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GOOD INTENTIONS AND FEARSOME PREJUDICE: NEW YORK'S 1876 ACT TO PREVENT AND PUNISH WRONGS TO CHILDREN

During the last quarter of the nineteenth century, there was a major effort in the United States to remove child performers from professional stages. The campaign began in New York State with the passage of An Act to Prevent and Punish Wrongs to Children (1876), prohibiting children from a variety of performance venues, and subsequently grew into a nationwide crusade. The movement was spearheaded by the Society for the Prevention of Cruelty to Children (SPCC) and its leader, Elbridge T. Gerry. The intense response of the theatre industry resulted in a protracted political struggle.

Scholars have examined this conflict within the context of economic and labor history. Viviana A. Zelizer sees the struggle as illustrative of the change in children's economic value between the nineteenth and twentieth centuries.¹ An article by Benjamin McArthur published in this journal places the issue within the context of the child labor reform movement.² Claudia D. Johnson claims the campaign's genesis was in the anti-theatricalism of Victorian morality.³ A close examination of the New York State law and its source, however, indicates that class bias may have been a significant instigating factor.

To prove this assertion, I will begin by explaining relevant sections of the 1876 anti-exhibition law and the popular support it enjoyed. I will then eliminate anti-theatricalism as a motive for Gerry's operation. Next, I will introduce an antecedent of the 1876 law, which illuminates the likely role that ethnic/class bias played in its passage and enforcement. Finally, I will demonstrate the veracity of Gerry's claim that performing children needed protection.

I. THE ANTI-EXHIBITION LAW OF 1876 AND ITS ENFORCEMENT

When the anti-exhibition law was passed in 1876, the Society for the Prevention of Cruelty to Children was a year old. Elbridge T. Gerry was a co-founder. The 1875 New York legislature had empowered any five citizens to

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incorporate as a society for the prevention of cruelty to children. Any member of such a society had the authority to prefer a complaint before the court and aid in bringing the facts before such court. "All magistrates, constables, sheriffs, and officers of police shall, as occasion may require, aid the society so incorporated . . . in the enforcement of all laws which now are or may hereafter be enacted relating to children."⁴ In essence, the police and the courts were put at the service of the Society. When the SPCC beckoned, they could not refuse. Any five citizens, "so incorporated," could command the power of municipal government. Once the anti-exhibition act was passed, the SPCC could insist on its enforcement. The police had to aid; the courts had to listen.

Three sections of the anti-exhibition law (chapter 122 of New York State laws of 1876) concerned performing children. Section one made it illegal for any person to exhibit children "singing, playing on musical instruments, rope or wire dancing, begging or peddling, or [performing] as a gymnast, contortionist, rider or acrobat."⁵ In addition, it prohibited "any practice of exhibition dangerous or injurious to the life, limb, health or morals of the child." Sections two and three defined violation of this law as a misdemeanor and stated that, in addition to being fined, anyone convicted could permanently lose custody of his children. Note that section one makes no mention of "acting" or "reciting." These activities would only be prohibited if they could be proved to be "dangerous" in some way. Enforcement avoided this interpretation, however, and concentrated on those activities that were specifically named.

Gerry made it clear from the beginning that the SPCC was to be a pro-active organization. Its mission was to "seek out and rescue" children in trouble.⁶ It is impossible to know what was in the mind of the New York State legislators, but since Elbridge Gerry lobbied for the passage of the anti-exhibition act for two years, and was widely identified with it, the lawmakers could not have been ignorant of his plans. They would have been aware of the law regarding the establishment of the SPCC. The work of the Society depended on both laws: Chapter 122 made performance illegal, and the earlier act authorized the Society as an enforcer. Legislators knew that the two went hand in hand. It seems clear that the legislature did plan on giving the SPCC the power that it subsequently enjoyed. The 1875 bill authorizing the SPCC had passed seventy-seven to twenty-one. The *New York Herald* called 1876's chapter 122 "one of the really good pieces of work done by the Legislature."⁷ While the law was widely identified with Gerry, he did not single-handedly pass it or pervert its intention. The legislature was behind him, as were the courts.

In a number of significant challenges, the courts sided with Gerry and upheld his interpretation as valid. In 1892, theatre managers successfully lobbied for the passage of the Stein amendment that gave local mayors the power to approve certain performances. The court, however, agreed with Gerry that mayors did not have the power to allow singing or dancing by children, which

were specifically prohibited. Thus, although Gerry was certainly a leader in this undertaking, his mission was supported by the state.

II. GERRY AND ANTI-THEATRICALISM

Those who opposed the anti-exhibition law chose Elbridge T. Gerry as their target. Both during and after his lifetime, Gerry has frequently been labeled anti-theatre. An 1882 magazine charged that Gerry's course of action was "a last vestige of the old time bigotry respecting the stage."⁸ A century later, scholar Claudia D. Johnson concluded an article by asserting that "his humane instincts were incapable of carrying him beyond the narrowness of anti-theatrical bias."⁹ These charges overlook both Gerry's words and his actions.

Gerry always denied that he had any objection to theatre on principle, and he attended the theatre occasionally. His participation in the Annual Stage Children's Christmas Festival seems to support this claim. Each Christmas, the New York theatre community held a festival for stage children: performers and offspring of performers. Members of the former group sang, danced, or recited for a theatre full of the latter. Afterwards, all were given gifts and a party. The annual event was initiated by "Aunt" Louisa Eldridge and hosted by theatre manager Tony Pastor, who had made variety wholesome enough for family audiences. Eldridge assiduously sought to learn what each of the performing children needed, and then worked even harder to solicit the funds to pay for it. For sixteen years, Elbridge Gerry was among Aunt Louisa's biggest contributors. In 1893, when Sir Henry Irving and theatre manager Henry Abbey each gave twenty-five dollars, Gerry gave fifty. In 1895, when Irving sent twenty-five dollars, Gerry, and J. P. Morgan each sent in a hundred. At the sixteenth annual festival in 1901, Gerry, J. P. Morgan, William Whitney, and Joseph Jefferson were the four top donors. Although the papers called this "conscience money" or Gerry's "Dr. Jekyll aspect," it may just as easily be interpreted as evidence of his genuine feeling.¹⁰ It is difficult to believe that a man who sincerely felt the theatre to be an immoral institution would consistently subsidize its youngest practitioners and the children of its practitioners in this manner.

Gerry and his colleagues had no real objection to theatre. Legitimate theatre was attended by the better classes. Writing of the 1880s, social historian Lloyd Morris affirms, "Serious drama now had the highest moral sanction; everybody knew that one of the most successful theatres in New York, the Madison Square, was owned by the brothers Mallory, one of whom was publisher of *The Churchman* and the other a clergyman."¹¹ Other reformers who supported the anti-exhibition laws also had to defend themselves against the charge of being anti-theatrical.

Decade after decade, those who sought to limit the labor of stage children were branded as anti-theatre. Jane Addams lobbied vigorously against child

labor in all fields, including the stage. She objected to the employment of children regardless of the venue. Addams spoke persuasively at a 1906 meeting of theatre producers with the Illinois Factory Inspector. Addams defended drama as a valuable tool in building individual identity in children as well as a sense of community.¹² Her colleague Edith de Nancrede reported, "Certainly we at Hull-House have found no other means so successful in holding a large group together from childhood, through adolescence and into maturity."¹³

Addams joined other speakers on this theme at a conference held during the Chicago Child Welfare Exhibit in 1911. Professor S. H. Clark, speaking on "The Artist Child" declared, "It is understood in this discussion that we are not opposed to the stage as such."¹⁴ He pointed out the use of children in some dramatic activities at Hull House. These were educational, not economic. Speaking at the same meeting, Charles Zueblin, the editor of *Twentieth Century Magazine*, urged the creation of playgrounds and fieldhouses that would be used for the production of drama as recreation. "Surely, we are not going to lose sight of the drama or of the opera," he declared.¹⁵ These later "Scientific" reformers may have differed from Gerry and his early supporters in some respects, but like Gerry, they insisted that their quarrel was not with the theatre per se, but with its employment of children.

In practice, the SPCC did not interfere with the employment of children in all types of theatre. Its efforts focused on children working in lower-class entertainments: street musicians, saloon singers, circus performers, and variety acts. These efforts of Gerry, the SPCC, and the citizens and judges who supported them were, in reality, an extension of the feelings of their class about the audiences at lower-class performance venues. This type of audience had come into being following the Civil War and was described by John Howard Payne as consisting of the "idle, profligate, and vulgar."¹⁶ This audience was largely immigrant.

Between 1860 and 1870 the foreign-born population of New York City increased by thirty-five thousand.¹⁷ During the following decade it increased another sixty thousand. Men like Elbridge Gerry, Henry James, and Charles Loring Brace, who founded the Children's Aid Society, felt that society was destabilizing. The children's rescue organizations they founded were partly instigated by a desire for social control. Lawrence Levine reports that the foreboding of the upper classes had begun even before the Civil War: "Philip Hone and George Templeton Strong, two of the century's great chroniclers, filled pages of their fascinating diaries with a sense of loss, looming disorder and chaos."¹⁸ Mark P. Henger has discussed "mounting anxieties about the stability of class identity" as an inducement for the many undercover investigations of the poor done by reporters during the 1880s.¹⁹ Henger asserts that the writings of these social explorers reflect a "belief that workers and the poor were somehow fundamentally different."²⁰ Entertainment tastes magnified this difference.

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In an 1890 magazine article, Gerry himself divided theatres into three classes based on audience as well as content.²¹ In “reputable” theatres, “only legitimate drama is exhibited to audiences composed of cultured and intelligent people.” “Semi-reputable” theatre showed spectacular exhibitions. In “disreputable” theatres, “both dialogue and performances fester with indelicacy, and the audience, composed of the lowest and most degraded classes of society, engage in smoking and drinking.” This distinction was understood by the managers of the reputable theatres and by the public they served. Theatres were classified not only by the quality of the performance, but also by the caliber of the audience. Morris writes that in the most fashionable playhouses, one would dress in formal evening attire to sit in the orchestra.²² The two most fashionable were Daly’s and Wallack’s.

Augustin Daly managed theatres in New York for the last third of the nineteenth century.²³ He wielded absolute control in his domain, demanding a strict discipline from his actors both onstage and off. They were not to be seen drinking in public. They were to avoid “Bohemian” tendencies and could be fined for lack of courtesy. Daly ran an intensely respectable theatre. In 1881, he sent Gerry a letter of support. While some managers argued that the banishment of child actors would hurt the stage, Daly wrote, “Except in cases when the presence of a child is absolutely necessary as a component part of the play and with which the law at present does not necessarily interfere, the use of young children is of no practical benefit.”²⁴

The most prestigious competitor to Daly’s Theatre was Wallack’s. The Wallack family had spawned a long line of actor-managers, active both in England and the United States. Lester Wallack had succeeded his father as manager of an ensemble that maintained prominence in New York City for thirty-five years.²⁵ Wallack also wrote Gerry a letter of support asserting that employing children on the stage is “needless and hurtful—except when the character represented by the child is a component part of a play and indispensable to the plot or story.”²⁶ That same month Gerry also received a letter from J. H. Haverly, the manager of Haverly’s Theatre, declaring, “I heartily unite with you in your efforts to repress the custom of forcing young children to assume tasks beyond their years and strength.”²⁷ Messrs. Abbey and Schaeffel, who managed the Booth and Park Theatres, wrote, “No first class theatre would be benefited in the least by allowing them to take part in any entertainment.”²⁸

While both the proliferation and the preservation of these letters suggest that they were solicited for political ends, that in no way detracts from their significance. These men, at the top of their profession, were willing to go on record supporting the enforcement of the anti-exhibition law. They, like the law, were prudent enough to make carefully worded exceptions.

Daly pointed out that the law did not “at present interfere” when the child’s role was a necessary component of the play. The law did not interfere with

Daly's productions of legitimate drama because in them, a child was not singing, dancing, or doing any of the actions specifically listed in the statute. "Acting" was not prohibited. Daly's company performed Shakespeare, melodramas, and adaptations of Kotzebue, Pixérécourt, and other European dramatists. Daly was safe from the law. He and the other reputable managers understood that they were not the targets. They saw Gerry as an ally, not an opponent. As Levine has argued, the elite had "a vested interest—unconscious though it may have been—in welcoming and maintaining the widening cultural gaps that increasingly characterized the U.S."²⁹ Note the phrase in Abbey and Schaeffel's letter: "No *first class* theatre." These prestigious theatre managers saw fit to align themselves with Gerry and his supporters, rather than with other theatre managers. Class, rather than professional solidarity, was the significant factor.

The Society, and Gerry personally, were frequently charged with inconsistently enforcing the law. The SPCC's method of operation was to initiate an investigation only after a complaint had been filed. Thus enforcement had a quality of randomness. If no one filed a complaint, a violation could go unprosecuted for months. The case of the 1891 comic opera *Wang* is an excellent illustration. Starring in the title role was singer-comedian De Wolf Hopper, "one of the most beloved performers in comic opera."³⁰ A feature of the second act was the "Baby Song" which a quartet of little girls sang to Hopper. With no interference from the SPCC, the children performed in New York for twenty-two weeks during the summer and then on tour for thirty-two weeks. No SPCC agent objected. This was entertainment for a "reputable" audience. In the spring of 1892, *Wang* reopened on Broadway to good box office. According to *The New York Times*, the SPCC received complaints from *Wang's* competitors that the law was being unevenly enforced.³¹ The *Wang* managers were issued a summons. When they objected, Gerry admitted to the press that he only prosecuted this company's return engagement when prompted by rival theatre managers' charges of selective enforcement.³² On its own, the SPCC had chosen to ignore *Wang's* transgression.

De Wolf Hopper was furious with the attack on his show. At the close of each performance he gave a curtain speech denouncing Gerry.³³ He was indignant because he shared the public perception that the anti-exhibition law existed for the lower classes. Like the producers discussed above, performers in the legitimate theatre did not see themselves as valid targets for the SPCC. Workers in the legitimate theatre considered themselves different from their counterparts in other venues. A key argument in a 1909 campaign to amend the law was the class status of nine-year-old political activist Frances Gold Fuller and her fellow juvenile actors. Their campaign hinged upon differentiating themselves from lower-class child workers in terms of sophistication and intellect. "We are different from the children who work in factories," they protested. The discussion was centered not on the kind of work but on the kind of worker. Class, not art, was the focus of the reformers.

III. THE ANTECEDENT TO THE 1876 LAW

The existence of class bias embedded in the wording and exercised in the enforcement of the anti-exhibition law may be illuminated by an examination of some of the law's pre-history and subsequent implementation.

In February 1874, just a few months before the SPCC was founded, New York State Assemblyman George Scherman introduced a bill entitled "An Act To Prevent the Traffic in Italian And Other Children." While the title of this bill illustrates that its target was far removed from the theatre, its wording bears a striking resemblance to An Act To Prevent and Punish Wrongs to Children, the anti-exhibition law of 1876. This law, often referred to as the Gerry law, prohibited the exhibition of children "singing, playing on musical instruments, rope or wire dancing, begging or peddling, or [performing] as a gymnast, contortionist, rider or acrobat."³⁴ As noted above, the 1876 law made no mention of "acting" or "reciting." This omission seems strange if the law was conceived as an anti-theatrical tool. Perhaps, however, it had another purpose. Perhaps its genesis was the 1874 Scherman bill that stated in part:

Any and all persons . . . having in his or their care, custody and control any minor child or children whatsoever, who shall sell, apprentice, or . . . let out . . . such child or children to any Italian or other person . . . for singing, playing on musical instruments, rope walking, dancing, blacking boots, selling newspapers, begging, stealing, peddling or any mendicant or wandering business whatever shall be deemed guilty of a misdemeanor."³⁵

The identification of one immigrant group and the inclusion of such non-performance jobs as boot-blackening and selling newspapers make it clear that the framers of this bill were not thinking of performance in general, but of the activities of a particular class of immigrants. The acts specifically named were those associated with this group. The Act To Prevent the Traffic in Italian And Other Children never became law, but the strong similarity in language and close proximity in time make it likely that this bill was the model for Gerry's 1876 law. The mystery of the omission of legitimate acting from the 1876 law becomes clear when we look at its precursor. It does not appear that the legislators were considering types of performance and decided to omit "straight" acting, but that the original bill was aimed at a variety of behaviors practiced by Italian immigrants, some of which were performance. The earlier bill gives no indication of any bias against legitimate theatre, vaudeville, or operetta. The inclusion of singing and playing instruments may be attributable to the prevalence of Italian organ grinders and fiddlers on the streets of New York.

The original bill names only Italians. Why should this group be singled out? Although the mass immigration of Italians would not occur until the 1880s, the stream that would become the torrent was already flowing. In 1870, there

were almost three times as many Italian-born residents of New York City as there had been five years earlier. Between 1870 and 1875, their number doubled. In the next five years, it doubled again.³⁶ These immigrants may have drawn attention and inspired fear for a number of reasons. They looked different. Irish and German immigrants, who preceded and outnumbered the Italians, were physically indistinguishable from the native-born Anglo-Saxon Americans. The new immigrants, the Italians and the Jews, were from southern and eastern Europe. As a group, they would have looked strikingly different from the earlier northern European immigrants. A small number would be more noticeable.

Italian immigrants were different from previous groups in other ways. As Thomas Kessner pointed out in his study, *The Golden Door*, the Italian immigrants did not come in family groups, and they did not come to stay. Single men of working age made up by far the largest percentage of Italian immigrants.³⁷ They came to earn money for a finite period and then to return home. An 1874 Italian study reported a trend already established: “Thousands of Italians go in search of work abroad, then come back within a year or two.”³⁸ They did not make an effort to settle down or to mix into the great melting pot. As they were physically distinct, they remained culturally distinct.

The existence of a growing anti-Italian sentiment is well documented throughout the period. Italians were an easy target. They were poor and illiterate. According to Ellis Island records for 1900, the average Italian arrived with only eight dollars and eighty-four cents, the third lowest of all immigrant groups.³⁹ Incoming Italians also had a higher illiteracy rate than that of other nationality groups. Over a ten-year period at the height of Italian immigration, officials reported that more than half of all southern Italian immigrants fourteen and over could neither read nor write.⁴⁰ This is not surprising in light of the fact that many of these immigrants came from Sicily, whose illiteracy rate in 1867 was 95 percent.⁴¹

Once on American soil, the Italian immigrants had little regard for education and seldom encouraged their children to attend school. When they did enter Catholic schools, Italian children were often segregated by Irish nuns, and Italian-language masses were held in church basements. The Italians were outsiders even among Catholics. One priest suggested that because of their “filthy conditions and habits” his Italian parishioners should hear mass in a “cheap frame or corrugated iron barn-like chapel . . . far away from the other buildings.”⁴² Those who moved among these new immigrants were baffled by them. In the words of one charity worker:

Until the Italians became numerous, we had at least means of communication with most of the families we knew. We not only spoke the same language, but they knew what we were talking about when we urged (the) advantages of temperance, industry, or economical living . . . we

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seldom failed to agree in theory. [But the Italians] are truly foreigners to us. We do not speak a common language; our standards have no meaning to them.⁴³

The Italians even seemed to think differently.

The Italians were also unpopular politically. The Know-Nothing Party had been organized in 1854. Its platform, as Richard Gambino has summarized it, was “hatred of Roman Catholics, hatred of foreigners and foreign ways as un-American, and resentment of cheap immigrant labor.”⁴⁴ Gambino argues that the weight of continuing Know-Nothing thought descended full-force on the Italian immigrants who “replaced the Irish as the target of anti-Catholic hatred . . . [and] all the earlier immigrant groups as targets of resentment about the competition of cheap labor.”⁴⁵ Depression had struck in 1873. By 1878, the estimated number of unemployed across the country reached three million.⁴⁶ The status of Italian workers is illustrated by a notice recruiting labor to build the Croton Reservoir just north of New York City, which lists the following pay rates:

Common labor, white \$1.30 to \$1.50
Common labor, colored \$1.25 to \$1.40
Common labor, Italian \$1.15 to \$1.25.⁴⁷

The Italian laborers posed a threat to the security of other workers, while all immigrant groups seemed menacing to the hegemony of the native-born Protestant elite. It was easy for both workers and reformers to see the Italians as a problem.

Once established, the Society for the Prevention of Cruelty to Children seemed to pay disproportionate attention to Italians. Each annual report of the Society, published from its first year of operation in 1874, contained a section called “Details of the Most Important Cases.” Especially in the early years, a significant number of these cases concerned children or families who were either specifically designated in the records as “Italian” or who have undeniably Italian names. In 1875, when Italian-born residents comprised only 1.6 percent of New York City’s population, the same ethnic group was involved in over 16 percent of the SPCC’s “Most Important Cases,” a number ten times that of their proportion of the population.⁴⁸ The cases described in this section of the annual reports were drawn from the entire spectrum of the SPCC’s work and included children who had been beaten, sexually abused, and abandoned. Yet, in 1876, 10 percent of the “Most Important Cases” involved street musicians. In 1875, it was 18 percent. The Society considered street musicians to be a significant problem. Most of these cases involved organ grinders and street violinists—two professions associated with Italian immigrants. In *Child Labor in City Streets* (1912), researcher Edward N. Clopper wrote, “Some children are used as singers or performers upon musical instruments, but this is in reality only another form

of begging.”⁴⁹ Reformers did not consider street musicians to be performing artists.

It was the Italians who developed the infamous *padrone* system, which may have directly inspired Assemblyman Scherman’s 1874 bill. Young boys and men were essentially indentured servants or serfs. They arrived under contract to a *padrone* who would supply work, room, and board, and send some money back to the family in Italy. Unfortunately many of the *padrones* were quite unscrupulous; they kept a large percentage of the wages and provided little in return. The young men were made to do the lowest jobs and herded into more than usually wretched conditions to live. Boys were often bootblacks.⁵⁰ Sometimes ten or twelve boys shared a few feet of floor to sleep; they were given little to eat. They were prisoners. At the time of his arrest Ancarola had just imported seven boys between the ages of nine and thirteen. At the trial, eleven-year-old Giosue Guerrieri testified that he was under contract to play the violin for Ancarola for four years. Other boys told the same story. They had left their homes and parents only “upon the grand promises” of Ancarola, the king of the *padrones*. Ancarola was found guilty.

The exposure and arrest of the *Padrone Ancarola* in 1879 was one of the SPCC’s proudest moments.⁵¹ In the public mind, the SPCC and the “Gerry law” were identified with this case. The persistence of this perception explains De Wolf Hopper’s outrage when the law was applied to *Wang*. Theatre manager Henry French was similarly incredulous when he was denied a permit for his light opera company to perform at Madison Square Theatre in 1892.

French’s was one of many *Pinafore* companies operating at that time. Composed entirely of children, they were immensely popular and toured the country playing Gilbert and Sullivan operettas as well as less lofty fare. When the SPCC lodged a complaint against French’s company, he was dumbfounded. “Was not the law framed to cover the *padrone* cruelties?” he protested.⁵² Sixteen years after its passage, the anti-exhibition act was still perceived as an instrument aimed primarily at Italians.

IV. GERRY’S JUSTIFICATION: ABUSE

During the fifty-three years that Elbridge Gerry was associated with the SPCC, he consistently avowed that the motive for his campaign against stage children was concern for their current and future well-being. While class and ethnic bias may have been contributing factors, there is no reason to entirely discount Gerry’s assertion. It cannot be denied that many children were truly in need of his services. Numerous performing children were economically exploited and physically abused.

The *Pinafore* companies which Henry French believed benign were a particular concern to Gerry. As his organization expanded nationally, he

received numerous reports of companies that had refused to pay salaries or had abandoned the young performers on tour when tickets sales slowed. Gerry also believed that the constant singing strained young vocal cords, destroying the possibility of adult musical careers.

The physical abuse and unhealthy conditions stage children experienced were the most dramatic justifications for the anti-exhibition law. Both contemporaries of Gerry and modern scholars acknowledge the existence of physical abuse in some situations. In November 1875, the SPCC rescued from the Tivoli Theatre a child circus performer called Prince Leo. The young boy had been purchased from his parents by acrobat Walla Leonard, who used constant beatings to force the boy to do tightrope walking and other dangerous acrobatic feats. Two physicians testified to the effect that injuries had already resulted in weakening and partially destroying the walls of the boy's abdomen and unnaturally curving the spine.⁵³ *Harpers' Weekly* drew attention to the case in a story entitled "Little Infant Slaves of the Arena." The publicity increased support for the passage that winter of what the *New York Herald* called the "Prince Leo bill," i.e., the anti-exhibition law of 1876.⁵⁴

Abuse continued long after the law was passed. It was easy for touring performers to evade the law. In 1902, actor Joe E. Brown, the comedian with the wide, wide mouth, was hired out by his family at the age of ten to acrobat Billy Ashe. In his autobiography, Brown said Ashe "instructed me over the head and admonished me frequently across the buttocks." On one occasion, the boy fell forty feet into a net. His knee slammed into his jaw, breaking the bone. Although a doctor advised him to stay in bed for at least a week, Ashe made the boy a cap with straps to hold the bone in place and told young Joe to forget about it and go on with the show. Brown recalled, "I lived on soup for three weeks but I never missed a performance."⁵⁵

Buster Keaton is perhaps the most famous case of well-documented physical abuse. His father was an angry alcoholic who used the same training system as Billy Ashe. Buster, who joined his parents' act in 1898 when he was three years old, was thrown off the stage frequently, but when he got hurt, he was not permitted to cry.⁵⁶ At age eight, Buster lay unconscious for eighteen hours after being kicked in the head by his father. Although a doctor urged rest, Buster performed two hours after waking. An x-ray of the adult Buster revealed untreated cracked vertebrae. In the act, he was to keep a straight face at all times. Keaton later said, "If I should chance to smile, the next hit would be a good deal harder."⁵⁷ In adulthood, both Buster Keaton and Joe E. Brown wrote off their pain as just part of the business, yet we can never truly know whether the Keaton stare was prompted by technique or psychological damage.⁵⁸ Since standards of discipline and acceptable behavior differ from age to age, it is difficult to label the boundary between strict training, harsh discipline, and sadism, when a child is forced to endure pain in order to entertain adults.

The cruelty is more obvious in the 1903 case of Florence and George Miggs. The children, aged seven and eight, were found locked in a rat-infested closet, having been tortured during training by the acrobat who adopted them for his act. Florence's limbs had been punctured in many places with hot irons. George's back was bloody from repeated beatings, all of his teeth were out, and the bottoms of his feet had been burned.⁵⁹ Newspapers, biographies, and SPCC records furnish numerous accounts of physical abuse suffered by children performing in circus and acrobatic acts throughout the period under study.

Examples of the unhealthful conditions endured by children in other performance venues are far less dramatic, but just as plentiful. Smoking, and exposure to smoke, were common among stage children. Many children performed in smoke-filled concert saloons. In 1892, a United States Senate committee announced that smoking was injurious to the health of young and old alike, but even before that most people felt that children should not smoke.⁶⁰ According to the anti-exhibition law, children were forbidden to perform in saloons and late at night, but there were many infringements. In 1878, the proprietor of the Tivoli Theatre was arrested when nine-year-old Bertha Rhinehardt was found singing and dancing at eleven-thirty at night "amid smoke of bad tobacco and the fumes of still worse liquor."⁶¹ In 1881, SPCC agents found eleven-year-old Eliza Clark in a saloon, entertaining a crowd of women with a dance. She was reportedly in the habit of drinking whiskey and smoking tobacco.⁶² Comedian George Jessel smoked cigars while on tour, before age twelve.⁶³ In a 1900 case, eight-year-old Mary Smith sang nightly to amuse customers in a smoky saloon; her pay was given in drinks consumed by her father.⁶⁴ Another eight-year-old, Baby Goodman, performed regularly to attract customers in a bar owned by her father.⁶⁵

Numerous examples of child abuse or harmful working environments for children appeared in newspaper accounts, reports, and speeches, as justification for establishing legal protection for performing children. Clearly, there were many performing children in danger of physical harm and economic exploitation. In 1876, there was no other source of protection for them. Their work was not easily recognized as labor. The actors' union would not be founded for almost forty years. Compulsory education was a new idea, spottily conducted. Child labor was considered normal in most parts of the country. Legally, a child and his earnings were the property of his parents. There is every reason to believe that Elbridge Gerry and his supporters were genuinely concerned with protecting these children.

It has been charged that the passage and rigorous enforcement of the anti-exhibition law are attributable to a Victorian anti-theatricalism.⁶⁶ The evidence does not support this thesis. However, the statute's broad reach does call into question its goals. With the passage of the 1876 law, begging by children became a crime. The Stein amendment of 1892 decreed additional non-performance activities to be unlawful: rag-picking and collecting cigar stumps,

bones, or refuse from markets. These activities were grouped with singing and dancing. The SPCC vigorously enforced these edicts. The prohibition of these activities is what today would be called a “quality of life” issue; but whose life was being protected? Children who have sufficient to eat are not likely to collect refuse from markets, nor are they likely to beg. These activities are done by people who find them necessary for survival. The children of the lower classes were not being protected by these restrictions. To the upper classes, those who are likely to be the object of begging, these activities may be annoying or repulsive. The “Italian” bill of 1874, the anti-exhibition law of 1876, and the Stein amendment of 1892 all contain sections which seem to cater to the squeamishness of the rich rather than the needs of the poor. Clearly, an unstated purpose of the anti-exhibition law was protecting the quality of life of “Americans” from the onslaught of immigrants.

Undoubtedly, there were child performers who were not hurt and who enjoyed better lives through their stage work than would otherwise have been available to them. While Gerry’s concern was, indeed, justified, not all gymnastic performances by children were dangerous. Why then, should all performances of gymnastics, singing, and dancing by children be illegal? The prohibition of a wide variety of activities, coupled with selective enforcement at the discretion of the SPCC, yielded the greatest possibility for social control. Both the antecedent of the Gerry law and its disproportionate application to Italian immigrants point to an ethnic bias or fear. Whether Gerry personally shared with legislators and citizens a distrust of, and distaste for, the Italian immigrants, or whether he simply took advantage of public sentiment to get a bill passed that could be applied to his own concerns, is impossible to know. Just as there is no substantial proof that Gerry was anti-theatre, there is no record of any remarks he made that can be labeled anti-Italian. On the other hand, his noted distaste for the lower classes and lower-class entertainment is a matter of record. His use of audience caliber to define theatres as “disreputable” is indicative of a class identification that necessarily distanced his agents and supporters from certain performing children. The public perception that the Gerry law pertained only to lower-class performances supports the conclusion that the passage and enforcement of the anti-exhibition law were the product both of good intentions and fearsome prejudice.

ENDNOTES

1. Viviana A. Zelizer, *Pricing the Priceless Child: The Changing Social Value of Children* (New York: Basic Books, 1985).
2. Benjamin McArthur, “‘Forbid Them Not’: Child Actor Labor Laws and Political Activism in the Theatre,” *Theatre Survey* 36: 2 (1995).
3. Claudia D. Johnson, “Elbridge T. Gerry’s Obsession,” *Nineteenth Century Theatre Research* 13: 1 (1985).
4. *New York Herald*, 8 April 1874, 5. The vote was 77 to 21.

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5. *Laws of the State of New York, 99th session of the Legislature* (1876), Municipal Archives of the New York City Department of Records and Information Services, 31 Chambers Street; chapter 122, 95–96.

6. “Objects of the Society,” *SPCC Annual Report*, 1875; located in archive of SPCC headquarters in New York, 161 Williams Street.

7. *New York Herald*, 8 April 1875, 3; 4 May 1876.

8. “Employment of Children,” *The Theatre* (5 August 1882), 4.

9. Johnson, 29.

10. Clippings taken from the scrapbook collection of the SPCC entitled “Children of the Stage” are designated by the abbreviation COTS, followed by the volume number. The scrapbook collection is in the archive at SPCC headquarters in New York. *New York Dramatic Mirror*, 2 December 1893, COTS 6; *Spirit of the Times*, 14 December 1895, COTS 8; *New York Tribune*, 22 December 1897, COTS 10; *New York Press*, 30 December 1901, COTS 12.

11. Lloyd Morris, *Incredible New York: High Life and Low Life of the Last Hundred Years* (Random House and A.M. Heath & Co., Ltd., 1951; reprint, New York: Arno Press, Inc., 1975), 182.

12. *Chronicle* (Chicago), 26 January 1906, COTS 14; see also Shannon Jackson, “Civic Play-Housekeeping: Gender, Theatre, and American Reform,” *Theatre Journal* 48 (1996): 337–71 for a discussion of how theatre functioned at Hull-House with regard to community formation and the reformation of personal identity.

13. *Ibid.*, 347.

14. Sophonisba P. Breckinridge, ed., *The Child in the City* (Chicago: Department of Social Investigation, Chicago School of Civics and Philanthropy, 1912), 302.

15. *Ibid.*, 448.

16. Quoted in Lawrence Levine, *High Brow, Low Brow: The Emergence of Cultural Hierarchy in America* (Cambridge, MA: Harvard University Press, 1988), 60.

17. Ira Rosenwaike, *Population History of New York City* (Syracuse, NY: Syracuse University Press, 1972), 63.

18. Levine, 173.

19. Mark P. Henger, “A World of Difference: Constructing the ‘Underclass’ in Progressive America,” *American Quarterly* 49:1 (March 1997): 31. Such social explorers included Nellie Bly and Stephen Crane.

20. *Ibid.*, 27.

21. *North American Review*, July 1890, reprinted in *SPCC Annual Report*, 1890:116–24.

22. Morris, 188.

23. His methods and eccentricities have been reported both in biography and in the many memoirs of the actors who worked for him. See Marvin Felheim, *The Theatre of Augustin Daly* (Cambridge: Harvard University Press, 1956); Clara Morris, *Life on the Stage: My Personal Experiences and Recollections* (New York: Charles Scribner’s Sons, 1901); Dora Knowlton Ranous, *Diary of a Daly Debutante* (New York: Duffield, 1910); John Drew, *My Years on the Stage* (New York: E. P. Dutton, 1922).

24. Letter dated 12 March 1881, COTS 1.

25. Don B. Wilmet and Tice L. Miller, eds., *Cambridge Guide to American Theatre* (New York: Cambridge University Press, 1996), 395.

26. Letter dated 14 March 1881, COTS 1.

27. Letter dated 15 March 1881, COTS 1. The organizer of Haverly’s Mastodon Minstrels, Haverly had branched out and managed “strategically located theatres in Chicago, New York, Philadelphia, and San Francisco” (Wilmet and Miller, 186). His Philadelphia theatre “played all the best stars and combinations” (Arthur Hornblow: *A History of the American Theatre from its Beginnings to the Present* [Philadelphia: J. B. Lippincott, 1919], 310). His New York theatre saw the premiere of Joaquin Miller’s romantic tale of the Gold Rush, *Forty-Nine* (Richard Moody, *America Takes the Stage* [Indiana University Press, 1955], 181).

28. Letter dated 14 March 1881, COTS 1.

29. Levine, 227.

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30. Wilmeth and Miller, 195.
31. *New York Times* 14 May 1892, COTS 3.
32. *Ibid.*
33. *New York Herald, New York Sun, New York Tribune, New York Times, New York Press*, 13 May 1892; COTS 3.
34. *Laws of the State of New York, 99th session of the Legislature* (1876), Municipal Archives of the New York City Department of Records and Information Services, 31 Chambers Street; chapter 122, 95–96.
35. “A Bill To Stop the Traffic in Children,” *New York Times*, 5 February 1874.
36. Rosenwaike, 67; Table 23 lists the total Italian-born residents of New York City for these years as follows: 1865: 955; 1870: 2,794; 1875: 76,507; 1880: 12,223. His figures are drawn from state and federal censuses.
37. Thomas Kessner, *The Golden Door: Italian and Jewish Immigrant Mobility in New York City 1880–1915* (New York: Oxford University Press, 1977), 27. During 1882–83, 88% of Italian immigrants were male (33). Although this study begins in 1880, it is likely that earlier arrivals established this pattern.
38. Leone Carpi, *Dell' colonia e dell' emigrazione d' Italiani all' estero*, quoted in Kessner, 28.
39. Richard Gambino, *Blood of My Blood: The Dilemma of the Italian-American* (New York: Doubleday, 1974), 78. Lithuanians were lowest with \$7.96 and Scots highest with \$41.51.
40. *Report of the Commissioner General of Immigration 1899–1909*, lists 54.2 % as illiterate; quoted in Sister Mary Fabian Matthews, “The Role of the Public School in the Assimilation of the Italian Immigrant Child in New York City, 1900–1914,” 127, in Tomasi and Engel.
41. Leonard Covello, “The Social Background of the Italo-American School Child” (Ph.D. diss., New York University, 1944), 387, quoted in Tomasi and Engel, 127.
42. *Ibid.*, 129, 90.
43. Paul Boyer, *Urban Masses and Moral Order in America, 1820–1920* (Cambridge, MA: Harvard University Press, 1978), 154.
44. Gambino, 97–98. Bias was sometimes demonstrated violently. See Charles R. Morris on mid-century anti-Catholic violence, chapter 3, *passim*, and Iorizzo, in Tomasi and Engel, 50, whose Table I: “Mob Violence Against Italian Americans” lists forty-two deaths across the country during the period covered by my study.
45. Gambino, 98.
46. Rayback, 129.
47. *Ibid.*, 71.
48. Population figures are from Rosenwaike, 67; SPCC figures are from *Annual Reports*.
49. Edward N. Clopper, *Child Labor in City Streets* (New York: Macmillan, 1912; reprint, New York: Arno Press, 1974), 38.
50. *Ibid.*, 88. Italians and African-Americans controlled this business until 1895 when the Greeks superseded them. See also Luciano Iorizzo, “The Padrone and Immigrant Distribution,” in *The Italian Experience in the United States*, eds. Silvano Tomasi and Madeline H. Engel (Staten Island, NY: Center for Migration Studies, 1970), 43–76.
51. *SPCC, Annual Report*, 1879: 67–78.
52. *New York World*, 3 January 1892, COTS 3.
53. *SPCC, Annual Report*, 1875: 39–40.
54. *Harpers' Weekly*, 19 (11 December 1875), 19, 1009; Johnson, 19; “Work of the Session,” *New York Herald*, 4 May 1876.
55. Joe E. Brown as told to Ralph Hancock, *Laughter is a Wonderful Thing* (New York: A. S. Barnes and Company, 1956), 35–36.
56. David Robinson, *Buster Keaton* (Bloomington: Indiana University Press, 1969), 4.
57. Marion Meade, *Buster Keaton: Cut To The Chase* (New York: Harper Collins, 1995), 32–33.
58. *Ibid.* Psychotherapist Linda Sanford, interviewed by Meade, identified the trademark Keaton stare as evidence of a classic dissociative disorder.

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59. *New York Press*, *New York World*, and *Morning Journal*, 23 April 1903, COTS 13.

60. "All Law and No Liberty," *New York Sun*, 25 July 1892: "Senator Harris of the Senate Committee on Epidemic Diseases at Washington reported the other day their conclusion that cigarette smoking is decidedly injurious to youth; that, in fact, the use of tobacco in any form and by anybody, young or old, is 'injurious to the physical condition of man,' but that Congress has no constitutional power to prohibit the manufacture or sale of cigarettes in the United States, as it was invoked to do."

61. *SPCC, Annual Reports*, 1878:24.

62. *SPCC, Annual Reports*, 1881:20.

63. Eddie Cantor with Jane Kessner Ardmore, *Take My Life* (Garden City, NY: Doubleday, 1957), 80.

64. *Brooklyn Eagle*, 10 February 1900. A slightly conflicting story in the same day's *Evening Journal* reports that the girl was actually sold to the saloon owner for twenty-five dollars; COTS 12.

65. Unidentified clipping dated 8 February 1883, COTS 5.

66. See Johnson, *passim*.