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Working mothers and the state.

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FIVE COLLEGE
DEPOSITORY

WORKING MOTHERS AND THE STATE

A Dissertation Presented

By

Cynthia Rae Daniels

Submitted to the Graduate School of the
University of Massachusetts in partial fulfillment
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

February 1984

Political Science

WORKING MOTHERS AND THE STATE

A Dissertation Presented

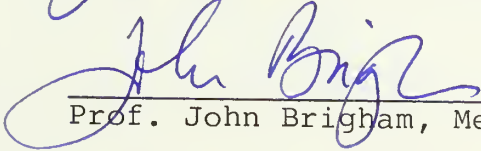
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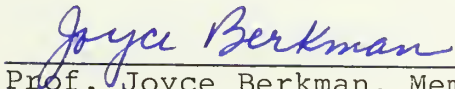
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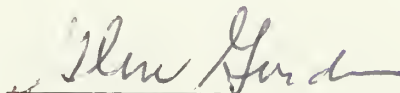
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PREFACE

Feminist scholars have just begun to develop a comprehensive understanding of the state's relationship to patriarchal power relations. My dissertation will contribute to this understanding through original historical research in women's labor history and through an informed theoretical assessment of this research.

Throughout this dissertation I will use the term "patriarchy" to refer to a constellation of social relations in contemporary society whereby males are endowed with economic, political, and social power and privilege by the simple virtue of their gender. Neither historically fixed nor universal, the specific content of gender-based power relations must always be understood within a historically specific context. It is important to distinguish, therefore, between an understanding of patriarchy as "father-rule"--a social system characteristic of precapitalist social formations in which a familially-based paternal authority formed the model for economic and political relations--and a more contemporary understanding of gender relations within our liberal capitalist and racially stratified society. But despite the historical transformations patriarchy has undergone, the use of term remains important

as an indication of the unfortunate historical continuities embedded in gender relations: though taking different forms, gender relations remain characterized at a fundamental level by inequalitarian power relations.

As a social relationship, patriarchy should not be understood as trans-historical or biologically determined, but as a social system which uses biological differences as a basis for social inequalities. As a dynamic social system, therefore, patriarchy does not automatically or easily reproduce itself. Part of the purpose of this study will be to assess the role the state has played in stabilizing and reproducing these relations.

Within the context of contemporary U.S. Capitalism, patriarchy has come to be characterized by a sexual division of labor whereby women are primarily associated with the private sphere of the home and men with the public spheres of work and formal politics. Women's primary identification with private life, I will argue throughout the dissertation, is one important basis for her secondary economic and political standing in the public world. The development of this sexualized public/private distinction will be the subject of my first chapter.

Chapter one will first address the development of the distinction between the "privatized family" and "public politics" in classical liberal theory. In brief,

I will address the questions of how and why family life came to be associated with private life, as well as how the liberal definition of politics came to exclude familial relations. This discussion will lead me to an assessment of the role of the public/private distinction not only in classical liberal theory but in contemporary liberal feminist analyses which adopt this distinction. Through this discussion I will draw important conclusions about the limitations of a definition of politics which grows out of this public/private distinction.

My second and third chapters will address the history of state policy in regard to working women, with a focus on labor policy in New York State during the Progressive Era. First, I will document the existence of a heretofore unknown sector of the labor force--homeworkers, or women who were employed to produce or finish goods at home. The exemption of these working mothers from all forms of state regulation during this time period will stand in contrast to the development of protective labor legislation during the same time period for women working outside the home in industrial occupations. Such legislation, I will argue, limited women's options for work in the public marketplace while reasserting women's primary identification with the private sphere of the home. The juxtaposition of these two case studies will form the basis of my assess-

ment of the role of the language of public and private life in the formation of state policy. As much of the legislation enacted during this time period in New York served as a guidepost for long-standing federal legislation, the implications of my study will reach beyond this specific state and time period.

My concluding chapter will explicitly address the problems associated with the development of a feminist theory of the state. After reviewing the major liberal, reformist, and marxist models of political power, I will advance a perspective that can take into account the dynamic process by which state policy is developed and assess the role not only of organized political organizations but of a dominant "ideology of motherhood" in the policy process. In short, I will argue that the state has played a crucial role in mediating the conflicts internal to a historically dynamic patriarchal social system.

I wish to thank the Woodrow Wilson National Fellowship Foundation Program in Women's Studies and the American Association of University Women's Educational Foundation Program for their generous support of my dissertation research. I would also like to thank, for their help and support, my committee members: Jean Elshtain, Joyce Berkman, John Brigham, and my "unofficial" member, Kenneth Dolbeare.

An army of people stuck with me through countless editions of this dissertation. For their incisive criticisms and dedicated patience, I would like to thank: Randy Pearl Albelda, Sandy Blanchard, Louise Brown, Maryann Clawson, Libba Moore, and Beata Panagopoulos.

Finally, I'd like to thank Bob Higgins for his endless patience and wisdom; my mother, Margaret Daniels, for teaching me both independence and stamina; and my homeworking sister, Andrea Scott, who remains a constant reminder of the contemporary importance of my historical work.

ABSTRACT

WORKING MOTHERS AND THE STATE

(September 1983)

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Through original historical research in women's labor history and an informed theoretical assessment of this research, this dissertation addresses the question of the ways in which state policy has reinforced women's primary association with the private sphere of the home and secondary standing in the public spheres of politics and economics. The dissertation begins with an assessment of the development of the public/private distinction in classical liberal thought and addresses the question of how the liberal definition of "public" politics came to exclude "private" familial relations. Women's primary identification with this private sphere, I argue, is one important basis for her secondary standing in formal politics and in the public marketplace. Chapters two and three address the history of state policy in regard to working women with a focus on labor policy in New York State during the Progressive Era. First, I document the existence

of a heretofore unknown sector of the labor force--home-workers, or women who were employed to produce or finish goods at home. The exemption of these working mothers from all forms of state regulation during this time period is then contrasted to the development of protective labor legislation during the same time period for women working outside the home in industrial occupations. Such legislation, I argue, limited women's options for work in the public marketplace while reasserting women's primary identification with the private sphere of the home. As an outgrowth of my historical research, my concluding chapter explicitly addresses the problems associated with the development of a "feminist theory of the state." After reviewing the major liberal, reformist, and marxist models of political power, I advance a perspective that can take into account the dynamic process by which state policy is developed and assess the ways in which the state mediates the conflicts internal to a historically dynamic patriarchal social system.

TABLE OF CONTENTS

PREFACE	iv
Chapter	
I. PUBLIC POLITICS AND THE PRIVATIZED FAMILY	1
Introduction	1
John Stuart Mill and the Classical Liberal Paradigm	5
Betty Friedan and Contemporary Liberal Feminism	23
Conclusions	35
II. BETWEEN HOME AND FACTORY: HOMEWORKERS OF NEW YORK, 1900-1914	42
Introduction	43
Major Characteristics of the Homework System	49
Attempts to Regulate Homework	60
Social Reform Movements	60
Organized Labor	63
State Policy	68
Conclusions	75
III. NO PLACE FOR WOMEN: PROTECTIVE LABOR LEGISLATION FOR WOMEN; NEW YORK, 1900-1925 ...	82
Introduction	82
Prohibitive Legislation	85
Regulatory Legislation	96
Night Work Laws	96
Hour Laws	102
Working Women Divided: "Equality v. Protection"	114
Effects of Legislation	120
Conclusion: Motherhood and the State	127

IV.	CONCLUSION: DEVELOPING A FEMINIST THEORY OF THE STATE	137
	The Growth of Welfare Liberalism	138
	Theories of Political Power	145
	Pluralism	145
	Reformism	148
	Marxist Perspectives	157
	Summary and Conclusions	166
	
	SELECTED BIBLIOGRAPHY	201

C H A P T E R I

PUBLIC POLITICS AND THE PRIVATIZED FAMILY

At a basic level, various liberal thinkers such as Locke and John Stuart Mill have shared a view of family life which stresses its private and non-political character. Family relations have been viewed as naturally-based and ideally empty of the individualistic and competitive power relations that predominate in the public world of politics. Liberal feminists have been forced to challenge this rather strict distinction between public politics and the privatized family as they have come to view family life as imbued with patriarchal relations of dominance and subordination. Recognition of the sexual division of labor in the home, the importance of child-rearing practices, questions about the control of women's reproductive capacities and sexuality, all of these have pushed feminists to a reestimation of traditional definitions of politics--to one that can explain these complex and crucial dimensions of gender relations.

But the question remains whether liberal feminists can succeed in understanding the political underpinnings of private relations while retaining their commitment to liberalism. In order to answer this question it is

necessary to understand the roots of the public/private distinction in liberal theory and the definition of politics that has grown out of it. One of the main questions I will address in this chapter, therefore, will be: Is the depoliticized status of family life essential to liberal theory and, if so, does it necessitate an implicit acceptance of patriarchal power relations in the private sphere of the family? The answers to these questions are crucial, because insofar as the liberal tradition sees family life in non-political terms, it is unable to address women's dependent status within family life as one important foundation of women's economic and political inequality. And also, insofar as liberal theory renders these private familial relations invisible or immune from critical analysis, it legitimizes patriarchal relations in that sphere, helps to deflect critical attention away from these relations, and by doing so acts to perpetuate women's secondary political, economic and social position.

This chapter will be divided into three sections. First, I will explore the origins of the public/private split in liberal theory. How and why did family life come to be associated with private life? How did the liberal definition of politics come to exclude familial relations? Also, how is the public/private distinction connected, in liberal theory, to views of human nature, epistemology, and views of the state? In addition, I will address the

question of whether the liberal version of the public/private split inherently undervalues the relationships and characteristics traditionally associated with women's work in the private sphere. In other words, is there an inherent evaluative distinction between the public and private spheres in liberal theory?

John Stuart Mill will provide the model for the liberal paradigm in this first section. Mill, as a progressive liberal thinker, provides us with a good illustration of both the strengths and limitations of liberal theory. As a liberal thinker who rejected the strict Utilitarianism of James Mill and Bentham, and who modified more pessimistic Lockean views of human nature, he probably best represents the spirit of Contemporary progressive liberalism. Finally, this section will conclude with an assessment of Mill's liberal feminism.

The second section of this chapter will examine feminist revisions of liberalism. I will focus here on Betty Freidan's latest work, as she is one of the most visible and influential contemporary liberal feminists. Throughout this section I will address whether it is possible to critically analyze the social foundations of family life and understand the interconnections between women's dependent status in both public and private life while retaining a fundamental commitment to the liberal paradigm. Insofar as such an understanding of family life is necessary

to any feminist analysis, this question will raise the issue of whether a distinctly liberal feminism is viable for an adequate analysis of women's position in contemporary society.

The third section of this chapter will address the strategic implications of the liberal feminist analysis. Liberal feminists, by uncritically accepting the liberal dichotomy between the public and private realms and thus the definition of politics that grows out of this distinction, have focused their attention on the legislative road to equality. By doing so they have implicitly accepted the conception of the state as "sex neutral" and have limited their analysis of sexual inequality to those power relations visible in the 'public' world of politics. While many liberal feminists are skeptical of state power, insofar as they are true to the classical liberal perspective, many also continue to rely on state-sponsored solutions to women's inequality. A clarification of this dilemma is important for a more complete understanding of the role the state has played in the maintenance of patriarchal power relations, as well as for the question of whether the state can or should be used as a vehicle for progressive social change. This section will conclude with an assessment of both the insights and limitations of the liberal feminist understanding of state power and the strategies for change that are an outgrowth of this understanding.

Finally, I will raise some questions that can only be answered through my historical research: What is the relationship between women's identification with the private sphere (specifically her primary identification as "mother") and more public manifestations of women's inequality in the marketplace and in her formal legal status? What role has the state played in relation to patriarchal power relations? And, what role has public/private ideology played in the formation of state policy, particularly as it effects women? Such questions will serve as guides to the historical case studies which will follow this chapter.

John Stuart Mill and the Classical Liberal Paradigm

Liberal philosophy, as articulated by Locke, and reasserted by J. S. Mill, grew out of a reaction against the absolute monarchy of late feudalism. Feudal relations relied on the patriarchal family as the model for its interwoven economic, social, and political organization. These relations were characterized by notions of duty, obligation, obedience to paternal authority, and a hierarchy based on birthright. In order to dismantle the existing system of rewards and privileges based on feudal ties, liberals sought to limit divine right by establishing a separate political sphere where the legitimacy of the state was grounded in the free consent of the governed. And, individualism supplanted paternalism as the ruling paradigm

for both economic and political life.

Two closely related fundamental commitments grew out of the liberal critique of patriarchalism. First, liberalism asserted a very specific notion of individualism and invoked a view of this individual as independent and rational. Liberal philosophy asserted an "abstract individualism" which posited an inherent conflict of interest between individuals and between individuals and society. As aggressive and competitive by nature, we exist in conflict with others in the pursuit of our distinct self-interests. Each individual is rational, in the sense that each is the best judge of his or her self-interests and each is capable of determining the best instrumental means to satisfy those interests. In contrast to the feudal idea that we have inherent and natural obligations to others in the political order, the liberal atomized individual has no a priori obligations to others in this liberal "state of nature" save those that are explicitly contracted for. As Richard Krouse has argued, the liberal rejection of the patriarchal state rested on "a decisive lowering of the ends and purposes of political society."¹ The idea of the state was transformed from an "ethical association for the attainment of virtue" and based on obligations imposed from above (from the will of God or the purposes of nature) to an "instrumental association for the protection of life, liberty, and property" and based only on the will

of free and equal individuals. This "voluntaristic" view of state power was based on the liberal definition of individualism and required the strict limitation of state authority.

The second commitment that grew out of the liberal critique of patriarchalism involved a profound skepticism of state power. Liberal individualism was marked by a fundamental distrust of the collective power of the state which required the establishment of strict limitations to state interference in private affairs. In an important way, the tension between the individual and society in liberal thought became identified with the tension between private individuals and the collective power of public citizens. Individual freedom was based on one's freedom from constraint or interference from both other individuals and from the organized political power of the state. Though our association with others in civil society is necessary for the fulfillment of our needs and interests, it also poses a threat to individual freedom. In other words, the social bonds we form with others in the public world are double-edged: while they enable us to further our self-interest, they also potentially threaten individual freedom and autonomy. The protection of individual rights and freedoms from arbitrary state power necessitated the establishment of an inviolable private sphere of life, a sphere in which individual differences would be allowed

to flourish and in which the individual would not be held accountable to the judgements of others or the state. As Mill states, "the individual is not accountable to society for his actions insofar as these concern the interests of no person but himself."² For Mill the independence of the individual from the authority of the states was absolute. "Over himself, over his own body and mind, the individual is sovereign."³ This redefinition of the nature of individuals led Mill to strictly limit the legitimate purpose of state power. As he states, "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."⁴ The state can not intervene on the basis of what is "good " for the individual, what "it will be better for him to do" or what will make him "happier." Self-protection of the individual and the protection from the interference of others replaced traditional moral concerns as the *raison d'etre* of state power.

One of the most vexing problems Mill was to confront would be defining the boundary between the individual and society. In On Liberty he asserts, "To individuality should belong that part of life in which it is chiefly the individual that is interested; to society, the part which chiefly interests society."⁵ But what distinguishes that part of life which concerns only the individual and "does not affect the interests of others." The liberal depoliti-

cization of family life provided (for Mill and other early liberals) one important part of the answer to this question. The family, once the paradigmatic organizing principle of public life, retreated from public view into a newly created, specifically private sphere. Not only was the polity stripped of its familial basis; the family, by necessity, was also "depoliticized." And this meant that the development of a rather strict division between public politics and the private family was one fundamental building block of liberal thinking.

While the break between private family relations and public politics was essential to the liberal critique of patriarchalism, it would be misleading to assert that family life was rendered completely immune from liberal discourse. While marriage, for instance, would come to be conceptualized within the terms of a "free" liberal contract, familial relations remained, for most liberal philosophers, characterized by traditional hierarchical relations. In addition, most liberal thinkers, such as Rousseau, Hegel, and Locke, recognized the important political functions family relations should perform, most notably in the "proper" education of children. But while the privatized family might serve certain political ends, it remained, in and of itself, immune from the voluntarist critique of hierarchical and authoritarian power relations.

In sum, the liberal definition of human nature,

which was founded in an antagonistic division between the individual and society, required a strict differentiation between public and private life in order to demarcate the limits to state power. While the drawing of this boundary has always been problematic and controversial in liberal theory and practice, the division between family life and politics has consistently informed the definition of this boundary. The threshold of the home provided one important limit to the authority of state power and was one basis from which liberals argued against the arbitrary use of state power. Liberal feminists, including Mill, have run up against this theoretical commitment in their attempts to view family relations in political terms. For not only was the family protected from governmental interference; it was also excluded from the language of a critical political analysis. As such, family life virtually "disappeared" from the public political vocabulary.

With the exception of Mill's later works, the family relations of the traditional patriarchal family were viewed by classical liberals as both natural and necessary. As such they were rendered immune from the liberal critique of authoritarian power in political life. Also, many liberal thinkers, such as Locke, viewed the family as a relatively autonomous unit which provided the essential moral and educational training for good citizenship, but which remained immune from the liberal egalitarian language

of public politics. Specifically, the interest of women "disappeared" as they were assumed to converge with the interest of the father/husband. As Susan Okin states, "Whereas the liberal tradition appears to be talking about individuals, as components of political systems, it is in fact talking about male-headed families."⁶ Conflicts internal to family life were to be resolved not according to the voluntary and contractual rules of the liberal polity, but according to the traditional and obligatory laws of nature. This is precisely the point that Mill disputed in his treatise on women's subordination--and a point that contemporary liberal feminists must still contend with. For the moment, I will reserve critical judgement on this point and move on to another aspect of the liberal public/private split that holds important implications for a feminist analysis--its association with the reason/emotion dichotomy.

One characteristic of the public/private split that is crucial for an understanding of a feminist analysis is its association in liberal thought with the division between reason and emotion. This section will elaborate the liberal characterization of public reason and private passion and discuss the ways in which the reason/emotion split helps to define the issues and concerns we see as appropriate for public debate.

As stated previously, the liberal redefinition

of the state required the assertion that individuals have the capacity for rationality. The authority of the state, no longer based on arbitrary power and a natural hierarchical order, required the consent of free and rational individuals. Reason, therefore, was to replace obligation or force as the foundation of political legitimacy.

The liberal view of human nature is based not only on a division between the individual and society, but on an alleged division, internal to us all, of reason and emotion. As Jean B. Elshtain states, liberal epistemology divides us into public minds and private desires: "The public realm and "public mind" exist as defenses against the private sphere in which desire, conceived as uncontrolled and arbitrary, is held to rank supreme."⁷

Private life, as the repository of our baser instincts, is characterized as the site of emotions, morals, and values. Our non-rational urges, our passions in life--both good and bad--are seated and flourish inside that private sphere. The private realm of feeling, sentiment and morality is not and should not be subject to the same laws of reason as public relations are, because private morality is based not in reason, but in non-rational individual "preference." Our private desires, therefore, are not mediated by "law" or the rules of instrumental rationality, but by subjective teachings about what is 'right' and 'wrong'.

While relations in the private sphere are theoretically characterized by relations of affection, mutuality and dependence, and a sensitivity to the needs of others, relations in the public sphere of politics are characterized as abstract and instrumental. To bring the instrumental language and logic of public relations to bear on personal relations would be first to tyrannize individual freedom (by legitimating government interference in private life) and second to apply standards of behavior inappropriate to private activity.

This view of public and private life supported a sentimentalized vision of the family and a view of public politics as stripped of morality. In fact, this de-moralization of public politics was necessary to the ideal of the liberal state as a neutral arbitor of individual interests. Only by containing our private passions so, and restricting the entrance of moral considerations into public politics can we create the preconditions for the establishment of a sphere of politics in which all can be said to be treated "equally." Ideally, we enter politics as abstract individuals and are treated "blindly" under the law. As R. P. Wolff characterizes it, human differences and inequities of the private world should not "enter into the contractual arrangements of the public world. When they do, as they frequently do, liberal theory tells us that an injustice has been worked which it is the function of the laws to

correct."⁸ The association of reason with the public sphere, or more specifically with public politics, is the foundation on which the claim can be made that the law is neutral, that the state balances all interests equally. It is not the purpose of the state to determine what is "good" for people or what is "just", or to establish "just" goals for the social order. The state merely establishes a battleground where each individual, or groups of individuals, can meet and negotiate settlements between conflicting interests and ends. Politics has to do with the establishment of fair and proper means (procedural democracy) and not with the just or unjust ends of politics (substantive democracy).

The distinction between public reason and private passion is important to understand, for as we shall see in the next section, it forms an important foundation for Mill's liberal feminism and continues to inform the thinking of contemporary liberal feminists. In some sense, Mill "reelevated" our conception of public life, not by reintroducing moral or ethical concerns into his view of politics, but by painting public life as the only realm in which individuals develop their capacity for rationality as well as their sociality. Independence and self-development were not developed by a hermetic retreat into the private sphere (as the logic of the argument so far might lead one to believe), but by the active engagement in the battle

for rights and interests in the public world of politics. Public discourse and debate, freedom of both thought and speech as unquestionable rights, and freedom of action as a qualified right, allow for the intellectual debate and stimulation necessary for the development of rationality and the cultivation of our sociality. But that sociality--the participation of individuals in the civil world for the protection of rights and interests--is a veneer, in a sense, over our more deeply rooted essential individualism and irrationality. The calculating intelligence fostered by our participation in the public world of politics serves to check and redirect toward more constructive purposes our more irrational, emotional natures. Sociality and rationality must be cultivated, from this point of view, and are not viewed as "first nature."

Mill could make this argument only because of his evaluative association of the private world with our baser non-rational instincts, and the public realm with our capacity for rationality. In private life, to which women were confined, our actions and beliefs tend to reflect our most narrow and immediate interests, desires, and fears, and our judgements tend to be unreflective. In public life, on the other hand, we are forced to take opposing points of view into account and therefore to subject our beliefs to question; we develop our capacity to transcend our immediate self-interests as we recognize the long-term

common social interests of all. In this process we exercise and develop a self-reflective capacity for calculation and intelligence--in short, we become reasonable.

Elshtain characterizes the split between reason and emotion and its concurrent identification with the private and public spheres when she states that "the split in Lockean epistemology between reason as formal rationality and passion as scarcely contained desire, and the notions of human personality erected upon it, require a public-private split of a particular kind, one that allows human beings to exist in two divergent sphere."⁹ The problem for feminists, including Mill, was that while men participated in both spheres, women were ostensibly relegated to one. As such women were subject to a theoretical catch 22 in classical liberal theory: they were denied the capacity for reason at the same time they were denied access to the means (according to the liberal viewpoint) by which instrumental rationality is developed--that is, participation in the public world. As Zillah Eisenstein states,¹⁰

In liberal patriarchal ideology, woman has no political life. Her life in the home is her life. Whereas the family is differentiated from political life for men, these spheres are still equated for women.... In the end she is excluded from political life. Men are freed from familial patriarch rule; women are relegated to it.

While in important ways women have always played an important role in public life, primarily through community and reli-

gious organizations, it was precisely the formal exclusion of women from public politics that Mill first protested, and which formed the foundation for his liberal feminism.

Mill's characterization of the private sphere as the seat of non-rational emotions is explicit in his feminist argument. He states that women's "social position allows them no scope for any feeling beyond the family except personal likings and dislikes, and it is assumed that they would be governed entirely by these in their judgements and feelings in political matters."¹¹ For Mill, the only way to correct this tendency to look upon all political questions as "personal questions" is to grant women the suffrage. Only through their participation in the public world can women transcend the narrow view of life that their confinement to private life has engendered.

Mill's characterization of private life is revealing. Women's minds, he argues, are occupied by the management of "small but multitudinous details."¹² "The general bent of their talents is towards the practical."¹³ "A woman", he argues, "seldom runs wild after an abstraction" because "her more lively interest (is) in the present feelings of persons which makes her consider first of all...in what manner persons will be affected" by government policies.¹⁴

While these characteristics are an asset inside family life, they are a hindrance to women from this rationalist liberal perspective. Given this "bent," women may

be unable to transcend their "sympathies and antipathies" in the grave affairs of politics.¹⁵ In On The Subjection of Women Mill argues that women's development of "sentiment" at the expense of "understanding" has led them to see only the "immediate effects on person, and not (the) remote effects on classes of persons" of state policy. This, he argues, blinds women to "the ultimate evil tendency of any form of charity or philanthropy which commends itself to their sympathetic feelings."¹⁶ Women's uncritical support for charity for the poor is in fact a product of "unenlightened and shortsighted benevolence" which "saps the very foundations of the self-respect, self-help, and self-control which are the essential conditions both of individual prosperity and of social virtue."¹⁷ Mill implicitly expresses an evaluative distinction between public and private life when he argues that "unless women are raised to the level of men, men will be lowered to theirs."¹⁸ Women, he argued, lacked a sense of public-spiritedness and failed to develop intellectual aspirations because they were primarily concerned with the "immediate and material needs of the family."¹⁹

My point here is not to deny that there is an element of truth in Mill's arguments or to underrate the importance of his arguments in challenging classical liberal assumptions about women's nature. Indeed, Mill's arguments were powerful in leading his contemporaries to question naturalist

assumptions about women's "nature," for he argued that these characteristics were the product not of nature but of women's circumstance. What I do wish to demonstrate here is that Mill's analysis was limited in important ways by his acceptance of a particular public/private split.

Human relations can only be viewed as political relations if they are raised from the level of "natural" to the level of "social" relations, that is, if they are seen as voluntary rather than necessary. This is precisely the transformation that allowed for the liberal critique of the "natural" power relations embodied in the paternalistic state. But this thinking did not extend to private family relations in classical liberal thought, in part because of the liberal need to exempt private life from public power, but also because relations in private life were viewed as qualitatively different than public relations. As Susan Okin states,²⁰

intrafamilial relationships--no matter how much power or authority they involve--are perceived as being outside the sphere of the political.... (Liberals) have perceived human relationships within families as totally and qualitatively different from relationships between actors in the political realm...

Though Mill recognized relations of dominance and subordination in family life he never fully transcended the split between public politics and the private family, or between public reason and private passion. For instance, the liberal equation of reason with instrumental rationality

led Mill to either systematically undervalue or ignore the skills, or what one might call alternative forms of reason and understanding, that women develop in familial relationships. A keen sensitivity to the often unspoken needs of others, a judicious ability to mediate interpersonal conflicts in the interests of long-term family stability, the life-long patience and forethought required by parenting, the ability to negotiate the short-term immediate desires of children with the long-term effects of childrearing practices, all of these belie a form of rationality that blurs the boundary between reason and emotion.²¹ They embody a form of reason that has not yet been stripped of moral concerns, and as such they fall outside of liberal definitions of rationality. Mill's characterization of the private sphere, above, clearly demonstrates his acceptance of this dichotomy.

My argument here is not to deny the ill-effects of life-long confinement to the domestic sphere, but to point to the ways in which this particular conceptualization of public and private life denigrates or misunderstands characteristics traditionally associated with private life and, by extension, women as guardians of that sphere.

Given Mill's point of view it seems ironic that he argues in the end that women can achieve equality while retaining their primary identification as mothers. In the end, Mill failed to advocate women's actual integration

into the public world (of either politics or work). Instead he maintains that²²

when the support of the family depends, not on property, but on earnings, the common arrangement, by which the man earns the income and the wife superintends the domestic expenditure, seems to me in general the most suitable division of labor between two persons.

While he recognizes women's right and capacity to participate in public life he falls short of offering the means by which she can actually do so. For Mill, the opportunity to participate in the public world is sufficient.²³

It does not follow that a woman should actually support herself because she should be capable of doing so: in the natural course of events she will not.

This failure on Mill's part, I think, is not simply a failure of nerve, as Richard Krouse has suggested.²⁴ Rather I think it is an outgrowth of some fundamental liberal assumptions. While Mill brings the critical language of politics to bear on family relations he still maintains, implicitly, as acceptance of family relations as rooted in nature and as operating according to a qualitatively different standard of behavior than public relations. Though he is critical of the language of "nature" throughout his feminist analysis, in the end it is the only language that can make sense of his argument that women remain the guardians of children and home. As Susan Okin argues,²⁵

By the time he wrote The Subjection of Women, Mill clearly (recognized) the invalidity and fraudulence of identifying the natural with the

conventional and then using appeals to women's "nature" in order to justify her conventional function. Despite changes in terminology, however, with "most suitable" and "desireable custom" replacing the appeals to nature, the substance of Mill's ideas remained unchanged.

This identification of private relations as natural in some sense is evident also in Mill's explanation of why men dominate women. As Elshtain argues, "he speaks of an original 'law of force' and 'law of superior strength' as the basis of human society and the relations between the sexes." She continues, "Mill's explanation of what motivates man to dominate women in the first place is the sheer desire of males for power over females--a monocausal theory of human thought and action."²⁶

Even as Mill recognized inequalities inside family relations, he still maintained that these relations were qualitatively different than those in the public world, for they were based on passionate and selfish instincts rather than on calculated and rational self-interests. While relations based on the rule of force or natural status had been rooted out of public politics they remained the basis of relations in the private sphere. Relations of dominance and subordination in family life were, for Mill, nonrational, for they were still based in a rather primordial instinct and not reason. It is because of this epistemological undercurrent that associates private life with non-rational emotionalism that Mill falls short, in the

end, of fully coming to grips with the interconnections between more visible 'public' social structures and 'private' family relations. Such an understanding would have led Mill to a perspective that more fully developed the connections and interrelations between women's primary identification as mother in the home and her status in the marketplace and in formal political rights.

Betty Friedan and Contemporary Liberal Feminism

From John Stuart Mill to contemporary liberal feminists the liberal paradigm has stood in sharp contrast to the systematic exclusion of women from formal political rights. Liberal feminists, beginning with Mill, were quick to point out the contradiction between liberal principles of individualism and equal treatment, and the sex-class exclusion of women from participation in public politics. Once women were 'granted' the capacity for reason, just like men, their exclusion from full citizenship could not be upheld without a fundamental violation of the principles upon which liberalism was built. These were, and still are, the grounds upon which liberal feminists base their fight.

The question I will address in this section will be whether or not women can be "absorbed" into the liberal paradigm without a fundamental alteration of liberal premises. Is the inclusion of women into the liberal conception of public politics a sufficient answer to women's

inequality in society? In order to address these questions it is first necessary to understand the distinctly liberal underpinnings of liberal feminism. I will focus here on the latest work of Betty Friedan's, as the most recent and self-conscious statement of liberal feminism, after a brief review of the liberal feminist framework.

Liberal feminists adopt the basic assumptions and principles of liberalism and seek to extend those principles to women. Underlying liberalism is the antithesis between the individual and society, and a related division between the public and private spheres of life. According to this point of view, "society", both in its laws and its collective opinion has unfairly relegated women to the private sphere, has defined women politically by her maternal functions, and has therefore restricted her participation in representative government, education, and a public life of debate and discourse. As Stanton argued, women have been defined not as individuals, but in relation to others:²⁷

It is only the incidental relations of life, such as mother, wife, sister, daughter, which may involve some special duties and training. In the usual discussion in regard to women's sphere...her rights and duties as an individual, as a citizen, as a woman (are uniformly subordinated) to the necessities of these incidental relations, some of which a large class of women may never assume.

When feminists such as Mill and nineteenth century suffragists launched their first attacks on women's inequality they did so primarily within the established terms

of the debate. Given that women has been systematically excluded from the liberal individualist revolution this was certainly a necessary first step. Though some feminists challenged a strict division between public and private life through attempts to bring the moral concerns of private life to bear on the public world of politics (a point I will discuss in chapter 4), most simply called for the removal of barriers to women's full participation in the public realm of politics. Women, suffragists demanded, should simply be allowed to enter the outside world in full stride with men and be accorded the same rights as any other free individual in liberal society. As Stanton, again, forcefully argues in her "Solitude of Self",²⁸

The isolation of every human soul and the necessity of self-dependence must give each individual the right to choose his own surroundings. The strongest reason for giving women all the opportunities for higher education, for the full development of her faculties, her forces of mind and body; for giving her the most enlarged freedom of thought and action; a complete emancipation from all forms of bondage, of custom, dependence, superstition; from all the crippling influences of fear; is the solitude and personal responsibility for her own individual life. The strongest reason why we ask for woman a voice in the government under which she lives...is because of her birthright to self-sovereignty...

While these concerns were not exclusive of all feminists, they represent the primary characteristics of a dominant liberal discourse which continues to inform feminist politics. Classical liberal concerns are clearly evident in contemporary liberal feminism, where the fight

for suffrage has been superceded by the fight for the equal rights amendment. Feminist calls for abortion rights based only on a principle of possessive individualism reflect Mill's concern with the "sovereignty of the individual" over mind and body. "Contract" marriages reflect the classical liberal conception of conceptually distinct individuals who have no inherent obligations to each other or to the social order save those which are explicitly agreed upon. The call to government to negotiate and enforce discrimination suits reflects the conception of the state as the neutral arbitor of individual rights and liberties. Calls for women's economic and personal independence are reminiscent of the suffragist's insistence on freedom of opportunity, freedom of choice and freedom for women to develop their natural capacities through education unfettered by artificial social conventions which judge them to be inferior to men by simple virtue of their sex.

From the liberal perspective, the achievement of individuality and a self-development for men and women requires an essential freedom from social constraint, protection of individual rights and the maintenance of an inviolable private sphere. In short, liberal principles should be sex-blind.

Contemporary liberal feminists define the goals of the movement in the same terms as their historical sisters. As Betty Friedan characterizes the women's movement

of the 70's: "In the first stage, our aim was full participation, power and voice in the mainstream, inside the party, the political process, the professions, the business world."²⁹ Women were not to challenge the terms of the debate, but be included in them: "The first stage of the women's movement did not involve a new mode of thought. Once we broke through the feminine mystique and said that women were people, we merely applied the abstract values of all previous liberal movements...and (demanded) an equal share of its rewards as previously wielded and enjoyed by men."³⁰

Friedan echoes the concerns of Stanton that women be treated as individuals rather than by their "incidental" relations to others when she demands that women be allowed "to find their own identity as separate from men, marriage, and childrearing" so that they could "take their own place, as individuals in society."³¹

Once recognized as free liberal individuals women could "demand equal opportunity with men, power of their own in corporate office, Senate chamber, spaceship, ball-field, battlefield..." and fight "for our equal opportunity to participate in the larger work and decisions of society and the equality in the family that such participation entails and requires."³²

While the forceful language of individual rights to self-sovereignty has always provided the fuel for liberal feminist analyses, the liberal framework has also limited

feminist analysis in important ways. An internal tension in liberal feminist analysis became evident when feminists turned their attention to the family. Liberal feminists, from Mill to the present, tested the limits of liberal analysis when they turned an eye to the politics of the family and personal life. The importance of family relations to women's subordination has been acknowledged throughout the development of feminist thought. For instance, Mill damns oppressive family relations throughout The Subjection of Women and argues that "the superstructure of free government cannot be based upon a legal basis of despotism on one side and subjection on the other" in the family.³³ And in a letter to Susan B. Anthony, Stanton wrote, "I feel this whole question of women's rights turns on the point of the marriage relation, and sooner or later it will be the topic of discussion."³⁴ Friedan's Feminine Mystique, perhaps the most catalytic work of the early 70's, targeted family relations as the primary trap that kept women from pursuing their independent self-identities in the public world. But recognizing the unequal nature of family relations and developing an adequate analysis and prescription for change are two different matters.

Once liberal feminists recognized family relations as political, that is, as important in the establishment and maintenance of patriarchal power relations, they were compelled to develop a strategy that could eradicate this

fundamental aspect of women's oppression. Within the liberal framework, their most logical strategic option was to hope that changes in women's legal status--such as equitable divorce laws and affirmative action legislation--would have the power to transform repressive familial relations. But recognition of the politics of the family without a concurrent redefinition of politics and political strategies for change have led liberal feminists down a difficult path.

From the early 70's on feminists of all varieties looked to the private dimensions of women's inequality in psychological studies, sex role socialization literature, consciousness-raising groups. Indeed, a new sexual politics developed that spoke to the core of feminine identity and to Friedan's "feminine mystique". How was this sexual politics reconciled with the classical liberal view of the family as depoliticized?

In some important ways it hasn't been reconciled and this disjuncture has led many feminists to cast aside the liberal framework. For others this dilemma led to the extension of liberal values of contract relations and individualism into family life in what some have called the "rationalization" of family life. The resolution of this internal tension in liberal feminism--between the need to view family relations as an important part of women's oppression and the liberal commitment to a view

of the family as ideally depoliticized--will hold important implications for liberal feminism in both theory and practice.

The difficulty of comprehending a sexual politics of the family through the liberal lens is recognized, however dimly, by Friedan in her newest manifesto for the women's movement, The Second Stage. Friedan is frustrated by the movement's concentration on what she calls "sexual politics" for she feels that sexual issues are diversionary and battles over them fruitless. In drawing her critique she illustrates well her acceptance of the liberal division between public and private life and a liberal definition of politics--and also shows the limitations these commitments impose on a feminist analysis.

Friedan posits a sharp distinction between "private" sexual politics and the real battle for women's equality. The women's movement, she argues, must avoid "getting locked into obsolete power games and irrelevant sexual battles that can never be won..."³⁵ She goes on to argue that even in the 70's,³⁶

many of us saw the extremist rhetoric or sexual politics as a pseudo-radical cop-out from the real and difficult political and economic battle for women in society--which would provide a new basis for equality in the family....We never thought this revolution could be won in the bedroom. The sexual politics was an acting-out of rage that didn't really change anything. When women's position in society changed, sex would take care of itself.

How does Friedan define sexual politics? She goes on:³⁷

In the first stage, the women's movement directed too much of its energy into sexual politics, from personal bedroom wars against men to mass marches against rape or pornography to 'take back the night'. Sexual war against men is an irrelevant, self-defeating acting out of rage. It does not change the conditions of our lives.

It is clear what Friedan views as the "real" battleground for women's equality. She defines it always in opposition to sexual politics:³⁸

It was easier to fulminate against the male chauvinist pig in your own bedroom and liberate yourself from the missionary position than to take the test for law school, get the union to fight for parenting leave, or lobby the state legislature to ratify the Equal Rights Amendment.

Friedan can posit such a sharp distinction between public and private politics, and elevate the former at the expense of the latter, only because of her complete acceptance of the liberal definition of politics and power. Real power is found only in the public sphere and is acquired through formal legal rights. Women's climb up the economic ladder is dependent on winning this real political power and enacting laws to protect equal opportunity.

Because she sees formal legal rights as the key to equal opportunity Friedan has a hard time deciding whether or not we've won "the first stage." She often writes as if we have, while paying lip service to battles not yet won, like the E.R.A. For instance, she fears that young women will take our feminist victories for granted and

risk losing them by not taking threats from the New Right seriously enough. It is interesting to note that she never warns these young women that they may face discrimination or simple job market segregation that laws, as yet, have not been able to touch.

Friedan's denigration of sexual politics is indicative of the liberal inability to understand the interconnections between private power relations and public power relations. Indeed, we get the sense that the private battles that women fought in the "bedroom" were more "games" than struggles for real power and control over our lives.

If Friedan is an easy target it is only because she states explicitly what is implicit in most liberal arguments: real politics and power is equated with formal legal rights and formal government. Even as she recognizes the inequities involved in family relations, they remain, in the end, outside of the sphere of politics, and as such fade into the background when strategies for change are considered. For Friedan, or more correctly from the liberal perspective, there truly is nothing to be won "in the bedroom" simply because power is located, by definition, in the public world. As Zillah Eisenstein writes,³⁹

The definition of politics as government activity makes it impossible for (Friedan) to view the structural relations of women's lives--the family, the sexual division of labor, sex-class oppression--as part of the political life of a society....The liberal equation between public power and politics excludes the family from political analysis...(and) excludes daily life activity from political analysis.

Friedan argues that in the second stage we must change the terms of the debate and focus on "the larger economic and political situation which affects both women and men, and which women now as persons can actively affect."⁴⁰ She calls for a redefinition of the relationship between "home and work life" so that we may achieve true "personhood in society." No longer should women or men be forced to choose between family and career or be expected to excel at both in "superwoman" fashion. In this sense she moves beyond Mill by questioning women's primary identification as mother. For Friedan, we have already swung too far in the opposite direction: women have sacrificed the family for careers and are now suffering for it.

The problem with Friedan's argument is that she wants to change the terms of the debate without challenging the foundation upon which it is built. She wants to transform our thinking about the private home and the public work without altering the conditions that created this division and then reified it as natural.

Rather than analyzing the foundations of this split in the structural needs of both patriarchy as well as capitalism, she tends to view the problem of women's oppression as an ideological problem, or in other words, as a problem of simply changing values and our ideas about home and work. The first stage involved a "quantum jump in consciousness."⁴¹ In the second stage, from Friedan's

point of view, the solution is not so difficult: "stripped of polarizing rhetoric, the practical problems of restructuring home and work may not be as difficult as they now seem."⁴²

The problem with Friedan's analysis is two-fold. First, while she wants to recognize the afamilial and sexual aspects of women's oppression--in issues such as abortion, rape, pornography, sexual preference, and violence against women--she always regards these issues as secondary. The reason for this, I believe, is that she defines politics and power in traditional liberal terms. These issues simply fall through her strict categorization of "real" politics and are viewed by her as secondary or derivative of hierarchical relations in formal legal rights and in the economy.

The second problem with Friedan's analysis is that, because she adopts a rather strict distinction between public and private life, she misunderstands the connections between women's formal political and economic inequality and women's privatized position of dependence in the family. On the relationship between these two sites of inequality Friedan herself is unclear. At times she implies that formal equality can be achieved without a fundamental transformation of private family relations. At others she implies that these private relations will "take care of themselves" after women have won full political and economic equality with men. This lack of clarity is rooted in her failure

to draw important connections between public and private relations of inequality. For instance, if the structure of the job market is based on the assumption that women will be unpaid primary child-rearers then a full and equal integration of women into the labor force will never be possible until a fundamental transformation of family relations takes place.

But rather than engage in a "chicken and egg" debate with Friedan, my more important point is that she will be unable to understand the dynamic relationship between public and private elements of women's oppression while she holds to a public/private distinction that views relations in the private sphere as fundamentally non-political. As Okin states of Mill, intrafamilial relationships, no matter how much power or authority they involve, are still viewed as falling outside the sphere of the political.⁴³ Friedan's analysis is fettered not by her own failures but by the liberal definition of public and private life which pushes her, in the end, towards a view of women's position in the family as severed from the "real" politics of the public world.

Conclusions

Liberal theory's strict categorization of public politics and the private family masks certain realities about the nature of human beings in general, and the nature

of male/female power relations in particular.

First, the liberal emphasis on individualism and the simultaneous identification of the private sphere as a "haven" against which public power should not be exercised blinds us to the fundamental sociality of all human beings. Only as long as the individual is conceived of as "conceptually distinct" from or "logically prior to" society, could liberals continue to talk about limiting social interference into private life, or protecting the individual from the intrusions of society and other human beings. If we come to view human beings as social beings by nature then we can no longer maintain such a sharp distinction. If the formation of our very identities as individuals is based on and infused with social relations then it makes little sense to talk about protecting the individual from the interference of others, for we are, from the start, "interfered with." As Jean Elshtain states, "it is only in a private sphere of highly charged intimate relationships persisting over time that the possibilities for understanding are the greatest and the greatest understanding is possible."⁴⁴

By conceptually burying these social relations in the less visible private world of the family we serve to mask or mystify our fundamental sociality. Indeed, our capacity to participate in a public world of politics, to negotiate and reason with others is based in and created

by the relations of "mutual recognition and intersubjective understanding" that we establish first in family life.⁴⁵

The liberal emphasis on individualism has also mystified the ways in which public social relations affect us even in our most private moments. Feminists have moved towards a greater understanding of this point as they have explored the depths of women's subordination in the psychological development of men and women. As we come to understand how inequities in women's legal and economic status inform our most intimate relations we are pushed toward a view that can understand the dynamic relation between public and private life, and between the development of individual identity and autonomy and our collective identities. We can draw the connection between individual lives and the impediments of our social history.

In addition, the public/private split devalues those human characteristics that are most closely associated with "women's nature" and the nature of family relations. Relations of mutual dependence and nurturance, of a non-instrumental sensitivity to the needs of others, are relegated to private life and viewed as somehow less important than the worldly concerns of the public sphere (as if the reproduction of the species was not a "worldly concern"!). In other words, liberalism elevates the competitive individualism that is the hallmark of public activity in a liberal capitalist society as it denies the social relations

of the private world that are the basis for that individualism. It is exactly these kinds of private concerns--morality, sensitivity to the needs of others, non-instrumental relations of mutuality--that have ostensibly been rooted out of liberal, and often feminist, politics.

Finally, the liberal public/private split holds important strategic implications for liberal feminists because it implies a rather narrow view of politics and political strategies. The liberal feminist focus on legal rights as the hallmark of political freedom and equality meant that once liberal feminists recognized the political nature of family relations, their strategies for change were inadequate. Recognition of a politics of the family without a simultaneous redefinition of political strategies for change have led liberal feminists down a conflict-ridden path.

As Jo Freeman states, in her implicit recognition of the limits to legalistic solutions to women's oppression,⁴⁶

The feminist movement has several significant issues--child care, abortion, and especially the abolition of sex-role stereotypes and the traditional roles--on which there are no civil rights precedents. Here the movement...will not find the going so easy.

The idea that women's primary responsibility for child-rearing and traditional sex roles could be transformed through the establishment of "legal precedent" displays a distinct unself-consciousness about the resistance liberal

thought would pose to state "interference" into private life (in the service of women's equality, no less) and a naivete about the neutrality of the liberal state.

In important ways we need to expand our definition of politics in order to be able to comprehend and critically analyze some of the most important and personal aspects of women's inequality. By expanding our definition of politics I am not suggesting that we simply enlarge our idea of what areas of life should legitimately be regulated by the state. Such a proposal is the target, rightfully, of advocates of the New Right, who often claim that the inevitable extension of liberal feminist politics would be the direct government regulation of family affairs (the establishment of a Department of the Family??).

The problem is that there is a kernel of truth to the New Right accusations. If we simply remain within the liberal definition of politics then we may well end up with extension of government power into areas of life traditionally reserved for women. By failing to challenge the liberal definition of politics--with its emphasis on legalistic solutions to social problems--and by failing to question the sex neutrality of the state liberal feminists have ended up advocating mechanistic solutions to women's inequality. By dismissing too easily the heart-felt fears of women active in the New Right--fears of state control of intimate relations--liberal feminists have failed to

learn a healthy skepticism of state power, especially of a highly organized bureaucratic state.

Very often the solutions put forth by liberal feminists simply extend the instrumental rationality of the public world into the home. This should hardly represent feminism's vision of the future. Friedan recognizes the threat to personal freedom that mechanistic strategies for change pose and here I think she is worth quoting at length for both her insights and her limitations:⁴⁷

The founding fathers of this republic were not wrong when they wrote into the Bill of Rights the protection of certain basic areas of privacy for the individual conscience, exempt from the state's control, even if, in the beginning, they guaranteed such rights of privacy only for people who were men. Surely it is politically unwise to seem to threaten that area of inviolate sexual privacy now, as part of an effort to secure these basic rights for women. Tactics that smack of sexual exhibitionism, like the lesbians' balloons at the National Women's Conference at Houston... and even slogans like "sexual preference", distort the basic principle; they seem to invade that very right of privacy for which we fight.

Though Friedan's concerns are legitimate, the very serious problem here is that she throws the baby out with the bath water because she lacks the conceptual tools to do otherwise. If feminists fail to address seemingly private issues such as sexuality and reproductive freedom (in all its variations) then we will end up with purely symbolic victories.

It is important to note that improvements in women's legal status have come hand in hand with increases in violence against women in their homes and on the streets,

with continued destructive objectification of women's sexuality in the media, with what now seems like a triple-day of work for most working mothers, and with the psychological damage engendered by women's conflict-ridden position between traditional sex role requirements and the new corporate image of the "free" woman. Changes in the legal status of women and strategies aimed at state-sponsored solution to women's oppression will at best be inadequate and will at worst lend itself to cooptation and/or the potential for repressive state policies that further institutionalize women's inequality. There is a lesson to be gleaned from liberal theory and it is one that feminist of all varieties have not taken seriously enough: the repressive potential or organized state power should make any progressive movement skeptical of state-sponsored solutions for change. My point here is not to argue that the state represents only the interests of rich white males or that the state is incapable of supporting progressive social policies for women, but to argue that liberal feminists in particular have all too often uncritically accepted a view of the state as "sex neutral."

What is needed is not just a rethinking of liberal assumptions about human nature, the nature of politics or the state, but a comprehensive historical study of the relationship of the state to women's oppression.

The case studies that follow this chapter will be the beginnings of such a study. My case study of home-workers will be important, for instance, because it points to the tension between the classical liberal commitment to non-interference in the private realm of family relations and feminist analyses that have come to view relations inside that private sphere as one foundation of women's oppression. On the other hand my study of protective legislation will question whether the liberal state has in fact kept to the cultural commitment to the public/private split. Both studies will, I believe, provide an opportunity to view the relationship between liberal theory and practice, and to understand the state's interest, if indeed it has an interest, in regulating familial relationships and women's labor both inside and outside of the home. The "thread" that will guide my research will be the question of what place the language of public and private life has played in state policy and what effect this has had on women's subordinate position in society. Only after such research is complete will I be able to assess the role the state has historically played in regard to patriarchal power relations.

C H A P T E R I I

BETWEEN HOME AND FACTORY: HOMEWORKERS

OF NEW YORK, 1900-1914

While contemporary analysts are busy documenting women's recent entrance into the workforce, scholars of women's labor history are busy proving that we have always been there. Labor historians have traditionally underplayed--or simply neglected--the role of women in the paid labor force. Recent revisions of women's labor history have gone far to right this neglect, but still have some distance to go. One important area, for instance, that remains relatively unexplored is the employment of married women. I believe that this is partially due to the fact that an important source of employment for married women--homework--remains "hidden from history."

Homework--the industrial employment of women at home to produce or finish goods for a manufacturer or contractor--was one of the main forms of employment for married women at the turn of the twentieth century. Recent evidence has indicated that it still may be a significant source of income for married women. Yet contemporary homeworkers, like their historical sisters, remain virtually invisible. If we are to construct an accurate history of women's

participation in the labor force (or for that matter, an accurate account of women's lives in general) then we must explore in depth the employment of women as homeworkers.

In addition, because these industrial workers cross the line between the home and the factory, they can provide us with a unique look at the interaction of family and work life and provide new insights into recent debates about the relationship of patriarchy to industrial capitalism.

Introduction

According to the thirteenth U.S. Census there were over one and a half million immigrants living in New York City in 1910. Roughly 770,000 of this immigrant population were women. Yet only 280,000 of these women were recorded by the census as being "gainfully employed" in 1910.¹ Labor historians have always assumed that the remaining women--nearly half a million--survived on the incomes of their fathers or husbands and were not a formal part of the paid labor force. My research has led me to believe otherwise. Rather, many of these women earned a wage through the homework system and formed an integral part of the labor force. The purpose of this chapter will be to document the existence of this large yet unacknowledged sector of the labor force; to trace its development in key industries in New York City; to examine the relationship of

homeworkers to organized labor, social reform movements and state policy of the time; and to understand the implications of my research for women's labor history.

Between 1907 and 1909, nearly 600,000 southern Italian immigrants settled in New York City's manufacturing district below 14th Street.² Many manufacturers employed this immigrant population to produce or finish goods outside the factory. This kind of employment was known as "homework." It involved the industrial employment of married women and their children in their tenement homes. The homework was handed out at the factory, taken home and worked on, and returned to the factory the following day where it was paid for by the piece. This work primarily involved the sewing of garments, making of artificial flowers and feathers, sorting and cleaning of coffee beans and nuts, the making of human hair wigs, hat-making, cigar-rolling, and lace and embroidery work. But in all, over one hundred different items were produced (under contract from a manufacturer) by these women and children in their tenement homes.³

Because the historical data on homeworkers is at best partial, I have had to approach my research from a number of different angles in order to gain a clear picture of how many women were engaged in this type of work, the conditions under which they labored, and the reasons why they chose this type of work. While City, State, and Federal

reports contain statistics on women gainfully employed outside the home, no category existed for recording data on piecework done in the "sanctity" of the home. Many of the sources I have used only incidentally provide information on homeworkers. For instance, following the Triangle fire, studies made by the State of New York into factory health and safety conditions contain sections on tenements occupied by homeworkers. Because it was feared that tuberculosis and other infectious diseases were being spread to the wealthier classes through contact with artificial flowers, fancy nuts, coffees, garments, and other articles worked on in the tenements, the Consumer Protection League investigated the health of some of the home manufacturers of these goods. The National Child Labor Committee, in their campaign for protective child labor legislation, documented widespread employment of children as homeworkers. Labor unions, such as the Cigarmakers, Capmakers, and Garment workers, saw homework as cheapening the standard of labor for organized factory workers and therefore engaged in their own investigations of homework. Authors specifically interested in working women of the time, such as Mary VanKleek and Edith Abbott, make mention of homeworkers in their larger studies of the condition of working women. Collectively, these sources provide rich evidence of the predominance of homework during this time period.

My research has led me to believe that over 250,000

immigrant women were employed as homeworkers in New York City in 1911. My estimate was established as follows: in 1911 there were 13,268 tenement buildings licensed by the city for homework.⁴ Each of these tenements contained a (conservative) average of ten families. It is safe to assume that at least one woman in each licensed dwelling (or tenement apartment) was engaged in homework. All investigative reports on homework for this time period indicate that only about half of the tenements visited by investigators were licensed. I have attempted to correct for the number of unlicensed tenements by doubling the official number. My very conservative estimate is that 26,536 tenement buildings contained homeworkers with approximately ten families occupying each tenement. This gives me a rough total of 265,360 women engaged in homework in New York City alone in 1911. It should be noted here that this figure does not include the children who often worked with their mothers.

In addition, the licensing system (which will be explained later) seriously underestimated the number of homeworkers because the law did not cover all forms of homework. While only forty-one articles were covered by the licensing system, investigators found that over one hundred items were worked on by homeworkers in New York City. For instance, embroidery and lace work--one of the largest employers of homeworkers--did not require licensing.⁵

While there exists no irrefutable empirical data on homeworkers for this period, there are a number of ways of verifying my figures. Elizabeth Watson, in a 1912 investigation in New York City, documented the existence of 51,500 homeworkers in the embroidery trade alone and estimated that the number might be twice that if all manufacturers of embroidery had been registered with the city. She estimates, also, that the total number of homeworkers would be at least 125,000 in New York.⁶ In a related report, Felix Adler, then chairman of the National Child Labor Committee, stated, "in the embroidery trade alone there are 61,000 out-workers. Sixty-one thousand in one trade. In the crochet trade one manufacturer gives work outside of this factory to 2,000, another to 600, and so on, so that Miss Watson estimates that it would be conservative to say that there are 125,000 out-workers in the city."⁷

While exact figures may evade us, my research makes a number of important trends immediately clear. First, homeworkers constituted a very large and important part of the labor force during this period. Perhaps no other major sector of the labor force has gone so unnoticed by labor historians. I will explore the reasons for this negligence in depth later. For now, it need only be noted that, whatever the exact figure, homework was a primary source of employment for married women and formed the

foundation of many major industries in New York City at this time.

Second, my figures challenge fundamental myths about the employment of women and in particular, the employment of married Italian women during this time period. My figure doubles the commonly accepted number of working immigrant women in New York City in 1910 and increases by 50% the total number of working women. As Louise Odencrantz pointed out in 1919, contrary to popular belief, Italian women ranked second as contributors to the family budget among all immigrant nationalities in 1910.⁸ And married Italian women were employed more often than Poles or Russian Jewish wives and were just as likely to be employed (outside the home) as German or Irish wives. In 1911 at least one-third of all Italian wives in New York City were employed outside the home.⁹ These figures, taken together with my figures on the employment of women as homeworkers--which were not included in the above calculations--paint a picture of the work life of the Italian woman quite different from popular belief.

As noted above, most homeworkers were married immigrant women. Most were also between the ages of 25 and 45 and had young children to care for.¹⁰ In addition, almost all of these women had husbands who lived at home. Many of these men, entering the city around the turn of the century, could find work only as day-labourers on city

construction sites, railroads, streets, or sewers. The tremendous influx of immigrants into the city before 1910 created a labor market where competition was heavy and work was scarce. Work for a day-labourer was sporadic, and no work due to bad weather, lay-offs, injuries, or illness all meant no pay. As the husband of one homemaker stated in 1913, "When the weather is not too cold, or the sun too hot, or the rain too wet, then there is work."¹¹ While these men could earn a subsistence wage when employed, often they were unemployed for at least one-third of the year. In general, this meant that the family could not survive by the father's work alone. As a consequence, their wives and children found employment as homeworkers in order to ensure that the family could survive throughout the year.

Major Characteristics of the Homework System

By far, the largest number of homeworkers were found in the men's ready-made clothing industry. The garment industry itself employed one-fourth of all industrial workers in New York City in 1905.¹² And this industry was one of the largest employers of women in New York.¹³ While the machine operating work, and the basting and pressing of garments was done in the factory, the more labor-intensive process of hand-finishing was done by homeworkers.

Garment finishers primarily worked on men's coats

and pants. Coat finishing involved turning under and stitching the lining to the cloth of the garment at the armholes, bottom, and neck, and sewing on the undercollar. Usually the finisher had to pull out the basting threads. This simple part of the work was often performed by the younger children of homeworkers. The price rate for finishing coats varied from two and a half to twenty-five cents per coat.¹⁴ The finisher of pants had to line the pants at the waist, stitch the lining at the top, tack it at the pocket, fell the pocket to the seam, turn up and baste the bottoms, and since they had no zippers, she had to sew on the buckles and the buttons. The average pay rate for pants was five cents a pair. The homemaker, therefore, could make an average of 23 cents per suit, which would then sell at retail for \$20 to \$25. An entire family could rarely earn more than 70 cents a day at garment finishing.¹⁵

While the garment industry in New York was dominated by Jewish and Italian workers in the factory, Italian women monopolized the finishing of garments at home. One U.S. Senate investigation of the time reported that 98% of all finishing of garments was done by Italian homeworkers and their children.¹⁶ A New York State report confirms that "the Hebrew and the Italian" are predominant in the garment trade. "The Italian woman working in her tenement has absorbed ninety-five percent of the so-called home finishing

in New York City....Finishing amounts to about one-fourth of the work on a garment but owing to the low wages paid in this class of work the price is about one-seventh of the price for the entire garment. The Italian home finisher works for about two-thirds of the price which other nationalities formerly received for the same work and, where formerly ten to fourteen cents was paid for finishing, the Italian does the same work for five to seven cents."¹⁷

In the garment industry, therefore, we find both an ethnic and sexual division of labor. As one investigator stated, despite the prevailing tendency "for the employees to be recruited from the same race as the foreman," in the clothing industry Jewish foremen tended to hire Italian women exclusively for homework. As the report states, "no matter how great the poverty, the Hebrew men seldom allow the women of their family to do the (clothing) work at home, even though they may have been shop workers before marriage."¹⁸ Prior to 1900, apparently, Jewish women did predominate in garment homework, but after that time, with the lowering of wages and the immigration of large numbers of Italians, Italian women predominated. For instance, in one canvass of almost 500 homeworkers made in 1908, no Russian Jews were found.¹⁹

Because of the seasonal nature of the industry, garment finishers worked an average of 220 days a year. These women had to make the most of the busy season, and

took as many garments as they could secure and worked unlimited hours during the seven months when they could find work. As the Report on Women and Child Wage-earners of 1911 states,²⁰

Thus to say that a certain per cent of these women worked eight hours per day, or ten hours per day, means that some time between the time of rising and going to bed they put in this many hours sewing on garments. In more than nine cases out of ten the work is interrupted by the preparation of meals, the care of children, the cleaning, scrubbing, and washing incidental to keeping up a household, and the time spent going to and from the shop for work. This complicated routine of duties thus prolongs the day of the homemaker into the night, even if she only puts in 'six or eight hours a day' on the work....For the homemaker who has these duties, part of the work is generally performed after the point of fatigue has been reached...

As this quote illustrates, the homemaker was subject to the most extreme form of the "double day." One can only imagine what a day was like for the many women who put in fourteen to sixteen hours a day at homework.

As in all forms of homework, wages differed dramatically between those working at home and those in the factory. On the average, women in the garment industry earned \$6.00 a week, while homeworkers could earn only \$3.60. It should be noted that this figure represented the work of more than one labourer, for many children worked with their mothers at home.²¹ The justification for paying homeworkers 60% of what factory workers earned will be discussed later.

Clearly homeworkers could not survive only on this meager income--and most did not. More than 88% of homeworkers in the garment industry had husbands who were present in the home. As noted earlier, these men were unemployed for one-third of the year. But when employed they could earn between ten and twelve dollars a week. While homeworkers were also unemployed for one-third of the year, due to the seasonal nature of the industries they worked for, the combined income of the husband and wife kept most families from starvation. Although the wages of homeworkers were small, it would be misleading to think of their income as simply "supplementary" to their husband's income. Rather, wages from homework provided a basis for subsistence that was necessary for the material survival of the family. Moreover, the presence of these women at home played an important role in maintaining the psychological and cultural stability of the family.

Another large group of immigrants, 98% of them Italians, found work making artificial flowers for hat manufacturers who used the flowers to decorate ladies' hats and Easter bonnets. The starching, dyeing, cutting, and the final process of branching (or designing) the artificial flowers was done in the factory. Over 75% of all the artificial flowers made in the U.S. in 1910 were produced in New York City; at least half of these were produced by flower homeworkers.²² The flower maker first

pulled the pre-cut patterns of rose, violet, or poppy petals apart. This was the simplest part of the work and often children as young as four years old could help with this work. The petals were then slipped up the stem and pinched into place about the "peps" or bud which formed the center of the flower, and sometimes leaves were also pasted on the stem.

One investigator found the Rapallo family at work on artificial flowers in their two room apartment. Their rate of work and pay represent the average for a flower-making family. The Rapallo's made 18,000 violets in a week for which they were paid \$4.50. Mrs. Rapallo was 30 years old, had seven children, and was from southern Italy. As she said to the investigator, "We get 15 cents a bunch for this kind of flowers and we can make five bunches a day (1440 flowers) if they (her children) all work. But 75 cents a day's not much, with rent \$11.00 a month, and seven children who always want to eat." Her husband, she said, "had no work for two years."²³

As another homemaker said, "We all must work if we want to earn anything."²⁴ The rate of work and the "flexibility" of the wages paid in this industry are well illustrated by the following quote from one experienced homemaker in the flower trade:²⁵

You can't count home work by the day, for a day is really two days sometimes, because people often work half the night. When the boss asks me

how many flowers I can make in a day I say I cannot tell, but I know how many I can do in an hour. Some girls are so foolish. I've heard them praising themselves and telling the boss that they did the work in a day. They're ashamed to say they worked half the night too. But they only hurt themselves, for the boss says if they earn that much in a day he can cut the prices.

On the average, flower makers could earn between sixty cents and one dollar a day--for a woman working with the help of at least three children.²⁶

Like that of so much other homework, the demand for artificial flowers was seasonal. From April to October there was no work. In the busy season, a family with more than three workers could earn \$4.90 a week, which was approximately 60% of what a factory worker doing exactly the same work could earn.²⁷

Invariably, children did homework with their mothers, primarily because the low rate of pay required many busy hands. In almost every form of homework boys worked with their mothers until they were eleven or twelve; then they would get jobs as errand or newspaper boys on the street. Girls, on the other hand, continued doing homework until they could find work in a factory, usually when they turned sixteen or seventeen. Many of these older daughters, once employed outside the home, would help with the homework when they got home or would bring additional homework with them when they returned at night. In this way, employers could avoid prosecution for working girls overtime in the

factory, for work done in the home was exempt from labor regulations. This form of overtime work occurred in any trade adapted in any of its processes to homework.

Milliners also used feathers, as well as flowers, to decorate ladies' hats. The sweeping artificial ostrich feathers (up to four feet long), which were the fashion around 1910, were made in tenements located in the Italian districts of the Upper East Side. The season for feathers was from March to June, and from September to December. The feather maker was employed at "willowing" which consisted of tying to every flue or filmy strand of a good ostrich feather two strands stripped from inferior ostrich feathers.²⁸ In 1907, when the trade started in New York City, few knew how to willow and fifteen cents was paid per inch of knots. The following season, as more workers learned the trade and as Italians began to dominate the industry, the price went down to 13 cents an inch. It successively dropped to 11 cents, 9 cents, 7 cents, 5 cents, and in 1910, to 3 cents an inch. One plume bringing 3 cents an inch contained 8,613 knots.²⁹ The feather sold at retail anywhere from \$8.50 to \$25.00. One homemaker reported that she had to work one and a half to two days in order to earn 72 cents for one finished plume.³⁰

In one newspaper, during a two week period in 1911, there were 205 advertisements for women to take work home--almost fifteen ads per day. Contrary to what one might

expect, finishers of clothing were never advertised for, and flower makers were rarely advertised for. According to Elizabeth Watson, who made this survey, "The absence of advertisements for workers in the predominating tenement trades indicates, significantly enough, that these trades are well established in the homes, the source of supply for such work is well known to the workers and the applicants for work are more than equal to the demand for workers."³¹

A pattern begins to emerge as to the life/work cycle of these immigrant women. As a young child, one would be expected to contribute to the family income through homework. As a 16-20 year old woman, one could look forward to employment in a factory. And, as one approached marital age, the chances of remaining in the factory dropped dramatically. As The Report on Women and Child Wage-Earners indicated, "Between 18 and 22 the changes in the force are so rapid that less than half of the number of females employed at the age of 18 are found employed at 22."³² The findings of this five-city survey of the garment trade are significant, for they corroborate surveys which indicate that most homeworkers were between 25 and 45 years old.

Presumably at marriage, these women would drop out of public view as wage-earners and continue to earn a wage as homeworkers. This also indicates that the peak wage-earning power of most women was concentrated in the few short years from age 16 to 20. Once married, the new-

found social status of these women as mothers served to drive down their earning power as homeworkers.

In addition, the low pay-rate for homework, coupled with the wife's new-found responsibilities for care of the family, could not have provided the same sense of "independence" women in the factory might experience by earning a wage. As one author states,³³

unlike many of her sisters of other races, the Italian woman by going to work does not achieve that economic independence which is often thought to be the chief motive impelling the modern woman to take up a gainful occupation....In this way, the women are kept in the paradoxical position of simultaneous wage-earning and dependence.

Homeworkers--as the name itself implies--were literally caught between the home and the factory--fulfilling both the needs of the traditional family for a "proper" mother and the demands of industrial capitalism for cheap and "flexible" labor.

The high turn-over rate indicated by the above figures certainly worked to the advantage of manufacturers--in employing women both in the factory and at home. As one manufacturer frankly admitted, "I want no experienced girls (to work in my shop), they know the pay to get...but these greenhorns...they cannot speak English and they don't know where to go and they just come from the old country and I let them work hard, like the devil, for less wages."³⁴ Older women in the factories might demand fairer wages; older women at home could not. Scattered throughout the

tenements of New York, hired on a day to day basis, and caught between the need to earn a living and demands of childcare, these women had little option but to accept whatever wage was offered. As Rheta Childe Dorr stated in 1912, homework "exists because the manufacturer finds it economical to spread his finishing processes through thousands of kitchens....They get their work done for practically nothing. That is why homework exists."³⁵

While paying homeworkers an average of 6¢ an hour, manufacturers could also save the expense of renting, heating and lighting a workplace. The expense of direct supervision of workers was easily replaced by the discipline enforced by circumstance. Competition for homework was enough to insure high rates of return for manufacturers. In addition, factory owners could subvert almost every form of labor protection through the use of homeworkers. When shop workers went on strike, homeworkers could be employed to make up the slack. While labor regulations prohibited the employment of children under 14 and the overtime work of women, homework could be given out at unregulated rates. During the busy season, homeworkers could be employed by the thousand, only to be dismissed at the slightest downturn in trade. The insecurity fostered by irregular work compelled the homeworker to produce at a rate that often exceeded human endurance, during the busy season.

Attempts to Regulate Homework--
Social Reform Movements

The "evils" of the homework system were well-documented by social reformers of the time. It is telling to note the main concerns expressed in every investigation made during this time period. Without exception, two main concerns infused the study of homework: the concern over child labor and the fear of spreading infectious disease. Both concerns, while worthy in and of themselves, demonstrate an essential lack of sensitivity to the condition of homeworkers themselves, and a level of analysis that failed to reach the true causes of these conditions.

Homeworkers lived in the crowded tenement districts located near the factories and workshops on which they depended for a livelihood. In 1894, New York's East Side included thirty-two acres on which 32,000 people lived-- a density of one thousand people per acre. Even Prague, known for the worst ghettos in Europe, had only 485 people per acre at its worst.³⁶ The usual living apartment in the New York tenement had two or three small rooms; in these lived families with as many as eight or nine children. It is estimated that 95% of the immigrant families lived with more than three people in a room, while six in one room was not uncommon. There were at least 100,000 tenement rooms in New York City with no window, even onto an air shaft or an adjoining room; only one in four had any direct

sunlight; the rest had windows which opened onto an alley or stagnant air shaft.³⁷

Maintaining good health in these cramped, dark, and unsanitary living quarters was difficult at best. Infectious diseases spread easily under these conditions, and ordinary childhood diseases often brought death. Italian children had a death rate almost five times that of the entire city as a whole from measles, and the highest mortality rate from scarlet fever and whooping cough.³⁸ Overall, the death rate of children under five years of age in double decker tenements ran up as high as 204 per thousand.³⁹

Tuberculosis reached almost epidemic proportions under these circumstances. It has been estimated that homeworkers living in the Italian district of New York City were fourteen times more likely to die from tuberculosis as people living in the upper income neighborhoods across from Central Park.⁴⁰

In addition to garment finishing, flower and feather making and lace, and embroidery work, homeworkers also often earned a wage picking through coffee beans and shelling and cleaning nuts for fancy restaurants in Manhattan. Members of the Consumer's League of New York were particularly appalled, and rightfully so, to find homeworkers with infectious diseases cracking nuts with their teeth. Accounts of infectious homeworkers using the coats sent

home for finishing as bed covering at night abound in eye-witness accounts reported by horrified investigators. Time and again, scrupulously detailed reports of "disease-ridden" homeworkers are attested to in State and City reports. The following excerpt is typical: "One home finisher had a little boy suffering from whooping cough. When he had a coughing spell the mother thrust her finger down his throat in an effort to relieve him...the mother wiped her fingers, covered with mucus, on the pants on which she was at work."⁴¹

While social reformers documented the unhealthy conditions under which homeworkers lived, they did so most often from the point of view of the consumer. Rarely did reports recognize the hazards to homeworkers themselves from working on infected garments or foods. What one finds instead is concern over the unsanitary nature of the "work room" where the goods were produced, without any recognition of the fact that these same places were the homes of workers. When these reports are not expressing concern for the infection of the consumer, they are bemoaning the degraded state of the child homemaker.

The Child Labor Committee of New York often joined with the Consumer's League in attempts to eliminate homework. These organizations characterized the Italian homemaker in particular as the worst offenders of child labor laws. One 1912 article entitled "The Child Who Toils At Home"

leveled sweeping criticism at homeworkers who benefited from the work of their children:⁴²

The police power of the law is invoked to protect children against a parent who is so cruel, so greedy, or so ignorant as to be willing to sacrifice their health and lives for gain. But a parent may claim the services of his children from the day their baby hands are capable of performing a task. He may work them until they drop asleep from exhaustion. He may put them at work injurious to health, in surroundings actually conducive to physical and mental destruction. Provided the work is done at home.

By attacking the symptom rather than the cause of these conditions, social reformers often threatened the economic survival of these families. They failed to see that children were employed because their families could not survive on such low wages without them. Furthermore, the point of view expressed by many of these accounts demonstrates an ethnocentrism common among social workers of the time. American social workers accustomed to the "modern" conception of childhood could hold no sympathy for those who believed that children were responsible for contributing to the economic survival of the family under any circumstance. Such an idea was common among rural southern Italian immigrants, and was reinforced by necessity once these immigrants had settled in New York.⁴³

Attempts to Regulate Homework-- Organized Labor

At the turn of the century, a growing number of factory workers were organizing themselves into unions.

Union members saw homeworkers as cheapening labor, or worse, as scabs. When factory workers struck for higher wages and better conditions, manufacturers could simply continue production through the use of homeworkers. The difficulty of organizing homeworkers is indicated by the strike of cigar homeworkers in 1877. Samuel Gompers notes in his memoirs the disastrous failure of this strike. Not only did the striking workers lose their jobs. They also lost their homes, for the manufacturers who employed them also owned the buildings in which they lived and quickly evicted over one thousand families, replacing them with new immigrants who would work for even lower wages.⁴⁴

Beginning in 1874, the Cigarmakers International Union waged a public campaign decrying the evils of home-made cigars, stressing the unsanitary quality of cigars rolled in "TB-ridden" tenements, and condemning the widespread use of child labor in homework.⁴⁵ This campaign resulted in the passage of the first piece of legislation prohibiting homework in 1884. But the law was quickly challenged by cigar manufacturers in the courts and within four months ruled unconstitutional in the Jacobs Decision of the New York State Court of Appeals.⁴⁶ The act would have prohibited the manufacture of tobacco products in tenement houses in cities with a population of 500,000 or more on the basis that such production was a threat to public health. The court decision ruled that "the health

of the tenement population is not jeopardized by the manufacture of cigars in those houses"⁴⁷ and therefore declared that the act exceeded the police powers of the State of New York. The legislation and the court decision were significant, for they marked the beginning of a fifty year period in which no legislation would be judicially upheld that directly prohibited homework per se. Instead, legislation would be limited to issues of public health, and homework laws took the form of sanitary and health regulations.

Finding the courts unsympathetic to their cause, the Cigarmakers turned to direct economic action as a way of eliminating homework in the cigar industry. They continued their public campaign against the "infectious" cigars and instituted the first union label campaign to distinguish home-made from factor-made cigars. Playing on the fear of tuberculosis, the cigar-makers greatly reduced the number of cigar homeworkers. In addition, the union also made the abolition of homework a demand in their strikes and boycotts. As evidenced by state and city reports, by 1912 almost all cigar-making was strictly confined to formal manufacturing.

The United Garment Workers of America soon joined the fight against homework. Like the cigar workers, their first line of attack was to institute the union label and to incorporate the abolition of homework into strike demands.

While legislation had been effectively employed to reduce the number of sweatshops in New York, this legislation did not formally apply to homeworkers. Anti-sweatshop legislation made sharp distinctions between the workshops located in tenements and the living quarters of homeworkers. The latter were subject only to sanitary and health regulations.⁴⁸

The garment workers were not as successful as the Cigarmakers in their campaign to eliminate homework. The specialized division of labor in the garment trade--which broke the production of a garment into almost 150 different operations--made the industry particularly suited to the employment of home finishers. As noted earlier, homeworkers in this industry performed only a fraction of the labor on each garment. This made it exceedingly difficult to distinguish between shop-made and home-made garments, unlike the production of cigars. Often, clothing produced in a union shop could be sent out to homeworkers for final finishing and then sent back to the shop to be labeled "union made." One investigator who found homeworkers working on pants reported that "the pants bore the label of a prominent Broadway firm. Each pair had, in addition, a white cotton label sewed in, bearing the name of the clothing union."⁴⁹ The introduction of machinery into the clothing trade served to increase, rather than decrease, the number of home finishers a manufacturer might employ.

With increased production in the shop, factory owners required from two to four homeworkers to finish the work of one machine operator.⁵⁰ The very nature of the production process itself--that is, the increase in production rates with the introduction of machinery and the very specialized division of labor in this industry--worked against the garment workers in their attempts to eliminate homework.

Abolition of homework in a particular industry generally reflected the level of organization and militancy of its unionized workers. The only effective way of limiting homework was through direct economic action. The first union to successfully demand the elimination of homework was the United Cloth Hat and Capmakers Union. After a thirteen-week strike in the Winter of 1904-1905 in New York City, the union won an agreement with the owners to eliminate all trade with sweatshops and homeworkers. The International Ladies Garment Workers, after a 1910 strike in New York City, were able to win elimination of homework in the women's clothing industry. This provision was then incorporated into every subsequent strike settlement. For this reason, I found little evidence of homework in the women's clothing trade. By contrast, in the men's ready-made clothing industry, where unionization wasn't achieved until 1914 (with the establishment of the Amalgamated Clothing Workers), homework continued to flourish openly. Save for restrictions imposed by these few strongly

unionized industries, homework remained alive and largely unregulated.⁵¹

Attempts to Regulate Homework-- State Policy

Now, then, apparently, the State has put itself over the factories, and the factory workers. The State undertakes to inspect the work done in factories because it is done in the open and subject to surveillance, surveillance in the interest of the sanitary protection of the community and of the interests of the women and the interest of the child and interest of the worker. Here the State puts its hands on the factories and says labor shall be protected, the community will be protected, and I will use the sanitary and police powers of the State for that purpose. And then we find that all around these factories there oozes out a vast flood of labor under the most incredible conditions, which is not covered at all.⁵²

Under pressure from social reformers and organized labor, New York State established the homework licensing system in 1892. The New York Tenement House Homework Law, which set up this licensing system, was concerned primarily with health and sanitary conditions and required that any tenement in which homework was carried on be licensed by the state. Tenements would be inspected to ensure that they met the standards set by the sanitary code and building law. Any building that housed tenants with infectious or contagious diseases could not be issued a license. As noted earlier, the licensing system covered only forty-one of the more than one hundred items worked on by homeworkers.⁵³ The licensing system, because it applied to buildings rather than to individual homeworkers, or even

individual apartments, often worked to the detriment of individual homeworking families. If a homeworker contracted a contagious disease, landlords could simply evict them and maintain their good standing with the state. And, like most welfare state regulations, the licensing system itself was almost completely ineffective anyway, because so few inspectors were assigned the enforcement duties of watching over the 13,000 licensed New York City tenements.

With the National Child Labor Committee in the lead, social reform organizations attempted to at least restrict homework by having child labor laws and restrictions on women's work extended to include homeworkers. In terms of child labor, two primary tactics were employed. First, compulsory education laws often came into conflict with the need of homeworkers to employ their children during school hours. The Education Laws of New York required the attendance of children at school between the ages of six and fourteen.⁵⁴ All investigative reports documented the high truancy rates of school-age children of homeworkers. But these laws were nearly impossible to enforce. Also, compulsory education laws could do nothing about the employment of children at home under the age of six or over fourteen.

A second tactic was to apply child labor laws to work done at home. In New York, children under the age of sixteen were prohibited from working "in connection

with any factory" before 8:00 a.m. and after 5:00 p.m. In addition, they could not be employed for more than eight hours a day, six days a week.⁵⁵ Ironically, parents who complied with the compulsory education laws were often forced by necessity to violate labor laws by having their children work before 8 o'clock and after 5 o'clock, in order to make up for piecework "lost" during school hours. During the busy season, homeworking families often worked up to sixteen hours a day--children included.

Similarly, with the approval of the 54-hour work week for women in 1912, women could not be employed for more than nine hours a day, or before 6:00 a.m. or after 9:00 p.m., six days a week.⁵⁶

There were two basic difficulties in attempting to use laws restricting the work of children and women to eliminate homework. First, reformers were required to prove that children were actually employed by their parents. Since parents never paid a real wage to children, they could not be said to be formally employed. Pay in the form of remuneration--clothing, shelter, and food--could not be considered as evidence of wage labour.

The second and more profound difficulty lay in trying to conceptualize the home as a factory. The key to using such legislation was to convince legislators and the courts that the home constituted a "factory" under the law. Here the liberal ideological distinction between

the public and private spheres held fast. Time and again the efforts of social reformers and labor organizers would be thwarted by the ideological difficulty of this distinction. As one New York State report stated, "A home in which manufacturing is carried on is not a factory. The 54-hour law, therefore, does not apply to work done in the home."⁵⁷

The conceptual difficulty of this issue is witnessed in the following exchange between members of the New York State Commission investigating homework and the Chief Counsel to the Commission as they attempt to reconcile the contradiction between liberal ideology and the reality of homework:

Chairman (Robert F. Wagner):

Q. Do you think now, Commissioner, that there is a legal obstacle against your interfering in any way with a child under 12 from helping the mother or father in working in a tenement house?

A. We have no authority under the existing law.

Commissioner Phillips: You cannot say that the child is working for hire.

The Chairman: Why not? The mother gets the pay, but the child contributes toward the labor.

The Witness (John Williams): In whose hire is the child?

By Mr. Elkus: Q. What difference does that make? We will say he is in the hire of the manufacturer. I say in other words suppose the manufacturer said, "I will employ you and your child, and I will pay you five dollars a week for your work, including your child's work" that would make the child an employee, would it not?

A. Of the manufacturer?

Q. That would be a Factory?...

A. I wish I could agree with you, Mr. Elkus, but I really

cannot. I do not think we have any right to go there under any existing law. The place is not a factory, and you cannot by any stretch of the imagination make it a factory, even though the woman gets work from the manufacturer; he does not pay the rent.

Q. It is a factory if there is one person employed there for hire?

A. As a matter of fact--

Q. I can show you a way out as easy as anything. It is a factory if one person is employed for hire, isn't it, am I right?

A. Yes, if employed for hire, yes, sir.

Q. Now the father or the mother, somebody makes a garment for the manufacturer, by which for a certain sum of money he or she agrees to do a certain amount of work?

A. Supposing it is by contract?

Q. I do not care how it is according to this definition "for hire" means anything; that is the broadest possible term; anything is a contract in the law, anyhow; now am I not right?

A. But the difficulty lies here.

Q. Will you answer my question?

Commissioner Dreier: No, you are not right because she goes elsewhere to work.

Mr. Elkus: That does not make any difference; a factory is a place where one or more person are employed at labor.

Commissioner Phillips: Must be a manufacturing or business establishment.

Mr. Elkus: Any mill, workshop, or other manufacturing or business establishment.

Commissioner Phillips: Business establishment must be the predominating idea of the thing.

Mr. Elkus: No, it is not. (and so on)⁵⁸

This exchange unwittingly provides us with a unique look at liberal ideology in action. Little did Mr. Elkus know that in his attempt to violate the distinction between home and factory he was destined to lose his battle by half a century of well-entrenched liberal thinking. Despite the powerful evidence before them, it is not surprising that they could make little headway into the issue at hand.

Is it a home or a factory? Why was this distinction so important? Liberal ideology posited a fairly strict distinction between the public and private worlds, and assigned economic relations to the former and normative emotional relations to the latter. Women, as part of the private sphere of the home, were supposed to stand outside of, or be immune from, contractual public relations. Work that women did at home--whether it was unpaid domestic labor or manufacturer's homework--was not thought of as work "proper"--work that had real economic value. This very definition of work was based in the distinction (and separation) of the public and the private, the home and the factory. Homework violated this presupposition by literally introducing economic relationships into the heart of the family. To admit this reality, then, meant that the ideological distinction between the public and private worlds might also be called into question.

Furthermore, an admission of this sort could also justify the idea that the State had a responsibility to

directly regulate the private relations of the family. One social worker aptly characterized this perspective as,

the old sentimental theory of the innate sacredness of The Home. There probably exists in the human mind no stronger tradition than that The Home is an institution which does not change and which ought not to be invaded or interfered with. The tradition is strongest in strong men. It sways legislatures and the courts, which, being composed entirely of men, allow me humbly to remark, have no more than a theoretical knowledge of Home.⁵⁹

In large part, the ideological distinction between public work and privatized family was based in real material transformations in the nature of social production. In precapitalist agrarian society, the home was the site of production. Entire families farmed, raised livestock, spun and weaved, and produced the goods the family needed for daily use. In addition, families often produced goods for exchange at the market.

With the rise of the factory and wage-labour system, home production of this sort gradually declined. While there remains some controversy over the extent to which the family and home was emptied of its economic functions,⁶⁰ it is clear that in important ways the home did lose its status as the center of production.⁶¹

Women, of course, continued to perform domestic household tasks, such as cooking, cleaning, and caring for their families. But as the wage-labour system developed

outside of the home, the domestic labor of women came to be defined as separate from and qualitatively different than "outside" labor done for a wage. Women's household tasks were systematically undervalued, then, as the idea of "work" came to be defined strictly in terms of wage-labour done in the public sphere--physically and ideologically separated from home.

Conclusions

A number of explanations could be put forth to explain why these women worked at home: that their husbands prohibited their employment outside the home; that manufacturers preferred not to employ married women; that forms of child care were not available to them; that they preferred homework because of the lack of direct supervision and/or because they felt that their presence in the home was necessary for family unity and the maintenance of cultural norms. While none of these explanations are mutually exclusive, it is necessary to develop a more comprehensive and coherent explanation for why these women worked at home.

At a more fundamental level of analysis, one needs to understand how the ideology of motherhood served to shape women's options for work. Women, especially once they were married, were primarily identified as mothers--whether or not they actually bore children. Married women were expected to be supported by husbands and to dedicate

the bulk of their time to household and childcare duties. Expecting to fulfill this cultural prescription, women often voluntarily left the workforce upon marriage. But for the working class immigrant in particular material reality would not allow them to live up to cultural expectations. While the ideology of motherhood and the day-to-day needs of the family required that they remain at home, economic necessity pushed them towards wage-earning. The economy, itself based on the assumption that women with children would remain at home, was not structured to absorb women with familial responsibilities. The length of the working day, the lack of childcare facilities, the market preference for full-time, year-round workers in the factory all served in very explicit ways to limit the options of mothers for work. Homework was one of the few systems of work that could form any sort of compromise between these competing pressures.

The logic of capital alone cannot explain the level of exploitation of homeworkers. It cannot explain why single women in the factory (in the flower industry, for instance) were paid 40% more than married women at home doing exactly the same work. This disparity in wages can only be explained in reference to women's identification as mothers. The sexual division of labor which formed the basis for women's identification as mothers not only kept them home, but justified their extremely low wages

once employed at homework. While women in factories systematically earned less than men, homeworkers, one step removed from the production process and public view, earned less than factory workers. A mother, as such, was not supposed to be the primary wage-earner for the family (or for herself for that matter.) The payment of low wages would insure that she could not. Manufacturers testifying before the New York State Commission conveniently allowed themselves to believe that homeworkers worked for "pin money," despite the mass of evidence to the contrary.⁶²

The ideology of motherhood, as it helped to create, justify, and perpetuate the homework system, defined women a priori as outside of the wage-labour system. Consequently, when women did enter it, they would remain always in a subordinate position. Women's position in the industrial workforce, then, was intimately related to her relationship to the patriarchal family. Industrial capitalists reaped the benefits of this ideological commitment by the payment of low wages and the maintenance of large "peripheral" workforce existing at the edge (or more accurately, at the bottom) of the mainstream of workers. The association of homeworkers with the private sphere rendered them invisible from both contemporaries and historians as a large, exploited sector of the workforce.

Historians have characterized the Italian immigrant family as among the most strictly patriarchal. Women were

forbidden to go out alone, husbands and fathers were suspicious of single women working in factories without direct family supervision, and wives were rarely allowed to go out to work. Although recent studies have found that Italian wives went out to work more often than assumed, it is still clear that Italian women were viewed by their husbands--and often view themselves--as the "heart" of the family. For these women, the homework system was suited to the irregular demands of household and family responsibilities. Ostensibly, women could cook, clean, launder, and care for the family at the same time they earned a wage. And the low wages they earned meant that they could earn an income without threatening their husband's identification as primary wage-earner.

From the point of view of the needs of the patriarchal family--where father was the breadwinner and mother the caretaker of the family--the homework system provided a way to integrate traditional norms with the reality of modern capitalism, without threatening the power base of the husband. But did homeworkers themselves prefer to stay at home? After all, many other working class mothers were in the labor force during this time period. This is a more difficult question and one that probably can never be definitively answered. But we can conjecture, as every historian must, from the evidence at hand.

First, it would be somewhat misleading to think of the circumstance of homeworkers as one of "choice." Ideological constraints, the structure of the labor market, the very real pressing daily needs of the family, traditional patriarchal norms, and manufacturers' preference for young single women all served to restrict options for paid work outside the home. For homeworkers and most working class women, life was ruled by necessity and not choice. While these women may have preferred to stay home, we may rightfully ask, at what cost would they do so? Piecework rates demanded that these women work at an intense rate just to earn 6¢ an hour. Mothers--and their children--worked from dawn until late in the evening. Homeworkers were subject to the most extreme demands of the "double day." These women workers vacillated between intense periods of frantic work and periods when no work at all could be found. The insecurity engendered by such irregular work must surely have taken its toll on these women. Certainly, this system of work exacted certain costs to family life.

On the other hand, homeworkers could maintain the psychological, cultural, and material unity of the family by remaining at home. As Virginia Yans-McLaughlin has pointed out, the Italian family has been described as "father-dominated, but mother-centered."⁶³ Italian women may well have viewed their predominance within the family--

over care of children and husband--as an important source of power. Their hesitancy to relinquish this central position in the family by going out to work may reflect a realistic assessment of their situation. After all, in the labor market women could barely earn a living wage and were under the constant scrutiny of bosses or foremen. Moreover, the possibilities of earning an independent wage were limited even at the peak of their wage-earning years and steadily declined as they passed marital age. Retaining the stability of the family represented a kind of long-term security that the market could never provide. Children, who were taught at an early age that they were responsible for the economic survival of the family, could be expected to (and did) support parents in old age.

In addition, women often worked together at home with neighbors or relatives.⁶⁴ Homework provided a way to establish and maintain extended family ties that must certainly have been important for the survival of individual family members.⁶⁵ Going out to work might have disrupted or threatened these extended networks, either through a violation of cultural norms or simply by being absent from the home for long periods of time. This need to maintain reciprocal social relationships with friends and family may have played a significant role in keeping women at home.

Given the benefits to manufacturers and to the patriarchal family of this system of work, homework evolved

as the one viable alternative for these women. Had it not been for the sexual division of labor in the family, which placed sole responsibility for childcare and household duties on women, and the logic of capitalist wage-labour, which drove down the price of labour to a point approaching slavery, the homework system may have been an attractive alternative for these women. Given these considerations, homework remained an exploitative form of work almost without parallel during this time period. Certainly the ability of homeworkers to negotiate the conflicting pressures of their situation is a testimony to their strength and the importance of their contribution to the very survival of the working class immigrant family.

C H A P T E R I I I

NO PLACE FOR WOMEN: PROTECTIVE

LABOR LEGISLATION FOR WOMEN,

NEW YORK, 1900-1925

Introduction

It is often in times of great social upheaval that dominant ideas about the nature of our social order become most visible and explicit. The rapid industrialization and urbaization of the U.S. combined with the influx of women into the industrial workforce to serve as a catalyst for just such a period in New York at the turn of the century. It is in this context of social, political, and economic transformation that the development of protective legislation must be understood. If women's entrance into the industrial workforce in large numbers was not to disrupt women's primary identification with the home, then efforts would have to be made by a vairety of actors, each compelled by different motivations, to insure that women's work lives were somehow consonant with women's duties as wife and mother.

When social convention weakens, law often steps in its place to reinforce traditions viewed by the state

as necessary to the maintenance of social order. In this chapter, protective labor legislation for women will serve as a case in point. Laws to prohibit women's work, for instance, in mines or iron foundries or to keep women from working all through the night at paid labor outside the home, did not become necessary until social convention weakened enough to allow women into these occupations in the first place. Though the state was limited by a variety of forces, each of which will be explored throughout this chapter, it could at least place serious obstacles in the way of women who either out of conviction or necessity engaged in "men's" work. Through a review of protective legislation in New York from the turn of the century through the 1920's I hope to illustrate how the state responded to what was perceived as a threat to the patriarchal social order.

As I have argued in the preceding chapter, women's primary identification with the private sphere of the home played an important role in the formation of state policy regarding homeworkers. The question to which we must now turn in order to fill out the picture is how this association of women with the private sphere affected her position in the more visible public world of work. In particular, how did state policy both reflect and help to perpetuate women's primary role in the home and secondary position in the labor market?

The questions I will raise through my study of protective labor legislation for women will be intimately related to questions raised in the preceding chapters. As we have seen, dominant ideology drew a sharp distinction between "home and factory." In addition, at least in the ideal, mothering and wage-earning were viewed as antithetical. This conflict between "women as mothers" and "women as workers" will be developed more fully in this chapter. In addition, my project will also address the question of what affect women's status as mothers had on her standing as a citizen. In other words, could women's primary association with and responsibility for the privatized family be consistent with her formal rights within the classical liberal tradition (as I have outlined in chapter one) as a free, autonomous individual? Or is there a necessary antithesis between women's identification with the private sphere and her standing as a full citizen (that is, as an autonomous individual who has full rights and privileges in the formal political sphere)? If such an antithesis exists, then we will be forced to question whether state policy based on women's role as mother (and aimed at reinforcing this role) has reinforced her political, economic, and social inequality as a whole.

As a contrast to the state's exemption of home-workers from all forms of protective labor regulation, I will review in this chapter the state's willingness to

enact protective labor legislation for women working outside the home in New York from 1900 through the 1920's. As we shall see, efforts to restrict the labor of women generally took two forms during this time period. The first, outright prohibitions on women from working in certain industries or at particular jobs, was the most extreme form of restriction and while less common helps to illustrate the logic underlying all forms of protective labor legislation for women in New York. I will begin this chapter then with a discussion of prohibitive legislation for women. This study will establish a "paradigm" case of the logic underlying protective legislation upon which less restrictive but by far more common laws were enacted.

The second type of legislation, by far the most predominant and important in terms of its impact on women's work, was the limitation of the hours women could work, or "regulatory" legislation. I will illustrate the general outlines of such legislation through both a study of New York laws and a look at the one precedent-setting U.S. Supreme Court case, *Muller vs. Oregon*, which in 1907 upheld the constitutionality of the ten hour day for women and acted as a powerful catalyst to protective legislation in New York and nationwide.

Prohibitive Legislation

From the turn of the century through the 1920's

the state would be convinced time and again that the only way to "protect" the health of working women was to prohibit them entirely from certain occupations. Beginning in 1899 all females were prohibited from "operating or using polishing or buffing wheels" which were generally used in a variety of industries to sharpen the tools of labor. This act marked the first time legislation explicitly prohibited the employment of all women in an industrial occupation in New York. In 1906 women were excluded from working for or in connection with mines and quarries, in 1912 they were prohibited from working within four weeks after childbirth in any "factory, mercantile establishment, mill or workshop" and in 1913 after a lengthy study by the New York Factory Investigating Commission (F.I.C.), women were excluded from work in the core-rooms of brass, steel, and iron foundries.

Young women also found themselves excluded from certain occupations, often undercutting opportunities to gain the experience needed to move into certain skilled jobs once they reached maturity. Women under 21 were prohibited from cleaning moving machinery in 1887, and by 1918 from working as messengers for telegraphs or messenger companies in the distribution, transmission, or delivery of goods or messages. In 1919 they were barred from working in connection with the operation of "elevated railroads" or street subways and could not even sell or accept fares

or admissions in any railway station, car, or train.¹

Though the categorical exclusion of women from particular industries was not widespread, and perhaps never directly affected the great number of women working in industry, the logic and controversy over such legislation is illustrative of all legislation enacted to "protect" women. Because the exclusion of women from work in core-rooms of foundries inspired much public debate and controversy, I will focus here on the enactment of these laws and assess the effects of this legislation on women's position in certain sectors of the workforce. As we shall see, public debates over prohibitive legislation slip all too easily from a discussion of the health and safety of women workers to debates about women's "proper" position in the labor market and role in the family. In particular, often heated arguments over women's work in core-rooms belie a logic more attuned to a dominant "ideology of motherhood" and the protection of male workers from female competitors, than to a concern for the health of women workers.

In March of 1911 the disastrous fire at the Triangle Shirtwaist Factory, in which 146 women died, sent more than 100,000 working women and their supporters into the streets of New York to demand improvements in the conditions of working women. The outrage inspired by this event over the health and safety of women workers led to the establish-

ment of the Factory Investigating Commission of New York and marked 1911 as a hallmark year in struggles over protective legislation for women. The Commission, composed of members of state government as well as representatives from organized labor, engaged in a broad range of investigations and made recommendations to the state legislature for future legislation.

In its second report the F.I.C. focussed attention on the work of women in the core-rooms of foundries throughout New York. The fear of tuberculosis, as in the case of homeworkers, again acted as a catalyst for legislation. Approximately three hundred women were employed in the core-rooms of foundries in upstate New York. Concern over the health of these workers focussed on the hazards of the inhalation of gases and fumes from the ovens in which cores were baked.² Women's recent entrance into foundry work, where they typically replaced boys under 18, their underpayment by manufacturers in this industry, and a social and political climate sensitive to the high tuberculosis rate in this industry all led to an extensive investigation of women working in core-rooms by the F.I.C. High death and illness rates from tuberculosis, rheumatism, and kidney diseases were common among all those who worked near core-room ovens. But women, the Commission argued, were especially vulnerable to these ailments because of their more fragile physiology.

The political divisions spawned by the Commission's investigation of women foundry workers would be reproduced many times in the years to follow over subsequent debates over protective legislation. Manufacturers opposed any legislation which would curb their right to contract "freely" with women workers. Organized male workers, fearful of competition from "cheaper" female labor, were adamant in their support of prohibitive legislation. Both owners and male workers were well-represented in testimony before the Commission. And of the hundreds of witnesses called to testify before the Commission only three were women foundry workers, and these were dismissed after only cursory testimony.

The thousands of pages of testimony before the F.I.C. leave us with a rich record of the arguments both for and against legislation. Organized male workers, represented by the Moulder's Union of New York, based their opposition on a mixture of ideas about women's proper place in the home, fear that women workers would lower wage standards, and a dubious concern over the health of these "future mothers of the race." As one core maker stated, "I think (the boss) would do us a great favor, and everybody else in New York, if he would let these girls go home, and take care of the home, and not work in the shop but take care of the homes where they should be."³

Another member of the Moulder's Union expressed concern, tempered by ethnocentrism, over the state of motherhood: "We must also realize that these women of today, even though they are the Slavs and Poles and the Italians, they are the mothers of the future American citizens."⁴ While male foundry workers softened their arguments with a concern for motherhood, the bottom line was economic. Women pieceworkers systematically earned only half to one-third of what their male counterparts earned. And the blame for such underpayment was laid on the heads of women workers who, the Union argued, didn't have either the courage or choice to demand higher wages. As W. T. Provert of the Brooklyn Moulder's Union argued,

...where men have the courage of their own convictions and the right to demand it, the girls are not in that position, and they will stay there whether they like conditions or not; they don't have the courage to jump on a freight and go somewhere else....(they) have to make the best of conditions given to them in those shops. They have no choice.⁵

Needless to say, the attitude of union men didn't help the situation of these women workers any. Not only were women barred from the union, but the constitution of the International Moulder's Union threatened to expel any member who "devotes his time in part or in whole to the instruction of female help in the foundry or at any branch of the trade."⁶

Manufacturers recognized the increased profitability

of hiring women workers who were not only "cheaper" to employ than men but cheaper even than boys. And certainly a sexually divided workforce could do the Union no good. In response to Union accusations, foundry owners defensively argued that women were employed either because they couldn't get boys to do the job, or because women were "handier, more skillful, and more regular in their work" (though apparently owners weren't willing to compensate women for these superior qualities.)⁷

Manufacturers accused male workers of discrimination against women and argued that no account should be taken of sex in the core-room. Owners argued that they wanted "equal rights" for both men and women and urged the Commission not to make foundry work a "matter of sex."⁸ Some went so far as to argue that any legislation should apply equally to both men and women, certainly with the knowledge that such restrictive legislation for men would never be tolerated. They argued that core-room work was not a threat to health and that it paid better than other occupations available to women, such as work in canneries, laundries, or work as a scrubwoman (a point not without merit.)⁹

But as one report of the Women's Bureau stated, employers' opposition to protective legislation was "apparently just as altruistic as that of the moulders. They wished to give women the "opportunity" to work in core-rooms."¹⁰ When push came to shove in testimony before

the F.I.C. employers reluctantly admitted that women were employed simply because they were cheaper to employ. Clearly, concerns about "equal opportunity" and "discrimination" acted only as a veneer over their more fundamental commitment to profit-making.

Though the battles between owners and male foundry workers were clearly based in economics, with a guise of concern for the health and safety of women workers, the Commission's final assessment rested exclusively on strict assumptions about women's "proper" place in the family and the workforce, and the state's obligation to "protect" the future of the race. In its conclusion the F.I.C.'s report bluntly stated that "the foundry is no place for women" and that everyone would have been better off if women had never been allowed to enter an occupation which was "never intended for them."¹¹ When faced with arguments made by manufacturers in the name of "equal rights," the Commission invoked the eternal rules of Nature:¹²

Nature itself has made distinctions which the foundry owner has said should not be made. Instincts of chivalry and decency as well as concern for the preservation of the race, demand that we should not permit women to engage in work detrimental to their health, that overtaxes their strength, and impairs their vitality as wives and mothers.

Concluding that every obstacle should be thrown in the way of women foundry workers, the F.I.C. recommended the gradual elimination of the three hundred women employed

in foundries in New York. Such harsh conclusions are especially interesting when understood in the context of the fact that the Commission itself admitted that it had failed to prove that work in the core-room was detrimental to women's health, or that women were more susceptible to illness than male workers in the same industry. Remember also that the prohibition is based not on health concerns directly related to reproductive capacities, but to gases and fumes which irritate the mucous membranes, eyes, nose and throat, and bronchial passages. Strictly physiological evidence alone, therefore, could not provide the basis for gender-based legislation. Rather, the Commission stood on the grounds that the foundry was simply "no place for women." When one manufacturer argued that men and women were no different in their susceptibility to illness, the chairman, replying with sarcasm and incredulity, laid out in no uncertain terms the true basis of their reasoning:¹³

You really think they are no different. You know there is a particular interest we have in a girl. The girl of to-day is the mother of to-morrow. She produces our children, and we have got to preserve her a little better if we are going to have good future citizens.

At the recommendation of the Commission, the state passed a law in 1913 that prohibited women's employment in the oven rooms where cores were baked and regulated the size and weight of cores on which women could work.¹⁴ While not directly prohibiting women from work in brass,

steel, and iron foundries (which would have forced the state to take direct responsibility for throwing three hundred women immediately out of work) these restrictions were effective enough to eliminate women from work on cores within a few short years.

Even given the strong language of the F.I.C.'s final assessment of women's foundry work, it would be somewhat misleading to view the Commission's work as a simple attempt to force women back into the home. In a very real sense both Commission members and legislators responded with shock and honest concern over the health hazards of this kind of work. Members of the F.I.C. were led on tours through foundries and factories and, perhaps for the first time, had a real life taste of the degradation wrought by industrial work. It is plausible that their harsh reaction to the employment of women in core-rooms, for instance, was due at least in some part to the impression left on them by conditions of core-room work in general: men and women literally "spent" a lifetime working in the nauseating heavy blue smoke that "just seemed to lay there" after oven doors had been opened.¹⁵ Unwilling to interfere in the "freedom of contract" of male workers, commissioners turned their ire towards efforts to at least protect the "weaker sex." Ironically, in their haste to improve the condition of women workers they failed to make any recommendations for protecting the health and safety

of the remaining male workers. In the end, fathers were sacrificed in the name of protecting motherhood.

The debates over women foundry workers set a pattern that would be followed in all subsequent struggles over protective legislation for women. Unionized male workers, arguing that women's physiology ill-suited her for industrial work, supported legislation out of fear that women workers would either drive down wages, displace male workers, or both. Manufacturers, arguing on the grounds of equal opportunity, fought legislation in order to advance profits through the exploitation of women workers. And the state, receptive to dominant beliefs about women's physical inferiority and proper place in the home, felt compelled to protect women on the grounds that the state had an obligation to preserve the future of the race by restricting the work lives of the mothers, or future mothers, of its citizens.

This pattern is repeated time and again in all subsequent attempts to restrict women's labor. But in regard to less severe restrictions on women's work, such as the limitation of the total hours worked in a day or week, or the prohibition of night work for women, the issues become more complicated. For one thing, working women themselves joined the battle--both for and against--protective legislation. In addition, hour and night work laws held the promise of improved working conditions for many women and, in some cases, paved the way for higher

standards of work for all industrial workers.

Regulatory Legislation--
Night Work Laws

The second form of legislation designed to regulate women's work came in the form of the restriction of night work for women and laws limiting the maximum hours women could work in a given day or week. Night work and maximum hour laws often came hand in hand, primarily because it was extremely difficult for inspectors to determine the total hours a woman worked without a definite closing hour, after which all work was illegal. Also, without night work laws women could be required to work two continuous days back to back, one before midnight and the other after, thereby undercutting the intent of hour laws. In this section, I will briefly review night work laws before going on to a discussion of the charged political battles over the establishment of the ten-hour and nine-hour days for women.

In 1899 the first law was enacted in New York which prohibited the work of all women in factories between 9:00 p.m. and 6:00 a.m.¹⁶ While previous legislation had prohibited the night work of women under 21 (and males under the age of 18), this was the first effort made by the state to restrict the night-time employment of all adult women. From 1899 through 1907 these laws went unchallenged in New York State. But in one of the few court

decisions of the time which explicitly argued women's essential equality with men in terms of a woman's freedom of contract, the New York Court of Appeals ruled in 1907 in *New York vs. Williams* that all night work laws for women over 21 were an unfair abridgement of women's freedom contract.

In its decision the Court stated that

An adult female is not to be regarded as a ward of the state, nor in any other light than the man is regarded, when the question relates to business pursuit or calling.¹⁷

Following on the heels of the 1905 U.S. Supreme Court decision in *Lochner vs. New York* (which struck down a ten-hour day for men) the New York Appeals Court declared that this restriction went beyond the state's legitimate police powers because the regulation was not based in the protection of women's health and safety. Labor legislation which restricted freedom of contract could only legitimately be justified if the intent of the law could be explicitly tied to health and safety measures. Up to this point in time, therefore, laws could only be upheld for occupations categorized as "overhazardous" (as in the case of miners in the 1898 *Holden vs. Hardy* decision) or if a certain class of workers, such as children or women, could be deemed overly vulnerable to the hazards of work.

When the Factory Investigating Commission of New York was reconvened in 1913 their first task was to rees-

tablish the validity of night work laws for women precisely on these grounds. Encouraged by the 1908 U.S. Supreme Court decision in *Muller vs. Oregon*, which had upheld a ten-hour day for women and presumably reversed the trend set by the *Williams* case, the F.I.C. in 1913 recommended passage of a new night work law for women. The arguments used by the Commission were two-pronged. First, night work threatened the health of women and the children they were responsible for. The report of the Commission documents the most extreme degradation wrought by women's "double day." In their study of one hundred women working at night in upstate New York the Commission found that these women on the average slept only four and a half hours per day.¹⁸ Most of these night workers, who were Polish immigrants between the ages of 20 and 30, were married and had young children to care for. For women with primary responsibilities for infants and toddlers, night work provided a solution to the conflict between income-earning and mothering. Almost all of the women interviewed by the F.I.C. stated that they preferred night work because it freed them to nurse infants, cook, clean, launder, and watch over their families during the day. Needless to say, such a schedule left little time for rest or sleep. In addition to the health hazards to women working the "graveyard" shift, the Commission also argued that the

absence of night work laws led to the overtime work of women. In the bookbinding trade, for instance, women were found working shifts often as long as 16-24 hours a day.¹⁹

In addition to the health hazards created by overwork, the Commission this time introduced a new theme into arguments for protective legislation, pointing out that "it has universally been found that such work renders women liable to unusual moral dangers and temptations."²⁰ Returning home in the dark of night left women vulnerable to harassment or attack on the streets. In addition, the Commission pointed out that no "respectable" boarding house would allow women to return home after work past midnight. In short, night work threatened the public welfare because it was "destructive of the vitality of women as wives and mothers" not only physically, but also morally.

As a result of the Commission's recommendations, in 1913 and 1914 night work laws were passed which forbade women's employment in factories and mercantile establishments after 10 p.m. or before 6 a.m. By 1917 and 1918 these restrictions were extended to include women working in restaurants, on street railroads, as women messengers, elevator operators, and women working as printers in newspapers.²¹ Laws of this nature were always accompanied by exemptions, particularly in industries where women presumably could not be replaced by men, or in industries where owner or worker opposition was strong. Sales clerks

were exempt during the Christmas rush; women working in canning factories were exempt during harvest seasons; singers, performers and cloak room attendants in hotels were exempted entirely from the law. As in all forms of protective legislation, night work laws improved conditions in some industrial occupations in which women already predominated (such as sales clerks in stores) and excluded women entirely from other higher-paying work (such as train conductors and printers in newspapers.)

As in prohibitive legislation, night work laws were often initiated by organized male workers who feared competition from women. Male waiters in New York City, for instance, were well-served by night work restrictions on women. Members of the Magnolia Association of Waiters had repeatedly made requests to the New York Department of Labor asking that women's work hours be restricted because, they argued, waitresses were undercutting pay rates in their occupation.²² Waitresses unsuccessfully protested the extension of night work laws to their profession, arguing that it often prevented them from working shifts when tips were heaviest and pointing out the irony of the law in that it allowed women singers to perform after 10 p.m. in the same restaurants where waitresses were prohibited.²³ Without organization and funding the waitresses would lose their battle against night work restrictions.

Women printers, who were included in the 1913 law, were also harmed by night work laws. Because newspapers were run on two night shifts (one beginning at 6 or 7 p.m. and the other at 2 a.m.) and only one day shift, night work laws severely restricted opportunities for women to work in this industry. In addition, weekly wages were higher during the night than during the day, ranging from \$55 during the day to \$58 and \$61 at night. Prohibition of night work also threatened the seniority status of women printers. These working women, already anomalies in the highly-paid male-dominated newspaper business, found themselves either at a serious disadvantage or were thrown out of work entirely. Partly as a result of their ability to finance a campaign against night work laws, these women were able to win an exemption for women printers in 1921 after spending \$10,000 on eight years of political work.²⁴

While night work was clearly detrimental to the health of the many women who earned an income throughout the night and returned home to domestic duties during the day, the logic used to pass these laws did little to expand the options of these women for work. Legislators never felt obliged to discuss how the children of working mothers would be cared for if these women had to work during the day. In addition, legislators assumed that these women were ignorant of the health hazards of night work and therefore were themselves responsible for their own degrada-

tion. As the F.I.C. stated in 1913, "Ignorant women can scarcely be expected to realize the dangers not only to their own health but to that of the next generation from such inhuman usage."²⁵ The fault of such "inhuman usage" was thus placed squarely on the heads of "ignorant" mothers.

With the enactment of night work laws the state fully elaborated the logic underlying all subsequent hour laws: first, women were both physically and morally unable to bear the strain of night-time work and therefore needed the state's special protection "for their own good;" second, the state had an explicit interest in protecting motherhood, per se--and women who worked all through the night certainly could not also be "good" wives and mothers during the day. Legislation was enacted, therefore, on the grounds of the state's direct interest in the private sphere of the home. Any paid labor that women did that interfered with her presumed functions as a mother would be ruled a threat to the "general welfare" of society and the state. The same logic would be used to push through the nine-hour and ten-hour day for women only.

Regulatory Legislation-- Hour Laws

Struggles over the establishment of the shorter working day for women must be understood in the context of earlier attempts to shorten the working day for men. While prohibitive and night work laws were designed explicitly

for women, and no attempts were ever made to extend such laws to men, maximum hour laws had been a long sought after goal of predominantly male unions prior to the turn of the century. Hour laws did not become explicitly gender-based until after 1899, and the movement to extend such laws to women in all factory and mercantile occupations in New York did not gain full steam until after 1910.

As previously noted, laws restricting freedom of contract, at least for men, could only be upheld if they were viewed as necessary for the health and safety of workers. Organized labor throughout the nation was dealt a harsh blow by the now-famous U.S. Supreme Court case, *Lochner vs. New York*, in 1905. In this case the Court ruled as unconstitutional the limitation of bakers to ten hours per day, or sixty hours of work per week. In its decision the court stated that such restrictions constituted "an unreasonable, unnecessary, and arbitrary interference with the right and liberty of the individual to contract in relation to his labor...."²⁶

The decision in the *Lochner* case brought to life some of the most fundamental commitments of the classical liberal tradition: as independent individuals men were entitled to freedom from state interference in their rights to contract "freely" with others. Specifically, capital and labor, on equal footing within the marketplace, were entitled to bargain freely over wages, hours, and

the conditions of labor without the interference of the state. Organized labor found the going rough in attempts to threaten or even modify what was then perceived by legislators, courts, and businessmen as the cornerstone of the laissez-faire political and economic system. Finding the courts unsympathetic to their cause, unions and social reformers turned their efforts towards the limitation of women's labor. If they could not win the ten-hour day for men, they could at least do so, with the help of well-entrenched beliefs about women's inferiority, for women.

In New York State, hour laws for women had followed the same historical pattern as night work laws. In 1899 all women were prohibited from working more than ten hours a day or sixty hours a week in any factory. But allowances for overtime work (up to twelve hours a day) in order to make a shorter day at the end of the week made this law almost totally ineffective. Such exemptions made it almost impossible for inspectors to determine the total number of hours each woman worked in a given week. In addition, state officials were reluctant to prosecute violators for fear that the law could not stand up to a challenge in court. In 1907 the law was amended to restrict labor to six days a week, but again the law remained gutless because of the continuation of overtime provisions.

Where the U.S. Supreme Court had been reluctant to tread in the case of male workers, it reversed its stand-

ing just two years later when addressing legislation explicitly designed to restrict the work of women. In a case that would set the stage for protective legislation nationwide and change the current of judicial thinking on legislation for women, the U.S. Supreme Court ruled in 1908 in the Muller vs. Oregon decision that a ten-hour day for women was constitutional. The reasoning of the Muller decision would inform such legislation for the next twenty years, and so deserves special attention.

Josephine Goldmark, of the National Consumer's League, and attorney Louis Brandeis teamed up to produce the brief that would convince the Court of the validity of special legislation for women, in spite of the Court's previous ruling in the Lochner case. Citing only two pages of law and over one hundred pages of "scientific" evidence, Brandeis and Goldmark argued women's special vulnerability to overwork and, hence, her need for the special protection of the state.

The ability of the Court to override the logic of the Lochner decision rested first in the task of proving that women's health differed from men's. Brandeis and Goldmark's brief began, then, with arguments that women were physically inferior to men, and therefore were subject to greater health and safety risks than men. Fully adopting the logic of the brief, the Court argued that

The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence.²⁷

And the Court concluded that "this difference justifies a difference in legislation." As the Court pointed out, natural differences between men and women placed women at a distinct disadvantage in the "struggle for subsistence" and therefore required her protection by the state. That this disadvantage was rooted in nature and not social convention was clearly evident in their ruling.

Not only did women's "physical structure" conspire against her in the marketplace, but her maternal function played an important role in undercutting her bargaining power and justifying the regulation of her labor. The Muller decision made explicit the direct interest the state had in reproduction and, therefore, in women's work. Reluctance to interfere with women's freedom of contract couldn't hold a candle to concerns over the maintenance of women's position as wives and mothers. As the decision put it,

As healthy mothers are essential to vigorous offspring, the physical well-being of women becomes an object of public interest and care in order to preserve the strength and vigor of the race.²⁸

Reproduction, or more accurately, the potential for repro-

duction, thus became a matter of explicit state interest.

The Muller decision reaffirmed, in essence, women's status as wards of the state, and served as a catalyst for the passage of protective legislation for women only nationwide. As one justice stated in an Illinois court decision that followed in the footsteps of Muller, "What we know as men we cannot profess to be ignorant of as judges."²⁹ The judge could not have been more accurate in his assessment of the reasoning behind Muller.

In the eight years that followed the Muller decision, forty-one states enacted new or improved protective laws for women. In New York, a new spirit in favor of legislation was rekindled. The force of the Muller decision combined with the Triangle Fire, the establishment of the F.I.C. and the concerted efforts of unions (both male and female) to push the nine-hour day for women through the legislature by 1913.

The American Federation of Labor had begun its fight for protective legislation for women nationwide by 1900. Fearing competition from women workers, unions saw legislation as one way of controlling women's labor. As Alice Kessler-Harris has pointed out, the AFL was opposed to protective legislation for men, fearing that it might undercut attempts at unionization, "But for women, whose stay in the labor force was expected to be brief, legislation could provide an attractive alternative to the

expense of organizing while it controlled the way in which women could enter the labor force and compete with men."³⁰ Organizations such as the AFL were clearly self-interested in their pursuit of legislative restrictions of women's work.

Although predominantly male unions had attempted to pass the 54-hour week for women every year since 1901 in New York, they were not successful until they were joined in their efforts by the Women's Trade Union League and the Consumer's League of New York.³¹ Organizations such as these viewed protective legislation as the most effective means of improving conditions of work for wage-earning women. The Women's Trade Union League, which had formed in 1904 with the explicit intent of improving conditions for women working in unorganized industries, made the passage of the 54-hour law their first legislative priority. Toward this effort, the WTUL formed the Joint Labor Legislative Conference in 1911 which was a coalition of unions from Manhattan, Brooklyn, and the Bronx, the United Hebrew Trades, and the Socialist Party.³²

Regardless of their intentions, the arguments used to pass legislation rested heavily on assumptions about women's inferiority. Rose Schneiderman, then-Vice-President of the WTUL, argued explicitly that women "can't do the same work as a man" and fought repeals of protective legislation on the grounds that "equal rights cannot keep (women)

in work for which they are physically unfit." In addition, she argued, women who wanted to work at the same rate of pay or at the same hours as men would run the risk of "putting their own brothers, or sweethearts, or future husbands out of a job."³³ The support of organized labor therefore rested on both a rhetorical concern for the protection of motherhood as well as a fear that unorganized working women would drag down the price of labor. If unions could not raise standards of work life in predominantly female occupations, then manufacturers could be forced, through the use of the state, to comply with certain minimum standards of labor.

Unionists also argued that a reduction in hours for women and children would inevitably lead to the reduction of men's hours. While little hard data is available on this question, evidence from a U.S. Women's Bureau report of 1921 does indicate that hour laws for women did have this effect in certain factories where women already predominated.³⁴ Manufacturers often found it impractical to substitute an entire shift of women with men after 10 p.m., and the lower cost of women's labor made it unprofitable to wholly replace women with men in industries such as textiles, where women predominated.

Though organized labor often based their arguments in economic concerns, the ideological vehicle used to pass legislation was always founded in arguments about women's

physical inferiority and proper place in the home and workforce. Unions and social reform organizations argued that women's capacity for motherhood placed her at a natural disadvantage in the workplace. While the immediate effect of legislation might be to improve working conditions for at least some women in some industries, the broader effect of such arguments was to reinforce dominant ideological norms about women's "proper" role in the family as mothers and to reinforce women's segregation and underpayment in the labor market.

While the WTUL and its allies put pressure on legislators, Josephine Goldmark again emerged with the scientific foundation for these political battles. After her success with the Brandeis brief (never referred to as the Goldmark brief) in 1908, Goldmark went on to publish her definitive work on the hazards of overwork for women, Fatigue and Efficiency in 1912.³⁵ Goldmark's work argued the "special susceptibility to fatigue and disease which distinguishes the female, qua female" and argued that this special vulnerability required their special protection by the state. Her work, which had already been used to successfully defend ten-hour and eight-hour laws for women in Illinois, Michigan, Virginia, Louisiana, Ohio, Washington and California, found equal success in New York.³⁶

Josephine Goldmark, along with then-Secretary of the National Consumer's League, Florence Kelley, presented

forceful testimony before the F.I.C. and successfully convinced Commission members to present the 54-hour week to the state legislature.

The concern over women's reproductive capacities, which was voiced by all those in favor of legislation, was clearly not limited to women who were actually mothers. As one doctor stated in support of Goldmark's work,

It is the employment of women from girlhood all through married life, and through the period of childbearing--the continual stress and strain of work and hours and general conditions prevailing in women's labour--that is exerting its baneful influence on the individual and on the home.³⁷

Concern over reproduction began well before puberty and extended well past women's child-bearing years. And when direct evidence of health risks to women were exhausted, reformers and legislators turned to the effects of working mothers on their children. Massive reports were produced "proving" the higher infant mortality rates of children of working mothers.³⁸ Causal relationships were drawn between sick and criminal children and the work of mothers. While such studies might rightfully point out the ill-effects (on women and children) of exploitative working conditions, they were more often used to justify prohibitive or restrictive laws for women. Such laws, therefore, were justified not only on the grounds of women's health, but on the grounds that this was the only way to protect the children of working mothers.

The force of such arguments convinced the legislature to pass the nine-hour day for women in 1912, and by 1913 the law was extended to include all women working in mercantile establishments as well.³⁹ Over the next fourteen years, hour laws in New York would be expanded to include women working in restaurants (1917), as messengers (1918), to women working on street railroads and as elevator operators (1919).

From the late teens through the early 20's in New York, the WTUL and its allies would find itself in opposition not only to manufacturers and conservative legislators, but also to organizations composed of working women who were opposed to protective legislation. In light of the growing strength of opposition, the WTUL established the Women's Joint Legislative Conference in 1918 in order to advance and protect their efforts for protective legislation. This powerful coalition was composed of groups well-experienced in legislative battles, such as the New York State Women's Suffrage Party, the New York State and City chapters of the Consumer's League, and the Young Women's Christian Association, among others.⁴⁰

In 1919 the Women's Joint Legislative Conference, with the ardent support of then-Governor Alfred E. Smith (a former member of the F.I.C.), submitted a package of bills to the legislature which included extensions of night work laws to women employed in offices, on elevators

and on transportation lines, a health insurance plan for women, an eight-hour day and a bill which would establish a minimum wage commission for women.⁴¹ This package of bills, dubbed "welfare bills" by opponents, found the going rough. Hour laws were one thing, but health insurance and minimum wages quite another.

First of all, manufacturers and private insurance companies organized strong opposition through the establishment of the New York League for Americanism. In addition, under the Chairmanship of Senator Clayton R. Lusk, the Joint Legislative Committee to Investigate Seditious Activities was formed in the aftermath of the war.⁴² With the help of Senator Lusk, who accused proponents of the bills of being "bolshevists and German propagandists" the health and minimum wage bills died in committee. With the force of a Red Scare and the lucrative support of businessmen behind him, Lusk declared that advocates of such welfare bills "advocate the overthrow of the government...(and) would overthrow marriage."⁴³ While Lusk's tactics prevented the eight-hour day, minimum wage, and health insurance bills from getting through, the 54-hour week was upheld and night work laws were extended to cover women working on elevators, in offices and in transportation in 1919. Despite opposition, hour laws stood unaltered until 1927, when women's hours were further reduced to eight hours per day and forty-eight hours per week.⁴⁴

Though the opposition of businessmen was motivated by the protection of profits, other groups opposed legislation on very different grounds. By 1920 organizations composed of working women voiced strong protests over protective legislation. It is to these protests and the divisions they created among the working women of New York that we can now turn.

Working Women Divided: "Equality vs. Protection"

By 1920 businessmen opposed to protective legislation were joined in their efforts by organizations composed of working women who had been adversely affected by night work and hour laws. The first of these to be established was the Women's League for Equal Opportunity (1915), who argued that women workers had been displaced by the thousands in New York City following enactment of the 54-hour and night work laws. Composed primarily of women printers, who, as previously discussed, had been seriously affected by night work laws, this organization argued that such legislation protected men and not women, and called for the repeal of all sex-specific labor legislation. As Miss Ella M. Sherwin, a Brooklyn printer and first president of the organization stated,

Welfare legislation, if persisted in, will protect women to the vanishing point. Whatever its intent, it can have but one outcome. It will drain women out of all highly paid and highly organized trades, because the law will prevent them from doing the

same work that men do and the unions will prohibit them from working for a lower wage than the men.

Another group which shared the sentiments of the Women's League for Equal Opportunity was the Equal Rights Association, founded in 1917 with the motto, "Give a Woman a Man's Chance--Industrially."⁴⁶ The Equal Rights Association, also headed by a woman printer, joined with industrialists in advocating the repeal of all protective legislation.

By far the largest and most powerful organization to oppose protective legislation for women was the National Woman's Party, led by Alice Paul. Following the ratification of the 19th Amendment, the Woman's Party set out to eliminate all remaining "disabilities and inequities" which women suffered on account of sex. When the Women's Joint Legislative Conference again submitted the eight-hour and minimum wage bills in 1923, they were defeated by the combined efforts of these three organizations in alliance with industrialists and conservative legislators. In a savvy political move, and one that reflected the radical nature of the organization, the National Woman's Party supported the bills, but only with the condition that the word "women" be changed to "persons" in all legislation.⁴⁷

In that same year the National Woman's Party submitted the Equal Rights Amendment (known then as the Lucretia Mott Amendment) for the first time to the U.S.

House and Senate, demanding that "Men and Women shall have equal rights throughout the U.S. and every place subject to its jurisdiction."⁴⁸ The Amendment was perceived as a direct threat to all gender-based forms of protective legislation, and the WTUL adamantly opposed it, along with most other women's organizations nationwide, on the grounds that it would invalidate all the gains won through the enactment of special legislation for working women.

By 1924 the battlelines were drawn. For the first time since the gender-based legislation was introduced in New York in 1899, working women had a well-organized and well-funded forum for expressing dissent over protective legislation.

The Woman's Party pointed to the absurdity of protective legislation in that it applied to only certain women in certain jobs. The N.W.P. called attention to restrictions on waitresses as one case in point. As previously seen, it was only after waiters found themselves being displaced by "cheaper" female labor that night work laws were extended on the grounds that night work was no longer safe for women. And while waitresses were dismissed at 10 p.m., singers could remain employed all through the night. While waitresses, along with all female industrial workers, were subject to these laws, no one was willing to restrict low-paying "women's" work such as domestic work, nursing, stenography, telephone operating, or theatri-

cal work because, they argued, no men wanted these jobs. "Who is prepared to say" one editorial asked, "that for the welfare of the race...no charwoman may be employed after dark, in the City Hall, or the Capital or an office building?"⁴⁹

Because advocates of legislation based their arguments on women's inherent frailties, no logic on their own terms could justify such distinctions. In fact, the N.W.P. argued, if the safety of women was truly the issue then all women should be banned from the streets at night. Or, better yet, efforts should be made to make the streets safe for women after dark. In addition, those opposed to protection pointed to the irony of the fact that "no one got excited about the strength capacity of a woman as long as she was doing the unpaid labor of the home." And opponents asked, "why the whole world should be concerned over her welfare just because she is getting paid for her labor."⁵⁰

Members of National Woman's Party argued that the Equal Rights Amendment would not nullify protective legislation but would require that such laws be extended to include all workers, male and female.⁵¹ They attacked the physiological arguments used as a foundation for protective legislation, and argued that the most insidious aspect of these laws was to treat all women as if they were mothers. In a sweeping critique of restrictive laws

the Woman's Party argued:

In days gone by we were frequently told that we did not need the vote because our husbands could adequately represent us in matters of government. To those of us who were unmarried, this argument seemed, to say the least, fallacious. With the winning of the franchise we hoped that we should no longer hear people taking it for granted that all women were born married, but the situation is worse, rather than better, since the vote was won. Now it is assumed that all women in industry are not only married, but are mothers, or are about to become so. (Protective legislation) takes for granted motherhood as a constant corollary to womanhood and presupposes, if we are to take the words of the opposition for what they really mean, that all women in industry are pregnant nearly, if not all, the time.⁵²

On classical liberal grounds, the Woman's Party pleaded for women's right to freedom of contract regardless of her sex or capacity for reproduction. In addition, opponents argued that the use of protective legislation as either a substitute or complement to unionization was fallacious. As Ada Wolff, head of the Equal Rights Association argued, women often included in such legislation were not competing with organized male workers. "On the contrary, they are competing in the labor market with unorganized and unorganizable men, and so legislation which might be truly 'protective' if applied to workers becomes a cruel handicap when applied to women only."⁵³

Despite the well-financed efforts of the National Woman's Party and industrialists, all efforts to repeat protective legislation were unsuccessful. The strength of support for protective laws was attested to by the fact

that even efforts clothed in patriotic rhetoric failed to win suspension of women's labor laws during World War I. Along with the failure to repeal night work and hour laws for women, the N.W.P. also suffered losses in their attempts to pass the ERA. The unified opposition of almost every women's organization combined with the opposition of many major unions to thwart the efforts of the N.W.P. to pass a federal amendment. Opponents of the Amendment argued that the ERA threatened all protective legislation and "accused" members of the N.W.P. of being "theoretical" feminists who would sacrifice concrete gains for working women for the "abstract" cause of equality.⁵⁴ Despite arguments made by the N.W.P. that the ERA would extend protection to all workers, opponents argued that such an Amendment would at least throw every hour law in the country into long and expensive legal battles.

In the end, battles fought over labor legislation for women would generate some strange political alliances. Working women harmed by these restrictions found their bosses to be their strongest allies; powerful women's trade unions found themselves tied to male unionists who would have preferred to see women "stay home, where they belonged." And while industrialists argued for women's equality with men, progressive social reformers argued for women's inherent frailty. Whether out of true conviction or sheer political sense, arguments in favor of protective legislation for

women only served to reinforce the grounds upon which women's secondary status in the labor force was based. It was only with the help of patriarchal ideology, which already permeated the thinking of judges and legislators, that advocates of protection could win their battles against the powerful efforts of businessmen. Even after the suffrage was won by women, and even on strictly liberal grounds that women were entitled to the same "freedom from interference" accorded men in the marketplace, opponents of protective legislation could do nothing to sway the tide of logic in favor of protection.

Effects of Legislation

Given the confluence of social forces affecting women's participation in the paid labor force, it is always difficult to determine what effect any piece of legislation has had on women's position in the workforce, and by extension, women's inequality in society as a whole. With this qualification in mind, certain conclusions can still be drawn about the effects of protective legislation in New York at the turn of the century. And as the legislation, political climate, and working conditions of women in New York mirrored circumstances in states across the nation during this time period, my conclusions here will hold some validity for national trends during this time period.

Any study of the effects of hour laws must be placed in the context of tendencies already set in motion by the turn of the century towards a shorter working day for all workers. Pressures from well-established unions and the threat of spreading unionization combined with growing beliefs about the increased efficiency of a shorter working day to create a climate where manufacturers might "voluntarily" institute an eight or nine hour day without the force of law. In a 1923 study made by the New York Bureau of Women in Industry it was found that 56% of the women working in manufacturing and mercantile establishments worked 48 hours or less already, and that only 9% were scheduled to work the legal maximum of 54 hours per week.⁵⁵ In addition, one New York State study indicated that a majority of men also worked 54 hours per week or less.⁵⁶ Though unions such as the AFL had opposed hour laws that restricted men's work, their long history of pressuring industrialists into a shorter working day did reduce hours in some highly organized industries and certainly had a strong impact on public opinion in general. In addition, Josephine Goldmark's work in Fatigue and Efficiency convinced many that an overworked laborer was an inefficient worker, and that a reduction in hours could mean an increase in profits. Studies such as Goldmark's coupled with the growth of principles of scientific management during this time period to reduce owner resistance to the shorter working

day. The impact of legislation must, therefore, be viewed within the context of a social setting already slanted for a variety of reasons towards the shorter working day.

Though hard evidence is scarce, one study made by the U.S. Women's Bureau in 1928 indicated the positive effects of hour and night work legislation for women. As a result of political in-fighting between the National Woman's party, in alliance with organizations representative of well-educated career women, such as the Business and Professional Women's Clubs, on the one hand and the Women's Trade Union League, the AFL and the National Consumer's League on the other hand, the Women's Bureau was commissioned to do a study of the effects of protective labor legislation on women. With Mary Anderson (a long-time supporter of protective legislation) at the helm of the Women's Bureau the report concluded that not only women's but men's working conditions had been improved by such legislation.⁵⁷

Though the findings of the report are politically suspect, as it was headed by a strong supporter of protective legislation, previous studies made by the New York Commissioner of Labor indicated that the effect of legislation pertaining to women working in mercantile establishments had effectively restricted store hours to ten a day. In general this meant that both men and women working in this predominantly female occupation benefited from legislation.⁵⁸

In an interesting study of the census data in New York in 1910 and 1920, Elizabeth Faulkner Baker found that legislation may have had a more negative effect on women working in factories. While the total number of women employed in New York State increased 15.4% from 1910 to 1920 (in proportion to the increase in the female population), the number of women working in factories during the same period rose only 1%. And while the proportion of women to men in the workforce increased, the proportion of women to men working in factories decreased.⁵⁹ While it is obvious that many factors must have contributed to this shift, Baker points out that across the river in New Jersey, where little protective legislation had been enacted, the proportion of women working in factories kept pace with the increase in the population of women and men, as well as with the increase in women's employment in the workforce as a whole. While it is impossible to tell what part legislation played in this relatively small shift of women out of factory work in New York, her study does indicate that legislation may have played some role in moving women into certain unregulated occupations, such as clerical work. The largest proportional increase in women working in an occupation according to the state report was in clerical occupations, where women's employment increased by 12% over the decade.

In addition to shifts in women's occupational categories it is important to note that a reduction in the legal working day for women in factories often meant a reduction in pay. Though manufacturers sometimes increased pay to compensate for lost time, a Women's Bureau study of 1920 indicated that only half of the industries studied nationwide increased pay rates after the introduction of hour laws.⁶⁰ Pieceworkers were particularly vulnerable, as owners would often speed up work in an attempt to increase productivity. Without wage increases, therefore, a shorter working day often translated into a cut in pay or a work speed-up. In industries such as the men's clothing trade, no doubt homeworkers were used to make up for time lost in the factory. Though the National Consumer's League and the WTUL had pushed for minimum wage laws, the U.S. Supreme Court ruled against a District of Columbia law in 1923 (*Adkins v. Children's Hospital*) arguing that minimum wage laws constituted "price fixing" and violated women's "freedom of contract."⁶¹

In a decision that might seemingly undercut all protective legislation, the Court argued that women had achieved equality with men through the 19th amendment and therefore no longer needed special protection under the law. Qualifying their argument just enough to validate maximum hours and night work laws for women, the Court argued that while physical differences between the sexes

were substantial enough to warrant protective legislation, they were not great enough to justify the regulation of wages.⁶² The Court thereby slipped through the cracks in its own arguments and successfully prevented minimum wage laws for men or women for nearly the next two decades. Wherever factory workers retained wage levels at pre-hour law rates they did so without the help of the courts, through their own organized efforts.

While protective legislation improved conditions of women working in predominantly female occupations such as sales and reinforced tendencies towards a shorter working day for women in factories, it is also clear that protective legislation translated into serious setbacks for women working in predominantly male occupations. As has already been noted, prohibitive legislation threw women out of work in foundries, mines and quarries, and effectively excluded women from work in machine tool operations (because of the prohibition on work with buffing and polishing wheels.) In addition, women printers and transportation workers also experienced the worst effects of this legislation.

In transportation the end of World War I combined with the 54-hour law and night work prohibitions to throw almost 1,000 women employed in transportation services (as conductors, guards, ticket agents, and in "related occupations") out of work. A study made by the New York

Bureau of Women in Industry made in 1919 indicated the adverse effects of both women's displacement by men returning home from the war and night work and hour restrictions. While the end of the war accounted for over one-third of the women dismissed, many women were dismissed after the effects of the war had passed, with the extension of laws to include this occupation in 1919. By 1920 the law was amended to exempt all those women working in transportation, except those women working as conductors or guards (of course, the highest paid women.) In the end the effect of legislation was to permanently ban over 500 women conductors and guards from the transit lines of New York.⁶³

Even by its own count, the Women's Bureau report of 1928 entitled, The Effects of Labor Legislation on the Employment of Women⁶⁴ estimated that 60,000 women had lost their jobs nationwide as a result of protective legislation. Assuming the benefits to the remaining eight million working women in the United States, the report concluded that the gains of restrictive legislation far exceeded the sacrifices of these 60,000 women.

Clearly, the impact of protective legislation far exceeded the women directly affected by these laws. As Alice Kessler-Harris argues, women who were hardest hit were often at the cutting edge of new economic opportunities for women and their dismissal held serious implications for challenging a sex-segregated labor market.⁶⁵ The numbers

of women dismissed could not accurately reflect the future opportunities for work lost by women as a whole. Pushed out of higher paying and higher-skilled jobs into "women's" work, their bargaining power in the marketplace would be reduced. In a self-fulfilling prophesy, their weakened position could then be used to justify additional "protection" by the state on the grounds that women were "naturally" unfit for work "never intended for them."

The overall effects of protective legislation must, therefore, be understood in the context of a broader sexual division of labor: as long as women remained employed at "women's work," protective legislation would improve their working conditions or leave them entirely free from regulation; for women who challenged this sexual division of labor, protection would translate into restriction. And restrictions placed on a minority of women who had forced their way into "male" occupations could have a broad effect on future possibilities for working women. Eliminated from these occupations, these women would be denied the chance to challenge one of the most well-entrenched foundations of women's inequality--a sex-segregated job market.

Conclusion--Motherhood and the State

Had the simple aim of legislation been the improvement of the health of women of child-bearing age one might have expected the state to enact legislation for adequate

maternal leave or child care or campaigns to improve working conditions themselves, rather than eliminating women from certain jobs. Or if the aim of legislation was to protect the "future of the race" the result might have been concern for the health of fathers as well as mothers. After all, most of the health hazards working women were exposed to also affected working men and had little to do with direct threats to the female reproductive system. But clearly the aim of legislation went beyond the health and safety of mothers. Instead, laws were designed to reinforce women's position in the home by restricting the kind of work she could do outside of it.

While state policy could not insure that women reproduced, it could at least encourage women to maintain a particular kind of relationship to home and factory. In an article entitled, "Safeguarding the Mothers of Tomorrow," then-U.S. Secretary of Labor, James L. Davis, drew a clear picture of this relationship. While he argued that women have the right to earn a living, "at the same time all will agree that women in industry would not exist in an ideal social scheme. Women have a higher duty and a higher sphere in life."⁶⁶ As John Stuart Mill had argued decades before,

It does not follow that a woman should actually support herself because she should be capable of doing so: in the natural course of events she will not.⁶⁷

Though women might have an abstract right to compete in the marketplace, this right was undercut by her more concrete primary responsibilities in the private sphere of the home. Not only did her real responsibilities for domestic labor place her at a disadvantage, but the identification of all women as mothers (or potential mothers) by the state provided the justification for restricting women's access to paid labor outside the home. The logic of protective legislation was a result not of the fact that women's "maternal function places her at a disadvantage in the struggle for subsistence" but that the state had a distinct interest in making sure, insofar as it could, that women fulfilled this maternal function. It was not, therefore, for women's interest in health that protective legislation was enacted but because of the state's interest in women as mothers.

Opponents of protection fought legislation on the simple grounds that women should be accorded the same liberal rights as men. As one working woman expressed it,

The clamor for food and self-expression is sharp and hurts. It should and must be satisfied so long as it doesn't interfere with the rights of others....Don't suggest to me that the law is for our good which says it is better for me to stay home and starve than to work after dark.⁶⁸

While men were defined within the classical liberal tradition as free individuals who ideally had the right to freedom from state interference in their work and family lives,

women's rights as free individuals were undercut by her primary role as mother. As opponents, such as the working woman quoted above, argued, women should be allowed to earn any income "so long as it doesn't interfere with the rights of others." But the key to protective legislation was precisely this: Working women did in essence "interfere with the rights of others" by subjecting themselves to the "hazards" of work, precisely because the state had a special interest in protecting motherhood. Women's ability to reproduce therefore put her in a peculiar relationship to the state. Women, from the point of view of the state, were not free individuals, but were mothers and as such they were a resource, an asset, which the state intended to preserve.

Women's potential for reproduction made her "physical well-being" and "object of public interest." As then-Governor Smith (of New York) so aptly put it, "the future mothers of this state are a resource that we should conserve." And as Smith later added, "I can think of no greater asset to the state than healthy women and children. The life of the state is dependent upon them."⁶⁹ Women's ability to reproduce, therefore, was perceived as vital to the state's interest and was explicitly tied to the general welfare of the social and political order. As one member of the Factory Investigating Commission had put it, "we have got to preserve her a little better if we are going

to have good future citizens."⁷⁰ Women's role as a reproducer of citizens therefore undercut her own rights to citizenship.

That the state viewed its relationship to women differently than its relationship to men was made explicit in the U.S. Supreme Court decision that finally upheld a shorter day for working men, *Bunting vs. Oregon* (in 1917). As Anne Corinne Hill had argued, while the Muller decision validated protective legislation for women on the grounds that overworked women made poor mothers, the Bunting decision rested on the grounds that overworked men made poor citizens. While the Muller decision inspired a plethora of legislation for women nationwide, the Bunting decision went virtually ignored by state courts, no doubt because male unions preferred organization to legislation in their industries.⁷¹ In any event, this ideological distinction between male citizens and female mothers acted to reinforce a sexual division of labor between men and women through which men are associated with the public sphere and women with the private sphere.

The antithesis between women's role as mother and her status as a citizen was founded in the state's view that the full and equal participation of women in the paid labor force was a threat to women's role as "mother." Given this logic, the increasingly visible movement of women into the paid labor force was viewed by the state

as a threat to both good mothering and, by extension, to the general welfare of society. Constrained to some degree by rhetoric of women's freedom to work, fearful of taking responsibility for throwing many women out of work, and also aware of both pressure from industrialists for the need for women's cheap labor, as well as the need of the working class families for women's wages, the state could not simply enact laws which excluded women entirely from industrial work. Instead, laws were designed to reinforce work patterns that were perceived as consonant with women's role as "mother:" As women moved farther away from the home, the heavier the state's hand would be in regulation. This pattern becomes especially clear when we contrast state policy regarding women working outside the home to state policy on homeworkers.

In homework, where women's paid labor was viewed as entirely consistent with her duties as mother and wife, the state would decree that it lacked the legitimate police powers to interfere in the "private" activities of women working at home. In laundry work, for instance, women working outside the home were subject to both hour laws and night work laws. But the law specifically stated that it was not to apply to women doing laundry at home "for family trade." Women in the garment industry or working in feather and flower-making factories were subject to regulation, while their homeworking sisters were not.

As already discussed, such exemptions always served to undercut protective legislation by allowing women who worked in factories to bring work home at the end of the day and continue working after legal hours. The logic of protective legislation was more attuned to where women worked than to how long they worked. Once in the home, where they presumably belonged, they would be free from regulation. Indeed, from the point of view of the ultimate effect of protective legislation--the reinforcement of women's primary association with home life--regulation of women working at home was not necessary.

The interrelationship of the public and private worlds comes to the fore in the study of protective legislation for women. And this is precisely what both advocates and opponents of legislation failed to see. The choice really was not between "protection" on the one hand and "equality" on the other, but a question of the relationship between women's private position in the home and her public position in the workforce. Reformers failed to see the interdependence between these two spheres and hence tried to argue for women's primary identification as mothers at the same time they demanded improved conditions for her outside the home. In particular, arguments from such powerful social reformers as Florence Kelley and Josephine Goldmark were based on assumptions about women that grew directly out of her association with home life. As Alice

Kessler-Harris points out, reformers held that the attributes women developed in the home, "compassion, nurturance, a better-developed sense of morality--unfitted her for competitive economic struggle."⁷² Such arguments are reminiscent of Mill's conceptualization of the distinctly feminine characteristics women developed in private life and provided powerful fodder for arguments justifying women's protection outside the home. But though Mill questioned the "natural" foundation of these feminine characteristics when he argued that they were the result only of women's confinement to the home, progressive era reformers went to great lengths to "scientifically" prove the natural foundation of these qualities. In a very real sense, women's position as mothers did place her at a disadvantage in the labor market. As discussed in chapter two, the very structure of the labor market was designed to accommodate only single workers without childcare responsibilities. But to base this disadvantage in nature and not social convention was to reinforce and broaden existing inequities by further limiting the options of women for work and to reify as natural socially constructed sexual inequality.

In most accounts of protective legislation, the state "disappears" into the background and attention is drawn to the social organizations, the unions, the bosses, and the social reformers who pushed through legislation. While state policy certainly didn't develop in isolation

from the pressure of these competing interests, it would also be a distortion to view the state as simply a neutral mediator, served only with the task of mediating conflict and finding a satisfactory compromise for all. As we have seen in this chapter, the state had its own distinct interest in the regulation of women's labor, one that was tied directly to the maintenance of a particular kind of patriarchal social order. The "protection" of women was founded, first, in the definition of all women as "mothers" and, second, in the assumption that women's full-time employment outside the home threatened dominant definitions of "motherhood." While many progressive social reformers failed to see the connections between women's standing in the private world of the home and her position in the public world of politics and work, state policy-makers explicitly drew connections between these two spheres. At least, potentially, they understood that the entrance of women into the "public" industrial workforce threatened to disrupt the "natural" order of things in "private" family life. The state's interest in motherhood, as it is reflected in protective legislation, was based on a more fundamental interest in maintaining "proper" patriarchal relations in the private sphere of the home. In the end, protective legislation for women only would translate into a reassertion of women's primary identification with the private sphere of the family, an identification that would preclude

her full and equal participation in either the public world of politics or the public world of work.

CHAPTER IV

CONCLUSION: DEVELOPING A FEMINIST THEORY OF THE STATE

Scholars of every persuasion have documented the expansion of the liberal state since the turn of the century. Whether condemning or applauding this development, the central questions to which all analysts of the liberal state address themselves is this: for what purpose and in whose interest does the state serve? The answers offered to this question are as varied as the political perspectives they represent. In this chapter I will extend this question to the issue of gender relations. More specifically, what role has the state played in relation to women's inequality? And to what extent and in what ways, if any, has state policy reinforced women's primary role as mother and secondary position in the market place?

Before going on to offer my specific analysis, which will contribute to the development of a feminist theory of the state, it is first important to review the basic perspectives offered by the major theories of the state and political power. While this is not intended to be an exhaustive review of the literature, I hope to outline some major questions and issues which will serve

as guideposts for my own analysis. In the first section of this chapter I will review a representative composite of welfare liberal views of the state before moving on to an assessment of the major critics of this view. My purpose will be to judge the insights each perspective can offer when applied to my historical research. In conclusion, I will develop my own perspective and address some of the more fundamental questions left unanswered in previous chapters.

The Growth of Welfare Liberalism

Prior to the rise of welfare liberalism, the classical liberalism of eighteenth and nineteenth century society posited a sharp distinction between political and economic activities and argued for a distinctly laissez-faire view of the state. Arguing that the economic system was ruled by a set of natural and immutable laws, economists such as Adam Smith concluded that state power to regulate economic activity should be strictly limited. Left to itself, they argued, both the economy and society as a whole were self-regulating. Equilibrium (though not economic equality) would prevail only if all artificial political constraints on economic relations were removed. Left to themselves, the citizens of the polity could negotiate and contract freely over the means of their subsistence.

Concurrent with this division between the state

and the economy came a closely related set of principles which would, ostensibly, rule the services and functions performed by the state. In the laissez-faire view of things, the state was to be decidedly "dis-interested" in the affairs of its citizens. As I have discussed in chapter one, the ends of political life were decisively lowered with the development of classical liberalism. No longer would the state promote the ethical and moral precepts which it embodied in previous eras. Instead, the state would be transformed from "an ethical association for the attainment of virtue" to an "instrumental relation" designed only to protect the life, liberty and property of its citizens.¹ Toward this end, the state would be limited in its positive action to the protection of society from the invasion of other independent nations, and the protection of individual citizens from the interference of others through a strictly defined legal system.

Central to this view was the assumption of the state's neutrality. Classical liberal thinkers posited the state as "above" the conflicts of society, and offered an ideal of the state as free from the influence of privileged groups or classes in society. Laws would be enacted which protected the fundamental rights of citizens and each citizen would be judged equally under the law.

Though there are few who would argue that the state achieved in practice what the laissez-faire view preached,

by the turn of the twentieth century it was clear to many groups that the classical liberal view was inadequate. The development of large-scale corporations, the erosion of a familial-based patriarchy, class struggle and massive immigration all forced to the surface renewed debates over the proper role of the state in society. Corporate elites pressured the state towards more positive action in order to stabilize the marketplace; social reformers and labor organizations demanded that the state take action to ameliorate the worst effects of industrialization; and the growth not only of the Progressive movement but of the Socialist Party and the International Workers of the World threatened to radicalize party politics.

The impetus behind the expansion of the state at the turn of the century was rooted not only in an increasingly volatile class conflict, but also in a growing concern over the stability of family relations. Progressive era reformers brought family issues to the center of reform politics and spread the fear of the breakdown of "traditional" American family forms. In addition, the immigration of (particularly) southern European immigrants to the United States and the internal migration of blacks roused nativist fears of "race suicide."² In the face of all of these pressures, the state, with the aid of political theoreticians with pens ready, took positive steps to reinforce and reconstruct the class and gender order.

One of the best known and influential thinkers of the Progressive era, Herbert Croly, laid out most clearly the principles underlying what would become generally accepted as welfare liberalism. What Croly provided was a view that synthesized the need for state social and economic regulation with an acceptance of both the new corporate economy and of a distinctly liberal commitment to democratic values.

In his influential work, The Promise of American Life (1909), Croly begins by asserting some of the basic principles of classical liberalism and then going on to modify them.³ Ideally, political privileges are to be abolished through the democratic system: "If any citizen or any group of citizens enjoys by virtue of the law any advantage over their fellow-citizens, then the most sacred principle of democracy is violated."⁴ While advocating political equality, Croly is quick to point out that he is not advocating economic or social equality: "Such an organization may permit radical differences among individuals in the opportunities and possessions they actually enjoy; but no man would be able to impute his own success or failure to the legal framework of society."⁵ The key to democratic political rights was found, therefore, in the neutrality of the law and the state. The restriction of state power to providing only the basic political rules of the game was essential to the idea of equal opportunity. In

laissez-faire terms, the purpose of government was strictly limited: "The power to legislate implies the power to discriminate; and the best way consequently for a good democracy of equal rights to avoid the danger of discrimination will be to organize the state so that its power for ill will be rigidly restricted."⁶ According to the classical liberal model, therefore, government must be made "feeble and devoid of independence."

But Croly perceived that the growing class conflict in the United States required more than this. Working class dissent over the accumulation of wealth and the power major corporations had gained over the federal government led Croly to assert a new role for the state. As Croly argued, "The national public interest has to be affirmed by positive and aggressive action. The nation has to have a will and a policy as well as the individual; and this policy can no longer be confined to the merely negative task of keeping individual rights from becoming in any way privileged."⁷ Perceiving that the practice of state non-interference is "just as selective in its effects as the practice of state interference" Croly argued for the development of a balance in government between "selection by non-interference" and "active selection." In a time when economic opportunities were shrinking for the great mass of people, the state would have to actively insure its own survival through the assurance that equal opportunity

was still effective. The solution was for the state to offer more "positive services" in order to maintain the "loyalty of the economically less independent class."⁸

In this way the state could strike a balance between individual political liberty, the maintenance of a modified free market capitalism, and the democratic distribution of political, if not economic, power.

Central to the welfare liberal view was the presumption that the state would take on a new relationship to the conflicts of society. While the classical view ideally placed the state "above" the conflicts of groups and individuals in the civil order, welfare liberals placed the state at the heart of such conflicts. But instead of promoting a more broadly defined social interest, the state was to play the role of neutral mediator. Emptied of its moral associations and consigned with the task of the most basic protection of individual rights, the state would oversee the negotiations of conflicts between individual citizens or groups of citizens. In its presumably neutral umpire status the state would enforce the basic rules of the game and provide the arena through which social competitors could meet, negotiate, and find compromise.

Essential to the growth of the state was a continuing redefinition of those activities rightfully viewed as subject for state regulation. In other words, the expansion of the state required an expansion of the

definition of the boundaries of "public life." In a campaign speech of 1912, Woodrow Wilson explicitly brought this issue to the foreground. Arguing that "America is not now, and cannot in the future be, a place for unrestricted individual enterprise" Wilson proposed a redefinition of the proper spheres of state power.⁹

Wilson begins by pointing to the transformation of housing in urban areas that has resulted from industrialization and immigration. In the past "every family had its own little premises, [and]...every family was separated in its life from every other family."¹⁰ But now families are "piled layer upon layer" in the tenement districts. Changing circumstances thus require new responsibilities for the state. In Glasgow, he argues "they have made up their minds that the entries and the hallways of great tenements are public streets" and the state now has the responsibility of protecting citizens there. As Wilson stated it, "These are the highways of human movement, and wherever light is needed, wherever order is needed, there we will carry the authority of the city."¹¹ He then goes on to draw an analogy between this example and that of the state's regulation of the Steel Corporation. The Steel Corporation, he argues, is "just as much a public business as a great tenement house is a public highway" and "therefore, whenever bodies of men employ bodies of men, it ceases to be a private relationship."¹² The state, therefore,

has the responsibility to act as "foster father" in order to safeguard the lives of its citizens.

But from the liberal point of view the question remained as to how increased state power could remain compatible with an older ideal of political power as democratically decentralized. If the state was to act, the question remained, in whose or what interests would it do so? In short, how would the positive state remain accountable to the interests of all citizens? In terms of the welfare liberal paradigm, the pluralist model of the distribution of political power would supply the answer. Thus in order to continue the discussion, it is now necessary to look more critically at the pluralist definition of political power and the major criticisms of this perspective. In addition, I will begin to apply this more theoretical work to the historical case studies I have laid out in previous chapters.

Theories of Political Power-- Pluralism

As the early twentieth century economy increasingly came to be seen as lacking self-regulation, an evolving pluralist ideology of a self-regulating political market developed, one that was offered as a substitute for the failing economic market. Of this competitive political market, Bentley wrote, "when we have a group that participates in the political system we always have another group

facing it in the same plane."¹³ From this point of view, the state did not express an independent interest of its own, and neither discriminated in favor of nor against any particular position in the political marketplace of ideas. Rather, its responsibilities remained contained to the insurance that all significant interests gained a fair hearing in the decision-making arena.

The underlying definition of political power which informed this pluralist perspective defined power as simply "the capacity of "A" to get "B" to do something he otherwise would not do."¹⁴ Power relations, therefore, are most explicit in cases where overt conflict exists between identifiable individuals or groups of individuals and where a particular decision on a given issue is at stake. Extending this model to an understanding of state politics, legislators are lobbied and influenced by a variety of actors and pass laws which are perceived to be in (at least the compromised) interests of all those concerned with a given issue. From this point of view, no one individual or group (except perhaps those on the very fringe of an issue) are entirely excluded from the political process. As the ability to influence the legislative process is available to all citizens, power is assumed to be widely distributed throughout the social order through this democratic process of competition, negotiation and compromise.

From the pluralist-liberal point of view, the struggle over protective labor legislation in New York would stand as evidence of the democratic distribution of political power. A variety of distinct interest groups pushed for their own interests and formed alliances with other groups who shared their policy preferences: Organized women workers fought for shorter hours and better working conditions; manufacturers opposed the restriction of their ability to freely trade with labor, male or female; organized male workers sought protection from the competition of women workers; and social reformers pressured the state to protect motherhood and what they saw as a disintegrating family life. Through the democratic pluralist system, each group has an opportunity to express such preferences. Legislators who are responsive to such groups enact laws which best serve the compromised interest of all--enacting protective legislation for some women workers, exemptions for others, and leaving the door open for future amendment of the law. Those groups viewed as on the fringe of a political issue, such as the National Woman's Party, would be unable to generate enough popular support (from other women's groups, for instance) and would lose on that particular issue.

In the case of homework, the state would also develop policy in response to pressures from a variety of groups and take the middle ground of indirect and limited regulation of homework through the licensing system. Through the

licensing system the state could address the concerns of the National Consumer's League over the spread of disease, and the concerns of the National Child Labor Committee over the use of child labor by homeworkers. And through the licensing system the state could strike a balance between manufacturers' demands for no regulation and the demands of organized labor for the abolition of homework. In both cases, the state would play no active role in the formation of policy but would be a "dependent variable" of the combined interests of all those parties concerned with both protective labor legislation and the regulation of homework.

While the pluralist model might help to explain part of the process by which legitimized and well-organized interests gained access to the decision-making process, it would be inadequate to address the question of how and why certain issues and groups are excluded from this process. Recent reforms of this pluralist model can go some distance in addressing this question.

Theories of Political Power-- Reformism

The pluralist model has come under attack from a number of different directions. Authors such as Schattschneider and Bachrach and Baratz, addressing themselves to more contemporary problems, but gleaning insights which are at least as applicable to my study, have pointed to

what they call the "bias of the system." Political power is exercised, Schattschneider argues, not only through the overt conflict of interests represented by the liberal definition, but by excluding certain groups or issues from the political process entirely,

All forms of political organization have a bias in favour of the exploitation of some kinds of conflict and the suppression of others, because organization is the mobilization of bias. Some issues are organized into politics while others are organized out.¹⁵

Bachrach and Baratz shifted the focus of analysis onto what they term the "second face of power."¹⁶ Rather than focussing exclusively on those specific issues which were addressed through the formal political process, they argued that it was equally important to critically analyze the "nondecision-making process." Not only was it important, then to look at who wins and who loses on the political battleground, but it was essential to understand which groups and what kinds of issues and concerns were excluded, suffocated, or derailed before gaining entrance to the decision-making arena.

In sum, what I will refer to as the "reformist" model, argues that power is exercised not only in the strictly behaviorist sense of directly observable decisions and their effects, but also when the holders of power prevent an issue from entering the public arena. As Bachrach and Baratz state, "to the extent that a person or group--con-

sciously or unconsciously--creates or reinforces barriers to the public airing of policy conflicts, that person or group has power."¹⁷

Clearly, the insights offered by the reformist model speak to the history of the state's regulation of women's labor, and to questions about the limits to the ways in which working women could influence the nature of that regulation. Most obviously, women's lack of the vote and her formal status as a ward of the state certainly undercut the potential impact women could have on the development of legislation. But as we have seen, women's disenfranchised status didn't entirely exclude women from the law-making process. Through strong organizations women could and did have some impact on the decision-making process. But the question remains as to which organizations and what kinds of issues were allowed entrance into this process. Certainly, a vast number of women who had a stake in protective legislation, for instance, had little access to the public arena of debate. Unorganized women workers, those in the ghettoized female sectors of the economy such as domestics, occupations which employed predominantly non-white women, and women in non-traditional "male" occupations had little to say, even though some of these women had the most to lose with the enactment of restrictive and prohibitive laws. As we have seen few of these women (such as the women foundry workers) were even called before

the Factory Investigating Commission in New York or the legislature to give testimony.

In addition, the position offered by the National Woman's Party--that protective legislation should apply equally to male workers--was never given serious consideration in the formal political process. Members of the National Woman's Party were never called before the F.I.C. to present their position, and so were denied the formal routes of entry into political debate.

Groups which did gain direct access, such as the Women's Trade Union League in alliance with other organizations in the Women's Joint Legislative Conference were also limited in the kinds of proposals they could make. For instance, after attempting to introduce minimum wage and health insurance measures, they were subject to the red-baiting tactics of conservative legislators in alliance with staunchly "free market" manufacturers. Such tactics could and did serve to undercut proposals that went beyond the established grounds for debate. Proposals which sought to extend protection to both sexes, or sought to raise the income-earning power of women, therefore, were explicitly excluded from formal consideration.

In addition, it is also important to point out that manufacturers who advocated the abolition of all laws restricting women's labor were given limited hearing. Changing attitudes towards the state's responsibility for

for the health and safety of women workers and, more fundamentally, state regulation of potential class conflict, left little room for arguments in favor of a more traditional laissez-faire stance by the state. Again, as Woodrow Wilson had expressed in, America was no longer a place for "unrestricted individual enterprise." What is important for us to question is the nature and extent of state restrictions, not only in terms of regulating capital, but in terms of regulating women's labor. The case of homework can help to draw this question to the foreground.

As we have seen in chapter two, homeworkers themselves were never called upon to express opinions about the regulation or conditions of their work, and no organization existed which expressed the interests and concerns of these working immigrant mothers. Questions and issues that might have served in the interests of these women, who needed to both care for children and earn a living wage, therefore, were never adequately addressed, either through formal or informal routes. In addition, most homeworkers were recent immigrants and confronted language barriers to the expression of their interests through a political system unfamiliar to them. Since both labor and reform organizations advocated the abolition of homework, and attempted to rescind the homework licenses of families who were found to employ their children or contain members with infectious diseases, most homeworkers tended to avoid

all contact with such organizations. But clearly the problems involved in the development of homework legislation transcend the question of homeworkers' participation in the formal political system. And this question can lead us to examine some of the fundamental inadequacies of the reformist model of political power relations. It is not just that homeworkers lacked the organization to express their interests as a class, but that the terms of the debate were such that the issues they were concerned with were excluded from debate.

Beyond the important corrective the reformist perspective offers to the pluralist model of power relations, it remains committed to a view of political power relations that stresses overt conflict between articulated interests. Even though the reformist corrective can expand our view to include those issues and interest excluded from the political process, it focusses too exclusively on those interest, both inside and outside the political arena, which are already fully articulated. As Bachrach and Baratz state, the critical investigator

must determine if those persons and groups apparently disfavored by the mobilization of bias have grievances, overt or covert...overt grievances are those that have already been expressed and have generated an issue within the political system, whereas covert ones are still outside the system.¹⁸

Although Bachrach and Baratz focus attention on potential issues instead of those which are already explicitly repre-

sented in the decision-making process, their emphasis still lies on those grievances which are articulated, whether inside or outside of the formal political system. The exercise of decision-making and nondecision-making power, therefore, is only identifiable when conflict, either overt or covert, exists over articulated interests. When no such conflict exists, consensus must be assumed.

Bachrach and Baratz's modification of, yet fundamental ties to the pluralist model leaves them with an approach which is inadequate to account for the ways in which power can be used to prevent the very articulation of interests which run counter to the status quo. Part of this problem lies in their narrow definition of interests and grievances. As Steven Lukes has argued:

It is here assumed that if men feel no grievances, then they have no interests that are harmed by the use of power. But this is highly unsatisfactory. In the first place, what, in any case is a grievance--an articulated demand, based on political knowledge, an undirected complaint arising out of everyday experience, a vague feeling of unease or sense of deprivation?¹⁹

In short, the reformist model cannot account for the more subtle ways in which power is exercised.

Lukes offers a radical critique of the reformist position--one which attempts to clarify the ways in which challenges to the structure of power in society are thwarted. First, he argues that the most insidious exercise of power is rooted in the ability of powerholders

to prevent people, to whatever degree, from having grievances by shaping their perceptions, cognitions and preferences in such a way that they accept their role in the existing order of things either because they can see or imagine no alternative to it, or because they see it as natural and unchangeable, or because they value it as divinely ordained and beneficial.²⁰

What one must focus on, therefore, is not just overt or covert conflicts of interest, but latent conflict between the interests of those who hold power and what Lukes calls the "real interests" of those excluded from power-holding positions. Lukes thereby defines power as the ability of "A to affect B in a manner contrary to B's interests."²¹ While pluralists define "interests" in terms of explicit policy preferences or wants, and the reformist model grafts onto this definition those wants or preferences "deflected, submerged or concealed," Lukes offers a definition which includes that which one would want or prefer if able to make a choice. The restriction of choice, either by excluding certain individuals or groups from the political process altogether, or the systematic or organizational limitation of the kinds of issues which are allowed entry into public politics, or the limitation of the expression of interests in more subtle ideological ways would all constitute, for Lukes, the exercise of power. Some of the problems raised by Lukes' insight will be developed by me in my concluding section. First, it is important to develop the rest of Lukes' critique.

Lukes also argues that the reformist model is too individualistic to account for the more fundamental ways in which the "mobilization of bias" is enforced. While the reformist model can address the ways in which individual decision-makers, either consciously or not, limit the access of challengers of the status quo to the decision-making arena, it cannot adequately address the "socially structured and culturally patterned behaviour of groups, and practices of institutions, which may indeed be manifested by individuals' inaction."²²

An analysis, therefore, of the individual or groups involved in the development of protective labor legislation or homework regulation, or even an analysis which considered those groups excluded from formal political debate, would remain inadequate. Rather, one needs to question the broader social limits within which debate took place. For instance, viewing the struggle over protective labor legislation for women only as a struggle between "protection" on the one hand and "equality" on the other would be insufficient. Rather (as I have argued in chapter three) it is necessary to understand this debate in the context of both a sexually segregated marketplace and the ideological identification of all women as potential mothers. And in the case of homework, it would be important to understand not only the state's reluctance to interfere in the private lives of homeworkers, but to analyze the fundamental commitment

of power-holders to a particular ideology of both home and work life that precluded the recognition of these working mothers as legitimate wage-earners.

Recent works by marxist theorists have offered critiques of the pluralist model along the same lines. Political power relations can not be understood, they argue, in isolation from the broader economic and social constraints which shape and limit power relations in the formal political arena. As we shall see in the following section, such an approach can shed some light on--and create new problems for--an understanding of women's labor policy.

Theories of Political Power-- Marxist Perspectives

In sharp contrast to both the pluralist and reformist perspectives, most marxist analysts view power as concentrated at the top of a highly stratified social order. The state, rather than serving the interests of all citizens, or playing the neutral role of umpire, plays an active and necessary role in maintaining this highly stratified order by resolving the social, political, and economic conflicts inherent in a society built upon fundamental inequalities. While most marxists view state policy as a reflection of the interests of those at the top of the class order, marxists differ widely over the process by which economic privilege is translated into political power. In this section I will highlight the insights and limitations

of the instrumentalist and structuralist marxist views of the state and draw out the implications of both for a feminist theory of the state.

The orthodox marxist view of the state characterizes state policy as "an instrument in the hands of the ruling class for enforcing and guaranteeing the stability of the class structure itself."²³ In its crudest version, this instrumental view points to the class background of key executive, legislative, and administrative leaders, as well as to those elite organizations which are viewed as most influential in the design and implementation of state policy. In particular, emphasis is laid on the ability of economic elites to set the broad limits to political debates through the influence of policy research groups and the constant exchange of personnel between the top of the political and economic orders. From this point of view, control at the top is solidified well enough to thwart challenges from those excluded from political and economic power. Weinstein's study²⁴ of the National Civic Federation in transforming, coopting and incorporating working class demands during the Progressive Era stands as one example of this instrumentalist perspective.

To bring the discussion back to my own analysis, what might an analogous instrumental feminist theory of the state look like, and what might be the problems with such an analysis? Undoubtedly, such a perspective would

focus attention on the gender of those in power and argue that state policies which reinforce sexual inequality are the result of the fact that those in power are male. State policy, therefore, represents the direct translation of the interests of those males in power.

While no feminist analysis would argue the irrelevancy of the fact that almost all powerful political leaders in the U.S. have been male, this perspective would still leave many questions unanswered. First, such a perspective would necessarily view the solution in terms of changing the gender of those in power. But as Margaret Thatcher and Jeane Kirkpatrick can attest to, femaleness often has nothing to do with feminism. An instrumentalist approach would be poorly prepared to address this problem, primarily because such an approach fails to adequately account for the role of ideology and the pressures of broader systemic limits to the development of state policy (both of which I will address shortly.)

Second, an instrumentalist feminist perspective would undoubtedly define the "patriarchal class" as "all males" without regard to the question of the different interests economic class or racial divisions internal to this class might entail. Political struggles over protective labor legislation can bring this problem into focus: while it was in the interests of unionized male workers to have women "protected right out of their jobs," male manufacturers

sought to eliminate all forms of protection for women workers so that they might better exploit both female and male workers. This division, I would argue, was not simply a reflection of the underlying class conflict between male workers and male bosses, but reflects a division based on the patriarchal interests of both. One could tentatively suggest (though this is an issue worthy of another dissertation) that the struggle over this issue represents a larger struggle over the transformation of patriarchy from a familially-based to a more socially-based form: while male workers preferred to see women remain at home and completely outside of the workforce, manufacturers wanted to be able to exploit women's labor in a way they could only do in a patriarchal society, where women's labor is systematically undervalued. Here we can see how class and gender interests converged to form the foundations of a political battle which reflected the different interests of working class and upper class males.

Subject to pressure from both of these fronts, the state found the solution in the enactment of legislation which allowed women into the marketplace, but which reinforced a sexually segregated labor market. Women's labor could be exploited, but only if it did not fundamentally interfere with her primary responsibilities in the home, place her in direct competition with male workers, or encourage women to enter more highly-paid occupations.

It is clear, then, that at least in this case, the state's legitimacy rested on the accommodation of two conflicting, though not irreconcilable tendencies of a patriarchal social system.

More sophisticated marxist analyses have offered critiques of the instrumentalist view, which would be equally applicable to the feminist version I've just laid out. Marxists have argued that the instrumentalist approach is too individualistic and behaviouralist, and in this sense shares many of the problems of its pluralist target. By focussing attention on the conscious and intentional rule of individual power-holders, this perspective fails to consider the role of ideology in power relations as well as as the structural constraints on the state which transcend the intentional will of individual decision-makers.

First, it has been argued that divisions internal to the ruling class preclude the state's direct control by one sector of that class.²⁵ Any understanding of state policy, therefore, would have to be set within the broader context of the state's responsibility for the more general reproduction of social order and the maintenance of the fundamental requirements of the class system. As Fred Block has stated, "instrumentalism fails to recognize that to act in the general interest of capital, the state must be able to take actions against the particular interests of capitalists."²⁶ The state's responsibility for systemic

stability, therefore, meant that it must play a "relatively autonomous" role in the construction of long-term social order. And managers of the state would continue to develop policy in the interests of the capitalist class not necessarily out of an explicit class consciousness (as the instrumentalist view posits) but because the power of political elites was systematically dependent upon the continuing maintenance of the economic order. The pursuit of state policy in the interest of capital is dependent not only upon the class consciousness of individual power-holders, but also on the structural requirements of the capitalist system, which ties the legitimacy of the state, for instance, to the tax revenues available only in a "healthy" economy.

Second, marxist critics have argued that the functions the state performs are not just economic, but are ideological. Specifically, though the state might act in the interests of those at the top of the economic order, it must at least appear to be democratically influenced by and concerned with those excluded from power in order to maintain its legitimacy in the eyes of most citizens.²⁷ In order to clarify both the structural pressures on the state and also address some of the problems raised by a deterministic view of ideology it is necessary to briefly review the structuralist variant of marxist theory.

Structuralist marxist theorists have taken a position at the opposite end of the spectrum from instrumentalism

and have argued that the state is systematically limited by the needs, constraints and contradictions inherent in capitalist accumulation. The primary function of the state, therefore, is to attempt to ameliorate the conflicts created by these. In contrast to instrumentalism, state policy is determined by the structural constraints of the capitalist social order rather than simply by the control or participation of economic elites over the state.

According to the structuralist perspective, the maintenance of an economic infrastructure (such as transportation and research and development), expenditures for military protection for capital expansion overseas, and the expense of supporting, through welfare programs, the casualties of a capitalist economy would all constitute structural requirements that set limits to state policy regardless of who is at the helm of the state. Indeed, from the structuralist point of view, participation by ruling elites in the political system is neither necessary nor desirable. As Poulantzas states, "It can be said that the capitalist state best serves the interests of the capitalist class only when members of this class do not participate directly in the state apparatus...."²⁸

While the structuralist perspective is suggestive, its fatal flaw lies in the fact that in overstating the case it leaves us with a perspective that is devoid of human agency. As Miliband has stated in response to

Poulantzas,

What his exclusive stress on "objective relations" suggests is that what the state does is in every particular and at all times wholly determined by these "objective relations": in other words, that the structural constraints of the system are so absolutely compelling as to turn those who run the state into the merest functionaries and executants of policies imposed upon them by "the system".²⁹

From the structuralist point of view, therefore, relations of domination are relatively "fixed." State policy reflects the systemic needs of the capitalist order, while the state's legitimacy is maintained through a mystifying ideology which paints the illusion that the state serves in the interests of all citizens, the ideology of liberal pluralism. In the end, the allegiance of those at the bottom of the social system is maintained only through the mystification of the state's true functions. Even though the state must play a relatively autonomous role in order to perform its functions adequately, it remains in the last instance captive of the interests of the ruling class.

The problem with this perspective is that it is built upon a concept of dominant ideology that both lacks a sense of human agency and eliminates any concept of social struggle. From the point of view of instrumentalism, only those at the top have human agency, that is, have the ability to effect social change; from the structuralist point of view, even those at the top are devoid of agency,

of an ability to translate will into action, since their actions are in large part determined by "the system." In neither account is the ability to challenge the structure of power given legitimate consideration. Working class interests, or from a feminist point of view, the true interests of women are rarely given consideration through the formal political system, and policy which appears to be in their interests in reality only serves to reinforce structural inequalities.

Such a perspective has led to a reinterpretation of state policies which on the surface appear to serve the interests of dominated classes. Welfare policy, for instance, has been viewed not only as the result of a humanitarian impulse on the part of the state or as the result of demands from the poor, but as a tool of social control aimed at quelling working class dissent. When taken to an extreme, the interpretation of all state policy from the point of view of dominant classes can lead to some pretty unusual political judgements.

If we accept that welfare is controlled by capital and acts against the welfare of working people, then why should we fight the cuts? We should welcome them...as a direct cut in the power of the ruling class over the working class.³⁰

Analogously, are we to assume that protective legislation was the result only of the needs of a patriarchal social order? And if so, how are we to explain the strength and longevity of the support of women's organizations for

protective labor legislation? Or the preference, however qualified, of homeworkers to remain at home? Clearly, we need a more complex approach here, and one that does not rely exclusively on a definition of ideology as false consciousness, or explain the support of women for legislation in terms of their being "dupes" of those in power.

Still, some variation of a structuralist feminist analysis has strengths which the individualistic approaches of pluralism, reformism and instrumentalism do not. In my concluding section I will draw some of these out, together with the idea that any feminist theory of the state that can do justice to women's history must employ a concept of social struggle.

Summary and Conclusion

Though the pluralist model can shed some light on the process by which well-organized interest groups parlay for influence within the formal decision-making arena, the pluralist model is inadequate to account for the ways in which gender inequality both informs and is reproduced by the state. First, the pluralist perspective assumes both the neutrality of the state and the political equality of all citizens. Each citizen, it is presumed, has ample opportunity to express his or her interest, to influence the construction of state policy, and each citizen is treated equally under the law. Crucial to the assumption

of the state's neutrality and of a generalized political equality is a second fundamental assumption rooted in pluralist theory: the neutrality of the state is built upon a presumed disjuncture between political and economic power.

From this point of view, both class and gender inequality are viewed as ideally irrelevant to political power. For instance, while economic power may be relatively concentrated, political power remains relatively decentralized and dispersed throughout the polity. Indeed, pluralists argue that the best insurance against a class-based politics is through the establishment of a representative and politically democratic order, where the state serves in the interests of all citizens.

While the reformist model can broaden our perspective to include an understanding of the ways in which certain issues, groups and interests are excluded from formal political consideration, it remains committed to some of the same fundamental assumptions proposed by pluralism. In other words, the reformist model offers a corrective, but not a fundamental critique of pluralism. The reformist model, therefore, points to the ways in which the political process has failed to live up to its ideal, without questioning the veracity of that ideal.

Marxist analyses have offered a more fundamental critique of the liberal assumptions upon which pluralism is built. By challenging the liberal disjuncture between

political and economic power, marxist scholars have argued that the structure of political power is a reflection of more basic class relations. Whether through the direct control of economic elites or through more subtle systemic pressures, marxists have argued that the state represents not the interests of all citizens, but the interests of those at the top of the economic order. From this point of view, pluralism operates as a (false) ideological mask over the class basis of state policy. In other words, the division between political and economic power is illusory and that illusion is maintained at least in part by the promulgation of pluralist ideology.

By focussing attention on the interconnections between economic power and the structure and nature of state power, the marxist perspective can begin to provide the kind of framework of analysis more appropriate to an understanding of the state's relationship to gender inequality. Yet still, this perspective is inadequate. While the pluralist perspective presupposes a rather indulgent view of the distribution of political power and popular control over the formation of state policy, most marxist perspectives tend to view power as both concentrated and unified at the top of the political order. I will argue that what is needed is a perspective that can view the development of state policy as a product of historically specific social struggles. In addition, I will argue that

the state is limited by an underlying commitment to a broadly defined patriarchal social system in much the same way as marxists have argued it is limited by the broad requirements of capitalist class relations. Put simply, in the following section I will confront the question of what it means to say that the state is patriarchal.

In contrast to the perspectives offered so far, I would argue that the state operates as an arena for the resolution of conflicts created by the needs of both capitalism and patriarchy. This is not to argue that the state is a neutral mediator of conflict, nor is the state constituted by a simple reflection of the needs and interests of those at the top of the stratified social order. Rather I would argue, the purpose of the state is to resolve conflict within the broad confines of its commitment to both capitalism and patriarchy. In this sense, the state is not free to act in the interests of all citizens equally, but is limited by certain systemic pressures upon which its legitimacy is based. Given my historical case studies, what might one identify as the distinctly patriarchal pressures or commitments of the state?

First, I would argue that the purpose of state policy has been to reinforce a sexualized division between a public male world and a female private world. As I have discussed in chapter one, the foundations of the liberal state were built upon a critique of the paternalistic

authority of an aristocratic social order. The voluntarist view of state power required a fundamental critique of a social order where political authority was based explicitly upon traditional patriarchal familial relations. Liberal thinkers proposed a different sort of social order where hierarchical relations of duty, obedience to paternal authority and obligation would be supplanted by an abstract individualism where political authority would rest on the free consent of the governed and state authority would be strictly limited. In short, individualism would replace paternalism as the ruling paradigm for economic and political life.

Central to this critique was the assertion of a new definition of the relationship between public and private life. Freedom from the arbitrary use of state power necessitated the establishment of an inviolable private sphere of life which presumably would remain outside the state's spectre of power. While the drawing of this boundary has always remained problematic for liberal thinkers, the division between family life and a public political order has consistently informed this division. The threshold of the home, therefore, provided one important limit to the authority of state power. The family, once the paradigmatic organizing principle of public life thus retreated from public view into a newly created, specifically private sphere. In sum, not only was the polity stripped of its

familial basis; the family, by necessity, was also "de-politicized."

It is important to understand that while the liberal division between public and private life was intended as a critique of patriarchalism, it also incorporated and allowed for the continuation of traditional patriarchal relations inside private family life. With few exceptions, most liberal thinkers continued to view family life as natural, necessary, and exempt from the voluntarist critique of public authority. In a sense, then the division between the public state and private family life reconstituted in liberal terms an already well-established hierarchical division between the male and female worlds, and in doing so rendered patriarchal family relations immune from the critical political language of self-sovereignty and liberal rights. As Mary McIntosh has most bluntly stated it, "the state frequently defines a space, the family, in which its agents will not interfere but in which control is left to the man."³¹

With these concerns in mind we can now turn back to my historical studies. Specifically, how has the division between the public male and private female spheres informed the state's regulation of women's labor, and what are the implications of women's primary identification with the privatized family for her standing in the public world?

While on the surface state labor policy was intended to protect the health and safety of women workers within the perceived limits of the police powers of the state, at a deeper level of analysis it is clear that state policy was guided first and foremost by the attempt to keep women in a particular kind of relationship to the home and factory, public and private life. With this underlying commitment in mind, the logic of state policy can best be captured through the dual concepts of "selective non-interference" and "repressive benevolence." On the one hand, I will argue, when women conform to dominant ideals about women's primary position in family life they are exempt from state regulation. On the other hand, the principle of repressive benevolence is invoked when women begin to move into the public world of work in a way which is perceived as a threat to her central position in private family life.

While the state appears to have had less direct control over the labor of homeworkers, it is clear that the exemption of these women from state regulation had as great an impact on the conditions of their work as direct regulation might have. In the case of homeworkers, the state's non-interference in private life reinforced women's invisibility and underpayment in the labor force. Dominant ideology defined women, and especially mothers, as primary child-rearers and non-wage-earners, and assumed women's economic dependence on a male breadwinner. Homeworkers

who most often had young children to care for and husbands present at home were perceived by state policy-makers as conforming to this dominant ideal. In addition, the paradigm definition of work that grew out of the industrial capitalist system established ideological barriers to any recognition of homework as "real" wage labor. As the wage labor system developed outside of the home, the paradigm idea of work came to be defined strictly in terms of wage labor done in the public sphere--ideologically and physically separated from home.

As I've discussed in chapter two, while the ideological distinction between home and work reflected material transformations in the nature of industrial production, it also mystified the economic importance of women's work at home--paid or unpaid. Therefore, even though homeworkers might actually be wage-earners their work was still perceived as entirely consonant with their role as "mother." Even though a dominant ideology of motherhood posed an antithesis between mothering and wage-earning, homework was never perceived as a threat to patriarchal family relations because of women's continued presence in the home. In addition, state exemption of homework from regulation would insure the continuation of women's underpayment and therefore her economic dependence upon a male breadwinner. As long as these working mothers remained at home, therefore, the state would opt for a policy of selective non-interference.

As long as patriarchal family relations were perceived as stable and self-sufficient, and as long as women remained essentially confined to private life, the state would find no need to regulate women's labor.

The underlying logic of women's labor policy becomes acutely clear when we examine the state's regulation of women's paid labor outside the home. It is clear from the nature of protective labor legislation that the farther women move from her identification with the private sphere of the home, the heavier the state's hand would be in regulating her labor. Given the antithesis between dominant views of motherhood and wage-earning, the increasingly visible movement of women into the paid labor force was viewed by the state as a threat to both good mothering and, by extension, to the general welfare of society. The regulation of women's labor, I have argued in chapter three, was based not on the protection of women's health (though no doubt this was a heartfelt concern of many who advocated protection), but on an attempt to reinforce women's identification with the home by restricting the kind of work she could do outside of it.

At a more fundamental level of analysis, protective labor legislation institutionalized a sexual segregation of the labor market. Women who worked in predominantly female occupations would be either exempt from all protection (such as domestics) or have their conditions improved (such

as in textiles) by protective legislation. Women who worked in predominantly male occupations would be either prohibited entirely or have their positions seriously undercut by protection (such as in foundry work or the printing industry.) And restrictions placed on a minority of women who had forced their way into "male" occupations could have a broad effect on future possibilities for working women.

Constrained to some degree by rhetoric of women's freedom to work, fearful of taking responsibility for throwing many women out of work and also aware of both pressures from industrialists for the need for women's cheap labor, as well as the need of working class families for women's wages, the state could not simply enact laws which excluded women entirely from industrial work. Instead, laws were designed to reinforce work patterns that were perceived as consonant with women's role as "mother" and which reinforced women's economic dependence on a male wage-earner by limiting her employment to the most poorly paid sectors of the labor market.

The contrast between the state's selective non-interference with homework and the state's repressive benevolent stance towards women working outside the home can throw into sharp relief the inadequacy of an analysis of state policy which relies solely on the liberal principle of state non-interference into private life as an explanation

of the exemption of homeworkers from protection. As Michelle Barrett has stated,

Although the state is formally only interested in such 'private' matters as sexuality only in so far as they affect the 'public' good, it is clear that the degree of state involvement in sexuality and procreation renders the public/private split untenable.³²

Arguments for protective legislation drew direct connections between women's private standing in the home and her proper public role in the work force. Through protective legislation all women were defined as mothers, or potential mothers, and this "private" identification constrained the ways in which she could enter the "public" work world. As such, the state claimed a direct interest in regulating the conditions of women's labor. Women's ability to reproduce, therefore, was perceived as vital to the state's interests, and was explicitly tied to the general welfare of society.

In sum, state policy was guided by what I would identify as a number of fundamental structural constraints within which the limits of policy were set. First, labor policy was designed to reinforce a particular variant of the public/private split whereby women are defined as primary childrearers, non-wage-earners, and are assumed to be economically dependent on a male. And second, once women do enter the labor force, they are restricted in both explicit and implicit ways to sectors of the labor force

which are systematically underpaid. Women's secondary position in the marketplace then reinforces her primary role at home, while women's central role in the home is then used to justify her continued underpayment and ghettoization in the work force.

Yet a crucial question remains: if state policy is viewed as only an attempt on the part of the state to reinforce women's oppression by reasserting women's primary identification with motherhood and secondary position in the labor market, then how could one explain the support of women's organizations for protective labor legislation? Were the Women's Trade Union League and its allies merely misled into believing such legislation was in the interests of working women? Clearly the support of women (of almost all classes and sectors of the work force) for state protection was not simply the result of false consciousness on their part.

Just as welfare legislation is not only an instrument of social control established in the interests of a ruling class, so protective labor legislation for women does not only serve in the interests of patriarchy. At least in part, protective legislation must be seen as a result of the positive demands made upon the state by working women, however limited these might have been. Legislation was not simply repressive, but constituted a qualified

victory for those women whose working conditions were improved by regulatory laws--those women in predominantly female and organized occupations, such as textiles.

But the benefits of protective labor legislation to women working in certain sectors of the labor force is still insufficient to account for the strength and breadth of support of women's organizations for such legislations--a support that was often couched explicitly in terms of women's frailty and primary identification as mothers. The tenacity of this support can be better understood in the context of an understanding of the ways in which alternative approaches to the improvement of women's working conditions were either thwarted, derailed or reconstituted to conform to the needs of a patriarchal social system. In addition, I will argue shortly that women had reasons of their own for advancing arguments which reinforced women's primary identification with private life, even as they attempted to improve women's public standing.

As I have already discussed, not only were certain organizations and perspectives excluded from the formal political process, but also the demands of groups who supported legislation were shaped and limited by more subtle political means. The recognition that only certain kinds of arguments would be accepted and effective in influencing those in power must certainly have played a part in limiting the tactical arguments used by women to advance support

for legislation. While the intent of organizations such as the WTUL was to improve working conditions for all women, they also perceived that arguments based on women's frailty and proper place in the home as mothers would carry the weight with legislators.

It is important to point out that the issue of the improvement of women's working conditions was accepted into the formal political arena only once it was couched in the dominant terms of debate which viewed women as mothers, not workers. And the fight for women's rights as independent wage-earners was transformed through this process into a plea for the special protection of women as the mothers of the race. Only by reinforcing women's association with the private sphere could reformers get protective legislation passed. The gap, I would argue, between the original intentions of these women (to improve women's standing in the labor market) and the final result of a form of protective legislation which was constructed in a way that supported women's secondary economic position, represents a subtle exercise of power over and cooptation of these women reformers.

But even reasons of political expediency are not sufficient to explain why such a broad range of women's organizations supported legislation which appears at least in hindsight to have limited the options of women for equal employment with men and to have reinforced dominant assump-

tions about women. Returning now to a question raised earlier by Lukes, is it possible to argue that the power of dominant ideology was forceful enough to prevent these women from conceptualizing of the issue in any terms which challenged patriarchal assumptions? As Lukes has argued, the "most insidious exercise of power [is] to prevent people...from having grievances by shaping their perceptions, cognitions, and preferences in such a way that they accept their role in the existing order of things...."³³

In order to address this question it is necessary to take a closer look at the concept of "ideology." Deterministic approaches to marxist analyses have all too often viewed ideology as a set of beliefs about the world which are produced by those in power in order to mystify social relations of dominance and subordination, and legitimize the privilege of those at the top of the social order. As Raymond Williams has aptly characterized this approach:

A dominant class 'has' this ideology in relatively pure and simple forms. A subordinate class has, in one version nothing but this ideology as its consciousness (since the production of all ideas is, by axiomatic definition, in the hands of those who control the primary means of production) or, in another version, has this ideology imposed upon its otherwise different consciousness, which it must struggle to sustain or develop against 'ruling class ideology'.³⁴

Relations of domination and subordination are sustained in part through the acceptance of a dominant ideology which mystifies those relations by either denying their

very existence or painting them as natural and necessary to any social order.

While social reformers clearly adopted some of the basic assumptions embedded in the dominant patriarchal ideology by arguing for women's continued primacy in private family life, I would argue that they did so not because they were determined in some abstract sense by a hegemonic ideology but because they recognized, however implicitly, the positive values of women's association with private life. In other words, I would argue that while the sexualized division between the public and private spheres is one important foundation for women's oppression, at the same time it has historically placed women in a position to offer a fundamental critique of the kinds of relations held up as the ideal in the public world. Women's exclusion from public life (in itself never complete) forms not only the basis of women's oppression, but has the potential, however latent, to serve as a "platform" from which a radically different vision of the world might be constructed. From this point of view, the preference homeworkers expressed for remaining at home (however qualified by the demands of husbands and children or the limited options for other work) and the reassertion of women's position in home life by women's organizations take on new significance. Both resisted attempts to sever women's connections to private life and to integrate women entirely into the public world.

At least in part this resistance must be attributed to the perception by both that the odds were better for women inside the family than outside of it. For many women, the limited promise of long-term security available to them through their central position in family life was simply not available to them in the public marketplace. After all, patriarchy and the ideology of motherhood is not simply an abstract idea about what women should do or be that is imposed upon and internalized by both men and women. It is written into the laws of the state and the laws of the marketplace and places concrete obstacles in the way of working women. The economy, itself based on the assumption that women with children would remain at home is not structured to absorb women with familial responsibilities. The length of the working day, the lack of child care facilities, and the market preference for full-time year-round workers all serve in explicit ways to limit the options of women, and especially mothers, for work.

As in the case of homeworkers at the turn of the century, women may well have viewed their central position in the family over care of children and husband as an important source of power. The hesitancy of homeworkers in particular to relinquish this central position in the family by going out to work may have reflected a realistic assessment of their situation. After all, in the labor market

working class women could barely earn a living wage and were under the constant scrutiny of bosses or foremen. Moreover, the possibilities for earning an independent wage were limited for most women even at the peak of their wage-earning years, and steadily declined as they passed marital age.

In contrast, retaining the stability of family relations represented a kind of long-term security that the market could never provide. Children of homeworkers who were taught at an early age that they were responsible for the economic survival of the family could be expected to (and did) support parents in old age. And men who were taught that they were responsible for the support of wife and children could be expected to and often, though not always, did--even as such support could be at the same time wielded as power over wife and children. For reasons not entirely of their own making, but not simply imposed from "above" by a dominant ideology, women actively reasserted their central position in the private sphere, even as they sought their fair and equal treatment in the public world.

Though the historical economic limits to women's full independence must have played an important role in shaping the kinds of challenges brought to bear by women on the state, I would speculatively argue that women had other more positive reasons for reasserting women's primary

identification with the public sphere. Progressive reformers viewed women's association with home life as a strength and sought to bring the maternal sensibilities women developed there to bear on the public world. In seeking to expand the state's responsibilities for the health and welfare of its citizens, progressives advocated not only protective labor legislation, but declared the "Decade of the Child," pushed for public education and promoted national health care programs for mothers and children (through the Sheppard-Towner Act of 1921.)³⁵ Attempts to bring to bear the concerns of the private on public life represented not simply an adoption of dominant ideology, but an alternative challenge to it, even though such a challenge in the end would be coopted.

In this context it is important to understand that relations of domination are never fixed nor total. And dominant ideology is never simply imposed. At any historical moment, challenges and alternatives to dominant ideology exist. Despite an ideology of motherhood which defined women as non-wage-earners, some women have always worked. And despite the dominant conception of women's inferiority to men, few women have fully adopted the dominant view of themselves as intellectually or physically inferior (though some have tried.) In other words, just as women's oppression is real and can be pointed to in the structure of the economy, in our intimate relations with others and

in the laws of the state, so too resistance to domination always exists whether it be in the hearts of women, in the arduous struggles of isolated women to break into "male" professions, or in the respectful and mutually affective relations women struggle to establish in their intimate relations with others. Dominant ideology never fully captures the minds of those it is intended to denigrate because lived experience always provides the fodder for alternatives to it.

Still, the power of dominant ideology should not be underestimated: it infuses the very language we learn when we first learn to speak, our intimate relations with friends and family, and in its most powerful form it shapes our perceptions of ourselves, our consciences. To challenge this is not easy, but is always possible. For a dominant ideology must always carve out parts of life, ways of living as valid and legitimate and exclude others. As such there are always areas of human experience which can form the basis for a challenge to it:

It is a fact about modes of domination that they select from and consequently exclude the full range of human practice. What they exclude may often be seen as the personal or the private, or as the nature or even the metaphysical.³⁶

Though private family life is no haven in a heartless world, immune from the hierarchical power relations of public life, it is often a place where human needs left unmet by our stratified social order can push to the surface

and sometimes find satisfaction. As such, women's experience in private life has the potential to provide the basis from which to critique the competitive, individualistic and exploitative relations of public life. The commitment of progressive reformers to maintaining women's central place in the home, the preference of homeworkers to remain at home, and indeed, even the more contemporary defensive stance of right-wing women against what is seen as the feminist assault on women's role as mother can all be better understood in this light. In this sense, women's reluctance to abandon private life can be at least tentatively seen as an expression of the value placed on the relations of mutual dependence and nurturance, of a non-instrumental sensitivity to the needs of others that "motherhood" has come to embody.

The problem with using women's experience in private life as a basis for a critical or alternative view of the world is that it all too easily slips into a naturalist argument about women's inherent moral qualities, and an idealization of women's experience in family life. This is a problem which continues to plague the women's movement. As Andrea Dworkin has written in a more contemporary vein, "this is a frequent feature of...environmentalist and anti-militarist movements. Women are seen to have an inborn commitment to both clean air and peace, a moral nature that abhors pollution and murder."³⁷ Women's natural

position as "mother" is invoked in feminist critiques of nuclear weaponry with slogans such as "Take the toys away from the boys" and "You can't hug your children with nuclear arms." But naturalist arguments fail to see the social character of women's oppression and in a "natural" sort of a way lend support to regressive political claims which equate women's difference with women's inequality. This is precisely the problem that progressive reformers fell victim to. Women's full and equal participation in the public worlds of politics and work could never be won on the grounds of women's natural attributes as "mothers." Even so, to abandon the kinds of insights that can be cultivated from women's experience in private life and used to form a more social and critical analysis of society would be to waste one of women's most important political resources.

If the key to any feminist analysis must be the politicization of private life, by which I mean a full understanding of the social foundations of women's role as "mother," then there are special risks involved in a feminist politics which do not confront other progressive movements in quite the same way. All feminists must better understand the repressive potential of the use of organized state power to achieve their goals. As we have seen in the case of progressive era politics, reforms that are intended to improve women's status can further institution-

alize women's oppression and extend state power over the lives of women. Yet at the same time such caution must be qualified by the understanding that the state is always vulnerable to pressures from alternative movements--movements which can struggle, with both eyes now open, for a radically different social order.

FOOTNOTES

Chapter I

¹Richard Krouse, "Patriarchal Liberalism and Beyond: from John Stuart Mill to Harriet Taylor" in J. B. Elshtain, ed. The Family in Political Thought, (Mass: Univ. of Mass. Press, 1982), p. 148.

²J. S. Mill, On Liberty, (Indianapolis: Bobbs-Merrill, 1956), p. 62.

³Ibid, p. 13.

⁴Ibid

⁵Ibid, p. 91.

⁶Susan Okin, Women in Western Political Thought, (Princeton, N.J.: Princeton Univ. Press, 1979), p. 202.

⁷Jean B. Elshtain, Public Man, Private Woman, (Princeton, N.J.: Princeton Univ. Press, 1982), p. 118.

⁸Robert Paul Wolff, "Nobody Here But Us Persons" in Women and Philosophy, Carol Gould and Marx Wartofsky, eds, (Chicago: Univ. of Chicago Press, 1979), p. 135.

⁹Public Man, p. 117.

¹⁰Zillah Eisenstein, The Radical Future of Liberal Feminism, (New York: Longman Press, 1981), p. 48.

¹¹J. S. Mill, On the Subjection of Women, (Greenwich, Conn.: Fawcett, 1971), p. 52.

¹²Ibid, p. 85.

¹³Ibid, p. 77.

¹⁴Ibid, p. 79.

¹⁵Ibid, p. 100.

¹⁶Ibid, p. 112.

¹⁷Ibid.

¹⁸J. S. Mill, "Parliamentary Debates"

¹⁹Okin, p. 213.

²⁰Ibid, p. 281.

²¹For a further discussion of this point, see Sara Rudnick, "Maternal Thinking" in Thorne and Yalom's Rethinking the Family, (New York: Longman Press, 1982).

²²On the Subjection, p. 67.

²³As quoted by Krouse, p. 164.

²⁴For a further discussion of this point, see Krouse's article, cited above.

²⁵Okin, p. 228.

²⁶Public Man, pp. 136 and 137, respectively.

²⁷Elizabeth Cady Stanton, in Miriam Schneir, ed., Feminism: The Essential Historical Writings, p. 157-158.

²⁸Ibid, p. 158.

²⁹Betty Friedan, The Second Stage, (New York: Summit Books, 1981), p. 72.

³⁰Ibid, p. 239.

³¹Ibid, p. 30 and 31, respectively.

³²Ibid, p. 30.

³³On the Subjection, p. 173.

³⁴Stanton, as quoted in MS magazine, 10th anniversary edition, August 1982, p. 112.

³⁵Friedan, p. 29.

³⁶Ibid, p. 51.

³⁷Ibid, p. 257.

³⁸Ibid, p. 51.

³⁹Eisenstein, p. 181.

⁴⁰Friedan, p. 210.

⁴¹Ibid, p. 31.

⁴²Ibid, p. 261.

⁴³Okin, p. 281.

⁴⁴Public Man, p. 119.

⁴⁵Ibid.

⁴⁶Jo Freeman, The Politics of Women's Liberation, (New York: Longman Press, 1975), p. 229.

⁴⁷Friedan, p. 198.

Chapter II

¹U.S., Department of Commerce, Bureau of the Census, Thirteenth Population Census: 1910, Vols. III and IV.

²Elizabeth Shepley Sergeant, "Toilers of the Tenements, Where the Beautiful Things of the Great Shops are Made," McClure's Magazine, #3 (July 1910), p. 232.

³Elizabeth C. Watson, "Homework in the Tenements," Survey, #25, (Feb. 4, 1911), pp. 772-773.

⁴New York State, Preliminary Report of the Factory Investigating Commission (1912), Vol. I, p. 574.

⁵Elizabeth C. Watson, p. 90.

⁶New York State, Second Report of the Factory Investigating Commission (1913), Vol. II, p. 677 & 729.

⁷Ibid, Vol. III, p. 1595.

⁸Louise C. Odencrantz, Italian Women in Industry, (New York: Russell Sage, 1919), p. 190.

⁹Elizabeth Pleck, "A Mother's Wage: Income Earning Among Married Italian and Black Women, 1896-1911" in Pleck and Cott, eds., A Heritage of Her Own, (New York: Simon and Schuster, 1979), p. 373.

¹⁰Second Report of the F.I.C., Vol. II, p. 691.

¹¹Ibid, p. 696.

¹²Thomas Kessner, The Golden Door, Italian and Jewish Immigrant Mobility in New York City, 1880-1915, (Oxford Univ. Press, 1977), p. 63.

¹³U.S., Bureau of Labor, 61st Senate Report, Doc. #645, Report on the Condition of Woman and Child Wage-Earners in the U.S., Vol. I, p. 14.

¹⁴Ibid, Vol. II, p. 216.

¹⁵Ibid, p. 217.

¹⁶Ibid, p. 221.

¹⁷Mary VanKleek, "Child Labor in New York City Tenements," Charities, Vol. 19 (Jan. 18, 1908), p. 1414.

¹⁸Kessner, p. 77.

¹⁹VanKleek, "Child Labor..." p. 1412.

²⁰Women and Child Wage-Earners, Vol. II, p. 241-242.

²¹Ibid, p. 139.

²²Mary VanKleek, Artificial Flower Makers, (New York: Survey Associates, 1913), p. v and p. 90.

²³Elizabeth Shepley Sergeant, p. 239-241.

²⁴VanKleek, Artificial Flower Makers, p. 95.

²⁵Ibid, p. 97-98.

²⁶Odenrantz, p. 183.

²⁷VanKleek, Artificial Flower Makers, p. 107-108.

²⁸Elizabeth Shepley Sergeant, p. 241-242.

²⁹Elizabeth C. Watson, p. 778.

³⁰Ibid.

³¹Ibid, p. 774-775.

³²Women and Child Wage-Earners, p. 40.

- ³³Odenchantz, p. 176.
- ³⁴Ruth Enalda Shallcross, Industrial Homework, an Analysis of Homework Regulation, Here and Abroad, (New York: Industrial Affairs Pub. Co., 1939), p. 26.
- ³⁵Rheta Childe Dorr, "The Child Who Toils At Home: The Hampton Magazine, Vol. 28 (April, 1912), p. 186.
- ³⁶Harvey Wasserman's History of the United States, (New York: Harper and Row, 1972), p. 35.
- ³⁷Sergeant, p. 232.
- ³⁸Henry White, "Perils of the Home Factory," Harper's Weekly, 55, (Feb. 11, 1911) p. 10, (figures given by Dr. William H. Guifoe of the Health Department).
- ³⁹Robert Hunter, Poverty, (New York: MacMillan and Co., 1904), p. 150.
- ⁴⁰Henry White, p. 10.
- ⁴¹Rheta Childe Dorr, p. 187.
- ⁴²Ibid, p. 183.
- ⁴³For further discussion see Elizabeth Pleck, "A Mother's Wage: Income Earning Among Married Italian and Black Women, 1896-1911" in Pleck and Cott, A Heritage of Her Own, 1979.
- ⁴⁴Samuel Gompers, Seventy Years of Life and Labor, (New York: E. P. Dutton and Co., 1925), p. 147 and
George E. McNeill, ed. The Labor Movement, (New York: The M. W. Hazen Co.), p. 591.
- ⁴⁵Frieda S. Miller, "Industrial Home Work in the U.S.", International Labor Review, Montreal, 43, (1), (Jan. 1941), p. 12 and
Edith Abbott, "Employment of Women in Industries: Cigar-making Its History and Present Tendencies" Journal of Political Economy, 15 (Jan. 1907), pp. 1-25.
- ⁴⁶Frieda Miller, p. 13 and Preliminary Report of the F.I.C., Vol. I, p. 83.
- ⁴⁷New York State, Fourth Report of the Factory Investigating Commission, 1915, Vol. I, p. 382.

⁴⁸Frieda Miller, p. 17-18.

⁴⁹Henry White, p. 10.

⁵⁰Frieda Miller, p. 20.

⁵¹Ibid, pp. 12-16 and p. 26.

⁵²Felix Adler, National Child Labor Committee, in the Second Report of the F.I.C., 1913, Vol. III, p. 1595.

⁵³The items covered under the law included: coats, vests, kneepants, trousers, overalls, cloaks, hats, caps, suspenders, jerseys, blouses, dresses, waists, waist-bands, underwear, neckwear, furs, fur trimmings, fur garments, skirts, shirts, aprons, purses, pocket-books, slippers, paper boxes, paper bags, feathers, artificial flowers, cigarettes, cigars, umbrellas, or articles of rubber, macaroni, spaghetti, ice cream, ices, candy, confectionary, nuts or preserves. Second Reports of the F.I.C., Vol. II, p. 725.

⁵⁴Second Report of the F.I.C., Vol. I, p. 106-107.

⁵⁵Preliminary Report of the F.I.C., 1912, Vol. I, p. 105 and Second Report of the F.I.C., Vol. I, p. 107.

⁵⁶U.S., Department of Labor, Bulletin of the Women's Bureau, Chronological Development of Labor Legislation for Women in the U.S., 1931, No. 66-II, p. 89 and

U.S., Department of Labor, Bulletin of the Women's Bureau, History of Labor Legislation for Women in Three States, No. 66-I, 1931, p. 80-81.

⁵⁷Second Report of the F.I.C., Vol. I, p. 108.

⁵⁸Ibid, Vol. III, p. 40-41.

⁵⁹Rheta Childe Dorr, p. 183.

⁶⁰For further discussion see Elizabeth Pleck, "Two Worlds in One: Work and Family" Journal of Social History, Vol. 10, Winter 1976.

⁶¹See Dan Clawson, Bureaucracy and the Labor Process, (New York: Monthly Review Press, 1981), Chapter two.

⁶²Second Report of the F.I.C., 1912, Vol. III, p. 1508 and p. 1511.

⁶³Virginia Yans-McLaughlin, "A Flexible Tradition: South Italian Immigrant Confront a New Work Experience" Journal of Social History, Vol. 7, no. 4, Summer 1974.

⁶⁴See Louise Odencrantz, p. 13 where she notes that "the social character of the Italian soon induces the woman from Naples to take her home work into the rooms of her Sicilian neighbor..." Also, many of the photographs that accompanied reports and articles on homework showed a number of women working together and identified them as either friends or neighbors.

⁶⁵See Carol B. Stack's All Our Kin for an extensive discussion of the importance of extended family networks in poor communities.

Chapter III

¹U.S., Department of Labor, Bulletin, The Women's Bureau, December 1931, Chronological Development of Labor Legislation for Women in the United States, No. 66-II, pp. 100-101.

²Elizabeth Faulkner Baker, Protective Labor Legislation, (New York: Studies in History, Economics and Public Law, Columbia University, 1925), -. 258.

Baker defines a "core" as "parts of molds which fill the spaces that are to be left hollow in finished castings." They range in size from a few inches to many feet across.

³New York State, Second Report of the Factory Investigating Commission, 1913, Vol. III, p. 921.

⁴Ibid, p. 925.

⁵Ibid, p. 935-936.

⁶Baker, p. 259.

⁷Second Report, Vol. I, p. 261.

⁸Second Report, Vol. IV, p. 2099.

⁹Second Report, Vol. III, p. 827.

¹⁰U.S., Department of Labor, Bulletin of the Women's Bureau, 1931, History of Labor Legislation for Women in Three States, No. 66-I, p. 116.

- ¹¹ Second Report, Vol. I, pp. 261 and 262.
- ¹² Second Report, Vol. I, p. 263.
- ¹³ Second Report, Vol. IV, p. 2095.
- ¹⁴ History of Labor Legislation, p. 117 and Second Report, Vol. I, p. 263.
- ¹⁵ Second Report, Vol. IV, p. 1844-1845.
- ¹⁶ History of Labor Legislation, p. 104.
- ¹⁷ Second Report, Vol. I, p. 205.
- ¹⁸ Ibid, p. 193.
- ¹⁹ Ibid, p. 200.
- ²⁰ Ibid, p. 202.
- ²¹ History of Labor Legislation, p. 106-107.
- ²² Baker, p. 224.
- ²³ Baker, p. 367.
- ²⁴ Ibid, p. 363.
- ²⁵ Second Report, Vol. I, p. 198.
- ²⁶ Leo Kanowitz, Women and the Law, The Unfinished Revolution, (Albuquerque: University of New Mexico Press, 1969), p. 152.
- ²⁷ Ibid, p. 153.
- ²⁸ History of Labor Legislation, p. 108.
- ²⁹ Second Report, Vol. I, p. 106.
- ³⁰ Alic Kessler-Harris, Out to Work, (New York: Oxford University Press, 1982), p. 201-202.
- ³¹ History of Labor Legislation, p. 80.
- ³² Ibid.
- ³³ Baker, p. 202.
- ³⁴ Ibid, p. 399.

³⁵Ibid, p. 162.

³⁶Ibid, p. 159.

³⁷Ibid, p. 162-163.

³⁸For an example see U.S., Bureau of Labor, Senate Document #645, Report on Condition of Woman and Child-Wage-Earners in the United States, Vol. XIII: Infant Mortality and Its Relation to the Employment of Mothers, 1912.

³⁹Chronological Development of Labor Legislation, p. 89.

⁴⁰Baker, p. 171.

⁴¹Ibid, p. 173.

⁴²Ibid, p. 175.

⁴³Ibid.

⁴⁴Chronological Development of Labor Legislation, p. 90-92.

⁴⁵As quoted in Baker, p. 190.

⁴⁶Ibid.

⁴⁷Baker, p. 194.

⁴⁸Equal Rights Journal, National Woman's Party, Feb. 23, 1924, p. 12.

⁴⁹Equal Rights, March 22, 1924, p. 44.

⁵⁰Ibid, March 22, 1924, p. 48.

⁵¹Ibid, March 15, 1924, p. 37.

⁵²Ibid, p. 36.

⁵³As quoted by Kessler-Harris, p. 205.

⁵⁴Kessler-Harris, p. 210.

⁵⁵Baker, p. 351.

⁵⁶Ibid.

⁵⁷Kessler-Harris, p. 195.

⁵⁸Baker, p. 359.

⁵⁹Ibid, p. 355-356.

⁶⁰Kessler-Harris, p. 195.

⁶¹Baker, p. 91 and Kessler-Harris, p. 198.

⁶²Anne Corinne Hill, "Protection of Women Workers and the Courts: A Legal Case History" Feminist Studies, Vol. 5, No. 2, Summer 1979, p. 254.

⁶³Baker, p. 387. Also see Kessler-Harris, p. 193, for a similar account of women railway workers in Albany, New York.

⁶⁴Kessler-Harris, p. 211.

⁶⁵Ibid.

⁶⁶Quoted by Baker, p. 442.

⁶⁷As quoted by Krouse in "Patriarchal Liberalism and Beyond: From John Stuart Mill to Harriet Taylor" in J. B. Elshtain, The Family in Political Thought, p. 164.

⁶⁸Equal Rights, March 29, 1924, p. 53.

⁶⁹Baker, p. 174 and pp. 199-200, respectively.

⁷⁰Second Report, Vol. IV, p. 2095.

⁷¹Anne Corinne Hill, pp. 253-254.

⁷²Kessler-Harris, p. 185.

Chapter IV

¹Richard Krouse, "Patriarchal Liberalism and Beyond: From John Stuart Mill to Harriet Taylor" in J. B. Elshtain, ed. The Family in Political Thought, p. 148.

²For an excellent discussion of racial politics during this period see Robert R. Higgins, Legitimacy in American Politics, (Ph.D. dissertation, Univ. of Mass., 1982).

³Herbert Croly, The Promise of American Life, (New York: MacMillan), 1901.

⁴As quoted by Dolbeare, ed. American Political Thought, (Calif: Duxbury Press, 1981), p. 443.

⁵Ibid.

⁶Ibid, p. 449.

⁷Ibid, p. 450.

⁸Ibid, p. 461.

⁹As quoted by Dolbeare, p. 476.

¹⁰Ibid, p. 476.

¹¹Ibid.

¹²Ibid, p. 477.

¹³Bentley, as quoted by Alfred Stepan, The State and Society, Peru in Comparative Perspective, (New Jersey: Princeton Univ. Press, 1978), p. 12.

¹⁴Steven Lukes, Power, a Radical View, (London: MacMillan Press, 1974), p. 13.

¹⁵E. E. Schattschneider, as quoted in Lukes, p. 16.

¹⁶P. Bachrach and M. S. Baratz, see further: Margaret Stacey and Marion Price, eds. Women, Power and Politics, (London and New York: Tavistock Pub., 1981).

¹⁷Bachrach and Baratz, Poverty and Power, (New York: Oxford Univ. Press, 1970), p. 8.

¹⁸As quoted in Lukes, p. 20.

¹⁹Ibid, p. 24.

²⁰Ibid, p. 24.

²¹Ibid, p. 34.

²²Ibid, p. 22.

²³Paul Sweezy, as quoted in "Modes of Class Struggle and the Capitalist State" Gosta Esping-Anderson, Roger Friedland, and Erik Olin Wright, Kapitalist State #4-5, Summer 1976, p. 187.

²⁴James Weinstein. The Corporate Ideal in the Liberal State: 1900-1918, (Boston: Beacon Press), 1968.

²⁵For a discussion of this issue see Fred Block, "The Ruling Class Does Not Rule: Notes on the Marxist Theory of the State" Socialist Revolution, No. 33, (May-June 1977).

²⁶Block, p. 9.

²⁷Ibid, p. 8-9.

²⁸Nicos Poulantzas, as quoted in Connolly and Best, The Politicized Economy, (Mass: d. c. Heath and Co., 1976), p. 174.

²⁹Ibid, p. 174.

³⁰Mary McIntosh, "The State and the Oppression of Women" in Annette Kuhn and AnnMarie Wolpe, eds. Feminism and Materialism, (London: Routledge and Kegan Paul, 1978), p. 282.

³¹Ibid, p. 257.

³²Michelle Barrett, Women's Oppression Today, (London: Verso Press, 1980), p. 78.

³³Lukes, p. 24.

³⁴Raymond Williams, Marxism and Literature, (New York and London: Oxford Univ. Press, 1977), p. 109.

³⁵For further discussion see Sheila Rothman, Woman's Proper Place, (New York: Basic Books, 1978).

³⁶Williams, p. 125.

³⁷Andrea Dworkin, Right-Wing Women, (New York: Perigree Books, 1983), p. 206.

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