

The Birth of the Birth Certificate: Age, Child Labor and the Growth of the Administrative State

Author : Reuel Schiller

Date : May 13, 2016

Susan J. Pearson, ["Age Ought to be a Fact": The Campaign Against Child Labor and the Rise of the Birth Certificate](#), *J. of Am. Hist.* 101 (2015).

When I was growing up in New York City, there was a rite of passage that you went through when you turned 14. You got your "working papers." For a middle class kid, the process was one of your first encounters with the administrative state. You went to the dingy building in downtown Brooklyn that housed the New York State Department of Labor's Kings County office. There you submitted a form, signed by your parents, along with a copy of your birth certificate. The form itself was a stock item of the postwar, pre-digital bureaucracy: four sheets of stacked, bound, carbonless copy paper (white, yellow, pink, and blue with an instruction to press hard enough to create legible words on the blue copy). The birth certificate was a photocopy – white text on a black background – with a raised seal. The form and the birth certificate were reviewed and stamped by a clerk behind a counter who then returned to you a copy of the form (the pink one, I seem to recall). You now had the permission of the State of New York to be a camp counselor, or to peddle Dove Bars and frozen lemonade from a cart in front of Rockefeller Center

Behind this banal bureaucratic process was over one hundred years of state building, some of it quite familiar. As anyone who remembers their AP American History class will tell you, the substance of the regulatory regime (children can't work until they're 14 and even then they are prohibited from industrial labor), and its institutional manifestation (the Department of Labor) are products of the Progressive era campaign against child labor. However, as [Susan J. Pearson's](#) richly detailed article demonstrates, before the political impulse to protect children from the dangers of industrial labor could succeed, the administrative state had to assert its power in another way. The most fundamental obstacle to abolishing child labor was not political resistance from business interests or immigrant families in need of income. Nor was it hostile courts with their concerns about federalism and freedom of contract. The most intransigent barrier to abolishing child labor was the fact that well into the twentieth century, the state had no way of knowing how old somebody was. In a world without state-issued birth certificates, enforcing age-based prohibitions on work was impossible.

This, then, is the story that Pearson tells: how the states and the federal government created the bureaucratic infrastructure to ensure that every child born in the United States had a government-issued birth certificate to verify their age. In nineteenth-century America, she explains, chronological age was not defined with the precision we are used to today. Many Americans "understood their age in approximate terms." (P. 1150.) This fact was particularly true in immigrant and non-white communities. Consequently, for most Americans, the age at which a child should start working was viewed not as precise boundary (the chronological age of 14, for example), but instead as a contextual calculation related to the economic circumstances of the family and the actual maturity of the child at issue.

In order to make child labor laws work, Progressive reformers had to impose a different conception of age on working families. The evidence that was traditionally used to determine a child's age, such as parental affidavits, notations in family bibles, or baptismal certificates, was gradually replaced during the first third of the twentieth century by standardized, state-issued birth certificates in which

chronological age could be attested to by experts: the doctor, nurse, or midwife who was present at birth. Pearson demonstrates that this transition was not a smooth one. Parents resisted this profound loss of authority over their children. The ultimate judge of a child's maturity became the government, not than the parents. To do this, states and the federal government had to build out a considerable bureaucracy. Legislation created state and federal child labor agencies that worked with the Census Bureau and state and local health agencies to promote and, ultimately, require birth registration.

As Pearson notes, a definitive determination of chronological age was necessary not only to prevent child labor. It was also a prerequisite for implementation of other Progressive-era reforms such as compulsory schooling and juvenile courts. The same was true of the emergent New Deal welfare state. Age, after all, was the fundamental basis for awarding Social Security payments. Indeed, the significance of the shift that Pearson describes from parental to state control over the definition of a child's age is what makes her article so important. Like all the best historical writing, it uncovers a historical process obscured by our modern perspective. Our understanding of a person's age – as defined by an objective measure of the number of times the earth has orbited the sun since that person's birth – is, in fact, the creation of early twentieth-century reformers intent on furthering particular policy goals. That policy impulse, and the state-building that was required to implement it, favored a particular definition of age so powerfully that we can now scarcely imagine any other definition.

Cite as: Reuel Schiller, *The Birth of the Birth Certificate: Age, Child Labor and the Growth of the Administrative State*, JOTWELL (May 13, 2016) (reviewing Susan J. Pearson, "Age Ought to be a Fact": *The Campaign Against Child Labor and the Rise of the Birth Certificate*, **J. of Am. Hist.** 101 (2015)), <https://legalhist.jotwell.com/the-birth-of-the-birth-certificate-age-child-labor-and-the-growth-of-the-administrative-state/>.