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The Regulation of Child Labor by Federal Legislation

Forrest R. Caldwell

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THE REGULATION OF CHILD LABOR
BY FEDERAL LEGISLATION

A THESIS SUBMITTED TO THE GRADUATE
COMMITTEE IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS

BUTLER UNIVERSITY
1929
ACKNOWLEDGEMENT

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CHAPTER I

INTRODUCTION

Statement of the problem. Within the last decade the people of the United States have been endeavoring, through recognized legislative channels, to decide the problem as to whether the federal government of the country, acting through the medium of an amendment to the United States Constitution, should be commissioned to assume responsibility for the protection of the welfare of all children, and to control the working activities of these children during the periods of childhood and adolescence. This problem was of sufficient significance not only to attract the passing attention of the organs of public expression, such as newspapers and periodicals, but also to command the active intervention of educators everywhere.

Inasmuch as we are now somewhat removed in point of time from the issue, and as a result have a clearer and less perverted perspective, the factors involved in the matter of federal legislation on the subject of child labor lend themselves better at this time to unprejudiced study.

Many articles have been written and a great many studies and investigations have been made on the various phases of the general problem of child labor.*

* These articles are listed in the bibliography at the end of this treatise.
But these contributions were made principally before the climax of the amendment campaign or during the campaign, and were concerned largely with such matters as the extent of child labor in various parts of the country and in various industries, its relation to school and delinquency, and the progress of child labor and attendance laws. Literally, and in truth, after the echoes of the amendment battle had cleared away, very few contributions of merit have appeared.

**Purpose of Study.** The purpose of this study is two-fold: (1) to find out what has been the history of federal legislation having for its object the effective control of child labor, and (2) to learn what the factors have been which have led to the defeat of federal legislation.

**Plan of Report.** To answer effectively the first question, the matter will be considered from a chronological standpoint, and for convenience the course of federal legislation is divided into three main divisions: (1) earliest history, (2) later history, and (3) most recent attempts at federal
legislation and control.

An investigation into the second phase of this study resolves itself into a discussion of (1) the causes and reasoning which actuated the attempts at federal legislation, and the causes and reasoning behind the adverse decisions of the Supreme Court of the United States, (2) the reasons advanced for the ratification of the proposed twentieth amendment, and (3) the reasons advanced for the rejection of the amendment.

Except in a brief explanation of the meaning of child labor as an institution and of the geographical and industrial extent of child labor, and an abridged exposition of the generally accepted inter-relationship existing between the problem of child labor and that of the universal education of all American children--digressions which are necessary in the orientation of our problem--this study is confined strictly to that phase of the child labor problem known as federal legislation.

Definition of Terms. Child labor commonly means, according to the federal census, any gainful
occupation in which children between the ages of ten and fifteen are engaged.¹ Gainful occupation is taken to mean work where the reward is of a monetary kind or of economic value. In addition there is another meaning in keeping with the educational viewpoint, expressed in the words:

"Child labor is the work that interferes with a full living of the life of childhood and with the best possible preparation for adulthood. It is a matter not only of effects but of hazards; and not only of effects and hazards, but of deprivations among which are the lack of suitable and sufficient schooling, the lack of suitable and sufficient play, and the lack of that kind and amount of work which is children's work as distinguished from child labor."²

Federal child labor legislation will refer to all legislative acts or attempts at enactment which have as their object, direct or otherwise, the control or regulation of the work of children during the childhood and adolescent stages of development. It will also be used in application to the attempted constitution-amending proceedings which as a matter of fact originated in congress and not in a constitutional assembly or convention as is permitted.

² Fuller, R. G. Child Labor and the Constitution, pp.2-3.
by the constitution of the United States. Federal legislation as used in this study also means any legislative instruments by which the federal government has sought to deal with the problem of child labor.

Sources and Limitations of Data. Data upon which this study is based consist of various kinds. Sources from which information has been drawn include newspapers, magazine articles, pamphlets of both scientific and propaganda origin, books, government bulletins and studies, reports of committees, debates, the Congressional Record, and some of the State Legislative Journals. As may be seen from these sources, some of the data are objective and others are subjective.

While the list of sources of data may appear to be voluminous, there are, nevertheless, many deficiencies and limitations which are somewhat serious. For instance, extreme care is necessary in the use of a great portion of the data, particularly newspapers, some magazine articles, and some pamphlets. As was suggested before, most of the
contributions of data were made before and during the course of the amendment campaign. Thereafter data are limited in number. In addition, on account of the deficiencies of state Legislative Journals which in most cases do not record the verbatim speeches, the resolutions, and hearings in the various legislatures of the states, it is impossible to gather together certain luminous source and interpretative material which would have been of great value. As a result of these deficiencies, the Legislative Journals reflect only the dispositions made of certain resolutions and introductions.

It is also significant that while so much has been contributed in the studies and investigations, both pro and con, dealing with the merits and disadvantages of child labor as an institution, so little has been contributed of research value on the matter of federal attempts at legislation.

Similar to the present-day agitation for the federal government to assume a more active interest in the universal and democratic education of all American children by having a national department of education added to the existing administrative
divisions at Washington, so this problem of federal child labor legislation has been a matter of educational concern as well as a matter of government, politics, and economics.
CHAPTER II

REASONS ASSIGNED FOR THE REGULATION OF CHILD LABOR

Present Status of Child Labor in the United States

According to the federal census reports, there were in 1880, 1,118,356 children ten to fifteen years old, employed in gainful occupations; in 1890, 1,750,178 children; in 1910, 1,990,225 children; and in 1920, 1,060,969 children so employed. These figures represent 16.8 per cent, 18.2 per cent, 18.4 per cent, and 8.5 per cent, respectively, of all the children between the ages of ten and fifteen.

In the light of these statistics, the following conclusions would apparently result: (1) that child labor was at its greatest height in 1910, (2) that child labor is on the decrease in the United States at the present time, and (3) that the problem is rapidly on the way toward elimination, especially since the figures show that child labor was cut almost in half during the period between the Thirteenth Decennial Census and the Fourteenth Census.

However, in accepting these statistics it should be remembered that (1) the census records of 1920 do not show the number of children working who are under ten years of age, (2) that the records do not give the number of children ten years or older who were
employed only during the summer vacation, and who were as a result reported as attending school on account of the enumeration being taken during the month of January, 1920.\[^1\] (3) that children spending more than half of their time at school are not listed as gainfully employed, and (4) that the employment of children was in a state of discouragement during the year 1920 when the census was taken, because the Federal Child Labor Tax Law was in effect at that time.\[^2\]

In referring to the apparent decrease in child labor as shown by the statistics, the Children's Bureau of the Department of Labor says:

"According to the United States Census Bureau, a large part of the decrease in the number of children reported in 1920 as employed is apparent rather than real. This is due primarily to a change in the census date from April 15 in 1910 to January 1 in 1920, a circumstance which explains largely the smaller number of children reported in 1920 as engaged in farm work and other seasonal occupations in which fewer children are employed in January than in the spring. Since by far the greater part (84.8 per cent) of the decline in the number of children reported at work in all occupations is due to the large decrease (54.8 per cent) in the number reported as

\[^1\] Children's Bureau, Child Labor, Bureau Publication No. 93, 1926, pp.12-13.

\[^2\] The Federal Child Labor Tax Law was in effect from April 25, 1919, to May 15, 1922.
employed in agricultural pursuits, clearly much of the decrease reported in 1920 can not be regarded as an actual reduction in the total numbers of children gainfully employed. In the nonagricultural occupations, however, much of the decline in the numbers of children reported as employed represents a real decrease, which may safely be attributed to conditions affecting directly and especially the labor of children. Chief among these are the enactment and strengthening of legal regulations, both state and Federal."

The Census of 1920 shows that 273,981 child workers were found in the South Atlantic division of the United States, consisting of Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida; that the East South Central division, consisting of Kentucky, Tennessee, Alabama, and Mississippi, was second in numbers with 221,342 children; and that the West South Central division, consisting of Arkansas, Louisiana, Oklahoma, and Texas, was third with 184,267 children. Approximately nine tenths of the agricultural child workers were reported from these same divisions, South Atlantic being first with 214,905, East South Central second with 196,620 and West South Central third with 158,187 children. In the manufacturing and mechanical

pursuits, the Middle Atlantic group, consisting of New York, New Jersey, and Pennsylvania, ranked first with 61,293 child workers; the New England division ranked second with 39,708; the East North Central division, comprising Ohio, Indiana, Illinois, Michigan, and Wisconsin was third in rank with 30,152 and the South Atlantic division was fourth with 26,304 child workers. From the figures of the last census, it appears that child labor is limited to no one part of the nation, although it is found in greater proportions in the south than in other sections of the country, with the exception of Rhode Island. The degree of child labor in the south is attributed to the belated industrial development which has been characteristic of that section.

Of the 1,060,858 children reported by the last census as employed in gainful occupations, the males predominated, the total number being 714,248 or 11.3 per cent of all boys in the United States. There were 357,610 girls so employed, representing 5.6 per cent of the 6,206,567 girls listed in the census.  

Child Labor in Industrial and City Centers

The total number of children of both sexes reported by the census of 1920, in nonagricultural pursuits by kinds of work in which engaged are shown by the following table: 6

TABLE I

OCCUPATIONS OF CHILDREN 10 TO 15 YEARS OF AGE IN NONAGRICULTURAL PURSUITs

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Number of Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing and mechanical industries</td>
<td>185,337</td>
</tr>
<tr>
<td>Clerical occupations</td>
<td>80,140</td>
</tr>
<tr>
<td>Trade</td>
<td>63,358</td>
</tr>
<tr>
<td>Domestic and personal service</td>
<td>54,006</td>
</tr>
<tr>
<td>Transportation</td>
<td>18,912</td>
</tr>
<tr>
<td>Extraction of minerals</td>
<td>7,191</td>
</tr>
<tr>
<td>Professional service</td>
<td>3,465</td>
</tr>
<tr>
<td>Public service (not elsewhere classified)</td>
<td>1,130</td>
</tr>
<tr>
<td>Total nonagricultural pursuits</td>
<td>413,549</td>
</tr>
</tbody>
</table>

The proportion of children of both sexes working in manufacturing and mechanical industries is shown in the table below:\(^7\)

**TABLE II**

PROPORTION OF CHILDREN AMONG ALL WORKERS IN MANUFACTURING AND MECHANICAL INDUSTRIES

<table>
<thead>
<tr>
<th>Industry and occupation</th>
<th>Number of children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total laborers and semi-skilled operatives</td>
<td>164,064</td>
</tr>
<tr>
<td>not otherwise specified</td>
<td></td>
</tr>
<tr>
<td>Building and hard trades</td>
<td>7,476</td>
</tr>
<tr>
<td>Chemical and allied industries</td>
<td>2,158</td>
</tr>
<tr>
<td>Cigar and tobacco factories</td>
<td>4,938</td>
</tr>
<tr>
<td>Clay, glass and stone industries</td>
<td>4,968</td>
</tr>
<tr>
<td>Clothing industries</td>
<td>11,757</td>
</tr>
<tr>
<td>Electrical supply factories</td>
<td>1,892</td>
</tr>
<tr>
<td>Food industries</td>
<td>9,934</td>
</tr>
<tr>
<td>Iron and steel industries</td>
<td>12,904</td>
</tr>
<tr>
<td>Other metal industries</td>
<td>3,766</td>
</tr>
<tr>
<td>Lumber and furniture industries</td>
<td>10,585</td>
</tr>
<tr>
<td>Paper and pulp mills</td>
<td>1,273</td>
</tr>
<tr>
<td>Paper box factories</td>
<td>1,790</td>
</tr>
<tr>
<td>Printing and publishing</td>
<td>4,023</td>
</tr>
<tr>
<td>Rubber factories</td>
<td>2,106</td>
</tr>
<tr>
<td>Show factories</td>
<td>7,545</td>
</tr>
<tr>
<td>Tanneries</td>
<td>781</td>
</tr>
<tr>
<td>Textile industries</td>
<td></td>
</tr>
<tr>
<td>Cotton mills</td>
<td>21,875</td>
</tr>
<tr>
<td>Knitting mills</td>
<td>7,991</td>
</tr>
<tr>
<td>Silk mills</td>
<td>10,023</td>
</tr>
<tr>
<td>Wollen and worsted mills</td>
<td>7,077</td>
</tr>
<tr>
<td>All other textile mills</td>
<td>21,519</td>
</tr>
<tr>
<td>All other occupations (including apprentices)</td>
<td>21,273</td>
</tr>
</tbody>
</table>

There are facts which lead the investigator to the conclusion that child labor has been on the increase since the census of 1920, regardless of whether the census reports show accurately the full extent of the institution of child labor.

For one thing, since the federal child labor law was in effect in 1920, child labor would tend to increase when the restrictions of the federal law were removed in 1922, due to the law's unconstitutionality. Again, 1920 was marked by a rather serious industrial depression which would have a tendency to discourage employment of children, but the returning prosperity and the resulting demand for labor of all kinds later on would bring an increase in child employment. It was found by agents of the Children's Bureau and of the National Child Labor Committee that since 1922, in addition to the increased employment of children, lower standards as regards working hours and the minimum age limit were prevailing, and that local authorities were finding it increasingly more difficult to enforce the state statutes since federal
regulations had been set aside.\(^8\) It is also assumed by some authorities that many of the cotton manufacturers of New England are extending their production activities to some of the lower states of the south so they might take advantage of the opportunities for child employment, made possible by the lower state standards prevailing there.\(^9\) Percentages of increase in child labor employment are reported in many of the large cities.\(^10\)

While the census gives 20,706 newsboys between ten and sixteen years of age working in the streets, there are reasons for believing that in reality more are found in this class of workers.

"If we add to the newsboys the bootblacks, the errand, delivery and messenger boys, the vendors of chocolate, chewing gum, and shoe-strings, the market-stand helpers, and all the rest of the young traders and employees, we shall obtain a figure somewhere between 200,000 and 300,000 as the number of children under sixteen spending a large or at least a very considerable part of their time in street work."\(^11\)

\(^{(8)}\) Fuller, R. G. Child Labor and the Constitution, pp. 10-11  
\(^{(9)}\) Ibid.  
\(^{(11)}\) Fuller, R. G. Child Labor and the Constitution, p. 77.
Industrial home work seems to have been prevalent in manufacturing centers, especially in the industrial East. According to an investigation of the Federal Children's Bureau in 1918, it was found that in some of the cities of Rhode Island 7.6 per cent of all the children between the ages of five to fifteen had at some time performed home work of an industrial nature.12

Great numbers of children who should be in regular attendance at school are found working in pool rooms and bowling establishments, and being exploited as movie picture actors and actresses, and as stage actors.13

In the textile industries, according to the census figures, there has been a decrease in child labor from 77,967 in 1910 to 54,649 in 1920. This decrease has been due to the raising of the state standards and to the operation of the federal law from 1919 to 1922.

Use of child labor in the mining industry also decreased in the decade from 1910 to 1920 from 18,090 to 7,191, which was approximately 60 per cent.14

(12) Children's Bureau, Industrial Home Work of Children—A Study Made in Pawtucket, Providence and Central Falls, Rhode Island, Bureau Publication No. 100, pp. 11-14
(13) Fuller, R. G. Child Labor and Constitution, pp. 93-98.
The extent of child labor in agriculture is shown by the following table which represents the total for both sexes:\(^{15}\)

### TABLE III

**TOTAL CHILDREN 10 TO 15 YEARS OF AGE IN AGRICULTURAL PURSUIT**

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Number of children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural pursuits, forestry, and animal husbandry</td>
<td>647,309</td>
</tr>
<tr>
<td>Farm labor (home farm)</td>
<td>569,824</td>
</tr>
<tr>
<td>Farm labor (away from home)</td>
<td>63,990</td>
</tr>
<tr>
<td>Other pursuits</td>
<td>13,495</td>
</tr>
</tbody>
</table>


Numerous other studies which show the seriousness of the extent of child labor in the United States have been made by the Federal Children's Bureau. \(^{16}\) Therefore, taking all the evidence available into consideration, a conclusion based upon our evidence seems to warrant the investigator in deciding that child labor has continued to exist as a formidable institution.

\(^{16}\) Children's Bureau, Publications Nos. 36, 115, 128, 129, 130, 132, 134, 151, 155, and 168.
Child Labor and its Relation to Education

Franklin H. Giddings, in discussing the social and legal aspect of compulsory education and child labor before the National Educational Association in 1905, has stated clearly the close relationship between education and the institution of child labor when he declared that "The educational problem and the industrial problem cannot be separated."\(17\)

This relationship is being further recognized by state legislatures as well as by educators, in the enactment of laws. In this way the State of Indiana passed a compulsory attendance law and a child labor law written together in one chapter, the first seventeen sections dealing with compulsory attendance, and the last eleven sections with child labor.\(18\)

Due to this direct and interlocking relationship, many of the fundamental and commonly recognized educational problems have their origin and impetus in the widespread employment of children. While the existence of every educational problem cannot by

\(17\) Giddings, F. R. Abstract of Address, in Addresses and Proceedings of the National Education Assoc. in 1905, p. 111.

\(18\) Indiana Acts of 1921, Section 19, Chapter 132.
any means be fully explained in terms of child work in gainful occupations, nevertheless, many of these problems assume a more serious aspect on account of the prevalence of child labor. For instance, bad attendance, low scholarship, retardation, delinquency and withdrawals from school are general examples.

Since the occupational census does not give us statistics as to the extent to which child labor interferes with school attendance, facts concerning this phase are gained from numerous studies which have been made. These studies show that in the rural regions especially, farm work is one of the important causes of the shorter school term, the more irregular attendance, and the greater retardation of pupils in comparison with urban communities.

The Children's Bureau has made a series of investigations of the effect of child labor on both school attendance and retardation. In a study of rural child labor in North Dakota, it was found that more than half of 845 children who worked on farms, had been absent more than 20 school days out of the year.
Almost one-third had been absent more than 40 days, while nearly one-fifth had been absent at least 60 days. Seven percent had been absent 60 or more days, and 28 percent had missed at least a school month to work on the farm.19

In another study conducted in Anne Arundel County on Maryland truck farms, it was found that "Over two-fifths of the 124 white children and three-tenths of the 196 negro children who were enrolled in school and who reported on absence, had been absent for farm work. Of the white children 15 percent and of the negro children 11 percent had stayed out for work on the farm 30 or more days or six weeks."20

Likewise the National Child Labor Committee has found similar facts in a number of surveys. As an instance, in certain farming sections of Colorado, in a study of 650 children, "57.7 percent of the children had been out for work; over two-fifths of them (41.5 percent) for no cause

(20) Channing, Alice, Child Labor on Maryland Truck Farms, Children's Bureau, Publication 123, p. 18.
other than work.\textsuperscript{21} Taking all the records of all the children included in the study, which included a total of 1,714 children, it was found that over one-third (36.2 per cent) had been out of school for work.\textsuperscript{22}

Again, in the sugar beet growing sections of Colorado it was found that "children of compulsory school age belonging to beet-working farm families had one chance in three for perfect school attendance during harvest, as against those of non-beet-working families,"\textsuperscript{23} and that out of 1,652 contract labor children (labor which contracts with a grower to do hand work on beets) "there were 1,341 children of compulsory school age who lost on the average of 33 out of 58.7 school days or 6.6 weeks out of the first 11.7 weeks of school."\textsuperscript{24}

\begin{itemize}
\item \textsuperscript{(21) Bibbons, C. E. and Bell, H. M., Children Working on Farms in Certain Sections of the Western Slope of Colorado, National Child Labor Committee, p. 89.}
\item \textsuperscript{(22) Ibid.}
\item \textsuperscript{(23) Brown, Sargent and Armentrout, Children Working in the Sugar Beet Fields of Certain Districts of the South Platte Valley, Colorado, National Child Labor Comm. p. 123.}
\item \textsuperscript{(24) Brown, Sargent and Armentrout, Children Working in the Sugar Beet Fields of Certain Districts of the South Platte Valley, Colorado, National Child Labor Committee, 1925, p. 123.}
\end{itemize}
The working of children who ought, according to standards of education and of compulsory education laws, to be in regular attendance in school is general not only on farms and in rural communities, but also in cities and industrial centers, though probably in somewhat lesser degree. So apparently serious is the matter of child labor in some cities that very often children are permitted to spend a fraction of their time at school in doing a part of their industrial home work. 25

In the city canning communities of the Gulf Coast it was found in one case that "Of 649 children from 6 to 13 years of age, 255—or 41 per cent—did not attend, more than half also worked in the canneries; in consequence, many went irregularly. One hundred and six children from 6 to 15 years of age had never been to school." 26

Delinquency appears more commonplace among child workers than among non-working groups. Of

4,278 delinquent boys and 561 delinquent girls studied by the Bureau of Labor, 56.5 per cent of the boys and 62.2 per cent of the girls were working children. Thus the delinquent workers were disproportionately numerous. Of the "repeaters" 65.8 per cent were working children. Of the boys employed, 21.93 per cent were newsboys and 17.8 per cent were errand boys. Of the girls 53.95 per cent were in domestic service and 12.36 per cent were employed in the industries. 27

Retardation and failure of promotion are very marked among children performing child labor, especially in rural areas. As an instance, almost three-tenths of the home-working children in Rhode Island between 9 and 13 years of age were retarded, one-tenth of them being two or more grades below the very conservative standard adopted as a measure of retardation at their various stages. "The percentage of retarded children was least, less than one-fifth among the nine-year old children, increasing

with each year of age until at 13 years more than two-fifths of all the child home workers who reported their grades were found to be retarded, over half of them two or more years."22

In the best field region of Colorado, the "grade standing of 3,631 children showed that 145 or 4.0 per cent were accelerated; 1,891 or 52.1 per cent at age; and 1,595 or 43.9 per cent, retarded. Of 1,698 contract labor children, 25 or 1.5 per cent were accelerated; 647 or 38.1 per cent, at age; 1,026 or 60.4 per cent, retarded. Of 1,933 farm children, 120 or 6.2 per cent were accelerated; 1,244 or 64.4 per cent, at age; 569 or 29.4 per cent, retarded."23

Alice Channing in reporting for the Children's Bureau the study of child labor of the Maryland truck farms in Anne Arundel County, makes the statement "When the irregular attendance is taken into consideration it is not surprising to find that 50 per cent of the white and 71 per cent of the

negro children between the ages of 8 and 16 were below average grades for their ages. 

Furthermore, among children leaving school, considerably more than half of those withdrawing were over age when they withdrew. In only a very few cases were children above the average grade for their age. The percentage of retardation of those who leave school is more than twice as great as that among children who are in school.

While it might seem from the foregoing that most of those children performing child work are retarded, it must not be assumed that all children withdrawing from school are below the average in intelligence and are mentally deficient, in the face of tests of retarded children. In support of this view there are the following facts:

1. Many of the brighter pupils do not always progress in school when they are absent much of the time;
2. Bad adjustment between tastes, aptitude, and special abilities as opposed to the curriculum handicaps many pupils;
3. Frequently mental retardation may be only transitory and not permanent,

(31) A study of 810 pedagogically retarded pupils of whom 53 per cent were found mentally under age, reported by R. G. Fuller in Child Labor and the Constitution, p. 153.
a condition sometimes classified as dullness and brought about by poor physical condition or lack of contact with abilities and interest.

Facts as to why many children withdraw from school and subsequently become child workers may be gathered from the following table which is taken in part from a more complete table summarizing the information gained in a federal study of working children of Boston: 32

**TABLE IV**

**REASONS FOR CHILDREN LEAVING SCHOOL**

<table>
<thead>
<tr>
<th>Reasons for leaving school. (Both sexes)</th>
<th>Number of Children</th>
<th>Per cent Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic reasons</td>
<td>333</td>
<td>40.5</td>
</tr>
<tr>
<td>All other Reasons</td>
<td>408</td>
<td>49.6</td>
</tr>
<tr>
<td>Discontent with school</td>
<td>166</td>
<td>20.2</td>
</tr>
<tr>
<td>Disliked school or teacher</td>
<td>100</td>
<td>12.1</td>
</tr>
<tr>
<td>Slow progress or non-promotion</td>
<td>66</td>
<td>8.0</td>
</tr>
<tr>
<td>Finished eighth grade and did not wish to go to high school</td>
<td>33</td>
<td>4.0</td>
</tr>
<tr>
<td>Other reasons</td>
<td>209</td>
<td>25.4</td>
</tr>
<tr>
<td>Child wished to work</td>
<td>101</td>
<td>12.3</td>
</tr>
<tr>
<td>Parent wished child to work</td>
<td>45</td>
<td>5.5</td>
</tr>
<tr>
<td>Illness of child</td>
<td>12</td>
<td>1.5</td>
</tr>
<tr>
<td>Illness in family</td>
<td>10</td>
<td>1.2</td>
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<tr>
<td>Other reasons</td>
<td>41</td>
<td>5.0</td>
</tr>
<tr>
<td>Not reported</td>
<td>82</td>
<td>10.2</td>
</tr>
<tr>
<td>Total</td>
<td>823</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The Children's Bureau summarizes similar information of this kind when it reports that 48.9 per cent of 620 children who left school to go to work were not satisfied with their school work, and that their attitude ranged from mere dislike to a positive hatred of everything concerned with schools. And again, nearly 30 per cent of 179 children who were under 16 years of age who worked in Waltham, Mass., gave dislike of school the main reason for leaving it.33

Some Recent Educational Trends in the Solution of the Problem of Child Labor

In the light of the information available concerning the frequently given reasons for leaving school and entering industry, it is evident that the teachers, the administrative organizations, and the curricula of schools are not entirely blameless in their share of responsibility for school leaving for the purpose of work. In the realization of this failure of the school to measure up to the heighth

of its educational responsibility, certain
definite school measures are being undertaken
throughout the country which show quite clearly
the trends in the solution of some of the phases
of the problem of child labor.

Emphasis upon vocational guidance both in
school and in community placement departments
is being recognized as a practical method not
only of pointing out to would-be school leavers
the undesirable features of various contemplated
employments, but also of helping them to secure
the school training best suited to their ability
and tastes. It may also provide the kind of
training essential to the needs of present-day
life. In many cases, assisting the child to
become interested in practical and appealing
industrial training has been found to give in-
centives for finishing the elementary school and
to eliminate dissatisfaction toward school and
things connected with it. The Philadelphia
Junior Employment Service, conducted in close
co-operation with the Board of Education, assists
the schools in the solving of the school-leaving
What are some of the recognized aims, principles, and methods of vocational guidance, placement, and supervision which are coming into use in the solving of this problem of child labor? The aims are to assist children through proper supervision in the choosing, preparation, and entrance into the occupations for which they are suited both by abilities and tastes, so that they may be of maximum service to society; to encourage a more varied program in school so that each child may obtain the kind of education suited to his needs and capacities; and to articulate the work of the school with the life of the community.

As a principle of this direction, educational guidance must precede vocational guidance, as in this way the amount and kind of education may be selected according to his general intelligence. Vocational guidance must also function during the period of compulsory attendance at school. Each child should be carefully studied as to his characteristics, abilities, and tastes. The guidance

(34) Fuller, R. J. Child Labor and the Constitution, p. 177.
of pupils should be vocationally directed not only by persons having broad and accurate knowledge, but by persons knowing where all necessary information can be found. In addition, the actual choice of an occupation should be made by the person being guided.

Some of the ways in which vocational information is being imparted to school children include:

1. Definite attempts in each school subject to show the relation between that subject and occupational problems.
2. Assembly talks on vocations.
3. Distribution of pamphlets on occupations, which can be easily understood by parents and children.
4. Periodic interviews with the individual child.
5. Surveys by children of local vocational openings, or of occupations into which their friends have gone, and of the results.
6. Occupational classes in which vocations are made the subject of study.
7. Trade and commercial tests, consisting of a few weeks' experience in various occupations in trade and commercial classes.
8. Part-time work plans by which the child, while still in school is enabled to try himself out at practical work. The child's development, and not the needs of industry, should be the first aim in this practice.

The Vocational Bureau of Chicago has a record of keeping many children in school during the period up to 16 years of age. The practice of having a vocational counselor in every school and the introduction of definite courses in the study of vocations is becoming almost universal throughout the various states of the Union. In a system of vocational guidance, it is of utmost importance that the peculiar health dangers of various kinds of work to children, and the physical defects and ailments of the children should receive sufficient attention.

In the placing of youths in occupations, present-day practice demands that all the juvenile placement agencies should be co-ordinated with the school system. In addition, the placement agency should continue to a certain extent the guidance begun by the school, and the child's best interest must not be made subservient to the finding of a job. When the child has secured the job, the placement bureau should continue the supervision of the child so in case the work is not fitted to the child he may be removed before discontent or discouragement sets in.
In this way any misunderstandings between employer and employee may be cleared up, and the child may be advised concerning promotion at school, further training, or advanced study.

The continuation school is coming into prominence in the anticipation that it will remedy the situation wherein child laborers leave school to work and do not return to school again. As many children after having left school do not return to school when unemployed but spend their time in idleness and freedom from school routine and discipline, some states have laws whereby such students not employed must return again to school. This brings the question of what kind of school the child should attend. The continuation school exists for such children and is of a special nature. Attendance is compulsory in these schools in some states under conditions just described. Other states have laws requiring attendance at part time continuation schools after the granting of work certificates until the compulsory education age limit is reached. It is thought that the continuation schools accomplish two purposes: (1) the continuation of the education
of children when the work-certificate age is reached and
(2) the holding of children under the supervision and
control of the school authorities during the critical
years of their child labor.

The continuation school offers an additional
opportunity to correlate school instruction with out-
side work, to give vocational counsel and guidance,
and to allow health supervision and examination.
The Wisconsin school law provides for half time
continuation school attendance on the part of
those leaving school, school attendance being all
day on alternate weeks. Indiana also has vocational
education laws which make provision for the enforced
attendance of children 14 to 17 years of age when
employed during the day, providing that such schools
shall have been established. Vocational industry
classes are now established in thirty Indiana cities.

Administration of rural schools and the improve-
ment of instruction in such schools are tending to
encourage school attendance and to discourage to
some extent the child labor so prevalent there.
County Superintendents with more professional qualifi-
cations are now being appointed; consolidated schools

(36) Laws of Indiana relating to the Schools of Indiana
1927, Sections 579, 580, 581, 582, 583, 584, 585, 586.
are supplanting the one-room buildings; teachers have increased in numbers; and the pay of teachers has increased greatly. Under the terms of the Smith-Hughes Act the national government is assisting the states to develop their communities educationally as well as agriculturally through vocational training. This is possible because federal aid is granted to the states for the teaching of agricultural, industrial, and home economics subjects and for the training of teachers of these subjects. As hundreds of communities are taking advantage of the provisions of this act, many potential child-workers are being induced to continue in school longer.

In some cities the scholarship plan is being followed for keeping the child worker in school. Usually the work is sponsored by civic organizations which become interested in the welfare of children who are working, although under the legal age, or who show unusual promise educationally. By the allotting of a weekly cash scholarship many children are encouraged to remain in school, inasmuch as the scholarship, although a pittance, represents about what the economic value of the child's work would equal.

As a nation-wide result of the need of providing additional educational opportunities for those
children who have already left school to work or who are contemplating such action, many state laws have been enacted requiring children to attend some kind of school until they are 14 to 16 years of age and requiring in some cases attendance in continuation schools until from 16 to 18 years of age. In 1926, of the states requiring attendance at all-day schools, 8 states kept children in school until 16 years of age (with certain provisions), 6 states until 17 years, 26 states until 16 years, 1 state until 15 years, and 5 states until 14 years.

In addition there were in 1926 legal employment certificate regulations. Completion of the eighth grade before employment certificates may be granted was required in 8 states and in the District of Columbia; completion of the eighth grade or English literacy, and evening school attendance were required by one state; completion of no grade specified but proficiency in certain subjects, required by seven states, and no educational requirements in eleven states consisting of Louisiana, Mississippi, Missouri, Nevada, New Mexico,
North Carolina, South Carolina, Tennessee, Texas, Virginia, and Wyoming.37

SUMMARY. Although child labor appeared to have assumed lesser proportions numerically at the time of the last census (1920) over that of the preceding census (1910), there are grounds for believing that the institution is still as vigorous, and flourishing as in 1920. While child labor seems to exist much in street work, in textile mills, canneries, mines and in domestic home work, the greater amount is performed in the rural or agricultural sections of the United States, where it seems to be most strongly rooted.

Child labor in both rural and industrial sections accentuates, if it does not actually produce, many time-worn educational problems and difficulties, like poor attendance which results in poor scholarship, and delinquency, and withdrawals from school. Mental deficiency alone does not explain all cases of retardation.

Schools are beginning to assume a share in the attempted solution of the problem of child

[37] Children's Bureau, Child Labor--Outline for Study. p. 34.
labor. Vocational guidance both in school and out of school is being practiced. The continuation school with its forced attendance, is attempting to form a connecting link between further school training and the realities of industrial life. The schools themselves are undergoing revolutionary changes in administration, in supervision, and in the types of instruction offered. Philanthropy is also beginning to contribute to the solution by the distribution of monetary scholarships in deserving cases.

The majority of State legislatures have tried to remedy local conditions in some degree through statutes, but eleven states have failed to enact regulatory laws. The provisions of child labor and compulsory education laws now fix educational and minimum age standards as well as the physical health standards and an environment of suitable working conditions.
CHAPTER III

REALIZING THE NEED FOR FEDERAL LEGISLATION

In our previous discussion we have seen how child labor has continued to exist in most of the industries requiring a minimum of unskilled labor and in the agricultural sections of the country. In the attempt at solving the problem distinct educational trends were noticeable. We have also seen how many of the several States have enacted child labor and compulsory school attendance laws to regulate the employment of children.

While it is not within the scope of this study to review the history of child labor legislation in the several States, it is easily perceived how a problem of such magnitude and such geographical extent would not be treated uniformly by each of the forty eight states. As the standards of regulating child labor in the states varied greatly, it gradually became a common practice of those persons interested in child labor reform to transfer their
reform activities to the national government.

In this chapter we shall trace the development of these earliest attempts to secure child labor regulation by the federal government. Also, we shall see how the earliest isolated ideas of federal regulation ultimately grew into a system of child labor reform reasoning.
Earliest Political Attention Given to Child Labor

It is a well-known historical fact that much legislation enacted in recent times dealing with social problems, has come about through two stages of development: (1) by being advocated and agitated in the beginning by the smaller and less important groups and parties, and (2) by having the ideas appropriated later on by the major and more dominant parties which proceed to enact the issues into suitable laws. These two stages are characteristic of federal child labor legislation in the United States.

Control of child labor was first noticed nationally in a political way in 1876 when the Prohibitionists appeared in their second presidential campaign and advocated in their platform "The establishment by mandatory provisions in National and State Constitutions, and by all necessary legislation, of a free public schools for the universal and forced education of all the youth of the land." 1 Although

this reference to child labor was indirect, it
contained the inference as to how things detri-
mental to universal education might be eliminated.

In the presidential campaign of 1880, the
Greenback Party was more specific as to child labor
and declared that "the employment of children under
fourteen years of age (should be) forbidden." In
the next national campaign which occurred in 1884 this same
party, appearing under the name of Greenback National Party,
demanded that the conditions of labor should be ameliorated
by the enforcement of the sanitary laws in industrial estab-
ishments, by the abolition of the convict system, by rigid
mine and factory inspection, by a reduction of the hours of
labor in industrial establishments, "by the abolition of
child labor and by fostering educational institutions." Up
to this time no federal legislation had been attempted,
but between this campaign and the one following in 1888
one child labor resolution was introduced in Congress.¹

In 1888, the American Party reflected its educational ideas when it resolved in its platform "That we favor educating the boys and girls of American citizens as mechanics and artisans, thus fitting them for the places now filled by foreigners, who supply the greater part of our skilled labor, and thereby control the great industries of our country, save, perhaps, that of agriculture alone; and that our boys and girls may be taught trades, we demand the establishment and maintenance of free technical schools." In the same year, the Unionist Labor Party stated that "the foundation of a republic is in the intelligence of its citizens, and children who are driven into workshops, mines, and factories are deprived of the education which should be secured to all by proper legislation." The United Labor Party declared that it favored such legislation "as may tend to reduce the hours of labor, to prevent the employment of children of tender years.....

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The Democratic Party in 1892 recognized the problem of child labor for the first time when it declared in its platform, "We are in favor of the enactment by the States of laws for abolishing the notorious sweating system, for abolishing convict labor, and for prohibiting the employment in factories of children under 15 years of age."\(^8\)

The Socialist Labor Party, in order to improve the immediate conditions of labor, demanded in its platform "School education of all children under fourteen years of age to be compulsory, gratuitous, and accessible to all by public assistance in meals, clothing, books, etc., where necessary"; also, "Prohibition of the employment of children of school age."\(^9\)

In 1896, no major party championed the cause of child labor reform legislation, but the Socialist Labor Party continued in its platform the demands of 1892. In 1900 the employment of children is nowhere mentioned or suggested in the platform declarations of the eight parties participating in the campaign of that year. War issues and the

\(^{8}\) Porter, National Party Platforms, p. 165.
\(^{9}\) Porter, p. 179.
national questions of imperialism appear to have crowded out of the platforms many of the matters usually receiving attention in such a campaign.

**Early Legislative Proposals.**

Mr. W. H. Cole of Maryland was the first legislator to attempt the bringing of child labor under federal law. On February 1, 1886, he introduced in the House of Representatives a bill "regulating the employment of children in factories and workshops."\(^\text{10}\) This bill was read twice, referred to the Committee on Labor and ordered to be printed, but never became the subject of a vote. No further attempt at federal legislation appeared until December 12, 1902, when Representative John F. Shafroth from Denver, Colorado, introduced a bill "for the establishment of a board for the protection of children and animals,"\(^\text{11}\) which was referred to the

\(^\text{10}\) 49th Congress, Congressional Record, Vol. 17, Part 2, p. 1054.

Committee on Judiciary. On November 16, 1903, Mr. Shafroth again introduced the bill and it was once more referred to the Committee on Judiciary where it seems to have remained.\(^\text{12}\)

On April 28, 1904, William S. McNarry of Boston, Massachusetts, introduced in the House of Representatives a resolution of enquiry relative to the employment of child labor.\(^\text{13}\) This resolution was referred to the Committee on Labor.

In the national election of the same year (1904) the People's Party stated in its platform of principles: "We favor the enactment of legislation looking to the improvement of conditions for wage earners, the abolition of child labor, the suppression of sweat shops........\(^\text{14}\) The Socialist Party platform stated its principles in the words, "To the end that the workers may seize every possible advantage that may strengthen

\(^\text{13}\) 48th Congress, Second Session, Congressional Record Vol. 38, Part 6, p. 5851.
\(^\text{14}\) Porter, p. 255.
them to gain complete control of the powers of government, and thereby the sooner establish the cooperative commonwealth, the Socialist Party pledges itself.....for the complete education of children, and their freedom from the workshop."15

During the third session of the 58th Congress, which was held in 1905, the matter of regulating child labor received more attention than formerly. Early in the session, Senator Henry Cabot Lodge introduced "a bill to regulate the employment of child labor in the District of Columbia," which was read twice and referred to the Committee on the District of Columbia.16 On January 8, 1905, Senator Jacob H. Gallinger of New Hampshire, introduced a similar bill to regulate the "employment of child labor in the District of Columbia, along with a paper introduced by Mr. Gallinger.17

The paper, submitted by Mr. Gallinger, was entitled "Some needs of Public Education in the District of Columbia," and consisted of a Memorial.

(15) Porter, p. 289.
to Congress from the Executive Council of the Public
Educational Association of Washington, "Indicating
Some Needs of Public Education of the District of
Columbia."\(^{18}\) In this paper the petitioners re­
quested a new compulsory education law based on
the laws of some 32 states which they viewed as
models, to supersede the educational law of 1864.
They pointed out the need for compulsory education
among both the foreign and American children.
They anticipated a greatly increased immigration
to the District so that the parents of children
might be able to exploit their offspring commer­
cially, which was impossible in the neighboring
states. The compulsory education bills before
Congress at that time were commended, and the
terms of the Massachusetts law were viewed with
satisfaction. They also recalled an address of
President Roosevelt in which he said that there
should be rigid child labor and factory inspection
laws for the city of Washington. More night schools

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\(^{18}\) Some Needs of Public Education, etc., Senate
Document No. 56, 58th Congress, 3rd Session,
were advocated for both whites and blacks.

During the same session, Mr. Llewellyn Powers of Maine, introduced into the House of Representatives a bill "to regulate the employment of child labor in the District of Columbia," which was referred to the Committee on District of Columbia.\(^{19}\)

In the next session of Congress which began in December, 1905, the regulation of child labor, first in the District of Columbia, and then over all the United States, frequently became the subject of debates and bills. Senator J. P. Dolliver of Iowa, introduced a bill "to authorize the Secretary of Commerce and Labor to investigate and report upon the industrial, social, moral, educational, and physical condition of women and child workers in the United States," which was read twice and referred to the Committee on Education and Labor.\(^{20}\) Representative J. J. Gardner of New Jersey introduced a bill identical in title on February 20, 1906, which was referred to the Union Calendar,\(^{21}\) and which was made a privileged

bill from the Committee on April 16, 1906.\footnote{22} Senator Gallinger introduced another bill "to regulate the employment of child labor in the District of Columbia," on December 6, 1905,\footnote{23} but his bill was reported adversely by the Committee and indefinitely postponed.\footnote{24} Senator Lodge introduced another bill on December 6, 1905, "to regulate child labor employment in the District of Columbia,"\footnote{25} but it was also reported adversely.\footnote{26} Senator L. Dubois introduced a bill which was amended in committee, but which did not progress further.\footnote{27}

In the House of Representatives, Adolph Meyer of Louisiana introduced a bill to regulate child labor in the District of Columbia,\footnote{28} but a bill which later became famous as H. R. 17838, was substituted for it and some other similar bills.\footnote{29}
House of Representatives bill No. 17838 was introduced by Mr. E. Morrell of Pennsylvania, for other bills in the Committee on the District of Columbia, and provided for the regulation of child labor in the District of Columbia. This bill was debated in the House of Representatives, and was amended, then passed in the House. It was then referred to the Senate Committee on Education and Labor, and then reported back with an amendment and debated again in the House on June 6, 1906. While being debated in the house, the subjects of discussion were the number of inspectors necessary to carry out the provisions in the District of Columbia, and the substitution of the United States government in the place of parental authority. It was then amended to apply to all children unless they had work certificates. In the Senate the debate was taken up with the question of what the functions of parents were in the employment of children. The bill was not passed but was permitted to go over into the next session.30

Attempts at child labor legislation continued when the 59th Congress assembled in second session in December, 1906, as in the preceding session. Some of the bills carried over from the previous session were disposed of and other bills were introduced. Senator Dolliver's bill providing for an investigation by the Secretary of Commerce and Labor, of the industrial, social, moral, educational, and physical condition of women and child workers in the United States was finally guided through the House of Representatives, and after being amended and debated was sent to the President of the United States for his approval. It was signed by him on January 29, 1907.31 The investigation authorized by Congress continued throughout the next three years. Congress also passed a bill incorporating the National Child Labor Committee, which was signed by the President on February 20, 1907.32

Senator Albert J. Beveridge of Indiana, introduced on December 5, 1906, a bill "to prevent the employment of children in factories and mines," which was read twice by title and referred to the Committee on Education and Labor. Representative Herbert Parsons of New York, on the following day introduced in the House of Representatives a similar bill with like title, which was sent to the Committee on Interstate and Foreign Commerce. These two bills became known together as the Beveridge-Parsons Bill.

A bill "to prohibit the employment of children in mines or factories without the owners thereof having a license therefor, and providing an annual tax for the employment of all such children, and a tax upon the products of such labor" was introduced by Representative C. N. Brumm of Pennsylvania. Shortly after this bill was introduced the House Committee on Judiciary made a report

concerning the jurisdiction of Congress over the subject of child labor. 36 Senator F. M. Simmons of North Carolina introduced a bill "to prohibit interstate common carriers from transporting certain articles of commerce made in factories or produced in mines in violation of child labor laws where said factories and mines are located." 37 Senator Lodge again introduced a bill "to prohibit the employment of children in the manufacture or production of articles intended for Interstate Commerce. 38

During the second session of the 59th Congress, House Bill No. 17838 the purpose of which was to regulate the employment of child labor in the District of Columbia, and which had been carried over from the first session, was debated altogether twelve times and attempts were made in both houses of Congress to amend the bill. Among these attempts was an amendment introduced by Senator Beveridge which would include all the rest of the country in addition to the District of Columbia where the bill

(37) Ibid., p. 1617.
(38) 59th Congress, 2nd Session, Congressional Record, Vol. 41, Part 1, p. 58.
was originally intended to apply. The bill as amended now provided for the prohibition of interstate commerce in the products of factories where children under 14 years should be employed, and provided appropriate penalties for the violation of the provisions of the bill.

Senator Beveridge became the most ardent proponent of the cause of child labor reform, and as a result he made, in support of the amended bill, his much-discussed three-day speech, in which he defended the bill and urged its passage. While his able discussion did not result in the passing of the bill, it shows clearly the reasoning back of these early attempts at legislation, and the grounds on which it was anticipated by the reformers that it could be passed by Congress.

Three-Day Speech of Senator Albert J. Beveridge of Indiana.

On January 23, 1907, Senator Beveridge began his famous speech in favor of amending bill No. 17638.

He called attention to the fact that he was seeking to amend the bill to include the rest of the country where the vice and crime of child labor existed more than in the District of Columbia, and that the country at large knew more about the prevalence of the shameful condition than the busy Senators. The bill was not aimed at the boys and girls working in agriculture who performed their work out in the open air, but rather at the 700,000 additional child workers of the recent census—which number he felt was too low—who were at work in mines, in factories, and in sweat shops. He estimated the real number of children so employed as one million, at least.

His object was to show the facts of child labor, next to state the legality of the proposed remedy, and then to show that the proposed law was within the power of Congress to enact and should be enacted. He undertook the demonstration of the facts of child labor by presenting sworn statements by investigators, authors, and reputable persons all over the country who were authorities on the facts of child labor employment. The sworn statements as to the conditions
of child labor were read into the Congressional Record, and covered employment in such industries as mills, glass factories, and coal "breakers."

Senator Beveridge's speech continued on January 28, 1907, and required on that day between four and five hours for delivery. He spoke of child labor in the silk mills, in the cotton and woolen mills of Maine, and of the children of foreigners in the mill towns of the East. The greatest human wastage of American children occurred in the southern mills, of which he gave many examples, where children of purest American strain were being employed, sometimes for ten cents per day. The child labor law of Georgia was criticized for its ineffectiveness because the welfare of the children of Georgia affects the welfare of the whole country.

In referring to the conditions of South Carolina which were in like manner substantiated by another mass of sworn statements, the effect of child labor on health was depicted. He cited the fact that during the Boer War England awakened to the seriousness of the health of those needed for military service.

(41) 59th Congress, 2nd Session, Congressional Record, Vol. 41, Part 2, pp. 1792-1826.
service because so many army rejections resulted from poor health, and that she set about to eliminate child labor there. The Royal Commission explained that the falling off of physical fitness in England was due to the fact that town-bred parents produce sui generis, and that their physical unfitness was due to child labor. Furthermore, child labor was existing in America in 1907 as it had existed in England in 1800. England was paying in 1907 the high price of physical unfitness of her citizens which was the direct result of her becoming, during the early part of the nineteenth century, the money center of the world through the employment of children in industry.

Child labor regulation must be national, because the state laws are not uniform, because the state laws are not sufficient and are violated when they are good, and because rich interests in the states prevent much legislation of the right kind. The south was warned that "whereas, the children of white working people of the south are going to the mills and to decay, the negro children are going to school
and to improvement."42 Labor was warned that "child labor tends to bring down manhood and womanhood wages to the child-wage level."43

Constitutionality of Proposed Law

Mr. Beveridge attempted to show how such a law as proposed was constitutional. This he did by going into the history of the constitution and of court decisions.

The federal constitution was adopted because it was necessary at the beginning to give Congress all the power over regulating commerce which the states formerly had. This power of the states was absolutely sovereign. Therefore the power of Congress was as complete and absolute over commerce as the state power was complete and sovereign over commerce.

Before the American Revolution, the English power to regulate colonial commerce meant the power to prohibit it as was shown by the twenty-seven prohibitory acts of commerce regulation which prevented certain commerce. Since the makers of the Constitution had the idea that to regulate commerce meant to prohibit it, the resulting power of Congress became very broad, as was shown by the

[43] Ibid.
decision of the United States Supreme Court in United States vs. Coombs.\textsuperscript{44} In this case the power of Congress over interstate commerce was shown to be the same as over foreign commerce, by the decision of John Marshall: "This power (to prescribe the rule by which commerce is to be governed)...is complete in itself and may be exercised to its fullest extent, and acknowledges no limitations other than are prescribed in the constitution," and furthermore, "the power over Commerce with foreign nations and among the several states is vested in Congress as absolutely as it would be in a single government."\textsuperscript{45}

In United States vs. Marigold, the decision held that "every subject falling within the legitimate sphere of commercial regulation may be partially or wholly excluded when either measure shall be demanded by the safety or the important interests of the entire nation."\textsuperscript{46}

Congress was once proven to have the right to prohibit the introduction of whiskey made of corn

\begin{footnotes}
\item[44] U. S. vs. Coombs, 12 Peters, p. 78.
\item[45] Gibbons. vs. Ogden, 9 Wheaton, 1.
\end{footnotes}
into a state. 47 In the Rahrer case the decision of the Supreme Court meant that if a state had a law prohibiting the sale of anything, and if Congress should put all subjects of interstate commerce under the state laws, then Congress has prohibited and excluded from interstate commerce that article.48

This exposition of the right of Congress to control interstate commerce was intended by the Senator to show that Congress has the power to prohibit any or all such commerce, but that it would not be policy of course, to prohibit all commerce.

On the following day which was January 29, 1907, Senator Beveridge continued again his speech as to why Congress should, and did have the power to, prohibit interstate commerce consisting of articles manufactured or produced by child labor.49 He presented more sworn statements certifying that deplorable conditions of child labor were prevalent in different parts of the country, and then took up the court decisions proving that Congress does have the necessary power to enact a child labor law.

48 In re Rahrer, 140 U. S., 545.  
In the case *U. S. vs. Brigantine William*, it was held that the power of regulation implies limitations, and that the extent of prohibition is adjusted at the discretion of the national government to whom the subject appears to be committed. The question as to what was in the minds of the framers of the constitution seems to have been settled by the Supreme Court in the *Addyston Pipe Case* when it said that the reasons which may have caused the framers of the constitution to repose the power to regulate interstate commerce in Congress does not affect or limit the extent of the power itself.\(^{50}\)

In the *Lottery Case* it was held among other things that there is no constitutional definition of a legitimate regulation of interstate commerce, that the power to regulate is the power to prescribe the rule by which it is to be governed, that the constitution does not give the means by which the power may be expressed, that the means are discretionary to Congress in exerting its power, and that Congress may provide that commerce shall not be polluted by the carrying of lottery tickets.\(^{51}\)

\(^{50}\) *Addyston Pipe Co. vs. U. S.*, 175 U. S. 228.

\(^{51}\) *Champion vs. Ames*, 189 U. S., 321.
Senator Beveridge reasoned therefore, that the power of Congress over interstate commerce is as great as its power over commerce among Indian tribes or with foreign nations. He personally believed the power of Congress to be very broad and that it is a matter of policy as to what articles it may be applied. He also believed that Congress has unquestioned power to exclude from commerce any article judged deleterious to the people of the United States, and which is inimical to the interests of the nation. In addition he understood that Congress could do indirectly what it could not do directly, and that the nature of an article was the source of the policy of Congress but not the source of the power of Congress.

To support his contention that the power over interstate commerce is identical with the power over foreign commerce, he cited the cases Gibbons vs. Ogden, Crutcher vs. Kentucky, Brown vs. Houston, and Stockton vs. Baltimore Railway Company.

[53] Crutcher vs. Kentucky, 141 U. S. 47.
Congress has frequently used its power of prohibition under the commerce clause of the constitution. In this way it has prohibited convict-made goods, the transportation of convict-made goods in interstate commerce, the importation of slaves, the importation of counterfeit coins, the importation of convict-made goods, the interstate transportation of explosives, the introduction or sale of dairy or food products falsely labeled or branded, the transportation of gold or silver goods marked U. S. Assay, the transportation of loose hay on passenger steamers, the interstate transportation of cattle without a certificate of inspection, the transportation of obscene books, and the transportation of quarantined cattle. All of these prohibitions were enacted into laws because Congress had the power to do these things, and the constitutionality has in most cases not been questioned. Furthermore, the power did not come from the evil in the thing prohibited, nor was there any question about the extension of federal power.

He showed that the question, "Where will this power to prohibit and to prevent end, when once admitted", has been settled by the Supreme Court when it held that the only restraint on the members of Congress is the influence of the constituents of the members at the
elections. To Mr. Beveridge the use of the power to prohibit articles from interstate commerce remained a matter of policy, and policy in this case meant the duty to pass the law.

In closing he said:

"Why, Mr. President, when I think about these things, I sometimes wonder what is the purpose of these 'free institutions' about which we talk so much. Why was it that this Republic was established? What does the flag stand for? Mr. President, what do these things mean? They mean that the people shall be free to correct human abuses. They mean that we shall have power to make this America of ours a lovelier place to live in. They mean the realities of liberty, and not the academics of theory. They mean the actual progress of the race in the tangible items of existence, and not the theories of dispute. If they do not mean these things, Mr. President, then our institutions, this Republic, and our flag have no meaning and no reason for existence."

Results of Senator Beveridge's Speech
The reasoning of Senator Beveridge marks a milestone in the early attempts to secure federal control of child labor by means of congressional legislation. The "regulation" of child labor as

(56) Gibbons v. Ogden, 9 Wheaton, 1.
described in Representative W. H. Col's bill of 1886 had come to mean the "prohibition" of child labor in 1907. And the prohibition of child labor by congressional action was now thought possible by Senator Beveridge under the interstate commerce clause of the Constitution and in keeping with the decisions of the Supreme Court. Henceforth in Congress, it is not the mere "regulation" of child labor which is desired, but rather the "prohibition" of child labor.

Regardless of the reasoning of Senator Beveridge and his explanation as to why Congress should pass bill No. 17888 which was intended to prohibit the employment of children under fourteen years of age in the District of Columbia and which had been amended later to include the whole country as well as the District of Columbia, no action was taken on the bill and it was carried over on February 27, 1907, to the next session.58

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(58) 59th Congress, 2nd Session, Congressional Record Vol. 41, Part 5, p. 4100.
Summary of Chapter. The earliest political attention given to proposals that the federal government should control the employment of children was at the hands of such national organizations as the Prohibition, Greenback, American, Unionist and United Labor Parties. This attention began in 1876. By 1904 two bills for the regulation of child labor had been introduced in Congress. Thereafter numerous attempts were made to regulate the employment of children in the District of Columbia. Out of the idea of regulating the labor of children in the District of Columbia came additional proposals to regulate child labor throughout the country. The best-known of these proposals was the Beveridge-Parsons bill of 1906 which had for its purpose the prevention of the employment of children in factories and mines. At this time the term "regulation of child labor" had come to mean in Congress "the prevention of child labor" in certain industries, as exemplified in the Beveridge-Parsons Bill. Although the Beveridge-Parsons Bill did not pass Congress, Senator Beveridge supported the
Morrell bill, known as bill No. 17838, which provided for the prevention of the employment of children under fourteen years of age in the District of Columbia, and attempted to amend it to include all children everywhere in the United States. It was in support of this bill that his famous speech was made in which he expressed the ideas of the child-labor reform element in Congress. In this speech he explained the facts of child labor, how the prevention of child labor by Congress was legal and constitutional, and why Congress should enact a law prohibiting child labor in mines, factories, and industries. Although the bill was not passed, it demonstrated clearly the hold which child-labor reform sentiment had on Congress and was indicative of future and more successful efforts at reform.
CHAPTER IV

LATER ATTEMPTS AT FEDERAL LEGISLATION

In the preceding chapter we have seen how the child labor reform movement in the national government began with isolated references in party platforms, how it then began to be felt in the occasional bills which were introduced in Congress, and then how it caused attempts at legislative control to be made with ever-increasing rapidity and strength. The discussion of Senator Beveridge in support of one of the later bills demonstrated to what extent the reformists had developed their social and political reasoning on the child labor problem.

Now we shall see the further development of the attempts to regulate the employment of children through Federal legislation. We shall also perceive how the demand for such regulation steadily increased in the national legislature, how Congress, after a quarter-century of agitation in that body, adopted the principles of the reform movement, and how two successive
laws were enacted to regulate the now-recognized evil. In the concluding portion of this chapter, we may acquiesce in the reasoning behind the refusal of the highest tribunal in the land to interpret the two successive laws as in keeping with our constitution.

Immediately after the first session of the 60th Congress convened on December 2, 1907, the momentum achieved by the child labor reform movement in the last session manifested itself in a series of new proposals.

On December 4th, Senator Lodge again introduced a bill "to regulate the employment of child labor in the District of Columbia."1 This bill was afterward referred to the Committee on Education and Labor,2 and on December 12th Senator Gallinger submitted an amendment to the bill.3

Senator Beveridge and Representative Parsons once more introduced bills identical in title, "to prevent the employment of children in factories and mines," on December 5th.4 On December 16th,

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(2) Ibid., p. 267.
(3) Ibid., p. 293.
(4) Ibid., pp. 188 and 184.
Representative Brumm introduced a bill "to prohibit employment of children in mines or factories without the owners having a license therefor, providing an annual tax for the employment of such children, and a tax on the products of such labor."\(^5\)

Nor was the matter of regulation of child labor in the District of Columbia destined to await longer for the reform which had for so long been agitated. Senator Gallinger introduced on February 3, 1908, a bill to regulate the employment of children in the District of Columbia and in the Territories. This bill was afterward passed by the House of Representatives. When it was sent to the Senate, a bill introduced there on February 3, 1908, was substituted for it.\(^6\) After the bill was sent to Conference, the report was agreed to and the bill was sent to the President who signed it on May 28, 1908.\(^7\) This law forbade children under fourteen years of age to work in factories, workshops, stores, and places of business, with the exception that children twelve to fourteen years of age may in cases of poverty secure permits to

\(^{(7)}\) Ibid., Part 2, p. 1446.
Part 3, p. 2442, 2806.
Part 6, p. 5785-5805, 6030-6035.
Part 7, pp. 6055, 6164, 6665, 6918, 6998, 7016, 7105.
permits to work in occupations which are not
dangerous or injurious.

During the progress of this legislation
affecting the regulation of child labor in the
District of Columbia, President Roosevelt, in
characteristic manner, took an interest in the
pending legislation. In a message of March 25,
1908, he said:

"Child labor should be prohibited
throughout the nation. At least a model
child labor bill should be passed for the
District of Columbia. It is unfortunate
that in one place solely dependent upon
Congress for its legislation, there should
be no law whatever to protect children by
forbidding or regulating their labor."\(^9\)

Again on April 28, 1908, he expressed the idea
that there was good ground to hope...that there
will be a child labor law enacted for the District
of Columbia."\(^9\) Thus the presidency joined in the
battle for federal control of child labor.

**Political Campaign of 1908**

No less than six parties participating in the
national election of 1908 expressed their ideas
upon federal regulation of the labor of children.

\(^{(8)}\) 60th Congress, 1st Session, Congressional Record,
Vol. 42, Part 4, p. 3853.
\(^{(9)}\) Ibid., Part 6, p. 5327.
The Democratic Party referred to the question conservatively when it said:

"We advocate the organization of all existing health agencies into a national bureau of public health with such power over sanitary conditions connected with factories, mines, tenements, child labor, and other such subjects as are properly within the jurisdiction of the Federal government and do not interfere with the power of the states controlling public health agencies."10

The Independent party called for "a rigid prohibition of child labor through cooperation between the State governments and the National government."11

The People's Party demanded "the abolition of child labor in factories and mines and the suppression of sweat-shops."12 The Prohibition Party pledged the enactment into laws of the principle of "prohibition of child labor in mines, workshops, and factories."13

The Socialist party pledged itself to "the improvement of the industrial condition of the workers......by forbidding the employment of children under sixteen years of age."14

(10) Porter, 281.
(11) Porter, p. 290.
(12) Porter, p. 296.
(13) Porter, p. 298.
(14) Porter, pp. 316-7.
The attitude of the Republican Party was reflected by the statement, "We commend...the child labor law for the District of Columbia."15

Due to the attitude of the various political parties in 1908, the attention given to child labor reform by national parties reached a new peak in the election of 1908.

Congressional Activities
1908 to 1912

Between the second session of the 60th Congress which convened on December 6, 1908, and the election of 1912, less legislation was proposed in Congress on the regulation of child labor than might have been supposed in the light of the platform utterances of the preceding national campaign. Only occasionally did the matter of child labor enter into the deliberations of Congress.

Of a total of seven child labor measures introduced, four were concerned with amending the child labor act then in force in the District of Columbia, and were introduced by Senator Gallinger of New

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(15) Porter, p. 301.
Hampshire,\textsuperscript{16} Representatives S. W. Smith of Michigan,\textsuperscript{17} E. E. Roberts of Nevada,\textsuperscript{18} and James M. Cox of Ohio.\textsuperscript{19} These measures had for their object the correction of the penalizing provisions of the law passed in 1908.

The other three proposals included a bill by W. A. Cullop of Indiana to prevent the employment of children under fourteen years of age performing manual labor,\textsuperscript{20} a bill by V. L. Berger of Wisconsin to prohibit the employment of children under sixteen years by the federal government,\textsuperscript{21} and a bill by J. M. Curley of Massachusetts to regulate the hours of employment of women and minors.\textsuperscript{22} None of these bills progressed far in Congress.

It is worthy of note to observe that all of these child labor proposals came from representatives of northern states which had become leaders as states in progressive child labor reform legislation. It will be remembered that Massachusetts was the first

\begin{itemize}
\item \textsuperscript{16} 60th Congress, 2nd Session, Congressional Record, Vol. 43, Part 1, p. 103.
\item \textsuperscript{17} Ibid., Part 1, p. 154.
\item \textsuperscript{18} 62nd Congress, 1st Session, Cong. Record, Vol. 48 Part 1, p. 59.
\item \textsuperscript{19} Ibid., Part 5, p. 4699.
\item \textsuperscript{20} Ibid., Part 3, p. 552.
\item \textsuperscript{21} Ibid., Part 4, p. 3331.
\item \textsuperscript{22} Ibid., Part 3, p. 2274.
\end{itemize}
state in the Union to regulate child labor, the first law having been passed there in 1836.

Typical of the rising sentiment throughout the country that Congress should do the regulating of child labor were two petitions addressed to Congress by two state legislatures. In the petition of the State Legislature of North Dakota Congress was "memorialized and earnestly urged to pass the most progressive and advanced laws on this subject (child labor),"23 Another petition by the legislature of Massachusetts followed which asked that national and uniform laws on child employment be enacted by Congress.

It will be recalled that a bill had been passed in 1907 which provided that the Secretary of Commerce and Labor should make an investigation into the conditions of women and child wage-earners in the cotton textile industries of the United States. This report was transmitted on June 13, 1910, to Congress by the Secretary of Commerce and Labor, and was afterward published. The report when made contained little information which was of use to Congress.

(23) 60th Congress, 2nd Session, Congressional Record, Vol. 43, Part 4, pp. 3565, and 3705.
National Election of 1912

It is of peculiar note that the two major political parties did not commit themselves on child labor in their statements of principles in this election. However, three of the remaining parties championed the cause of child labor reform. The Progressive Party pledged itself in the platform to work unceasingly for "The prohibition of child labor."24 The Prohibition Party favored "The abolition of child labor in mines, workshops and factories, with rigid enforcement of the laws now flagrantly violated."25 The Socialist Party pledged itself to "The conservation of human resources, particularly of the lives and well-being of the workers and their families.............by forbidding the employment of children under sixteen years of age."26

Congressional Activities Between the Elections of 1912 and 1916

During the first session of the 63rd Congress

which began on April 7, 1913, eight bills dealing with the employment of children either in the District of Columbia or throughout the rest of the nation, were introduced. Two bills, one by Senator W. S. Kenyon of Iowa,27 and the other by Representative Edward T. Taylor of Colorado,28 were intended "to prevent employment of children in factories and mines." Absolute prohibition of child labor was the object of two bills introduced in the House of Representatives. One bill was by W. A. Cullop and entitled "a bill to prevent common carriers from transporting the products of the labor of children under 14 years of age."29 The other bill, by Ira C. Copley of Illinois, was "to further regulate interstate and foreign commerce by prohibiting interstate transportation of the products of certain forms of child labor, and for other purposes."30 These bills represent a new line of attack on the child labor problem through the idea of the prevention of interstate commerce.

(28) Ibid., Part 2, pp. 1371.
(29) 63rd Congress, 1st Session, Congressional Record, Vol. 50, Part 1, p. 86.
(30) Ibid., Part 3, p. 2071.
in articles produced by child labor. Both of these bills were not reported by the Committees.

During the next session of the 63rd Congress, legislative attempts at child labor reform became more vigorous, both from the viewpoint of the terms of the bills and from the energetic way in which their enactment was pressed. As an instance, Joseph Taggart introduced in the Senate a bill "to levy and collect an additional income tax upon the incomes of persons, firms, and corporations employing child labor." Sen. Robert L. Owen of Oklahoma introduced a bill "to prevent interstate commerce in the products of child labor and for other purposes." Representative A. M. Palmer of Pennsylvania introduced on January 26, 1914, a similar bill also entitled "to prevent interstate commerce in products of child labor, and for other purposes.

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(32) Ibid., Part 4, p. 3742.
(33) Ibid., Part 3, p. 2356.
Representative Palmer's bill, known as bill No. 12292, was originally referred to the Committee on Labor, which reported it in an amended form to the House on August 14, 1914, accompanied by a report. This report recommended that it be passed with amendments which provided that it should be unlawful for any shipper to offer for interstate transportation the products of any mine or quarry where children under 16 years are employed, or to offer for transportation the products of any mill, cannery, workshop, factory, or manufactory where children under 14 years were employed. Children were to work no more than 8 hours or 6 days in the week, nor after seven P.M. or before Seven A.M. The Secretary of Labor was to carry out the terms and inspect establishments to see that the terms were being obeyed. A fine of from $100 to $1,000, and punishment from one month to one year was also provided. Action on this bill was postponed until the following session.

The first proposal suggesting a change in the constitution so that Congress might regulate child labor, was made when Representative John J. Rogers of Massachusetts introduced on July 8, 1914, a House Joint Resolution "proposing an amendment to the Constitution of the United States." 36

Senator Rogers, in connection with his proposal to amend the Constitution, which was still in the Committee on the Judiciary, extended his remarks in the Congressional Record by a written statistical report relative to child labor then existing in the United States. In this report he treated the extent of child labor, and its increasing proportion in the southern states of North Carolina, South Carolina, Georgia, and Alabama. He reviewed and contrasted the child labor laws of these four states with that of Massachusetts, and showed that the enforcement of the child labor laws in the southern states was extremely weak compared to the enforcement

(36) 63rd Congress, 2nd Session, Congressional Record, Vol. 51, Part 12, p. 11,839.
of the Massachusetts law. The rise of the "helper" system in the southern states was explained. He gave an explanation of the effect of child labor laws in Massachusetts on production costs there. He contrasted the hours of labor in the southern and northern mills, and the degree of toleration of labor unions in the textile mills of the two sections of the country. He also discussed the effect of child labor on mental conditions, on the percentage of illiteracy, on school attendance, on compulsory school attendance, and on the physical and moral condition of children.37

When the 63rd Congress convened in third session on December 7, 1914, House of Representatives bill No. 12292, which it will be recalled, was introduced by Mr. Palmer of Pennsylvania, and which would prohibit the using of child labor in any industry by forbidding the products of such labor to be transported from state to state, was still before Congress.

On February 13, 1915, it was reported again by the Committee on Labor in the House of Representatives.\(^{38}\) When it was debated in the House of Representatives, there was much dilatory activity on the part of those opposed to the bill. Mr. Palmer defended the bill as it had been reported.\(^{39}\) He explained that it contained the best thought of the social workers, and that it had been drafted originally by the National Child Labor Committee after a conference had been held with the child labor committees of the various states. He felt that the bill as then amended was satisfactory to every child labor organization in the United States. He further said:

"It fixes a standard for child labor, and prohibits from interstate commerce the product of any mine, or quarry, or any mill, factory, or workshop, which is produced by children below that standard, and the standard is this: sixteen years in mines and quarries, and fourteen years in mills, factories, workshops, canneries, and manufacturing establishments, and it provides an eight-hour day, six days a week, and no nightwork; that is, there is to be no labor for children between the hours of seven P. M. and seven A. M."\(^{40}\)

The bill passed the House of Representatives on

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\(^{39}\) 63rd Congress, 3rd Session, Cong. Record, Vol. 52, Part 4, p. 3827.

\(^{40}\) 63rd Congress, 3rd Session, Congressional Record, Vol. 52, Part 4, pp. 3830-1.
February 15, 1915, by a vote of 233 to 43.\footnote{41} It was then given to the Senate Committee on Interstate Commerce.\footnote{42} On March 1, 1915, the bill was reported from the Senate Committee on Interstate Commerce with amendments and a report was submitted.\footnote{43} In the report the minor amendments recommended by the Committee were "designed to limit the application of the law, in so far as dealers are concerned, to wholesalers or jobbers." The report said that "it is believed that the evils of child labor are now generally known and recognized and that under the power to regulate commerce Congress can bar from interstate commerce articles produced by child labor, although the constitutionality of such legislation is controverted by some."\footnote{44}

As only a few days of the session remained, no further attention was given to the bill or to the committee report, and Congress adjourned on March 4, 1915, without final action being taken on the bill.

\footnote{41}{Congressional Record. Vol. 52, Part 4, P. 3836.}
\footnote{42}{Ibid., p. 3875.}
\footnote{43}{Ibid., Part 5, p. 4911.}
\footnote{44}{63rd Congress, 3rd Session, Report No. 1050, Senate Reports, Vol. 1: Miscellaneous.}
While this bill by Representative A. M. Palmer remained only another attempt to secure federal regulation through congressional action, it does, nevertheless, assume more than passing attention for the following reasons: (1) It came nearer enactment than any of the preceding attempts; (2) it contained generally recognized child labor standards; and (3) it demonstrated that actual enactment of a law prohibiting child labor was not far distant in the future. The question now remaining was, "How soon would Congress pass such a bill as the one introduced by Representative Palmer?"

Child labor bills continued to be introduced in Congress with unabated regularity during the first session of the 64th Congress which met on December 6, 1915. In the Senate, bills to regulate the employment of children were introduced by Robert L. Owen of Oklahoma,45 and by W. S. Kenyon of Iowa.46 In the House of Representatives, bills were introduced by Ira C. Copley of Illinois,47 John E. Baker of California,48 Edward T. Taylor of Oklahoma,49 Edward

(45) 64th Congress, 1st Session, Congressional Record Vol. 53, Part 1, p. 90.
(46) Ibid., p. 82.
(47) Ibid., p. 28.
(48) Ibid., p. 470.
(49) Ibid., p. 470.
Keating of Colorado,50 and F. W. Dallinger of Massachusetts,51 Mr. Edward Keating also introduced on February 7, 1916, another bill "to prevent interstate commerce in the products of child labor, and for other purposes."52

Representative Keating's last bill became known as H. R. 8234 and was finally enacted into law after a long congressional history. The Committee on Labor in the House on January 16th, reported the bill to the House with an amendment and accompanied with a report, and referred the bill to the Calendar.53 This report was in two parts.54 In the first part, which was a majority report of the Committee, minor amendments to the bill were made, and a summarized discussion covered the general design and administrative features of the bill, the necessity for relief, the propriety of the standards suggested, and the constitutionality of the bill55 as argued before the committee. The second part of the report was an attempt on the part of the minority

(51) Ibid.
(52) 64th Congress, 1st Session, Congressional Record, Vol. 53, Part 1, p. 698.
to show the unconstitutionality of the bill. The bill was amended in the House® and passed there on February 2, 1916.®

In the Senate the bill was referred to the Committee on Interstate Commerce on February 6, 1916® which Committee reported it to the Senate with an amendment and a report.®

In the report of the Committee some changes in the bill were recommended. There was also a discussion on whether the policy of the legislation was meritorious and whether the constitutionality of the measure was a certainty.® The bill was passed in the Senate on August 8, 1915.® Subsequently a conference report was made to both the Senate and House, which was agreed to.® The bill was presented to President Wilson on August 25th,® and it was signed by the President on September 1, 1915.®

(64) 64th Congress, 1st Session, Cong. Rec. Vol. 53, Pt. 13, p. 12845.
In signing the bill, President Wilson said:

"I want to say that with real emotion I sign this bill because I know how long the struggle has been to secure legislation of this sort and what it is going to mean to the health and to the vigor of this country, and also to the happiness of those whom it affects. It is with genuine pride that I play my part in completing this legislation. I congratulate the country and felicitate myself."

Thus the Keating bill, known as House of Representatives Bill No. 9234, which embodied the principle that Congress did have the power to exclude from interstate commerce any article which it saw fit to exclude, was formally enacted into law.

National Election of 1916

Although the platforms of the various parties were constructed prior to the passage of the child labor law of 1916, nevertheless, the party attitudes

toward child labor legislation were clearly reflected again in the platforms. The Prohibitionist stand remained virtually what it had been in the preceding elections, when the party said, "We declare for the prohibition of child labor in factories, mines, and workshops."66

There was little difference in the declarations of the two major parties. The Democratic Party favored "the speedy enactment of an effective Federal Child Labor Law,"67 and the Republican Party favored "vocational education, the enactment and rigid enforcement of a Federal child labor law."68

With the official attitude of all these parties favoring child labor legislation, it is not strange that the Act of 1916 should have passed while the political campaign was in progress.

The Supreme Court and the Child Labor
Act of September 1, 1916.

Congress prohibited, by the act of September 1,

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(66) Porter, p. 393.
(67) Porter, p. 383.
(68) Porter, p. 402.
1916, the transportation in interstate or foreign commerce of products or goods produced in any mine or quarry in the United States in which children under the age of 16 years had been allowed to work within thirty days prior to the removal of the goods or products. Also the transportation of any product of any mill, cannery, workshop, factory or manufacturing establishment in which children under fourteen years of age had likewise worked within the thirty days prior to removal of the products, was prohibited. In addition children between the ages of fourteen and sixteen were not permitted to work between the hours of seven in the evening and seven in the morning, nor more than six days within a week. 69 The law went into effect September 1, 1917.

The question of the constitutionality of the act was placed before the Supreme Court of the United States when the government appealed in the case Hammer vs. Dagenhart. 70 In this case a father, for

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(70) Hammer vs. Dagenhart. 247 United States, 251.
himself and as the next friend of his two minor sons, both of whom were under sixteen years of age and employees in a cotton mill at Charlotte, North Carolina, filed a bill to enjoin the enforcement of the act. The local District United States Court in North Carolina held that the act was unconstitutional and granted an injunction. As a result the government appealed from the decision, thus bringing it before the Supreme Court.

The question for the Supreme Court to decide was: Could Congress in regulating interstate commerce among the states prohibit the employment of children in the production of such goods? The government contended that Congress held the power essential to the passage of the act under the commerce clause of the constitution.

On June 3, 1918, after the law had been in operation 275 days, the Supreme Court held that the act was unconstitutional on the ground that it was an undue extension of the power to regulate commerce between the states. Four of the nine judges dissented from
the decision of the majority members holding that the act did not meddle with anything belonging to the States, that States may continue to regulate their own commerce and domestic affairs as they like, and that when the states send their products across the state line they are not within their rights.

Child Labor and Congress Again.

As the child labor question had apparently been settled by the Act of 1916, no references to further child labor legislation appeared in Congress during 1917, excepting one proposal made by Representative L. D. Robinson of North Carolina to amend the child labor act of 1916 and which received no attention. 71

It is also significant to recall that this was the period of our entrance into war with the Central Powers.

Following the decision of the Supreme Court on June 3, 1918, in which the child labor act of 1916

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(71) 65th Congress, 1st Session, Congressional Record, Vol. 55, p. 5690.
was declared unconstitutional, no less than twelve attempts were made to accomplish by further legislation what the Supreme Court had ruled that Congress could not do constitutionally.

The new methods proposed in these new attempts to prohibit child labor deserve our attention. In the House of Representatives William E. Mason of Illinois, J. J. Rogers of Massachusetts, and John R. Farr of Pennsylvania introduced House Joint Resolutions proposing an amendment to the constitution giving Congress control of child labor. In the Senate Atlee Pomerene of Ohio introduced two bills, one to prevent "the shipment of products of child labor into states in which the employment of child labor is made unlawful, and the other bill "providing for taxation of articles and commodities in the production of which child labor is employed." Two bills by Senator W. S. Kenyon of Iowa, "to

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(72) 65th Congress, 2nd Session, Congressional Record, Vol. 45, Part 8, p. 7652.
(73) 65th Congress, 2nd Session, Congressional Record, Vol. 45, Part 8, p. 7776.
(74) 65th Congress, 2nd Session, Congressional Record, Vol. 45, Part 8, p. 7776.
(75) 65th Congress, 2nd Session, Congressional Record, Vol. 56, Part 8, p. 9341.
deny the use of mails to persons or concerns employing child labor" were introduced. Senator Robert L. Owen of Oklahoma also introduced a bill on June 6, 1918, "to prevent interstate commerce in products of child labor and for other purposes."76

While these various measures were being started through the devious channels of Congress, the revenue bill, known as H. R. 12863, had been passed by the House and sent to the Senate for passing. While in the Senate an amendment to the bill was offered on November 15, 1918, which had for its purpose the regulation of child labor.77 This amendment provided for an excise tax of ten per cent on the net profits of persons or industries employing child labor of certain prohibited ages, in addition to other taxes. The amendment carried out the ideas in the bills introduced by Senators Kenyon, Lenroot, and Pomerene. The amendment was printed, but the bill was carried over into the next session.

When the third session of the 65th Congress convened on December 2, 1918, the House of Representatives

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(76) 65th Congress, 2nd Session, Congressional Record, Vol. 56, Part 8, p. 7418.
(77) 65th Congress, 2nd Session, Congressional Record, Vol. 56, Part 11, p. 11560.
revenue bill was amended in the Senate so as to provide the ten per cent excise tax on products produced by the employment of child labor, and passed on December 23, 1918.\(^{(78)}\) The conference report was accepted in the House on February 8, 1919,\(^{(79)}\) and agreed to in the Senate on February 13, 1919.\(^{(80)}\)

The bill was signed by President Wilson on February 25, 1919. It marked the second attempt of Congress to bring the control of child labor under the jurisdiction of congressional regulation. It will be recalled that the act of 1916 prohibited the employment of child labor in the production of goods which were intended for interstate commerce, and that the Supreme Court decided that such prohibition was an undue extension of the power to regulate commerce. This amendment to the revenue act of 1919 sought to circumvent the reasoning of the Supreme Court by providing a tax on goods produced in


\(^{(80)}\) Ibid., Part 4, p. 3277.
violation of certain child labor standards. In this way it was intended as a revenue act regulating the commerce between the states. The provisions of the child labor section of the act were to be effective on April 25, 1919, and were to be administered by the Office of Internal Revenue, United States Treasury Department.

National Campaign of 1920

The passage of the second child labor act, which occurred in 1919, evoked no criticism whatever in the national campaign which followed. The Democratic Party recalled in its platform of 1920, that among many other beneficial laws "were passed the Child Labor Act" and "the act for Vocational Training."81 The Farmer-Labor Party pledged the "Abolition of employment of children under sixteen years of age."82 The

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(83) Porter, p. 442.
Prohibition Party approved and adopted the program of the National League of Women Voters providing for "the prohibition of child labor."\(^3^3\) The Socialist Party advised that "Congress should enact effective laws to abolish child labor,"\(^3^4\) and the Republican Party explained its attitude when the platform declared "The Republican Party stands for a Federal child labor law and for its rigid enforcement. If the present law be found unconstitutional or ineffective, we shall seek other means to enable Congress to prevent the evils of child labor."\(^3^5\)

**Unconstitutionality of the Child Labor Act of 1919.**

It will be remembered that the child labor tax law of 1919 imposed a tax of ten per cent of the net profits of the year on the employer who knowingly employed at any time during the year

\(^3^3\) Porter, p. 444.
\(^3^4\) Porter, p. 470.
\(^3^5\) Porter, p. 463.
a child below the standards set by Congress. In the case of Bailey vs. the Drexel Furniture Company which was appealed to the Supreme Court, the unconstitutionality of the law was affirmed. It had so happened that the Drexel Furniture Company of North Carolina had paid $6,512.79 in taxes which had been imposed upon the company by the Collector of Internal Revenue for violation of the child labor tax law. The tax was paid under protest and subsequently a suit was brought in the Federal district Court for recovery. Judgment was given for the plaintiff and the Collector appealed the case.

In the decision of the Supreme Court which was rendered on May 14, 1922, it was held that the act was unconstitutional on the ground that it was an infringement on the right of the States and that the tax became a mere penalty with the characteristics of regulation and punishment.

Twice had the Supreme Court of the United States decided that Congress did not have the power to prevent directly or indirectly child employment in industry. What would be the next step of Congress to bring the institution of child labor under federal regulation?

Summary. The enactment of Federal laws to regulate and control the employment of children has been the result of relatively slow growth and development in Congress. In the earliest stage a federal law was timidly advocated for the District of Columbia. In the discussion of this chapter, the regulation of child labor became the subject of a law in 1908. After this the major parties began to demand vigorously that there should be reform legislation, and more proposals were made each year in Congress than before.

The Palmer bill of 1915 which came nearer of enactment than any of the preceding bills, shows the increasing popularity of the idea of federal
control. The method of regulating child labor by prohibiting interstate commerce was advocated throughout this stage of legislative effort. This theory culminated in the child labor act of 1916 which prevented commerce being carried on, when the products being transported had been produced by child labor, among the states or with foreign nations. This law was regarded by the Supreme Court of the United States as an undue extension of Congressional power and it was declared unconstitutional after being in force for nearly a year.

Following the decision of the Supreme Court invalidating the law of 1916, another way was found to regulate child labor, which was believed to be constitutional. Thus the child labor tax law of 1919 was based on the principle that the evil could be controlled indirectly by a tax under a well defined power of Congress to regulate commerce between the states. This act was in force for more than two years, but was found to be unconstitutional by the Supreme Court. These legislative
experiments on the part of Congress demonstrated clearly that Congress did not hold sufficient power to control what it regarded as a great evil.
CHAPTER V

FURTHER ATTEMPT AT FEDERAL LEGISLATION THROUGH THE MEDIUM OF AMENDING THE CONSTITUTION

It has been shown how Congress, after its conversion to the idea that the Federal government should assume responsibility for the prohibition of child labor in industry, attempted to accomplish the prevention of further child labor through two successive laws. In the first of these laws Congress endeavored to prohibit absolutely the employment of children by denying the privileges of interstate commerce to employers who refused to recognize the child labor standards. In the other law Congress tried to regulate interstate commerce dealing in the products of child labor by means of a tax. The theories behind these efforts at legislation were the most popular of all the theories advanced by the reform element in Congress.

After the failure of these two most popular theories in practice, what would be the next move
on the part of the child labor reformists? Would their attention to reform legislation now diminish due to the practical impossibility of Congressional constitutional control? Or, would another effort be made to find a way to allow congressional control of the employment of children? The course of future action was soon clearly shown by proposals in Congress.

During the consideration of previous child labor legislation a suggestion of the possibility of amending the constitution to give the federal government unquestioned control of child labor had been made. During the first session of the 67th Congress the idea was carried farther. Representatives J. J. Rogers of Massachusetts and W. E. Mason of Illinois introduced on April 11, 1921, House Joint Resolutions proposing an amendment to the constitution giving Congress control over child labor. During the next session of the same Congress numerous proposals were submitted. Although George Huddleston of Alabama introduced a bill in the House on May 19, 1922,

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(1) See Page 80.
(2) 67th Congress, 1st Session, Congressional Record, Vol. 61, Part 1, p. 100.
to regulate interstate commerce in the products of child labor, the remainder of the proposals were concerned with a constitutional amendment. The introductions of these proposals are summarized by means of the following table:

**TABLE V**

**INTRODUCTIONS OF HOUSE JOINT RESOLUTIONS FAVORING AMENDMENT OF THE U. S. CONSTITUTION**

(The Second Session of the 67th Congress)

<table>
<thead>
<tr>
<th>Name of Representative</th>
<th>State Represented</th>
<th>Date on which Introduced</th>
</tr>
</thead>
<tbody>
<tr>
<td>V. E. Maker</td>
<td>California</td>
<td>May 31, 1922</td>
</tr>
<tr>
<td>R. F. Fitzgerald</td>
<td>Ohio</td>
<td>May 24, 1922</td>
</tr>
<tr>
<td>E. B. Perlman</td>
<td>New York</td>
<td>May 31, 1922</td>
</tr>
<tr>
<td>P. F. Tagge</td>
<td>Massachusetts</td>
<td>June 24, 1922</td>
</tr>
<tr>
<td>Edward Voigt</td>
<td>Wisconsin</td>
<td>June 24, 1922</td>
</tr>
<tr>
<td>C. E. Moore</td>
<td>Ohio</td>
<td>June 30, 1922</td>
</tr>
<tr>
<td>L. M. Foster</td>
<td>Ohio</td>
<td>June 30, 1922</td>
</tr>
<tr>
<td>C. J. Thompson</td>
<td>Ohio</td>
<td>June 30, 1922</td>
</tr>
<tr>
<td>L. A. Frothingham</td>
<td>Massachusetts</td>
<td>Aug. 24, 1922</td>
</tr>
<tr>
<td>Albert Johnson</td>
<td>Washington</td>
<td>Sept. 15, 1922</td>
</tr>
<tr>
<td>W. J. Graham</td>
<td>Illinois</td>
<td>Sept. 22, 1922</td>
</tr>
</tbody>
</table>

(11) Ibid.
(12) Ibid.
(13) Ibid.
In the preceding table three significant facts are shown: (1) Many of the men who had previously supported the two child labor acts had now transferred their activities to securing an amendment to the Constitution allowing Congress to control child labor; (2) the states represented by the men seeking to amend the Constitution continued to be the most progressive in the regulation of child labor; and (3) the demand for such an amendment to the Constitution was a sectional one--the northern states were seeking federal regulation of child labor in the less progressive southern states.

In his message to Congress on December 8, 1922, President Warren G. Harding took official notice of the child labor control situation when he said:

"Closely related to this problem of education is the abolition of child labor. Twice Congress had attempted the correction of the evils incident to child employment. The decision of the Supreme Court has put this problem outside the proper domain of Federal regulation until the Constitution is so amended as to give Congress the indubitable authority. I recommend the submission of such an amendment."\(^{16}\)

Immediately following this recommendation of the President, eight proposals were made in Congress for

\(^{16}\) President W. G. Harding, Message to Congress, 67th Congress, 4th Session, Congressional Record, Vol. 64, Part 1, p. 315.
such an amendment to the constitution.

However the Judiciary Committee of the Senate now introduced on February 24, 1923, Senate Joint Resolution No. 285 accompanied by a Committee Report. In this report Senator Shortridge stated for the committee, that a number of Senate Joint Resolutions introduced by Senators Johnson, Townsend, McCormick, Lodge, and Walsh had been referred to it. The Committee, therefore, reported in favor of submitting to the legislatures of the several States this proposed amendment to the Constitution of the United States:

"JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES."

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

ARTICLE

"The Congress shall have power, concurrent with that of the several States, to limit or prohibit the labor of persons under the age of eighteen years."

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(18) 67th Congress, 3rd and 4th Sessions, Senate Reports, Vol. 1: Miscellaneous, Senate Report No. 1185, p. 19
Although this resolution (S. J. R. No. 285) was recommended for passage, it seems that sentiment in Congress for such an amendment had not yet definitely crystallized and further action was not taken during the 67th Congress, but was left for the following Congress.

Also, the fact should not escape our attention that the States were beginning to clamor for an amendment to the Constitution. As an example, the legislature of Nevada resolved in a memorial "that the Senate and House of Representatives of the United States be hereby requested to immediately pass such resolution to submit to the states for their approval the amendment to the Constitution of the United States prohibiting child labor."19

When Congress met in December, 1923, President Calvin Coolidge in his message of December 6, said:

"Our National Government is not doing as much as it legitimately can do to promote the welfare of the people. Our enormous material wealth, our institutions, our whole form of society, can not be considered fully successful until their benefits reach the merit of every individual. This is not a suggestion that the Government should or could assume for the people the inevitable burdens of existence. There is no method by which we can either be relieved of the results of our own folly or be guaranteed a successful life. There is an inescapable personal

(19) 67th Congress, 3rd Session, Congressional Record, Vol. 64, Part 5, p. 4452.
responsibility for the development of character, industry, of thrift, and of self-control. These do not come from the Government but from the people themselves. But the Government can and should always be expressive of steadfast determination, always vigilant to maintain conditions under which these virtues are most likely to develop and secure recognition and reward. This is the American policy. It is in accordance with the principle that we have enacted laws for the protection of the public health, and we have adopted prohibition in narcotic drugs and intoxicating liquors. For purposes of national uniformity we ought to provide, by constitutional amendment and appropriate legislation, for a limitation of child labor.

In an apparent attempt to carry out the suggestions of President Coolidge, twenty-four distinct proposals were made in Congress. In the Senate S. M. Shortridge of California introduced a Joint Resolution to amend the Constitution. While this resolution was being considered, the legislature of Massachusetts petitioned Congress in a memorial to propose an amendment to the Constitution of the United States.

The following table summarizes the House Joint Resolutions which were introduced by Representatives in the House; proposing to amend the Constitution in order to regulate child labor:

(21) 68th Congress, 1st Session, Congressional Record, Vol. 65, Part 4, p. 3959.
### TABLE VI

**SUMMARY OF JOINT RESOLUTIONS INTRODUCED IN THE HOUSE OF REPRESENTATIVE DURING THE 1ST SESSION OF THE 68th CONGRESS, DEC. 3, 1923 TO JUNE 7, 1924.**

<table>
<thead>
<tr>
<th>Representative by:</th>
<th>State</th>
<th>Date on Which Introduced</th>
</tr>
</thead>
<tbody>
<tr>
<td>W. F. Conner, Jr.,</td>
<td>Massachusetts</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>Albert Johnson</td>
<td>Washington</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>R. G. Fitzgerald</td>
<td>Ohio</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>Carl Hayden</td>
<td>Arizona</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>John E. Baker</td>
<td>California</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>John E. Baker</td>
<td>California</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>F. W. Ballinger</td>
<td>Massachusetts</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>C. E. Moore</td>
<td>Ohio</td>
<td>Dec. 5, 1923</td>
</tr>
</tbody>
</table>

(Table Continued Following Page)

(22) 66th Congress, 1st Session, Congressional Record, Vol. 65, Part 1, p. 65.
(23) Ibid, Part 1, p. 43.
(24) Ibid.
(25) Ibid.
(26) Ibid.
(27) Ibid.
(28) Ibid.
(29) Ibid.
<table>
<thead>
<tr>
<th>Representative by:</th>
<th>State:</th>
<th>Date on Which Introduced</th>
</tr>
</thead>
<tbody>
<tr>
<td>J. J. Rogers</td>
<td>Massachusetts</td>
<td>Dec. 3, 1923</td>
</tr>
<tr>
<td>E. D. Perlman</td>
<td>New York</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>Henry A. Cooper</td>
<td>Wisconsin</td>
<td>Dec. 5, 1923</td>
</tr>
<tr>
<td>L. A. Frothingham</td>
<td>Massachusetts</td>
<td>Dec. 10, 1923</td>
</tr>
<tr>
<td>I. M. Foster</td>
<td>Ohio</td>
<td>Dec. 10, 1923</td>
</tr>
<tr>
<td>W. S. Greene</td>
<td>Massachusetts</td>
<td>Dec. 10, 1923</td>
</tr>
<tr>
<td>W. F. Lineberger</td>
<td>California</td>
<td>Dec. 14, 1923</td>
</tr>
<tr>
<td>R. F. Lozier</td>
<td>Missouri</td>
<td>Dec. 15, 1923</td>
</tr>
<tr>
<td>C. J. Thompson</td>
<td>Ohio</td>
<td>Dec. 17, 1923</td>
</tr>
<tr>
<td>E. T. Taylor</td>
<td>Colorado</td>
<td>Dec. 20, 1923</td>
</tr>
<tr>
<td>W. N. Rogers</td>
<td>New Hampshire</td>
<td>Jan. 26, 1924</td>
</tr>
<tr>
<td>J. S. Wolf</td>
<td>Missouri</td>
<td>Feb. 7, 1924</td>
</tr>
<tr>
<td>I. M. Foster</td>
<td>Ohio</td>
<td>Feb. 15, 1924</td>
</tr>
<tr>
<td>A. J. Griffin</td>
<td>New York</td>
<td>Mar. 19, 1924</td>
</tr>
</tbody>
</table>

(30) 68th Congress, 1st Session, Congressional Record, Part 1, p. 43.
(31) Ibid.
(32) Ibid.
(34) Ibid.
(38) 68th Congress, 1st Session, Congressional Record, Vol. 65, Part 1, p. 547.
(39) 68th Congress, 1st Session, Congressional Record, Vol. 65, Part 1, p. 479.
(40) 68th Congress, 1st Session, Congressional Record, Vol. 65, Part 1, p. 1516.
(42) 68th Congress, 1st Session, Congressional Record, Vol. 65, Part 3, p. 2411.
(43) 68th Congress, 1st Session, Congressional Record, Vol. 65, Part 5, p. 4531.
From the above table it is again evident that
the proposals for amending the Constitution so that
Congress might control the employment of children were
made by men representing northern and western states;
that no strictly southern state is represented in the
table; and that out of the twenty two proposals five
were made by Representatives from Massachusetts, five from
Ohio, three from California, two each from New York and
Missouri, and one each from Arizona, Wisconsin, Colorado,
and New Hampshire.

On February 13, 1924, Representative I. M. Foster
of Ohio introduced House Joint Resolution No. 184,
which was destined ultimately to be passed, the purpose
of which was to formally submit the proposed amendment
to the several States.44

After hearings had been held before the Committee
on the Judiciary from February 7, to March 8, 1924,45
the resolution was reported back to the House where
it was made a special order.46 After being debated nine
times47 it passed the House on April 26, 1924, by a vote of 297

(44) 68th Congress, 1st Session, Congressional Record,
Vol. 65, Part 3, p. 2411.
(45) 68th Congress, 1st Session, Cong. Rec. Hearings before the
Committee on the Judiciary House of Rep. Serial 16,
Document no. 497, 1924, pp. 1-311.
(46) 68th Congress, 1st Session, Congressional Record, Vol. 65,
Part 5, p. 5194.
(47) Ibid., Part 7, p. 7165-76.
The resolution was debated in the Senate and was passed there on June 2, 1924, by a vote of 61 yeas to 23 nays. It was examined and signed in both Senate and House of Representatives on June 3, 1924.

This resolution which had been introduced by I. M. Foster of Ohio and which had become known in Congress as House Joint Resolution No. 184, proposed an additional article to the Constitution of the United States. The resolution provided that if three-fourths of the States should ratify the article or amendment the article would become a part of the Constitution.

The article itself consisted of two sections. In the first section Congress should have power to limit, regulate, and prohibit the labor of persons under eighteen years of age. In the second section, it was provided that the power of the several States should not be impaired by the article except to the extent that State laws might be suspended to a degree necessary for

(49) 68th Congress, 1st Session, Cong. Rec. Vol. 65, Part 10, pp. 9597, 9600, 9602, 9688, 9991, 10000, 10070, 10105, 10128.
legislation of Congress to be effective.

Submission to the States

Since the Constitution does not provide for the signature of the President to an amendment proposed by Congress, the duty of Congress in proposing the amendment to the States was ended. The responsibility of approving the amendment proposed by Congress rested now with the States. It is to their actions and decisions that our attention is now turned.

Summary. After the child labor acts of 1916 and 1919 had been declared unconstitutional, the use of every constitutional power of Congress to control child labor had been attempted: namely, the power to regulate interstate and foreign commerce, which was used to "prohibit" commerce in articles produced by child labor, and the power of taxation of establishments carrying on interstate commerce, which power was applied in the form of an excise tax on the profits of concerns employing child labor. Proposals in Congress to amend the Federal Constitution soon pointed out
the course of further congressional activity. The ever-increasing number of constitution-amending proposals was augmented by the petitions of States asking for such legislation. This demand for congressional action was further strengthened by the suggestions of Presidents Harding and Coolidge.

Out of the mass of proposals placed before Congress, two Joint Resolutions stand out preeminently. The first was introduced in the Senate by the Judiciary Committee in February of 1923, and although it received much attention in its earlier stage, it failed to pass. The second resolution was introduced by Representative I. M. Foster in February of 1924, and was ready for submission to the states on June 3, 1924. Both resolutions provided for the submission of a proposed amendment to the Constitution which would give Congress the power, concurrent with the States, of limiting and prohibiting the labor of all persons under eighteen years of age.
CHAPTER VI

INDIVIDUALS AND GROUPS FAVORING RATIFICATION TO THE
AMENDMENT AND THE REASONS ADVANCED FOR RATIFICATION

We have seen in our previous discussion how Congress exhausted in its attempt to place child labor under Federal jurisdiction, every Constitutional power which it felt could be used to regulate child labor. The Constitutional power to regulate commerce between the states and with foreign nations was first thought sufficient authority for Federal legislation, and as a result the first child labor law was passed in 1916. This act prohibited interstate commerce in the products of establishments employing child labor contrary to certain standards, and the Supreme Court refused to uphold the right of Congress to so legislate. The Act of 1918 which followed, was a second attempt on the part of Congress. In this case Congress made use of its taxing power over interstate commerce to prohibit child labor when employed contrary to certain standards. When the constitutionality of this second attempt was not upheld by the Supreme Court, Congress, in a final attempt to regulate child labor nationally, submitted at the behest of social workers throughout the country, a proposed amendment to the Constitution to the several States for their approval or rejection.
As this action of Congress transferred the whole question of federal regulation to the several states for final decision the result was a nation-wide contest to determine whether a sufficient number of states would ratify the proposed amendment to make it part of the Federal Constitution. According to the Constitution, approval by two-thirds of the forty-eight states—thirty-six states—is necessary to add a proposed article to the Constitution.

Although the various states registered their approval or disapproval of the amendment individually, as a general thing the reasons advanced for approval and for rejection were nation-wide factors in the determination of the question of States ratification. But what were the reasons given by the proponents of the movement to ratify the proposed twentieth amendment? By what groups and individuals was this amendment to our Constitution sponsored? These are matters which we shall now discuss in this chapter.

Groups and Individuals Favoring Ratification of the Proposed Amendment

When the Committee on the Judiciary in the House of
Representatives was holding its public hearings from February 7, 1924, to March 6, 1924, on resolutions having as their object the submission of a proposed constitutional amendment to the states, representatives of the following national organizations which were advocates of the amendment, appeared at the hearings in behalf of the amendment: 1

American Association of University Women
American Federation of Labor
American Federation of Teachers
American Home Economics Association
Commission of the Church and Social Service, Federal Council of the Churches of Christ in America
Democratic National Committee
General Federation of Women's Clubs
Girls' Friendly Society of America
National Child Labor Committee
National Council of Catholic Women
National Council of Jewish Women
National Council of Mothers and Parent-Teacher Associations
National Council of Women
National Education Association
National Federation of Business and Professional Women's Clubs
National League of Women Voters
National Women's Christian Temperance Union
National Women's Trade Union League
Republican National Committee
Service Star Legion
Young Women's Christian Association

This list of the organizations which favored the submission of the amendment to the states and which continued to support the amendment afterward shows us that

the contest over the amendment was fought on one side by the social service organizations of the nation. It is also of importance to note that women's organizations formed the greater part of the supporters. In addition, not only did many other social and religious organizations take up the battle in behalf of the amendment, but also six state legislatures urged the submitting of the amendment to the States. Among the State legislatures which petitioned Congress for the amendment were those of California, Massachusetts, Nevada, North Dakota, Washington, and Wisconsin.

In addition to the national groups, some of whom we have just named, there were great numbers of individuals outside of Congress and prominent in national affairs who were in favor of the ratification of the proposed amendment. Among these people were Roscoe Pound, Dean of the Harvard Law School; M. R. Kirkwood, Dean of Stanford University Law School; George P. Costigan, Jr., School of Jurisprudence, University of California; Walter W. Cook, of the Yale University School of Law; Henry M. Bates, Dean of the University of Michigan Law School; Manley O. Hudson, Professor of International Law, Harvard Law School; Ernst Freund, Professor of Law and Political Science, University of Chicago; J. P. Chamberlain, of the Columbia Law School; and, William Draper Lewis, Director of the
American Law Institute. Among the prominent political leaders of the country who were in favor of the amendment to the Constitution were Senators S. M. Shortridge of California, Thomas Walsh of Montana, George Wharton Pepper of Pennsylvania, James E. Watson of Indiana, Henry Cabot Lodge of Massachusetts, and Simon Pess of Ohio. In addition President Woodrow Wilson was in favor of federal regulation of child labor and Warren G. Harding and Calvin Coolidge were in favor of an amendment to the Constitution giving Congress authority over child labor.

The advisability of the States ratifying the amendment soon became the subject of a great contest which was waged throughout the latter half of 1924 and during the following year. The newspapers and periodicals of the land, together with various pamphlets, became the medium of expression for both sides of the question. The question also became the subject of much discussion and debating not only in schools and colleges but in many organization and social meetings throughout the country.

In this nation-wide contest the issues everywhere were practically the same, due to the nature of the proposed amendment and to the fact that most of the States were considering the question at approximately the same
time. While less significant reasons were advanced for ratification, those groups favoring the amendment stressed the arguments that the regulation of child labor was properly a matter for the Federal government, that the States had not performed their duty in regulating child labor in the past, that the tendency in the industry of the country was toward greater employment of children, and that the amendment would not give Congress unreasonable power.

Regulation of Child Labor is properly a Federal Matter

Among the proponents of the proposed amendment, great weight was attached to the view that the regulation of child labor was now very properly a federal matter. In the words of the Baltimore American, "It is a poor land and a poor civilization that must be sustained by the labor of the million little children between 10 and 15 who work in mines, mills and fields." Again, child labor was viewed clearly as a national problem. In support of this view figures were quoted showing that in the United States 1 out of 12 children is gainfully

(2) Quoted in Literary Digest, Vol. 88, p. 14, Dec. 6, 1924.
(3) Journal of the National Education Association, Challenge of Child Labor, 13:317-8, December, 1925.
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³ *Journal of the National Education Association, Challenge of Child Labor*, 13:317-8, December, 1925.
employed, that in some states it is 1 out of every 4, that over 400,000 of the 1,000,000 are between 10 and 14 years of age, that 35 states allow children to go to work without a common school education, and that 19 states do not make physical fitness a condition of employment. Senator H. C. Jones of California felt that Federal action was necessary to protect certain states from the burden of dependents, broken down physically by premature strain, who were coming from other states having unprogressive child labor laws.

The necessity for the Federal Government to protect its citizens was seen by many people. They held that the interest of the government in the education and health of the children should be as great in peace as in times of war. This thought prompted the St. Louis Star to assert that "approving the amendment is improving the physical standard of future generations of American citizens" and that "opposition to the amendment is opposition to every child's right to an education and good health." In other words the government should see to it that every child has a right to a reasonable education, sound health, and fair start in life. Therefore, since many of the states had

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(6) Quoted in Literary Digest 83:14, December 6, 1924.
pertinaciously and obdurately refused to provide ade-
quately protection, the exploited child workers in the
neglected states may reasonably ask that the Federal
Government be empowered to safeguard their rights when
the local authorities are indifferent.

The necessity for the adoption of the amendment
also was seen in the fact that there had been little re-
cent improvement in state laws. In support of this idea
Dr. John A. Ryan of Catholic University, in a debate with
Frederick P. Kenkel, stated that only two states had made
substantial child labor restrictions since the world war
and that no backward-state legislatures accomplished any-
thing during the year of 1925.8 Again it was reasoned
that child labor was an interstate problem which was suf-
ficient cause in itself for Federal control. "The child
labor laws of the separate States are uneven and inadequate—
the result of that industry in those States with the few-
est and worst laws has the competitive advantage over that
in States which maintain higher standards."9 The New Repub-
lie held that the Federal government could move more rapidly
toward effective regulation than the States because "the Fed-
eral government would not need to consider the effect of a

(8) Journal of the National Education Association, 14:278, December, 1925.
(9) Universalist Leader quoted in Literary Digest, 35:82, November 23, 1924.
child labor law upon interstate commerce."\(^\text{10}\)

The fact that all the states had not legislated uniformly on the conditions of child labor was stressed by proponents of the proposed amendment. In the lack of uniformity of State legislation existed another reason for the Federal Government to take over the regulation of child labor, especially since they viewed the extent of legislation in some states as not in keeping with the conditions. For this reason they pointed out that 11 states allowed children under 16 years of age to work from 9 to 11 hours a day, that 4 States did not prohibit night work for children under 16 years, that 8 States permitted children to work in stores at 12 years of age, that 35 states did not prohibit child work in dangerous trades below 13 years, that 14 States failed to prohibit work in dangerous trades for children below 16 years, that 23 States with nominal 14-year age limits allowed exemptions which practically nullified the provisions of the law, and that in some States the laws were poorly enforced. The question, "Is the evil of centralized control greater or less than the evil of inadequate regulation by the States,"\(^\text{11}\) shows the viewpoint of those who favored adopting the proposed twentieth amendment because the States had not previously enacted uniform laws equal to the prevailing conditions.

\(^{10}\) Child Labor, the Home and Liberty, New Republic 41:32–33, December 3, 1924.

\(^{11}\) Journal of the National Education Association, 14:278, December, 1925.
An additional argument showing that some of the States could no longer be depended upon to raise satisfactorily their child labor standards was the quotation of the words of former President Roosevelt: "The states have shown that they have not the ability to curb the power of syndicated wealth and therefore in the interests of the people it must be done by National action."\(^{12}\)

**Trend in American Industry is toward greater Employment of Children**

That there was a tendency in industry to employ more and more children was a common belief of the individuals and groups favoring ratification of the amendment. In this way they had come to look upon Henry Ford's much heralded "decentralization" scheme for industry as evidence of a projected bringing of industry into the rural sections of the country where more child labor was available than in the cities and manufacturing centers. At least there was a feeling that "If the child labor amendment fails, the employment of children in factories, workshops, mines and quarries, oyster beds and beet fields will be more general and persist longer than it would if the amendment is adopted."\(^{13}\) It was also advocated that the movement

\(^{12}\) Journal of National Education Association, 14:23, Jan., 1925.

\(^{13}\) Child Labor, the Home and Liberty, New Republic 41:33, December 3, 1924.
against child labor could not progress much farther throughout the country without Federal action.

The Proposed amendment does not give Congress Unreasonable Power

Not only did the people favoring the ratification of the amendment believe that it was proper and necessary for Congress to exercise control and protection over working children, but they were also ready to defend the bestowal of that unusual power upon Congress. In this attitude they found it necessary to offer a defense against those groups and individuals who felt that the proposed amendment gave Congress an unreasonable power.

The proponents of the measure held, contrary to the viewpoint of those who thought that Congress would soon disorganize industry by its power under the amendment, that if the child labor amendment were to be ratified immediately, it would make absolutely no difference in the child labor situation except to enable Congress to enact laws that would protect the nation from the greed and avarice of certain short-sighted industrialists in certain states. Furthermore, there was not justification that

(14) Minneapolis Star quoted in Literary Digest 83:13, December 6, 1924.
Congress would exercise its powers unwisely, and the assumption that Congress would not use its new power judiciously was unwarranted and betrayed a distrust in representative government.¹⁵

Most of the discussion over the possibility of Congress abusing the power which the proposed amendment was thought to give, centered about the extent to which Congress might regulate child work in the agricultural sections of the country. Some advocates of the amendment regarded the pretense that under the amendment farmers would not be permitted to use their children on their farms, as a "smoke-screen set up by the propagandists to cover their real objective--cheap labor."¹⁵ They also regarded Congress as being empowered, not compelled, to make certain restrictions on the employment of children in industry, and they explained that no elective Congress would ever go to extremes in opposing the wishes or in disregarding the welfare of the citizens in all sections of the country.¹⁷

Attempts were made to clarify the meaning and future effect of the proposed amendment. As an instance, the Child Welfare Magazine gave the following explanation of the amendment:

(16) Battle Over the Child Labor Amendment, Literary Digest 85:14, December 6, 1924.
(17) Chicago Evening Post quoted in Literary Digest 85:4, December 6, 1924.
3. It does not interfere with girls helping their
mothers with the housework nor boys helping their
fathers with the chores. The two child labor
acts which Congress formerly enacted included
only employment in mines and quarries, mills,
factories, workshops, and manufacturing establish-
ments.

4. It is not a leap in the dark. The first and
second child labor acts gave protection to thou-
sands of children now without it........

5. It does not impair the power of any State to give
greater protection to its children than that
which Congress might see fit to embody in future
child labor legislation."18

It was further held that Congress would not interfere
with the family institution because the power vested in
Congress under the amendment would be subtracted, not from
that of the parents, but from that of the States.19 Again,
this power which the amendment would have given to Congress
over child labor, was not exclusive because the only power
to be taken away from the States by the amendment was that
of maintaining less adequate laws than those which might be
passed by Congress.

While this power to control the working activities of
all persons under eighteen years of age was an unusual one
to transfer to the Federal government, it appears from the
arguments advanced by the proponents of the measure that the

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18 What the Child Labor Amendment is Not. Child Welfare
19 (No.1):43, September, 1924.
of National Education Association 14:87-8, March, 1925.
proper use of that power by Congress would not be unreasonable, and that an abuse of that power was almost an improbability, due to our representative system of legislating. It surpasses the limits of likelihood to conceive of Congress enacting laws contrary to the wishes of the people it represents.

Minor Reasons Given for Ratification

To those desiring the ratification of the amendment, the argument of those opposing it that Congress would soon control in a nation-wide way the education of all persons under the age of eighteen was met by the assertion that education is clearly a matter reserved to the States and that Congress could not control the education of boys and girls unless another amendment so providing should be added to the Constitution. In other words Federal supervision of education was not intended in the proposed amendment.

The amendment, which had been put in the form suggested by the social workers everywhere in the United States before passage in Congress, was held to be drawn properly. Since it was properly drawn it would enable Congress to accomplish by subsequent laws what was intended

originally when the amendment was proposed. In the words of a popular periodical, "What it seeks to do, we are told, 'is to bar from work children under fourteen, those under sixteen from more than eight hours labor, and those under eighteen from dangerous employment.'"21

Through such interpretation the form was acceptable to those supporting the amendment.

To the groups and individuals working for the approval of the amendment by the States, the question of what the rights of the States were and should continue to be was a matter of insignificance compared to the ratification of the amendment. They quoted the words of Theodore Roosevelt: "State rights should be preserved when they mean the people's rights but not when they are invoked to prevent the abolition of child labor—not when they stand for wrong or oppression of any kind or for national weakness or impotence at home or abroad."22 The question, "Would you put 'States' Rights' above human rights?"23 shows how little concern the rights of the States gave proponents of the amendment first, and the retention of States' Rights afterward.

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(21) Battle Over Child Labor Amendment, Literary Digest 83:14, December 6, 1924.
(22) Appeal to Prejudice and Ignorance. Journal of National Education Association 14:23, January, 1925.
(23) Ibid.
Summary of Chapter

The necessity of the States deciding whether the proposed amendment to the Constitution, which would give to the Federal government power to control child labor in the United States, should be made a part of the Constitution resulted in a national campaign which had for its purpose the ratification of the amendment by the States. Many national social service organizations assumed the leadership in the contest for ratification. Both sides carried on the contest through the use of periodicals, newspapers and pamphlets. On the side of those in favor of the amendment, were many educators, social workers, Presidents, and other people prominent in the life of the nation.

Among the reasons advanced by those groups in favor of the ratification of the amendment by the States, those of greatest importance were (1) that child labor ought to be regulated by the Federal government because it was a national problem, because it was the duty of the government to protect its citizens, because the States would not improve their child labor laws, and because it is in reality an interstate problem; (2) that some States in the past have not been progressive in child labor legislation; (3) that American industry was tending to employ more children all the time; and (4) that ratification of the amendment by the States would
not be conferring unreasonable power upon Congress. Additional minor reasons for ratification were that the amendment did not give Congress power over education, that the amendment was properly drawn, and the States' Rights were overshadowed by the necessity for ratifying the amendment.
CHAPTER VII

GROUPS AND INDIVIDUALS FAVORING REJECTION OF THE PROPOSED AMENDMENT AND THE REASONS ADVANCED BY THEM FOR REJECTION

In our preceding discussion we have seen how the question of whether the Federal government of the United States should be authorized to control child labor assumed national proportions when the proposed amendment to the Constitution was submitted to the States for ratification or rejection. We have also perceived how the amendment was fostered in the beginning by a large number of national social service organizations, how other groups and individuals came to support it, and how the campaign for ratification was carried on through various organs of public expression through which the reasons for approval on the part of the States were made known and defended. Among the reasons given to justify ratification were the
necessity for child labor regulation by the Federal government due to its national aspects, the lack of progressive legislation on the part of the States in the past, the tendency for child labor in industry to increase instead of to decrease, and the belief that the amendment did not confer unreasonable power upon Congress.

Now we shall direct our attention to those groups and individuals favoring the rejection of the child labor amendment and discuss the reasoning behind their refusal to assent to the ratification of the amendment.

Organizations and Persons Favoring Rejection

The original organized opponents of the proposed amendment were comprised of the groups whose representatives appeared against such an amendment at the hearings conducted by the Committee on the Judiciary of the House of Representatives during February and March, 1924.1

These groups consisted of the National Manufacturers' Association, the Southern Textile Bulletin, the Moderation League, the Woman Patriot, the Sentinels of the

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Republic, the Women's Constitutional League, of Maryland, and the Pennsylvania Manufacturers' Association.

After the submission of the amendment to the consideration of the States, the Farmers' States Rights League and the American Farm Bureau joined forces with the other organizations opposing the ratification. These two organizations, together with the National Manufacturers' Association and the Pennsylvania Manufacturers' Association took a very active part in the campaign.

Of the individuals actively opposing the amendment, Howell Cheney and James A. Emery of the National Manufacturers' Association were representative. Of educators, Dr. Henry S. Fritchett, President of the Carnegie Foundation for the Advancement of Teaching, and Dr. Nicholas Murray Butler, President of Columbia University were foremost in their opposition to the amendment. Joseph Lee, President of the Playground and Recreation Association was also not in favor of the amendment. Of the generally recognized progressive political leaders of the country, Senator William E. Borah was undoubtedly the most outstanding in his opposition.
Reasons Assigned for the Rejection of
the Amendment

We find a greater multiplicity of reasons assigned by the opponents of the child labor amendment and also a greater diversity of subject matter than in a review of the reasons for the amendment. This seems to be due to a tendency on the part of the opponents of the child labor amendment to seize every opportunity offered to cast the measure into disrepute. This diversity of subject matter accounts for a difficulty in classifying the various reasons under proper divisions.

Children Should not be nationalized. A genuine feeling that by adding the amendment to the constitution the American child would thereafter be in an entirely different relationship to the national government, was possessed by many people who viewed with alarm the prospect of nationalization of their children at the hands of a Washington bureaucracy. The Springfield Union reasoned that when Congress undertakes to "limit, regulate and prohibit the labor of all persons under eighteen something will have to be
done with these persons. A system of federalized education will be the next step."  

Again, "The amendment, in the nature of it, is said to substitute the Socialistic theory that the citizen belongs to the State for the American principle that the State is the creature of the citizen."  

While this feeling on the part of American citizens was a reality, it is hard to conceive of the amendment being so revolutionary as then pictured.

Closely allied to this attitude was a conviction that the regulation of child labor did not by its nature belong within the jurisdiction of Federal power. Furthermore it was thought that for the evil of child labor the remedy inside a state "lies within the powers of the legislature of that State."

The States have satisfactorily and properly regulated child labor in the past.

In the face of various arguments set forth by these people favoring the amendment to the effect that child labor was not sufficiently and uniformly

(2) Battle Over Child Labor Amendment. Literary Digest 93:13, December 6, 1924.
(3) Heritt, B. Children and the Constitution. Outlook 139:788, December 24, 1924.
controlled by all the states of the Union, there was a
general tendency among people opposing the amendment to
ignore such claims and to assume that the States were
accepting their responsibilities in the solving of the
problem of child labor. This was the attitude of the
Providence Journal when it stated that the argument for
such an extension of Federal power would be stronger if it
could be shown that the states had actually neglected to
regulate child labor, and that every State today does re-
gulate the labor of its children. The Helena Independent
took the stand that "There is no State in the Union in which
a majority of the people are unconcerned about child welfare." Dr. Henry S. Pritchett also emphasized the belief that "There
is no crying need for the central government to take the question
out of the hands of the States and settle it by regulation from
Washington," and that the child labor matter was being solved
by the wholesome process of education of public opinion in the
various communities.

(6) Battle Over Child Labor Amendment. Literary Digest 93:12, December 6, 1924.
(6) Ibid.
(7) Opposition to the Child Labor Amendment. Elementary School
Journal 28-182, November, 1924.
Thus we have opposite stands taken by the two sides of the question of whether the States had properly regulated child labor. These attitudes were probably due to the different viewpoints and standards of measurement on the part of the people on both sides.

The Amendment is a tendency toward Socialism and Bureaucracy.

Not only did many people regard the adoption of the amendment of the Constitution as a departure from commonly-recognized American principles of government, but some people also considered it a start in the direction of pure radicalism in the science of government. The question was asked, "Shall we go further than we already have gone in stripping the States of authority, and correspondingly expand a Federal bureaucracy?" Dr. Henry S. Pritchett explained that an aggressive bureaucrat at the head of a Federal child labor bureau may exercise a

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(8) Providence Journal in Literary Digest 83:12, December 6, 1924.
dominance over the relations of children to parents or to teachers from which there is not appeal. 9

Without regard to the fact that great numbers of prominent people of undoubted American citizenship and ideals had sponsored the amendment, the statement of the Manufacturers' Record that "The proposed amendment is fathered by Socialists, Communists, and Bolsheviks," received general acceptance throughout the country. 10 In this way a stigma became attached to the amendment and it lost much support.

**Over-legislation a bad thing.**

The fear of over-legislation by Congress was another reason why the proposed amendment was not generally supported. Over-legislation meant "extreme" legislation of which the Volstead Act was pointed out as an example. It was thought that Congress, if given the power conferred by the amendment, would enact extreme laws so that children, for an example, could not do work at home and on the farm.

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(9) Dr. Fritchett, Dr. Butler and Child Labor. School and Society 20 (No. 515): 582, November 8, 1924.
(10) School and Society 20 (No. 515): 483, November 8, 1924.
This led Dr. Butler to explain that "It is one more invitation to lawlessness." The opinion was also expressed that the amendment to the Constitution, as a short-cut to the problem, was not the best way, that it would bring increased resistance to government coercion, and that local enforcement would be a difficult matter. In connection with this viewpoint, it was concluded that "the whole trend of the times seems to be away from a centralization of authority in Congress. That body in recent years has done little to inspire confidence, and why, it is asked, should its jurisdiction be extended?"

While the probabilities of such legislation on the part of Congress do not appear convincing to us at this time, nevertheless the possibilities seemed of real consequence to those opposing the amendment.

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(11) School and Society 20 (No. 515):583, November 8, 1924.
The application of the amendment is not definite.

To those favoring the ratification of the amendment by the States, the amendment gave only discretionary power to Congress to regulate the work of all persons under eighteen years of age, and the assumption was that Congress would legislate only to the extent demanded by public opinion and the welfare of society. But to those favoring a rejection of the amendment by the States there was a question as to the exact application of the amendment. Did it mean that Congress would consider it a duty to regulate the labor of all persons under eighteen years of age? This uncertainty as to the application soon became the basis of misstatements on the part of those desiring the defeat of the amendment. As a result the misstatements were generally accepted by great numbers of people. An illustration of the distortion of the application of the amendment appeared in the Manufacturers' Record, an influential periodical opposed to the amendment, when it asserted, "You must bear in mind that this amendment takes away entirely from the parents the right to have their
children, sons and daughters, do work of any kind, so long as they are under eighteen years of age."^{14}

Adoption of the Amendment would result in industrial loss to Manufacturers.

That the industrial and financial interests were opposed to the child labor amendment is very evident. Their organizations, particularly that of the National Manufacturers' Association, were active opponents of ratification by the States. Their officials were generally found leading the opposition and setting forth reasons for rejection. Examples were Howell Cheney^{15} and James A. Emery^{16} who were officials in the National Manufacturers' Association and who wrote articles for publication opposing the amendment. It was held that the opposition of the financial interests was an economic one. An editorial of the Ceramic Industry, a magazine which was devoted to the interests of manufacturers of glass, enamel and white-

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^{14} Manufacturers' Record, September 11, 1924, p. 57.
ware, and refractory and allied products, stated that

"The amendment attacks one of the greatest institu-
tions of our land, that of industrial liberty. It
affects ceramic manufacturers vitally because of the
vast number of youthful persons employed. ...........
It is safe to say that the pottery industry would be
forced to dismiss close to 40 per cent of its labor
should this amendment pass.
"Industry is already feeling the effects of im-
migration restrictions. To place this proposed
amendment in force would simply aggravate a situation
that is already difficult for manufacturers to meet."17

Thus the manufacturer had private and economic reasons
for joining the cause of the oppositionists.

The child labor amendment gives Congress too much power.

Probably the most dominating single reason advanced
against the amendment was that the Amendment conferred
upon Congress a power too vast in comparison to the need.
According to one writer, there was an "opinion abroad that
Congress has more than it can attend to now."18 Dr. Henry
S. Pritchett declared that the amendment would give Congress
power to regulate, limit, or prohibit the labor of persons under
eighteen, which is a power far beyond the regulation of labor,

[17] Quoted by W. L. Chenery. Child Labor, the New Alignment
Survey 53:282, January 1, 1925.
[18] Forbes, A. W. Child Labor Amendment. School and Society
21 (No. 530):231, February 21, 1925.
and which "is a blank check which future Congresses may fill out as they please." 19 Again, the Newark News thought that the chief criticism of the amendment was not in its interference with the police power of the States, but that it went too far, was too drastic, and clothed Congress with a control of the activities of those under the age of eighteen that "could cripple the economic independence of self-respecting families." 20

Closely related to these reasons was that one founded upon the ground that the rights of the States would be imperiled and diminished by the ratification of the child labor amendment by the States. S. R. Child, writing in the Chicago Journal of Commerce, explained that

"No such power was ever before given to Congress. Our fathers won by the Revolution absolute and complete self-government for the people within the respective States. They gave up to the Federal Government, in the Constitution, only such powers as were necessary to establish and maintain the Federal Government. But no powers were given to Congress to interfere with home rule, self-government, or the civil rights of citizens in the respective States." 21

The Richmond Times-Dispatch pronounced the amendment "but another step in the direction of extreme centralization of authority and power at Washington." 22

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(20) Quoted in Battle over Child Labor Amendment. Literary Digest 83:12, December 6, 1924.
(21) Quoted in Battle over Child Labor Amendment. Literary Digest 83:12, December 6, 1924.
(22) Quoted in Literary Digest 82:12, December 6, 1924.
and the New Haven Journal-Courier assured its readers that "already the concentration of power at Washington is sapping the strength of the government in all its main and subdivisions."\(^{23}\)

One of the most forceful expressions of the various views of the States Rights groups was given in a resolution of the State Senate of Georgia when it declared that adding the child labor amendment to the Constitution would

"destroy parental authority and responsibility throughout America, would give irreversible support to a rebellion of children which menaces our civilization, would give Congress not only parental authority, but State authority, over education, would destroy local self-government, would eviscerate the States and change our plan of government from a Federal Union to a consolidated republic, and create a centralized government far removed from the power of the people."\(^{24}\)

Dr. Butler also held the view that not only would the amendment make possible a more far-reaching series of changes in our family, social, economic and political life than have heretofore been dreamed of by the most ardent revolutionary, but also that the amendment was one of a link of circumstances which included the eighteenth and nineteenth amendments, and that it

\(^{23}\) Quoted in Literary Digest 82:12, Dec. 6, 1924.
\(^{24}\) Would Congress Spoil Our Children? Literary Digest 83:32, November 28, 1924.
was an unwarranted interference with the rights of the States. 25

While the reasoning and premises of those persons opposing the proposed twentieth amendment would not stand a critical analysis, nevertheless these ideas came to be held by many people. In their reasons for opposing the amendment, there was noticeable a tendency to discard the terms and language of the amendment and to substitute not probabilities, but imagined possibilities. Experiences received under the Constitution and with previous amendments were not called into use in the consideration of this amendment. As a whole, little faith in the future acts of Congress was expressed by the oppositionists.

Summary of Chapter. A marked difference existed in the composition of the groups favoring rejection as compared with those favoring ratification. We find

find few social workers and no social organizations of consequence working for the rejection of the amendment. We also find that the most active organizations opposing the amendment were commercial and economic associations. A few educators took the side of the rejectionists.

Among the reasons given by those groups of individuals opposing ratification were the beliefs that the Federal government should not nationalize the children, that the States were progressing satisfactorily in solving the problem of child labor, that the amendment was a step toward Socialism and bureaucracy, that overlegislation would result from the amendment, that it was not clear to whom and to what extent the amendment would apply, that the amendment would bring economic loss to business establishments, and that the amendment would bestow too much power upon Congress.

It was also significant that many misstatements and misconceptions crept into the reasons given by those opposing the amendment.
CHAPTER VIII

STATE ACTIONS ON THE PROPOSED TWENTIETH AMENDMENT

In the two preceding chapters of our story of the attempts of the Federal government to regulate the employment of children in the United States, we have presented the outstanding groups, individuals and organizations favoring the ratification by the States of the proposed child labor amendment to the Constitution. Likewise we have seen what people and organizations were unwilling to see the States make the amendment a part of the national Constitution. We have also discussed the various reasons commonly given telling why the Constitution should and should not be changed by the addition of the proposed article. Around these issues the child-labor amendment battle was fought and the forty-eight States became the scenes of the contest. To one side victory meant decisions by three-fourths of the States to ratify the amendment. To the other side success consisted of nothing less than the rejection of the amendment by the States.

It will be recalled that Congress had submitted the amendment to the States in June, 1924. Under the provisions for amending the Constitution, ratification by three-fourths
of the States, or thirty-six States, was necessary to make the proposed amendment a part of the Constitution. But rejection of the amendment in this case by more than twelve States would decide the issue. After the submission of the amendment to the States, the result was not long in doubt.

**Decision of the States**

By March 3, 1926--nine months after Congress had approved the amendment--the amendment had been rejected by not less than fourteen States and had been ratified by only four States.¹ Those States which had ratified were Arkansas, Arizona, California, and Wisconsin. By the adverse decision of the fourteen States the cause of the amendment was doomed to defeat. By February 9, 1926, twenty-one States had rejected the amendment and four States had ratified it. On April 18, 1927, the amendment had been ratified by only five States out of the forty-eight--Arkansas, Arizona, California, Wisconsin, and Montana. Twenty-four States had definitely rejected the amendment through both houses of the State legislatures. In two other States it had been ratified by only


one House, and it had been rejected by one House in nine States. The amendment had been indefinitely postponed by one House in two States, and it had not been acted upon in another State.

The cause of the amendment had been overwhelmingly defeated.

Massachusetts as a Significant Battleground

One of the first States to take steps to either ratify or reject the amendment was Massachusetts. Since this State had in the past been one of the most progressive States in the enactment of child labor legislation as well as the earliest State to enact a child labor law, it was generally assumed that the State would favor ratification of the amendment, especially since the State legislature had petitioned Congress to submit the amendment to the States.

But the amendment was submitted to the electorate of the State by the legislature in the manner of a referendum with the purpose of getting direct advice on the will of the people. In the campaign which followed, the cause of the amendment was defeated by a vote of 696,119 to 247,231, which was a surprise to the entire nation. While the causes of the defeat of the amendment
are very interesting, the reaction on the part of the States during the amendment campaign was probably of more importance.

The defeat of the amendment in Massachusetts gave the enemies of the amendment encouragement everywhere. It also marked out the lines along which the contest was to be carried on in the future in other states. The psychological influence upon the remaining States was likewise an important factor in the determination of the final results. John W. Crabtree, Secretary of the National Education Association, in a letter to the different state educational associations, explained that as a result of the vote in Massachusetts on the amendment, shop and industrial interests assumed unprecedented activity, that funds were subscribed and organizations were formed, that the aid of the ministry and school people was solicited to help defeat the ratification in every State, and that propaganda was prepared for use in the other States.3

Why Massachusetts revoked herself. Various reasons have been given for the change of front by the State of Massachusetts. It was recalled that there were 146,607 illiterates and 1,086,548, foreign born persons

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in Massachusetts and that the States' Rights scare and its promotion by the manufacturing and shop interests had much to do with the winning of the ignorant vote of the State.\(^4\) Also, the Catholic clergy, who were led by Cardinal O'Connell and who actively opposed the ratification of the amendment were held responsible by some for the outcome.\(^5\) However it should be remarked that the official attitude of the Catholic body throughout the rest of the United States was favorable toward the amendment. Again, it was thought that because President Coolidge, Speaker Gillette, Senators Lodge and Walsh, and all but three members of the House of Representatives from Massachusetts supported the amendment, the friends of the measure were lulled to sleep.\(^6\)

Among other causes of the three-to-one vote in Massachusetts which were given, was the lack of workers on the side of the ratificationists, needed to reach the people in time for the election. Again, it was held that the Cotton manufacturers of the South had joined with the National Manufacturers' Association to defeat the amendment in the State. In addition a very potent cause of the defeat was the astounding misunderstanding and misconception everywhere in the State concerning the amendment.

\(^4\) Journal of the National Education Association 14:23, January, 1923.
\(^5\) Catholics and Child Labor. Nation 120:59, Jan. 21, 1925.
itself. As a result it was believed that the amendment prohibited all work by persons under eighteen years of age, that it was conceived in Russia, that Congress could not be trusted in the simple matter of giving humane protection to children, and that the education of children was to be regulated under the amendment. 7

Much credit for the rejection of the amendment was attributed to Louis A. Coollidge, Chairman of the Sentinels of the Republic, and Treasurer of the United States Shoe Machinery Company, who said in an address before the Boston Boot and Shoe Club, that the age of eighteen years was placed in the amendment "by groups actuated by communistic and bolshevistic interests in Moscow, groups whose primary purpose was to nationalize the youth of the United States and place in the hands of Congress the absolute power to say what every boy and girl under eighteen years of age can do or cannot do. 8" Likewise, Congressman A. Platt Andrew, in describing the advocates of the child labor amendment, said on October 8, 1924, in Boston:

"They are for the most part pacifists and internationalists. They regret our generous and glorious part in the world war. They would do away with the army and navy and means of National defense. They would do away with the Supreme Court. They would do away with the Constitution. They would have the Federal government take over

(8) Child Labor, the New Alignment, Survey 53:426.
all the functions of the States and local governments. They would centralize everything in Washington with Federal laws, Federal bureaus, Federal police controlling every activity in our lives. They would establish in Washington a modern form of an ancient tyranny, no less abominous than in Russia because it bears the label of democracy. It is from this point of view that I invite your attention to the Twentieth Amendment.1

The Outlook reported after the election, that among those people who had been favorable toward the amendment, there was the belief that Massachusetts was tired of competing with products coming from the Southern States where there were imperfect child labor laws, and as a result the State of Massachusetts gave up the struggle.10

But among the more conservative causes given for the defeat of the amendment in Massachusetts were the prevailing misunderstanding of the issues, and the feeling that the amendment should have taken another form or at least have been drawn differently.

**Why a Majority of the States Rejected the Amendment**

Taking the United States as a whole, we can safely say that the defeat of the child labor amendment in the various States was due largely, as was true in most respects

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in Massachusetts, to the following factors:

1. Well organized groups of Manufacturers.
2. A revival of States’ Right sentiment.
3. Farmers looking askance at the possibilities of national regulation of farm children.
4. A distaste for the war-time interference with business and private affairs.
5. A confusion of amendment arguments with communism and socialism.
6. The use of war-time propaganda.

A paradoxical result of the ratification contest lies in the fact that the amendment was rejected not merely by those States traditionally backward in legislation of a social nature, but by States generally recognized as progressive, if not radical, in social welfare legislation. This observation lends strength to the belief that after all, the issue was not fought out on the real merits of the amendment.

**New Alignments in the Child Labor Amendment Battle**

Our discussion of the various phases of the battle in the States for ratification of the proposed amendment would not be complete without calling attention to the working alignments and unusual combinations on both sides of the issue.
On the side of the oppositionists were the farmers and agricultural interests who afterward stated through the Farm Bureau Federation that "we had reason to believe that the amendment was aimed primarily at children on the farm, and we did not propose, and do not propose in the future, to see Congress set itself up as a self-imposed stepmother in the farmer homes of the United States."11 Working with the farmer element were the manufacturers and commercial interests. The States' Rights people also worked in harmony with these groups.

The cause of the amendment was defended by various social welfare organizations both local and national. The educators of the country as a general thing supported the amendment and advocated its "prompt ratification by the States."12 To this alignment was also added the strength of the labor organizations of the country.

Summary of Chapter

The States defeated the child labor amendment to the Constitution overwhelmingly by refusing to ratify it. Out of a total of forty-eight States only five States

11 Telegram From the Farm Bureau Federation. Literary Digest 64:10, February 7, 1925.
12 Journal of the National Education Association 13:317, December, 1925.
were in favor of adding the amendment to the basic law of the land.

The State of Massachusetts was a pivotal State in the contest for the ratification of the amendment. The results were largely indicative of the final results throughout the entire country, and we find most of the issues being fought over in that State. Chief among the causes of the people of Massachusetts changing their former attitude on the amendment were the misunderstanding of the matters involved and a dissatisfaction with what they regarded as the deficiencies of the amendment itself.

Among the other States a few additional and supplementary causes such as States' Right Sentiment, and an abhorrence of government interference in private and business affairs also played a part in the rejection of the amendment.

We find that States' Rights men joined with the agricultural and manufacturing interests in the fight against the amendment. On the other side was an alignment of social welfare organizations, educators and organized labor.
CHAPTER IX

SUMMARY AND CONCLUSION

Child labor as an institution had come to embrace in 1920 at least a million children between the ages of ten and fifteen years. There are also grounds for believing that it has increased since 1920. Its extent was marked out by no one section of the United States although children employed in certain industries were found in locations geographically favorable to those industries. Street work, amusement and entertainment, textile work, canneries, mines, agricultural and industrial homework attracted the greatest numbers of children under fifteen years of age.

Child labor became an educational problem as well as a problem of economics, social welfare, and government, because of its relationship to scholarship, retardation and promotion, attendance, delinquency, and withdrawals from school. Numerous educational measures are being adopted in an effort to help solve the problem. Much legislation by the States, including compulsory school attendance laws, has also been enacted.
The earliest attention given to the possibility of Federal regulation of child labor, came through platforms in the national elections of the last quarter of the nineteenth century. Attempts in Congress to enact Federal legislation regulating child labor began to assume importance after 1900. The first serious consideration of national child labor regulation came with the introduction of the Beveridge-Paterson bill in 1907 and the able support given such projected legislation by Senator Albert J. Beveridge of Indiana.

The first enactment of a national law regulating child labor was in 1916 when the Keating bill was passed. The regulation of child labor was accomplished through the power of Congress over interstate commerce, whereby Congress prohibited the interstate and foreign transportation of products from establishments employing child labor in violation of certain standards. This law was declared unconstitutional by the Supreme Court.

The next child labor act was passed by Congress in 1919 as a part of a revenue act. By this act a tax was imposed on the net profits of establishments employing child labor contrary to standards set by Congress. This act was also declared unconstitutional by the Supreme Court, in 1922.

After many proposals had been made in Congress for an
amendment to the Constitution, whereby, if it should be ratified by the States, Congress would have unquestioned power to control the working activities of all persons under eighteen years of age.

A large majority of the States, acting through their legislatures, refused to ratify this amendment to the Constitution, only five of the forty-eight States favoring it.

Conclusions. The failure of the amendment to the Constitution leads us to make the following conclusions:

1. Congress is now left without any constitutional jurisdiction over the regulation of child labor.
2. The people of the United States, regardless of the good or deficient features of the amendment, are not in favor of Federal regulation of child labor.
3. The amendment, having been acted upon once by almost all the States, is now a dead issue.
4. The defeat of the amendment was aimed, not at all regulation of child labor, but at regulation of child labor by the Federal government.

The large question remaining is, "What will be the future of Federal child labor activities?" The answer
depends upon the course of action followed by those people and organizations which sponsored the amendment proposal. Three possibilities present themselves to these groups: (1) They may sponsor a new amendment with a lower age limit and drawn in better phraseology; (2) they may continue the fight for ratification of the amendment with a view of getting the States which rejected the amendment to change their decisions; and (3) they may admit the failure of their efforts to secure national regulation of child labor, and may concentrate their attentions on improving the legislation of the several States.

At the present time there are few indications as to which possibility will be utilized by the erstwhile amendment enthusiasts, yet the last possibility seems the most probable one.
APPENDIX

AN ACT TO PREVENT INTERSTATE COMMERCE IN THE
PRODUCTS OF CHILD LABOR, AND FOR OTHER PURPOSES

(From the Statutes At Large of the United
States of America 1915 to 1917, Vol. 39,
Part 1, Chapter 432, pp. 675-6.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress as-
sembled, That no producer, manufacturer, or dealer shall
ship or deliver for shipment in interstate or foreign
commerce any article or commodity the product of any
mine or quarry, situated in the United States, in which
within thirty days prior to the time of the removal of
such product therefrom children under the age of sixteen
years have been employed or permitted to work, or any
article or commodity the product of any mill, cannery,
workshop, factory, or manufacturing establishment, situated
in the United States, in which within thirty days prior to
the removal of such product therefrom children under the age
of fourteen years have been employed or permitted to work,
or children between the ages of fourteen years and sixteen
years have been employed or permitted to work more than eight
hours in any day, or more than six days a week, or after the
hour of seven o'clock postmeridian, or before the hour of six
o'clock antemeridian: Provided, That a prosecution and conviction
of a defendant for the shipment or delivery for shipment of any article or commodity under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such article or commodity before the beginning of said prosecution.

Sec. 2. That the Attorney General, the Secretary of Commerce and the Secretary of Labor shall constitute a board to make and publish from time to time uniform rules and regulations for carrying out the provisions of this act.

Sec. 3. That for the purpose of securing proper enforcement of this act the Secretary of Labor, or any person duly authorized by him shall have authority to enter and inspect at any time mines, mills, canneries, workshops, factories, manufacturing establishments, and other places in which goods are produced or held for interstate commerce; and the Secretary of Labor shall have authority to employ such assistance for the purposes of this act as may from time to time be authorized by appropriation or other law.

Sec. 4. That it shall be the duty of each district attorney to whom the Secretary of Labor shall report any violation of this act, or to whom any State factory or mining or quarry inspector, commissioner of labor, State medical inspector, or school-attendance officer, or any other person shall present satisfactory evidence of any such
violation to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay for the enforcement of the penalties in such cases herein provided: Provided, That nothing in this act shall be construed to apply to bona fide boys' and girls' canning clubs recognized by the Agricultural Department of the several States and of the United States.

Sec. 5. That any person who violates any of the provisions of section one of this act, or who refuses or obstructs entry or inspection authorized by section three of this act, shall for each offense prior to the first conviction of such person under the provisions of this act be punished by a fine of not more than $500, and shall for each offense subsequent to such conviction be punished by a fine of not more than $1,000, nor less than $100, or by imprisonment for not more than three months, or by both such fine and imprisonment, in the discretion of the court: Provided, That no dealer shall be prosecuted under the provisions of this act for a shipment, delivery for shipment, or transportation who establishes a guaranty issued by the person by whom the goods shipped or delivered for shipment or transportation were manufactured or produced, resident in the United States, to the effect that such goods were produced or manufactured in a mine or quarry in which
within thirty days prior to their removal therefrom no children under the age of sixteen years were employed or permitted to work, or in a mill, cannery, workshop, factory, or manufacturing establishment in which within thirty days prior to the removal of such goods therefrom no children under the age of fourteen years were employed or permitted to work, nor children between the ages of fourteen years and sixteen years employed or permitted to work more than eight hours in any day or more than six days in any week or after the hour of seven o'clock postmeridian or before the hour of six o'clock antemeridian; and in such event, if the guaranty contains any false statement of a material fact, the guarantor shall be amenable to prosecution and to the fine or imprisonment provided by this section for violation of the provisions of this act. Said guaranty, to afford the protection above provided, shall contain the name and address of the person giving the same; and provided further, that no producer, manufacturer, or dealer shall be prosecuted under this act for the shipment, delivery for shipment, or transportation of a product of any mine, quarry, mill, cannery, workshop, factory, manufacturing establishment, if the only employment therein, within thirty days prior to the removal of such product therefrom, of a child under the age of sixteen years has
been that of a child as to whom the producer or manufacturer has in good faith procured, at the time of employing such child, and has since in good faith relied upon and kept on a file a certificate, issued in such form, under such conditions, and by such persons as may be prescribed by the board, showing the child to be of such an age that the shipment, delivery for shipment, or transportation was not prohibited by this act. Any person who knowingly makes a false statement or presents false evidence in or in relation to any such certificate or application therefor shall be amenable to prosecution and to the fine or imprisonment provided by this section for violations of this act. In any State designated by the board, an employment certificate or other similar paper as to the age of the child, issued under the laws of that State and not inconsistent with the provisions of this act, shall have the same force and effect as a certificate herein provided for.

Sec. 6. That the word "persons" as used in this act shall be construed to include any individual or corporation or the members of any partnership or other unincorporated association. The term "ship or deliver for shipment in interstate or foreign commerce" as used in this act means to transport or to ship or deliver for shipment
from any State or Territory or the District of Columbia to or through any other State or Territory or the District of Columbia or to any foreign country; and in the case of a dealer means only to transport or to ship or deliver for shipment from the State, Territory, or district of manufacture or production.

Sec. 7. That this act shall take effect from and after one year from the date of its passage.

Approved, September 1, 1916.

AN ACT TO PROVIDE REVENUE, AND FOR OTHER PURPOSES

(From the Statutes At Large of the United States of America 1917 to 1919, Vol. 40, Part 1, Chapter 18, pp. 1138-40.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE XII. --TAX ON EMPLOYMENT OF CHILD LABOR

Sec. 1200. That every person (other than a bona fide boys' and girls' canning club recognized by the Agricultural Department of a State and of the United States) operating (a) any mine or quarry situated in the United States in which children under the age of sixteen years
have been employed or permitted to work during any portion of the taxable year; or (b) any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which children under the age of fourteen years have been employed or permitted to work, or children between the ages of fourteen and sixteen have been employed or permitted to work more than eight hours in any day or more than six days any week, or after the hour of seven o'clock post meridian, or before the hour of six o'clock antemeridian, during any portion of the taxable year, shall pay for each taxable year, in addition to all other taxes imposed by law, an excise tax equivalent to 10 per centum of the entire net profits received or accrued for such year from the sale or disposition of the product of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment.

Sec. 1801. That in computing net profits under the provisions of this title for the purpose of the tax there shall be allowed as deductions from the gross amount received or accrued for the taxable year from the sale or disposition of such products manufactured within the United States the following items:

(a) The cost of raw materials entering into the production;

(b) Running expenses, including rentals, cost of repairs,
and maintenance, heat, power, insurance, management,
and a reasonable allowance for salaries or other com-
pensations for personal services actually rendered, and
for depreciation;

(o) Interest paid within the taxable year on debts
or loans contracted to meet the needs of the business,
and the proceeds of which have been actually used to
meet such needs;

(d) Taxes of all kinds paid during the taxable year
with respect to the business or property relating to
the production; and

(e) Losses actually sustained within the taxable
year in connection with the business of producing such
products, including losses from fire, flood, storm, or
other casualties, and not compensated for by insurance
or otherwise.

Sec. 1202. That if any such person during any tax-
able year or part thereof, whether under any agreement,
arrangement, or understanding or otherwise, sells or dis-
posses of any product of such mine, quarry, mill, canery,
workshop, factory, or manufacturing establishment at less
than the fair market price obtainable therefor either (a)
in such manner as directly or indirectly to benefit such
person or any person directly or indirectly interested in
the business of such person; or (b) with intent to cause
such benefit; the gross amount received or accrued for
such year or part thereof from the sale or disposition of such product shall be taken to be the amount which would have been received or accrued from the sale or disposition of such product if sold at the fair market price.

Sec. 1208. (a) That no person subject to the provisions of this title shall be liable for the tax herein imposed if the only employment or permission to work which but for this section would subject him to the tax, has been of a child as to whom such person has in good faith procured at the time of employing such child or permitting him to work, and has since in good faith relied upon and kept on file a certificate, issued in such form, under such conditions and by such persons as may be prescribed by a board consisting of the secretary, the commissioner, and the Secretary of Labor, showing the child to be of such age as not to subject such person to the tax imposed by this title. Any person who knowingly makes a false statement or presents false evidence in or in relation to any such certificate or application therefor shall be punished by a fine of not less than $100, nor more than $1,000, or by imprisonment for not more than three months, or by both such fine, and imprisonment, in the discretion of the court.

In any State designated by such board an employment
certificate or other similar paper as to the age of the child, issued under the laws of that State, and not inconsistent with the provisions of this title, shall have, the same force and effect as a certificate herein provided for.

(b) The tax imposed by this title shall not be imposed in the case of any person who proves to the satisfaction of the secretary that the only employment or permission to work which but for this section would subject him to the tax, has been of a child employed or permitted to work under a mistake of facts as to the age of such child, and without intention to evade the tax.

Sec. 1204. That on or before the first day of the third month following the close of each taxable year, a true and accurate return under oath shall be made by each person subject to the provisions of this title to the collector for the district in which such person has his principal office or place of business, in such form as the commissioner, with the approval of the secretary, shall prescribe, setting forth specifically the gross amount of income received or accrued during such year from the sale or disposition of the product of any mine, quarry, mill, canner, workshop, factory, or manufacturing establishment, in which children have been employed subjecting him to the tax imposed by this title, and from the total thereof deducting...
the aggregate items of allowance authorized by this title, and such other particulars as to the gross receipts and items of allowance as the commissioner, with the approval of the secretary, may require.

Sec. 1205. That all such returns shall be transmitted forthwith by the collector to the commissioner, who shall, as soon as practicable, assess the tax found due and notify the person making such return of the amount of tax for which such person is liable, and such person shall pay the tax to the collector on or before thirty days from the date of such notice.

Sec. 1206. That for the purposes of this act the commissioner, or any other person duly authorized by him, shall have authority to enter and inspect at any time any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment. The Secretary of Labor, or any person duly authorized by him, shall, for the purpose of complying with a request of the commissioner to make such an inspection, have like authority, and shall make report to the commissioner of inspections made under such authority in such form as may be prescribed by the commissioner with the approval of the Secretary of the Treasury.

Any person who refuses or obstructs entry or inspection
authorized by this section shall be punished by a fine
of not more than $1,000, or by imprisonment for not more
than one year, or both such fine and imprisonment.

Sec. 1307. That as used in this title the term
"taxable year" shall have the same meaning as provided for
the purposes of income tax in section 200. The first
taxable year for the purposes of this title shall be the
period between sixty days after the passage of this Act
and December 31, 1919, both inclusive, of such portion
of such period as is included within the fiscal year (as
defined in section 200) of the taxpayer.

Approved 6.35 p. m., Feb. 24, 1919.

H. J. RESOLUTION 184, SIXTY-EIGHTH CONGRESS,
FIRST SESSION.

JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE
CONSTITUTION OF THE UNITED STATES.

Resolved by the Senate and House of Representatives
of the United States of America in Congress assembled
(two-thirds of each House concurring therein), That the
following article is proposed as an amendment to the
Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

"Article--.

"Section 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age.

"Sec. 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress."
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