled to unite because they lacked a common language. Lawrence had been known as Immigrant City, where people from 51 nations lived and were involved in the strike. Luckily, there were different ethnic organizations that helped the strikers to unite. Although the strikers were poor, local farmers brought them food, and Americans raised funds to pay for strikers' living costs. Mill owners were persistent as well,

⁶ Klein.

and with the help of city leaders, they hired men to attack the strikers and bury dynamite around the mills to deter attacks.⁷

Events in Lawrence began to reach a breaking point. On January 29, the strikers attacked a streetcar that carried workers who weren't staying true to the strike. That afternoon, police officers shot at the picket line, killing Anna LoPizzo. The day after, John Ramey was stabbed by a soldier's bayonet (See Appendix: A1). In light of the boiling over of Lawrence's melting pot, 119 children of strikers were sent to Manhattan on February 10. Thousands of people met the children when they arrived at the train station, and more children were sent the next week (See A2). Mill owners saw this as a way for strikers to earn the support of the American people, so on February 24, the families of 46 Philadelphia-bound children were prevented by soldiers from sending their children on the train. When families tried to push their children onto the train, police dragged them away by their hair and beat them with clubs. The nation's support of the workers led President Taft to send an attorney to look into the strike, and Congress began a hearing about the strike on March 2. On March 14, the two sides compromised at a 15% wage hike and higher overtime compensation. By the end of March, 275,000 mill workers from across New England received the same wage.⁸ The strike was a success for the labor movement, and it helped change the nation's view of labor.

The Supreme Court

When Frances Perkins (See A3) accepted the position as Head of the Department of Labor, she had an agenda of bills she wanted to be passed. President Roosevelt supported her agenda (See A4). The series of legislation that followed was known as the New Deal. In 1933,

⁷Klein.

⁸Klein.

the National Industrial Recovery Act was developed as a piece of New Deal legislation. It promoted an agreement that covered 16.3 million workers during its existence and gave laborers workweeks of 35-40 hours, a minimum wage of \$12-\$15 a week, and set 16 as the minimum age for workers. Businesses that signed the agreement would be given a Blue Eagle badge to put on their products, and the idea was promoted that patriotic Americans should only buy products with Blue Eagles. The legislation was fairly successful until May 27, 1935, deemed “Black Monday” by the labor movement. In *Schechter Corp. v. United States*, the Supreme Court ruled the National Industrial Recovery Act was unconstitutional. In a series of similar decisions, the Supreme Court invalidated both national and local labor laws. This pattern was interrupted when the Supreme Court upheld the minimum wage in *West Coast Hotel v. Parrish*. Because of the Court’s change of heart, March 29, 1937, was known as “White Monday.” The vote was decided by Justice Owen Roberts, who claimed the case was different from the others.⁹ Regardless of the reasoning, his vote set into motion drafts of new labor laws.

The Beginnings of the Fair Labor Standards Act

Because the Supreme Court started to uphold labor laws, the time had come for Secretary Perkins to present the Fair Labor Standards Act. When Roosevelt first addressed her about the bill, he asked her, “What happened to that nice unconstitutional bill you had tucked away?” Perkins presented the first draft of the FLSA, and on May 24, 1937, President Roosevelt urged Congress to support the legislation. Senator Hugo Black of the Senate and William P. Connery of the House became sponsors and promoters of the bill. In the beginning, reception was good, and criticism was only of technical difficulties and the possibility of foreign outsourcing to

⁹ Jonathan Grossman, “Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage,” U.S. (retrieved January 23, 2018). <https://www.dol.gov/oasam/programs/history/flsa1938.htm>.

escape the laws. Neither the American Federation of Labor (AFL) nor the Congress of Industrial Organization (CIO) gave their full support to the bill. By the time the committee on labor passed the bill to the Senate, its scope was greatly reduced. Despite objection in the Senate, the bill passed. On August 6, 1937, in an attempt to resolve opposition to the bill, the House committee on labor added last-minute amendments. The Rules Committee failed to bring the bill to the floor before Congress ended its session.¹⁰

President Roosevelt called a special session on November 15, 1937, for action on the law. When announcing his plans, he said, “In the interest of the national economy such adjustments as must be made should not be made at the expense of those least able to bear them... Political and social harmony requires that every state and every country not only produce goods for the nation’s markets, but furnish markets for the nation’s goods.” His words moved lawmakers, including Representative Arthur D. Healey, to petition for the discharge of the Rules Committee to allow the bill to go to the floor for debate. From November 17 to December 2, 218 members of Congress signed his petition. During this time, members of the AFL publicly campaigned against the planned enforcement method, so the bill’s administration methods were changed. On December 13, Healey’s petition was approved, and the Rules Committee was discharged from consideration. When several House Democrats from the North and West joined the Southern Democrat-Republican coalition, the bill was sent back to the Committee on Labor, who began the task of revision.¹¹

¹⁰Perkins and Cohen, 244-255.

¹¹Perkins and Cohen, 244-255.

A Second Attempt

While the Committee on Labor was busy revising the bill, President Roosevelt mentioned it in his State of the Union Address. One statement he made on it was, “We are seeking only, of course, to end starvation wages and intolerable hours.” This was an attempt to rally both the common folk and congressmen to support the bill by putting the purpose of the legislation in basic terms. Simplifying seemed to be the theme of the revisions because the bill was 40 pages long and consisted of complicated provisions and phrasing. Roosevelt asked Perkins, “Can’t it be boiled down to two pages?” Gerard Reilly was tasked with writing a new draft, and by late January he had shrunk the bill to ten pages. Although it was not the two pages Roosevelt wanted, he approved the revisions and sent the bill to Mrs. Norton, chairman of the Committee on Labor. At this point, Perkins hired Rufus Poole to follow the bill and know everything about its progress. He became so skilled that he not only knew who objected to the bill and why, but he could predict the votes for or against an amendment with amazing accuracy. Congressman Griswold drafted a competing bill that established a 40-hour maximum workweek and a forty-cent per hour minimum wage. However, its method of enforcement was weak, leaving punishment to the courts.¹²

Mrs. Norton presented the shortened bill to Congress by February. It set the minimum wage at 25 cents per hour for the first year, with an increase in increments of 5 cents an hour yearly until the minimum wage was at 40 cents per hour. In addition, it set the maximum workweek at 44 hours, which would decrease by 2 hours yearly until it reached 40 hours, and allotted additional compensation for overtime hours (See A5). The bill was adopted on June 14,

¹²Perkins and Cohen, 244-255.

1938, by both the House and Senate (See A6).¹³ The law was a victory for the labor movement that would provide national coverage of workers, but the fight was far from over.

Immediate Impact

The Fair Labor Standards Act went into effect on October 24, 1938. It provided a minimum wage of 25 cents per hour to 11 million workers. Previously, 300,000 of these workers made less than 25 cents per hour.¹⁴ The law also formed a basis for child labor laws, allowing children over 10 years old to work in fields, children ages 14-16 to work in limited occupations outside of school hours, and children 16 years of age or older to work in all fields except those deemed hazardous, which was reserved for people 18 years of age or older. Insufficient enforcement led to children still working in conditions against the law. Children in agricultural fields were denied some protections other children had, in an effort to convince representatives of farmers to vote for the bill.¹⁵ This flaw created a precedent that led to over 50 years of insufficient protection for farmworkers.

Young Workers Bill of Rights

In 1991, Charles Schumer and Tom Lantos sought to solve the issue with a proposed amendment to the FLSA, which was called, “Young Workers Bill of Rights.” It proposed several changes to the labor laws. The first proposition was for the Census Bureau to create a yearly child labor report. The second idea changed the definition of a minor to a person under 18 who had not earned a high school diploma or equivalent, and it said no minor should be employed

¹³Perkins and Cohen, 244-255.

¹⁴ Kirsten Downey, “Court-Packing, Wages, and Hours,” *The Woman behind the New Deal: the Life and Legacy of Frances Perkins ; Social Security, Unemployment Insurance, and the Minimum Wage*, 1st ed., New York: Anchor Books, 2010, 266-269.

¹⁵ Meltzer, 141-143.

without a work permit. The third part would require states to report data on labor done by minors. The fourth piece of the bill mandated changes to the term “Hazardous Work Orders.” The rest of the document included measures that extended protections to agricultural workers and created stricter penalties for violations. This bill was not voted on before the congressional session ended, and although it was reintroduced every session until 2001, records of the legislation disappeared after that date, and it was never passed.¹⁶ Even though the bill was unsuccessful, it showed Americans continue to strive for better labor conditions (See A7).

Conclusion

From the labor abuses of the 1880s to today, the labor movement has had a rich and complex history. In the beginning, many factories were unsanitary and unsafe for workers. Laborers sometimes protested unsuccessfully, like at the Haymarket Square Riot. But it was the successes, like the Bread and Roses Strike of 1912, that would ultimately influence lawmakers. The Supreme Court stood in the way of labor laws for many years, but in the case of *West Coast Hotel v. Parrish* they began to uphold labor laws. This gave Frances Perkins and President Roosevelt the opportunity to send the Fair Labor Standards Act to Congress, where it was passed and signed by President Roosevelt in 1938. The conflicts of America's past over poor working conditions led to compromises by policy makers during the creation of the Fair Labor Standards Act of 1938, which provided millions of Americans a minimum wage and still forms a basis for workers today who fight for higher wages and better working conditions.

¹⁶Meltzer, 141-143.

Appendix



A1) “Massachusetts militiamen face strikers in Lawrence”



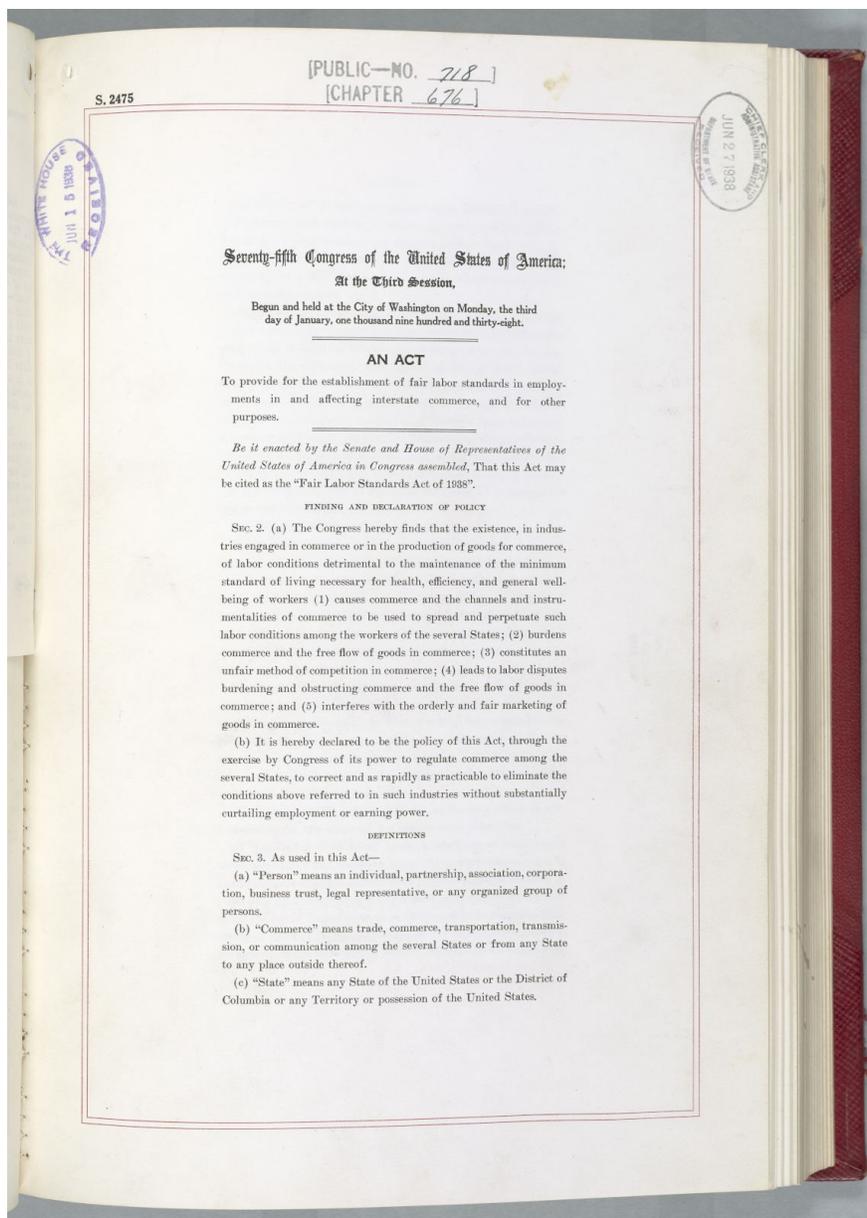
A2) Children who left Lawrence, Massachusetts



A3) "Frances Perkins"



A4) Perkins and Roosevelt



A5) "Fair Labor Standards Act"



A6) “FDR signs the FLSA”

FDR signed the Fair Labor Standards Act on June 25, 1938. How are things looking, 75 years later?

75th anniversary

National minimum wage: **\$7.25/hr**
Tipped minimum wage: **\$2.13/hr**

87% Of tipped workers don't have paid sick days.

Every year, the average family of four spends: **\$48,109**

Someone who works a minimum wage job 40 hours a week 52 weeks a year makes: **\$15,080**

If the minimum wage were raised to **\$10**, **1/2** Of the working poor could escape poverty.

Urge your Member of Congress to sign the Fair Minimum Wage Act of 2013.

NCL
NATIONAL CONSUMERS LEAGUE

A7) 75th anniversary of FLSA

Appendix Notes

A1) Christopher Klein, "The Strike That Shook America." History.com. September 03, 2012.

Accessed January 10, 2018. <http://www.history.com/news/the-strike-that-shook-america-100-years-ago>.

A2) Christopher Klein.

A3) "Frances Perkins." United States History. Accessed January 23, 2018. <http://www.u-s-history.com/pages/h1603.html>.

A4) Frances Perkins and Adam S. Cohen, *The Roosevelt I Knew*. 1st ed. New York City, New York: Penguin Books, 2011.

A5) "Fair Labor Standards Act." Records of Rights. Accessed April 13, 2018.

<http://recordsofrights.org/records/110/fair-labor-standards-act>.

A6) "June 25 FDR signs the FLSA." Labor History in 2min. June 25, 2015. Accessed April 12,

2018. <https://laborhistoryin2.podbean.com/e/june-25-fdr-signs-the-flsa/>.

A7) Savvyconsumer. "The Fair Labor Standards Act Turns 75." NCL's Savvy Consumer Blog.

June 25, 2013. Accessed April 12, 2018. <https://savvyconsumer.wordpress.com/2013/06/25/the-fair-labor-standards-act-turns-75/>.

Annotated Bibliography

Primary Sources

Coggeshall, Tomlin. Interview by author. Phone. Nevada, Iowa, March 8, 2018.

Tomlin Coggeshall is the grandson of Frances Perkins. I interviewed him to talk about what Frances was like in her later years, and what she mentioned to him about her position. He told me several fantastic stories about his grandmother and what she told him. He was very helpful because he knew her personal motivations behind what she did and why she prioritized certain legislation over others. He was an interesting person as well, and he founded the Frances Perkins Center. He was a great source of primary information about Frances Perkins.

“Fair Labor Standards Act.” Records of Rights. Accessed April 13, 2018.

<http://recordsofrights.org/records/110/fair-labor-standards-act>.

This website contains the first page of the Fair Labor Standards Act. This was essential, because it is the actual law, not just an explanation. It was also an important addition to my appendix because it showed the language lawmakers used at the time.

“The Labor Troubles.” *The Daily Republican*. (Moline, IL), May 10, 1886. Accessed February 15, 2018. <https://basic.newspapers.com/image/338648978>.

This article was written about the Haymarket Square Riot, and it discussed the evidence the police had and some of the people who had been arrested. It also talked about what happened to laborers after the riot. It didn't say everything known today though, because it had to remain confidential, and it was written early in the investigation. I used it to confirm what the History.com article said, to ensure the article had correct facts.

Perkins, Frances, and Adam S. Cohen. *The Roosevelt I Knew*. 1st ed. New York City, New York: Penguin Books, 2011.

The Roosevelt I Knew was written by Frances Perkins shortly after President Franklin Delano Roosevelt died. One of the sections of her book, known as “Wages and Hours,” describes the process she and others undertook to make the Fair Labor Standards Act a law. It was an excellent firsthand account of the process, and I took several quotes from the book as well as specific information on how people were involved in the process.

Roosevelt, Franklin. *Fireside Chat 13*. Audio, 26:47. June 24, 1938. <https://www.youtube.com/watch?v=1WBGyPqOZwc>.

President Franklin Roosevelt gave this speech to the American people after the Fair Labor Standards Act was passed. He discusses numerous things Congress had done, but he talked for several minutes on the Fair Labor Standards Act. The speech offered another perspective about the law and showed how President Roosevelt felt about the law. He talked about how it would do good for the people and how businessmen would try to dismiss the benefits of the law for their own personal gain. It was overall a wonderful source to show what another politician from the time period thought of the law.

Secondary Sources

Downey, Kirstin. “Court-Packing, Wages, and Hours.” *The Woman behind the New Deal: the Life and Legacy of Frances Perkins ; Social Security, Unemployment Insurance, and the Minimum Wage*, 1st ed. New York: Anchor Books, 2010,

This book was written by Kirstin Downey, an author who writes the untold stories of

women in history. It told the story of Frances Perkins' life and had a section about Perkins' involvement in the Fair Labor Standards Act. It was useful because while the sequence of events and the opinions of Perkins were the same as what Perkins wrote, Downey put some of the details in layman's terms, whereas Perkins was very verbose. She also talked about Perkins' emotions, which Perkins tried to refrain from expressing in her book because she was trying to tell an unbiased story, although Perkins had expressed these emotions at other times.

"Fair Labor Standards Act." United States History. Accessed January 23, 2018.

<http://www.u-s-history.com/pages/h1701.html>.

This article contained much of the same basic information other sources provided, and I used it less for learning new information and more for double checking the information in my other sources to make sure several sources all supported the same facts.

"Frances Perkins." United States History. Accessed January 23, 2018. <http://www.u-s-history.com/pages/h1603.html>.

This article was written about Frances Perkins, and it described what happened over the course of her life, including details about her motivation for labor laws. I used it to learn more about Perkins and her history, because I didn't know anything about her before I began my project. It was very helpful at supplying details such as her place of birth and her struggle to get an education as a woman. While most of these details about her I didn't insert into the paper because I ran out of room, it was very helpful for giving her part of the story more of a historical context. I also found a fantastic image of Frances Perkins on this website that I used in my appendix.

Grossman, Jonathan. "Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage." U.S. (retrieved January 23, 2018). <https://www.dol.gov/general/aboutdol/history/flsa1938>.

This article was written by Jonathan Grossman, the historian for the Department of Labor, and was in the *Monthly Labor Review*, before being updated to the Department of Labor's website. It details the process the Fair Labor Standard Act went through, starting with historical context in 1918 and continuing the story until when the bill became law. It was useful because it contained much of the legal details and it provided valuable details about the Supreme Court cases. I pulled information about the specific logistics of the law.

History.com Staff. "Haymarket Square Riot." History.com. 2009. Accessed January 11, 2018. <http://www.history.com/topics/haymarket-riot>.

This website article provided many details about the Haymarket Square Riot. It is not attributed to a certain author, although at the top of the article there is a video by Yohuru Williams, and the content of the video is very similar to the content of the article. I used this source to get a description of the riot and details about the punishments of the eight men labeled as anarchists.

"The Industrial Revolution in the United States." Library of Congress Teaching Resources. Accessed February 27, 2018. http://www.loc.gov/teachers/classroommaterials/primarysourcesets/industrial-revolution/pdf/teacher_guide.pdf.

This was originally intended to be a lesson plan for teachers, but it contained great information on the background of the Industrial Revolution. It had a fantastic passage on

the struggles workers faced before there were strong labor laws. I used that passage to gain information.

"Inflation Rate between 1912-2018." Inflation Calculator. Accessed January 17, 2018.

<http://www.in2013dollars.com/1912-dollars-in-2018?amount=8.76>.

This website calculates how the value of money has changed over time. I used it to do the math for how much money the weekly pay of the workers from Lawrence made per week to compare it to how much somebody today would earn per week. It was useful for putting ideas in terms that help show just how much they were earning and exactly how much more money people earn today.

"June 25 FDR signs the FLSA." Labor History in 2min. June 25, 2015. Accessed April 13,

2018. <https://laborhistoryin2.podbean.com/e/june-25-fdr-signs-the-flsa/>

This podcast is part of a Labor History in 2 minutes series. On the anniversary of Franklin Delano Roosevelt signing the Fair Labor Standards Act, they made a podcast about the Fair Labor Standards Act. From here I found a picture of FDR signing the Fair Labor Standards Act, with many notable people in the background, one of those people being Frances Perkins.

Klein, Christopher. "The Strike That Shook America." History.com. September 03, 2012.

Accessed January 10, 2018. <http://www.history.com/news/the-strike-that-shook-america-100-years-ago>.

This source is a web article written by Christopher Klein, a freelance history writer who writes several articles for History.com. It describes the Bread and Roses Strike of 1912 and gave details about every aspect of the strike. I used it to pull the information about

the Bread and Roses Strike, which was useful for providing a background on the reasoning behind the Fair Labor Standards Act. It also provided several excellent images.

Lach, Alex. "5 Facts About Overseas Outsourcing." Center for American Progress. July 09, 2012. Accessed January 23, 2018. <https://www.americanprogress.org/issues/economy/news/2012/07/09/11898/5-facts-about-overseas-outsourcing/>.

This website article was written by Alex Lach, an assistant editor at the Center for American Progress. His article defines the difference between offshoring and outsourcing, and it goes into detail about five startling facts about overseas outsourcing in modern times. His article explored why companies outsource overseas and the potential for companies to come back to the United States. I used the source to learn the ways companies work around the Fair Labor Standards Act.

Meltzer, Milton. *Cheap Raw Material*. 1st ed. New York City, New York: Viking, 1994.

This book was written by Milton Meltzer, an American historian and author. The book talks about child labor in the end of the 20th century although I used the section about the Young Workers Bill of Rights, which was being considered by the 103rd Congress at the time he wrote the book. I pulled the specifications of the bill, which Meltzer went into great depth about in his book.

Savvyconsumer. "The Fair Labor Standards Act Turns 75." NCL's Savvy Consumer Blog.

June 25, 2013. Accessed April 12, 2018. <https://savvyconsumer.wordpress.com/2013/06/25/the-fair-labor-standards-act-turns-75/>.

This article was published on the 75th anniversary of the signing of the Fair Labor Standards Act. It contained an extremely useful infographic that showed what had

changed over the 75 years. It was also a call to action to vote on a law that would have raised the minimum wage, which was not passed. Although, being five years old, inflation has affected how much money a family spends, the minimum wage is still an accurate reflection of today's minimum wage, and it shows how much has been changed over 75 years.