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PROPOSED CHILD LABOR AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

SIXTY-EIGHTH CONGRESS

FIRST SESSION

FEBRUARY 7, 15, 16, 27, 28, AND 29, 1924
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HOUSE RESOLUTION 371

Resolved, That the hearing held before the Committee on the Judiciary, Sixty-eighth Congress, first session, on the proposed child labor amendments to the Constitution of the United States be printed as a House document, and that 2,000 additional copies be printed for the use of the House Committee on the Judiciary.

Passed the House of Representatives December 18, 1924.

HARRY J. HUNT,
Chief Bill Clerk, House of Representatives.

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PROPOSED CHILD LABOR AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Thursday, February 7, 1924.

The committee met at 10 o'clock a. m., George S. Graham (chairman) presiding.

The CHAIRMAN. This is a hearing on House Joint Resolution 66, giving Congress the power to prohibit the labor of persons under the age of 18 years and to prescribe the conditions of such labor, and on all similar resolutions now pending before the committee. If there is no objection, all of the resolutions on this subject will be printed as an appendix hereto.

Mr. Frothingham, you want to go away, so we will hear you first.

STATEMENT OF HON. LOUIS A. FROTHINGHAM, A REPRESENTATIVE IN CONGRESS FROM MASSACHUSETTS

Mr. FROTHINGHAM. Unfortunately, I have a meeting of my committee at 10 o'clock. There are numerous others here to go into this subject in detail; so if it will not inconvenience you, I will say a few words only.

All these measures have the same object in view; they differ somewhat in wording. The idea is to enable Congress to have authority through a constitutional amendment to get uniform legislation. Other methods have been tried without success. As a rule I do not

approve of the National Government "butting in" in this manner, but I think this cause is different, because it is a matter of humanity, and also because the passage of an amendment of this character will have a great effect on the betterment of the human race in this country.

I thank you for your courtesy in letting me say these few words.

The CHAIRMAN. Mr. Lineberger.

STATEMENT OF HON. WALTER A. LINEBERGER, A REPRESENTATIVE IN CONGRESS FROM CALIFORNIA

Mr. LINEBERGER. Mr. Chairman and gentlemen of the committee——

Mr. YATES (interposing). I would like to ask a question, whether this bill is here in various forms.

The CHAIRMAN. There are 20.

Mr. LINEBERGER. I understand that there have been various bills on this matter, both in the House and in the Senate, and I am sure the committee will take note of that fact which shows that there is a general sentiment throughout the country for the enactment of this legislation. I believe that if you will take these various bills, and note the members who introduced them and the geographical locations from which they come, you will find that various sections of the country are in support of a measure of this character. I have introduced a bill (H. J. Res. 87) which is similar to one I introduced in the last Congress.

I simply want to say very briefly that I think this is the most important piece of legislation that has come before the American Congress, because it deals in the citizenship of to-morrow. The children of to-day are going to be the citizens of these United States to-morrow, and the mental, moral, and physical type of those citizens is going to be in direct proportion to the opportunities which they have to grow up and become normal, useful members of society. Child labor is a thing that is against the conscience of America.

I am not a lawyer, and I am not going to discuss the legal aspects of this. Furthermore——

Mr. MICHENER (interposing). For that matter, most of us are really with you as far as you have gone. But what is largely before this committee now are the legal aspects of it, the form of the resolution.

Mr. LINEBERGER. But where there is a will there is a way. When the conscience of the American people is known to this committee, made up as it is of legal minds, I am sure that the legal way will be found to bring about the necessary legislation, which I believe is generally agreed must be in the form of an amendment to the Constitution of the United States.

Mr. HICKEY. Do you know how many States have child labor laws?

The CHAIRMAN. Forty-six States have child labor laws.

Mr. FOSTER. But 13 of them have laws equal to the one that was declared unconstitutional. Since the Federal law was declared unconstitutional, 44 States legislatures have met but not one has raised its standards.

Mr. LINEBERGER. I was going to say that I understood that about 90 per cent of the States have some form of child labor law. However, this is a matter which the committee will have to work out. I do not expect that my resolution, or any other that has been introduced, will be adopted in toto. You gentlemen are thoroughly capable of working out the kind of legislation that you think will stand the test before the Supreme Court and meet the legal deficiencies that were found to exist in the other bill.

There is just one more point. I think that, from the standpoint of the labor situation in the United States, we should not have the children of the country injected into the labor problem. The labor problem, the differences between capital and labor in this country, and the adjustments that are necessary to be brought about in order to carry out the industrial and economic life of the country are difficult enough. In dealing with adults I do not think that the child ought to be injected into it.

I believe that this legislation must pass sooner or later, but I believe that there is no time like the present. I am heartily in favor of such legislation and trust that the committee will report out at a very early date a bill in such form and in such terminology as will deal adequately with the situation.

I thank you very much for the opportunity of coming here and saying these few words in behalf of these bills.

Mr. SUMNERS. Mr. Lineberger, I assume you are in charge of the hearing this morning.

Mr. LINEBERGER. Oh, no; I have nothing to do with the hearing. I simply came here because I have introduced a bill on this subject and am very much interested in it.

STATEMENT OF HON. FREDERICK W. DALLINGER, A REPRESENTATIVE IN CONGRESS FROM MASSACHUSETTS

Mr. DALLINGER. I introduced House Joint Resolution 21, which proposes and amendment to the Constitution giving Congress the power to prohibit the employment of children. My resolution is a little broader than the others because it also covers the employment of women.

The section that I come from has adopted humane legislation along these lines, as you know, and we are subject, of course, to the competition of other sections where they have no such legislation. It is a serious question whether we can continue to compete with those sections of the country that do not have this humane legislation.

There is no question about the feeling of the people of the country generally in regard to the employment of little children in the factories, the mills, and the mines. Personally I regret very much that it seems necessary to ask Congress to pass a constitutional amendment. I think it is too bad that these States that have refused to adopt this humane legislation could not have done it themselves. As the gentleman from Ohio has pointed out, since the act passed by Congress prohibiting the employment of children under 14 was declared unconstitutional, not a single one of these States has adopted advanced legislation of this kind.

Mr. SUMNERS. What are your restrictions?

Mr. DALLINGER. I have not fixed any limit in my bill.

Mr. SUMNERS. I mean in your own State.

Mr. DALLINGER. The employment of children under 14 is absolutely prohibited, and under 16 they are obliged to have a certain amount of schooling.

Mr. SUMNER. In what sort of work are they prohibited?

Mr. DALLINGER. From all work.

Mr. SUMNERS. Could they not work on the farm?

Mr. DALLINGER. Why, I suppose they can help their families on the farm.

Mr. SUMNERS. They could not go across the field and help a neighbor?

Mr. DALLINGER. Well, I understand if they work regularly, between 14 and 16, they must have a certain amount of schooling. They must go to night school, or go to school a certain part of the week. Under 14 they are not permitted to be employed at all; and in order for a boy or a girl to get employment they must get a certificate from the school authorities showing that they are of the proper age.

Mr. SUMNERS. It is believed by you people that the age limit which you fixed is about the correct age limit?

Mr. DALLINGER. Why, naturally; sir.

Mr. SUMNERS. I mean the people who are interested in child welfare. I think they are from all over the country.

Mr. DALLINGER. The provisions advocated here are substantially the same as in the child labor law that was passed by Congress on two different occasions.

Mr. YATES. As I understand you, your amendment does not fix the age limit, but leaves it to be determined by Congress from time to time?

Mr. DALLINGER. I made it broad. I would be in favor of fixing the age at, perhaps, 14; but I want to give Congress the power to establish a uniform law of this kind. I have no doubt, may it please the committee, that if you give Congress the power to pass such a law, that it will pass substantially the same bill that it has passed twice before, by an overwhelming vote.

Mr. FOSTER. A general committee representing 17 of these national women's organizations have had up with a number of lawyers the proper wording of the proposed amendment.

Mr. DALLINGER. Mr. Chairman, I want the committee to frame the best constitutional amendment that it can. I am here to plead for the passage of a constitutional amendment that will give Congress the power to prohibit the employment of children of the age when they should be at school and at play.

Mr. DYER. You do not want to advocate the whole of your resolution, then, do you?

Mr. DALLINGER. Oh, yes; I am in favor of it.

Mr. DYER. Establish uniform hours and conditions?

Mr. DALLINGER. I think that Congress ought to pass a uniform law in regard to the employment of women and minors in line with the 48-hour laws passed by many of our States.

Mr. DYER. Is not that question practically regulated now—the hours of labor of women? You do not seriously advocate that

Congress should recommend or present a resolution for a constitutional amendment to the States fixing the hours and the conditions of employment of women, do you?

Mr. DALLINGER. Yes, I do; I am in favor of that.

Mr. DYER. You do not think it could ever be done?

Mr. DALLINGER. It probably would be done. Congress has passed an eight-hour law for all Government employees long ago.

Mr. DYER. And the States also have taken up that question. As to the constitutional amendment, you do not think that is necessary, do you?

Mr. DALLINGER. Yes; I do.

Mr. DYER. But you do not think it is necessary to add that to the amendment?

Mr. DALLINGER. I think it is important to regulate the hours of employment and the conditions of labor.

Mr. DYER. Why not put it in for men, too, then?

Mr. DALLINGER. Because the men can take care of themselves.

Mr. DYER. The ladies can take care of themselves pretty well.

Mr. DALLINGER. Now that they have the vote, perhaps they can.

Mr. SUMNERS. Is it your judgment, or not, that sentiment in favor of protecting children with reference to the hours and conditions of labor is growing over the country generally?

Mr. DALLINGER. I think it is growing, sir.

Mr. SUMNERS. In view of the fact that you believe it is growing, do you have any question in your mind as to the wisdom of the Congress taking this matter from the jurisdiction of the States, instead of leaving it for the people of the States, for the good women and men of those States, to develop a local opinion and attitude that will compel their legislatures to respond to this sentiment?

Mr. DALLINGER. I wish that sentiment might be what you say, sir; but I am very much reminded of a speech by Congressman Howard, of Georgia, at the time one of the child-labor bills passed the House. Many of his colleagues were opposed to the bill, you will remember, and he made a speech in favor of it. He said that one of the most pathetic things to him was to go from his house to his law office in the morning and to see the little colored children going to school and the little white children going into the factories and the mills because their parents who had moved in from the mountain districts wanted their children to go into the factories and the mills. That accounts for the fact that those States have not passed this humane legislation.

When you have men and women in States in this country so blind to the interests of their own offspring and to the welfare of the future citizens of their State that they deliberately want their children to go into the factories and mills, it is going to be a long time, in my opinion, before all the State legislatures will pass this humane legislation. In addition, I think the whole country is interested in the welfare of all of its children.

Mr. SUMNERS. I think we are getting at the heart of this bill so far as I am concerned. I will ask you this question—and we are just in consultation here. Mr. Howard expressed what I believe is the growing sentiment everywhere. Now don't you think it is quite worth while if the people of the States are compelled, say under the

leadership of such men as Mr. Howard, to make this fight for the protection of the children there? Don't you think it is worth while to develop this sentiment among the only people on earth who have the power to protect the children? That is a serious question in my mind.

Mr. DALLINGER. I think that you and I agree in this respect, that it is too bad that we have to ask for a constitutional amendment. It is too bad that the people of all the States do not see the matter in the right spirit. I will call your attention to the fact that Congressman Howard, of Georgia, was defeated.

Mr. SUMNERS. For the Senate. He was not defeated for Congress.

Mr. DALLINGER. He is not here. As I say, he was defeated.

Mr. SUMNERS. But not on that issue.

Mr. DALLINGER. It may have had a good deal to do with it.

The CHAIRMAN. We have not time to speculate about Mr. Howard. Let us discuss the question before us.

Mr. DALLINGER. If the people of these States that have not passed this humane legislation do not do it, I think the Nation ought to do it.

Mr. SUMNERS. Do you not believe, and do you not know, that the sentiment in the country generally, in the States, is growing in favor of protecting child labor? Is that not a fact in your judgment?

Mr. DALLINGER. For the country as a whole, that is true; but it does not seem to have permeated the States where this evil exists in its pronounced form to any such extent as to warrant us in believing that they are going to pass this legislation in the near future.

Mr. SUMNERS. Is not this a fact, that only a short time ago practically none of the States had legislation along this line? And, considering the territory of the United States as a whole, has not that sentiment grown, and has it not crystallized into legislation, as rapidly as any other general movement that you know of?

Mr. DALLINGER. In certain sections of the country it has not advanced very much.

Mr. FOSTER. Is it not a fact that the last Federal census shows that 1 out of every 20 children under 16 years of age in the United States is in gainful employment; and in some States, one out of four? And since the Supreme Court declared this law unconstitutional, 44 State legislatures have met in 44 States which have standards not equal in all respects to the law declared unconstitutional, and not one of the 44 legislatures raised their standard. That would suggest that progress is not very rapid, would it not?

The CHAIRMAN. You began your remarks by saying that these other States had an element of unfair competition by reason of the lack of labor laws, and that it might take away from your State its precedence in certain lines of industry. Do you think that has anything to do with the question of adopting a constitutional amendment?

Mr. DALLINGER. I do, because I do not think that a State should be penalized for adopting humane legislation.

The CHAIRMAN. Do you think that would be a ground for invading the system that was adopted by the fathers in creating the dual form of Government under which we exist?

Mr. DALLINGER. It should not be a compelling reason. I believe, sir, that the States should be encouraged to adopt humane legislation. Now, I put this thing entirely upon the ground of the welfare of the future citizens of the country. In other words, the Nation is interested in the welfare, the physical and mental welfare, of the future citizens of the United States, and if the States refuse or neglect to adopt humane legislation that is going to better the future mentality and morality of the country, I believe we are justified on every ground—from the war power, if you please—to do this sort of thing. Now, as the Supreme Court has declared the child labor law unconstitutional, I think we ought to get a constitutional amendment.

The CHAIRMAN. Do you think that a few communities with the advanced idea ought to be put in the position of enforcing their views upon the other communities of the United States?

Mr. DALLINGER. I do not think there are a few.

The CHAIRMAN. That is seemingly what the condition is, according to Mr. Foster's question. Is not the fact that 44 States have met since the decision of the Supreme Court and taken no action, evidence that 44 States are opposed to this form of legislation?

Mr. DALLINGER. I do not think so, sir; many of those States have child-labor legislation.

The CHAIRMAN. Yes; but he put it that no change had been made to conform with the standard set in the congressional legislation.

Mr. DALLINGER. Because that included the States that had no child-labor law at all.

The CHAIRMAN. I would like to ask if you are aware of the fact that, according to the report on the employment of children issued by the bureau, 61 per cent of the child-labor employment is engaged in agriculture, forestry, or animal husbandry? Sixty-one per cent; are you aware of that fact?

Mr. DALLINGER. Yes, sir.

The CHAIRMAN. Only 7 per cent in the extraction of minerals; 17.5 per cent in manufacturing and mechanical industries; 1.8 per cent in transportation; trade, 6 per cent; domestic personal service, 5.1 per cent; clerical occupations, 7.6 per cent; others, 4 per cent.

Now this distribution shows that in the country districts, where they need farm help, the children are employed in aiding their parents in the work of the farm, and in the forests, and in animal husbandry. Is not that conducive to health, and to the development of children?

Mr. DALLINGER. I do not think so, sir.

The CHAIRMAN. Well, how far is the State going to be called upon to pass coercive legislation to control the power of the parents over their children, when the use of that power is spurred by those who would take the children of these parents and follow some ideal, beautiful course of treatment, such as your State of Massachusetts has devised?

Mr. DALLINGER. I think, sir, that the standard of living in the United States ought to be high enough so that every parent——

The CHAIRMAN (interposing). You do not eliminate poverty, do you?

Mr. DALLINGER (continuing). Can educate his children; and the State is vitally concerned in that until that child reaches the age of 14. You just quoted to me certain figures, about only 17 per cent being engaged in manufacturing. That includes the textile industry. You do not point out in those figures that in some States the proportion is very much larger than that.

The CHAIRMAN. The figures I quoted are for the whole United States.

Mr. DALLINGER. I know it; but there are some States where perhaps 25 per cent of the children are being employed in the factories and mills, and I do not believe that the Nation ought to allow that to go on.

The CHAIRMAN. Do you or do you not believe, Mr. Dallinger, that if the same amount of interest and propaganda were directed to those particular States concerning which you complain that the results would be different, that it would enable the States to deal with this question, which is a matter for State legislation and not for national legislation?

Mr. DALLINGER. No, sir; I do not, because you have the selfish interests of the parents in those States, the parents who are so blind to the interests of their children that they want those children to go into the factories.

The CHAIRMAN. For instance, I see here something reprinted by permission of Collier's, in which it refers to my State, Pennsylvania, and speaks of the startling condition of affairs.

Mr. YATES. What are you referring to, Mr. Chairman?

The CHAIRMAN. I am referring to the propaganda you have all received.

Mr. FOSTER. I asked to have it placed on our desks this morning. That is my responsibility. I hope everyone reads it.

The CHAIRMAN. I think the part here relating to Pennsylvania is quite insulting. Pennsylvania can be agitated to any reform that is within the line of moral vision, and to make this statement about Pennsylvania is absurd on its face. Any appeal by these good ladies and any other appeal by citizens to the legislature would secure every reform that would be warranted in being passed.

Mr. YATES. What is the statement, Mr. Chairman?

The CHAIRMAN. It states—

> That great State has a governor who is ranked as one of the most far-seeing progressives. The old-line politicians feared him as a doctor fears pneumonia. We have no idea of saying for one moment that Gifford Pinchot is responsible for the fact that the boys are still working at the mines, a great many of them illegally, underground in the Pennsylvania fields, but what we do call to attention is the fact that an electorate which put in a man of that type is the same electorate which permits the damaging work to go on. It is no backward community. It is one of the greatest in the United States.

Well, now, if that electorate has such intelligence, why not make an appeal to it and make that reform? Have we heard from Governor Pinchot the slightest complaint upon this subject? He has been investigating the mines. Have we heard a word from this progressive statesman concerning the employment of children in Pennsylvania? No; it is like a great deal more of the propaganda that is issued and circulated among us and that has no foundation in fact.

Mr. FOSTER. If the Federal Government is to do nothing and leave the percentages which our chairman has read and which are relatively low, we are to be left in a position where our standing is below Belgium, Denmark, Germany, Great Britain, Greece, the Netherlands, Bulgaria, Czechoslovakia, New Zealand, Norway, Rumania, and Switzerland. They all have a higher standard than our Nation.

What we are trying to do here is not to say that the States must do a certain thing. They can legislate above our standard as much as they see fit. We are trying to fix some standard so that one backward State will not be in the position of unfairly competing with another State that has seen fit to adopt more humanitarian legislation.

Mr. DALLINGER. That is exactly correct, sir.

Mr. MONTAGUE. Is the purpose to prevent competition, or to reach a humanitarian standard?

Mr. DALLINGER. To reach a humanitarian standard. This committee ought to agree upon a minimum age under which children should be educated. I simply stated, Governor, in opening my remarks, that I came from a section of the country that long ago adopted this advanced legislation, and I do not believe it is right for that section to be penalized because it has adopted that humanitarian standard. I believe that the whole country ought to adopt a minimum standard on the ground of education alone.

Now, when you come to the question of illiteracy, this country has a pretty bad record as compared with European countries. You take the Scandinavian countries. In Denmark and Germany, before the war, they had practically no illiteracy. I believe one of the reasons we have so much in this country is because of the fact that compulsory school attendance laws have not been enforced because of this incentive to employment. The chairman has spoken about the fact that these children have got to work to support the family. The standard of living ought to be high enough so that every parent should have the opportunity to educate his children under 14 and not put them in the mills.

Mr. DYER. Have you any figures, and can you put them in your statement, showing the relative proportion of illiteracy in the States that have no protection for child labor as compared with those that do?

Mr. DALLINGER. I have not those figures.

Mr. DYER. I understood you to say that in the States which have no child labor laws, which do not fix an age limit, the progress of the children in obtaining an education is retarded. That was your statement, was it not?

Mr. DALLINGER. I said that I believed that over the country the temptation to employ children instead of sending them to school is responsible for much of our illiteracy.

Mr. DYER. What are the facts, though? Have you or anyone speaking upon this subject any facts showing the relative proportion. I think that is important.

Mr. FOSTER. I think there is a speaker here to give you that information.

Mr. DYER. You are satisfied it is a fact?

Mr. DALLINGER. I certainly am. You gentlemen can see it is so; that the temptation to have the children work instead of going to school at an age when they should be getting their education must be largely responsible for it; and those States where they have no child labor legislation or very limited child labor legislation are States where there is a great deal of illiteracy among the native-born people.

The CHAIRMAN. May I ask you, Mr. Dallinger, if you know of the Massachusetts Public Interests League? Is that an organization in your State?

Mr. DALLINGER. Yes, sir; I believe it is.

The CHAIRMAN. I have a letter from the president which I will read to you, and then ask a question about it. [Reading:]

MASSACHUSETTS PUBLIC INTERESTS LEAGUE,
Boston, Mass., February 6, 1924.

Hon. GEORGE S. GRAHAM,
Chairman of the Judiciary Committee, Washington, D. C.

DEAR SIR: I shall be grateful if you will cause the following statements from our league to be inserted in the records of the hearing on the national child labor amendment:

Believing that a law to be properly enforced must have public opinion behind it and believing that public opinion in the few remaining States which have refused to pass progressive child labor laws should be educated until these States are willing to do away with child labor rather than that the Federal Government should undertake to force improvement upon them, believing also that the continued infringement of the rights guaranteed to the States by the Constitution is a serious menace to our country, the Massachusetts Public Interest League wishes to go on record as opposed to a national child labor amendment to our Constitution.

Truly yours,

MARGARET C. ROBINSON, *President.*

Are not the views as expressed and set forth in that resolution important enough to make us pause in considering the question of amending the Constitution of the United States and invading the reserved powers of the States in this important particular?

Mr. DALLINGER. The organization to which you refer is composed of very estimable people who are opposed to any further amendments to the Constitution of the United States. I have had more or less correspondence with them. I have tried to point out to them that this particular constitutional amendment now before you differs from any of the other constitutional amendments to which they have been opposed for the reason that it is almost analagous to the slavery amendment. There are things which are so contrary to the instincts of humanity and to the welfare of the Nation that the national Government ought to step in. I believe that the employment of little immature children at a time when they should be getting the health and strength and mental training for their future duties as American citizens is such a charge upon the future manhood and womanhood of this country that the Nation is sufficiently interested to stop it if the States will not.

The CHAIRMAN. If poverty and necessity compel children to work at an early age, you think the lash of a national law should be applied to them and take away that help from their parents? Now, I happen to know a young man who by reason of the adversities of his parents had to wind bobbins in a carpet mill at this forbidden period, but he managed to go on and acquire an education and at

the same time be of help to his parents and later to occupy a position of some importance in the community. Is not that an example of thousands and tens of thousands of young men? If they choose, and have the ambition and the right spirit, they can get on; and unless you remove poverty, how can you take away the necessity for some degree of child labor?

Mr. DALLINGER. I doubt very much, Mr. Chairman, if there are many cases in this day and generation where this is true, and I believe that there are plenty of opportunities so that parents having little children and who are in need, can be taken care of.

Mr. YATES. I want to make a suggestion. Inasmuch as all Members of Congress will have ample opportunity to discuss these matters, could we not hear from the out-of-town witnesses?

Mr. FOSTER. I want to make this observation in connection with the chairman's last statement. In my district hundreds of boys under 16 used to work in the mines. When the State law was changed they no longer were allowed to work, and there has been no greater poverty as a result. I think that is a fair illustration of the conditions as I have seen them in operation.

Mr. SUMNERS. Do you not believe it is a better thing for your community and your good people to have established that law, and to have secured the benefit of the struggle which led to the establishment of the law, than it would have been had the Federal Government passed the law two years before you did it?

Mr. FOSTER. I think that the industries of the State of Ohio, in looking after its youths, ought not to be required to compete with the industries in an adjoining State which refuses to do it.

Mr. SUMNERS. Is it not better that the people of your State should have done it?

Mr. FOSTER. It would be better if we had required all the States to do it.

Mr. PERLMAN. May the record show that at the last Congress I introduced a resolution to amend the Constitution so as to prohibit the employment of children under 18, and that in this Congress, House Joint Resolution 42, introduced by me, proposes a similar amendment? I do not want to prolong the discussion, but let me say this about poverty. The little children, even on the farms, when they are permitted to be employed, are competing with their parents. If those children were not employed, but permitted to go to school, labor would pay more, sufficiently more to cover the loss of the child's pay. Besides that, the same condition would hold good in the factories, where the employers would have to pay fair wages to the employers and the latter would not have the children competing with them.

The CHAIRMAN. I was going to say that we can discuss this in the committee meeting.

Mr. PERLMAN. I am not interested in whether my resolution is reported out or not. As far as I am concerned, I will be satisfied so long as this committee reports out a resolution amending the Constitution so that Congress will have power to prohibit child labor.

The CHAIRMAN. We will hear you next, Congressman Rogers.

STATEMENT OF HON. JOHN JACOB ROGERS, A REPRESENTATIVE IN CONGRESS FROM MASSACHUSETTS

Mr. ROGERS. I think I approach this question, so far as the problem which confronts the committee at this time is concerned, somewhat differently than the previous speakers. I think that it must be admitted, or assumed, that the sentiment of the country is overwhelmingly in favor of the suppression of child labor, irrespective of the route by which individuals may believe we should proceed. I think there is no serious dissent to the proposition that the child-labor menace must be controlled. Then comes the question of how that result shall be achieved.

Congress has spoken twice upon the subject, both times by overwhelming majorities; and I think in each case the decision of Congress was approved generally by the people of the United States. In other words, there is a disposition both in Congress and throughout the country to recognize that we have here a Federal problem. Some gentlemen will dissent from the wisdom of that decision, but it seems to me perfectly clear that in both Congress and out of Congress there is in the child-labor problem a really and truly Federal problem. Each time that we have legislated, we have sought to invoke the powers of Congress under the two different clauses of the Constitution with which you are familiar. Each time cases have gone to the Supreme Court of the United States, and after a very considerable delay the Supreme Court has declared that the action of Congress was outside its powers. In all, it has taken some six or seven years for Congress to make these two experiments, only to learn that each experiment was beyond its powers to make. So that we are exactly where we started from 10 or 15 years ago when the question of congressional legislation on the subject was first broached.

Now, assuming that the country thinks that this presents a Federal problem, and assuming that Congress has done all it possibly could, but in vain, to work out the problem through congressional legislation, the only thing left is a constitutional amendment. Now, gentlemen, I am as much opposed as any member of this committee can be to tinkering with the Constitution; nevertheless, sometimes we all agree that a constitutional amendment is proper. It is a matter of judgment as to whether it shall be deemed proper in this case or not. My own view is that it is proper, because of the far-reaching consequences to the generations to come.

That this situation as to child labor shall be as effectively controlled as possible, I have a resolution upon this subject which I should like to have printed with my remarks. I will not burden the committee by reading it. It is House Resolution No. 32. It provides for a constitutional amendment simply because we have gone as far as we can to find a remedy through a statute. I should personally welcome the prediction that there were still some statutory way of working out this problem.

(Upon request, Mr. Rogers here read his resolution, which is printed with similar resolutions in the appendix hereto.)

Mr. ROGERS. So far as I am concerned, I do not expect that Congress will legislate up to the full authority contained in that language. I doubt if it would be at all wise in the immediate future for

Congress to go as far as that language would permit, but, as I said a moment ago, and as a majority of the members of the committee also feel, I do not believe in constantly nibbling at the Constitution. I think we want to go as far this time as advancing public sentiment may ever insist that we shall go. Therefore, I propose a very liberal maximum, both as regards the general legislation for women and as regards the age at which a person shall cease to be a minor.

Mr. SUMNERS. Why not just propose a general amendment; then we will not have to amend the Constitution any more.

Mr. ROGERS. I thank you, Mr. Chairman and gentlemen of the committee.

Mr. LINEBERGER. I would like to request of the committee that House Joint Resolution 87 be included as part of my remarks.

The CHAIRMAN. I will say that all of the resolutions will be printed in the appendix, so that they will all appear. There are about 20 in number before the committee.

STATEMENT OF HON. WILLIAM P. CONNERY, JR., A REPRESENTATIVE IN CONGRESS FROM MASSACHUSETTS

Mr. CONNERY. I wish to place myself on record as absolutely in favor of an amendment to the Constitution prohibiting child labor. You have my own bill which I have submitted, House Resolution 199. It is along the same line as that of Mr. Rogers.

I have listened very interestingly to the remarks of Mr. Dallinger and to the questions of the gentlemen of the committee. I was very much interested in the remarks of my colleague across from me—I do not remember the gentleman's name—in reply to what the chairman of the committee said about the young man trying to earn his living, that if you add this amendment to the Constitution which would stop him from working you would be interfering with that fellow's right to earn a living. I think the gentleman's answer was very good.

If we add this amendment to the Constitution, we will take away from these big corporations the opportunity of sending little children into the mills. We will compel these big organizations to pay to the fathers of these children the money that they now pay to the little fellows, giving the fathers a chance to get a decent living and giving the children a chance to go to school.

I think I agree with everything that was said by Mr. Dallinger and Mr. Rogers. I am not in favor of generally tinkering with the Constitution, but I believe this is a big national problem. I believe that the great majority of the people of the United States are in favor of this amendment.

If the States have not sufficient desire and have not enough public spirit to protect the little children of the United States, I, for one, am in favor of forcing them to do so. I believe that Congress should pass one of these resolutions which gives Congress the power to control this matter. That does not mean that children under the age of 18 can not go to work, but it gives the Congress the power to say whether they can go to work or not and whether conditions demand that these children should waste their young lives when they should be going to school.

The CHAIRMAN. On that branch of the subject I think there is no disagreement. The disagreement arises upon the question of the advisability of adopting a constitutional amendment; that is the only difficulty.

Mr. CONNERY. You mean it should be left to the States? I do not think so, for it is apparent that some four or five States of the Union will not protect their children in this respect. However, I do not believe that the people in those States are in favor of child labor; it is the big moneyed interests that are forcing public sentiment against the abolition of child labor.

Mr. BOIES. Do you not think that this regulation ought to be confined to certain sorts of work, rather than to make it so general that the boy out on the farm can refuse to go get an armful of wood or a basket of eggs for his mother?

Mr. CONNERY. I think that should be applied to the boy on the farm also.

Mr. BOIES. Have you observed boys who grew up to 16 years of age who did not have some little employment along the way, of that kind?

Mr. CONNERY. We would not stop any boy from going out to get an armful of wood on the farm. But I do not believe in children being on the farm when they ought to be going to school.

Mr. BOIES. They do not go to school on Saturdays, and they are not in school after 4 o'clock.

Mr. CONNERY. Congress could legislate that a child can do some work on Saturday. They can do that now in Massachusetts.

Mr. BOIES. I think the law should be specifically directed to, say, factories and mines and such things as that, and not make it so general.

Mr. CONNERY. Doesn't the gentleman think of the fellow on the farm? Now if a farmer should pay good wages to the——

Mr. BOIES (interposing). The farmers are paying the laborer more money to-day than they can afford to pay.

Mr. CONNERY. I think it would help the whole country if you regulated child labor so that you would have to pay the men good wages.

Mr. SUMNERS. You say that there are four or five States that have not yet adopted child labor laws, and that they ought to be coerced. Now swing around to the other. It is a comparatively short time ago that this movement began, and now, through the efforts of the people in the States, they have reduced this condition until the evil exists in its worst forms in four or five States. You might be able, in those four or five States, to get the legislatures to do their duty, and thus leave the States in control of this matter.

Mr. CONNERY. We talk about public opinion in the States. You know that in many States public opinion is governed by the newspapers, and it is the man who has the money who can regulate public opinion.

Mr. MONTAGUE. Is that propaganda more prevalent in the States or at Washington?

Mr. CONNERY. But if you have any State that is dominated by big interests, it is difficult to start propaganda in favor of regulating child labor.

Mr. SUMNERS. Do you not think it would be better for the children themselves if we could get the people of the States to take a novel interest in childhood and do this? That it would be better for the children for the States to do this thing than to have the Federal Government come in and coerce the States?

Mr. CONNERY. Perhaps it will take 200 years to get the people of some States to do the things they ought to have done long ago.

Mr. SUMNERS. You do think that you can run this Government from the top down?

Mr. CONNERY. No; I do not; but I do think that any big national problem which affects the people of the United States ought to be handled by the Federal Government.

Mr. SUMNERS. Well, there is another national problem involved in this discussion. You want to educate their heads, and one gentleman has suggested that they must work in order to feed their bodies; and now right behind this comes the question of the National Government providing for the proper feeding of the children in order that they can go to school and not work.

Mr. CONNERY. I would be in favor of anything on feeding the children.

Mr. SUMNERS. By the National Government?

Mr. CONNERY. By the State.

Mr. SUMNERS. But you do not leave anything to the States. Do you not think that if you can educate the people of the States to the point where they will see that these children do not have to work, that you will then have a local purpose to see that they are properly fed?

Mr. CONNERY. You have that in the States now, where they give the children lunches in the noon hour.

Mr. SUMNERS. But if by national legislation you free the children from this child labor, don't you think you weaken the probability of the taking care of the children by the States. I mean that you have got a chance in this field to make a fight in the States, to arouse a general interest in childhood that will make the people of those States see that the children are properly fed and clothed. I am not certain about my judgment, and I am telling you what my difficulties are. I think you are losing a chance for childhood by taking this fight away from the States and by trying to get the Federal Government go in there and say, "You have got to do something."

Mr. CONNERY. Do you not think you could get the same interest in those States with a constitutional amendment?

STATEMENT OF HON. HENRY ALLEN COOPER, A REPRESENTATIVE IN CONGRESS FROM WISCONSIN

The CHAIRMAN. Mr. Cooper.

Mr. COOPER. I did not expect when I came here this morning to say anything, but one of the gentlemen of the committee kindly came to me and asked me if I wished to speak. I told him that I did not; but in view of some of the questions that have been propounded I shall address you very briefly.

I picked up a pamphlet this morning before I came here, and I recall that there is an answer in that pamphlet to one of the questions

that was asked, and that is with respect to permitting the States to regulate this. A striking example of the need for a country-wide standard was found on the border of a State whose requirements were high. In a State adjoining, children were allowed to work for longer hours and at an earlier age, so that many children from the State which sought to protect its children, and who were not allowed to work at home, crossed the river on the ferry and secured employment in the other. The manufacturers in the State with the higher standards bitterly complained of this, but the citizens who wished to see the children of their State protected had no way to overcome the evil. Many similar examples could be given, especially in connection with the seasonal industries where whole families will migrate from one State to another.

The CHAIRMAN. That circular, sir, is in the hands of each member of the committee.

Mr. COOPER. Yes; but that answers the question that was raised. Only 13 States have as high requirements with regard to children working in factories, mills, and workshops as had the two Federal laws. Some States fall below nearly all of the European countries in the protection which they give to working children.

Now, Mr. Chairman and gentlemen, think of the Republic of the United States, which is supposed to be the great exemplar in the protection of human rights, protecting its children less efficiently and effectively than several of the countries of continental Europe where proverbially children have been left to shift for themselves until comparatively very recently.

Now, then, this proposition that the States will regulate this brings to mind the fact that George Washington, who did not believe in human slavery, and Thomas Jefferson, who bitterly condemned it, both had slaves. They thought that in the process of time public opinion would force slavery out of the States; but it took a war, and the piling up of a debt of four billions of dollars, and the loss of hundreds of thousands of lives in the bitterest and most terrible of civil wars to do away with what the States would not do for themselves.

Mr. MONTAGUE. Do you not think those States would have abolished slavery in the course of 10 or 15 years had they been left alone?

Mr. COOPER. They had from the time the Constitution was adopted been discussing it, but they never made any attempt to do away with it. And another thing, Governor. When the Constitution was adopted it took longer to go from Rochester, N. Y., or from the county in which it is located, to Albany or at least to New York City—and these are all in one State—than it takes now to go from San Francisco to New York City. Time and distance have been annihilated. Competitive conditions in all kinds of industry are so utterly different from what they were when the Constitution was adopted and when these arguments about State rights were first inaugurated, that it is almost impossible to discuss them on any comparative basis. Conditions are not alike at all. Here we have a man sitting at the telephone and telling his factory 2,000 miles away what he wants shipped into this or that territory; but when George Washington and the other men of that time drafted the

Constitution of the United States it would have taken months to have even got a word to one of them.

It does not seem to me, gentlemen, with all respect to the ultra States rights doctrine, that it has very much more application in this day and generation to the protection of children than a discussion of county rights would have.

Mr. BOIES. You think that those men who framed the Constitution under the conditions that you describe had a great vision, inasmuch as the Constitution reaches down to and is applicable to-day?

Mr. COOPER. I do not think that any one of them dreamed of a railroad. I do not think that any one of them ever dreamed of the telegraph, or the telephone, or the radio, or the ten thousand things, almost, which have changed conditions so vitally and which affect industries so fundamentally.

Mr. SUMNERS. With a central bureaucratic government in Washington we can neither properly discharge legislative duties nor supervise all these bureaus which have absorbed governmental powers of the States.

Mr. COOPER. No, Mr. Sumners; I do not think that that question quite meets the situation. I think that the regulation of child labor is a question, so far as the fundamental conditions are concerned, purely for the Federal Government, just as much as the regulation of money is. It was said two or three generations ago that paper money would be all right if the States were allowed to regulate it, that their self-interest would make paper money safe, and so we had the State banks and the shinplasters.

The CHAIRMAN. I think that is a totally different question from what we are considering. We are drifting into a discussion of slavery and finance. We had better get back to the main question, which is whether this ought to be left to the States or to the National Government.

Mr. COOPER. It was suggested that the States would regulate this matter, so I brought these illustrations in. The experience is that since the Supreme Court nullified as unconstitutional the two laws which were passed by Congress child labor has increased very materially. That would indicate to me that the sentiment in the respective States is not such that the States can be left to take care of this matter. So I mentioned incidentally what I thought were analogous situations of the past, where other evils left by the founders of the country to the States to stop were not in fact stopped by State legislation. That is the only reason I mentioned that, and I think, with all respect for the chairman, that the illustrations are quite apropos.

Mr. FOSTER. I suggest that we now call Miss Grace Abbott, of the Children's Bureau, Department of Labor.

STATEMENT OF MISS GRACE ABBOTT, CHIEF OF THE CHILDREN'S BUREAU, UNITED STATES DEPARTMENT OF LABOR, WASHINGTON, D. C.

Miss ABBOTT. In the division of the subject matter, with a large group favoring this amendment, I have been asked to put into the record certain facts with reference to the whole subject so that we might have a fact basis upon which to proceed. It has been indi-

cated that we are now discussing the question of giving authority to Congress to enter a field which Congress has already entered, the effects of which we already know, because we have had two Federal child labor laws. We know exactly what those laws did for the children, and we know exactly what they did or did not do for the State governments. We know that during the period that those child labor laws were in effect the children enjoyed a greater protection in many parts of the country than they had before; and that, instead of paralyzing State initiative, the reverse was true. State initiative was stimulated so that the tendency was to raise State standards where they were below the standard of the Federal law. State enforcement was also stimulated; so that, as I said before, instead of paralyzing State initiative the result was that the Federal Government and the State governments cooperated for a common end.

Mr. SUMNERS. Are you going to establish those facts later on?

Miss ABBOTT. Yes.

As the acts were declared unconstitutional, the question now comes up, what are the present facts with reference to child labor; that is, what have the States done, what are the practices in the States, in so far as legislative child-labor standards are concerned? It is an intricate subject, and it is not easy to compare what the States have done, because the legislation differs very much in detail.

If we undertake to set forth what the laws are in the States in a general way, we have to set forth so many exceptions that it is not accurate to draw a line and say there is a 14-year limit in so many States and there is not in so many others, because of the various exemptions that there are in the various States. At the present time, however, there is a tendency in three directions in the legislation of the States. One of these is to establish a minimum-age standard for children entering industry. That is the one with which people are generally the most familiar, perhaps. Then there is also the tendency to establish an educational standard; and, third, there is the tendency to establish a physical standard for children entering industry, the State providing that children who are not physically normal for their age and not physically qualified to go in the particular industry contemplated shall not be given work permits. And then we have in addition to this minimum-age requirement this physical requirement and this educational requirement, also a tendency to prohibit employment in extra hazardous or dangerous occupations until the child reaches a higher age; in some States the minimum for some occupations being as high as 21 years. In addition, in most of the States we have laws governing the conditions under which children may work during the first few years during which employment is permitted.

The first Federal child labor law and the second Federal child labor law set forth standards that were higher than those in many of the States and lower than those in others. In a sense the Federal law prescribed, for the time that it was in operation, a minimum standard.

At present, a minimum age for work in factories has been established in all except in three States at 14 or over. Six States have higher than a 14-year minimum. However, when I say this it does

not mean that no children may work under 14 in all the States except three; it means that with reference to some one or more particular occupations a 14-year minimum has been established, and that even then children are exempted at certain times or under certain conditions. The occupational inclusiveness of the State laws differs from State to State, and if I were to undertake to indicate the inclusiveness of these laws with reference to the age limit of 14 it would require a very long statement or many maps in order to show what the differences are. There has been a tendency to establish a special minimum for mines, which is 16 in more than half of the States. But four have a higher minimum than that, and some have lower minima. In a State like Ohio, which has a 16-year limit for most occupations during school hours, the period during which most of the special regulations of the conditions of work are prescribed is 16 to 18 years of age; in Massachusetts, which has a 14-year minimum, the general age period of regulation applies to working children between 14 and 16. The regulations most frequently made relate to the hours of work.

As to the length of the working day, 35 of the States and the District of Columbia have recognized the principle of the eight-hour day for children between 14 and 16; and 30 States and the District of Columbia have an eight-hour day which applies to children up to 16 in both factories and stores, four of these allowing certain exemptions. The prohibition as to night work for children is also quite general; 35 States and the District of Columbia prohibit children under 16 years of age from engaging in night work in factories and stores, the prohibition often extending to other employment. In some of the States, however, exemptions are allowed.

The matter of the weekly hours of work for children has also been a subject of regulation, and most of the States that have an 8-hour day prescribe to-day a 48-hour week, with one State, Virginia, leading in this respect with a 44-hour week for children 14 to 16 years of age.

In the establishment of a physical standard for children, and in connection with the requirement that a physical examination be given children entering work, it is recognized that a physical age and physical fitness are probably more important than chronological age. Twenty-two States make an examination by a physician mandatory before a child may receive his working certificate. In seven others, and the District of Columbia, the examination may be required only if in the opinion of the certificate-issuing officers it is considered necessary.

Then, finally, as to one more standard—and there are many others—that dealing with the educational requirements for children entering employment. Only 13 States require the completion of at least the eighth grade as a condition to the issuance of employment permits; and 7 of these 13 States permit exemptions under certain conditions; so that, generally speaking, there are 6 that have a rigid law on the subject. The laws of 18 States and the District of Columbia either have no educational requirement at all or have no definite grade standard; they demand only that before going to work the child must be able to read and write and in some States that he have a knowledge of elementary arithmetic. I have here some maps

which show all the provisions in colors and make the present situation a little more graphic, if the members of the committee wish to see them.

Now, the first Federal child labor law prohibited the shipment in interstate commerce of the products of any mill, factory, workshop, cannery, or manufacturing establishment in which children under 14 were employed, or children between 14 and 16 years were employed more than 8 hours a day or 48 hours a week or 6 days a week, or in which children between 14 and 16 were employed between 7 p. m. and 6 a. m., and prohibited the shipment of any product of a mine or quarry in which children were employed who were under 16. Taking these standards as a measuring rod, 28 States measure up to the minimum age of 14 for factories and canneries. Fifteen States whose laws come up to this standard have certain exemptions. The 28 States that meet that minimum age as inclusively as did the Federal child labor act are: Alabama, Connecticut, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, West Virginia, and Wisconsin.

The Federal law also set up as a standard a maximum 8-hour day and 48-hour week, and 27 States come up to this standard or better it, and 3 others while having this general standard allow certain exemptions. Eighteen States at present are below this standard. As to the standard respecting night work, 26 States come up to the standard of the Federal law, 11 come up to it with exemptions, and 11 fall below it. Twenty-five States carry the minimum age of at least 16 for work in mines and quarries, and these States include the most important mining States. Seven States have this minimum but permit exemptions; and 16 are below it and in these 16 are some States which have mining operations of some importance. So that we come back to the statement that has been made several times this morning, that only 13 States measure up in every particular to the standards of the Federal law. Those States, if I may read them, are: Alabama, Connecticut, Illinois, Indiana, Kansas, Kentucky, New York, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wisconsin. In addition, the standards of the laws of the following five States come up to the Federal standards except in regard to mining operations: Massachusetts, Minnesota, Montana, New Jersey, and North Dakota. These 18 States are, as you see, in various parts of the country and are not confined to any one section.

Mr. Foster has called attention to the fact that State legislatures have been in session since the Federal child labor law was declared unconstitutional and that action has not been taken which would raise these requirements up to the Federal standards.

The CHAIRMAN. Was there any effort made to induce these State legislatures to pass any amendatory laws?

Miss ABBOTT. I was just about to say that of the States whose laws were below the Federal standards, eight States—Delaware, Maine, Michigan, Missouri, North Dakota, Rhode Island, South Dakota, and Wyoming—did raise their standards in 1923, but they

do not reach up to the standards of the Federal laws in every particular.

The CHAIRMAN. What I was asking is, Was there any such propaganda leveled at these legislatures as has been leveled at Congress for a constitutional amendment? In other words, is there any strength of effort put forth to induce these legislatures to pass amendatory acts?

Miss ABBOTT. I am not informed about all of them. In some of the States a very great effort was made, but I am not informed about the extent of the effort in all of the States.

Mr. FOSTER. This pamphlet, dated December, 1923, came up for discussion this morning. Who gets this up?

Miss ABBOTT. I think that was gotten up by the organizations that are in favor of the amendment. I think they are listed.

Mr. FOSTER. There are some maps in here. State whether or not they are reproductions of the maps you have on the table there.

Miss ABBOTT. I do not know. I think they probably are.

Mr. FOSTER. In other words, this pamphlet that the chairman referred to has a sketch that seems to have been reprinted from Collier's Weekly?

Miss ABBOTT. The map on page 5 of this pamphlet is one of the maps prepared by the Children's Bureau.

Mr. FOSTER. You have the original of it there?

Miss ABBOTT. Yes.

Mr. FOSTER. And there is a table on page 10. I just wanted to identify this circular that I took the liberty of leaving with the committee and to know whether it purports to have the sanction of your committee.

Miss ABBOTT. This table on page 10 is based on the Fourteenth Census of the United States.

Mr. MONTAGUE. You have mentioned that the State of Virginia in one particular was ahead. Do you recall what you said about that?

Miss ABBOTT. It has a 44-hour week for children between 14 and 16 years of age.

Mr. MONTAGUE. That is the best law in America on that subject?

Miss ABBOTT. I shall have to qualify that by saying that there are six States that have higher than a 14-year standard. Of course, the requirement there that children between 14 and 16 can not work more than 44 hours a week does not measure up with the standards of Ohio, which has a 16-year age minimum for work during school hours.

Mr. MONTAGUE. Ohio standards are as good as the Virginia standards?

Miss ABBOTT. They are better.

Mr. MONTAGUE. And yet on your map Virginia is pictured as black?

Miss ABBOTT. Virginia is below because it exempts the canneries. There are exemptions and qualifications in many of these laws. I have a map here which shows Virginia as leading in the matter of weekly hours for the group of States which has a 14-year age minimum.

Mr. MONTAGUE. Canneries are operated mainly in the summer when children are not in school, for the benefit of farmers who raise their vegetables near by?

Miss ABBOTT. They usually begin in the last part of August and the first part of September, just as school is opening, and the most important canning States do include canneries.

Mr. PERLMAN. What are the New York standards, and are they higher than in Virginia?

Miss ABBOTT. Not as to the 44-hour week; but New York has a much higher educational standard, and that educational standard keeps children from entering work.

Those maps that I have are colored, instead of black.

Mr. MONTAGUE. This one that I have is black. According to your statement, it ought not to be black.

Miss ABBOTT. The canneries are exempted; that is what makes it black on that map.

Mr. FOSTER. That is, up on age and down on exemption.

Miss ABBOTT. And there are a number of States in the same situation.

Mr. O'SULLIVAN. Can you tell me the names of any States where an effort was made to induce the legislature to change the standard?

The CHAIRMAN. Since the decision of the Supreme Court.

Miss ABBOTT. I can put such a statement in the record. I have not it with me.

Mr. O'SULLIVAN. I understood you to say that you knew of some.

Miss ABBOTT. I do. They made an effort to amend the State law in Illinois, and a very definite effort was made in that direction.

Mr. MAJOR. I think you stated they did amend it and improve it in Missouri.

Miss ABBOTT. Yes; in eight States.

Mr. MONTAGUE. How long was the Federal law in operation?

Miss ABBOTT. The first, which prohibited the shipment in interstate commerce of the products of the concerns in which children were employed contrary to its standards, was passed on September 1, 1916, and went into effect September 1, 1917, and was in effect until June 3, 1918, when it was held unconstitutional. The second went into effect in the spring of 1919 and was in effect until May, 1922, when it was declared unconstitutional.

Mr. SUMNERS. I see a bulletin here from the United States Department of Labor in which you recite certain improvements in the child-labor laws in the States of Delaware, Connecticut——

Miss ABBOTT (interposing). There are eight of them, are there not—Delaware, Maine, Michigan, Missouri, North Dakota, Rhode Island, South Dakota, and Wyoming?

Mr. SUMNERS. There are 13 mentioned here—Connecticut, Delaware, Kansas, Maine, Michigan, Missouri, New Jersey, North Dakota, Oregon, Rhode Island, South Dakota, Texas, and Wyoming.

Miss ABBOTT. Those include all the changes that were made. They do not necessarily raise the standards along the line of those fixed in the Federal law.

Mr. SUMNERS. Have you examined this bulletin?

Miss ABBOTT. I do not know whether I have or not.

Mr. SUMNERS. Well, I will read to you what it says about Connecticut. [Reading:]

Connecticut prohibits the employment of any minor who is in attendance at school in bowling alleys. (Etc.)

Miss ABBOTT. Of course, bowling alleys were not included in the Federal child-labor standards which I was discussing. That is apparently a statement of all the changes made in the State child labor laws in 1923, and the eight States that I have mentioned are the ones that raised their standards in the direction of the Federal standards.

Mr. SUMNERS. Did you mention Delaware?

Miss ABBOTT. Yes.

Mr. BOIES. May I ask you one question, please?

Miss ABBOTT. Yes.

Mr. BOIES. Is it to your knowledge or believed by you to be true that since the Supreme Court has declared the second law unconstitutional child labor has increased in the United States?

Miss ABBOTT. Yes; I think it has.

The CHAIRMAN. Have you any statistics?

Miss ABBOTT. Yes; I would be glad to give what we have on the subject.

Mr. BOIES. But the reverse is true with regard to the interests of the States in improving their laws, is it not? The States are becoming increasingly interested in child labor laws since the decision of the Supreme Court of the United States?

Miss ABBOTT. No. I do not think that that is true.

Mr. BOIES. I thought you named several States.

Miss ABBOTT. I did; but in each legislative harvest something is done on child labor in the country as a whole. As I said before, we had more definite advances in the direction of bringing State standards up to the Federal standards at the time that the Federal child labor law was in operation than we have had since.

Mr. DYER. The tendency is to raise the standards in all the States. Is that not a fact?

Miss ABBOTT. Yes; as a whole. We do have instances of States reducing standards, a temporary lowering of standards; but over a long period of years there is a definite tendency to advance.

Mr. SUMNERS. Is there any disposition on the part of the States to go back?

Miss ABBOTT. Not permanently backward. Sometimes the gains are lost for a short period.

Mr. SUMNERS. How long has there been definite progress in the States of the United States with reference to the improvement of conditions of child labor, its education, etc.?

Miss ABBOTT. Well, of course, the whole theory has completely changd in 100 years. One hundred years ago child labor was thought to be a good thing, and was advocated. In that 100 years there has been a complete change of public opinion with reference to it. That change of opinion came slowly, but before the Civil War five or six States had started toward regulation and control. Most of the regulation and control, however, has come in the last 20 years, since the census of 1900.

Mr. SUMNERS. Within that 20 years, what was the period of the most rapid progress?

Miss ABBOTT. Well, I would have to look those dates up.

Mr. SUMNERS. As citizens, and as members of this committee, we are all vitally interested in this question of child labor, but we are trying to determine just one question: Whether we can hope, and have a good reason to hope, that within a reasonable period of time

the States will deal effectively with this situation; in other words, whether or not the drift of legislation and the drift of public opinion might justify the Congress in not having the Federal Government take further power from the States, which we hesitate to do. When I say "we," I mean myself. That is the difficulty in our minds, and that is the one thing I want to find out.

Miss ABBOTT. The movement for a Federal minimum in the United States began in Congress in 1906, with the introduction of bills in the Senate and House, and in 1916 the first law was passed. I think the reasons urged by the people at that time for a Federal minimum—they never had in mind a Federal maximum—were, first, that there was a feeling in the country of moral repugnance to child labor; second, that they felt that the power of certain industries in certain States had prevented the enactment of good laws or prevented the enforcement of laws when they were passed; third, that inasmuch as the products of child labor went to all parts of the country we were, all of us, concerned with what was done in any part of the country; and fourth, that after all these children in any part of the country became citizens of the United States and moved from one part of it to the other, carrying with them the illiteracy or the poor physical development to the State that has high standards and that wants its citizens to have high standards.

Therefore, it was felt that the citizenship of the country was a matter with which all are concerned; and no State can protect its citizenship against the evil consequences of the child labor in another State. Then, there was the question of the competition which has been referred to this morning and was a motive with some because the industries in one State with higher standards were said to suffer because of the advantage enjoyed by the industries in another State having lower standards. More recently we have had very definite evidence of employers of children attempting to dodge behind the State lines in order to accomplish their purposes, and I should like in connection with that to call your attention especially to the situation that developed and had a great deal of publicity during the past summer in the States of New York and New Jersey. New York has a law which tries to control tenement home work. The references that have been made this morning to helping at home have not I know been intended to include the organization of the tenement home work, the manufacturing of artificial flowers and cheap jewelry, nut picking, and other things that are a form of factory work transferred to the home. This is not the kind of work which is helping the mother and father, and which we believe in as educational for the child and as giving to the child the sense of family solidarity which is so important.

As I started to say, New York had prohibited tenement home work for children under 14 and through requiring licenses and inspection has some control over the employment of children. Then employers in New York sent the material into the New Jersey homes and they found in one city in New Jersey more than 1,000 children employed in industrial home work; and the New York papers at that time came out with editorials about the way in which the employers in New York were able to dodge behind State lines to accomplish the purpose they had been prohibited from accomplishing in New York State. And the New Jersey officials who were eager to prevent this

exploitation found themselves unable to reach those who were responsible for it because their authority stopped at the New York border. This is a situation developing along State lines to which public attention has not been called.

There is also going out of the city of Philadelphia every spring an army of children to work in other States, who would not be allowed to leave school so far as the law of Pennsylvania is concerned, but who escape those laws by working across the State line. They leave in the spring and return to Philadelphia in the fall, bringing with them the results of the long season of camp life and showing serious retardation in school.

Mr. MONTAGUE. Have you studies on that?

Miss ABBOTT. Yes; and these studies show that every spring from the city of Philadelphia hundreds of families migrate to farms of New Jersey and Delaware for seasonal work on the strawberry, asparagus, tomato, and other truck crops. Many remain until fall for work in the cranberry bogs. Partial reports received from attendance officers in different parts of Philadelphia showed that at least 1,300 children left school in the spring of 1921 for work in the country. The majority do not return to the city until the last of October or the 1st of November, and then, eight or nine weeks late, straggle back to the already overcrowded schools. Many return even later and present a still more difficult school problem. The Bureau of Compulsory Attendance of Philadelphia estimates that the number of children leaving school for such work each year is between 2,500 and 3,000.

Eight schools in the Italian district of Philadelphia from which migrations were the heaviest were chosen by the bureau for intensive study. It was found that 14 per cent of the entire enrollment of the eight schools, and as high as 33.3 per cent in one school, had been absent because of migrations for work on truck farms. Altogether 869 children under 16 years of age whose school records showed late entries, early withdrawals, or consecutive absences of a fortnight or more in the fall or spring, were interviewed by agents of the bureau. The school progress of these children was unsatisfactory. Only 70 per cent had made their grades and the number of children retarded was consequently large.

About 71 per cent of those between 8 and 16 years of age were one year or more below their normal grade; 26.3 per cent were one year; 22.5 per cent were two years; and 22.3 per cent from three to six years below normal. The long-continued absences in the autumn not only affected the child's progress in his studies, but were probably conducive to truancy and to absence for other unlawful reasons, the restraint of the schoolroom not having been felt for many months. Three-fourths of the children had been absent during the year in addition to the days which they had missed because of the field work. The average absence for work on farms was between 15 and 20 per cent, while the average total absence was between 25 and 30 per cent.

The majority of the children who left school to migrate to the country with their parents worked on the truck farms themselves. The greatest demand for child labor was in the strawberry fields, where rush crops required many pickers. The strawberry crop

caused absences from school of fully 500 children in the eight schools visited. Many children also picked raspberries, blackberries, peas, and beans, and, in the fall, cranberries. Hoeing, weeding, picking up potatoes, and carrying along the rows the boxes and baskets filled by themselves or other workers were other common farm processes performed especially by the younger children. The findings of this study are given in greater detail in the December, 1922, issue of the Monthly Labor Review.

The only immediately measurable effect of the migratory life of these children of truck laborers is its interference with schooling. The effect on their future physical and social habits of the promiscuous and unhealthy living conditions, equally important, are not immediately ascertainable.

Mr. SUMNERS. Do you think the State of Pennsylvania would not have the power to control that, through the control it could exercise over the parents of those children?

Miss ABBOTT. Can the State of Pennsylvania pursue the children out of the State?

Mr. SUMNERS. Do you think the State of Pennsylvania would not have the power to control that situation by its power over the parents of these children?

Miss ABBOTT. The parents go with them. For a situation like the New Jersey one, you need to be able to enforce the protection that is desired and to penalize the people who are really responsible for this state of affairs. The State could reach the mothers of the children, but the employers who profit by these methods, paying an extremely small sum to the mothers and children, would go scot free and the mother would be the only one to be punished. This is not a method of enforcement that would commend itself to any one.

Mr. SUMNERS. Do you regard that there is any weight to the idea that perhaps if the people of the States were to make the fight to establish the proper legislation, the interest aroused in childhood incident to that fight would be of service to the Commonwealth and the people?

Miss ABBOTT. Yes, unquestionably, if you could get it made in each local subdivision of a State and with each individual parent and employer, but that would be a slow thing. And let me say that I am not in sympathy with consideration of what the "drift" is when it comes to children. If you wait now, you wait a generation; the present generation of children passes on into manhood and womanhood. With the children, it is the whole period of childhood when you ask them to wait 10 or 15 years, and you thus fail to give them the protection that is recognized as necessary, I take it, by all of you gentlemen. We can not drift; we can not defer relief to the children; it is now or never as far as a certain group of children is concerned if they are to have this protection. As long as we wait we are denying this protection which we recognize as necessary to the children of to-day.

Mr. SUMNERS. Do you take the position that because something may be occurring with regard to childhood in the States and the States are not properly taking care of it, that that establishes the necessity for Federal action?

Miss ABBOTT. I do not think that always follows; the relative importance of the matter has much to do with it.

Mr. SUMNERS. Take the condition of the food of childhood, and the hygienic conditions under which childhood lives. What do you think about that?

Miss ABBOTT. Well, of course, the Federal Government has embarked on part of such a program by the passage of the maternity and infancy act, which does subsidize the States in the promotion of hygiene in infancy; and the Federal Government does undertake to safeguard their food through the pure food and drugs act; and the morals of the children are, of course, safeguarded by the postal laws which prohibit obscene literature being sent through the mails.

Mr. SUMNERS. I am talking about the compulsory power of the Federal Government.

Miss ABBOTT. All these acts that I was referring to are mandatory acts, except the maternity and infancy act.

Mr. SUMNERS. What do you mean by a mandatory act? You oust the State?

Miss ABBOTT. The pure food and drugs act is a mandatory act, but it does not compel the States to do anything. I do not think any of the amendments proposed here contemplate compelling the States to do certain things. I am certainly very eager to see preserved the right of the States to pass laws which may give more protection to its children than does the Federal law. What I should like to get for the children are all the advantages of our Federal form of government; by prescribing a Federal minimum, and by then leaving to the States the right to raise that minimum and give greater protection.

Mr. SUMNERS. Do you have occasion to get over the States a good deal?

Miss ABBOTT. I go some; and the people from the Children's Bureau go even more.

Mr. SUMNERS. Do they find any general drift of opinion in the States in favor of improving the conditions?

Miss ABBOTT. I think very great improvements have been made in a number of directions in the last 20 years. If we include the whole range of child welfare—dependent, neglected children and delinquent children, child health, and all sorts and kinds of public undertakings for children—great improvement has been made.

Mr. SUMNERS. When people from your bureau go out do they discuss this question of national policy with the people?

Miss ABBOTT. No one from the Children's Bureau goes out to talk propaganda for State laws. They talk about and often discuss not only with clubs but with official bodies like child-welfare commissions what types of laws have been successful in one State and in another, and what has been done in the various States. We are a research bureau and we try to put at the service of all the people of the country the results of such research as we have undertaken.

Mr. YATES. Do you advocate any specific amendment here?

Miss ABBOTT. If I were to undertake to do that, I should like to discuss at some length the different proposals that are here.

If you do not mind, I would like to put in the record the——

Mr. YATES. Do you propose any particular one of these 20 amendments?

Miss ABBOTT. Yes; I think some of them are very much better than others.

Mr. YATES. You are not prepared to say which one you advocate?

Mr. FOSTER. I submit to you a sheet you handed to me yesterday. That may help you to answer.

Miss ABBOTT. I do not think it would. There are several that are good. As to the individual one, I should say that I should like to be in agreement with the others who are also advocating amendments. There are two or three that I should be almost equally pleased to see adopted; that are, in my opinion, equally calculated to protect the interests of the children and of the States.

Mr. YATES. Can you tell us what those three are?

Miss ABBOTT. I should prefer to do that a little later.

Mr. FOSTER. You have some conclusions you would like to submit at the end of your remarks?

Miss ABBOTT. Yes.

Mr. MONTAGUE. If it does not interfere with the continuity of your statement, have you any compiled statement as to how many additional employees were employed by the United States for the enforcement of these Federal child-labor laws, how much money was expended, what bureaus established, and what was done generally in Washington for the enforcement of those laws?

Miss ABBOTT. I shall be very glad to put that into the record.

Mr. PERLMAN. You were discussing a few minutes ago home work in tenement houses in New York and New Jersey, and the employment of children at home. Is it your opinion that the home work in tenement houses and the employment of children reduced the wages paid to the parents and to the adults in those occupations?

Miss ABBOTT. I do not think there is any question but what child labor operates in a vicious circle to make the parent get less, and so perpetuate poverty.

Mr. MICHENER. Whenever a State legislates, it has a tendency to exempt from the operation of the law the particular industry in which the State is primarily interested, does it not?

Miss ABBOTT. It both does and does not. Of course, in a State where you have very considerable groups employed, and it is known that they are employed, public attention is directed against it in that State, and you sometimes get an early prohibition of that particular kind of child labor.

Mr. MICHENER. Is there a tendency in beet-sugar States to permit children to work in the fields?

Miss ABBOTT. There is no absolute prohibition of agricultural employment of children anywhere. The only State that has made a beginning by way of controlling it is the State of Ohio. Of course, Nebraska has an hour limit, but I do not think it is very much observed.

Mr. HERSEY. I move that Miss Abbott be allowed to extend her remarks in the record, extend her views upon this matter, and also put in tables or any other data that she wishes.

Miss ABBOTT. I should be glad to put in the record certain things that have been requested.

The CHAIRMAN. The meeting will terminate for to-day. As has been remarked, there is a constitutional amendment pending in the House for to-day and to-morrow.

(Whereupon, at 12 o'clock noon, the committee adjourned until Friday, December 15, at 10 o'clock a. m.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Friday, February 15, 1924.

The committee met at 10 o'clock a. m., Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. I am going to ask those who will address the committee to try to be as concise and brief as possible and not to repeat what has already been brought to our attention. I do not think there is much division of opinion, or any division of opinion, among the members of the committee concerning the importance of taking care of the children and protecting them. The only questions, perhaps, that can arise will be upon the general proposition of whether this is a proper subject for amendment to the Constitution, and also, if that were decided affirmatively, in what language the amendment should be couched. So that I trust everyone—I am sure those who have already spoken will not need to repeat, and, those who have not been heard, we will be obliged to them if they will heed the admonition to be brief, to stick as closely to the subject matter before us as possible, and to let the matter stand out lucidly and be pertinent to the matter in hand.

Mr. FOSTER. Before Miss Abbott resumes, may I call the attention of the committee to the fact that, since we had the last hearing on this, I have introduced H. J. Res. 184, which is in the books of the members of the committee this morning, changing slightly the language in the resolution I had heretofore introduced. I thought it was due to the committee to state why I introduced this one. After talking to Miss Abbott, I found that this language had been agreed on as far as several of the organizations represented here were concerned, after consulting with Dean Pound of the Harvard Law School, Senator Pepper, and others. I do not care to go into it now, but just call attention to it so that, if there is any question in connection with the wording of the resolution this might be borne in mind.

The CHAIRMAN. The committee will take note of it as a resolution introduced by you. The question of authorship is not so important, because when we take it up in executive session it may be we will report out an entirely different resolution.

Mr. FOSTER. I understand there are already 20 resolutions that have been introduced on this subject. I have no pride of authorship in any resolution introduced by me. I merely introduced the resolution after consulting with Miss Abbott and the others, as I say, and wanted to call attention to the fact that this wording is in accordance with the desires of these organizations. And, regardless of whether the committee seeks at this time to obtain legal advice as to the wording of the resolution, I think it is proper for it to be given consideration at this time. I would be glad to have one reported out with the chairman's name on it.

The CHAIRMAN. I have no ambition in that regard; I am simply saying that, so far as the verbiage is concerned, the committee can take care of that as well as outsiders.

Mr. FOSTER. I assume the committee would not care to hear read a letter from Dean Pound, of Harvard Law School——

The CHAIRMAN. Let him come here before the committee.

Mr. FOSTER. That is one way. There are two ways for us to get his opinion, and this is one of the ways.

The CHAIRMAN. We will accept this resolution as the product of one of our fellow members, and consider it as such, with all due respect to him.

Mr. FOSTER. That is all I could ask.

STATEMENT OF MISS GRACE ABBOTT—Continued

Miss ABBOTT. I had completed the testimony as to the status of State legislation and was about to begin on the facts that are available as to the number of children employed at gainful occupations in the United States.

I am sure the committee is aware of the inadequacy of American statistics in many fields. So far as the subject of the employment of children is concerned, we have to go back, always, to the census for the figures that we can use, and the 1920 census is, of course, the most recent source of information. I am sure you realize that the census is taken by some 89,000 enumerators, and that there is a chance for a good many errors in an enumeration taken by that number of people, and yet, by and large, the census has proven a reliable source of information on the subjects that are contained in the census.

So far as the children are concerned, the instructions of the census were that children who worked for their parents at home, merely on general housework or chores or at odd times on other work, should be reported as having no occupation. So the instructions would take care of the question as to whether it did include children who did chores or who helped their father and mother, but were not really, within your understanding or mine, employed. Those children are not included in the figures I am just about to give you.

The figures for 1920 show that for children between 10 and 15 years of age, inclusive, there were 1,060,858 children engaged in gainful occupations. Of children that age in the United States, there are 12,500,000, in round numbers. So that it amounts to 1 out of every 12 children between the ages of 10 and 15 years engaged in gainful occupations. The number of child workers 10 to 14 years of age reported by the census was 378,063 in 1920.

The occupations in which these children are engaged, according to the census of 1920, the largest percentage of them, are in agricultural employment. That is, out of the more than 1,000,000 children, 647,309 are in agricultural employments.

The CHAIRMAN. That was developed at the last meeting.

Miss ABBOTT. Yes; and the balance are in nonagricultural employments. Of those in nonagricultural employments there are some 48,000, according to the census, reported as messengers and office and bundle boys and girls, mainly boys, of course. There are some 41,000 who are servants and waiters. There are 30,000 and more who are sales girls and sales boys in stores; there is another group of clerks, about 22,000; there are 21,000 cotton-mill operatives; there are 20,000 and more newspaper boys, and 12,000 and more are iron and steel operatives; 11,000 and more are engaged in clothing manufacturing industries as operatives; there are 10,000 and more operatives in the lumber and furniture business; 10,000 in

silk and woolen factories; 7,000 in shoe factories; 7,000 and more in woolen and worsted mills; 5,850 in coal mines, and, in all other occupations not agricultural, 162,722.[1]

That makes nearly one-half million children who are in nonagricultural employments in the United States; that is, children between 10 and 15 years of age, inclusive.

Now the sections of the country in which these children were found employed were not confined to any one locality.

We get the smallest per cent in the three Pacific coast States. Only 3 per cent of the children there are so employed; 17 per cent are employed in the South Central States; in Mississippi more than one-fourth of all the children between 10 and 15 years of age are in gainful employments; in Alabama and South Carolina, 24 per cent; Georgia, 21 per cent; Arkansas, 19 per cent; in the New England States, Rhode Island has the largest per cent. In nonagricultural occupations, Pennsylvania has numerically the largest number of employed children of any State in the United States.

Mr. FOSTER. Have you that number there?

Miss ABBOTT. Yes; I have. It is 50,148.

Mr. FOSTER. Under 15 years of age?

Miss ABBOTT. Yes; 10 to 15; that includes the age of 15.

The CHAIRMAN. How many of them are 14 and 15 years of age?

Miss ABBOTT. The census does not show for the individual States. It does show for the United States as a whole.

The CHAIRMAN. You have spoken of the laws in Pennsylvania: Have not they very good laws in Pennsylvania governing this subject?

Miss ABBOTT. Pennsylvania has a fairly good law. The number of children employed in any one State, of course, depends upon the law of that State; it also depends upon the opportunities for employment in the State, and it also depends on the custom of the people with reference to putting their children to work. So that there are a good many elements to be considered in connection with a statement of this sort. The census showed a great many children in the mines, although the mining law of Pennsylvania prohibits their being there and children under age are supposed not to be employed in the mines.

The CHAIRMAN. The Secretary of Labor, your chief, comes from Pennsylvania, does he not?

Miss ABBOTT. I think so. I am not sure whether he is credited to Pennsylvania or Illinois. I think he lives in Illinois now.

The CHAIRMAN. Now?

Miss ABBOTT. Now, yes. With reference to the question as to whether the number of children gainfully employed is increasing or decreasing——

Mr. SUMNERS. Before you pass to that subject, do the figures which you have indicate in what employments the children are engaged in the several sections of the country?

Miss ABBOTT. Yes; they do.

Mr. SUMNERS. Will you put that in the record?

Miss ABBOTT. I would be very glad to put that in the record, yes; such figures as we have.

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[1] Figures taken from material as yet unpublished; furnished through the courtesy of the U. S. Bureau of the Census.

Number of children engaged in each principal occupation group, by geographical divisions and States, 1920

[Fourteenth Census of the United States, population, 1920. Occupations of children]

Divisions and States	Children 10 to 15 years of age, inclusive, engaged in specified occupation group								
	Total	Agricultural pursuits	Manufacturing and mechanical industries	Domestic and personal service	Clerical occupations	Trade	Transportation	Extraction of minerals	Other occupations
United States	1,060,858	647,800	150,337	54,006	63,868	18,912	80,140	7,191	4,605
New England	59,239	3,058	39,709	3,945	5,110	1,080	6,973	30	333
Maine	2,585	823	844	404	239	86	113	2	24
New Hampshire	1,526	218	852	165	166	29	87	1	11
Vermont	1,277	510	276	219	163	31	47	18	13
Massachusetts	33,723	831	23,763	1,236	2,749	535	4,317	7	185
Rhode Island	3,569	119	6,979	185	420	96	737	2	31
Connecticut	11,559	555	7,004	697	1,373	189	1,672	.....	69
Middle Atlantic	131,541	8,929	61,293	8,611	13,817	3,737	30,924	3,497	910
New York	49,340	2,401	17,342	2,404	5,864	1,753	19,064	20	478
New Jersey	26,024	998	15,630	1,226	2,185	687	5,137	15	146
Pennsylvania	55,671	5,529	27,321	4,981	5,778	1,297	6,723	3,392	286
East North Central	100,901	23,425	30,152	5,693	13,503	3,052	17,360	905	831
Ohio	18,119	3,721	4,874	1,775	4,231	629	2,352	347	190
Indiana	16,911	4,844	6,744	1,638	3,045	631	1,043	226	140
Illinois	36,953	5,804	11,714	2,057	4,868	1,007	10,433	251	372
Michigan	13,164	3,559	3,805	1,215	2,771	406	1,437	74	103
Wisconsin	15,654	5,471	5,515	1,267	1,678	389	1,395	7	63
West North Central	67,908	29,722	7,938	5,029	6,623	1,914	5,564	324	472
Minnesota	8,271	4,639	965	869	1,035	215	712	15	52
Iowa	9,121	4,184	1,049	1,053	1,538	369	714	56	109
Missouri	23,587	9,522	4,515	1,891	2,124	694	3,443	141	156
North Dakota	2,816	2,564	43	109	97	43	47	8	13
South Dakota	2,565	1,929	120	205	161	56	94	3	19
Nebraska	6,260	5,171	420	446	550	200	370	3	58
Kansas	7,270	3,733	721	567	1,099	327	534	103	65
South Atlantic	273,981	214,906	20,208	12,280	7,150	3,385	8,818	617	723
Delaware	1,409	303	405	168	126	58	249	.....	8
Maryland	12,300	2,169	3,794	1,521	1,241	383	2,096	27	70
District of Columbia	1,871	3	195	413	416	127	680	.....	32
Virginia	25,493	15,501	3,596	2,885	1,367	654	1,151	195	145
West Virginia	7,431	4,112	1,090	746	450	269	230	472	46
North Carolina	42,182	30,583	7,667	1,637	808	526	790	30	90
South Carolina	33,520	26,920	3,529	1,308	582	238	475	11	77
Georgia	88,934	77,105	4,364	2,855	1,334	704	2,088	38	181
Florida	10,864	7,120	1,305	947	637	262	563	36	74
East South Central	221,342	190,680	5,502	6,821	3,677	1,750	2,672	1,045	324
Kentucky	26,754	21,936	1,857	1,336	905	390	828	493	109
Tennessee	39,837	24,326	2,854	1,929	1,116	527	767	243	75
Alabama	84,397	77,396	2,422	2,089	993	467	566	290	76
Mississippi	70,354	65,962	1,370	1,467	673	366	411	19	64
West South Central	184,267	158,187	6,817	5,772	4,559	2,537	4,433	467	495
Arkansas	48,140	45,550	857	647	364	268	254	28	48
Louisiana	32,274	23,718	2,502	2,502	1,196	514	1,703	52	86
Oklahoma	22,981	19,752	694	722	774	387	386	203	83
Texas	80,872	69,081	2,764	2,902	2,225	1,378	2,110	186	278

Number of children engaged in each principal occupation group, by geographical division and States, 1920—Continued

Divisions and States	Children 10 to 15 years of age, inclusive, engaged in specified occupation group								
	Total	Agricultural pursuits	Manufacturing and mechanical industries	Domestic and personal service	Clerical occupations	Trade	Transportation	Extraction of minerals	Other occupations
Mountain	15,612	8,950	1,012	1,358	1,619	667	1,201	151	154
Montana	1,402	679	91	169	231	68	131	15	19
Idaho	1,608	1,092	100	123	133	66	64	4	20
Wyoming	608	507	58	57	57	52	40	23	4
Colorado	4,568	1,955	596	446	649	206	612	51	51
New Mexico	2,195	1,418	241	243	93	91	56	33	21
Arizona	2,711	1,981	205	150	176	93	76	13	17
Utah	2,381	1,477	200	149	240	85	201	7	27
Nevada	169	42	16	31	30	18	22	5	5
Pacific	14,169	3,524	3,110	1,606	4,320	786	2,475	35	343
Washington	4,650	1,024	1,044	463	1,225	264	540	6	84
Oregon	2,462	668	341	249	785	77	308	1	33
California	9,057	1,832	1,725	894	2,310	425	1,627	18	226

Running back over a period of years—and I think the questions at the last hearing indicated the interest in what had been the development in this—the census figures show that in 1880 there were 396,504 children 10 to 15 years of age, inclusive, gainfully employed. In 1890 the census did not show the numbers for from 10 to 15 years of age, but showed them for from 10 to 14 years of age; and that number, in 1890, was 274,167, indicating probably at least a large or a larger number, if you include the children 15 years old, as there were in 1880. For 1900 there were 686,213; for 1910 there were 557,797; and for 1920 there were 413,549.[1]

I am speaking now of nonagricultural employments exclusively; not of those in agricultural employment. So that in 1920 we had a larger number of children in nonagricultural gainful occupations than we had in 1880; but the per cent of the total number of children from 10 to 15 years of age was smaller. That is, in 1880, the per cent of the total number of children from 10 to 15 years of age was 6, of the children who were employed; in 1900, it was 7.1 per cent; in 1910, it was 5.2 per cent, and in 1920, it was 3.3 per cent, showing a decline in the per cent of children from 10 to 15 years of age, but a numerical increase in the actual number of children affected in the country.[1]

Mr. SUMNERS. In determining whether a child is engaged in gainful employment, do you take into consideration the school period, or is it at any period during the year?

Miss ABBOTT. So far as the census figures go, the instructions I read you were the census instructions, which were:

> The term "gainful occupations," when applied to children, includes the occupations of all child workers except those working at home merely on general housework, on chores, or at odd times on other work, who should be reported as having no occupation.

That is, children working for their parents, children working at home merely on general housework or chores, or at odd times at other work, should be reported as having no occupation.

Those, however, who materially assist their parents in the performance of work other than household work should be reported as having an occupation.

Mr. SUMNERS. From everything you have gotten hold of, do you understand a child on the farm, after school, who engages in helping to finish the harvesting of the crop (I am speaking of the vacation period) would be, under the instructions given the enumerators, classed as having been engaged in gainful occupations?

Miss ABBOTT. I want to speak especially about agriculture, if that is what you are interested in. The Census of 1920 was taken in January, 1920, and the proportion of children employed in agriculture (that would be really, in any sense employed, Mr. Chairman) would, of course, be very much smaller than in 1910; because the census was taken that year in April, when the numbers out of school and at work would be very different than in January. The percentage of reduction of the number of children between 10 and 15 years of age, between 1910 and 1920—that is, of those in agricultural employment—would seem to be largely due to the change in the time when the census was taken.

Mr. SUMNERS. You do not think the census enumerator would undertake to find out the custom, rather than what the child happened to be doing, at the particular part of the year he got there?

Miss ABBOTT. He is not really supposed to. When you have 89,000 of them taking the census there is a large opportunity for errors to creep in. They are supposed to take the census as of the date they make the enumeration, and they are not supposed to count a child going to school and helping with chores at night as a gainfully employed child. That is not what the definition includes according to the instructions given to the enumerators.

Mr. SUMNERS. There is only one question I am trying to clear up, and that is the child that goes to school, 13 years old, we will say, seven months during the year, and the other three months in the year takes what is called a hand in—help with the farm work——

Miss ABBOTT. (interposing). The other five months.

Mr. SUMNERS. The other five, yes; such a child, under the enumeration, as you understand it, would be classed as being engaged in a gainful occupation?

Miss ABBOTT. I do not think they were in 1920, because the enumerators probably would have struck the seven months when the parents would have replied the child was in school. That is why I think the 1910 and 1920 numbers differ so greatly. I think in 1920, if they got there during the five months' time and the child was working full time in the field, they would have said the child was gainfully employed. That is the reason why I think the numbers in 1910 were so large, very much larger, in agricultural employment, than in 1920; because in April a good many children would be out of school and employed on the farm.

Mr. SUMNERS. Have you any information, not just your own conclusions, as to what probably would happen?

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[1] Figures taken from material as yet unpublished; furnished through the courtesy of the United States Bureau of the Census.

Miss ABBOTT. I read you the text of the instructions.

Mr. SUMNERS. And upon that text you base your conclusions?

Miss ABBOTT. Yes; upon the text, which I have read to you. The question, therefore, becomes of interest as to how much of the decrease between 1910 and 1920, in the nonagriculturally employed children, is real and how much is apparent. In the agricultural field, I have said I think a good deal of it is apparent rather than real; that the decrease was due to the time of the year when the census was taken, in 1910 and 1920. I think there were definite permanent gains between 1910 and 1920 with reference to the employment of children in nonagricultural occupations. Some of them were only temporary, however, because in 1920 we had, in addition to the improvement in State legislation, the Federal child labor tax law, discouraging the employment of children, and we do not now have that. Of course, it is impossible for anyone to say, numerically, how much effect that had on the numbers employed; but in that time, when the census was taken, we did have the standard in operation described the other day and as Federal law discouraging, by a very heavy tax, the employment of children below those ages.

Mr. SUMNERS. The law to which you refer was not operative with reference to agricultural labor?

Miss ABBOTT. No.

Mr. SUMNERS. So that any change you found in the statistics with regard to that could not be traceable to the national legislation?

Miss ABBOTT. Not at all; nor of the States, either, because, as I said the other day, practically no State attempts to regulate agricultural employment of children, except as they are affected by the compulsory school attendance law, except the beginnings made by a law in Ohio, which is practically the only thing we have.

Mr. SUMNERS. Do you, at this point, desire to express an opinion as to the wisdom of having the National Government leave to the States the matter of regulating the labor of children on farms, or not?

Miss ABBOTT. On what?

Mr. SUMNERS. I say do you at this time want to express an opinion as to the wisdom of having the National Government leave to the States the matter of regulating child labor on the farm?

Miss ABBOTT. Do you mean am I advocating a statute that would prohibit their employment?

Mr. SUMNERS. No; would you like at this time and at this point to express an opinion as to the wisdom of leaving the power in the States to regulate child labor on the farm, as distinguished from giving such a power to the Federal Government?

Miss ABBOTT. I should be very glad to say I think that an amendment should be passed—this is not a statute, but an amendment—authorizing Congress to legislate with reference to child labor. I think an amendment should be inclusive; so that whether or not we have a law would depend on Congress and not upon the language of the amendment.

Mr. BOLES. Would you not be a little fearful, if you tried to control child labor in agriculture over this country, that the amendment would not be adopted?

Miss ABBOTT. You mean as to whether it is done or not; not the amendment itself?

Mr. BOURN. If it was included, had you thought of the probability that the amendment would not carry?

Miss ABBOTT. No; I have no fear on that score. No one is advocating, that I know of, at the present time, a statute regulating agricultural child labor for the United States, if the amendment does not prohibit it. We do not know what will develop with reference to agricultural labor in the future at all. We may have in the next 10 years or the next 100 years a totally changed situation from what we have now. We may have a vast growth of large-scale agriculture, and children will not be employed on the home farm but under conditions approximating industrial employment. Who can know? I can not say what will happen 100 years from now, and certainly I would not like to attempt to say now; because it would be sure to be wrong. Consequently, it seems to me a full grant of power to Congress is in line with the other grant of powers in the Constitution. Then the question of a particular statute could be taken care of. If it were a question of a statute being passed at this time to regulate child labor on the farms, I would be among those who would not favor the enactment of such a statute.

Mr. SUMNERS. Is it your position with regard to conferring power upon the Federal Government, and the extension of power by the Federal Government, that you would give the Federal Government, when the opportunity presents itself, the power to do that which at the present time, you do not have a definite opinion on, that it could exercise, if it saw fit, possibly, at some future time; is it your position that at some future time it might want to exercise it, and, therefore, you would give the power now?

Miss ABBOTT. If you are giving to Congress the power to regulate and prohibit child labor, and leaving to it to say what type of child labor it will regulate and prohibit, then I think it would be very foolish to attempt to put in that amendment the preciseness you would have in a statute, because, as I say, it would defeat the general purpose for which we are contending. The preciseness of a statute belongs in a statute and not in the amendment, which is a grant of power.

Mr. MONTAGUE. You would make no exception at all?

Miss ABBOTT. I would make no exception at all.

Mr. MONTAGUE. In the legislation passed at this time?

Miss ABBOTT. In the amendment passed at this time.

Mr. SUMNERS. You would have it a finished job?

Miss ABBOTT. Certainly.

Mr. FOSTER. Do you know of any reason why, if an amendment was made to include agricultural labor, the farm bloc would not be able to take care of that?

Miss ABBOTT. I come from the farm bloc region, and I think they would be pretty well able to take care of the situation.

Mr. HERSEY. There are a number of forms of amendments before us, some of them describing absolutely the age and the manner and the kind of employment prohibited and making an absolute prohibition of that kind of employment of children; there are other resolutions saying that Congress shall have the power to prohibit, and at what age, and omitting the details.

Miss ABBOTT. Yes.

Mr. HERSEY. Which one do you favor?

Miss ABBOTT. I favor the general grant of power.

Mr. HERSEY. The one I mentioned last?

Miss ABBOTT. Yes; the general grant of power, with the statute to be worked out in the future.

Mr. HERSEY. Then anything that is before us to-day on that part of it, anything in regard to whether it shall be farm employment or some other employment that is prohibited, of course, is outside of what you desire at this time, which is merely an amendment granting that power.

Miss ABBOTT. It is totally irrelevant, it seems to me, at this time.

The CHAIRMAN. Except so far as this being a general power, it includes the power to regulate labor upon the farms, and in agriculture.

Miss ABBOTT. Yes.

The CHAIRMAN. That the power to do it is proposed here.

Miss ABBOTT. Yes.

Mr. MONTAGUE. You would give them just as much regulatory power as to farming as you would as to mines, or any other work or occupation?

Miss ABBOTT. Yes; as far as the power goes.

Now, the numbers that were shown in the census of 1920 are not necessarily conclusive as to what is the numbers at the present time. The Children's Bureau found, after the first Federal child labor law was declared unconstitutional, that, in a great many localities prompt advantage was taken of the fact to increase the number of employed children, and I have a table here which shows the State, in which those inspections were made, and the results, which I will be glad to put in the record.

Number of children in 10 States found employed in violation of Federal standards after first Federal law was declared unconstitutional

States	Factories inspected	Children under 14 employed in factories	Children between 14 and 16 years of age employed in factories		Canneries inspected	Children under 14 employed in canneries	Mines inspected	Children under 16 employed in mines and quarries
			More than 8 hours per day	At night				
Arkansas	30	117	194	6				
Indiana							13	62
Maryland					205	741		
Massachusetts	98	16	172					
North Carolina	53	622	1,092	25				
Ohio	98	99	172	48				
Rhode Island	37	6	317					
South Carolina	24	2	562	1				
Virginia	26	31	672		65	310		
West Virginia	7	23	67	61				

We also have some figures as to the increase of employment with reference to the period after the second Federal child-labor law was declared unconstitutional, especially with reference to employment in Georgia, where the standards of the State child-labor law are very

much lower than the standards that the Federal child-labor law carried, and there was a very prompt and immediate increase in the numbers.

CHILD-LABOR INSPECTIONS IN TEXTILE MILLS OF GEORGIA

To discover whether the removal of the safeguards of the Federal law had lowered conditions of employment for children, and if so, to what extent, inspections were made in November and December, 1922, in textile mills in Georgia, where the standards of the State law were considerably lower than those of the two Federal laws. The latter fixed the minimum age in such establishments at 14 and the maximum hours for children under 16 at 8 a day and 48 a week, and prohibited night work between 7 p. m. and 6 a. m. for children under 16. The State law allowed orphan children or children with widowed mothers to go to work at 12 years of age, provided they secured proper certificates, fixed a minimum age of 14 for other children, and required children between the ages of 14 and 14½ years to have age certificates. Children were permitted to work as long hours as adults—60 hours a week, with overtime allowed "to make up lost time, not to exceed 10 days, caused by accidents or other unavoidable circumstances." If they were over 14 years and 6 months old there were no restrictions upon their work at night; under that age they were not allowed to work between 7 p. m. and 6 a. m.

Inspections made in 30 representative mills in 17 localities brought to light violations of the Federal standards in all except 3 of the establishments and violations of the State standards in all except 7.

Altogether there were 560 violations of the Federal standards, of which 84 were violations of the age, 466 of the hours of labor, and 10 of the night-work standards. The State law was violated in 140 instances. In 65 of these instances children were below the minimum age; 3 children under 14½ were working at night; and 81 children between 14 and 14½ years of age were employed without certificates. Violations of the State hour standards could not be ascertained because of the difficulty of determining when a mill was running more than 60 hours a week and whether the excess came within the exception allowed by the law regarding overtime. In considering night-work violations it should be noted that in only 2 mills, employing 37 children under 16, were inspections made at night. Of the 10 violations of the Federal night-work standard, 7 were in these mills and 3 were discovered through interviews with parents.

The Children's Bureau also has assembled some figures showing the increase in number of children between 14 and 16 years of age who are being legally employed during the last two or three years, as compared with the earlier period. We have assembled these by getting from some 25 to 30 cities the number of work permits that are issued. The child-labor laws are enforced very largely through work-permit systems, the schools usually issuing a work permit, certifying that the child is of the age, educational, and physical standard, and authorizing him to go to work at a certain particular occupation.

With the industrial depression which came shortly after 1920, the numbers of children employed, so far as legal employment showed, of course decreased very much and there were a great many people and myself among them, who hoped this decrease would be permanent. But last year has shown a very definite increase.

In 1922, as compared with 1921, 21 out of 35 cities reporting to the bureau, reported an increase in the number of permits issued. Five of those 21 cities reported an increase of over 100 per cent.

For the first half of 1922, as compared with the first half of 1921, for the 28 cities furnishing monthly figures, there was an increase of 8.3 per cent. For the last half of 1922, as compared with the last

half of 1921, for the 28 cities furnishing monthly figures, the increase was 46.1 per cent.

In 1923, as compared with 1922, 24 of the 28 cities reporting to the Children's Bureau, reported an increase in permits issued (the only exception being Detroit, Fall River, Minneapolis, and St. Paul for all of the 28 cities reporting), an increase in 1923 over 1922 of 27 per cent.

Mr. SUMNERS. What was the numerical increase?

Miss ABBOTT. I have that in the tables.

Mr. SUMNERS. That will be all right, if you will just incorporate that.

Miss ABBOTT. I will put it in the record.

Number of children between 14 and 16 years of age receiving regular employment certificates for the first time, 1921, 1922, and 1923, by State and city[1]

State and city	1921	1922	1923
Alabama:			
Birmingham	166	139	240
Huntsville	252	189	208
Mobile	150	78	123
Montgomery	79	90	93
California: San Francisco	310	296	281
Connecticut:			
Bridgeport	871	800	1,093
New Haven	572	856	1,235
Waterbury	111	308	736
Delaware: Wilmington	171	423	(2)
District of Columbia	959	693	(2)
Indiana: Indianapolis	572	697	727
Kentucky: Louisville	188	351	795
Louisiana: New Orleans	[3] 2,091	[3] 2,031	2,445
Maryland: Baltimore	2,503	3,199	(2)
Massachusetts:			
Boston	2,473	2,575	2,818
Fall River	904	1,574	1,170
Lowell	297	712	(1)
New Bedford	941	[4] 1,322	2,111
Somerville	[5] 362	313	366
Springfield	194	581	699
Worcester	349	904	(2)
Michigan: Detroit	264	288	277
Minnesota:			
Minneapolis	407	339	301
St. Paul	217	218	207
Missouri: St. Louis	3,865	4,408	(2)
New Hampshire: Manchester	251	159	346
New Jersey:			
Jersey City	1,136	1,570	1,977
Newark	1,633	2,404	2,509
Trenton	508	791	974
New York:			
New York City	38,988	32,492	(2)
Yonkers	418	401	914
Pennsylvania:			
Philadelphia	6,618	9,124	10,937
Pittsburgh	1,227	1,669	2,778
Rhode Island: Providence	[6] 1,567	[6] 2,063	2,463
Wisconsin: Milwaukee	2,359	2,856	3,780

[1] Compiled, except where otherwise noted, from figures furnished by certificating officers, school officials etc., in correspondence with the United States Children's Bureau.
[2] Figures not available.
[3] Reports of the factories inspection department of the Parish of Orleans for the year ending Dec. 31, 1921, p. 5, 1922, p. 4.
[4] Annual report of the school committee of the city of New Bedford for the year 1922, p. 18.
[5] Annual report of the school committee of the city of Somerville for the year ending Dec. 31, 1921, p. 34.
[6] Annual reports of the agent of the school committee 1921 and 1922.

Mr. SUMNERS. Yes.

Miss ABBOTT. And the names of the cities.

Mr. SUMNERS. Yes; at this point you have spoken of how the State laws are administered. There is a State officer in the States?

Miss ABBOTT. In most of the States the State child labor law is enforced by the State department of labor. There are a few exceptions. In North Carolina it is enforced by a child welfare commission composed of the commissioner of public welfare, the secretary of the department of health, and the superintendent of public instruction. In Connecticut, it is enforced by the State board of education, and in New Hampshire, the State educational department. But in most States they are enforced through the State department of labor.

Mr. SUMNERS. What sort of personnel do they have?

Miss ABBOTT. It varies very much. Mississippi has one inspector. Some States have fifty or a hundred. It depends on the industrial development and the interest of the people. Of course, in most of them it is not a single law with reference to child labor, but all labor legislation which is handled by the labor department; that is, the legislation with reference to health, comfort, and safety of women's hours of labor, and so on.

The effectiveness, though, of the enforcement of child-labor legislation turns very largely on the careful issuing of the work permits, because, of course, theoretically you either have children legally at work or in school, and if you have a good system of work permits, it will largely determine the successful enforcement of the child labor law. The most the inspector can do is to get around to the various establishments once or twice a year, probably, and a child may have been employed for a long time before he comes, but if you have a work-permit system, effectively administered, the children do not get in at all, and the work of the inspector is enormously reduced. It becomes very largely a matter of the enforcement of respect for the certificate by the employer of the child; that is, if he does not live up to the requirement that the child should have a work permit, he is taken into court for that, because the lack of a work permit indicates that the law has been violated. The work permit protects the employer who wants to observe the law.

Mr. SUMNERS. What sort of personnel do you have to issue the work permits?

Miss ABBOTT. In most of the cities, the work permits are issued by the school authorities, and it is like anything of that sort that is done in the United States; it is very uneven. We not only have a great many different standards as between the States, but we have a great many different standards in the same State and we have some very flagrant abuses in work permits. We have examples of the actual selling of work permits for a sum of money, regular places where children under the legal age could buy work permits, and then we have had places where there was no such criminal action, but the work permits were badly issued as a result of carelessness. It is a detailed administrative job and requires careful examination of each child as he comes in. In some localities, it is extremely well done and very evenly done throughout the State as a whole, and in other localities it is not well done and not evenly done.

Mr. SUMNERS. Do you have in contemplation, if this amendment should be passed and Congress should legislate under the power conferred, what the personnel of the Federal Government would be?

Miss ABBOTT. I was asked to put in the record a statement of what we did have. I would be very glad to do that at this time. I think Mr. Montague asked me to put that in.

Mr. BOIES. As to what Congress would do?

Mr. MONTAGUE. I asked what would be required, in her judgment, for Congress to do to make the amendment effective, and before you put that in, or after you put it in, let me ask do you regard what the Government did under the old law as having been reasonably effective?

Miss ABBOTT. Of course, the one I am most familiar with is the first Federal child labor law. I was at that time head of the child-labor division of the Children's Bureau, and in immediate charge of the enforcement of that law. It lasted only nine months. Consequently, we only made a beginning before it was declared unconstitutional. I should be the last one to say it was the best beginning or was a wholly satisfactory beginning.

Mr. SUMNERS. What I am trying to find out is whether or not this thing you are putting in the record—we do not care anything about ancient history—is what you would recommend?

Miss ABBOTT. Yes; this is what I would recommend. I will refer to the history and then say what I would like to recommend, as I understand, what the organization should be. The first Federal child labor law was passed September 1, 1916, and went into effect September 1, 1917. In order that the work of framing the necessary regulations providing for the issuance of work permits and for the acceptance of State permits might begin promptly an appropriation of $50,000 was provided in the deficiency act of April 17, 1917. The appropriation act in 1918 carried an additional item of $100,000 for the enforcement of the child labor law. That was a total of $150,000.

Of this amount there was expended or obligated during the period up to June 3, 1918, when the law was declared unconstitutional, $111,266.89, or $38,733.11 less than the amount appropriated by Congress. I call your attention to the fact that this was before we had a Budget Bureau; also that some money was turned back into the Treasury. The expenditure, however, was less than a satisfactory enforcement of the Federal law required. The staff appointments were delayed very much pending civil-service examinations, and then when the results of the examinations were available we had a great many refusals because at that time the salaries that were paid began to skyrocket during the war period, and it was very hard to get a qualified personnel for the salaries we were able to pay.

A division was created in the Children's Bureau to enforce the law known as the child labor division of the Children's Bureau, and on June 3, 1918, we had a staff of 51 persons, including the director, associate director, law officer, 17 inspectors, 22 certificate-issuing clerks, 8 clerks, and 1 messenger. The appropriation for the next year, 1919, had been made for $125,000 and was of course not used, because the act was declared unconstitutional.

The Children's Bureau laid plans when it had $150,000 to enforce the law on the basis of cooperation with State officials and a general working relationship with State officials. The first child labor law provided a definite basis for cooperation, in that it provided that the Federal Government could accept, if it found them satisfactory, the

State-issued work permits, which, as I have told you, are, after all, the key to the enforcement of a child labor law, and we of course were required to recommend to the board that formulated the rules and regulations a provision for what should be in the rules and regulations, and also what State certificates could or could not be accepted.

In order to have the advice of the State officials, a conference of the State child labor officials was called in the summer. It was attended by 28 officials from various parts of the country, and the whole question of the relationship was quite thoroughly canvassed. At that time the State commissioners or factory inspectors, or whoever was charged with the enforcement of the State child labor law, voted they would like to have formal recognition by the Federal Government with reference to the enforcement of the Federal law, and as a consequence of their vote all of those who were charged with the enforcement of State child labor laws were commissioned inspectors under the Federal law on a dollar-a-year basis, the authority for appointing public officials being utilized in that way.

Mr. MONTAGUE. The State officials wished to be recognized also as Federal officials?

Miss ABBOTT. Yes, sir.

Mr. MONTAGUE. And then started in at a dollar a year?

Miss ABBOTT. Yes; and the help those State officials rendered in the enforcement of the Federal law was very considerable. In States where the Federal law was higher than the State laws they quite frequently, especially in the matter of hours, as they inspected for the State, checked up the hours also under the Federal law. A system of joint inspection was arranged in some places and an exchange of information in others, so that we had, I think, an increasingly genuine relationship.

When it came to the acceptance of State certificates, we were confronted with exactly the problem I have stated. In some States the legislative provisions with respect to what the certificates should be were inferior, and there was no adequate certificate system. In others it was substantially the same, and it was possible for the State board to rule that they should be the same, so we were able to accept the certificates of a very large part of the country for the purposes of the Federal act. That meant, however, that quite frequently we found it necessary to insist upon a greater uniformity than there had been before and to assist in securing that uniformity in local communities where the certificating law had been very badly administered.

Mr. SUMNERS. Could you indicate to us briefly what the powers of the permit—what do you call that officer?

Miss ABBOTT. The permit or certificate officer.

Mr. SUMNERS. What do you call the officer issuing them?

Miss ABBOTT. We call him the certificate-issuing officer.

Mr. SUMNERS. Yes. What powers does such an officer exercise in order to make effective the child labor law?

Miss ABBOTT. They examine the evidence of age, and are responsible for the final statement that goes on the certificate about the age, educational standard, and physical condition, if you have those standards in the law; and, if the employer holds a certificate of that

sort, and the child is under age, he is protected against the penalties of the law. That is the way in which it operates as a protection to the employer. For that reason it is extremely important, in the interest of the child, that they should be carefully and regularly issued and should not be issued carelessly, because it gives the employer immunity against punishment for the employment of a child in violation of the law.

Mr. SUMNERS. Ordinarily they pass on the question of dependency in some instances?

Miss ABBOTT. There are a few States in which there are so-called poverty exemptions. In Georgia, for example, the law is a 14-year-old law, except for the children of widows or children having a mother dependent on them for support, when they may go to work at 12 years of age. There are poverty exemptions in the District of Columbia. There are poverty-permit exemptions in Delaware and a number of other States, and a good many laws provide that the children shall not work between 14 and 16 (most of those already referred to are below 14) except in cases of necessity, and in a great many States this necessity clause is not enforced at all. The city of Detroit has recently been enforcing the necessity clause in the Michigan law and has reduced the number of employed children in the city from a very considerable number down to practically none. There are other States that have that same clause that are not enforcing it at all. If that is enforced, the certificate-issuing officer is the one who passes on the facts as to necessity.

Mr. SUMNERS. Now, if you do not have a State or local opinion supporting the Federal measure, then it would be necessary in such a case for the Federal Government to equip the State with its own administrative personnel?

Miss ABBOTT. Well, the experience we had was the other way. I can give you a very few concrete examples.

Mr. SUMNERS. I did not want to make a statement; I was really making an inquiry.

Miss ABBOTT. After all, the employers, most of them, want to obey the law and want to live up to the law, and they want it made as reasonably easy for them to do this as is possible. They want, therefore, if the certificates are liable to be questioned, to have a good certificating system. We recognized the certificates in several States in which the certificating system, after all, was very poor. When we came to make inspections, we found certificates has been issued for a good number of children who were in fact under the legal age, and, of course, our officers were under the necessity of cancelling all of those. They canceled a very considerable number on file with the employers; that is, which were in the employers' hands. Those employers immediately began to move to strengthen the method of certificate issuing in that community and to say that, after all, they wanted the people charged with issuing them in that State to be qualified to do it well, so that this kind of thing would not happen. So that in this way you have a building up of the respect for the local office, and the local certificate there, so that he can really do the work well. I think that a working relationship of that sort is the end that is sought by an administrative officer who wants to build up the local machinery, and it is possible to do it very definitely in such a way as I have described.

Mr. FOSTER. May I ask you one question? One question that seems to be referred to frequently is whether the States, independent of any Federal enactment, can be expected to reduce this child employment. In that connection, may I ask you this: You referred, when you were testifying last week, to some 13 States whose standards you estimated as good, as equal to the standards under the Federal law that was declared unconstitutional. My question is this: How many of those 13 States came up to that standard while the Federal law was in effect? In other words, did the Federal enforcement help to bring them up or deter it?

Miss ABBOTT. I have some figures in reference to the bringing of the State legislation up to the standard in a number of laws passed at that time. Several of them did come up as a result of the fact they wanted to come up to the Federal standard in every respect, and you quite often heard in the discussion that the State wanted at least to be up to the Federal standard.

Mr. SUMNERS. Before you begin the explanation, are you certain that was the result of the Federal law, or that the same state of public opinion which put through the national legislation might not also have affected local legislation in the several States?

Miss ABBOTT. Well, of course, we have improvements in States that opposed national legislation definitely. It certainly was educational. It was educational to the employers and educational to the general public as to what the effect was. It was not as bad as the employers had feared, and it was much better in its effects than many people believed it could be.

Mr. MONTAGUE. In some part of your remarks, will you put into the record the two Federal decisions respecting the child-labor laws that were declared unconstitutional?

Miss ABBOTT. Yes; I would be very glad to do that.

Mr. MONTAGUE. So that we can see what power of enforcement was given by the National Government in the States.

Miss ABBOTT. Yes. As to the question I was asked last week, and that is much the same as Mr. Foster has asked now, of course it is extremely difficult to speak with great preciseness about the advancement that was made, because it is very hard to say whether one particular kind of provision is more valuable than another, and which one is most valuable, a law raising the age, or the educational qualifications, or the physical qualification, or the night-work law, or the eight-hour-a-day law for young children, or whatever it may be. So it gets extremely complex if you try to draw conclusions from it.

After a careful review of the legislation I should say there is probably no decided difference between the two decades—1900–1910 and 1910–1920—in regard to the extent of the State gains in the basic standards of minimum age, hours, and night work. It is undoubtedly true, however, that in regard to administrative features, particularly the machinery of employment-certificate issuance, standards for employment such as physical and educational requirements, and provisions for adequate enforcement, the last decade far surpasses the first.

In 1916, as far as I have been able to find out, there were 2 States that raised the age, there were 3 that raised the hours of work, or night work laws, and there were 2 that increased the standards for

issuing certificates under their own laws, like the educational or physical, and the administrative provisions were improved in four States.

In 1917, which was the year the child-labor law went into effect, there were 7 States that raised their age requirements, there were 11 States that raised the hours or night work laws, there were 9 that increased the enforcement by certificates, there were 10 that improved the administrative provisions.

In 1918 there were 3 that raised the age, 3 the hours or night work laws, and 3 the employment-certificate standards. Of course, in both 1916 and 1918, they were not years when many legislatures were in session. Some of the legislatures were in session in 1916 and 1918, some 11 or 12, as compared with 40 or 42 in the uneven year.

In 1919, 8 raised the age, 4 the hours of labor or night work, 11 the employment certificate, 5 the administrative provisions.

In 1921, 7 raised the age requirement, 7 the hours of labor or night work, 7 the standards for employment certificates, and 6 the administrative provisions.

In 1922, 1 raised the age, 2 the hours, 3 the employment certificates, 2 the administrative standards.

In 1923, 6 raised the age, 6 the hours of labor, 1 the employment certificate, 4 the administrative provisions.

As I say, a bald statement of that sort, without the details of the laws, is really quite inconclusive. You have great improvements made in a number of States in the legislation in 1917, 1919, and 1921, but how you will balance those up from year to year is very hard to say.

Remember, I said that since the child-labor law was passed 8 States, of the ones that were below, had moved toward the standard of the law, but none of them has measured up completely to the standard. I want to say again what I said in answer to a question, that, of course, in case of an act of this sort we ought to consider both the legislative standard and the enforcement of that standard, because the legislative standard means nothing unless there is enforcement machinery to go along with it. The State with not quite so good legislative standards may be doing more for its children by enforcement of its law than one that enacts a better one and does not enforce it; but that is an extremely complex thing to undertake, to measure the enforcement.

Mr. SUMNERS. During the period of the enforcement of the Federal child labor law did any of the States which were, at the beginning of that period, below the standard come fully to the standard?

Miss ABBOTT. Yes; several of them did; quite frequently States that had quite good child labor laws did. Illinois changed its at once, so that it came up in full; Wisconsin changed its, so that when their inspectors came down to our conference they said, "We have already taken action to bring our standards up to the Federal in every particular." There were several others that did, either by improvement in the work permits or at least they were made as good as the standard the Federal Government had set.

Mr. SUMNERS. Were those States at that time that had a high standard, or did some of the States that were far down in the scale include themselves in the number that came up?

Miss ABBOTT. They did not include themselves in the number that came up in full, as I remember. The child labor law passed in North Carolina, which is a great advance over the one they had when the first Federal child labor law went into effect, was passed while the Federal child labor law was in effect and still operating; and the Virginia law, which was a great advance over the one Virginia had, was passed in 1921, while the Federal law was still in operation, also. Those were very great gains for the children which would not be indicated merely in a numerical count of the ones that came up in full to the Federal standards.

Mr. SUMNERS. Did the laws in those two States come up to the Federal standard?

Miss ABBOTT. No; not quite. Virginia does not quite; North Carolina is still a good deal below. But it was a very great improvement over what their laws had been.

Mr. SUMNERS. Now, if it was the Federal child labor law that was there coercing or through education bringing them up, what is your explanation or judgment as to why they did not make the full measure of progress?

Miss ABBOTT. I think, as a legislator, you know what the difficulty is. You always have groups pulling in two directions. There was never any arriving at any of these standards by really a scientific decision that "this is the just thing and we will take that"; it is a controversy between groups, and one group comes in for the protection of the children, and another group comes in and wants to exploit the children, and then the point you finally touch is the point which is the balancing force in the State. What I am trying to point out is that the Federal law did not necessarily bring the State standards up to the Federal standard, but that it did not paralyze the local community and eliminate their sense of responsibility for their children. Instead of doing that, it quickened their sense of responsibility or at least was a contributing factor in quickening their sense of responsibility for the children.

If in a State you try to get a higher State standard, one of the things you are constantly met with is, "That is higher than the standard of such and such a State." That is what they always tell you about. One of the things you have to fight is the State that has not a very good standard and trys to measure itself by the lowest standard, as far as opposition to the law is concerned. If you move up the very lowest standard by the Federal law, you release the good intent of a State toward its children than would otherwise be possible, and so you are able to raise the standards in States that desire to raise the standards, but are kept from doing so by pleading of employers as to the effect that raising standards will have when other States are not doing it. Consequently, even in States with a very much higher standard than the Federal law, they found it was easier to move forward when the lowest level was taken out and a minimum standard was in effect, through the operation of the Federal law. I want to make that perfectly clear, what I think it does is to increase the sense of local responsibility for local children

by drawing attention to what has not been done for them, and what can be done for them, and by releasing the good will of a State toward its children.

Mr. SUMNERS. Therefore, the fact one State does not have so good a child labor law as a given State might desire to enact would be the reason rather than the excuse for not enacting a better law?

Miss ABBOTT. I think both reasons and excuses explain the failure to enact laws in the State legislatures. Excuses are eagerly clutched at sometimes where they would not otherwise do it.

Along this line I want to put into the record, as was requested before, the evidence that State factory inspectors had found that the Federal law did assist in carrying out the State standards, and instead of demoralizing the State system of inspection increased respect for it in most cases.

Mr. MONTAGUE. What do you call the "standard"? What was the standard?

Miss ABBOTT. Well, I have been using the word "standard" because both of the Federal child labor laws did not prohibit child labor. One prohibited the shipment of products in interstate commerce, and the other taxed the industry that had them. It is hardly correct, technically, to speak of the child labor provisions of the first and second child labor laws, but there were certain standards put in those laws with reference to the employment of children. I do not mean "standards" in the sense it was something you approve as the ideal thing to do.

Mr. MONTAGUE. What was the standard?

Miss ABBOTT. The standard in both laws was that no child under 14 should be employed in a factory, workshop, or manufacturing establishment.

Mr. MONTAGUE. The standard was a certain age?

Miss ABBOTT. The standard was a certain age.

Mr. MONTAGUE. And there was a provision for a penalty for failure to comply?

Miss ABBOTT. Yes.

Mr. MONTAGUE. But there was no other standard than age?

Miss ABBOTT. Yes. Sixteen years was the age for mines and quarries. There was also an hours-of-work standard. Children between 14 and 16 could not work more than 8 hours a day or 48 hours a week or at night work. So that there was an hour standard and an age standard. It did not have anywhere near as many standards as many of the State child labor laws. When I say "standard," I do not mean to imply it was a standard in the sense it was provided as the ultimate thing desired.

Mr. MONTAGUE. I wanted to get your idea.

Miss ABBOTT. I am sorry I did not make that clear before. Now, I have here a resolution of the fifth annual convention of the Association of Governmental Labor Officials of the United States and Canada, passed at Des Moines, Iowa, June 24–28, 1918. At this convention there were 14 States present, representing various parts of the country. The resolution urges the enactment of an adequate Federal child labor law with prompt and effective enforcement, and so on, which followed a declaration first that there should be a child-labor amendment to the Federal Constitution.

Mr. O'SULLIVAN. You spoke of just 14 States; some of them have very good child labor laws?

Miss ABBOTT. Some have good ones. I have a list of the number of delegates from the States which were represented at that convention: Arizona 1, Colorado 1, Connecticut 1, Iowa 7, Kansas 3, Michigan 3, Missouri 1, Nebraska 1, North Carolina 1, Rhode Island 1, South Carolina 1, Utah 1, Washington 1, and Wisconsin 2.

Mr. HICKEY. I was wondering if it would not expedite matters to have that material printed in the record without reading it now.

Miss ABBOTT. If that is agreeable I should be very glad to do that.

Mr. HICKEY. I was just wondering also if all these people present this morning expect to make statements.

Mr. BOIES. It is very interesting to know how the old law worked; but, if the questions are going to be so numerous, I am afraid the speaker won't be able to get at the heart of the subject.

Mr. FOSTER. I think I can say that the representatives of all the various labor organizations here won't have speakers and the number who will want to address the committee won't be over 8 or 10, and they have all agreed that Miss Abbott ought to be given all of the time she wants, because she knows this subject thoroughly, and I think the committee ought to be willing, if they are willing, to let Miss Abott have the time.

Mr. HERSEY. I suggest that she make a statement as to any data she wants to put in the record.

Mr. SUMNERS. Personally, I would like to hear Miss Abbott. She has information, with all due respect to others who come and tell us about the rights of childhood to education and protection. I do not care to hear about that. That is settled.

Miss ABBOTT. I think that material can go into the record without reading. It consists of quotations very largely, of which the source is indicated, and it is not long.

Mr. MONTAGUE. They are just resolutions?

Miss ABBOTT. And statements from State factory inspectors in their annual reports.

Mr. FOSTER. In other words, they are reports of the way the laws did work?

Miss ABBOTT. There are statements there—for example, a statement from J. Ellery Hudson, State factory inspector for Rhode Island, which shows exactly how much the Federal law cut down the number of children employed in Rhode Island, and a statement from the inspector of Delaware, which shows somewhat the same, and statement as to the number employed immediately following the law being declared unconstitutional. They differ slightly, but they are to that general effect.

(The statements above referred to are as follows:)

RESOLUTION OF THE FIFTH ANNUAL CONVENTION OF THE ASSOCIATION OF GOVERNMENTAL LABOR OFFICIALS OF THE UNITED STATES[1] AND CANADA IN RE CHILD LABOR AMENDMENT TO THE FEDERAL CONSTITUTION, PASSED AT DES MOINES, IOWA, JUNE 24–28, 1918

Resolved, That this convention hereby expresses the firm conviction that it is to the best interest of the Nation that an adequate Federal child labor

[1] At this convention the proceedings show that official delegates were present from the following 14 States: Arizona 1, Colorado 1, Connecticut 1, Iowa 7, Kansas 3, Michigan 3, Missouri 1, Nebraska 1, North Carolina 1, Rhode Island 1, South Carolina 1, Utah 1, Washington 1, and Wisconsin 2.

law, providing for prompt and effective enforcement be speedily enacted by Congress; and be it further

Resolved, That this convention urge upon the Appropriations Committee of the Senate the desirability of setting aside an appropriation of not less than $125,000 for investigation and report on child-labor conditions in the different States; such appropriation to continue until such time as the new law may be passed and put into operation.

RESOLUTION OF THE TENTH ANNUAL CONVENTION OF THE ASSOCIATION OF GOVERNMENTAL LABOR OFFICIALS OF THE UNITED STATES[2] AND CANADA IN RE CHILD LABOR AMENDMENT TO THE FEDERAL CONSTITUTION, PASSED AT RICHMOND, VA., MAY 4, 1923[3]

"4. Whereas recent decisions of the Supreme Court in child labor and minimum wage laws for women seem to justify the opinion that constitutional amendments are necessary to make such laws constitutional: Therefore, be it

"*Resolved*, That this association favors and urges the incoming Congress of the United States to submit constitutional amendments upon these subjects." (Adopted.)

ALABAMA

"The Federal authority, because of the taxing penalty of the law imposes a distinct advantage in our work." (P. 10, No. 1, vol. I, April, May, June, 1921, Official Bulletin of the State Child Welfare Department of Alabama, Loraine B. Bush, director.)

ARKANSAS

"The child labor law of this State is identical in its provisions with the Federal taxing law. A compliance with the State law will save to employers of children the penalties under the Federal law. Every cooperation possible with the State Department has been had from the Federal officers, and we are of the opinion that employers of the State do not appreciate the advantages they have over those in States where the State and Federal laws are not similar, and where this cooperation does not exist.

"There is one peculiar feature connected with the issuance of age certificates, that being, when in the discharge of routine work, we discover a violation, the most often advanced excuse was, 'We did not know what the law was,' but no sooner had the Federal taxing law been passed than the department was deluged with inquiries as to the provisions of the law, and how the penalties of the Federal law could be avoided, many frankly admitting that they did not wish to get 'in bad' with 'Uncle Sam.'

"We are glad to know that there has been a material improvement in respect to observance of the child labor law. We hope that all violation will soon be eliminated." (P. 13, Fourth Biennial Report of Bureau of Labor and Statistics of the State of Arkansas, 1919–20.)

DELAWARE

"The number of children between 14 and 16 years of age granted employment certificates during the year 1922 increased 252, compared with the number for the year 1921, according to the report made by Charles A. Hagner, State child labor inspector, at the annual meeting of the State Labor Commission, in their offices in the du Pont Building, yesterday afternoon.

"During 1922 certificates were issued to 423 children, compared with 171 in the previous year. This increase, according to Mr. Hagner's report resulted from the nullification of the Federal child labor law, by the Supreme Court, in May." (The Wilmington (Del.) News, January 10, 1923.)

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[2] At this convention the proceedings show that official delegates were in attendance from the following 21 States: Arkansas 1, Connecticut 8, Delaware 2, Georgia 2, Illinois 2, Louisiana 1, Maryland 1, Massachusetts 1, Minnesota 2, New Hampshire 1, New Jersey 1, New York 2, North Carolina 1, North Dakota 1, Ohio 1, Oklahoma 1, Oregon 1, Pennsylvania 4, Virginia 12, West Virginia 1, Wisconsin 1.

[3] United States Bureau of Labor Statistics, Bulletin No. 352, p. 169.

"According to the report of Charles A. Hagner, State child labor inspector, for the three months ending with June, 789 children made application for certificates permitting them to work.

* * * * * * *

"The annulment of the Federal child labor tax law on May 15, has already [June 30, 1922] had its effect in Delaware, he said, at least 12 employers having increased the working hours for children from 48 to 54 hours a week." (Statement of Charles A. Hagner, State child labor inspector for Delaware, in the Wilmington Every Evening, August 4, 1922.)

IOWA

"One thing in which a decided change has come into the work of the department is in connection with the enforcement of the State child labor law. There is a disposition on the part of many employers to ask that the restrictions be held in abeyance, partly on account of the shortage of labor, but really through an underlying desire to take advantage of the employment of children as a means of profit, also to establish a precedent now that may be taken advantage of later on when war conditions shall have come to an end. The recent decision of the United States Supreme Court relative to the Federal child labor law has not given any added prestige to the State law, but has increased the burden of enforcement, as many parents and employers are assuming that the State law is also null and void and act as though they believed it." (Alfred Shepherd, Iowa Deputy Commissioner of Labor. Proceeding of the fifth annual convention of the Association of Governmental Labor Officials of the United States and Canada, Des Moines, Iowa, June 24–28, 1918, p. 87.)

LOUISIANA

New Orleans.—"The effect of the Federal child labor law, which went into effect September 1, 1917, may be noted here. Several of our largest factories now have no children under 16 in their employ, while others have made it a rule not to take any child under 16, though they still retain those they have, working them only eight hours a day." (P. 42, Tenth Annual Report of the Factory Inspector, New Orleans, contained in the Ninth Biennial Report of the Department of Commissioner of Labor and Industrial Statistics, of the State of Louisiana, 1916–1918.)

MAINE

"Of course it is needless to say that I was greatly disappointed and much disturbed at the result of the decision brought in by the members of the United States Supreme Court. It has made my work much more difficult and less effective. Children in the State of Maine now between the age of 14 and 16 are all employed, as far as my knowledge extends, 54 hours per week. It certainly was a great blow and a decided setback to the children of this Nation and to people interested in their welfare. It seems to be all the more serious because of the good organization which you had perfected and the great good which you were accomplishing." (Excerpt from letter of R. A. Eddy, Commissioner of Labor of Maine, dated July 9, 1918.)

RHODE ISLAND

"The Federal child-labor law, which the United States Supreme Court declared unconstitutional, served in the three years it was in effect to reduce from 8,313 to 4,815—a drop of more than 42 per cent—the number of boys and girls under 16 years of age in the mills and factories of Rhode Island.

"With removal of the Federal restriction, through the ruling of the court, manufacturers will be enabled, according to State Factory Inspector J. Ellery Hudson, greatly to increase the number of children in their employ and to work them not the 8 hours a day and 48 hours a week that the Federal statute specified but the 10 hours a day and 54 hours a week that the State law of Rhode Island permits."

* * * * * * * *

"In 1918, the last year before the passage of the Federal child-labor law, there were employed in the State 8,313 children under the age of 16, according to the report of Factory Inspector Hudson for that year. This number represented 4.44 per cent of all the persons employed.

"The following year, when the Federal law passed, the number of employed children dropped off to 7,595, a decrease of slightly less than 6 per cent. The percentage of children to the whole number of workers fell to 3.96. In that year a few employers discharged their child workers, while others retained them and worked them 48 hours a week.

"By 1920 the children at work had decreased to 7,243 and constituted 3.69 per cent of all those employed. In 1921, according to Mr. Hudson's study of the situation, employers found that it was not economical to work children 48 hours a week while their plants were running 54, so most establishments that were on the 54-hour schedule dropped the boys and girls. Those on a 48-hour basis largely kept them.

"The result was that in 1921 the number of children employed was down to 4,815 and constituted 2.72 per cent of the total number of workers in that State, the smallest percentage ever attained here. * * *" (Statement by State Factory Inspector J. Ellery Hudson in the Providence (R. I.) Journal, May 17, 1922.)

"The number of employees in the various establishments was divided as follows:

* * * * * * *	
Males under 16 years of age	2,263
Females under 16 years of age	2,552
Total number of children	4,815

"The foregoing figures, compared with those given in our last report, reveal the fact that there has been * * * a decrease of 1,367 in the number of boys employed; a decrease of 1,061 in the number of girls employed; a total decrease of 2,428 in the number of those under 16 years of age. * * * The percentage of child labor is 2.72. For the year 1920 it was 3.69. The number of children employed is the smallest since the year 1900, and the percentage of child labor is the lowest in the history of the department. * * * The large decrease in the number of children employed can, undoubtedly, be largely attributed to the Federal child-labor law, which forbids the employment of children under 16 years of age in manufacturing establishments more than 8 hours a day or 48 hours a week." Twenty-eighth annual report of the factory inspector of the State of Rhode Island for the year ending December 31, 1921, J. Ellery Hudson, chief factory inspector.)

SOUTH CAROLINA

"The operation of the Federal law has been suspended, but its moral effect strengthened the hands of the State department. The law might not have been welcome—upon the ground that it was an intrusion upon the rights of States—but we must confess that it has been of great help to us in enforcing our own State laws. We do not anticipate any great reaction on account of the unfavorable decision of the United States Supreme Court." (S. C. Groeschel, South Carolina State factory inspector. Proceedings of the fifth annual convention of the Association of Governmental Labor Officials of the United States and Canada, Des Moines, Iowa, June 24–28, 1918, p. 98.)

TENNESSEE

"We are finding in our efforts in trying to enforce State child-labor laws that a number of Tennessee manufacturers are complaining that they are being unjustly treated, in that manufactureers in adjoining States, where they have no adequate child-labor regulations, are being permitted to work children between 14 and 16 years of age longer than eight hours a day." (Excerpt from letter of Louis L. Allen, department chief, State of Tennessee department of workshop and factory inspection, Nashville, dated August 16, 1918.)

TEXAS

"While the Federal child-labor tax law was in effect little trouble was experienced in correcting many evils of child labor in this State. But the Supreme Court of the United States has held this law unconstitutional on the grounds that such matters are reserved to the States for regulation

"Our present child-labor law should be amended in many respects, and the issuance of permits restricted. A more effective method would be the enactment of a new law patterned after the old Federal child-labor tax law the administration of which should be placed under the joint control of the comptroller of public accounts and the commissioner of labor statistics. * * *" (Seventh Biennial Report of the Bureau of Labor Statistics of the State of Texas, 1921-22. Joseph S. Myers, commissioner of labor statistics.)

Miss ABBOTT (continuing). Then I have here, also, a statement of examples of progressive State child-labor bills which failed to pass the legislatures in 1923. I was requested to put that in the record. Unless the committee desires it, I think I will put it in without reading it.

Mr. BOIES. I can not see any good reason for encumbering the record with that.

Mr. FOSTER. It was your request last week that that be furnished.

Mr. BOIES. I asked that it be furnished?

Mr. FOSTER. The chairman asked that it be incorporated.

Mr. BOIES. The chairman asked that it be furnished?

Mr. FOSTER. Yes.

Miss ABBOTT. I would be very glad not to have it go in.

Mr. MONTAGUE. I would be very glad to have it go in the record.

Mr. BOIES. It will be admitted.

(The statement referred to is as follows:)

EXAMPLES OF PROGRESSIVE STATE CHILD-LABOR BILLS WHICH FAILED TO PASS STATE LEGISLATURES IN 1923

Illinois.—A bill raising the educational requirements for work permits did not pass.

Kansas.—Extending the minimum age and certificate provisions of the child-labor law to cover all gainful occupations at any time and requiring a physician's certificate of physical fitness for the issuance of an employment certificate did not pass. (H. R. 8.)

Maine.—A bill providing for an 8-hour day and 48-hour week for women and minors was proposed by initiative and defeated by referendum. An 8-hour day for minors under 16 in factories was, however, passed by the legislature. (See Resolves, 1923, ch. 107.)

Nebraska.—A bill to extend the child-labor law to cover employment in restaurants did not pass. (H. R. 143.)

New Hampshire.—A bill for a 9-hour day and 48-hour week for women and for minors under 18 engaged in manual or mechanical labor in manufacturing establishments did not pass. (H. R. 1.)

New York.—In New York a bill providing a 48-hour week for boys 16 to 18 years of age in factories and mercantile pursuits passed the Senate but failed in the Assembly. (Information received from New York State Commission to Examine Laws Relating to Child Welfare.)

North Dakota.—A bill regulating work of children in street trades failed of passage. (H. R. 183.)

Pennsylvania.—A bill to reduce the present 9-hour day, 51-hour week for children under 16 to an 8-hour day, 48-hour week, did not pass. (H. R. 434.)

Rhode Island.—A bill regulating industrial home work by extending to such work the age and hour restrictions of the present child-labor law applying to factories (S. 28), and several bills reducing the hours of labor for minors under 16 and females in factories and stores to 8 or 9 per day and 48 per week were defeated. (S. 98; H. R. 650.)

South Carolina.—A bill raising the standards of the child-labor law to conform in many ways to the standards of the Federal laws did not pass. (Information from newspaper clippings.)

Vermont.—A bill reducing hours of labor for minors 16 to 18, and women in manufacturing or mechanical establishments or in mines or quarries to 9 a day and 48 a week, failed to pass. (H. R. 97.)

Miss ABBOTT (continuing). Now, I have shown the legislative inequalities that exist in the State laws and their very great diversity, and the number that came up to the Federal standard; I have shown the very substantial numbers of children employed in the United States at the present time and that, instead of working any progressive reduction of the number, we are not able to do any more than to sort of hold on to the situation, as I have shown, over the long period from 1880 to 1920.

I also put into the record a statement showing the increase in the employment of children following the decision of the court that the law was unconstitutional.

I have shown that the law did not destroy the initiative of the States; that it increased rather than decreased their sense of responsibility, and also I have made a statement about the number of laws passed in that time.

I have also shown what the cost of administering the law was, in accordance with the request that I do that.

Now I would like to go back and remind you——

Mr. MONTAGUE. You would not have us infer from that, if this amendment should be adopted and supplemental legislation should be enacted, that we could administer such an act for $150,000 or $125,000 a year, would you?

Miss ABBOTT. We asked the Appropriations Committee the second year for $164,000, when we got $125,000. The costs are higher now.

Mr. MONTAGUE. That is not the point I make. I say that if this amendment should be adopted and supplemental or ancillary legislation should be enacted to effectuate the amendment, you would not have this committee understand that it could be administered for $125,000 or $150,000 or even $200,000 a year, would you?

Miss ABBOTT. It would depend entirely on the standards adopted. If it were the standard we had before, I think we could; if you put new standards, or should make the law more inclusive, it would take more people to do it.

Mr. MONTAGUE. If the Federal Government undertakes to do this, do you think it could do it for $150,000, or even $200,000?

Miss ABBOTT. It can through cooperation with the States. There is no need of duplicating State machinery, and there is no need for any substantial increase in the Federal machinery.

Mr. MONTAGUE. I congratulate you on your optimism.

Miss ABBOTT. Well, I think I speak with more experience than the gentleman from Virginia, if you will pardon me, because I speak from a direct experience of nine months while the law was in force.

Mr. MONTAGUE. I speak with over 30 years' experience with government and the cost of government. I am not seeking to embarrass you, but any matter that this Government once takes hold of has always cost a lot of money to administer. I do not say it is not worth the price; that phase is not relevant here.

Miss ABBOTT. No.

Mr. MONTAGUE. But I say I do not think it is going to be done economically.

Miss ABBOTT. I would hate to have any cost value put on what we were doing for the child.

Mr. MONTAGUE. I do not say it would not be done economically if it were left to you.

Miss ABBOTT. If it did cost millions, I think it would be worth it.

Mr. MONTAGUE. I do not say anything about that; all I say is that I do not think it can be done for $150,000 a year. I differ from your judgment on that.

Miss ABBOTT. Is it the desire of the committee that I shall put this into the record?

Mr. BOREE. I think we desire that anything your judgment dictates go into the record, and it will go in unless objection is made. As there is none, it will go in.

(The matter referred to is as follows:)

Enforcement of child labor law

Appropriated, 1917 and 1918		[1] $50,000.00
Expended:		
1917	$5,069.44	
1918	40,747.05	
1920	98.48	
		45,914.97
Balance unexpended		4,281.07
Recoveries		196.04
Appropriated, 1918		100,000.00
Expended:		
1918	$57,151.99	
1919	8,358.55	
1920	37.42	
		65,944.57
Balance unexpended		34,452.04
Recoveries		396.61
Appropriated, 1919, and unexpended		125,000.00

Expenditures can not be shown by items separately for fiscal years.

Salaries	61,003.29
Subsistence	27,560.76
Travel	18,552.50
Telegraph and telephone	282.55
Express	55.82
Supplies and equipment	9,404.73
Total expended both appropriations, 1917–18 and 1918	111,859.54

Estimated expenditure for salaries, travel, and miscellaneous expense, January 1 to June 30, 1918,[2] submitted by Miss Abbott at hearing on appropriation bill for 1919

Salaries of—1 director, 1 assistant director, 1 law officer, 1 inspector in charge State cooperation, 5 supervising inspectors, 1 supervisor of certificate issuance, 53 inspectors and assistant inspectors, [3]14 issuing officers, 1 supervising agent assigned to assistant chief	$54,806.00
Traveling expenses and per diem for above	41,605.00
Salaries of clerical staff (16 clerks and 4 messengers)	9,813.33
Telegrams, freight, miscellaneous expenses	2,833.48
Total	[4] 109,257.81

[1] Carried in deficiency act, Apr. 17, 1917, and made immediately available.
[2] Total cost to equal unexpended balance 1918 appropriation (only 150,000 in all).
[3] In some cases estimates for temporary employees (5 and 6 months only).
[4] Figures not added correctly but copied as in hearings (should read 109,057.81).

Mr. MICHENER. Let us get the amendment, and then when we are discussing the legislation we can figure on how much it will cost and how it will work out.

Miss ABBOTT. I have one more statement I would like to put in before you do that; that is, the child-labor laws in foreign countries. At the time the first child-labor law was adopted we really led the world with our minimum standard, and now we are lagging pretty well behind a considerable number of foreign countries, both as to age, hours of work, and night work. A very considerable number of countries have entered into agreements with each other, through conventions agreed upon at the international labor conferences, to reduce the minimum age and night work hours and hours of labor for children and young persons. I should like to put a statement of those countries in the record, if there is no objection.

(The paper above referred to is as follows:)

CHILD-LABOR LAWS IN CERTAIN FOREIGN COUNTRIES

According to the most recent information available, Belgium, Denmark, Germany, Great Britain, Netherlands, New Zealand, Norway, Kingdom of the Serbs, Croats, and Slovenes; Sweden (14, girls; 13, boys), and Switzerland have adopted the 14-year minimum, and Russia has a 16-year minimum, for employment in industrial undertakings, in some instances, with certain exceptions Argentina, Germany, Japan (law effective 1926), and New Zealand prohibit employment inindustrial undertakings, in some instances, with certain exemptions allowed—for example, work in continuous industries and in trades dealing with perishable materials; China prohibits night work for boys under 17 and girls under 18, and Austria, Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Norway, Peru, Russia, Kingdom of the Serbs, Croats, and Slovenes; Sweden, and Switzerland prohibit it under the age of 18 years, and Portugal prohibits night work for all workers. Additional protection is afforded girls in many foreign countries, but in only about a fourth of our States, through laws providing for night rest for women.

The 8-hour day and 48-hour week in industrial undertakings, with certain exemptions, have been adopted for all workers, children and adults, for certain occupations at least, in Austria, Belgium, Czechoslovakia, Ecuador, Finland, France, Germany, Italy, the Netherlands (8½ per day, 48 per week), New Zealand (45 hours for boys under 16 and for females), Norway, Panama, Poland (46-hour week), Portugal, Russia, Kingdom of the Serbs, Croats, and Slovenes, Spain, Sweden, Switzerland, and Uruguay. China has an 8-hour day for children under 17, and India a 6-hour day for children under 15.

In addition to these relatively high child-labor standards in many foreign countries, cited above, the provisions of the draft conventions recommended by the International Labor Conference held in Washington in 1919 include for industrial undertakings a minimum age of 14, an 8-hour day and 48-hour week for all workers, prohibition of night work for young persons under 18—with certain exemptions for children over 16—and prohibition of night work for women. Provision is made for exceptions under certain conditions and modifications are specified for Japan and India. All four of these conventions have been ratified by Bulgaria, Greece, and Rumania. Czechoslovakia has ratified conventions relating to minimum age, night work for women, and hours. Great Britain, Switzerland, and Esthonia have ratified the minimum-age and both night-work conventions; India has ratified the hours of labor and both night-work conventions; Denmark has ratified the minimum-age convention and that relating to night work of young persons; and Italy has ratified both, and South Africa and The Netherlands one, of the night-work conventions. In Japan ratification of the minimum-age convention, and in Finland, The Netherlands, and Poland ratification of both the minimum-age convention and that relating to night work of young persons has been authorized.

Tabular summary, first session (Washington, 1919)—Conventions—Ratification

[Official Bulletin, International Labor Office, June 13, 1929, p. 252]

Abridged title of convention	(a) Conventions ratified and date of ratification	(b) Ratification authorized by Parliament (act, etc.)	(c) Ratification recommended to Parliament (bills, etc.)
5. Minimum age	Bulgaria, Feb. 14, 1922. Czechoslovakia, Aug. 24, 1921. Denmark, Jan. 4, 1923. Esthonia, Dec. 20, 1922. Great Britain, July 14, 1921. Greece, Nov. 19, 1920. Rumania, June 13, 1921. Switzerland, Oct. 9, 1922.	Finland. Netherlands. Japan. Poland.	Argentine. Brazil. Chili. Cuba. France. Germany. Italy. Spain.
6. Night work, young persons.	Bulgaria, Feb. 14, 1922. Denmark, Jan. 4, 1923. Esthonia, Dec. 20, 1922. Great Britain, July 14, 1921. Greece, Nov. 19, 1920. India, July 14, 1921. Italy, Apr. 30, 1923. Rumania, June 13, 1921. Switzerland, Oct. 9, 1922.	Finland. Netherlands. Poland.	Argentine. Austria. Brazil. Chili. Cuba. Czechoslovakia. France. Germany. Spain.

Miss ABBOTT (continuing). Now, as to the form of the amendment, if it is desired I should discuss that next, I think what all of us have had in mind for the form was an amendment which would give Congress the power to enact minimum standards and which would leave to the States the right to give additional protection to their children if they desired. We have discussed a great deal the language that will do this. It seems very simple to state that, but it is not as easy to make sure we have not gotten a form which gives exclusive power to Congress, instead of also leaving power to the States, and, at the same time, to take care of possible difficulties that might arise between the two jurisdictions. Of the resolutions that have been introduced, most of them lend themselves to one or the other objections that I have suggested. For example, there are several amendments which amend Article X, the article that reserves certain powers to the States, by providing that Congress shall have the power over this subject of child labor. That might be regarded as an exclusive grant to Congress, and we are fearful of accepting that language because we should not want to give Congress exclusive power. If it had exclusive power, the whole subject I have been discussing about administration would be very greatly changed and the children really would be the losers. As I have said, what we do want is to get for the children all we can out of our Federal form of government, the Federal law operating as a minimum and leaving the States with full power to raise standards, and to protect them in raising them from the competition of States with much lower standards.

Mr. SUMNERS. While you are dealing with the matter of minimum, do you feel we should stop with the 18-year minimum?

Miss ABBOTT. That is not a minimum in there.

Mr. SUMNERS. A maximum. It depends on which end you look at it from.

Miss ABBOTT. Yes; it depends on whether you regard this as a statute or as an enabling act of Congress.

Mr. SUMNERS. We are now dealing with the question of conferring power.

Miss ABBOTT. On Congress up to 18 years of age.

Mr. SUMNERS. Yes.

Miss ABBOTT. Of course, Congress may never enact any law at all; it may enact a minimum of 12, 14, or 16; it may include canneries, or it may not include canneries; it may include mines, or it may not include mines. What the law will include is entirely in the future.

Mr. SUMNERS. I was not dealing with the question of law, but of Federal power.

Miss ABBOTT. I think the reason that practically all of the laws have carried an 18-year age provision, is to take care of, possibly, regulations that may run up to that age. We have in a good many States legislation which does run up to and indeed beyond 18 years of age. For example, the employment of young girls is prohibited from morally extrahazardous employments or from physically extrahazardous employments, both girls and boys, in some of the poisonous trades. So that there is a body of legislation in the States which have a general minimum standard of 14, but which also prescribes the conditions of work up to the 18 and even 21 years of age.

Mr. SUMNERS. What I am trying to get at is do you think it would be safe to leave the regulation of labor between 18 and 21 to the States?

Miss ABBOTT. Should it be raised to 21?

Mr. SUMNERS. No; I am asking your judgment. Do you think while we are dealing with the question of creating Federal power, that it is safe to leave the matter of the regulation of child labor between 18 and 21 to the States, or should the Federal Government now get for itself that power?

Miss ABBOTT. I would have no objection to including 21, although I recognize the very great difference between the 17-year-old girl and the 19-year-old girl, as far as the need of protection is concerned. I think you are asking me whether I would like to have that made 21 rather than 18?

Mr. SUMNERS. I was asking for your judgment. Perhaps it means the same thing, of course, but I was asking whether you feel—I do not like to repeat my question again.

Miss ABBOTT. I should say those between 18 and 21 were much better able to look out for themselves than those 18 and under, and the need for legislation over 18 is very much different than for under 18. That is, I should think that 18 was a reasonable upper grant to give at the present time.

Mr. SUMNERS. Then I understand it is your judgment that the regulation of child labor between 18 and 21 can be left more safely to the States than can the lesser ages?

Miss ABBOTT. I think that "safely left to the States" is putting it rather curiously. I do not think there is the same need for including it.

Mr. SUMNERS. I do not question there is not the same need; that is not the question I am asking at all. It does not matter whether the need is the same or different; what I am trying to find out is whether it should be left to the States or not, in your judgment?

Miss ABBOTT. I am advocating 18 years at the moment.

Mr. SUMNERS. Are you doing it as a matter of policy or as a matter of judgment?

Miss ABBOTT. As a matter of judgment.

Mr. SUMNERS. That is exactly what I am trying to get at.

(Thereupon, at 11.15 o'clock a. m., the committee adjourned until to-morrow, Saturday, February 16, at 10 o'clock a. m.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Saturday, February 16, 1924.

The committee met at 10 o'clock a. m., to continue hearings on the various bills proposing a constitutional amendment authorizing Congress to enact child-labor legislation. Hon. William D. Boies presided.

Mr. BOIES. Miss Abbott, I understand you wish to complete your statement.

STATEMENT OF MISS GRACE ABBOTT, CHIEF, CHILDREN'S BUREAU, DEPARTMENT OF LABOR, WASHINGTON, D. C.—Resumed

Mr. FOSTER. What consideration has the committee of which you have acted as chairman given to the form of the amendment?

Miss ABBOTT. I have not acted as chairman of a committee, Mr. Foster. I have been consulting with several committees and individuals who are working for an amendment and we have given very careful consideration to language. We began by thinking that the language that Mr. Foster put in last year, and which one or two have put in this year, would be satisfactory. After receiving suggestions as to language from many sources, we concluded that the form of amendment that was introduced by Mr. Foster this year (H. J. Res. 66) would be more generally acceptable. However, that language met some opposition, and we find more general agreement in support of the following language:

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.

Mr. FOSTER. May I ask you if that is the wording in House Joint Resolution 184?

Miss ABBOTT. Yes, it is. We have had the suggestions and criticisms, I think, of some of the most distinguished constitutional lawyers in the country as to whether or not that would meet the objects we have had in mind in working for an amendment, and there has been general agreement that it would accomplish those ends.

STATEMENT OF MR. EDGAR WALLACE, OF THE AMERICAN FEDERATION OF LABOR, WASHINGTON, D. C.

Mr. WALLACE. Mr. Chairman and gentlemen, Mr. Gompers would have appeared here but for the fact that his council is in session, making it necessary for him to be at the office.

The American Federation of Labor is deeply interested in the prevention of child labor, because it is the children of the workers who are generally affected. It is the children of the workers who have been robbed of their playtime and who have gone into the battle of life handicapped because in their early days they have had no opportunity of getting an education and of fitting themselves.

We do not see that in this country, where production is only limited by the consumptive power of the people, it is necessary that we should bring into industry the children of the workers as well as the workers themselves, the children to compete with and to depress the wage scale of the fathers. I do not believe it is necessary to try to convince the gentlemen of this committee of the iniquity of child labor; the subject has been covered very well by Miss Abbott. I believe that the general tendencies, the general feeling of not only the members of this committee, but of the Members of Congress and of the various legislatures of the States, is against child labor. It has been my mission in the past to go before the various legislatures of the States on a subject closely akin to the one before this committee at the present time; that is, in connection with minimum safety laws in mines. In going before those legislatures, I have met opposition from the employers and from members of the legislatures, but never on the ground that the laws suggested were not necessary or would not be beneficial. I would go before the legislature of Indiana—and I am using names of States haphazardly without wishing to cast any reflection on them, only to illustrate——

Mr. HICKEY. Indiana has a very good child labor law.

Mr. WALLACE. I know that. I went before the Legislature of the State of Indiana on a question of improved mining laws. The opposition did not say that such a change would not be beneficial, but they pointed to the fact that they were competing with Kentucky and Kentucky had no such law, and if Indiana were to adopt such a law and Kentucky did not adopt a like law Indiana would be competitively handicapped in selling the product in the same market as Kentucky. Then I would go to Kentucky and ask for the same law and they would point to the fact that the law had been introduced in Indiana and had not passed there, and because it had not passed there it could not pass in Kentucky without placing the employers or the manufacturers of Kentucky at a disadvantage, considering they had to sell the same product in the market in competition with Indiana. And that went on indefinitely. As a result the States having the very lowest measure of protection, whether it be for the safety of adults or for the protection of children in industry, set the mark or the pace. We hold, then, that in order that the States having the better laws migh be encouraged, it is necessary that we have a Federal law, a Federal minimum standard protecting the children of the country. The welfare of the children

of the country, and the education of the children of the country, are of national importance. We were ashamed when it was pointed out to us that sixty per thousand of the adults of this country are illiterate as compared with but two per thousand in countries comparable to the United States in development and civilization. We hold that child labor, the labor of children in factories, mines, and mills, has much to do with the poor showing that we are making in that respect.

It has been asked if we intend that children shall be forbidden to work at gainful occupations on farms. Well, the proposition before us to-day is an enabling act that would enable the Federal Government to establish some minimum standard of age for the employment of children and to regulate the conditions under which children shall labor in industry.

Mr. HERSEY. Under that amendment, they could exempt farm labor.

Mr. WALLACE. They could if they wanted to. I have seen some of the worst child slavery——

Mr. HERSEY (interposing). I am not saying they would or would not. The question before us is the passage of an amendment giving Congress that power. What the legislation will be, I do not know. To discuss the details of that legislation is out of the question here.

Mr. WALLACE. I want to continue that I have seen the worst conditions of child labor in sugar-beet fields, worse than I saw in any factory in any part of the country. I believe if this enabling act passes, and I hope it will, the Congress can differentiate between a boy riding the front horse on a harvesting-machine binder, or helping his dad to hoe in the garden, and a child being exploited in a beet field. That is, however, a matter to be considered afterwards.

Mr. BOIS. If you ever rode a horse on a reaper day after day, under a hot sun, I think you would change your mind as to the work he was performing as compared with the boy who was weeding beets.

Mr. WALLACE. Mr. Bois, when it comes to weeding beets in the garden, such as we grow in our back yards, there is no trouble about that. But when you see children crawling on hands and knees, day after day, from daylight until dark, for six months in the year, that is another story.

Mr. BOIS. When you referred to the boy riding the lead horse, you happened to speak about something I know something about. I know what it means for a boy to stride an old horse day after day from early morn to late at night.

Mr. WALLACE. That is only for a short time; it is not a steady employment.

We ask that this committee shall pass favorably upon this amendment. The details have been pretty well covered by Miss Abbott, and I know your time is short. As a representative of the American Federation of Labor I ask that the committee report favorably upon this humanitarian amendment, and we hope that it will pass with the requisite number of votes in both the House and the Senate.

Mr. HERSEY. You understand that this committee has twice reported such a bill, and it was passed twice by the Congress of the United States and the courts decided Congress had no right to do it.

Now you ask for a constitutional amendment giving Congress the right to do what they have done twice before.

Mr. WALLACE. Yes; to empower them this time. I hope the spirit of the Congress has not changed; I do not believe it has. Congress has indicated by its action in the past that it favors legislation to prevent child labor it has done that twice. Now, I ask for the amendment that will empower Congress——

Mr. MICHENER (interposing). You speak entirely from a humanitarian standpoint. Is it not also true that the American Federation of Labor favors this amendment because it will put child labor out of competition with other labor?

Mr. WALLACE. Mr. Michener, if you mean that from a selfish point of view we want to eliminate this competition, I would not say so. I think the adult can compete successfully with child labor; but if you mean that the American Federation of Labor is opposed to having the children in the factories while the adults are walking the streets, then yes. We have had that experience in various parts of the country—where the man is not able to find employment but his children and also his wife could find employment at a lesser wage.

Mr. BOILEAU. Is Miss Mary Stewart here?

STATEMENT OF MISS MARY STEWART, CHAIRMAN WOMEN'S COMMITTEE FOR A CHILD LABOR AMENDMENT, WASHINGTON, D. C.

Miss STEWART. I am speaking in behalf of the women's committee for a child-labor amendment, which represents 16 national women's organizations.

Mr. BOILEAU. Where is your home, please?

Miss STEWART. In Washington. These organizations are as follows: American Association of University Women; American Federation of Teachers; American Home Economics Association; General Federation of Women's Clubs; Girls' Friendly Society of America; National Congress of Mothers and Parent-Teacher Association; National Consumers' League; National Council of Jewish Women; 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; National Board of Young Women's Christian Association; and Service Star Legion. These organizations each have a representative on the committee for the purpose of supporting this amendment, or an amendment to prevent child labor.

Now, the objects the amendment should accomplish are, in our opinion, as follows: These various organizations have severally passed resolutions indorsing an amendment to the Constitution empowering the Congress to pass legislation to check child labor. These resolutions agree that to insure the protection of our children, the child-labor amendment must be a grant of power to Congress to establish a national minimum of protection for all children, and also to preserve to every State its right to pass laws giving its children even greater protection that the Nation must give; that it should

authorize Congress, first, to prohibit the labor of children below an age to be fixed by later congressional action, and, second, to limit and regulate the employment of boys and girls who are not prohibited entirely from working, and that it must, therefore, clearly give Congress power to legislate for boys and girls until they are at least 18.

As to the language of the amendment, the majority of the women's organizations favor the language of House Joint Resolution 68, which is identical with Senate Joint Resolution 19. However, in order that there might be a general agreement with various other groups working for an amendment with like objects, we have voted our willingness to accept the form introduced February 13 by Mr. Foster, House Joint Resolution 184, provided your committee sees fit to report this form. What we want is an amendment that will insure beyond reasonable doubt the objects above stated, and in behalf of these organizations, we earnestly appeal to you for a favorable report on such a resolution.

Now one word in regard to our standing for a Federal amendment empowering Congress to pass national legislation on child labor. In our minds, the duty of the Nation in setting standards of national welfare is clear. We even think it is so empowered by the original wording of the Constitution, that to look out for the general welfare is quite as much the business of the Congress as to provide for the national defense, and we feel that the general welfare is best taken care of in the welfare of the children. After all, legislation is a sort of general compulsory education, and the passing of certain legislation setting up certain minimum standards of welfare for the children below which no State may fall is the best service the Nation can do for its citizenship and its own perpetuity. It is in this spirit that these women's organizations are supporting this sort of legislation, this sort of an amendment, and our experience, which Miss Abbott has so adequately recounted to you, and the fundamental facts in the matter, which you have had so thoroughly presented, need no repetition here. This is a large group of thoughtful, public-minded women——

Mr. DYER (interposing). May I ask what sections or States they represent, or what cities?

Miss STEWART. These 16 organizations, with their varied membership, represent every State in the Union, every city of any size. They represent women from the entire United States.

Mr. DYER. Have you made an analysis of the legislation that various States have enacted upon the subject of child labor?

Miss STEWART. I have looked over such analysis as the Children's Bureau has presented.

Mr. DYER. It is in the record?

Miss STEWART. Yes.

The additional point that I wish to make in behalf of these organizations is that there is this large body of thoughtful women's opinion back of this amendment. The women feel that it is a matter of enormous concern to them, and perhaps it would be of interest to you to know that almost every sort of women's organization is here represented, and no matter what we differ about on many things, it is interesting to know that wherever something has come up that concerns the children of the country, practically all of the women's

organizations were unanimous in their interest in it and their spirit for it.

Mr. DYER. Is there any opposition on behalf of any women's organization?

Miss STEWART. No. In fact, I think I can truthfully say that in every organization where I have been present I have never heard any definite opposition from any individual woman; they have always voted unanimously.

Mr. SUMNERS. In these meetings where this resolution or similar resolutions have been indorsed was there considered the possibility of taking care of this matter through State action?

Miss STEWART. Of course, lots of things were discussed in detail in the committee. I will speak for one organization, for I personally am actively at work in the National Federation of Business and Professional Women's Clubs. I have been in attendance at some of the meetings of other organizations but not in an official capacity. We work through committees, and the committees thresh out things very carefully.

Mr. SUMNERS. I did not mean to go into your general method of operation. I was just asking the one question.

Miss STEWART. We usually thresh it out in committee and then in convention. They usually have an open discussion, and then they vote in convention. Has that answered your question?

Mr. SUMNERS. If you would like to have it go as the answer to my question.

Miss STEWART. I would rather answer your question directly.

Mr. SUMNERS. My question is whether or not in these meetings prior to the indorsement of this resolution, the women specifically considered the possibility of having this matter taken care of by State action.

Miss STEWART. That phase of the subject was also discussed.

Mr. SUMNERS. I wanted to get that clearly in the record.

Miss STEWART. Yes; it was.

Mr. SUMNERS. And it was the judgment of these women that it would be better to undertake to handle this matter in so far as leadership is concerned by the Federal Government, rather than depend upon the building up of local opinion?

Miss STEWART. You have stated it exactly.

Mr. SUMNERS. Have you ever formed an individual judgment upon the effect of governmental operation and observed whether or not when the Federal Government steps in the disposition is for the State government to step out?

Miss STEWART. I have thought about it. My observation has been more or less general on the matter, but such information as I have acquired would seem to contradict what you say. When the National Government sets a certain standard, the States are very anxious to come up to the standard; in other words, in many cases it challenges State pride.

Mr. SUMNERS. Do you believe that the development of the sense of individual and exclusive local or State responsibility is or is not conducive to the establishment of proper interest in, say, childhood generally? Is it desirable for the State or local community to feel that there is a divided responsibility, that somebody else is looking after it?

Miss STEWART. That is asking for a judgment on national policy.

Mr. SUMNERS. We are dealing with a very important matter of governmental policy.

Miss STEWART. I think we are.

Mr. SUMNERS. That is the thing that is bothering me, the only thing. That is tremendously important, I think, and, if I may say so, I doubt that the good women who have indorsed this bill have given full consideration to the matter of governmental policy involved.

Miss STEWART. I do not think it is possible for any large group of people voting to do so as thoughtfully as might be desirable. Perhaps that is true even in Congress. Every Member of Congress does not give very careful attention to every measure, to every bill he votes for. He trusts the leadership. I think that is probably what is done in women's organizations to a certain extent. But we make an effort to have all our people well informed, and naturally on some things they do trust certain leadership. I think that is characteristic of democratic government.

Mr. SUMNERS. For the first time, so far as I know, in the history of popular government, we are undertaking the experiment of operating the Government from the top down. I do not believe it can be done. I am not convinced.

Miss STEWART. Neither do I, if you mean that the Government can take the place of individual conscience. I speak for myself. If, in my judgment, Federal leadership in setting up standards had a tendency to take away individual responsibility, it would not be desirable. However, I think it stimulates it. If the Government were to act in place of individuals or States, that might be different; but it sets up standards for them.

Mr. SUMNERS. Let us see how this bill would operate. I think it has been developed and we may assume that in the operation of the contemplated legislation you must have the issuance of permits. I believe the ladies in charge of the Welfare Bureau indicated that the proper method for regulating child labor and protecting child labor is to have somebody in the community issue permits. I do not know what the plan would be, but it would seem that perhaps in a territory so large as this Nation you must give great discretion to the individual.

Miss STEWART. That is being done now. I mean, the permits are being issued by communities and States.

Mr. SUMNERS. State officers are doing it?

Miss STEWART. Yes.

Mr. SUMNERS. Do you believe the Federal Government could pass general regulations with respect to a territory so wide? Do you think the Congress could pass general regulations that would determine all the conditions under which children should labor?

Miss STEWART. Is not that the business of the States, rather than a matter directly concerned with this amendment?

Mr. SUMNERS. I suppose it is. Then, if Congress can not do this, it must be left to the discretion of the administrative officials provided by subsequent legislation.

Miss STEWART. The Congress can do a certain part of it. It can say that certain standards are set, below which States may not fall; but the actual sort of police work that is done would probably be

local. The State laws, too, are necessary. I do not think it is our intention to take away from the States any responsibility or even the chance to do something along this line that belongs to them. We only want to stimulate them better to live up to their responsibility for their children. I think that is our feeling.

Mr. SUMNERS. I know that that is your purpose.

Miss STEWART. And we think this will work. There is a difference of opinion, and it is a very understandable difference of opinion; but there is one thing that we are agreed upon and that is by a collective and active opinion and national opinion to see that all of the children have a fair chance.

Child labor is not alone sad in what it makes the children do. It is most unfortunate in what it keeps them away from—the preparation for decent citizenship. We think that is a national responsibility, to set up that standard, and we think that that will be a step in the direction of preparing these children for decent citizenship. All legislation is, in a measure, a compulsory education, but it accomplishes something in proportion as we can stir up the minds of our people to do what the law requires.

Mr. SUMNERS. Does it occur to you that as this matter of child labor is considered and discussed, public opinion is being developed, which soon would manifest itself successfully and effectively in the States; but then, just about the time when the States would take care of the situation we get in a big hurry and rob the States of the victory, and as a result, in this and in other similar matters, we are building up here a Federal Government, a government with responsibilities beyond the capacity of the elected agents of the Government to supervise? We are creating these great big bureaus, which are ceasing to be agencies of government and are becoming governing agencies of the people. They are governing the people.

Miss STEWART. I think you have stated a point that is well taken. That could well happen, and in some cases may have happened and may happen again. When we try to force upon a people things that they are not ready for, at least in a large enough number to get the thing done, we may delay things. However, I think I can say this definitely, that, in our judgment, the time has come when national action on this subject of child labor can do nothing but speed up the States. There are times to delay, there are times to hurry, and there are times to keep apace; and we think the time has come when the National Government can not wait any longer on a reluctant State in this matter.

Mr. DYER. This policy that we are talking about is not any different than the policy which we have already considered and acted upon in connection with the national prohibition law, is it?

Miss STEWART. I should say no, as to the policy underlying it.

Mr. SUMNERS. Do you think that Congressman Dyer should be justified in supporting this bill merely because of his enthusiasm in passing the prohibition bill?

Miss STEWART. I do not know.

Mr. SUMNERS. I should not have asked that question. Mr. Dyer is not a prohibitionist.

Miss STEWART. The answer to your former question is implied in the question you have just asked, namely, that no subject should be considered on any basis except on its own merits.

STATEMENT OF HON. PETER F. TAGUE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. TAGUE. Mr. Chairman and gentlemen of the committee, I am not going to take up much of your time on this bill. You have heard it discussed now for several days. I merely wish to say that I appear to support the law that will regulate the labor of children in the country. I think it is one of the fundamental principles of our Government that we should take care of the future generation, the children of to-day, who are to be the men and women of this Nation to-morrow. I know of no measure that is of more importance. It outreaches any other piece of legislation, I think, that we can pass in this Congress, because it involves saying to the people of the country that the children shall have a chance in the sunshine of life.

I have been interested in this question of child labor for a long time. I had the honor of serving on a committee dealing with this subject in my own State while a member of the legislature. I have seen the growth of the law and the result of the law in my own State. I do not speak on this subject from a local viewpoint, for I think the question is so broad and so great that any man or any woman can forget the locality in the Nation in which he lives so far as the children of the Nation are concerned; for, after all, they belong to no State; they belong to the country. The child of Massachusetts to-day is the man of Iowa to-morrow, and the child of Iowa to-day is the man of South Carolina to-morrow. That has been the history of this country; that is why we have become as strong as we are.

There is no longer any question that we need the children to be the drudges of the Nation. We are big enough, are we great enough to say to the world that those whom we love and those whom we are bound to protect shall have the protecting arm of the Nation if the States of the Nation are not ready to say that for themselves. I do not think that this matter can ever be met on the question of Federal interference with the rights of the States. It is beyond the question of Federal interference with the States; it is bigger than any State; and when the future of the Nation depends, as I say, on the manhood and the womanhood of the Nation in the near future, we have something bigger and greater and stronger than the thought that we must hesitate until the remaining States move along.

A great many States have passed these laws, a great many States believe in these laws, and a great many of the people in the States that have not passed these laws believe in them; but conditions arise, little, trifling conditions of which they take heed for the time being, which result in not only the State suffering but the Nation as well. I believe we should pass some law that would help rather than impede that progress in the building up of our institutions with a view of having the sturdy manhood and sturdy womanhood of this Nation protected in its youth.

Go into any of the States where these laws are in effect, go into any of the mill districts, yes, in my own State, and look back if you will to the conditions of 20 or 25 years ago before these laws were in effect and see the little children with their little dinner pails trudging into the mills at 6 or 7 o'clock in the morning and see them

trudging back again at 6 or 7 at night, as I have seen them. Now go into those States to-day and see them coming out of their school buildings with rosy cheeks and going into the different playgrounds built in the big cities by some of the manufacturing institutions of the State and you will see sturdy, loving children. I would rather see that than discuss questions of Federal interference, and there are brains enough on this committee to bring into the House a law that will bring that about—even though we have been told in the past that the laws previously enacted were unconstitutional.

Mr. SUMNERS. How did this change come about with these little children?

Mr. TAGUE. In my State?

Mr. SUMNERS. Yes.

Mr. TAGUE. It is the simplest thing in the world. We had the same conditions in our State that you have in other States where great manufacturing concerns were built up. These great barons of industry in the past looked forward to the almighty dollar and nothing else. They never cared how they got it; they felt that was the way to build up their institutions.

Mr. SUMNERS. Were they powerful in politics and finance?

Mr. TAGUE. You and I are practical men in politics. You know they have been powerful, and so do I.

Mr. SUMNERS. Who put the roses in the cheeks of those children?

Mr. TAGUE. God Himself.

Mr. SUMNERS. I know, but somebody helped give Him a chance, did they not?

Mr. TAGUE. Well, the people of the Commonwealth and the people of the States. They had vision enough.

Mr. SUMNERS (interposing). That is exactly what I am getting at. The people of Massachusetts, with its great industries, have sent their children to school. That is the question before this committee. All this talk about children and all that business I do not think is a debatable question; we all agree. But we are facing a plain proposition as to whether or not we can depend on States to do what you say the wonderful people of Massachusetts did. Now, then, Massachusetts did all this work and did it when it was difficult, when it was fighting great industries. Now, when Massachusetts has done this work and the other States have done this work, here comes the Federal Government to scoop up the credit and make the States feel they did not do anything. Is that a good thing to have happen? That is the question before this committee.

Mr. TAGUE. This would not be the first time, Mr. Sumners, when the Federal authorities went into the States and usurped the power of the States when it was a matter of benefiting the whole Nation. We, of course, all desire our rights in the States.

Mr. SUMNERS. I do not care one thing on earth about State rights. State rights do not bother me. All I am concerned about is the duty of the State. I am trying to give you what is in my mind. These gentlemen are going to report out this bill, and I would love to vote for it if I could. I would like to do it because it surely would put me in good with a lot of fine women in my country. [Laughter.]

Mr. TAGUE. I said in the beginning that I think this question of the welfare of the future generation of this Nation is greater than the

thought of any State. I contend, too, that this is one question where every man and every woman, whether they are organized or not, can stand on a common ground.

Mr. SUMNERS. I am not disputing that.

Mr. TAGUE. My people in Massachusetts belong to my country, as do the people of the other States. Then why should not the country educate their children, if the States neglect to? Why should we wait for this State or that State which takes the position that the children intrusted to its care shall not receive the advantages the children in other States are getting?

Mr. SUMNERS. What States?

Mr. TAGUE. I will not mention any States.

Mr. SUMNERS. I know; but most of this talk is about somebody away off somewhere.

Mr. TAGUE. It is not way off so far but what we could reach it in two minutes on the telephone or by telegraph. I do not care whose State or what State it is, but when it allows little innocent children 9, 10, and 12 years of age to go into the mills and the fields to work, neglecting their education and depriving them of the sunshine of life, then I say that that State is not doing justice to the children or to the Nation itself.

Mr. SUMNERS. You think you can not trust the States to do that?

Mr. TAGUE. Of course we trust the States of the Nation. I would not for a moment think we could not trust them; but I am afraid, as we sometimes do in our own private affairs, we allow our selfish interests to get the better of our judgment.

Mr. SUMNERS. Do you think that the fact that the State of Massachusetts and its good people had to make the fight for the children that they did make, gave them a general interest in child welfare that is a valuable asset to the people there in the State? Do you or do you not regard the fact that Massachusetts had to make that fight against its big corporations to take the little children out of the mills and put them into the schools, instead of the National Government coming in there and by the power of its national strength taking them out, had the result of arousing a general local interest in child welfare, and the consciousness of power to protect, that would not have existed to as great an extent if the Federal Government had done the work?

Mr. TAGUE. Of course, I love to think that my State is one of the pioneers in this movement, although it did not start the movement; and I love to think that it had foresight enough to move on in the great progress of the conditions of life and to know in a measure that its great movement had some bearing on the other parts of the Nation. I believe that the passing of such a law in Massachusetts, or in any other State, has had an effect that is felt in other ways. I believe, too, that in the fight against the interests who were trying to stop this good work, we met the same beclouded interests that are now trying to fight the issue in other parts of the country. The men who in those days carried on this fight against the industries are to-day the pioneers in trying to develop the youths of that part of the country, and they want their good work to go on throughout the country. Further than that, all of these questions had their origination in some portion or in some locality, but they

reached out just like our election laws. The great State of Oregon incorporated an election system that was soon copied by many States of the Nation. One measure that was considered and passed here, and on which you and I perhaps differ, the question of "Volsteadism," or prohibition, the people of the States never had the right to vote on. It was never a State question.

Mr. SUMNERS. Well, they did vote on it.

Mr. TAGUE. They did through their legislatures.

Mr. SUMNERS. The States voted on the constitutional amendment.

Mr. FOSTER. They voted five times in Ohio on a constitutional amendment.

Mr. DYER. Missouri voted more than five times on the question. They voted against prohibition in Missouri every time.

Mr. TAGUE. The States have had interference with their rights in the past on questions that to my mind have no standing at all compared with this question.

Mr. HERSEY. You have drawn for us a very vivid picture of the deplorable conditions in Massachusetts before the child-labor laws were passed in Massachusetts. Suppose Massachusetts had not passed her child-labor laws, which have been so beneficial to the State and conditions were in the same deplorable state to-day that they were before the laws were passed, how could we reach it except through this amendment to the Constitution that we have before us now?

Mr. TAGUE. I do not believe there would be any other way of reaching it. I will say this, that with what little knowledge I have on the question of child labor, that if my State had neglected to take care of that situation and I was elected a Member of this Congress I would be the first man to come to this Congress and say to my State, "Get into line, get into the progress of life, and give the children a chance."

Mr. HERSEY. Would you try it first in the State legislature?

Mr. TAGUE. We always do.

Mr. BOIES. How long would you try it?

Mr. TAGUE. I would try it for one year, and if unsuccessful I would come to Congress and say that if they did not do it we would make them.

Mr. BOIES. If you stayed here one year, and they did not do it, what would you do?

Mr. TAGUE. I would pray to the Almighty like the "darky" does.

I have been giving a great deal of study to the child-labor proposition and I view it from a standpoint not of State rights or of local conditions but a humanitarian standpoint. I believe it is a big question, a greater question than any other we have before the Nation to-day.

Mr. BOIES. I think it is a question of intuition rather than study.

Mr. TAGUE. I suppose it is intuition especially with those who have children of their own and are looking to their future. I think the time has come when Congress should speak to those who will not speak for themselves.

Mr. BOIES. Mrs. Upton.

STATEMENT OF MRS. HARRIET TAYLOR UPTON, VICE PRESIDENT NATIONAL EXECUTIVE COMMITTEE OF THE REPUBLICAN PARTY, WASHINGTON, D. C.

Mrs. Upton. I am called here, I suppose, because I happen to be on the executive committee of the Republican Party, and also because I have lately been in the field. I have just finished 10,000 miles of travel, and I suppose that you gentlemen, sitting here in this way would like to know what the women back home think and say. When I was asked if I would make a statement here, I said I would if requested, and I want to say that in all that travel, and I have been speaking to different kinds of groups and I have been in consultations and in executive sessions, I do not remember of being in a single State, and I think I might say in a single town, and I might possibly say that I do not remember being in a single meeting, in which some woman has not asked me what the prospect was of the passage of this child labor amendment. I thought that was very significant. Every one of them is interested in it. I never heard a word from anybody fearing that any thing would come from the passage of such an amendment except something good.

Now, whether that is of any value to the men on the committee I do not know. I know that as a rule Congressmen say that they do not attach much significance to the women's vote. But I do think that they do respect the women's vote and opinion, because individual men respect their own women and they can not help respecting their opinions on matters of this kind. Now, I think that the women have been very patient in pressing this matter, because we have let two or three Congresses try to pass a bill on this child labor matter rather than to try to do anything about a constitutional amendment.

We are not especially in favor of paternal government; we would not care for that if we could do this in any other way. But now a person has not a great deal of intelligence who proceeds or attempts to proceed dozens of times along the same lines. We have certainly felt that by legislative action we could accomplish our result, but there appears to be no way to do it except by a constitutional amendment. I am more opposed now to constitutional amendments than I was before, because my big job is done, the job of enfranchising women. We are all selfish, and we like to get the thing done our way and to say that we are very much in favor of it, but we do not want to put every little thing up to Congress through a constitutional amendment. But there is one thing that seems to me to be vitally important, and that is that we have tried every other means.

On this question of child labor, I think that I can speak perhaps better than some of the other speakers, because I live in a State where the child labor laws are said to be the best of any in the world. That is the State of Ohio. I do not know that that is true, but they say it is so. A great many things are said to be true which are not true; but I do know that it is generally conceded; people really say that our laws are as good and perhaps better than any in the world.

Mr. Foster. With characteristic modesty, we admit it, do we not?

Mrs. Upton. Yes; we do.

Mr. Hickey. I believe the law of Indiana is better. [Laughter.]

Mrs. UPTON. Well, what I say is hearsay, but I do not find anybody questioning it. If the Indiana law is better, I am glad it is. The only thing I want the States to have is as good laws as Ohio has.

Mr. DYER. There is nobody in Ohio who doubts that they have the best of everything.

Mrs. UPTON. We do not think that.

Mr. SUMNERS. Do you think the Ohio law is sufficient to take care of the protection of children?

Mrs. UPTON. I should think maybe it is, for the State of Ohio, but I do not think it is for the State of Texas.

Mr. SUMNERS. But for your State you think it is sufficient.

Mrs. UPTON. Yes; I do. I just want Texas to take care of it.

Mr. SUMNERS. I think we can do so; we think we can.

Mrs. UPTON. Now, of course, it is perfectly ridiculous to say that the Texas law for child labor is the same as the Ohio law, because it is not the same. If the people of Texas do not want to pass a right law for child labor, and can not pass it, and we can not get it in any other way, then I think we ought to try to get it through the constitutional amendment, because to my mind there is nothing before the people at this time—and there is a great deal before the people at this time—that is any more important than to start aright the children of our people in living and education and every other thing. Children who work for the mills can not have what they ought to have, and nobody denies that. I know what you are thinking of, but to me that is an unimportant thing as far as the main question is concerned.

If nobody else wants to cross-examine me, I will retire. I am not afraid of this committee, and it is the only committee of the House that I am not afraid of. It is because my father was chairman of this committee and I was brought up in the committee room.

Mr. BOLES. Is Miss Regan here?

STATEMENT OF MISS AGNES G. REGAN, EXECUTIVE SECRETARY NATIONAL COUNCIL OF CATHOLIC WOMEN, WASHINGTON, D. C.

Miss REGAN. On behalf of the National Council of Catholic Women, I beg leave to submit the following resolution concerning child labor, which was unanimously adopted on October 3, 1923:

Whereas the inveterate refusal of some States to enact laws for the prohibition of child labor inflicts injury upon tens of thousands of young children in these States and causes unfair hardships to employers in States which have good child labor laws; and

Whereas the only way in which this evil can be remedied within a reasonable time lies through national legislation: Therefore be it

Resolved, That the National Council of Catholic Women favors an amendment to the Federal Constitution which will empower Congress to enact such legislation, but which will not prohibit any State from enacting a law of higher standard than required by the Federal legislation enacted subsequent to the passing of such a constitutional amendment.

I wish to say in connection with this that everything that Mr. Sumners has said appeals very strongly to me. I recognize that one of the greatest evils is the building up of a big, central government, and getting Congress through organized majorities to do that which the States should do for themselves. However, I think this map on

the cover of the publication gotten out by the organizations favoring the better regulation of child labor answers the questions that have been asked, the black representing the States whose child labor laws are not up to the standard of those of the two Federal laws which were declared unconstitutional.

Now, as Americans, can we afford to let this go on and to wait? The conditions in certain States are very serious, and I think it is a great injustice to the employers in the States where there are good child labor laws to make them compete, in manufacturing, for instance, with other employers in States that have not good child labor laws. I think that the only question which parallels this is slavery.

That is the only thing which makes me feel justified in asking for a constitutional amendment. Child labor is a greater menace than slavery, because in child labor the children who are to be our future citizens are practically slaves under certain conditions. We can not hesitate to set a Federal minimum. I think, Mr. Chairman, that once a Federal minimum is established, there will be ample for the States to do in the enforcement of their own child labor laws and in the enactment of better laws on the part of the States themselves.

The weakness in most of the States which have good child labor laws is that they are not enforced. I went into a certain city not long since between 2 and 3 o'clock in the morning and saw two little shivering boys, one 10 and the other 11 years old, without overcoats and with their little bare arms exposed to the elements. They were delivering the morning papers of one of our great cities. That was in a State where there are child labor laws but no laws applying to the street trades. There is progress to be made in the States where there are good child labor laws, and the matter is one of sufficient interest to justify the enactment of Federal laws. To-day we have many laws that are not enforced. When we have a minimum standard established by the Government which will say that it applies to the United States of America, child labor will be blotted out. Then we can depend on the States to make their laws what they should be.

STATEMENT OF MR. E. O. WATSON, SECRETARY OF THE FEDERAL COUNCIL OF CHURCHES OF CHRIST IN AMERICA, WASHINGTON, D. C.

Mr. WATSON. From the standpoint of the churches there is no social issue before the public to-day that demands more general support throughout the churches of all denominations than the efforts to secure the abolition of child labor; and the evidence of that is to be found not only in the individual actions of denominations but also in the united actions that have been taken by the Federal Council of Churches, composed as it is of officially appointed representatives of 29 of the leading protestant denominations of the United States.

As far back as 1908 the Federal Council of Churches, in that united capacity, expressing the voice of the united churches of this country, adopted its official platform known as "social ideals of the churches," and embodying 16 proposals for advance in social welfare. Two of these 16 had to do with child labor and the full development of the opportunities of childhood. The "social ideals of the churches" declared that the churches stand "for the fullest possible development

of every child, especially by the provision of education and recreation," and "the abolition of child labor." That platform has been repeatedly indorsed by one denomination after another, notably among the larger denominations—the Methodist Episcopal, Congregational, Northern Baptist Convention, Presbyterian, Disciples, and the Reformed Church of the United States.

The various denominations have also, time and time again, adopted special resolutions insisting that the teachings of the church require the abolition of child labor. As recently as last November the bishops of the Methodist Church, meeting in Brooklyn, declared in favor of such, and still more recently the women's division of the Social Service Commission of the Congregational Churches.

Still more significant is the action of the executive committee of the Federal Council of Churches held in Columbus, Ohio, in December last. This meeting, which was attended by the official representatives of the 29 Protestant denominations that comprise the Federal Council of Churches, voted without a dissenting voice in favor of an amendment to the Constitution which would permit Congress to legislate against child labor.

I might call your attention to the fact that we have been carefully studying the religious press on this matter and find it insistent and practically unanimous.

Now, I would call your attention to the fact that the churches are concerned primarily, of course, with the great moral and spiritual principles which are at stake in child labor and not with the particular method by which the evils are to be removed. We ordinarily do not presume to suggest by what particular form of legislation the desired ends may be reached. We feel that the legislators themselves, whom we have elected, are the ones who should answer the question as to what is the most effective method of carrying out in practice the moral and humane principles of the churches. But, we all thought, we find ourselves insisting unequivocally that this thing has not gone on as it should with reference to child labor, and the churches are showing that they are restive and tired of piecemeal attacks upon the evil of child labor, which may in the lapse of many years result in the cessation of child labor throughout the country.

This is too big a question to wait for that. We are therefore insisting that the way must be found by which the evil as a whole should be speedily abolished throughout the land. After having waited for many years for the evil to be abolished through other methods, the churches are now beginning to insist that the problem must be dealt with in a more through-going fashion. It certainly is significant that all the church actions taken during the last three months, namely that of the Congregationalists, the Methodist bishops and the Federal Council of Churches referred to above have gone on record specifically in favor of a constitutional amendment which will give Congress the power to act.

I have here a resolution passed at a meeting of the women's division of the Social Service Commission of the Congregational Churches, which I shall be glad to file.

(The resolution referred to is printed below:)

RESOLUTION PASSED AT MEETING OF WOMEN'S DIVISION OF SOCIAL SERVICE COMMISSION, CONGREGATIONAL CHURCHES

Resolved, That we, the members of the women's division of the Social Service Commission of the Congregational Churches of the United States, urge upon our Senators and Representatives in Congress assembled the immediate adoption of the McCormick resolution designed to prohibit child labor in the United States by an amendment to the Constitution of the United States as follows:

SECTION 1. The Congress shall have power to prohibit the labor of persons under the age of 18 years and to prescribe the conditions of such labor.

SEC. 2. The reserve power of the several States to legislate concerning the labor of persons under the age of 18 years shall not be impaired or diminished except to the extent necessary to give effect to legislation enacted by the Congress.

STATEMENT OF MR. OWEN R. LOVEJOY, EXECUTIVE SECRETARY, NATIONAL CHILD LABOR COMMITTEE, NEW YORK, N. Y.

Mr. LOVEJOY. Mr. Chairman, the most of what I want to say can be said in one sentence; that is, a hearty approval and indorsement of the testimony given yesterday by Miss Abbott, representing the Children's Bureau. She has set forth the results, or what corresponds to the results, of our own observation and experience.

There are two or three questions that have been repeatedly asked by members of the committee that, if you will permit, I should like to discuss for just a moment.

The first question that has been asked a number of times is whether the enactment of this amendment would tend to retard or stimulate better laws and better conditions in the various States. That seems to me a fair and necessary question to be discussed, and I should like to say frankly for the committee I represent that if we believed that it would hinder or retard or discourage State action we should be opposed to any such movement. The committee has been at work attempting to improve State laws, or helping to improve State laws and State administration for 20 years, and we should be opposed to any step that might endanger the results of that work. There seem to me three reasons for believing that this would not be the case. In the first place, in the experience that we have had under the operation of the two Federal child labor laws—the interstate commerce law and the tax law—the results were exactly in the other direction. That is a matter of history, and the testimony of the officials in charge of these laws in the various States, so far as I know, has all been in favor of the advantage which accrued to the States from the cooperation of the Federal Government.

The first aspect in which this seems to us to work in this direction is that it sets a minimum standard which is definite and to which State legislators can refer or be referred as a basis for action. One of the difficulties we have found most frequently is the feeling on the part of State legislators that there is not any definite standard. It is all indefinite. One State has treated it in one way, and another in another, and there is a sense of insecurity, of indefiniteness, which is removed by the placing of a minimum standard.

Mr. HERSEY. Some States do not have any standard?

Mr. LOVEJOY. Every State has some kind of law, although some are very antique.

Now, in the second place, the policy that was adopted by the Children's Bureau under the first law and by the tax department under the second was that of cooperation with rather than substitution for State agencies, and our observation, as well as the testimony of State officials, has been that it stimulated and aided a better enforcement of the law, not only in cases where actual enforcement had to be applied, for it reached very much farther than that. We need to remember that most employers are very glad to comply with the law, if they know what it is. The officials in charge of these State laws have testified time after time that the work of enforcing the law was very greatly simplified and facilitated by the fact that the existance of this Federal law gave employers knowledge that a certain law existed, that certain requirements were there, and they were willing to comply. It released a great deal of energy that it had previously been necessary to expend in educating people to the existence and requirements of the law.

Now, it has another effect, in relation to the employers themselves. There is the fear frequently expressed of unfair competition on the part of competitors in other States. With that fear removed, there is a greater willingness to comply with standards that are reasonable. That was exemplified recently in a large meeting of cotton manufacturers in Alabama where one leading manufacturer went on record—and so far as I could learn there was no dissenting opinion in the association—that they wanted a constitutional amendment that would make it possible for Congress to pass a law requiring a minimum basis, because cotton manufacturers in Alabama were tired of having to compete with the lower standards in Georgia. We can understand how reasonable it would be to have that feeling. Now, if they know there is a level below which their competitors in another State can not fall, it gives them a sense of not being handicapped in the establishment of decent standards. Of course, the question may be asked at this point whether (if this minimum standard is prescribed and the friends of children continue agitating for better standards, if this disparity will not be produced again by some States going way beyond the Federal standard, and whether there will not be that same fear of unfair competition again. I think the answer to that is that we believe the fear expressed on the part of the Alabama cotton manufacturer is a fear that has no real basis. We believe that as communities become advanced in the knowledge of industrial laws the more clearly they become convinced that child labor is the most expensive labor and that they would go beyond these standards on their own volition, because they would find after they have reached a certain stage of progress that they are working in their own interest by still further improving their standards.

The second question that was asked has been asked by several members of the committee and is a question as to expense. The fear was expressed by one gentleman that, instead of requiring the amount that was expended by the Children's Bureau, the department intrusted with the administration of the law passed by Congress under this grant of power would require an expenditure of $2,000,000 a year.

Mr. BOHN. He did not express that because he objected to the expense. His idea was that it would naturally increase.

Mr. LOVEJOY. It is a fair question that I believe the friends of this measure should face. Again referring to the experience of the past, there was no considerable increase in the expenditure under the operation of the law by the Children's Bureau. There is no reason to believe that there would be any great increase under any new department or bureau intrusted with the enforcement of the Federal law. No friends of working children are going to tolerate the expenditure of vast sums of money that are not necessary to accomplish the job. All that will be required is to do the work that it is necessary to do. Part of it is being done by State agencies. If this amendment passes and the law is enacted, part of the job will be done by the Federal agencies. They will not be duplicating. What agency does the other will not do. Therefore there will be no cause for an increase and, so far as I know, I think the taxpayers of this country are not very particular whether they pay the tax that is to accomplish the purpose into the State or the Federal Treasury.

Mr. SUMNERS. Do you think the law that was passed by Congress and held unconstitutional would have been all that was required at the hands of the Federal Government; that that sufficiently supplemented the power and disposition of the States in taking care of the question of child labor?

Mr. LOVEJOY. I believe it would have for the present at least. It is difficult, as Miss Abbott suggested yesterday, to forecast the future, but I believe that for many years the law that was passed, the interstate commerce law, would have accomplished all that the Federal Government needed to do to supplement the activities of the States.

Mr. SUMNERS. I recognize the force of the right of the State to its protection, to be protected against what it believes to be unfair competition on the part of another State. There ought to be some power to stand at the border line of the State and defend the State. I am just wondering if it were possible for the National Government to acquire constitutional power to do what was done under the old law; it could leave the internal administration safely to the States. I hesitate to put this power of the Federal Government into every family and every home.

Mr. LOVEJOY. I think no one contemplates that as a result.

Mr. SUMNERS. This resolution puts that power on every farm and in every home.

Mr. LOVEJOY. It is only proposed to put the same kind of power there that already exists on the part of the public through the States. That is all—and not as much as that, because this would only empower the Government to interfere up to 18 years, while the State may interfere up to 75 if it cared to. It is only extending that power part way, and the same kind of power, to be exercised in the same way that it is now exercised.

The third question that has been asked several times relates to agriculture. I think that all the advocates of this measure are agreed that the kind of law that was enacted before, fixing those standards, would be satisfactory, at least for many years to come. There is no thought on the part of the advocates of this amendment to have the Federal Government interfere with the conditions of

children on farms, with the possible exception that was already referred to by one of the speakers this morning. Where any kind of farm labor is carried on under industrialized methods, it might appropriately become a subject for the consideration of Congress, but even there it is doubtful at the present time, because I believe the observation of most of those who have had experience in administering child labor laws is that the child on the farm can best be protected not directly by prohibitive child-labor laws but by better health and educational and other social facilities originating in the community.

Mr. BOIES. Is there anyone else that would like to address the meeting for a short time?

STATEMENT OF MR. GEORGE L. COOLEY, OF CUYAHOGA COUNTY, OHIO

Mr. BOIES. You are for the measure, are you?

Mr. COOLEY. In one sense, yes. We are representing the agricultural phase of the question.

Mr. HERSEY. What part of agriculture?

Mr. COOLEY. I am a truck and fruit grower in Cuyahoga County, Ohio, and represent the organized truck and fruit growers' association of Cleveland. We also represent one part of the farm bureau of that county.

Mr. MICHENER. Are you authorized to represent the farm bureau here?

Mr. COOLEY. Yes, sir; and we want to state the farm bureau's position; that is, the local farm bureau.

Mr. FOSTER. In what county?

Mr. COOLEY. Cuyahoga County. Cleveland, Ohio, is our county seat. We are employing a great many of the city children in our gardens, in picking our fruits, etc. We sometimes hardly know whether we are violating or living up to what is known as the Bing law. That is a State law. So far as the educational phases of the question are concerned, so far as compulsory education is concerned, we believe in it and all of our people believe in that phase of it. We see that the proponents of this measure do not feel that labor on the farm should be prohibited, so we have not any real cause for opposing the measure if that is carried out; but I do want to have the position of the American Farm Bureau Federation set forth by Doctor Walker, of California, who is here representing that association.

Mr. FOSTER. You live up near Cleveland?

Mr. COOLEY. Yes, sir.

Mr. FOSTER. You are engaged in what business?

Mr. COOLEY. I am engaged in fruit growing and truck farming for the Cleveland market.

Mr. FOSTER. Have you onion fields?

Mr. COOLEY. We have probably 15 or 20 bushels of onions.

Mr. FOSTER. The Bing law is a law introduced in the Ohio Legislature by a representative named Doctor Bing, a professor at the university?

Mr. COOLEY. Yes, sir.

Mr. FOSTER. How does it work with you? Do you favor it or not?

Mr. COOLEY. It has not affected us. We do not know that there is such a thing, only as some of the welfare workers try to bother us.

Mr. FOSTER. You have no complaint of the working of the State law?

Mr. COOLEY. No, sir; not so far as we are concetned. We engage somewhere from 1,000 to 5,000 people.

Mr. MICHENER. Are you in favor of or opposed to this amendment?

Mr. COOLEY. Well, sir; not to the principle so far as education is concerned, but if it is going to infringe on agricultural labor—I can hardly decide the two things.

Mr. MICHENER. Then you are opposed to giving Congress the power to legislate with regard to children? Are you opposed to the principle of giving Congress that right?

Mr. COOLEY. I think I am if they take care of the educational features.

Mr. MICHENER. I asked you if you were opposed to such a right? I think I am.

Mr. COOLEY. Yes, sir; I think that thing ought to originate in the States.

STATEMENT OF DR. W. H. WALKER, REPRESENTING THE AMERICAN FARM BUREAU FEDERATION, WILLOW, CALIF.

Mr. SUMNERS. What kind of a doctor are you?

Doctor WALKER. I have practiced in the dispensaries for 20 years in Chicago. I am interested in agriculture in California. I was vice president of the American Farm Bureau Federation, and I have four children.

I was asked to state the position of the American Farm Bureau Federation relative to this constitutional amendment. I want to say first that the purposes for which this amendment is drawn meet the hearty approval of the entire membership of the American Farm Bureau Federation. We took this up on the advisability of approving of a constitutional amendment, and the reason why it was not approved or voted down is the reason I want to state here.

In the first place, I notice in the figures prepared by the department that agricultural represents the greater percentage of child labor in the United States. Something like 61 per cent of the children employed are in agriculture. When you take the gainful occupations, excluding agriculture, we have only about 3 per cent left of those in gainful occupations employed in other work besides agriculture.

Agriculture is a little bit apprehensive of a national law in the form of a constitutional amendment. The field of work among the 3 per cent of these children might not satisfy the zeal of some of these people and it might be we would constantly be placed in a position of protecting agriculture in various parts of the United States from the very zealous enforcement of the protecting laws, in protecting the workers in agriculture.

We believe that the agricultural work is not harmful but beneficial to the people, and with only a few exceptions that is true; and, it

was argued, in making a broad law for the entire United States it is almost impossible to cover the different conditions. For example, a law that will fit the fruit pickers in California will not fit the wheat growers of North Dakota. We have also noticed that the fact that the child is prohibited from working does not necessarily cure the defect in that community in any particular. I have seen that in my work of many years as a medical man. The reason that the child is working is possibly on account of some family condition, and when he is prohibited from working he is thrown in associations that possibly are not improved in any particular. We believe absolutely in enforced school attendance and the truant work in education, and to that end we have several hundred thousand people in agriculture working in boys' clubs, in educational work in that line. We find that has improved conditions very materially throughout the country wherever that has been introduced, and that community standards have been raised by our agencies going out and teaching them what to do rather than what not to do.

Mr. HERSEY. You are opposed to this bill?

Doctor WALKER. I am stating the reasons and arguments. I think I would very much prefer to see it regulated by States as far as agriculture is concerned. We are afraid, and by illustration I might relate the experience I have known of in some of the States in the enforcement of the automobile laws. I know one State that has a 20-mile speed limit throughout the State. When business gets slack in the cities, they go into the country districts and arrest every autoist who goes through there.

Mr. HERSEY. You are employing city children on the farms?

Doctor WALKER. To a certain extent.

Mr. HERSEY. You are opposing this bill because you are afraid that if Congress passed the law forbidding the city children from working on your farm you would be deprived of that work?

Doctor WALKER. The country children themselves work on the farms.

Mr. HERSEY. You said you employed city children.

Doctor WALKER. That would prohibit them, to a certain extent, too.

Mr. SUMNERS. Do you think it is a bad thing for a child to go out on the farm, for instance, and learn how to work and to have some sense of responsibility?

Doctor WALKER. No; and our schools in many cases adjust their terms to fit the opportunities to serve the communities in which there is work that a child can do. I paid this year $4.50 a day for school children picking up prunes during vacations, and they have made their vacations pay.

Mr. SUMNERS. Do you think that is worse for the child than loafing around the street doing nothing?

Doctor WALKER. It is better for the child. I am absolutely in sympathy with these people who are desirous of stopping the exploitation of child labor. We are afraid, however, that Congress might pass a law which would work a hardship on that great multitude, the 61 per cent of these children who are working in agriculture.

Mr. FOSTER. Does it occur to you that both times that Congress did seek to enact a law on this proposition that neither of them justified the fear that you now have, and if that is true that this amendment should prevail which authorizes the Congress to legislate on the subject. Do you not think your apprehension is a little extreme when you figure Congress will then try to enact a law to prevent this 61 per cent from working?

Doctor WALKER. If Congress has the authority to do this, it puts us constantly on the alert to see that that is not done, and I am speaking—many States have passed resolutions asking us to appear for them.

Mr. FOSTER. They fear Congress might do the thing which they never have attempted to do. Do you oppose this constitutional amendment which would allow Congress, as it did before, to give relief to hundreds of thousands of youngsters that are not in agriculture?

Doctor WALKER. As I have stated, I am not authorized to oppose it or to approve it. We were asked as a big organization in agriculture to state why we did not vote it down or vote in favor of it.

Mr. FOSTER. Your apprehension is that Congress might take in that field?

Doctor WALKER. It might.

Mr. FOSTER. In other words, if this amendment should pass, you would go to Congress and oppose including an agricultural minimum in it?

Doctor WALKER. Yes.

Mr. FOSTER. If Congress acted as it has done, you would have no objection?

Doctor WALKER. We do not want legislation that will specifically include agriculture.

Mr. SUMNERS. If Congress does not have in contemplation exercising the power at some future time of regulating agricultural labor, would not the question be a reasonable one as to why Congress would ask for that power?

Doctor WALKER. I see no reason for asking for it if they do not expect to do it sometime. We are stating our fears. We are in sympathy with the purposes of the bill, but we do not want to be put in the position of being compelled to fight it.

Mr. SUMNERS. If there was in this constitutional amendment a limitation which prevented legislation by the Federal Government with regard to agricultural labor, then you would not oppose its adoption?

Doctor WALKER. No; we would have nothing against it. As an agricultural organization, we would not have any particular interest in it, at least as far as agriculture was concerned. But on that I could not speak for the organization, as it did not pass on that.

Mr. HERSEY. Did you oppose the two child-labor laws that were declared unconstitutional?

Doctor WALKER. I do not think we were represented here at that time.

Mr. FOSTER. Before we adjourn, may I read this statement by Mrs. Blair? The statement is by Mrs. Emily Newell Blair, vice chairman of the Democratic National Committee, which was read

before the subcommittee of the Senate Judiciary Committee. It was accompanied by a letter stating she could not be here to-day and she wanted this to go into the record.

(The statement referred to, read by Mr. Foster, is printed below:)

STATEMENT BY MRS. EMILY NEWELL BLAIR, VICE CHAIRMAN OF THE DEMOCRATIC NATIONAL COMMITTEE, READ BEFORE THE SUBCOMMITTEE OF THE SENATE JUDICIARY COMMITTEE CONSIDERING PROPOSED LEGISLATION LOOKING TO FEDERAL PROHIBITION OF CHILD LABOR

As a mother interested primarily in the welfare of the youth of the Nation, as a member of several of the women's organizations represented here this morning, and as the vice chairman of the Democratic National Committee, I wish to record before this committee my entire indorsement of suitable legislation looking to the abolishment of child labor in the United States.

The Democratic Party stands unequivocally for the prohibition of child labor. It holds that the life, health, and strength of the children of the Nation are its greatest assets, and that the conservation of these constitutes one of its most sacred duties. It believes that if labor in immature years is permitted by one generation it is practicing unfairness to the next generation. Democratic platforms and pronouncements have contained definite and precise statements upholding this belief, and its convincing record in child-labor legislation constitutes democracy's response to the demands of modern social justice. Its record is written in its deeds.

Because the Democratic Party is, and has been consistently, the party of new ideas and progressive legislation it believes that laws regulating hours of labor and conditions under which labor is performed, when passed in recognition of the conditions under which life must be lived to attain the highest development of its citizens, are just assertions of the Nation's interest in the welfare of the people, and whenever it has been given authority it has built a legislative record, the constant direction of which has been toward the future. It has rewritten and passed great laws, affecting terms and conditions of employment to accord with the highest dictates of modern conscience and experience. These laws have uniformly tended to improve conditions under which the laboring people work.

Twice, for instance, has a Democratic Congress and a Democratic President sought earnestly to place upon the statute books of the country a child-labor law that would emancipate the children of the whole Nation from industrial oppression; and twice has its intention been defeated.

On September 1, 1916, a Democratic Congress under the sympathetic leadership of Woodrow Wilson, passed the first Federal child-labor law, excluding all articles made by the labor of children from interstate commerce. After being in operation nine months, this law was pronounced unconstitutional by the Supreme Court of the United States.

Congress, not to be deterred in its efforts to safeguard the health and happiness of the youth of the country, again sought to protect children from factory exploitation by enacting a law placing a heavy tax upon the products of all industrial concerns employing children. This law became effective in April, 1919, and was in active operation until June, 1921, when the Supreme Court of the United States handed down a much delayed decision declaring this second child-labor law unconstitutional also.

Adhering firmly to its belief in the sacred right of the child to immunity from premature physical labor, the Democratic Party stands ready to sponsor a renewed effort to provide suitable legislation that will assist the States in rescuing children from the educational, physical, and other losses which their premature labor imposes upon them.

While considerable progress in recent years has been made in State legislation protecting children from industrial exploitation, yet reports recently published by the children's bureau presents disconcerting evidence of child labor still unsafeguarded by effective regulations governing ages, hours, and working conditions, therefore, I feel that I can indorse the sentiment of this report when it says:

"To secure health and an opportunity for mental and physical development for the children of this generation and to provide for the welfare of our future citizenship, experience indicates the need of a Federal amendment giving Congress the right to establish a minimum standard of protection to the

Nation's working children. The States can and should be left with full power to give more but not less than the minimum consistent with national welfare."

EMILY NEWELL BLAIR,
Vice Chairman, Democratic National Committee.

(Whereupon, at 11:50 o'clock a. m., the committee adjourned.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Wednesday, February 27, 1924.

The committee met at 10 o'clock a. m., Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. Gentlemen of the committee, we have not a quorum of the committee here. What is your pleasure? Shall we proceed with the hearings? If there is no objection, we will go on with the meeting.

There being no objection, the committee proceeded to the consideration of the business.

The CHAIRMAN. There are several gentlemen here who wish to get away quickly, and they say that they have short statements to make. I think it might be well to hear them and let them go ahead.

The first one is Mr. Fox, a member of the New York bar.

STATEMENT OF AUSTEN G. FOX, ESQ., NEW YORK, N. Y.

Mr. FOX. I will also try not to accept the invitation of the chairman so jovially expressed that a few of us had a sermon to instruct your honorable committee. We do not belong, or at least I do not belong, to the class sometimes called pulpiteers.

The CHAIRMAN. Speaking for myself, Mr. Fox, I will admit I need a little sermonizing once in a while.

Mr. FOX. May it please you, Mr. Chairman and gentlemen of the committee in appearing here this morning, I do so representing the Moderation League of the board of which I have the honor to be chairman.

At its present session, Mr. Chairman and gentlemen of the committee, there have been introduced into Congress 74 proposed amendments to the Constitution, as I read from some record which was given to me; therefore, I beg to suggest a question, and as the question refers entirely to a sense of what you might say is discreet, the chairman, I am satisfied will be content if I state the question without the answer. The question is this: There are 74 amendments pending before the Congress. Among those amendments are at least three, one of which is quite prominently known as associated with the name of one of our Senators from New York—Senator Wadsworth—which go to amend Article V of the Constitution, which relates to the procedure to be followed in the ratification of any amendment. And therefore, the question has arisen in my mind as one not out of place to put, is it or not discreet, since time is not pressing in a matter of this kind, that all such amendments should await the disposal of the one relating to the procedure for ratification of amendments? In other words, should not we await the acceptance or rejection of that amendment before proposing other amendments?

You can see why it is discreet for me to do not more than to put the question.

Next in importance to the responsibility of the men who framed and proposed the original Constitution and sent it out for ratification or rejection by the people of this country, is the responsibility that rests in part, at any rate, upon this committee to-day. In this particular instance, Mr. Chairman and gentlemen of the committee, we may talk about amending the Constitution, when we are asked to insert into its body the amendment which is under consideration to-day. But, in substance are we not really undertaking to make a new Constitution? Are we so sure that if we introduce an amendment into the Constitution, that it will be, indeed, the making or the unmaking, in part at any rate—the undoing—of the Constitution under which, for so many years our people have lived, prospered, and been happy?

The question before this committee precisely is this: Is the subject matter covered by the child-labor amendment a fit subject for regulation by legislation? That question has been answered in the affirmative by the people of many States. What I mean to say and should have said, is that the question is not, therefore, in the first instance a question of legislation by some legislative body, but the real question is, shall we put that into the Federal Constitution?

Now, this amendment gives the power to Congress to prohibit and under the eighteenth amendment we have seen that a clause that gives the States even concurrent power to enforce an amendment, does not allow the State to do what Congress may forbid. So that we have the precise question, shall we take this power away from the State and lodge it in the Federal Constitution in the hope that the Federal Statutes will be enforced more effectively and more to the satisfaction of the people than several State statutes enforced by the agents appointed by the States to carry them out?

Well, are we so perfectly satisfied, gentlemen of the committee, with our experience with the eighteenth amendment, whether we be prohibitionists or antiprohibitionists, and with the methods which seem to be involved with the enforcement through Federal bureaus of Federal statutes that we find ourselves unable to resist the temptation to make a further experiment in that field, to add one more bureau to the Federal Government, which carries with it one more set of Federal agents, imitating even faintly what we have daily been experiencing under the attempted enforcement of the eighteenth amendment?

How many States to-day have statutes on the subject of child-labor restriction or regulation? At any rate, the burden rests upon the proponents of this particular amendment, as I suppose it always must, to prove to this committee that at any rate, if adopted, it will be more effective than the State statutes have been. Not for a moment, however, are we to concede that efficiency of the enforcement is the supreme test of the desirability of an amendment. The only alternative to this suggestion of efficiency is that this subject is one which in its very nature ought to be in the Federal Constitution, or, in other words, ought always to have been there rather than to have been left to the State.

Gentlemen of the committee, Mr. Coolidge, when Vice President, in an address before the American Bar Association on the 10th of August, 1922, made what I have no doubt will be accepted by you all, as it is by me, as most unreservedly a great fundamental truth. He said, "In a Republic the law reflects rather than creates a standard of conduct. To dragoon the body," Mr. Coolidge continues, "when the need is to replenish the soul, will end in revolt." Mr. Coolidge was not talking specifically, as you might suppose, of the subject of prohibition, but he was talking of the general subject to which his words might apply; and do not his words apply to the present subject under discussion?

This is a subject which is somewhat akin, if not within the field upon which we entered when we adopted the eighteenth amendment. I am inclined to quote a few words from an address made quite recently—in January—before the Pennsylvania Educational Association by Dr. Nicholas Murray Butler—we all know of the Columbia University. He was speaking directly upon the subject I have the honor of addressing this committee upon, except he was not discussing the precise subject. He says "it is therefore clear that legislation which springs from and directly reflects the public opinion of the locality and State will be infinitely more effective than any Federal Statute."

Now, "Lawless Law Enforcement" was the title of a recent editorial in a leading newspaper. As our Constitution stands, there is no uniform law that regulates, or prohibits, labor by persons under 18 years of age. But any statute which Congress might pass, should this amendment be adopted, must be uniform. I do not suppose for a moment your honors would propose or introduce (none of you) a statute which should say that in South Carolina people under 18 years of age—I feel more inclined to call them people when they are between 17 and 18—should not work in agricultural labor or engage in any gainful occupation (for this amendment covers all gainful occupations) and the people will say, "If you give Congress the power to govern labor up to 18, they would not go so far as that." But Mr. Chairman, granting power is not the best way to prevent its exercise, and the question is always to be considered when it comes to granting it in the fundamental law: Not what Congress may do or will do, which is a guess, if you will pardon me for using so speculative a word, but what they may do. Let us consider for a few moments a few facts which I have taken from the World Almanac.

In 1920 in Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Virginia the percentage of child workers in agriculture, between the ages of 10 and 15 years, varies from 23 per cent in Mississippi to 5 per cent in Virginia of the whole number of child workers, while in California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, Ohio, Oregon, Rhode Island, Vermont, Washington, and Wyoming the percentage of child workers engaged in agriculture varies from two-tenths of 1 per cent in Rhode Island to 2 4/10 per cent in Missouri.

Under the head of "Changes in the number of children employed" the World Almanac states that from 1910 to 1920 the percentage has

decreased in agriculture, forestry, and animal industry, where it was 38.9; in extraction of minerals 72.6, and in manufacturing and mechanical industries was 71.1.

It is probably true that owing to the disappearance by judicial decisions of the statutes of the Federal child labor law of 1922, and in part to the present period of increasing employment, there has been an increase since 1920 in the number of child workers as of all other classes of workers, so those figures may have been somewhat modified since 1922.

A great majority of our people, as I said, may feel that through some legislative body there should be some regulation or prohibition of child labor up to the age of 18 years. This committee may be unanimous upon that proposition. But the question is not that. The question is, if you feel that way first, how best it may be accomplished, and, second, how safe to the Constitution may we take another step toward changing our form of government.

Do not shut your eyes or try to shut your eyes to the fact that we are threatened in this series of amendments with a change in our form of government. And Congress has before it to-day, seventy-four or five amendments to take away from the States the power to regulate the most intimate relations, and the most ever intimate relation, of course, is that of marriage. The most serious question after the consummation of the marriage is the undoing of the marriage. If you feel that you may safely, to the Constitution, in your effort to do something to provide safely for children, introduce this amendment into the Constitution, what arguments have you left, gentlemen of the committee, when next month you are presented here at this table by men who are urging you to do what I have just said, clothe Congress with the power to say to South Carolina, for instance, you shall grant divorces when we, Congress, say you shall. And don't forget Mr. Coolidge's prophetic words, that that is the sort of thing that leads to revolt. Don't think that I am predicting civil war again, but you are predicating a resistance in one form or another by justly dissatisfied people with the success of what may be only a minority of the people in clothing Congress to do that which the people still feel (and that is not the expression of States rights in the old sense of the word) they ought to be left with the right to continue to regulate for themselves. Perhaps right here it is right to say that Capper and Fairchild's amendments are identical, proposing that Congress shall have power to make laws uniform throughout the United States on marriage and divorce, to the legitimization of children, the care and custody of children affected by annulment of marriage or by divorce. Advocates of uniform marriage amendments are supporting the Capper-Fairchild amendment. But there is another amendment which would prohibit the States from regulating absolutely, but the Capper-Fairchilds amendment is the one which the supposedly feminist lobby is pushing (and I do not use the word feminist in any ugly sense), which would not permit any State to prohibit divorce but would allow any majority of the quorum of Congress to liberalize divorce laws throughout the States and provide for the care and custody of children.

If it be still true, gentlemen of the committee, that we have but one lamp by which our feet are guided, if it be still true that we do

not know of any way of judging of the future but by the past, remember, if you please, what has already happened to the Constitution so recently and do not, I beg you, enter upon any further experiments in the field which, unhappily I believe for this one, already has been occupied by the eighteenth amendment. And in saying that, I am not appealing to the prejudice of anybody who is antiprohibitionist, but I am speaking of the need now to-day to come to the rescue of the Constitution and preserve it as it was intended to be and as it always was until the event which happened to which I have referred; and search your minds, I beg you, judicially on the question of how far that tyrannical procedure, already the subject of a motion or resolution to investigate the Prohibition Bureau by the House, has filled the land. However, the fifth amendment on amending the Constitution was drafted by Madison, introduced by Madison, and seconded by Hamilton, and was accepted by the men of all the States except Virginia and New York. But in accepting it Hamilton wrote of the danger of encumbering the Government with any constitutional provision, the propriety of which is not indisputable, and Hamilton's word "indisputable" only reflected the language of Madison which limited the right of Congress to propose amendment to some occasion when two-thirds of both Houses shall deem it necessary. Strange words! Are there any stranger? I hope I shall not be guilty of accepting your invitation when I suggest that an oath to support the Constitution means that you should not attempt to put anything into it when in your hearts you deem it necessary.

Are we so sure, gentlemen of the committee, that in passing this eighteenth amendment to which I have referred, we have shown ourselves to be wiser than they who sat together in Philadelphia in 1787 and wrote the Constitution based on the fundamental ideas that the control of the widely divergent habits and customs of the people of the different States should be left for the States? Can we go on, gentlemen of the committee, little by little, impairing the power of the States, impairing the power and rights of the people of the States—I am not talking States' rights, you all know that—to control their own affairs, to regulate their lives according to the standards and customs that prevail in their own communities? Can we go on, little by little, as we are invited to-day to do and invited by other amendments to do, and yet be sure that we are not in fact reversing the very definition of our Constitution, "an indissoluble Union of indestructible States?"

Mr. MICHENER. You said you represented the Moderation League?

Mr. FOX. Yes, sir.

Mr. MICHENER. Will you state just who the Moderation League is?

Mr. FOX. With the utmost pleasure, sir. I will see that each gentleman gets a copy and also a statement of the members of our advisory board so that you can see precisely, if you will pardon the slang expression, what sort of a bunch we are.

Mr. HERSEY. What is the object of it?

Mr. FOX. Well, I have just stated it.

The CHAIRMAN. To protect the Constitution?

Mr. FOX. When we organized we were impressed with the question how far the Volstead Act to-day, in depriving the working man of beer, has driven him, using Mr. Gomper's words, to a whisky diet.

We do not think we can cure it, but as the chairman has rightly said, our idea was to stop the attempt to do the sort of thing you do here. We are not endeavoring to repeal the eighteenth amendment, but we are endeavoring to have the Volstead Act conform to it. That is one of our objects and the other is to present a uniform divorce and marriage law.

Mr. MICHENER. Well, your prime purpose of organization was the repeal of the eighteenth amendment?

Mr. FOX. No, sir. It was mainly to try to preserve the rights guaranteed to us under the Constitution—to preserve the fourth and fifth amendments.

Mr. MICHENER. And you want, eventually, to bring the Volstead law into what——

Mr. FOX (interposing). Into what we believe to be conformity to the eighteenth amendment. We are not attacking that amendment at all.

Mr. FOSTER. I was interested in your quotation of Mr. Coolidge when he was Vice President. Of course, I know you would be interested in his language since he has been President, in this message to Congress and what he says about the subject of child labor?

Mr. FOX. I can't account for Mr. Coolidge's statement. I am not in his confidence.

Mr. FOSTER. You do not have to be in his confidence to know what his language is in his message to the Congress.

Mr. FOX. What is his purpose?

Mr. FOSTER. The purpose is to quote him specifically on this amendment when you quote him while he was Vice President.

Mr. FOX. That is a question for you gentlemen, as it seems he has changed on a fundamental question. But I take it that you gentlemen are going to follow your oaths.

Mr. FOSTER. Neither do I say that he has changed his mind.

Mr. FOX. That is for you gentlemen. I do not want to be criticizing the President of the United States. I perhaps will not do it. That is a matter of evolution, probably.

STATEMENT OF MR. IRA JEWELL WILLIAMS, PHILADELPHIA, PA.

Mr. MICHENER. Do you represent the Philadelphia bar or do you appear here in your own person?

Mr. WILLIAMS. I appear in my own person only. The question before this committee is whether the subject matter of the proposed amendment is one which is better left to local self-government or one which should be assumed by the National Government.

Now, I take it that the fathers of young men of the day will agree that, in general, matters of local concern should be left to local administration. That was the essence of the concepts of not only Jefferson but of the other school of thought in the beginning. Local affairs are, in general, better left to the regulation by local authorities.

Now, the question is, is this a local affair? Is the question of child labor one, which in its nature, is of local concern? I should suppose that we would agree that primarily it is one of local concern. Does it affect the whole body politic of the Nation in such an extraor-

dinary and unusual way as to make it an exception? Is it, for instance, like the question of the regulation of the liquor traffic, which was the first exception introduced into the Constitution in the way of a matter primarily of local concern which took away from the localities the power of local self-government?

Mr. HERSEY. The liquor traffic is a matter of local concern—do I understand you to say that?

Mr. WILLIAMS. I would say so—primarily the regulation of liquor traffic; and it was so regarded for a century and a half as a matter of local concern.

Mr. MONTAGUE. Otherwise it would have fallen within the interstate-commerce clause of the Constitution, and amendment of the Federal Constitution would not have been necessary?

Mr. WILLIAMS. Yes, sir; I would say so. But I stand also on the proposition that that regulation of individuals in the matter of food and drink is primarily of local concern. The exception was made in what was believed to be a very unusual situation, an exception that was believed by many intelligent men and women to be such a terrible situation and struck so deeply at the roots of society that it could not be handled in any other way than as a national matter. Whether as human characteristics are, it is going to remain a matter of national regulation is to be developed.

Now you have made one exception. It should be borne in mind every effort to transfer the administration of the law, and that is that to-day the man who takes a drink or who sells a drink containing more than one-half of 1 per cent of liquor (and this is merely by way of illustration) is guilty of a crime both against the State and against the Constitution, under the concurrent clause; and he can be tried either in the State court or in the Federal Court and his acquittal in either court is no defense to a subsequent trail and conviction for the other offense. That, I submit, is a gross injustice in the particular case.

Mr. MICHENER. There is one member of the committee who has had in mind this amendment, in itself involving enough to justify its consideration. The argument he made is that the question of child labor is a national question; that children move from State to State; that there is no uniformity of legislation; that the industry of one State can not be protected when they have a more rigid child labor law than in other States. If I am not doing you hurt I hope I am doing you good by directing your attention to the matters that I think the committee have under consideration in reference to this very important constitutional amendment and it would occur to me that it was not quite necessary to illustrate the effect of this particular amendment by what might have been done by another.

Mr. WILLIAMS. My only thought, if the committee please, is that that is another radical departure, and it is the second attempted radical departure from the very fundamental and original frame work of the concepts of the fathers that matters of local concern are better dealt with locally and that local matters should be dealt with by the local authorities.

Mr. MICHENER. Why was the concept of the fathers the better concept? May it not be considered that they were wrong?

Mr. WILLIAMS. Certainly. I hope it may not be conceived that we have not improved, but it is well that steps be taken with care.

Mr. LARSON. Do you not think that matters of physical welfare and education are of national concern?

Mr. WILLIAMS. I think I could argue on half a dozen other matters where it might be urged just as well as in this—

Mr. LARSON (interposing). Just take this argument.

Mr. WILLIAMS. I think it is of great importance. Of course the question of the danger of child labor it may be possible to exaggerate. If I may be permitted to say a word on that score, I began to work, and worked hard, at 11 years of age, and it never stunted my growth. Before 13 I entered into contracts for packing oranges and shipping oranges, and I worked one winter in order to get money enough to come north from Florida, and the idea that any boy of initiative, or and boy who wants to better his condition should be prevented by law from doing just that sort of thing is one which seems to me is in the direction, not of wise regulation, but rather the putting of the clamps on the reasonable individual who even under 14 or 15 may have personal ambition in him to see that it is to his advantage to work hard in order to get a good education.

Mr. FOSTER. Then, under your argument you would not need any regulation, either by the State or by the Federal Government?

Mr WILLIAMS. Well, that is the reductio ad absurdum. It would have been very unfortunate for me at that time if I had been prevented from working. I would not have gotten to Philadelphia, and I would not have been here to-day. But of course that is a personality.

The question is whether child labor is of such character as to make it necessary to take it away from local authorities and give it to the Federal Government. My personal opinion is this: There is something in the very essence of local self-government that appeals to you as of individual responsibility. If you get the unit of Government too big, if you get it centered at Harrisburg or Washington, two or three thousand miles away from some of the sections of the country and if the people get the idea that it is to be carried there, there is a fundamental idea that it is not freedom.

Is it necessary that Congress should take the matter in its hands? The argument, as I understand it, is that it is not done right by the State. It has not been done adequately by the State. Therefore it is a matter for Congress—"Let George do it." There are some backward States, I understand, which have failed to live up to the high ideals of the more forward-looking States, the more progressive States as they regard themselves, and have failed to introduce and pass laws which adequately represent, perhaps, the majority sentiment of the entire Republic.

Now, what are you going to do with those States? In every case, no matter how important the subject matter, in which you find that to be the case will you say, "We will throw that into the hands of Congress; we will make that a national matter because some States have failed, because there are some backward States?" Isn't the other point of view that this particular subject of child labor has moved along by giant strides (the reform through the regulation of child labor), worthy of your consideration? Your committee is

doubtless fully informed as to the steps that have been made in the various States in that direction, doubtless as to the data which should be referred to you and as to the States which have no child-labor law and those which have adequate child-labor laws.

Take State A, whether it be in the North or South, and has not an adequate child labor law; because that State and a half dozen other States have failed to pass what a majority of the people regard an adequate child-labor law, would that justify taking it into the hands of the Federal Government?

It seems to me to allow the matter to proceed in the orderly and natural way toward converting the local people so that when they do act it will come out of their hearts and their brains they will see that that law is enforced because after all, the question of the loyalty—the belief in the adherence to the law is as important as the lex scripta itself. You may write a law but when it comes to its enforcement you will have to have a considerable number of sleuths or inspectors selected at Washington or sent from Washington to go to those backward States and try to jack them up or to see that their morals are improved by the majority of the people. But you will have to proceed in the other way, through the natural process of evolution and discretion to persuade those States that it is to their best interest and to the best interest of the country that they should regulate this in the proper way.

All of the people who have written on the subject of the wisdom of maintaining the distinction between things that are local and things that are Federal have asserted what seems to me to be the common-sense proposition that the moment you take away from the locality that power—you take it away from the people of the locality and you impose upon them from above the commandment, "You have got to do something more that you did not want to do, that the people of an entire State preferred not to do"—the moment you begin to do that you begin to transform this Republic from an "indissoluble Union of indestructible States" to allow a department, in part at least, to be administered by bureaucrats from Washington.

I should greatly deplore that anything I have said would give the impression that I am not in sympathy with reasonable regulation of child labor or hours of labor, or any subject matter regarded as within the police power. The only question is from where shall it be regulated. Shall it be regulated by the people themselves who know their conditions?

I have no fear of State rights. I believe it merely gives to the people of the State the right to regulate their own affairs according to the dictates of their consciences and to the extent that those affairs are not national in their scope. Because if there is no escape from the logic of the conclusion that child labor is a matter that is so exceptional, so extraordinary as to require the taking away of it from the State and putting it into the Nation, there are other subjects just as important.

But from the standpoint of a father I can tell you that I believe there is more harm done in this country to-day by the evil of moving pictures than is done by all the working in factories of children. And I have been to both places and I have two sons of my own, full grown. I believe that the fetid atmosphere and the evil of immoral

moving pictures are far greater evils in their effect upon the mind than working in fields or factories, no matter how poorly regulated. And if the States are willing to allow that, if they allow working in factories where the atmosphere is fetid and unfit, if the States fail to regulate the tenement problem, which is a matter that goes to the very roots of society, shall the Nation take it over because some of the States have failed?

Is not the education of children just as important as the question of whether children shall be allowed to work? And if some of the backwood States have failed to educate their children properly would that be a reason for transferring the whole power to the Federal Government? It is not as if this were a small country. A country of 110,000,000 people, with the enormous physical size of our country, the very attempt to administer a new Federal law over that vast territory against the wishes and desires of some of the citizens of the United States is an attempt which results often in confusion and in friction.

Some of you who have lived in remote parts have probably had the experience of administration of a law which is absolutely and essentially a Federal law, and some Federal officials have construed that law so as to make it a great evil.

The impression I had this morning when I came from Philadelphia to go down to the department and I said, "You have done thus and so, your ruling means thus and so, it means that the throat is cut." Do you realize what you are doing?

You would have to have a lot of administrative divisions who would have to have a great many inspectors who would have to be literally unpopular in certain communities. Isn't it natural that business men should think that a halt should be called on such a proposition as this? Because business men now feel that they are harrassed by an infinite complexity of laws and regulations with which they have to comply and which is a heavy burden upon their business. And here is another one, for instance. Take the people from the States in which the most enlightened law has been passed. They do not want this amendment. The business men do not want the amendment. As a business man I should say it merely means you will have to watch out for an additional number of regulations and an additional number of inspectors in respect to the same subject matter, and you have to be careful that you do not run afoul of your own State law or the Federal law.

Mr. SUMNERS. What has the business man got to do with this?

Mr. WILLIAMS. I supposed, sir, that the business man is an important factor in the community, and the business man is assumed to be a patriotic gentleman whose desire is for the best interests of his country and he is entitled to be heard as much as any other citizen on the question of the wisdom of an amendment to the fundamental law of the country.

Mr. SUMNERS. Do you think his opinion should be considered in arriving at a proper conclusion with regard to child labor?

Mr. WILLIAMS. I should think his convenience should be considered.

Mr. YATES. What authority do you have for saying that the most enlightened people are not for the amendment?

Mr. WILLIAMS. Did I say that?

Mr. YATES. If you did not say it the record will show. You might have said the best or most enlightened.

Mr. WILLIAMS. I think I said the business people from the States which had the most enlightened laws.

Mr. YATES. How do you know the people do not want it?

Mr. WILLIAMS. From my talks with business people in Pennsylvania.

Mr. YATES. And how many?

Mr. WILLIAMS. Well, the president of the Pennsylvania Manufacturers' Association.

Mr. YATES. Well, of course, I had better not go into details.

Mr. MICHENER. Are you here at the suggestion of the Manufacturers' Association or any group or class of people? Or have you come here on your own initiative and without suggestion and as a citizen and member of the bar of Philadelphia?

Mr. WILLIAMS. For several years I have been directly interested in constitutional questions and have attempted, in my feeble way, to write articles on the Constitution. That is my primary interest. I had an engagement down here this morning before a bureau, and Mr. Moore, representing Mr. Grundy, of the Pennsylvania Manufacturers' Association, called to see me to ask me, in view of my interest in the Constitution, whether I would come down and say something before the committee. I am not retained. I do not expect any compensation.

Mr. MICHENER. You are here really at the suggestion of Mr. Moore, of the Manufacturers' Association?

Mr. WILLIAMS. I am also here at the suggestion of Mr. Coolidge, who is president of the Sentinels of the Republic, which is an organization for the purpose of maintaining the Constitution and nothing else.

Mr. MICHENER. That organization takes particular interest in modifying the Volstead Act, does it not?

Mr. WILLIAMS. Not to my knowledge.

Mr. LARSON. You are in favor of reasonable regulation of child labor, provided it comes from the States, are you not?

Mr. WILLIAMS. Yes, sir.

Mr. LARSON. You are opposed to national legislation regulating child labor; is that right?

Mr. WILLIAMS. Yes, sir; because I believe that this is a matter which in its nature is local, and that it is not so exceptional as to make it wise to burden the Federal Government with the function of attempting to administer the law and requiring localities to act up to a different standard, which some of the States think is best; and because I believe that this would detract from the sovereignty of the people of the different States, which was in accordance with sound principles of Government.

Mr. LARSON. In other words, you do not think the danger to society of child labor is of sufficient importance to become a national question?

Mr. WILLIAMS. No, sir.

Mr. PERLMAN. Have you ever appeared before a State legislature recommending the passage of a law for child labor?

Mr. WILLIAMS. No, sir.

Mr. FOSTER. Would you mind taking a copy of this statement which I have, showing how all the States have progressed or failed to progress in the matter of regulating child labor?

Mr. WILLIAMS. I would be very glad to do it. I am sorry to see my State is in black.

Mr. MONTAGUE. For instance, I will say my State there is in black on that list, and the lady that appeared here as the most conspicuous advocate of this amendment admitted frankly that Virginia was ahead of most States in the Union in some respects.

Mr. WILLIAMS. I assumed we were getting along fairly well in Pennsylvania, and I heard no agitation in Pennsylvania for some time looking to improvement of it.

Mr. FOSTER. That is the thing they complain of—no agitation.

Mr. MONTAGUE. Have you considered this phase of it: You suggested the bureaucracy and therefore increase of the Federal office-holding class. Have you considered the additional number that would be required for the administration of this amendment?

Mr. WILLIAMS. I have not tried to figure it out. At any rate I am informed that at the present time in this country the ratio of officeholders of the Nation and State localities is 1 out of every 10 workers—that 9 workers are supporting 1 officeholder. But I suppose——

Mr. YATES (interposing). Of course, you do not know that; you are just making a statement here without proof.

Mr. WILLIAMS. Well, I would like to furnish you my authority for that.

Mr. LARSON. Do you not think that the fallacy of your reasoning is that you have drawn a general inference from one instance, referring modestly to your own self.

Mr. WILLIAMS. I would like to strike out the personal reference.

Mr. LARSON. If there had been a law such as is now advocated you would have been handicapped. Do you realize also that you are drawing a general conclusion from a particular instance? I imagine you are a man that would get along anywhere and under any circumstances. But you should take into consideration that there are hundreds and thousands of normal children and subnormal children that are entitled to protection.

Mr. WILLIAMS. That I assumed in saying that it is a subject matter for regulation, but all my proposition goes to is that we have a tremendous complexity of Government now. There is such a vast number of laws and regulations and every time you add to that machinery, especially the Federal machinery, which is attempting to operate over such a vast territory representing so many people—every time you add to that, you are making it more complex and the whole thing may tend to break down some day.

Mr. SUMNERS. Do you not think as we take responsibility and power from the State we weaken our Government from that end, and as we add it that responsibility here to an already overlouded and overburdened governmental machinery, where we have to take care of the overload with bureaus, and we are breaking it down from this end? We are trying to operate this Government from the top down instead of from the people up?

Mr. WILLIAMS. You have stated exactly what I have in my mind, and I happen to be a Republican. But I believe this centralization has gone too far and I believe it is the greatest danger to this country. And I say that as a citizen without or unaffected by any other interest than patriotic interest. I believe if you leave this with the States it will come back in a way that has grown from the bottom instead of having been imposed from above. It is very, very difficult in any matter of morals, as this matter is, to raise up people by their boot straps. They have got to work out their own salvation in their different localities.

Mr. MONTAGUE. I want to get some idea as to the additional machinery required for the administration of this amendment.

Mr. WILLIAMS. I have not thought it out that far.

Mr. MONTAGUE. The statement was made by Miss Abbott, who is perhaps the ablest advocate that has appeared here for the amendment, that heretofore, she thought, from the way the Federal Government had been administering the regulation under the act passed in pursuance of the interstate commerce clause of the Constitution, that it would take about $150,000?

Mr. WILLIAMS. Well, that may be correct; but my own impression would be that that would be wholly inadequate.

Mr. MONTAGUE. Irrespective of the merit of the amendment, I am just trying to get at the cost of the administration of this amendment.

Mr. WILLIAMS (interposing). If I were at the head of the bureau, I would expect to ask for a much larger appropriation in order to do it adequately.

Mr. MONTAGUE. With your experience in Washington more power and more money would progressively be asked for as time went on?

Mr. PERLMAN. You said the majority are opposed to this amendment. Do you have in mind the majority of localities?

Mr. WILLIAMS. I was speaking of the localities that were backward, and that it is proposed to treat them as if they were bad apples and not entitled to be in the barrel; that they were not really sovereign States, having the attributes of sovereignty, but at any time they can be summoned to the bar at Washington and told where to get off about matters which I think are really matters of local concern.

Mr. PERLMAN. Have you in mind the governing officers of localities or the majority of the people of localities?

Mr. WILLIAMS. I have in mind the people who would be affected by the law.

Mr. PERLMAN. That is just a few of the employers; that is not the mind of the employes.

Mr. WILLIAMS. Well, they are the ones who should be affected; they would affect the employees, and my argument in the beginning pointed that out. There are a lot of people under 18 who most certainly will want to work and who will come in conflict with any law you may enact in pursuance of this, no matter how wide that law is. There will be certain localities where they will want to work longer hours and want to begin work sooner; and there are all kinds of boys and all kinds of girls and some of these boys will want to begin to save to get money to go to college on, or want to save to

carry out another ambition and they will walk along in the same steps.

Mr. PERLMAN. Do not those children compete with their parents in that employment, and if they are not competing with the fathers, will not the fathers be able to get work and employment so that they can educate their children?

Mr. WILLIAMS. Isn't that carrying it too far, theoretically? In my case my father was dead.

Mr. PERLMAN. Well, I am not talking about that, but in general.

Mr. WILLIAMS. Generally children are better off employed, as an economic proposition.

Mr. PERLMAN. You stated awhile ago that the majority of the enlightened States are not in favor of this amendment.

Mr. WILLIAMS. I will have to limit that to Pennsylvania.

Mr. PERLMAN. Have you heard of States where they have child labor laws that they can not fairly compete against people in other States that have no child labor law that employ children in competition to them?

Mr. WILLIAMS. I have not.

Mr. FOSTER. I think if the gentleman will study this statement which shows the statistics under the two laws which were declared unconstitutional, both before and after that, that that would be of great interest.

Mr. WILLIAMS. I should be glad to pursue it further.

Mr. YATES. I was concerned with your statement that people in the States that have the most enlightened legislation do not favor this amendment. I happen to be from Illinois, and I think I am for it, but I suppose Illinois is an enlightened State and has enlightened legislation.

Mr. WILLIAMS. It is in white.

Mr. YATES. You said that the people from the States having the most enlightened legislation do not want this amendment.

The CHAIRMAN. I think you misunderstood what he said.

Mr. YATES. I simply wish to know his authority for that statement, because my information is, and I am pretty well acquainted in Illinois, that they are overwhelmingly for the amendment.

Mr. WILLIAMS. I have said, sir, that my knowledge extends only to Pennsylvania, and I have stated the source of the knowledge, merely discussions with many business men with whom I have talked about the matter. I can understand, sir, the point of view that manufacturers in one district, which has stringent laws, might say that they are being unfairly competed with by the labor of another State. I would say that is a rather unworthy attitude if my proposition is correct that this is a matte—one of those things which should be left to the States, and it is more important that the States should remain vital parts, self-governing parts.

Mr. FOSTER. That business man represents the viewpoint of those that asked you to come here, the manufacturers' association that asked you to come here.

Mr. WILLIAMS. I believe that these particular gentlemen are against the amendment.

Mr. FOSTER. I quite agree with that.

Mr. WILLIAMS. Yes.

Mr. MICHENER. The observation you made in answer to the question put by the gentleman from New York would apply with equal force to the enactment of any State statute, would it not?

Mr. WILLIAMS. I thought we passed that.

Mr. MICHENER. I was just bringing you back to it.

Mr. WILLIAMS. I would like to say——

Mr. MICHENER. In other words, the things you said, these specific instances you gave, followed out to the logical conclusion would apply exactly to all State laws, all laws of States regulating children, how and where they want to work?

Mr. WILLIAMS. I seem to say things that result in not being considered as in favor of these progressive measures. I am really in favor of regulating these affairs, but if the States fall down on some of them, or are backward in regulating women's hours, or fall down in regulating sweatshops or hours in general, or housing problems, or the social evils, because many of those things go to the very roots of society and because we know that the evil exists (we know that thus far the States haven't been able to cope with them), it may be because human nature has not arrived at the status where it appreciates the value of such attainments, or it may be that we have not been able to cope with them.

Mr. LARSON. Do you not think we had better cope with those problems and not try to attack something else?

Mr. WILLIAMS. I would say that the thing to consider is, Is this the sort of power to be given to the Federal Government? And, logically, if that is the sort of thing that should go there, then logically there are many other things, too.

Mr. LARSON. Would it not depend on the gravity of the situation rather than the character of the legislation?

Mr. FOSTER. I believe that if the gentleman will give all of the facts a careful study he will come back and favor the bill.

The CHAIRMAN. I hope gentlemen here will refrain from commenting on the weight of the gentleman's argument.

Mr. PEARLMAN. Let me state to you that every letter I have received from business men in New York, and I have received many of them, is in favor of this amendment.

Mr. MONTAGUE. The innuendo as to this witness is that he is appearing against this bill for selfish business interest.

From the question put by the gentleman from New York to him it seems that there are certain business men who favor it for business interests. In other words, the argument has been made here, and submitted powerfully, that you can not have competition, that there will be unfair competition between States, even reviving the old slave issue that slave labor is cheaper than free labor, therefore competition must be eliminated? That is the argument here.

Mr. WILLIAMS. Well, I am right here on my premises.

Mr. MONTAGUE. You advanced the argument just now how you would deal with questions in the States, such as hours of labor, etc. There is an amendment pending here in this body—there are many amendments pending.

Mr. FOSTER. Eliminating the business proposition entirely, is it not interesting to you, for instance, that the 17 national women's organizations who are not in business and not in politics per se, but

representing the mothers of these children, with practical unanimity, aside from business, appear here year after year and urge this amendment? Does that not carry some weight or consideration in your mind?

Mr. WILLIAMS. Well, I have been somewhat associated with various movements of men and indirectly with women, and experience shows that one who is convinced of a point of view and believes that he has a real message, especially if it is a message which affects the sympathy and which appeals to the heart, can get a very considerable following which will fall into ranks to back that proposal.

Mr. FOSTER. That is quite true, but I am speaking about the body of the mothers of America.

Mr. WILLIAMS. The mothers of America, whom I know most intimately, are not in favor of this amendment because they believe it is a wrong step in government. They think they are intellectual enough to see that the centralization of power in Washington is too dangerous a thing and it is much wiser to bear certain temporary ills which the localities may themselves correct in time, and have them thoroughly corrected from the bottom, than to attempt to correct them from the top.

Mr. FOSTER. Can you get that to the committee some way, connecting the women of the country? I think they are of independent policies. Such sentiments as you have expressed, do you think they can be gotten before the committee in any collective sense? I would like to hear it.

Mr. WILLIAMS. It would mean that I would have to step aside—

Mr. FOSTER. Well, I mean that it may be very valuable.

Mr. WILLIAMS. I mean women who are in my own group, like Mrs. Williams, who are interested in government, and who have their hearts in these movements, and want the evils removed, but believe that there is a better way to remove them than by constitutional amendment.

There is another matter which has been touched upon and I would like to discuss it for just a moment. That is, there was another amendment, to so-called "back to the people" amendment, which I think should be considered by the committee before any other amendment is considered. You have now the extraordinary situation that a State is not allowed to change its mind after its vote and before the three-fourths necessary to secure the ratification of an amendment have acted. You have the extraordinary situation that a State constitution may have a section providing for a referendum on all matters upon which the legislature may act and they can not employ that machinery for ascertaining the will of the people on the amendment to ascertain what the people desire. I submit the present method of amending the Constitution of the United States is inadequate in that respect; that it does not allow the real thought of the people to come up from the ground before apparently registering their views.

In closing may I quote the view of a great author and a profound student of history, Professor Fisk:

> If the day should ever arrive when the people from the different parts of our country should allow their local affairs to be administered by prefects sent from Washington and when the self-government of the States shall have been so far lost as that of the Departments of France, or even so far as that

of the counties of England, on that day the progressive political career of the American people will have come to an end and the hopes that have been built upon it for the future happiness and prosperity of mankind will be wrecked forever.

The CHAIRMAN. I wish to have a point made clear. A question was asked of you that might be misleading, leaving the belief that you were here representing the Manufacturer's Association. As I understand it when you began you stated that you are not here representing any body of people or interest, but expressing your own patriotic views.

Mr. WILLIAMS. I am expressing my own patriotic views alone.

The CHAIRMAN. You came to Washington on another errand and happened to talk to a brother member of the bar and he spoke of the meeting and asked you to come here and you came here?

Mr. WILLIAMS. Correct, except that he spoke before I called here to speak, and from the fact that he happened to know my interest in the Constitution.

The CHAIRMAN. The fact is you do not represent any other interest here at all?

Mr. WILLIAMS. No, sir.

Mr. DYER. The gentleman has made a very clear statement and has spoken very ably from his standpoint and I do not think there is any question of his being connected with any interest.

The CHAIRMAN. If there is no objection now, the committee will recess to meet again this afternoon.

(There being no objection the committee took a recess until 2.30 o'clock, p. m.)

AFTER RECESS.

The committee reassembled pursuant to the taking of the recess, Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. If Mr. Jones is present, we will hear from him now.

STATEMENT OF MR. WILLIS R. JONES, ATTORNEY AT LAW, BALTIMORE, MD.

The CHAIRMAN. Are you for or against the amendment?

Mr. JONES. I am against the amendment, sir.

Mr. HERSEY. Tell us who you are and who you represent.

Mr. JONES. Willis R. Jones, representing myself. I reside at No. 1 Queen Anne Road, Baltimore, Md. My profession is lawyer.

I may say to the committee that I was invited to address you on this amendment by the Women's Constitutional League of Maryland, an association comprising about 200 women, whom I am told have adopted a resolution in opposition to this amendment.

Further than that, I represent absolutely no interests other than those of my own and I may say to the committee I am married; I live with my wife and I have three children. Furthermore, while I do not claim to be an expert, either from a political standpoint or on child welfare, I do want to say to the committee, in order that you may know a little more about who I am, that I have served one term in the General Assembly of Maryland, and that in the session

of 1920, and, at the present time, I am assistant to the attorney general of the State of Maryland.

I think, perhaps, the reason I was invited to address this committee on this subject is because I happened to be, in 1920, one of those backward lookers who opposed the ratification by the State of Maryland of the nineteenth amendment, and some of the same reasons which actuated me in opposing the ratification by the State of Maryland of that amendment actuated me in coming here to-day to oppose the ratification of this amendment.

Mr. HERSEY. Is the Women's League, for which you appear, opposed to the nineteenth amendment, or were they opposed to it and are they opposed to it to-day?

Mr. JONES. I think it has been organized, in the main, since the nineteenth amendment became an amendment.

Mr. HERSEY. For what was it organized?

Mr. JONES. As a matter of fact, it was organized largely as a result of the nineteenth amendment having been ratified.

Mr. HERSEY. What are they after now?

Mr. JONES. Their desire is to preserve the constitutional liberties as they were created by the original Constitution.

Mr. FOSTER. Up to the nineteenth amendment?

Mr. JONES. Well, since the nineteenth amendment I think they have to accept that, too, whether they like it or not.

The CHAIRMAN. Was it the nineteenth amendment or the eighteenth amendment?

Mr. JONES. It was the nineteenth amendment, and I understand some of the members of this league are somewhat in sympathy with the eighteenth amendment, although I do not believe the majority of them are. But they have taken no part in the fight one way or the other.

Mr. HERSEY. Neither of them have anything to do with the question before us.

Mr. JONES. I understand that, sir. Now, one of the speakers this morning, it seems to me, struck the keynote of the whole question when he said, "Is it necessary for Congress to pass this amendment?" That is the language of the Constitution. You are required, when you deem it necessary, to submit an amendment to the Constitution.

And now the fact is, as we all well know, every State in the Union has the power to do that which the proponents of this measure want Congress to have the power to do; and the fact also is, according to my information, that all except two of the States of the Union have exercised the power and the people of those States are to-day enjoying child-labor laws enacted by their representative bodies, in accordance with the wishes of their people as those legislative bodies have determined and passed upon those wishes. Of course, there is a lack of uniformity as to the laws, as necessarily there must be, because there always has been and always will be a lack of uniformity as to any matter of police in the various States of the Union. So, gentlemen of the committee, as it strikes me, if you take this power away from the States and give it to the Congress of the United States, and the Congress of the United States exercises the power which it derives from this amendment, then you take away from the people of those

several States, as to matters of child labor, government with the consent of the governed.

Now, gentlemen of the committee, if we love the United States, as I believe we all do (and I am not here to challenge the sincerity of anybody in connection with this legislation; I realize that the proponents are actuated by sincere motives, just as I am; I am willing to say that for them), if we want government by the consent of the governed, as I have said, it sems to me we must keep these matters of police in the legislatures of the several States. Just before I was called upon to address the committee——

Mr. HERSEY. Do you call child labor a police matter?

Mr. JONES. Yes, sir.

Mr. HERSEY. Police legislation?

Mr. JONES. Yes, sir; I think it is. Just before I was called upon to address this committee I did not have the privilege of knowing any but one member of the committee, the former Governor of Virginia. I had had the pleasure of meeting him. I looked over the names of the members of the committee, in order to acquaint myself with where you come from, and I did not see a representative of Maryland. I am confirmed in the view which I before arrived at, that there is not a representative of my State on the committee, and here I am down here to-day talking to total strangers. You do not know me; you do not know anything about me other than what I have had to tell you. Now, if you enact this amendment and Congress has the power, either this committee or some other committee will consider this question and I may again, and other people who are interested in this question may likewise, be obliged to express their views to committees of strangers, committees to whom they are unknown. On the other hand, if you leave this power in the States, where I conceive it properly belongs, then I and my fellow citizens of the State of Maryland, who have views on this subject and who want to present those views to the legislative body, before that body acts, we can go before a committee of our legislature, where we are known, and where it is known what we represent, and we can express those views and we can have laws passed with the consent of the governed, as interpreted by that legislature.

Now, Mr. Chairman, who are the proponents of this measure? I do not know. I must frankly confess I do not know who they are; but this committee is in a position to find out.

Mr. HERSEY. Just one moment. Perhaps you mistake the prerogative of the committee in this matter, and I want to see if I can set you right. We sit here to hear this matter of a constitutional amendment, as to whether there is a demand from this Nation for it, whether the people are demanding it.

Mr. JONES. Yes.

Mr. HERSEY. It twice passed the Congress of the United States by a large majority and became a law——

Mr. JONES. Not the amendment.

Mr. HERSEY (continuing). And in the working of that law, which we assumed was constitutional, as I understand from all the evidence that has been submitted, it was very pleasing to the people. Now, after it has passed this Congress twice, by a large vote, and has become a law twice, and was set aside because it was not constitu-

tional we are asking now for a constitutional amendment. Now the question before this committee is just whether the committee will submit this to Congress and let Congress vote on it. If it does, and if two-thirds of both Houses are in favor of it, it goes to the country, under the Constitution——

Mr. JONES. Yes.

Mr. HERSEY (continuing). And if two-thirds, or three-fourths of the States legislatures, elected by the people, and three-fourths of the States indorse it, why it becomes a law.

Mr. JONES. That is right.

Mr. HERSEY. Now, do you not think this committee has before it, at the present time, having passed two acts, sufficient call, sufficient demand, to report upon this new matter which is before it to-day?

Mr. JONES. If I might ask, When those people come here and demand it, why do they come here and demand it? There is not a proponent of this measure, or a proponent of any child-labor measure, that can not go before any State legislature and ask that State legislature to adopt the sort of child-labor laws which he believes proper.

Mr. FOSTER. Do you not know that they have done that for years?

Mr. JONES. If they have done it, why have the States not done it, and why are they here now asking you to do it?

Mr. FOSTER. Because the statistics, as produced by the lady in charge of the Children's Bureau show that as soon as each of these laws was declared unconstitutional, the general tendency to copy that law went down. As soon as it went into effect, the tendency was in the States to come up to the standards prescribed in that law; but now that it has been declared unconstitutional, the tendency in the States is to go down.

Mr. JONES. I do not accept that answer.

Mr. FOSTER. Have you gone into the figures?

Mr. JONES. I have not. I told the committee I was not an expert and do not claim to be an expert on this subject; but I do say I suspect very strongly the proponents of this measure want a system of child labor beyond that which the several States and the people of the several States want, and it is an effort on the part of these proponents, however sincere they may be, to force upon the people of the several States laws which they do not want, and thus to deprive the people of those States of laws with the consent of the governed.

Now, if the legislatures of the States have the power to do it, and the legislatures do not do it, it is because the people in those States do not want the legislatures to do it; and, if the people of those States do not want the legislatures to do it, why should Congress compel the people to do it? Why, Mr. Chairman, we have had some experiences in this country with force measures, and you know and every member of this committee, upon reflection, knows that whenever the Government undertakes to force somebody to do something which he does not want to do, that produces a feeling of resentment on the part of the individual to the agency which tries to compel him to do that which he does not want to do, and I submit to you that the governmental agencies, when they undertake to compel people to do something which they do not want to do, that those governmental agencies should be sure that they are not compelling people to abide by unreasonable regulations.

Now, Mr. Chairman, in addition to the other introductory matters which you have in connection with myself, I happen to have been raised in the country, one of a family of 11 children. My father was a farmer. I went to school at a little country schoolhouse and, in planting time and in harvest time, around about the time I and my brother were 12 years of age, my father was sometimes short of help. He could not get the help to plant his potatoes in time, or to pick his cotton before the rain came and knocked it out on the ground, and occasionally my father did take my brother and I out of school for a day to help him plant those potatoes or to help him pick that cotton. Now, if you turn loose the proponents of this measure on child-labor laws, they would brand that act of my father in taking us out of school that day, to help him plant his potatoes or pick his cotton, as criminal, and I submit to you that is an unreasonable attitude to take with reference to that thing.

Mr. MICHENER. Just a minute, right there.

Mr. JONES. Yes, sir.

Mr. MICHENER. This amendment would not permit Congress to do any more along that line than the State legislature would be permitted to do.

Mr. JONES. That is right. The legislature of my State has shown discretion along that line, and it has not exercised all the power it has.

Mr. MICHENER. And Congress showed a discretion in the passage of two laws along this line—showed the same discretion the State has shown.

Mr. JONES. My observation, if you will permit me to talk perfectly plainly, is that Congress, as a general rule, is more likely to exercise all the power which it has than are the several States. I do not mean any criticism of the committee, of course.

Mr. MICHENER. Yes; that is true; where one sovereign State sometimes wants to have its own way, like a child in a family, at times it becomes necessary to lay down rules which do not exactly please that particular State. And I take it that what you are driving at is, you are opposed to the Volstead Act; you are not in sympathy with that legislation.

Mr. JONES. I am, sir; and I come from a State where it is not regarded as any social odium to adhere to that belief.

Mr. MICHENER. And your State feels so strongly against that law that you have refused to pass legislation to enforce that law, which is the law of the land; you feel that so strongly, I say, over in Baltimore that you have refused to pass legislation to assist in the enforcement of that law.

Mr. JONES. That is, the people generally do; but I do not think you state my position entirely correctly. I think any law Congress passes should be enforced so long as it is the law. What I object to is this——

Mr. MICHENER. If you believe that way, why do you insist on doing what you can to prevent the enforcement of the Volstead law, which is the law of the land, instead of assisting in the enforcement of the law that is the law of the land? I might agree with you, it is not a good law; but of course where you and I part is, when it is on the books it is the duty of every citizen to enforce it.

Mr. JONES. What I object to in this legislation is that people outside of Maryland shall say to the people in Maryland what kind of police laws they shall live by. If Congress will repeal the Volstead law and let Maryland enact a law in accordance with the belief of its people, Maryland will enforce it, and I say to you they will give much more enforcement to such a law than the enforcement you are able to obtain of the Volstead law.

Mr. HERSEY. Maryland did not have any such law before the Volstead Act, did it?

Mr. JONES. Maryland did not have such a law before the Volstead Act; it went along under the old system of local option. We allowed the people to live in accordance with their own wishes.

Mr. HERSEY. And you supplied the District of Columbia, too?

Mr. JONES. We did not supply the District of Columbia very long.

The CHAIRMAN. I think we had better stick to the question before us. We are going very far afield.

Mr. FOSTER. Coming back to your proposition, I want to ask you this: Do you not think, if Congress legislates against child labor, that your fear about the boy not being permitted to work on the farm, is rather far-fetched, in view of the fact that both times that Congress assumed to enact child-labor legislation they showed no disposition to do that, and in view of the further fact, if there was such a fear as you express, that the agricultural interests have not been here to argue against that law? Do you not think the fear which you expressed is rather far-fetched?

Mr. JONES. I think it is, with the present Congress—the same Congress that enacted that law. I would be willing to trust that particular Congress, that that particular Congress would not do that; but Congress is a changing thing, you know, and what I object to is having to come down here to Washington, among strangers, people who do not know me, and having to tell you strangers how I feel about a great matter of local concern back in my State. Now, my State has the power to act on these things, and if anybody wants my State to do something which it is not now doing, they are perfectly welcome to come into my State at any time and state those views before its legislative body, to the body which tries to represent the views of the people in my State. And in that way we are getting laws; we have child-labor laws in Maryland to-day that accord with the wishes of the people of my State. But I do not know, when Congress comes to act, whether it is going to adopt the New York view, the California view, or some other view, and the chances are that Maryland will have but little voice, because we have very few representatives in this Congress. As I say, we have the power; we are exercising the power, and our people are satisfied with the way that power is being exercised in the State of Maryland, and anybody who does not agree with the way that power is being exercised in the State of Maryland can come there and get the laws changed if they can present cogent reasons for our doing so. And as that is true in Maryland, so it is true in every other State, and why is it necessary for the Congress of the United States to take unto itself the power, when Congress can not possibly exercise that power in accordance with the uniform views of the people of the land, of the entire country? Why, Mr. Chairman, it seems to me it can not be

said by any man, conscientiously, that it is absolutely necessary for the Congress to submit this amendment.

Then there is one other thing I want to say, in connection with child labor. Of course, I realize that 46 of the 48 States have already adopted child labor laws, and it would seem——

Mr. HERSEY (interposing). Not uniform laws.

Mr. JONES. Not uniform laws; different laws; varying laws. In some States it is 14, some 15, and this says you have the power up to 18 years of age. It would seem to me that the time for discussion as to whether or not child labor is a proper subject of legislation has passed, although I think there is still some reasonable room for doubt as to whether or not it is not better, after all is said and done, to leave this matter of child welfare and child labor and child education to the fathers and to the mothers of those children. I submit to this committee that, in my humble judgment, the fathers and the mothers are better prepared to pass upon the needs and the welfare of their children than this Congress is, or than the Children's Bureau.

I know not who the Children's Bureau is composed of; I have heard intimations that there are not many mothers connected with the direction of that bureau. I, for one, want to leave that parting thought with the committee, that if you want to ascertain the wishes of the people of this country, on this subject of child labor, I would not endeavor to obtain those views from the Children's Bureau; I would not take the word of the propagandists who send letters in to the committee, whether it be the interests on the one hand, who employ children and exploit them, as it has been said—I would not want their word; neither would I want the work of that element of labor which is always agitating more pay for less work. What I would want, if I were a member of this committee and charged with the duty of passing on this question—I would want to know how the mothers and fathers of America feel about this thing, and I would make that inquiry in my own way, along my own lines, and I would not take the words of these specialists and interests on this subject.

Mr. FOSTER. Will you permit me to interrupt you at that point?

Mr. JONES. Yes, sir.

Mr. FOSTER. You perhaps were not here when the testimony was given by the witnesses at the former hearing?

Mr. JONES. No, sir; I was not, and I can not afford to come back.

Mr. FOSTER. There were 17 national women's organizations, according to the testimony, which have passed resolutions favoring this amendment—not resolutions passed by representatives of those organizations, but resolutions passed, for instance, in my home town, a small town in Ohio, by five women's clubs, nine-tenths the members of which are mothers of children, like your wife. I will be pleased to furnish you with those before you leave here, and the solid resolutions from those clubs of mothers (and the testimony shows they are the ones who have petitioned for the passage of this amendment) represent several millions of mothers in the United States, who are backing this particular amendment.

Mr. JONES. Have you made any inquiry to find out why they adopted the resolution?

Mr. FOSTER. I have, yes; have you?

Mr. JONES. No, sir; I have not.

Mr. FOSTER. I will not take up the time of the committee now to tell you, but I will see you when you get through.

Mr. JONES. We have various women's organizations in my town, also——

Mr. FOSTER. We do not have a Women's Constitutional League in my town.

Mr. JONES. (continuing). And my observation of the women's organizations in our town is that those that have the largest numbers and pass the most resolutions and spread their names in the papers more prominently than the others are, generally speaking, composed of maiden ladies and unmarried ladies without children, and that the vast majority of our mothers who are homekeepers and housekeepers have not got the time to belong to these organizations and to spread their names in the newspapers and to adopt resolutions to send in to Congress.

Mr. DYER. Is that so with reference to the Women's Constitutional League?

Mr. JONES. Not entirely so. There are more mothers, on the average, by far in that association and I would be glad to show you their membership list, if you want it, to show you that by far there are more mothers in the league than there are in the other so-called feminist leagues, such as the League of Women Voters, and a number of others.

Mr. SUMNERS. If I may interrupt you, I can not get much help myself, as to what I ought to do, by determining which one of these groups has more mothers in it than the other. [Laughter.] It seems to me that the question which we have to decide, is whether there should be an amendment to the Constitution giving to the Federal Government the power to regulate and prohibit the labor of persons under 18 years of age.

Mr. HERSEY. Do you not think it would help you to decide, to find out which organization has the most mothers?

Mr. SUMNERS. Yes, I believe that will help.

Mr. JONES. I am not prepared to testify, except as to Maryland, my little State, which has no representative on this committee.

Mr. SUMNERS. Then, on the question as to which organization has the most mothers, I do not believe you are a witness.

Mr. PERLMAN. Do you know how many of the children of the mothers of your organization are employed in the factories and sweatshops and on farms?

Mr. JONES. No, sir; I do not.

Mr. PERLMAN. Are any of them so employed?

Mr. JONES. I do not know that there are.

Mr. PERLMAN. Have you ever asked the mothers and fathers of children if they favored their children, of the early age of 13, 14, 15, and 16, working, instead of going to school?

Mr. JONES. The mothers and fathers associated with us are satisfied to settle those matters for themselves.

Mr. PERLMAN. How do they feel about their children going to school or going on the farm to work?

Mr. JONES. They prefer to have them go to school, but they can decide that for themselves.

Mr. PERLMAN. You think they can afford to decide that for themselves?

Mr. JONES. Yes; they do not feel there is any necessity for anybody telling them what to do about that.

Mr. LARSON. You stated, in the course of your argument, that the matter of education should be left to the parents.

Mr. JONES. Not entirely.

Mr. LARSON. I take it you are opposed to compulsory education?

Mr. JONES. No, sir; I am not. I think that in certain cases legislation is necessary. I think, though, that my comparison was that if I had to consult two groups of people, one the Children's Bureau, organized as the Children's Bureau of Washington is organized, and the other, the mothers and fathers of the community, I would prefer to take the advice and judgment of the mothers and fathers of the community to that of some governmental agency.

Mr. LARSON. It is rather unfortunate that you were not here to listen to the head of the Children's Bureau present her case.

Mr. JONES. I am sorry I was not able to be here; but we private individuals who have to work for our living are not able to sit here in congressional committees and listen to arguments day after day.

Mr. DYER. Did you ask the clerk of this committee to send you a printed copy of her statement?

Mr. JONES. Yes, sir.

Mr. FOSTER. You called attention to the fact that most of the club women were not mothers, were not married, and you said those who were mothers had not the time to attend these club meetings, although you state they do attend the meetings of the Constitutional League. Do you think it is fair, in that connection, to call attention to the fact that married women with families can not be expected to be in charge of governmental functions? You say that the women with families, you think, are so busy they can not attend the meetings of their clubs, out in Ohio, for instance, and still you expect women in that same strata of life to carry on the Government activities, do you not? Do you not meet yourself going out and coming back on that proposition?

Mr. JONES. No; I do not ask that woman to take charge of a governmental agency; that woman has not the time to take charge of a governmental agency, as you well say, but I would rather to have that woman's view as to the kind of child labor law she wants.

Mr. FOSTER. I am calling your attention to the fact that we have the view of millions of those women, those mothers, through these clubs which you do not think they have the time to attend, but which some of us know they do attend, and attend religiously and conscientiously.

Mr. JONES. I realize some of them attend; I do not say they do not. I thank you very much.

STATEMENT OF MRS. RUBEN ROSS HOLLOWAY, OF BALTIMORE, MD., REPRESENTING THE WOMEN'S CONSTITUTIONAL LEAGUE OF MARYLAND

Mrs. HOLLOWAY. Mr. Chairman and gentlemen of the committee, I have a very few words to say to you gentlemen, except to bring to you the ideal of our organization. It is an organization that is opposed to any further power being granted to the Government. We

wish to protest against the child labor amendment being added to the Constitution. We stand for local self-government.

Mr. HERSEY. What organization do you represent?

The CHAIRMAN. Please state what organization you represent.

Mrs. HOLLOWAY. The Constitutional League of Maryland. We stand for local self-government, the sovereignty of the States, a sovereign Nation of many sovereign States. The very foundation of our Government is the Constitution of the United States. Take away the rights of the States and you take the stars from our Flag of a sovereign Nation of many sovereign States. We believe in local self-government. We stand for the preservation of the principles of the Constitution and the Bill of Rights of the States and the United States in letter and in spirit, against violation, whether by direct assault or indirect invasion, whether in the name of socialism, feminism, or in the name of humanity, or in whatever guise the effort is made to subvert the system of ordered progress under the forms of law and with respect to the just rights of all men that we have inherited from the founders of the American Constitution and from the mother country, wherein that system was first conceived.

Mr. FOSTER. What is the membership of the Constitutional League of Maryland—about?

Mrs. HOLLOWAY. Our Constitutional League is rather a young organization. It came into birth because we resented being absolutely all the time quoted as being represented by the women of America. We feel that it shall not go down into history that at least some women, some mothers, have not made an appeal for our country.

Mr. FOSTER. About when was it organized, please?

Mrs. HOLLOWAY. I think, if I remember rightly, the 23d day of December, 1922.

Mr. FOSTER. About what is the present active membership?

Mrs. HOLLOWAY. Our active membership is between 40 and 51, and as I go through my city very, very frequently and come in contact with a great many of the women of the business world, they say, "Mrs. Holloway, it is utterly impossible for us to belong to these organizations; but we do resent being constantly quoted as among the thousands who are supporting a great many bills that are being forced upon our country."

Mr. FOSTER. And quite a large percentage of the membership are married women, are they not?

Mrs. HOLLOWAY. I think with a very few exceptions we are all married women.

Mr. FOSTER. All married?

Mrs. HOLLOWAY. Yes; we all have our homes and mother our children.

Mr. FOSTER. As a league are you opposed to the principles of the nineteenth amendment, the suffrage amendment?

Mrs. HOLLOWAY. Well, that we did not take up very specially one way or the other.

Mr. FOSTER. Is there included in your membership a large group of ladies who were actively opposed to that?

Mrs. HOLLOWAY. Not at all. It is just simply that we ask for our Constitution as granted to us by our forefathers.

Mr. FOSTER. Did your league ever take any stand on the theory of the Federal Government trying to enforce the eighteenth amendment in the State of Maryland?

Mrs. HOLLOWAY. No, sir; not that I am aware of.

Mr. FOSTER. You know of no opposition to that, do you, in your organization?

Mrs. HOLLOWAY. Opposition to what?

Mr. FOSTER. The enforcement of the eighteenth amendment.

Mrs. HOLLOWAY. We have not taken those questions up.

Mr. FOSTER. You understand your State has no enforcement code along with it, and I wondered whether you had taken action, as a club, for the better enforcement of that on behalf of the State of Maryland.

Mrs. HOLLOWAY. No. It is asking for the Constitution; it is absolutely against a centralization of government.

Mr. FOSTER. Were you organized primarily to oppose this child-labor movement?

Mrs. HOLLOWAY. We came into existence more to fight the maternity bill, which we felt was the first step of danger to our Government.

Mr. MICHENER. You say you have 40 or 50 members?

Mrs. HOLLOWAY. Oh, we have a great many more members than that, but there are 40 or 50 active members. I wish I could quote the paid members' names, women who have asked me to represent them in the business world.

The CHAIRMAN. Give us an estimate of how many members you have.

Mrs. HOLLOWAY. I do not believe I could give you that exactly. I could not quote millions nor could I quote thousands.

Mr. FOSTER. Could you quote hundreds?

Mrs. HOLLOWAY. I would be safe in saying a couple of hundred. We are a very young organization, but we feel very safe that all of those are with us and a great many more women will come in when they know the ideals of our organization.

Mr. FOSTER. I was wondering whether, the maternity bill having become a law, the purpose of your organization having ceased, whether it was conducting its fight the same as before that bill became a law?

Mrs. HOLLOWAY. Oh, yes. We object to the care of the children; that is the duty of every mother and every father. We are simply only too glad to do what we could to further the idea of asking for the loyalty of the States in taking care of their own mothers and children.

The CHAIRMAN. Are there any other members of your organization or other persons whom you desire to have address the committee, Mrs. Holloway?

Mrs. HOLLOWAY. No.

STATEMENT OF MR. SIMON MILLER, TEXTILE MANUFACTURER, PHILADELPHIA, PA.

The CHAIRMAN. Please give your name and address to the committee.

Mr. MILLER. Simon Miller, 1530 Locust Street, Philadelphia, Pa.; occupation, manufacturer.

I am one of a group of men composed of representatives from various walks of life, both in commerce and in the learned professions, who make a study of social and economical conditions with peculiar emphasis on a study of the relation, as we say, of men and management in industry. Among that group are many men known to you in the world of letters, men connected particularly with the Wharton School of Commerce and Finance, in Philadelphia.

The CHAIRMAN. And connected with the Univerity of Pennsylvania.

Mr. MILLER. Connected with the University of Pennsylvania, notably men at the head of the Department of Industry and of the Department of Education.

As a manufacturer only, were I to think for my own private gain and what I would say was my immediate interests, I would be heartily in favor of the passage of this amendment to the Constitution; were it not that I place paramount, to that personal and immediate gain, the gain to the State, I would undoubtedly, with heart and soul, indorse the amendment.

Mr. HERSEY. May I interrupt the witness at that point, Mr. Chairman? You say you are a manufacturer?

Mr. MILLER. Yes.

Mr. HERSEY. A manufacturer of what?

Mr. MILLER. I am both a textile and garment manufacturer.

Mr. HERSEY. And do you employ children in your factory?

Mr. MILLER. Minors under 21.

Mr. HERSEY. Under 21?

Mr. MILLER. I say a child legally is a minor when under 21.

Mr. HERSEY. At what ages do you employ them?

Mr. MILLER. From 16 up, with but very few exceptions, probably less than 2 per cent under that.

The CHAIRMAN. With less than 2 per cent under that?

Mr. MILLER. Less than 2 per cent between the ages of 14 and 16.

Mr. HERSEY. I would like to ask you right there: Do I understand you to say if you were consulting only your own interests, you would be in favor of this bill?

Mr. MILLER. I would be, because by the elimination of competition in transportable merchandise, which is made under conditions of employment very much more advantageous, from the cost standpoint, in other communities, I would be in favor of it.

Mr. HERSEY. You would ask for this bill to be passed and become a law through constitutional amendment, if Congress would enact a law providing that the product of child labor should not be allowed to go into interstate commerce; is that what you mean?

Mr. MILLER. Oh, no. I mean if I were to have the same conditions of manufacture in, say, North Carolina, California, in Oklahoma, in Maine, and Minnesota, as I have in my own home State, that then the competition of a lower-cost labor having been eliminated, I would stand a better chance of selling the product of my factory. But, as I said before, submerging that personal interest, I believe that for the benefit of the country at large such an amendment should not prevail. I am against it.

Mr. MICHENER. Just right there; you concede, then, that in your own factory you employ children and that 2 per cent of those employed are between the ages of 14 and 16, and that you employ other children above the age of 16 and under the age of 21?

Mr. MILLER. I do.

Mr. MICHENER. And, even doing as you do, that you are obliged to compete in the markets to-day with States where they are not as generous, you might say, as you are, as progressive, and then you object to Congress taking cognizance of that situation and saying to North Carolina, if that is the State——

Mr. MILLER. No; I beg your pardon.

Mr. MICHENER. Or any other State—that you can not permit these children, 2 per cent or any other per cent, between the ages of 14 and 16 to work in this textile factory in order that the manufacturer may profit. Is not that about the situation?

Mr. MILLER. My contention is that there are so many factors which would militate against the adoption of such an amendment that I am against it and, with your permission, I would like to bring out my reasons for arriving at what seems to be a conclusion against my own personal interests, because I believe——

Mr. HERSEY. Before you go to that, may I ask you just one more question; in discussing that point, I want you to take into consideration that there are certain States in the Union that do not have child labor laws on the statute books, and to keep that in mind.

Mr. MILLER. Precisely. There are two States in the Union that have no child labor laws. Of course, I am a busy man and I can not attend many meetings such as this; but, since I have been here, I have heard a great many twits as to certain of the constitutional amendments that have been lately adopted. I want to say this, so as to answer any question in your minds, that I am a teetotaler; I am 62 years of age and I have never drunk a drop of beer, whisky, or wine in my life but, not—and I want you to distinctly understand—not as a matter of principle, but I merely never had the inclination. If I had had the inclination, I suppose I would have indulged it. I merely make that statement so that anything I may say as to that amendment, you understand that personally my tastes are very well gratified with or without that amendment.

Mr. FOSTER. That appeals to me so much that, before you start in, I want to call your attention to the fact that not only two States have no child labor laws at all, but 37 States allow children to work without any common-school education. Now, bear that in mind as you go along, and see where you land.

The CHAIRMAN. Suppose you give us your reasons, first, for being against this amendment, and I hope the witness will be allowed to finish his statement, and then be questioned.

Mr. MILLER. My reasons for being antagonistic to the proposed amendment lie in this fact: Had not this unfortunate (or fortunate, according to the point of view) amendment to the Constitution been adopted that lately was adopted, there was a trend throughout the United States toward abstention from intemperance that had made marked strides in the last 25 years. When I went into industry 40 years ago it was a usual thing to have our blue Monday. Fifteen years ago it was practically eliminated. The public was gradually

becoming educated to the condition which was conducive to their welfare and the welfare of the State, and my belief—I do not state this positively, because it will not admit of proof—but my belief is that, without any amendment, within 25 years from now, this would have been the most temperate Commonwealth or Government or citizenry in the world. Now, by that same token, the very fact that 46 out of 48 States have adopted child-labor laws restricting the use of minors in industry, shows how it has gradually gotten further and further toward the goal which is set by this bill to-day. As I heard this morning, I think it was the gentleman from Virginia, when one of the witnesses was looking at a map, said "I am sorry that I come from a black State." The gentleman, I think who came from Virginia, said "Well, mine was black State, and it is only to-day that one of our women from that State came up here advocating this law." Do you not see the very fact that from the black State, from this benighted State, on the idea of child labor, that there is a glimmering of light—a glimmering of light showing—that even in those blackest areas there is awakened public conscience working toward what is very much desired—antichild labor. But supposing you had adopted this——

Mr. FOSTER. At that point, let me say you are a little unfair to Governor Montague, I think. You do not mean to be, but you are a little unfair to him. What he referred to was what the head of the Children's Bureau had stated in her testimony, that while this State was marked black, on a great many of those five major points they already have excellent laws there. That is what Governor Montague referred to.

Mr. MILLER. I say by the same token the dawn we see in the East is bright; it must come into full noon-day brightness that will bring decent conditions for the child. But the most important thing to my mind against the bill is this—that we ourselves, mankind generally, have not advanced to that state where the golden rule is the dynamic force in our lives and, as long as such a condition exists, our legislation must be founded on the Mosaic negation, and your bill says "To prohibit the employment of children." Now, in this enlightened age, we should go beyond that; we should make an affirmative statement of the object of this proposed legislation, and the affirmative statement is that it is not antichild legislation but prochild education that is sought. That is the one aspect to which I want to bring your attention. One of the gentlemen of your committee spoke of what are you going to do with the hundreds of thousands of subnormal. What is "normalcy?"

Mr. FOSTER. May I define what is meant by it? The "normalcy" I have in mind would be the opportunity of the youngster to get enough clothing to keep warm, enough education to equip him for life, and moral training. Anybody below that would be subnormal. Now, we have testimony that about a million of those in the United States are not protected.

Mr. MILLER. What is meant by "education"? We have a false idea of education. We believe, under our present system, that education means entirely the acquisition of intellectual knowledge.

Mr. FOSTER. Oh, no; we have all passed beyond that, I hope.

Mr. MILLER. One moment. We place emphasis on the intellectual education, forgetting, in spite of our knowledge to the contrary, that a very large portion of our youths are unable to assimilate the higher intellectual training. And, thrown in with their fellows and recognizing that intellectually they are the inferiors of their fellows, they become permanently dissatisfied with themselves and lose respect and confidence in themselves. Now, that same child, who has acquired this inferiority complex, has certain qualifications of manual dexterity, and if, at the same time we were teaching intellectual gymnastics, we would also teach them manual dexterity, then the one who has the manual dexterity would have his fort and would lose his inferiority complex and assume the position of the squirrel in the poem, "If I can not carry forests on my back, neither can you crack a nut."

Now, understand in our present condition of education you are going not alone to cut them off at 14 or 16, but you are going to carry it up to 18, and you are going to carry double and treble the load of men who are unfitted, of boys and children who are unfitted for the task of life. This bill provides fully the rolling stock and all the terminal facilities of a railroad, rails and ties, but forgets that, before it can be operative and before the rails can be laid, the right of way must be graded. That right of way is education, education that is fitted to the individual and not to a certain form. Now, until that education is provided for, until you have graded the right of way, you have no right to impose upon these children the force that will keep them in the schools.

Mr. FOSTER. May I ask you one question there?

Mr. MILLER. Yes.

Mr. FOSTER. How would you make the grading for this 2 per cent of these youngsters under 15 that you employ? How would you determine whether they are subnormal youngsters under 15 or not, or under 14?

Mr. MILLER. I do not want to take up too much time.

Mr. FOSTER. I am interested in your proposition; and what system do you employ as a manufacturer, by which you ascertain that your 2 per cent of these youngsters do not need the education, which they are not getting?

Mr. MILLER. I think they need more education than they are getting.

Mr. FOSTER. That is what I supposed.

Mr. MILLER. Absolutely.

Mr. FOSTER. But how do you sort out your 2 per cent, or do you assort them in any way?

Mr. MILLER. We do assort them in my own business by personal attention of those in charge and also my own personal attention. But if you ask me how I would obviate that——

Mr. FOSTER. No; I did not say that. I thought maybe it would help the committee by showing you are actually employing in the State of Pennsylvania children who ought to be educated, you say, and that is just a little cross-section of the national problem, how you are going to educate your 2 per cent; because the boy who is 15 to-day will never be 15 again?

Mr. MILLER. Precisely.

Mr. FOSTER. And what are you going to give him in place of that education?

Mr. MILLER. Under my idea?

Mr. FOSTER. Yes.

Mr. MILLER. That is very easily answered. I would not let him go to work before he was 16.

Mr. FOSTER. But still, you are working him.

Mr. MILLER. My answer to that question is: They are there and I take the world as it is and not as I want to make it, and I make the best of existing conditions, since the conditions are not ideal and not of my own making.

Mr. FOSTER. I think that is a fair answer, because it means this to me: You have to work those children, although you agree they ought not to be worked in Pennsylvania, because in adjoining States people with whom you compete are working children likewise and perhaps under more favorable conditions from the standpoint of the employer. Therefore, you can not regulate it by States. Pennsylvania has its law above South Carolina, perhaps, but the condition there is you are admittedly working children that ought to be in school and you are forced to do it for economic reasons, because your competitors in States which have more lax laws are working more than you are, and still you won't admit it is a national problem.

Mr. MILLER. I won't admit that that is my reason.

Mr. FOSTER. I thought that was where you were tending.

Mr. MILLER. No.

The CHAIRMAN. Well, state your reason.

Mr. MILLER. My reason for employing them is: Rather than have them on the street, as they would have the right to be for five days and go to school one day, they are a good deal better off in decent surroundings than they are idling on the street. It is not altruism entirely, it is simply the feeling that we are doing right.

The CHAIRMAN. May I ask you a question? I have not troubled you much; I wanted to hear your statement first. What sort of employment do you give these so-called children?

Mr. MILLER. They are messengers and errand boys. The fact of the matter is there are but two boys and about five girls, out of about 500 employees.

The CHAIRMAN. About seven, altogether, of this age?

Mr. MILLER. Yes; about seven.

The CHAIRMAN. Does the employment in which they are worked operate injuriously upon their health or life?

Mr. MILLER. I have not seen any evidence of that, as shown by their attendance. I think there is a wrong conception that children go to school, at what I would call the early age of 14, and particularly in the State of Pennsylvania, for the ordinary so-called economic reasons. Vocational superintendent verify the deduction that children go to work at the age of 14, or as soon as they are allowed, according to the State law, for one of two reasons: They have got what I said before, the inferiority complex or, secondly, the equally honest reason is that in the years of adolescence they crave, for their own enjoyment and their esthetic tastes, that which their homes can not provide. It is in but comparatively a small percentage of cases that it is to help toward the support of the family, but merely

to satisfy, as I said, their cravings for entertainment and things of esthetic value and not because they expect to produce the necessities of life.

Mr. HERSEY. You mean they want to get money to go to the movies?

Mr. MILLER. I suppose the movies, or the home can not provide for the girl the silk stockings that she so much covets, because she wants to be like the lady in sables and furs, she wants to emulate as near as possible the lady in the Sunday edition of the society column.

Mr. FOSTER. Your idea is that the child is better off in the factory than to have two years or more of high school, at home, in the interests of the child?

Mr. MILLER. If you care to listen for about five minutes, I will give you my idea of what she ought to be doing. Starting early, at 8 or 9 years of age, the proper ideals in school should be held up before them. Heretofore the ideal that they have had has been our military heroes, our State builders, and our moneyed kings. That child should have held up before him as an ideal the lives and histories of those people, those men and women, who have made actual contributions to the convenience and comfort of living, such men as a Fulton, a Fitch, a Howe, a Hoe, an Edison, if you will, and women like Lucretia Mott. Those are the ideals which, if held up before them, particularly of men who have worked in industry, will create in their minds a desire to emulate those people. Now that, in connection with the training of manual dexterity during the younger years, followed up at the age of approximately 14, at which time they come to the parting of the ways—on the right the road to college and the higher schools and the white collar; on the left the road to industry and the blue denims. Then with both cultural and manual training they are ready to take that road they are best fitted for.

Mr. HERSEY. Now, let me ask you a question there: Are you aware the labor organizations of the country are in favor of this bill?

Mr. MILLER. Are in favor of this bill?

Mr. HERSEY. Yes.

Mr. MILLER. I believe they are.

Mr. HERSEY. Theories, you know, do not fit in with the facts, and those things spoil your theories; those theories of yours are spoiled by facts.

Mr. MILLER. I heard a number of your witnesses asked who they represented; whether they represented commerce or whether they represented manufacturing. Now, labor to-day is as much a vested interest as is capital, and labor is here to protect what it thinks is its vested interest. So, therefore, there is no odium to be attached to the manufacturer who wants to protect what he claims is his vested interest.

Mr. HERSEY. Has he got a vested interest in the child—the manufacturer?

Mr. MILLER. Well, he has as much—and more probably—as the trades-unions.

Mr. HERSEY. That does not answer my question.

Mr. MILLER. I am going to answer that. The very fact that we have 17 plasterers—17 apprentices in the city of Philadelphia, as against possibly 300 journeymen, and that nobody can get in, nobody is allowed to be taken as an apprentice, is proof of how much or-

ganized labor cares for the individual child any more than might organized industry.

Mr. FOSTER. But you do go on the theory that you have the same sort of vested interest in the 2 per cent?

Mr. MILLER. I beg your pardon. The question came up, not that I had a vested interest——

Mr. FOSTER. You did not say you had; but you referred to the manufacturer's vested interest in his part of this problem as well as that of union labor, and applying that to your case, you would have a vested interest in the 2 per cent?

Mr. MILLER. No. I said if it be granted there is a vested interest of organized labor in the child, then the corollary of that would be that the employer might claim an equally vested interest. I disclaim any vested interest for either of them; I say that they belong to the State.

Mr. HERSEY. You do not claim a vested interest in the child, but labor claims an interest that is vested?

Mr. MILLER. How?

Mr. HERSEY. United labor claims an interest that is vested in the child; it claims an interest in the welfare of the child.

Mr. MILLER. Well, there might be a difference of opinion. I would be very sorry to stand here as antagonistic to organized labor, because I am not, and I would not care to be drawn into that controversy. The trouble is, for want of training before that time, we send children between the ages of 14 and 16 not into industry to-day, but we send them into the corner gang, the hotbed of the lawless group, into the crap shooters' game around the corner, into the pool room for the men and the brothel for the women, because they have not been trained to do anything useful, and nine times out of ten when they go into industry they are nothing but square pegs in round holes. That is our shame, and until you provide some means by which this larger influx of children, this very much larger influx of children, under the working age—until you provide them with a means of living, or rather the means of livelihood—until that time you have no right to pass any act that looks toward the extension of the problem and the multiplication of it.

Mr. SUMNERS. Let me see if I understand you. Your position is that unless the Federal Government undertakes the responsibility of giving the child something to eat and undertakes the responsibility of giving it some opportunity to go to school, then it has no right to deprive it—the Federal Government, you say, has no right to deprive it of the opportunity to work?

Mr. MILLER. No; I said this——

Mr. SUMNERS. What is your view of it?

Mr. MILLER. I said the Federal Government has not the moral right to dump into actual life—I am not saying industry or anything else, but into actual life—two or three times the number that is now being dumped annually into actual life, because even to-day they do not get the proper education, even in the State of Pennsylvania, up to the sixteenth year. Do you know that in the largest penal institution in the State of Pennsylvania the average of those incarcerated had but three and a half years at school, and that less than 10 per cent have any training except such as they picked up by the wayside.

Mr. SUMNERS. Do you not think if the Federal Government would prevent them from working that they would go to school and then there would not be so large a per cent?

Mr. MILLER. But what kind of school are you going to send them to; are you going to send them to the old ideal, medieval school, that thinks that there is only one form into which all men shall be pressed, one kind of education—an intellectual education, and probably 40 to 50 per cent of them can not absorb it; for which they are not temperamentally fit? There is a vast difference between intellect and intelligence, as we all know. Every man who has an intellect (all of them have an intellect) can assimilate a certain amount of learning, intellectual learning, which I would say is nothing but the amassing of facts and the pigeonholing of them for easy reference, whereas all of them have intelligence.

I can imagine a man, who can not read and write, being extremely intelligent, because he has the natural gift of being able to meet new conditions and to solve them, and that is the test of his intelligence. Now there are a great many of these boys who can not absorb, who have not the intellect to absorb, other learning; but most of them who can not do that have the intelligence to do something else. In other words, there is many a boy who is forced, by education, into being a clerk at $15 a week who, if the actual intelligence that he was born with had been guided, would have made a very good bricklayer or a very good carpenter. It is the fault with your educational system and until the awakening of government, State and municipal, to that fact and until the results of that awakening are accomplished by a wider distribution of manual dexterity, along with intellectual dexterity—until that time, you have no business to throw out into the world an additional number of half-baked children who are neither fitted for a livelihood nor for a living.

Mr. LARSON. Are you opposed to child labor regulation by the States?

Mr. MILLER. I am not. If I may answer that, I was asked six or seven years ago to go before a certain State legislature against an increase in the years—the school years. I said I would go, provided I could say what I wanted. "What do you want to say?" "Why, I am with the new bill." "You had better stay home." I did not go. No, I am not opposed.

Mr. MICHENER. You say you did go or you did not go?

Mr. MILLER. I did go, but I did not speak against the bill.

Mr. MICHENER. Did you speak for it?

Mr. MILLER. Privately, because I had the ear of the chairman of the committee, and I could do more good than by gong out with a brass band.

The CHAIRMAN. Is there anything else? If not, we will call the next witness.

Mr. MILLER. I am very much obliged to you.

The CHAIRMAN. Mr. Miller, I understand you have several associates here. Are there any of them who desire to make statements before the committee?

Mr. MILLER. My associates asked me to serve as their delegate and not as their representative; because as their representative I would necessarily be bound; as their delegate, I could say anything I

wanted, binding myself and not them, although I wish to say I am convinced they are heartily in accord with the principles—with the principles—that I have enunciated.

The CHAIRMAN. Is Mr. Swift here? I had a message from you that you desired to be heard.

Mr. SWIFT. I am surprised to hear it.

The CHAIRMAN. Are you from North Carolina?

Mr. SWIFT. I am.

The CHAIRMAN. You do not desire to be heard?

Mr. SWIFT. Not in opposition to the bill. I may at some time later desire to be heard in favor of it.

Mr. HERSEY. You favor the bill, do you?

Mr. SWIFT. Yes, sir; very much. I happen to be from the State where the two test cases came up.

The CHAIRMAN. I am trying to call everybody who desires to be heard. Is Mr. David Clark present?

STATEMENT OF MR. DAVID CLARK, EDITOR OF THE SOUTHERN TEXTILE BULLETIN, CHARLOTTE, N. C.

Mr. CLARK. I did not know until Monday of these hearings. Two Congressmen had stated they would advise me when they began, but they failed to do so. Therefore, I could not bring the witnesses I desired to introduce. I would like to ask the committee to give me a hearing on Thursday of next week. One of the members of the committee has stated that he would like to have facts instead of theories, and I think I can give them some facts.

Mr. HERSEY. On behalf of or against the bill?

Mr. CLARK. Against the bill.

Mr. HERSEY. You say you are a textile manufacturer?

Mr. CLARK. I am editor of a textile publication.

Mr. HERSEY. Then you are in favor of the manufacturers of your State in their desire, I presume?

Mr. CLARK. I have not stated what their desire was; neither have they stated.

Mr. HERSEY. Are your witnesses for the bill or against the bill?

Mr. CLARK. The witnesses will be against the bill. I would like to have a chance to present the witnesses, to present the statistics contrary to these that have been given. Unfortunately, I understand the statistics that have already been given will not be printed in time for me to review them.

Mr. FOSTER. Did you ever appear before in these hearings on child labor?

Mr. CLARK. Yes, sir.

Mr. FOSTER. You opposed it before?

Mr. CLARK. Yes, sir.

Mr. FOSTER. Then you know the nature of those figures on child labor in regard to the textile industry?

Mr. CLARK. I know the manner in which they got them and the manner in which they juggled them.

Mr. FOSTER. I resent your statement that they got them by jugglery. I think it is unfair to this department of the Government to say that, but that is your business. What I am trying to get at, and

what I think the majority of the committee has been anxious for a week to do, is to try to terminate this hearing and to get some bill reported, as one is being in the Senate, and to try to get action at this session of Congress. The last time one was reported out by the Senate. My own feeling is I would hate to put it over to next week, in view of the fact we have been going on for weeks with the hearing, and a member of this committee is from your State, and the hearings have been publicly advertised for weeks.

Mr. CLARK. I did not know there was a member of the committee from my State.

Mr. FOSTER. Is not Mr. Dominick from your State?

Mr. DYER. He is from South Carolina.

Mr. CLARK. I am from North Carolina.

Mr. FOSTER. I have no objection to the hearing going over for a day or two days, to get witnesses from a neighboring State, but I think the members of the committee will bear me out we have been trying for weeks to get some termination of the hearings.

Mr. CLARK. I have no desire to delay the matter in any way, and I would be glad to cooperate with you, but it would be impossible for me to get my witnesses here before that time.

Mr. FOSTER. Did you ever leave a request with the clerk of the committee to be notified?

Mr. CLARK. No, sir. I left a request with my Congressman, Mr. Bulwinkle.

Mr. FOSTER. That does not answer my question. My question was entirely different.

Mr. CLARK. No, I did not leave a request with the clerk. I thought the hearing would be in the Senate first, prior to this hearing, as it was last year. I did not know that the House was going to take it up until after the Senate had finished with it, and that was my impression when I talked with them before.

Mr. LARSON. Are these facts published in the hearing in which you participated before?

Mr. CLARK. Some of them are. We wanted to get some other facts.

Mr. LARSON. Perhaps we can use those.

Mr. CLARK. I think that if the committee proceeds, on the basis of the hearing so far, they will decide on one side of the matter entirely, and I think it is a very important matter, and there has been a propaganda and an absolute misrepresentation. I am speaking now personally, and I have no apologies to make to the Children's Bureau of the Department of Labor. I do not want to violate any propriety of speaking here before your committee, if it is not proper for me to say that, but there has been a campaign of misrepresentation and the public opinion is based on that misrepresentation and not on the facts.

Mr. FOSTER. If you have been an editor of a manufacturers' paper and have followed this for some time and attended the other hearing, you are surely in a position to give to this committee the benefit of your views on it.

Mr. CLARK. It is not my own views that I expect to give you, so much as the views of other witnesses, not manufacturers; but other people who have come in contact with this child-labor problem and

who know more about it, from actual experience, than any other witness who has been before you.

Mr. MICHENER. Along what lines?

Mr. CLARK. Conditions of employment, the health of the child, and the education of the child.

Mr. MICHENER. Do those facts cover a State, a community, or the United States?

Mr. CLARK. I expect to bring them from several different States.

Mr. PERLMAN. Could not you get your statement in by Saturday?

Mr. CLARK. No, sir; I could not get my witnesses here by that time.

Mr. PERLMAN. I mean a written memorandum?

Mr. CLARK. No, sir.

Mr. MICHNER. The facts you are going to bring are going into the necessity of any legislation affecting children along this line?

Mr. CLARK. The necessity for Federal legislation; yes, sir.

Mr. MICHENER. You are not contesting its constitutionality at all?

Mr. CLARK. I do not suppose the question of the constitutionality would arise, if you pass a constitutional amendment.

The CHAIRMAN. What he suggests touches the very core of this matter, which is that Congress ought to report these resolutions to the States only when, in its judgment, there is a necessity for doing so, and his argument is based upon the necessity for Federal legislation.

Mr. MICHENER. I am glad to get that. Of course, my notion was you could introduce testimony here to the end of time and you would not make much difference on the committee as to the necessity for this legislation. If it is on the question of policy, if it is anything on that line, I think it might have some effect; but if you are just going to contend that we do not need legislation to protect children I think it is a waste of time.

Mr. CLARK. I have found out some things by inquiring into these matters and, as I said, I think I can give you some information.

Mr. DYER. What testimony are you going to give us?

Mr. CLARK. Testimony in regard to the laws of the several States; testimony in regard to the lack of necessity for Federal legislation, as we see it.

Mr. DYER. Are you going to present statistics to show that children are properly cared for by working in these textile industries now—that they are given an education, that their health is protected, and that they do not need to go to school?

Mr. CLARK. It is testimony along those lines.

Mr. FOSTER. If the chairman will permit, I want to appear to be fair and, if it is agreeable, I move that we adjourn the hearing until Wednesday at 10 o'clock, next week, and then proceed until we get through.

Mr. CLARK. I have a convention which is very important for me to attend, and I would like to be given until Thursday of next week.

The CHAIRMAN. If there is no objection, then, that is understood.

Mr. DYER. How many witnesses will you have?

Mr. CLARK. I will only have four or five witnesses.

Mr. DYER. How many witnesses do you expect to have here on Thursday?

Mr. CLARK. I can not say definitely. I will not take up more than a day's time, and will probably not take more than the morning.

Mr. DYER. You will finish on Thursday?

Mr. CLARK. Yes, sir; very easily, and probably will finish in the morning.

Mr. DYER. You will not ask for any further extension?

Mr. CLARK. No, sir; I will not ask for any further extension whatever.

Mr. FOSTER. You will take it up on Thursday and continue until you complete it?

Mr. CLARK. May I ask one other question? I do not know whether I would be proper in doing this; if not, I will withdraw it. During the early part of this year statistics were published by the Childrens' Bureau enumerating certain States, Connecticut and other States, and comparing the number of permits issued to work during January and February, 1922, with those issued during 1923, the comparison being of one period of unemployment and one period of full employment, and thereby showing an increase of 35 per cent. That has gone out over the country. I can not secure those statistics, but would I be permitted to ask the committee to have the Children's Bureau provide you with the same statistics for January and February of 1924?

Mr. FOSTER. I think they are in the committee hearing now.

Mr. CLARK. For 1924?

Mr. FOSTER. There are three years covered by the statistics.

Mr. CLARK. I do not think they would be likely to give you the statistics for 1924.

Mr. FOSTER. Probably they have not got them out yet.

Mr. CLARK. Probably there are other reasons why they would not give them.

Mr. FOSTER. Is your paper named the Southern Textile Bulletin?

Mr. CLARK. Yes, sir.

Mr. FOSTER. Did you have an article in it on January 31, this year, on the Federal child labor law?

Mr. CLARK. I have had a good many, yes.

Mr. CHAIRMAN. Do you think it is proper to ask him that now?

Mr. FOSTER. I think it is quite proper.

The CHAIRMAN. Why not wait until he testifies? That is a paper this gentleman handed up to you?

Mr. FOSTER. Yes. I am asking the witness to state whether such an article appeared in his paper.

Mr. CLARK. If that is the wish of the chairman.

Mr. FOSTER. You refuse to state unless the chairman wishes you to, do you?

Mr. CLARK. I am not making any apologies.

Mr. FOSTER. I am not asking you to make an apology; I am asking you if you wish to identify that as an article appearing in your paper.

Mr. CLARK. If the chairman wishes me to do it, I will do it.

Mr. FOSTER. If you adopt the attitude that you do not want to identify this paper without calling on the chairman for protection, it seems to me that you have a very poor ground on which to base your case.

The CHAIRMAN. Why not let him see what it is.

Mr. FOSTER. No; I will keep it.

The CHAIRMAN. Who is this gentleman who handed it up to you?

Mr. FOSTER. This gentleman here is an officer of the child labor movement of the United States.

The CHAIRMAN. In the Labor Department?

Mr. SWIFT. No, sir.

STATEMENT OF MR. JOHN H. ADRIAANS, ATTORNEY AT LAW, WASHINGTON, D. C.

The CHAIRMAN. Whom do you represent here?

Mr. ADRIAANS. I do not represent any organization.

The CHAIRMAN. Do you represent any individuals?

Mr. ADRIAANS. Not beyond myself; no, sir.

The CHAIRMAN. Nobody but yourself?

Mr. ADRIAANS. I have studied the matter of constitutional amendments for period of over 30 years, and have been very much interested in the matter of constitutional amendments; I have written a book on the subject, and this naturally appeals to me from an educational standpoint.

The CHAIRMAN. Please be as brief as you can, Mr. Adriaans.

Mr. ADRIAANS. In the last Congress, Senator Wadsworth introduced a resolution, Senate Joint Resolution 40, in which he sought to amend Article V, and I spoke on that resolution, and without repeating what I then said I want to leave the hearing on that resolution with this committee, so as not to repeat now what I said then.

The CHAIRMAN. That expresses your view?

Mr. ADRIAANS. Yes, sir. The views I then expressed are not complete as to the subject that is now before this committee, and so with the assent of the committee I would like to supplement what I then said with a brief review that I have written out, which I will leave in the form of a brief with the committee.

Mr. HERSEY. These hearings were in the Senate?

Mr. ADRIAANS. The hearings were in the Senate. I then gave the views I had on Article V. Now that would not complete the pertinency of the subject to the present inquiry; and so in order to supplement what I then said I have here in addition to what is in there, a short brief which is pertinent to the present inquiry, and I would like to put that in.

The CHAIRMAN. Very well.

(The hearing before a subcommittee of the Committee on the Judiciary of the United States Senate was thereupon filed with the committee.)

(The brief submitted by Mr. Adriaans is as follows:)

BRIEF BY J. H. ADRIAANS, WASHINGTON, D. C.

The object of the resolution is, by constitutional amendment, to obtain Federal control over child labor, its products, and regulation.

The subject has two phases, the economic and the legal.

Taking these up consecutively, it may be noted chronologically that since the enforced expulsion of our progenitors from the Garden of Eden, with the accompanying judgment: "By the sweat of thy brow, thou shalt earn thy bread," it has been incumbent upon mankind to find means of livelihood in order to prevent starvation.

Thus we find Cain became a husbandman, while Abel guarded sheep.

We learn that Tubal Cain had the vocation of manufacturing cutting instruments of copper and iron; which incidentally signified that these basic metals and their uses were then known.

The construction of an ark seems to have been known to Noah, for by that means the deluge did not affect its occupants. Windows were also then known, for the ark was so provided.

The building of the Tower of Babel, signified that the art of construction was known at this period.

Gideon made use of lamps and pitchers in his nocturnal surprise to his enemies.

We thus discover that diversification of labor was early ascertained to be a wise expedient, as promotive of commerce. Money was also known, because Abraham purchased a burial site for his wife with silver.

In the United States the two great political parties have recognized that inequality in cost of production, of articles of commerce, was a subject of governmental concern.

The parties have differed however as to whether there should be protection with incidental revenue; or whether a tariff levy should be for revenue only, with incidental protection.

Both parties have agreed however that only importations from foreign countries shall be subject-matter of a tariff; while domestic importations, from one part of the United States to another, shall not be subject to such levies (Ring cases, 183 U. S. 176.)

Our legislators have always recognized that domestic inequalities in cost of production of articles of commerce have existed; but have not made it a subject of Federal legislation.

Thus the fact that white laborers come in competition with negroes, Chinese, Japanese, Hindus, and other inhabitants has not induced Congress to legislate thereon, except indirectly through exclusion of Asiatic immigration.

That males and females come in competition in pursuit of identical vocations, has not spurred Congress to enact laws to prevent it; even though the former may have families dependent on them for maintenance, while the latter may be alone and unencumbered.

That minors and adults have likewise come into competition has also failed to arouse the Congress to its prohibition, even though disastrous to both—in denying the former opportunities for education, and in preventing the latter from obtaining employment on a living basis.

Congress has regulated hours of labor, etc., in the District of Columbia, the territories, and other places where it had legislative power and exclusive jurisdiction.

The Congress has not, except in two cases, undertaken to supervise vocations in the several States, and in both instances its laws were held void, because it had no jurisdiction so to do (Hammer *v.* Dagenhart, 247 U. S. 251; Bailey *v.* Furniture Co. 259 U. S. 20).

From the time of the severance of our allegiance to Great Britain, expressed in the Declaration of Independence, issued July 4, 1776, the 13 Colonies were strong against centralization, and insistent upon autonomy, sovereignty, self-determination, and home rule.

No room for doubt can exist on this subject after perusal of the Articles of Confederation, agreed to November 15, 1777.

But during the 11 years intervening between the latter date and July 26, 1788 (when 11 States had ratified the Constitution agreed to by Congress September 28, 1787, and thence transmitted to the States for action), it was found that this local autonomy was too rigid to enable the Colonies to deal efficiently with foreign nations, Indian tribes, and in interstate matters. Experience had indicated that a central organization had to be created to meet such emergencies, just as banks have found a clearing house an aid to adjust interbank questions.

Thus our first presidential election, under the Constitution, occurred in 1788, and the first President, Washington, was inaugurated in New York City on April 30, 1789.

In adopting a Constitution, in place of the Articles of Confederation, the Colonies had not abated their desire for local self-government, but rather had conceded that certain powers were national in scope, and certain other powers were local, and reserved to each.

These national powers were enumerated in sections 8 and 9 of Article I of the Constitution, and were intended to constitute the chart of congressional jurisdiction. Legislation beyond its powers was held void (Scott v. Sanford, 19 Howard 393; Hammer v. Dugenhart, 247 U. S. 251; Bailey v. Furniture Co., 259 U. S. 20.)

But while Federal encroachments on State powers were challenged, State encroachments on Federal powers met the same fate (McCullough v. Maryland, 4 Wheaton 316; Gibbons v. Ogden, 6 Wheaton 448; 9 Wheaton 1).

An enactment within the Federal power was, however, sustained (Lottery Cases, 188 U. S. 321); but thereunder the manufacture, sale, and transportation of lottery tickets within Louisiana was not inhibited.

The ordinary and extraordinary powers of Congress are alike measured by its jurisdiction.

The framers of the Constitution foresaw that in course of time amendments thereto might be wise, and so Article V was provided as the sole door to this end; but the amending power of Congress was as limited by its jurisdiction as its other powers.

An analytic study of this article indicates that three barriers, or safeguards, were intended to prevent improvident alteration of the Constitution:

First. By Congress, when the subject matter related to a reserved power retained by the States;

Second. By a mere majority, when the word "two-thirds" occur twice therein, and implied of the total membership;

Third. That a ratification should occur by a legislature, when the proposal emanated from Congress, and pertained to the enumerated powers granted to it; and that it should occur by a State constitutional convention, when it emanated from a Federal constitutional convention, convened by Congress, when the proposal related to the reserved powers retained by the States. Furthermore, a ratification was to be consistent both with the Federal Constitution and that of each ratifying State, since the Federal amendment had the dual function of synchronously amending both.

Unfortunately the Congress, in successive proposals of our 19 proclaimed amendments, has ignored all three of these tests, with the result that we have now 19 counterfeit, spurious amendments, with more in sight, none of which agree with Article V, properly interpreted.

In the following cases Federal amendments have been challenged as to validity in the United States Supreme Court:

Eleventh. Hollingsworth v. Virginia (3 Dallas 378), where the sole question raised and decided negatively was whether a resolution under Article V was embraced under resolutions mentioned in Article 1, section 7, clause 3.

Thirteenth, fourteenth, fifteenth. Slaughterhouse cases (16 Wall., 83 U. S. 36), where a Louisiana statute was claimed to be violative of the Federal amendments, which the court found not to be true. No assault was made on the Federal amendments.

Fifteenth. In Guinn et al. v. United States (238 U. S. 347) J. H. Adriaans, as amicus curiæ, filed a brief denying its validity, which was left undecided by the court.

Sixteenth. In Evans v. Gore (253 U. S. 245) the sole question raised and decided was whether the amendment conflicted with Article III of the Constitution, as to diminution of a judge's salary during his term of office.

Eighteenth. National Prohibition cases (253 U. S. 350), which is a chain decision composed of 11 links, assuming each link to be sound; it is susceptible of proof that 10 links are unsound.

Nineteenth. Leser v. Garnett (258 U. S. 130), which affirmed the nineteenth amendment upon the supposition that the fifteenth was valid, from which it did not materially differ in language, only substituting "women" for "negro." This chaotic and unfortunate genesis of our Federal amendments renders it wise that by 10 original State actions, to be simultaneously filed in the United States Supreme Court, the entire series should be intelligently tested, in order that a judicial interpretation of Article V may be obtained before proceeding with any new proposals to amend this revered chart of our liberties.

We should remember how foreign nations watch our experiment in self-government.

In my book entitled "The History and Validity of Federal Constitutional Amendments" (H. Res. 345, 67th Cong.), detailed data are given concerning each proclaimed amendment; references to Federal and State decisions con-

cerning the Constitution and its amendments; and results of presidential elections from 1788 to 1920, showing fluctuations of political power of each State, as reflected therefrom. This book is not in print, but is ready for the printer.

Eighty-eight resolutions further to amend the Constitution have been introduced to January 30, 1924, in the Sixty-eighth Congress.

Respectfully submitted.

J. H. ADRIAANS.

STATEMENT OF MR. JOHN H. ADRIAANS, OF WASHINGTON, D. C.

Mr. ADRIAANS. Mr. Chairman and gentlemen, it has been my privilege for over 30 years to give extended attention to the subject of Federal amendments, and I have written several briefs on the subject. I have a brief here that was presented in the United States Supreme Court touching the fourteenth and fifteenth amendments, giving all the data concerning them, and I am going to leave that with this committee.

Senator COLT. Have you several copies of it?

Mr. ADRIAANS. I will get more copies.

Senator COLT. If you will have enough copies for the members of the committee.

Mr. ADRIAANS. While I am on that subject, I want to say that the Supreme Court left the questions which I presented in that brief undecided, and to-day we do not know what are the essential requisites of a valid constitutional amendment.

For instance, I cite in there the proclamation of the Secretary of State, Seward, in his proclamation of July 21, 1868, of the fourteenth amendment; he himself expressed the view that in his judgment that amendment was not legally adopted. And seven days after that, July 28, 1868, he gave a further proclamation based upon an interim resolution of Congress, and he stated then in the second proclamation that it was his duty as the Secretary of State under the act of 1828 to proclaim the laws of Congress.

So that the questions that be raised concerning the validity of the fourteenth amendment are to-day as unsolved and as undecided as they were then.

Senator COLT. You know the court never decides anything except it has to decide upon the case as presented.

Mr. ADRIAANS. Certainly.

I want to call attention, Mr. Chairman, and I want to say in this connection that we could not have a better chairman, from the fact the chairman has been a judge so long that he appreciates these things from a judicial standpoint. I have recently written a book, just about to be printed, on the subject of the Federal amendments. The title of the book is History and Validity of Federal Constitutional Amendments. That is the subject matter of House Resolution 345. I am going to leave that with the committee. And in that book I review all of the 19 amendments that have so far proclaimed and give the complete history of each.

My study of Elliott's debates——

Senator COLT. Can you leave a number of copies of that?

Mr. ADRIAANS. They are exhausted. I have sent them all over the country and there is great demand for the book, but it has not as yet been published, and when it is published it will shed a great deal of light on the subject of amendments.

The view that I derive from a careful study of Elliott's Debates is that the framers of the Constitution in formulating Article V as a part of the Constitution intended to create three tests by which we might know whether an amendment squared with that article.

There was the utmost solicitude expressed in the convention lest through the amending power there might be an encroachment by the Federal Government on the reserved powers of the States, and so in framing this Article V, it was intended to frame it in such a way that obstacles would be created to the addition of amendments to the Constitution.

As the chairman very accurately stated this morning, it was intended by calling for a two-thirds vote of both Houses and three-fourths of the States—it was intended by the framers of the Constitution to make it difficult to amend the Constitution and place it beyond the power of a mere majority.

Now, that being so, we then ask ourselves what are those three tests.

The first test is a jurisdictional test. Now what do I mean by that? All through the debate this morning, we have advanced the proposition that where there was a provision in Article V for a constitutional convention that related to a ratification. But it does not. It does not relate to the ratification; it relates to the proposal.

In other words, that no amendment to the Constitution could be proposed by the Congress unless it was within the enumerated powers granted to the Congress by the Constitution, by the reserved powers. All those powers that have not been granted to the Congress were reserved by the States. Now, suppose that it was intended to amend one of those reserved powers. Was that a subject that could be proposed by the Congress? No.

When the Congress was concerned with the proposition to amend the Constitution the first duty cast upon the Congress was to determine whether the proposed amendment related to a subject within the enumerated powers granted to the Congress by the Constitution. If they found it did not, then it was the duty of the Congress to call a constitutional convention of the States, not in the States, but of the States, and each State was to send delegates to the constitutional convention of its selection.

Senator COLT. That is your inference.

Mr. ADRIAANS. That is the deduction that I draw.

Senator COLT. Well, that is your deduction.

Mr. ADRIAANS. Yes; that is the deduction I draw from Elliott's Debates.

Senator COLT. There is nothing in the language of article 5 itself which positively states any such thing.

Mr. ADRIAANS. Why, Senator, if you read Article V you will see——

Senator COLT. There is nothing there which says that the proposals made by Congress shall be within the limited powers conferred on the Federal Government by the Constitution.

Mr. ADRIAANS. It presents this question which has been debated very frequently in Congress: Is there a limited amending power or is there an unlimited amending power?

Now, I contend there is a limited amending power.

Senator COLT. You belong to that school?

Mr. ADRIAANS. Yes.

Senator COLT. But supposing I should say to you there is conferred upon it certain national powers. You know that.

Mr. ADRIAANS. That is right.

Senator COLT. Suppose that in the development of this Federal form of government the people thought that there should be an additional national power conferred, taking away one reserved power in the State, have you any idea that that was beyond the purview of the amending power?

Mr. ADRIAANS. If the Senator will permit me to use an illustration I can make very clear what I have in mind.

Suppose now if you read the article relating to the declaration of war, the Constitution gives the Congress the power to declare war but it does not give the Congress the power to declare the termination of war. Now suppose that somebody would offer a resolution that would amend that article to read this way: The Congress of the United States shall have the power to declare war and the termination thereof.

Then that is a cure of a defective power granted to the Congress.

Mr. Woodrow Wilson contended that the Congress could only terminate the war by a treaty. There was a large number of gentlemen who took the liberal view of the Constitution and said, why, if the Congress can declare war it can declare a condition terminating the war. Yet the language is not there.

Now, that is an illustration of where the Congress could propose such an amendment.

Take the other view of the case. Here is somebody who comes in and says, why, the Congress of the United States should have power to provide uniform laws relating to marriage and divorce. Now everybody knows that the laws relating to marriage and divorce are laws that pertain to each State. The Federal Government has no jurisdiction over the laws pertaining to marriage and divorce. There has been much talk along that line in the direction of uniformity, and the American Bar Association has worked along that line to get the States to adopt some desirable uniform law, but they have, on the other hand, been very solicitous to prevent the Federal Government from interfering in the matter.

I would contend, and do contend, that if we are supposed to amend the Constitution of the United States so that the Congress of the United States could pass laws relating to marriage and divorce, that when the Congress was confronted with this proposition it would be the duty of the Congress to call a constitutional convention of the States and let the States propose such an amendment by two-thirds of the States proposing it and three-fourths of the States ratifying it, and then it becomes a part of the Constitution without any action by Congress at all.

Now that is what I call the jurisdictional prerequisite, the first prerequisite, of a valid amendment.

Senator COLT. No; Congress would still have power to direct how this proposed amendment should be ratified under that amendment.

Mr. ADRIAANS. I do not understand it that way, Senator.

Senator COLT. Oh, very well.

Mr. ADRIAANS. I contend that the duty is passed upon Congress to determine if the matter in respect of which an amendment is sought is within the enumerated powers or is it within the unenumerated powers, within the reserved powers. If it is within the reserved powers belonging to the States then the Congress has no function in the matter at all except the one function of calling the constitutional convention.

Senator COLT. You would hold that the eighteenth amendment was beyond the power of amendment.

Mr. ADRIAANS. Yes; and the nineteenth and the fourteenth and the fifteenth.

Senator COLT. Does that help us at all in considering the question we have here? The Supreme Court brushed those questions aside. You know it was argued by Elihu Root and other counsel that it was beyond the amending power of the Constitution; in other words, it was a broad fundamental power that ought to go to the States, etc.

Mr. ADRIAANS. Well, Senator, I am contending my interpretation of Article V as it was formulated by the constitutional convention.

Senator COLT. Yes.

Mr. ADRIAANS. And I say there were three tests intended to be created by them whereby we might know whether an amendment squared with Article V. I have gone through the first test, which is the jurisdictional test. I claim where it is once apparent that the proposed amendment does not relate to the prescribed powers granted to Congress and is within the reserved powers retained by the States, that then the Congress has no function whatever except to call a constitutional convention of the States to which delegates are selected by each State to attend. The constitutional convention is not in the State, it is a national constitutional convention to which delegates are accredited by every State, and if two-thirds of those delegates propose it and three-fourths of the delegates ratify it, then it becomes a part of the Constitution without any action by Congress at all and is entitled to be enforced just the same as any other amendment.

Now the second test is the proposal test.

The proposal test is that when the amendment is within the enumerated powers granted to the Congress, then it requires two-thirds of both Houses to propose it.

From the very earliest period we have gone astray right there. The first 10 amendments came up under one resolution, and what happened? All three of these tests that I have enumerated were violated in the first 10 amendments. I am in favor of the first 10 amendments, but I say they did not get there right, and since that time those first 10 amendments have been the precedents of all subsequent amendments.

Of the first 10 amendments there was a tie vote and the Vice President of the United States cast a ballot on a tie vote.

Mr. LEHER. Were there not 12 amendments?

Mr. ADRIAANS. There was one resolution offering 10 amendments at one time.

Mr. LEHER. There were 12.

Mr. ADRIAANS. Yes; there were 12, but 2 of them had insufficient ratification and they were dropped.

On that resolution there was a tie vote in the Senate which was decided by the Vice President in the face of Article V, which says there must be a two-thirds affirmative vote.

Then on the eleventh amendment Senator Stone called the attention to the fact that there was not a two-thirds affirmative vote; and later on, when Mr. Jefferson Davis got in the Senate he called attention to the fact that in his judg-

ment two-thirds meant two-thirds of the total membership, and later Mr. Ebenezer Hill, of Connecticut, had the same view.

I have talked with Senator Brandegee, of Connecticut, and he has the same view, that two-thirds means of the total membership.

And right at the threshold, we have not gotten an amendment in our Constitution where there was a two-thirds vote of both Houses, and I am frank to say that in my judgment we haven't got one valid constitutional amendment to-day. They all of them are void; all of our nineteen amendments are absolutely void.

Now, what is the third requisite? The third requisite is a valid ratification.

Right there, Senator, is the question of ratification. There has been a great deal of talk here about whether the ratification should be by constitutional convention. That constitutional convention business relates to the proposal. It does not relate to the ratification.

Senator COLT. But the ratification amendment proposes that it may be ratified by conventions in each State.

Mr. ADRIAANS. Right there, if you will permit me, the fact has been lost sight of by those who have interested themselves in the matter of amendments that a Federal amendment has a duality of function. Primarily it amends the Federal Constitution; secondarily, it amends every State constitution of the whole number of States, as well those assenting as those dissenting. The consequence is that the Federal amendments operates to amend every State constitution.

If there was the word "black" or the word "white" in any State constitution, and the fourteenth and fifteenth amendments are valid, then that word "black" or the word "white" was stricken out, and if the word "male" was in any State constitution and the nineteenth amendment is valid, then that word "male" is stricken out.

The consequence is that the secondary effect of a Federal amendment is to amend the State constitution.

We have three classes of States in our Union. The first class is where a tentative amendment is proposed to the first legislature, and is, after passage by the legislature, submitted to the people on a direct referendum.

The second class of States is where the tentative amendment is approved by the first legislature, and it is then submitted to the people on an indirect referendum, so that the next legislature if elected with reference to the attitude of the people on the proposed amendment, and if the people favor the amendment they will vote in the man who stands for the amendment, and if the people do not favor it they will vote for the man who is against the amendment.

The third class of States is that where the tentative amendment is approved by the first legislature it is then passed on to the second legislature, the following legislature, and if it is approved by two successive legislatures it is then passed to the people on a direct referendum.

There is not a single solitary State in this Union where you can attach an amendment to the State constitution except with the approval of the people.

Now, since the Federal amendment has the effect, the necessary, the logical effect of amending the State constitution, the only deduction that I can draw is that a Federal amendment should be consistent both with the Federal Constitution and also with the State constitution. If there is any limitation upon the legislature of a State that directs it to do a certain thing in a certain way that limitation follows upon the legislaure and may be shown in the United States Supreme Court as producing an effective ratification. In other words, we must judge between an effective ratification and an ineffective ratification.

We have a right to say in the case of Missouri that the constitution of the State forbids the legislature to do anything that embarrasses the autonomy of the State. We have the right to show in the United States Supreme Court when that case comes there for review that that State constitution had been violated, and we have the right to show——

Senator COLT. Mr. Witness, how does your discussion here bear on this amendment? The first 10 amendments have nothing to do with State constitutions, the eleventh, about a suit brought by an individual against a State by citizens of another State, has nothing to do with a State consitution; the twelfth amendment changing the manner of choosing a president and vice president has nothing to do with a State constitution. Will you please come down to what you have to say bearing on this amendment here?

Mr. ADRIAANS. I am very glad to have you call it to my attention. I am coming right to it now. My proposition is that the proper construction of Article V would prevent the necessity of passing this proposed amendment at all, because I say you can not legally ratify a Federal amendment except in consistency with the State constitution, and since the State constitution requires a referendum to the people and since the Federal amendment has a duality of function, it is absolutely necessary that the proposed amendment shall be in harmony both with the Federal Constitution and also——

SENATOR COLT. But what is the use of our doing something that is right in the teeth of the Supreme Court?

Mr. ADRIAANS. The Supreme Court in the case of Hawke against Smith——

SENATOR COLT. I did not mean to lead you into that.

Mr. ADRIAANS. The Supreme Court in the case of Hawke against Smith had the two questions before it and they are both found in the same volume, 253 U. S. They sustained the Ohio constitution in so far as it required and permitted a number of people to sue out a referendum as to an amendment of the State constitution. They did not sustain the Ohio law as to a Federal amendment.

My position is that the Supreme Court erred in that decision and what we should do is to correct the Supreme Court. And it has not been the first time that the Supreme Court has erred. They have done it lots of times and they will do it lots of times more, and what we have got to do is to put some judges in there, and, Senator, I hope you will give your vote for some men to be put on that bench who will know when he sees an amendment.

Senator COLT. You would pack the court, then?

Mr. ADRIAANS. No, sir; I would not pack the court, but put men there who would know an amendment when he sees it.

Senator OVERMAN. What is your name?

Mr. ADRIAANS. My name is Adriaans.

Senator OVERMAN. Are you the man who furnished this brief?

Mr. ADRIAANS Yes, sir.

Senator OVERMAN. Where are you from?

Mr. ADRIAANS. I came originally from Holland. I came here, a Dutchman, to tell you how to amend your own Constitution.

Senator OVERMAN. Where do you live?

Mr. ADRIAANS. I live in Washington.

Senator OVERMAN. You are not a Member of Congress?

Mr. ADRIAANS. No, sir; I would not be in Congress. I would sooner be a lawyer.

I would like to call your attention to one thing more to show you how necessary and how vital it is that this question be decided now. I have here a table showing that in the Sixtieth Congress, 62 joint resolutions were introduced to further amend the Constitution; in the Sixty-first Congress, 51; in the Sixty-second, 84; in the Sixty-third, 120; in the Sixty-fourth, 71; in the Sixty-fifth, 87; in the Sixty-sixth, 63; and in the present Congress up to December 30, 1922, there have been 94 joint resolution introduced to further amend our Constitution.

Now, gentlemen, you are up against it when you find out that 94 different propositions are urging your attention and you do not know what is necessary to make a valid amendment. It is time to come to the hill and see what is necessary to make a valid amendment in order to get the next ones there square.

Senator COLT. Senator Overman suggests the question whether you would demolish the Constitution altogether.

Mr. ADRIAANS. No; all I ask is that you put the correct interpretation on Article V.

Mr. DYER. Are there any other witnesses to be heard to-day?

The CHAIRMAN. Is Mr. Moore here?

Mr. MOORE. Yes.

The CHAIRMAN. You want to be heard?

Mr. MOORE. Yes, sir.

The CHAIRMAN. Mr. Adriaans, would you mind if we filed your brief and had it printed in the record? Would that be sufficient for you?

Mr. ADRIAANS. I would like to have it in the record, but I would like to suggest in this connection—which is not in the brief—up to date, in the present Congress, there have been 21 joint resolutions introduced in the Senate and 72 in the House, making 93 joint resolutions pertaining to amendments to the Constitution.

Mr. FOSTER. How many of those are child labor?

Mr. ADRIAANS. I could not tell you.

Mr. FOSTER. Would not that interest you?

Mr. ADRIAANS. I have not enumerated what each is. Some are on the same subject, but the point I want to get at is how important it is for the Congress to interpret Article V, because all of our amendments rest upon Article V as a foundation. Now, it happens that Article V has never been construed by the Supreme Court as a whole. It has been construed in segments, but not as a whole, and since the article has never been construed it is of intense importance, not only to the Congress but to the whole Nation, that there should be an assiduous study of that article to ascertain what is the meaning of it. I hold to-day that we have 19 counterfeit amendments in our Constitution. I hold to-day there is not one of our constitutional amendments which has been promulgated that is genuine, and so they all rest on this Article V, and I want to impress upon Congress, and the whole Nation, that we should study this article very carefully, especially with a view to new amendments.

The CHAIRMAN. We will now hear from you, Mr. Moore.

STATEMENT OF MR. HENRY W. MOORE, PHILADELPHIA, PA.

Mr. MOORE. I am here representing the Pennsylvania Manufacturers' Association.

Mr. Chairman and gentlemen of the committee, I will take a very few minutes, because the point I propose to discuss is merely the legal position, the legal effect upon the Constitution of the adoption of such an amendment.

I will omit all reference to the social, ethical, or economic points, because I am not a Socialist, and can not discuss those points intelligently, but for the purpose of this discussion we can take as admitted all the benefits that are ascribed to it, so far as my remarks are concerned.

The question before the committee, Do they overcome the possible objection to the adoption of such an amendment, in view of the possible effect it may have upon the Constitution itself? I think it may be taken as admitted by all constitutional writers and expounders that the original purpose and effect of the Constitution was to establish a pure frame of government, to which we annexed the 10 amendments, the bill of rights; otherwise it could not have been adopted. All the subsequent amendments, with the exception of the eighteenth, will be found to be restrictions upon the States, looking to the protection of the rights of individuals. The eighteenth, I think, is the only one really acting directly upon the individual, looking to the restrictions of the rights which it theretofore exercised. Now it seems to me that was an entering wedge, tending to destroy the original purpose of the Constitution as a pure frame of government and a protection of rights of individuals. The inten-

tion was to form a limited government for strictly Federal purposes, leaving to the States those local questions which it was thought they could better handle. All of the amendments to the Constitution, with the exception of the eighteenth, are in that line. They look to the franchise or protection of individual rights or personal rights or property rights.

Now, then, if all the amendments, with the exception of the eighteenth, which I feel was an innovation, and amendments of that nature are in the nature of a wedge, tending to open wider the split which has occurred, and if followed by other similar amendments, it will tend to open that rift so wide there may be a flood of poor legislation which, in our opinion, would have no place in a frame of government which should be strictly limited to its purpose, to control legislation and not to speak it, if that occurs it seems to me there is danger that the Federal Constitution may be open to the same criticism which so many State constitutions are now subject to, in the attempt to regulate everything, and the adoption of State legislation, which at the time is popular, or supposed to be imporant, they have loaded them down to the point where they are digests of the law, and I can not think that is the purpose of the people who had in their mind a rigid, written Constitution, which we have been told, and I believe it to be true, is the admiration of most legal thinkers throughout the world, and it seems to me it should be the purpose of Congress to rigidly guard that frame of Government with the original point of view, and not to let it degenerate, if I may use that expression, to the point where it becomes loaded up with legislation.

I thank you very much. My remarks are brief, and I hope to the point.

The CHAIRMAN. If no one else wants to be heard, the committee will stand adjourned until to-morrow morning at 10 o'clock.

(Whereupon, at 4.25 o'clock p. m., the committee adjourned until to-morrow, Thursday, February 28, 1924, at 10 o'clock a. m.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Thursday, February 28, 1924.

The committee this day met, Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. At our meeting a few days ago we agreed that a minority might go on with the hearings. I suppose that holds good for to-day. I will call Dr. Charles O'Donovan.

STATEMENT OF DR. CHARLES O'DONOVAN, BALTIMORE, MD.

Doctor O'DONOVAN. Mr. Chairman and gentlemen of the committee, I am a practicing physician, a citizen of Baltimore, Md., where I am in the active practice of medicine, and have been for 43 years. I am a voter; a taxpayer in that city. I am married. I am the father of four children, all grown. I have two grandchildren.

I have read this resolution, and I wish to appear here in protest against its passage. The important part of this resolution, of course, is contained in the first section.

> The Congress shall have power to prohibit the labor of persons under the age of 18 years and to prescribe the conditions of such labor.

To me it appears that this section immediately resolves itself into two paragraphs, and I wish to speak in protest against both of them, but first to address my attention to the second portion of the paragraph.

I protest against this for the following reasons, taking my stand upon my citizenship in the State of Maryland, in which I was born and in which I have always lived and under the laws of which I have developed and lived my life.

I am familiar with the Constitution of the United States, reasonably familiar with its history, reasonably familiar with the constitution of the State of Maryland, and the Bill of Rights under which I enjoy citizenship in this Nation.

I ask permission to read a few extracts from the Declaration of Rights of the State of Maryland, which is of course the law under which I have developed and lived. It says:

> We, the people of the State of Maryland, grateful to the Almighty God for our civil and religious liberty, and taking unto our serious considerations the best means of establishing a good constitution in this State for the sure foundation and more permanent security thereof, declare that the government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole. The Constitution of the United States and the laws made, or which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States are and shall be the supreme law of the State.

I pause for a moment to say that that paragraph is what has impelled me to appear here to-day to protest against the passage of this proposed amendment to the Constitution of the United States.

We recognize the fact that while we are bound immediately by the laws of the State in which we live, that over and above these laws the Constitution of the United States is the overlaw.

I do not intend to read all of the articles of Maryland's Bill of Rights, but am picking out certain features as they apply to this particular question under discussion. Article 3 of the Bill of Rights reads:

> The powers not designated to the United States by the Constitution thereof nor prohibited by it to the States are reserved to the States respectively or to the people thereof.

The State of Maryland put into its Bill of Rights that reservation to the people thereof, distinctly stating that it recognizes herself and her people recognize her as a sovereign State, and that is more definitely stated in the fourth article of the Bill of Rights in the following language: "That the people of this State have the sole"—Notice the language. "The people of this State"—the State of Maryland—"have the sole and exclusive right of regulating the internal government and the policing thereof as a free, sovereign, and independent State."

Gentlemen, that is the law under which I was born, under which my father lived, because this constitution was adopted in 1867, under which my children and grandchildren have been born and which

we have grown to know and love in Maryland, and against any change which would interfere with the exercise of the prerogatives of that law, we feel impelled to protest, and that is the particular reason why I protest against this particular resolution that is being proposed to you to-day.

Article 6 of the Bill of Rights reads:

That all persons invested with the legislative or executive powers of government are trustees of the public and as such accountable for their conduct. The doctrine of nonresistance—

Listen to this, if you please, if you are not familiar with it—

against arbitrary powers of oppression is absurd, selfish, and destructive of the good and happiness of mankind.

That is the reason why we Marylanders are very tender about anything that interfers with our interests, or the work of our State in its public affairs and why we have that wish and desire to appear publicly to preserve the rights that have been given to us, which have come down to us from our forefathers, and which are preserved to us in our constitution.

Article 9 says that:

No power of suspending laws or of the execution of laws unless by or derived from the legislature are to be exercised or allowed.

In this article we see how closely we adhere to our principle of State sovereignty. We believe our State represents to us the great State so far as we are personally and directly concerned in our internal matters, and it is for that reason we are loathe to surrender to the General Government any more rights, any more general privileges and powers than have already been given to it by the constitution as it exists at the present moment.

Mr. MONTAGUE. Are you reading from your Bill of Rights of Maryland?

Doctor O'DONOVAN. Yes, which was adopted in 1867.

Mr. MONTAGUE. That Bill of Rights is in the prior constitution of Maryland, is it not?

Doctor O'DONOVAN. I am not able to answer that. This is the one at present in force, and I assumed it was a copy of the one that first came down.

Mr. MONTAGUE. I suspect you will find that Bill of Rights in your first State constitution.

Doctor O'DONOVAN. I think so. I don't think there was any change made in that at all.

The Bill of Rights reads further:

The legislature should encourage the diffusion of knowledge and virtue, the extension of a judicious system of education, the promotion of literature, the arts, sciences, commerce, and manufactures, and the general amelioration of the condition of the people.

With this I shall finish reading extracts from our Bill of Rights, gentlemen, but I think that that will show that the people of Maryland, when they drew up this Bill of Rights, and when they put it into the constitution, which has been changed several times, but as the gentleman has been kind enough to suggest, the Bill of Rights is the same as it always has been, showing that we are content and satisfied with this Bill of Rights as it exists, feeling that we have put into our

constitution practically everything that is necessary to enable us to achieve our happiness, to uphold what is desired by all governments: that we should live at peace amongst ourselves, that we should not interfere with any one else's rights, that we should accept our duties as we know them and fulfill them, and that we are ready without any Federal supervision in these particular matters to go ahead and work out our own salvation.

There is ample provision in the statute, and under the statute laws of the State of Maryland, to enable us to take care of our own children so far as this labor question is concerned. We are having, so far as I can see, and I think I know the situation pretty thoroughly, little trouble. Practically no trouble exists in Maryland on this question.

I have lived long enough to see the improvement in the conditions of working people and of children of the working classes in the matter of work, hours of labor, and of education, and I am here to stand and testify that so far as I can see these things are amply provided for; and I fear it would be an injustice, it would be an approach to tyranny on the part of the United States to come into Maryland and dictate to us what we feel we are taking care of in our own way satisfactorily to everyone concerned; and if there is any question about it, the legislature meets and considers those matters.

I have seen bills passed by the legislature at various times improving the conditions which you are hoping to improve by this legislation, and I think I am well within the bounds of justice and reason and truth when I say it is not necessary in Maryland; and speaking for these people, and speaking for myself as a citizen of Maryland, I protest against the passage of this portion of the resolution.

We have a provision in our constitution which enables us to call for a referendum on any of these matters if we should feel there is injustice being done by the legislature. The legislature meets regularly, up to the present time biennially, and after this in quadrennial session, because we recently made a change in that, and laws are being presented at Annapolis all the time, right this very day, which meet all requirements as we know them.

I think there is nothing in reference to this particular matter at the present moment, because we are contented with the situation, feeling it is just what we desire and what our people need.

Speaking from my experience at home, I feel that the same thing applies to practically all of the States of the United States. I see no reason whatever why this power should be given to Congress, which some of the proponents of this measure are asking and urging. The people of each State have already the right to take care of these matters, and most of them have taken care of them. I understand that 46 of the 48 States already have legislation that is more or less satisfactory upon their books on this particular matter, and, inasmuch as it is the tendency of the States to improve these things, to meet situations as they arise, I see no reason at all why Congress should interfere in this matter, and I believe it should leave it to the States themselves to take care of them as they need it. We have done so in Maryland.

I would hesitate to dictate to any other State what it should do in this particular thing. We feel that the requirements of the different States are altogether at variance. What might be satisfactory

and necessary in Maryland or Florida might be very unsatisfactory in North or South Dakota, and we would resent very much having any other State come in and tell us how we should handle our internal affairs in Maryland; and we feel equally able and perfectly free to resent the interference of 47 States by coming in and telling us what we would resent in one State telling us to do, because we feel we are handling it satisfactorily.

The people, certainly, of each State know their own local requirements in this and all other matters much better than it can be told here in Washington. In this country, as you well know, what would appeal, perhaps, to one section would not appeal to another, and if you persist in matters of this sort, in taking into the hands of Congress the things that most inhabitants of the States feel are local matters, there will be resistance developed against such proceedings, or else the laws will not be satisfactorily obeyed.

Another thing to consider is the fact that we feel the last few years have indicated that police powers of this sort are much more easily and satisfactorily administered by the States themselves within their own boundaries than by injecting into it Federal interference. We feel that it stirs up a spirit which is not at all desirable in this Nation and that the people are on edge all the time already from experiences during the war and since the war, which are very disagreeable, to say the least, and may lead to further trouble; and, further, if the Government persists in injecting itself into the private matters of the individual States, certainly these people who do not agree with the laws passed here will resist them. They will feel the spirit of resistance. There will be various subterfuges; there will be brought into the States the police powers of the Government, which certainly, from the way we have been raised and the way we think in Maryland, is very undesirable, to say the least.

The laws in the States can be changed readily enough. The legislatures of the various States meet at rather short intervals, and they are taken up with local matters. Congress meets and is taken up with national, international, and foreign matters, so that minor matters—and this may be classed as a minor matter, so far as Congress is concerned—and I feel, according to the Constitution of the United States, it is a matter which it is doubtful whether Congress should concern itself with it; that it would be easier to get the changes made in the integral laws, get them changed in the States.

Much easier is it, if a law in the States proves unworkable, to go to the capital of the State and try to have it changed one way or another; the laws of a State are much easier to have changed than it is to come here to Washington. It is difficult for me to come here from a distance of 40 miles. How much more difficult for a man who has to come 400, or 3,000 miles to bring up something that appears to him to be a local matter.

So, as I say, it is easier to change the laws, easier to administer the laws. It is much easier for a man to govern his own household, I take it, than to be mayor of a city and govern 10,000 or 50,000 households, so that in these particular matters which come so close to home with regard to the individual and citizens of the different cities and States, let them govern themselves in the way they have done up to the present time, and do not spread the mantle of the Government over them as is proposed by this resolution.

I understand that there has been no apathy in this matter; that most of the States—in fact, 46 out of the 48 States—have legislated in this matter. Perhaps some of them have not gone as far as the proponents of this measure may desire. That may be granted, but it takes time to produce these things. Many of the States, particularly in the South, have very recently struggled forth from the perfect cataclysm of depredation that followed the Civil War, and it is no wonder that they are having troubles, trials, and anxieties about bringing themselves up to the standards that can be set, that are desirable, and that have been set for some of the more progressive and richer States.

Gentlemen, those of you who have never been through the South, especially at a time such as existed there immediately following the Civil War and for years afterwards, and those of you who are not particularly interested in the southern development can hardly realize, certainly can not realize, the awful trials that that section of the country went through.

To my mind it is not at all surprising that they are only now beginning to get their heads above water, as it were, and beginning to put themselves forward in these matters and making an effort to approach the standards set by the richer States that came through that struggle without great financial loss, great loss of family, great loss of leading men who were swept away at that time.

It takes more than a generation to put the various different sections of the country on the same level, and it is not fair to the States in the South, the poorer States in the South, to expect them immediately to come forth with the same high standards of various kinds that you have in New England and in the Northern and Central States.

I wish to address myself for a short while to the first portion of this section; that Congress shall have the power to prohibit the labor of persons under 18 years of age.

Now, having shown, I think, that it is desirable to allow States to legislate in these matters for themselves, let me say that I think that legislation such as is proposed in this, if enacted by Congress; if passed by the Congress up to the full limit of what is allowed here, would be most deleterious to the youth and growing manhood and womanhood of this country.

I think it would be a most outrageous thing to pass a law covering this entire country saying that a child, or an adolescent, or a young man or young woman, should be—and I believe he might easily be, and if the proponents of this measure have their way, he would be—prohibited from engaging in any labor until he had reached the age of 18 years. I can conceive of nothing, gentlemen, which would be worse for the growing youth of this land.

Mr. MONTAGUE. You are speaking as a physician, Doctor?

Doctor O'DONOVAN. Yes, sir. I speak as a physician and as a man. My father was a physician and my grandfather was a physician, and I am sure that my father never would have allowed me to labor before I was 18 years of age unless it was good for my health. Nor would I have allowed my children—my son, who is now 21 years of age, and studying to be a physician and will be a physician if he lives, and I hope he will.

I speak from my own personal experience. Although my father was a physician, I was obliged to labor. My father was able to keep me without labor; he gave me a college education, because I have degrees of A. B., A. M., and M. D., and honorary degrees besides. I speak from my own personal experience and say that as I stand here in reasonably good health at 64 years of age, I believe it was due to the fact that I did labor before I was 18 years old. And it was hard labor.

Some of you gentlemen may have lived on a farm, and although I did not live on a farm, as soon as school closed, in the spring of the year, early in June, I with my six brothers and sisters immediately went on a farm in Baltimore County, 15 miles from the city, in one of the poorer districts of the county, and I know what hard labor is on a farm. I did it.

I had my enjoyments. I was not obliged to labor there. There was no club hanging over me, but the rest of us all labored. We knew the boys and girls around the country. They all worked and we worked.

When I was 15 or 16 years old, I worked on a farm all summer. It is true I was not tied down to it with a chain, but when the other men went out to the field, I went out to the field. I can drive a team of four horses with one rein, and everybody can not do that. Many a time I have done it. And I have cut corn, and I have plowed, and I have picked stones. I don't know whether any of you men know what picking stones is, but if there is any harder labor I don't know of it. I have loaded manure with a fork into a 4-horse wagon that carried it out, and I have ridden on that wagon and gone out and spread it on the field.

Now, I do not speak from ignorance at all. I speak from knowledge and experience and stand here ready to say, as a physician, that I believe it was that labor before I was 18 years old, and when I was a student, that enabled me to keep my body clear and good, as I feel it is at the present time.

It does not hurt a boy to labor before he is 18 years old. Now, does it hurt a girl? I have talked, since this proposition has been before me and it was suggested that I come here and protest against it, with a number of women who worked, because as a physician with a large practice in Baltimore, seeing rich people and poor people, seeing hospitals, being in the hospitals every day—at least one hospital every day, and on many days in several—I have talked to people who know what labor is, young and old. I have seen young people die as well as old ones, and I don't believe they died from labor—hard work.

I talked yesterday with a woman who was a school teacher, but who is out of that work now, having a much better position. She was one of a large family. I asked her when she went to work and she said that she began to work as soon as she left the high school. She went to work when she was about 17 years old.

I asked if her work hurt her. She said it did not, but that she felt she was better off for it. She began to teach when she was about 17 years old. I asked her if she ever knew of children who were hurt by work—I mean children who worked in the summer time—and she said that if they did work they would be far better off.

That is the experience of a school teacher, a woman of very good judgment, a woman whose views I would take as quickly as I would take my own in matters of this kind, or even before. She said it is far better for the children to go to work and learn what work is, and learn the value of money, from the mere standpoint of the benefit to the child itself. I asked her whether she thought the boys would otherwise congregate on the street and she said they would, and the girls too, because if their time is not occupied they will congregate on the street or some place else, and it is putting into the hands of children time to kill, time they do not know what to do with, and the thing that happens is that they do the wrong thing with it.

It would be far better if their minds were occupied with work, so that they would be somewhat fatigued when the time came to go to bed, and they would go there rather than go out to dances and places like that.

The law in Maryland allows children to labor if they have sufficient school preparation and can get permission from the commissioner, between 14 and 16, outside of school times. They have to go to school for the full time. After 16 they can get permission to go to work, if they can show they have the proper schooling. From 14 to 16, outside of the school sessions, they can get the commissioner's permission to go to work.

I spoke also to one of the stenographers at St. Josephs College. I told her I was coming over to Washington to protest against this bill and I showed her the bill and said to her, "What do you think of it?"

She said, "It is poppy-cock, foolishness."

She said, "I am one of 10 children. My father was a man who did the best he could with his children, but how could he support 10 children as we grew up? There were a great many different demands made upon him, and as the older ones could do it, they went to work."

I said to her, "Were you one of the older ones?" and she said, "Yes."

"Did it hurt you?"

Her answer was, "It was the saving of my soul, almost. If I hadn't had that work to do, with the 10 children in the house, my mother could not have controlled us. If I hadn't gone to work rather early I perhaps would have been on the streets, or elsewhere."

I said, "Do you feel you have injured your health by going to work?" She said, "Not at all. I feel in perfect health," and she shows it by being at work every day in the year, because I see her in the hospital.

I asked her when she went to work and she said that she went to work at gainful occupation when she was 14 years old. She is not now as young as she used to be. The laws of Maryland have been changed and she couldn't do that now.

I said, "Are you sure you have not been hurt? You know there are a great many people who say that young girls in the adolescent age are injured by going to work." She said, "Why, I am perfectly healthy, and I was of great assistance in helping to raise the other children, and through my assistance and the assistance of others, the family was kept together and the 10 children have all grown up to

be respectable citizens. Those who are grown are good citizens of the city of Baltimore and of the State of Maryland.

I didn't stop there. That was a very high-grade woman, a school-teacher, the first one; the other was a woman of intelligence, the ordinary high-grade stenographer. She was not very highly educated, of course you can understand, but a woman perfectly able to put two and two together, and it was her honest and unbiased opinion that she expressed.

Then I recalled a family which was the worst possible instance I could think of. It consisted of a good mother, a husband who was a drunkard; all that he did when he was drunk was to spend all that he could make, and then get in debt as far as he could go against his future salary, and I have known this family for years and have been in the house in the wintertime when there wasn't a stick of wood or a bit of coal in the house and hardly any food, with the children sick.

The woman, you would think, would cut the throats of the children to get rid of them, almost. They were crying for food, there was sickness in the family; the father was drunk upstairs or around at the saloon on the corner. That woman kept her family together. The two first children were girls. They went to work. They were obliged to go to work. Starvation stared them in the face, or else the breaking up of the family and putting the other children in an institution, which the mother, against my advice, stood against. She said she would never break up her home.

That woman was a home-loving woman. She had gone to heaven recently. But she lived long enough to see her children educated. One of them is a doctor of philosophy, graduated from Johns Hopkins and teaching in one of the universities in the West. The two older girls are working still now, one might say, on "Easy Street." One younger girl is a doctor of philosophy, a Ph. D., teaching in one of the colleges in the West. The other is an A. D. graduate of the Goucher College, teaching in one of the city schools. The two boys are at work, one unmarried, one married.

The two oldest girls who kept this family together went to work early. They never thought of any age limit of 18 years. They have got good educations—of course, nothing like what the younger ones have—but the family kept together and the family has been reformed.

There are three individual instances. I could mention hundreds of them from my own personal experience. I know that children have not been hurt by going to work early; families, on the other hand, have been saved by them going to work early, and I am now saying to you that there has been nothing deleterious at all about going to work early. On the other hand, it has been a very great benefit to these poor people.

Mr. MICHENER. Did you ever go into one of these textile mills and see the little children come in there in the morning before daylight with a dinner bucket under their arm and then see them come out long after dark in the winter, at night, with their empty dinner buckets?

Doctor O'DONOVAN. May I ask what age you refer to?

Mr. MICHENER. Running anywhere between 14—about from 12 to 14 years of age.

Doctor O'DONOVAN. That couldn't be done in Maryland.

Mr. MICHENER. That is just the point. You interviewed certain people about specific cases, but specific cases are hardly in point where there are so many thousands of these other cases differing from the cases you mention. Then, in the States that were not as kind as Maryland, where the State said, "We reserve the right to work these children if we see fit," and the powers in that State are powerful enough to work the children, and they do work the children, there is a difference. You referred to the instance where they had no fire, no food, and the father was at the saloon around the corner. We have remedied that condition, that saloon on the corner, but the people in Maryland wanted to continue the saloon and they opposed the constitutional amendment, because they wanted it.

Mr. MONTAGUE. The State of Maryland adopted the constitutional amendment.

Mr. MICHENER. But they did admit the saloon should not be there. They made the same protest against that constitutional amendment, however, because it was doing something for Maryland that Maryland did not want done. That has been taken care of.

Now, it is the purpose here to take care of some of these things in the States that the States won't take care of themselves.

The CHAIRMAN. That is a rather long question. It is rather an argument addressed to you.

Doctor O'DONOVAN. I am not in sympathy with that. I don't think it has a bearing on this particular resolution.

Mr. MICHENER. No; not from your viewpoint.

The CHAIRMAN. Perhaps we can argue that in committee as well as have the doctor answer it.

Mr. MICHENER. I don't wish to be discourteous. I appreciate the chairman's position as being exactly that of the gentleman talking. Mine does not happen to be so.

Mr. MAJOR. If you will permit me to express my own personal desire, I would like to hear what the doctor has to say in answer to that.

The CHAIRMAN. Of course, the gentlemen are free to have their questions answered.

Mr. MAJOR. If I may, I would like, myself, to have him answer it.

The CHAIRMAN. Have you any desire to add anything?

Doctor O'DONOVAN. Am I taking up too much time?

The CHAIRMAN. Have you any desire to say anything further in answer to what Mr. Michener has said?

Doctor O'DONOVAN. I don't know that it would be acceptable, but I am not a bit favorable to the eighteenth amendment, if that is what he means.

Mr. MICHENER. That is just the point——

Doctor O'DONOVAN. Conditions in Maryland are very much worse since the amendment than before.

Mr. MONTAGUE. Irrespective of that, your State adopted the eighteenth amendment?

Doctor O'DONOVAN. It did.

Mr. MONTAGUE. I just wished to correct my brother's statement that Maryland protested against the eighteenth amendment. They adopted it.

Mr. MICHENER. They have been protesting practically ever since.

The CHAIRMAN. That is, only a few people. That has been the case in a number of States. The people regard their individual liberties as being sacrificed by this intrusion upon their rights and they resent it and resist it. You can not call that a State in arms against the amendment. It is the individual rebelling against the taking away of his personal liberty.

Mr. MICHENER. The Maryland Legislature refused to pass any laws to enforce this amendment.

The CHAIRMAN. Don't you think that is due entirely to the fact—and it has also taken place in New York—that it is a conflict of jurisdiction between State and National enforcement? You can not get perfect harmony in that line, and it is better for the States to have no laws than it is for them to have a dual law that they are trying to enforce when Congress is trying to enforce another.

Mr. MAJOR. I can't quite see that the doctor needs any help to answer Mr. Michener's question. I believe he can answer it if he is disposed to do it.

Doctor O'DONOVAN. It is the same question as is stated here in the Bill of Rights. That is the way it appealed to me. I feel there are several other people who want to speak, and I thank you, gentlemen.

The CHAIRMAN. I think we will hear only one more witness. We have to go to the House; an important vote is coming up at 11 o'clock. I will ask Mr. Rawles to make a statement.

STATEMENT OF MR. CHARLES T. RAWLES, BALTIMORE, MD.

Mr. RAWLES. Mr. Chairman and gentlemen of the committee, I am not here to discuss the merits of child-labor regulation. Whatever merit there may be in that proposition the founders of this Government remitted to the proper jurisdiction to take care of it. They left it with the several States under the Constitution. They left it there as they leave all the affairs of internal government, carrying out the principle which had guided the English-speaking people for centuries, and under which principle the most enduring government upon this earth has been established.

Look over the world to-day, gentlemen, and see where you find the great governments. You have two outstanding governments of recent origin—the great Government of the Commonwealth of Australia and the great Commonwealth of South Africa—and they were wise enough to follow the traditions and the instincts of their fathers in adopting this federal form of government, leaving those matters of national importance to the national government and those matters of local importance to the local government.

That is the principle upon which the Constitution of the United States is founded, and if that principle is not carried out and enforced in all of its integrity, then this Government of which we have boasted for 147 years is a failure, because, gentlemen, if you are going to start at child labor because one section of the country or one body of opinion favors it, then where are you going to stop? That is a breach of the covenant, and the whole structure, because of that breach, is gone.

You have divers things—you have education now in agitation. What matter that is now within the jurisdiction of the State could not be made, and under the principle of this resolution should not be made, a matter of national legislation?

Gentlemen, it is not because of the merit, one way or the other, of the thing that I am here to oppose it. I am here to oppose it because I believe that its adoption means the beginning of the end. That is my opposition to it.

I believe in the Constitution of the United States. I believe in it, and I am going to oppose with all the little power I have got any step that I believe leads to the destruction or to the impairment of that great instrument.

Gentlemen, may I first call your attention—I don't want to detain the committee, Mr. Chairman. Are you ready to adjourn?

The CHAIRMAN. I think we ought to, because we have an important matter coming up in the House at 11 o'clock. With the consent of the committee, I will order that the hearings go on to-morrow morning at 10 o'clock.

(Whereupon, at 11 o'clock a. m., an adjournment was taken until 10 o'clock to-morrow, February 29, 1924.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Friday, February 29, 1924.

The committee this day met, Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. Mr. Rawles.

STATEMENT OF MR. CHARLES T. RAWLES—Continued

Mr. RAWLES. Mr. Chairman and gentlemen of the committee, I want to say how grateful I am to the committee for the opportunity of presenting my views in opposition to this particular amendment. I thank the committee for the patient way in which they have listened to me.

I was saying yesterday, at the time of the adjournment, that I was planting my opposition to this measure entirely upon the principle of our form of Government, that local self-government was the principle on which this Government is founded. It seems to me that ought to be accepted by anyone who is familiar with even the outlines of American history. The American Revolution was fought upon that principle. The Constitution of the United States is founded upon that principle. It has guided this country for 147 years, never at any time challenged by any party or by any substantial body of men.

I want to read the declaration of the Republican platform of 1860, at a time when the subject of slavery had taken possession of the minds of the people of this country.

I take this declaration from the Republican platform for the reason that the Republican Party has always been supposed to accept the broad construction of the Constitution, a broad rule of

the construction of the Constitution as announced by Alexander Hamilton, as opposed to the rule of strict construction announced by Thomas Jefferson.

I take it for that reason, and for the taking of this declaration of the Republican platform right up to the verge of the Civil War.

This is what that party declared at that time, 1860:

Resolved, That the maintenance inviolate of the rights of the States, and especially the right of each State, to order and control its own domestic institutions, according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends.

That was unchallenged for more than a century and a quarter; so manifested, so accepted, so uncontested, that the party which was elected in the midst of the agitation which brought this country to civil war announced it in those unmistakable terms.

Is there any occasion to argue, is it necessary to argue to any man who believes in American institutions that that principle is one which is entitled to the jealous care of all men, in seeing that it is maintained?

Now, gentlemen, I have stated the essence of my argument. I want to apply it, if you will permit me for a moment.

Why has this principle been accepted by all men, universally by all men for more than a century and a quarter? Is it because there is some superstition about it, some hallucination? It has been accepted and remains unchallenged because the American people knew that it was only by the maintenance of that principle that the manly and noble form of government so necessary could be preserved. It is the only way by which you can bring that essential element of responsibility into government. Without it your government is an irresponsible government. We fought the Revolution on the principle that the Government should be responsible to the people under the Government or to the people which created the Government.

What responsibility has the man in a great agricultural territory for his action with respect to legislation in fixing the hours of labor in factories? He has got no factories. His people are not interested. There is nothing there to call forth the judgment of his constituency upon that act, and he may vote as he pleases upon a measure of that sort and escape any responsibility for that action.

You may find interests in various States, possibly in a small number of States, which are not in other States. You may vote for any reason you please, if you don't come from that particular State, for that measure, and bear absolutely no responsibility to anybody for your act. The people are not interested. They know nothing about it. They can not pass judgment on it. They have no incentive to follow your action. The legislation is there and therefore you are responsible, and the Constitution intended that in these localities that the legislators who enact their laws should be responsible directly to the people over whom the laws were to operate. That is the theory. That is responsibility in government, but beyond that, gentlemen, let us look at the responsibility in the administration of any public office in Maryland.

If any public officer in Maryland commits an unlawful act, exercises his power arbitrarily, there is a remedy, not only in the courts, but otherwise. There is a responsibility there directly to public opinion.

The man who lives in the States has his reputation at stake. Public opinion is operating upon him, restraining him from any unlawful act. Bring a man from California to enforce the law in Maryland, and what responsibility has he to the people of Maryland for the way in which he exercises his power?

Adopt an amendment of this sort and you have an inspector at the doorway of every house in the United States. What responsibility will that man have to the people of the locality in which he enforces this law? Is there any responsibility such as prevails in an officer of the State where his superiors are at hand? Is there any such responsibility as prevails where public opinion keeps men within bounds and prevents the exercise of arbitrary power?

Gentlemen, I have only cited that as an illustration of the wisdom of the fathers, the wisdom of this central scheme of the Constitution, leaving those local matters to the government of the States. It is only by that method that you can have responsibility in government.

Now, gentlemen, I pass to another phase of this question. I am sure that every thoughtful man in the United States is appalled at the accumulation of these stupendous agencies of government, the growth of these bureaus. You can not trust your rights and your liberty from home. Most of all you can not trust it to a colossal Government machine. You can not get a hearing before a body like that. It has got to transact business second hand. It simply can not fulfill the function for which it was instituted; it can not fulfill that function with justice. It has not the time to do it. I think that the most appalling thing in our Government to-day is this constant growth of these numerous bureaus here in Washington which, on account of their very size, apart from the other matters to which I have adverted, make it absolutely impossible for them to administer the functions justly.

Not only that, gentlemen, but it grows on what it feeds on. You have got them here clamoring for power, more power, every day. You have got agencies here advocating measures, imploring you to give them more power. Who is going to fight them? They are organized; they are militant; they are powerful. They set up a clamor here in the capital that is concerted. We have got no organization in the United States to combat it. They are clamoring in your ears for legislation, for amendments. The Government is supporting these people to advocate further grants of power. They are maintained by the Government.

But where is there anybody to maintain an organization to fight the battles of the unheard millions? They drown out any expression of opinion coming from the people just as the crack of the nearby rifle drowns out the sound of the distant ordnance. You never hear it.

That is one of the objections to this kind of legislation. It means thousands upon thousands of more employees of the Federal Government, more people interested in extending their powers, more people with minds concentrated upon this accumulation of power here in Washington.

Mr. MONTAGUE. The statement was made by Miss Abbott, the head of the Children's Bureau, that it would only take about 50 or 60 em-

ployees of the Government, and perhaps a maximum expenditure of $150,000 to enforce this law. What is your opinion of that?

Mr. RAWLES. Well, sir, I must confess I haven't given any thought to the administration details. I should think, however, that if Congress, in pursuance of this amendment, enacts a law enforcing it that $150,000 would never pay the probably 50,000 or more inspectors that would be necessary.

Mr. PERLMAN. Don't you think the State and local authorities will help enforce this law?

Mr. RAWLES. Well, sir, I will answer that in this way: I think that anyone who believes that would never be in favor of giving this power to the Federal Government. I think that is one of the strongest arguments that can be made.

Mr. FOSTER. In fairness to Miss Abbott, I think her statement was that in her estimates she figured on the cooperation the Federal Government did have from the State authorities during the two periods when we had legislation on this subject.

Mr. RAWLES. I think what I have just stated is also an answer to that question. As I said yesterday, I am so impressed with the enormity of this challenge on our form of government that I have not permitted my mind to even contemplate the idea of its adoption. I stated yesterday—I don't know whether all the members of the committee were present— that I wanted to confine my argument to the constitutional aspects of it. That is, to the phase that this is an assault not only, upon the existing Constitution but upon the fundamental and basic idea of our freedom of government. That is the phase I want to discuss.

Now, let me travel on——

The CHAIRMAN. I believe you will have to bring your remarks to a close, because the House meets at 11 o'clock this morning——

Mr. RAWLES. I understand. There is only one thing further I want to impress—that is, that when you act upon this resolution you will act, of course, under the provision of the Constitution, Article V, that provides that when you propose an amendment, when it is proposed to submit an amendment, that both Houses of Congress may do so if they deem it necessary. That is to say, as to each man who votes in favor of this resolution, to submit an amendment of this sort he must deem it necessary. You can not vote for it and then leave it to the people to decide whether or not it should be adopted. That was one of the safeguards put into the Constitution against ill-considered amendments of this kind, that each Member should express his opinion that it was necessary. You can not pass it on to the people to say whether they want it or not, because the Constitution enjoins the Members of the legislative body, the two Houses of Congress, that they shall deem it necessary.

Mr. FOSTER. If you were a member of this committee and this question was before you, in determining whether you would deem it necessary, would you give any weight to the fact that after two Federal laws of the kind were declared unconstitutional, both political parties in their platforms deem it necessary? Would you give any weight to that?

Mr. RAWLES. Would I give weight to it?

Mr. FOSTER. Yes; in determining that?

Mr. RAWLES. I would give weight to an expression of opinion by anyone, but I would not give any further weight to that opinion than it was in sound reason entitled to.

Gentlemen, I thank the committee deeply for the hearing that I have had.

STATEMENT OF MR. THOMAS F. CADWALADER, ATTORNEY, BALTIMORE, MD.

Mr. CADWALADER. Mr. Chairman and gentlemen of the committee, there is just one point of view here which I want to discuss this matter from. It is, as was that of the gentleman who has preceded me, a constitutional point of view, but from a slightly different angle.

There have been a great many amendments to the Constitution of the United States. Most of them were contemporaneous with that great instrument, and were adopted to express more fully the ideas of the founders of this Government, which included the first 10, the Bill of Rights.

Then there were two correcting errors of detail, the eleventh and twelfth, which produced very little controversy. The Civil War was responsible for the next three. They were practically put in there, in a broad view of the matter, by military force, and since there have been four others.

Now, of the four last, three have been put in there, whatever their merits—and I am not here to discuss the merits or get into an argument about the merits of any of the amendments to the Constitution, but the mere fact of the way they were ratified, what produced their ratification at the time and under the conditions they were ratified, irrespective or whether they might have been ratified later under different conditions.

Under the conditions which those amendments were actually ratified, you will find that it was at the energetic push and behest of active, organized lobbies, backed by almost unlimited resources. I don't say that either the income-tax amendment, or the prohibition amendment, or the women's suffrage amendment would not have been put into the Constitution by the people. What I do say is they were put into the Constitution by propaganda—the first one by the organized propaganda of the Federal Treasury, the Federal Government seeking to extend its power; the second by organized propaganda, backed by, as is well known and admitted, large sums contributed by certain agencies anxious to establish beyond possibility of repeal a certain reform that they ardently believed in; and the third, by the same methods.

Now, the methods of propaganda improve in rapidity and technique with practice, like everything else. When the last of these amendments, the nineteenth, was proposed, with the accumulated practice of years it was not thought necessary even to give the people of the United States a qualified opportunity to express their opinion. It takes 36 States to ratify a constitutional amendment. The last amendment adopted, the nineteenth, was adopted in the year of a presidential election. Thirty States ratifying that amendment did so at special sessions of their legislature called under political pressure from both parties when they had been elected long before the

matter was in issue, had passed their regular session and had adjourned and become scattered in civil life. They were called back again for the express purpose of obeying the voice and command of of the propagandists who swarmed upon those State capitals for the sole purpose of having that amendment ratified and going home. That was the case with 30 out of 36. That is a plain, unanswerable fact.

Now I say, whatever the merits of the measure, when the Constitution provides that the great grant of power, great division of power between the central and local bodies, that was made by the founders of this Government is to be altered in an essential or important particular, the people concerned with the exercise of the powers of government have a right to be heard.

I say that it is an outrage on the 110,000,000 citizens of the United States to tell them it is none of their business whether the governmental powers of the Congress are to be increased by an enormous percentage, or whether the power of the States, which the people founded just as much as they founded the Federal Government and which are closer to them—that the powers of these States are to be decreased by an enormous percentage.

I say that to tell the people of the States the agents they elected a year or two before on entirely different issues, and local issues, are to have the power, and are expected to obey the voice of propagandists from other parts of the country in voting away the powers that the people reserved to themselves, is to my mind the most undemocratic and the most un-American proposition that could possibly be put forward.

The framers of the Constitution were not unmindful of that when they came to submit the Constitution itself. Did they submit it to legislatures elected when the matter was not in issue, or to any legislatures at all? No. They submitted it to the people, calling upon the legislatures to summon the people to elect representatives to a convention to pass on the matter, and in adopting the Constitution and providing for its amendment, they inserted the same provision there, that in amending the Constitution Congress could call upon the people to meet in convention and pass upon the matter.

Congress has once in the one hundred and thirty-odd years of the Government's existence adopted that plan, and that was at the outbreak of the Civil War, when the matter was not carried through, because in war time the laws are silent, and so the matter fell through. The people have never had a chance since the Constitution was adopted to elect their convention to pass upon the changes.

Now, then, why is it that Congress never does that? Possibly in some cases there is justification. The framers of the Constitution made no distinction in terms between any classes of amendments that should be referred to the people, and those that should be referred to the legislatures, and I think that was wise, because it was impossible or difficult in the extreme, to define amendments in such a way that it would be possible in all cases to tell which were mere changes of form and could be submitted properly to the legislatures, and which went to the root of governmental power and called for the voice of the sovereign people, and so they left it to the wisdom of Congress to decide in the individual instances when they arose.

Now, then, I say this, that here is Congress—whatever the merits, or whatever the necessity, if you please, of the Congress and the Federal Government stepping into the matter of the labor and employment of both sexes under the age of 18, which by the way, and I don't think it has been said before, is a much broader question than the question of child labor, because if the labor of persons under 18 can be regulated by Congress, then everything that affects the labor of those persons can be regulated by Congress—for instance, their education. If they can't work—if young men and young women are not to be allowed to work—won't Congress say what they will be allowed to do, or what they must do to occupy their time? If their parents do not see that the twentieth amendment—if that is to be its number—is carried out, won't there be inspectors to see that the parents do see to it? And won't there be provisions virtually taking over the whole subject of the guardianship of minors and vesting it in the Federal Government?

To my mind, under the general rule which is in the Constitution, that the grant of any power carriers with it the grant of every power incidental to the power, or necessary for the enforcement of the granted power, there is virtually no limit to the power of Congress over the whole topic of domestic relations, education, and employment if this amendment is passed.

Now, then, I say the tremendous increase in the Federal power, carried by direct language or by necessary implication in this amendment, is a mater on which the people of the United States have a right, and an indefeasible right, to be heard, and, may it please the members of this committee, the probability is that if this resolution is passed in its present shape, they won't have that chance.

Presidential election is coming on, and one of the members suggested that both parties in their platforms had already indorsed this matter. We all know what party platforms are; how they are thrown together, and how they contain planks to catch votes here and there. Will not the proponents of this measure seek to get the same credit as the proponents of the women's suffrage amendment sought to get in 1920 by having legislatures called into special session, if necessary, to ratify the thing in a hurry, the Democrats wanting the Democratic legislatures to get that credit and the Republicans wanting the Republican legislatures to get that credit, with the active minority that means votes in debatable constituencies?

That is where they want the credit. They don't care about credit with the great passive millions that are going to be subject, though they know it not, to the visits of Federal inspectors at their very doors, coming from thousands of miles away to inspect the way they manage their children, or the way their children contribute to the living of the household.

Just in closing there are two things that this committee could do, if it believes, if the members sincerely believe, as I certainly do not, that this measure is necessary. One is to refer it to a convention, as the Constitution provides; the other is to first provide by an amendment, which this committee has already heard, and I have had the benefit, thanks to the courtesy of the clerk of this committee, of reading the report of the hearings you have had on that measure, known as the Garrett-Wadsworth amendment—that no old hold-over

legislatures shall pass on amendments, but a new one, with a fresh mandate from the people, which will grant to the people the right to pass upon the action of their legislature by a referendum vote, as the State of Ohio undertook to do, until the Supreme Court told it it had no right to do it.

If that measure were passed, the people of the United States would never again be able to say, and nobody would be able to say, that any change in the compact of government of 1789 was made without consulting the original source of power, which is the sovereign people. It has been said recently. It ought not ever to be said again. But if this amendment is submitted without prior action on that one, there will be the same story—the farce of ratifying by theoretical agents of the people whose function is past and gone and who for all practical purposes are simply, to put it baldly, politicians temporarily out of a job, called back because they were members of the legislature when it was in session and are technically so now, called back to obey the voice of a lobby in a presidential year, when anything may happen to take the whole subject of domestic relations from the sovereign States and transfer it bodily to the Federal Government here at Washington.

Mr. FOSTER. Your position is that in the national platforms—and we all realize that both parties have to take into consideration the desire for a platform that is appealing—you think that beyond making an appealing platform the members of these parties, when they come into Congress, forget the planks in the platform; that it is purely a vote getter and not to be given any weight?

Mr. CADWALADER. No, sir; I do not. But I say this, that national platforms are adopted at national conventions which nominate the candidates for the Presidency and Vice Presidency of the United States. The members of Congress are not nominated at those conventions and are not responsible for what goes into their platforms.

Mr. FOSTER. I beg your pardon. When I qualify as a candidate for the fall election as a Republican, I sign an oath that I am going to obey the platform of that party.

Mr. CADWALADER. I didn't know you had such a law in your State, sir.

The CHAIRMAN. I never knew that such a barbarous condition as that existed anywhere in the world. [Laughter.]

Mr. FOSTER. We did not take over the Pennsylvania system, but when you go into a party you agree to abide by its principles. Pennsylvania takes an entirely different oath.

The CHAIRMAN. I am glad you tried to imitate their good qualities.

Mr. CADWALADER. Mr. Chairman, I used to live in Pennsylvania, but I have been for many years a citizen of Maryland, and I am not going to get into an argument between Pennsylvania and Ohio, both our very good neighbors, but I want to say this to the gentleman whom I understand is from Ohio——

Mr. FOSTER. Yes, sir.

Mr. CADWALADER. That in the first place, on the broad principles in the platform, I am in absolute accord with his views, that nobody has a right to run for office that does not subscribe to the principles of the platform on which he runs, but that it is impossible with these platforms that embrace everything from Maine to California, all

sorts of local issues and so on, humanly impossible to expect a candidate to be in accord with every single plank on matters of detail, but outside of that I want to say to the gentleman that if he believes, as I said before, in this child labor amendment, if he believes he is pledged to it, it is absolutely in consonance with his pledge, and in consonance with his belief that he should vote to submit the making of that amendment to his own people of the State of Ohio and to the people of other States.

Mr. FOSTER. You referred to the eighteenth and nineteenth amendments, and the methods by which they were adopted. Referring to both you used the term "propaganda" and that they were backed by unlimited resources. Do I understand you to say, taking the women's suffrage amendment, that that was put over because of propaganda, backed by unlimited resources?

Mr. CADWALADER. I do, sir.

Mr. FOSTER. That is all.

Mr. CADWALADER. I do, sir, and I can easily furnish the facts and the figures.

Mr. O'SULLIVAN. It is particularly true of the eighteenth amendment, is it not?

Mr. CADWALADER. During the eighteenth amendment I was doing my little bit to serve my country, and all I know about it is hearsay. The way it was put over I am not prepared to testify. I do know about the nineteenth.

Mr. FOSTER. During the passage of the eighteenth amendment I saw something of the workings of it in my section of the country. I saw those in favor of the eighteenth amendment distributing cards throughout the churches for subscriptions. I happened to be an attorney for the saloon keepers in my county when they voted wet. The difference was that the churches gave $1 apiece and the saloons gave $5. That was the difference.

Mr. CADWALADER. We have one of the richest men in my city of Baltimore, a very conscientious man, who is a gentleman who has subscribed many thousands of dollars to a very prominent agent of the Anti-Saloon League who has been recently in difficulties in New York and has given him absolute carte blanche to use the money as he saw fit.

Mr. FOSTER. I assume this man was in church when he saw the cards passed out for the dollars.

Mr. WELLER. I would like to ask if Mr. King lives in Baltimore? [Laughter.]

Mr. CADWALADER. Not to my knowledge.

Mr. WELLER. You spoke of a prominent man.

Mr. CADWALADER. Not that I know. Mr. Chairman, I would like to submit the following statement which I have prepared as a supplement to my remarks. The statement is as follows:

To the Committee on the Judiciary.

GENTLEMEN: The grave constitutional results that would follow from adoption of the proposed child-labor amendment are probably not fully realized by either its advocates or its opponents. Every grant of power to Congress carries with it a grant of every other power needed to make the former grant effective. To illustrate: The power to declare war and raise armies includes the power to take possession of and operate every railroad in the country, and no doubt every mine and factory. The power to regulate commerce among the several States includes the power to prohibit lotteries, to prevent unmarried men and women

from traveling with any illicit intent, to prescribe a new rule of liability for personal injuries in such commerce, and to regulate the entire transportation interests of the country.

The power to coin money and to raise taxes includes the power to establish a national bank or a Federal reserve system.

The power to prohibit intoxicating liquor includes the power to prohibit non-intoxicating liquor that might serve as a "blind" for the "real stuff."

By parity of reasoning, the power to prohibit the labor of persons under 18 and to prescribe the conditions of such labor would probably be held to include the power to prescribe how persons under 18 shall be occupied; how and to what extent they shall be educated; what standards of conduct shall be required in their legal guardians. All these collateral powers can be made effective by Congress, through taxation, appropriation, and the provision of the necessary officials and machinery to enforce them. Evidently the powers of the States in such matters would recede before the supreme power of Congress, and national control of education and of the care, custody, and guardianship of all minors under 18 will follow, in order to carry into full effect such child-labor legislation as Congress might see fit to enact.

Respectfully submitted.

T. F. CADWALADER,
701 Maryland Trust Building, Baltimore.

MARCH 5, 1924.

The CHAIRMAN. We will meet again at 10 o'clock to-morrow morning.

(Whereupon at 11 o'clock a. m. the hearing was adjourned until 11 o'clock to-morrow morning, March 1, 1924.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Friday, March 1, 1924.

The committee met at 10 o'clock a. m., Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. Mrs. Gibbs, would you kindly address the committee?

STATEMENT OF MRS. RUFUS M. GIBBS, LEGISLATIVE CHAIRMAN OF THE FEDERATION OF DEMOCRATIC WOMEN

Mrs. GIBBS. Mr. Chairman and gentlemen of the committee, I come over here to-day as the legislative chairman of the Federation of Democratic Women; as the chairman also, as I am the secretary, of the Woman's Constitutional League. While I have the opportunity, I do want to correct an impression that I thought might have been made by our president in her zeal not to claim too much about our members. We have 280 members that are listed as having stood with us in the past, and we hope before the year is out that their dues will be paid, so we do not feel that we are such a very contemptible little body but, nevertheless, I am going to read our constitution.

Mr. SUMNERS. She said you have about 150.

Mrs. GIBBS. She said we had for 1924, but we hope for better things, and I think it was perhaps due to her zeal not to overstate it.

Mr. SUMNERS. The membership you now refer to is the membership of the Constitutional League?

Mrs. GIBBS. Yes. The Federation of Democratic Women is made up of women from all the different wards in the city, and we are trying to organize, and we already have about 500 members, and then representatives from each club, and we are working with the men, as we think is the only way to do. We do not feel there is any division of interest.

Mr. FOSTER. So that the record may show, when you say you come over here, you mean you come from the city of Baltimore?

Mrs. GIBBS. Yes; I am from the city of Baltimore, and what I did want to do was to read the constitution of the Woman's Constitutional League, because it bears on this particular thing, I think. We say:

1. We invite the women of Maryland to join with us in a league for the preservation of the principles of the Constitution and the Bill of Rights of this State and of the United States in letter and in spirit, against violation, whether by direct assault or indirect evasion; whether in the name of socialism, feminism, or in the name of humanity, or in whatever guise the effort is made to subvert the system of ordered progress under the forms of law and with respect to the just rights of all men that we have inherited from the founders of the American Constitution and from the mother country wherein that system was first conceived.

2. That the name of this league shall be the Woman's Constitutional League of Maryland.

3. That any woman who is a citizen of this State and who will subscribe to these resolutions may be admitted to membership upon payment of an initiation fee of $1.

4. That the members of this league by joining the same record their opposition to the following:

"1. All measures tending to centralize power in the Federal Government which is now exercised or can be exercised by the several States or their city, town, or county governments.

"2. All laws, whether State or Federal, whereby the duty of serving on juries in States or Federal courts, whether civil or criminal, is imposed upon women."

I am sure you gentlemen will all realize that is a little bit abstract and, of course, my sex does not deal with abstract things very much, and I think on the whole we rather resent having abstract things forced on us, and so I think a good many women have been appealed to by sentimentalists who have told them that by putting another amendment into the Constitution or by putting some laws on the statute books they would correct evils that have existed since the beginning of the world.

As Herbert Spencer says no legislative sleight of hand can save us from ourselves.

But women do not like to face those very hard facts. They like to feel they are helping humanity and standing for something that is going to do all kinds of things. That is one reason why, perhaps, we have not the awfully large membership we would like to have.

I feel that those who have stood with us have been very loyal.

Now in regard to my representing the Federation of Democratic Women, of course, I am coming over here at their request, because I am going to point out about the very vital plank in our State platform on State rights and, of course, you gentlemen realize that this is not an issue that was closed with the Civil War. It was really another name for local self-government, which is the principle on which liberty must be established every way. There is no other way. We can not have a fiat that will give liberty. It is the people in smaller communities looking out for their own affairs.

So our platform was so popular this time that we had the most overwhelming victory for the Democratic Party that the State of Maryland has ever had, and for the first time in the history of the State of Maryland a governor was reelected, and on that very platform.

Now in regard to this question of child labor. I am very sure that this committee will not report this bill favorably just as a sort of humanitarian gesture, because we know it is too serious.

I do not doubt this committee has gone into the whole question of child labor, or will go into it, as to the causes of child labor, because we can not remedy any evil unless we know the cause of it.

Of course I can not speak with any authority on any subject, except I am the mother of four children and I am also bringing up another child who had absolutely no claim on me or my family in any way, and I am educating him, so I can not be accused of wanting to exploit childhood, and I have no stock, and no one connected with me has any stock in any institution that has any children in its employ. I think it is only fair to say that, because I think sometimes we want to clear up those individual biases that might exist.

Of course, to my mind there are two causes of child labor. One is the economic cause and the other cause is the inherent limitations that exist in certain types of children.

Now referring to the first cause. Of course, the cost of living, as you gentlemen know, not only as legislators, but as individuals, has been mounting steadily, and in Maryland we feel the cause of that mounting is the enormous sums taken out by the Federal Government.

Our governor in his inaugural address showed that $46,000,000 was taken by the Federal Government for taking care of those affairs that could much better be taken care of by ourselves, and that is apart from the $16,000,000 taken by the State for State purposes.

Dr. Jacob Hollander, who has the chair of economics at Johns Hopkins University has pointed out—and this was four or five years ago, so I suppose the figures are higher now—that in Baltimore the cost of living had gone up 80 per cent since before the war, and instead of Baltimore being a city where the cost of living was very low, it mounted to even higher than other cities and ultimately attained the heights it had gotten to. So I do feel that is something that enters into this discussion.

Now, in regard to the economic pressure. Of course, I think that can be, perhaps, illustrated by a very simple example that is used quite often, I think, and that is the family we could imagine shipwrecked on a desert island with all the strain of keeping body and soul together. Every one in that family would have to do something. They could not favor the children, they could not favor anyone. The little children even we imagine would have to do hard work rather than die. And so that is the situation that confronts us.

Now, I know that you gentlemen all feel that the American people are not exploiters of children. We know very well there is no nation in the world that is more anxious to do for childhood than we would like to do. So I think we always have to go back and see what causes there are.

And in regard to working in the mills, it seems to me that the same analogy could be used.

And then I did propose to say of those conditions in the South, where things were very primitive and there were any number of children and families that just had the bare essentials of existence, sometimes scarcely those; the children were underfed, unwashed, uneducated little savages, and the mills came in there and countless numbers were turned into self-respecting citizens, with more than they ever had before.

And so we do want, as I say, to improve the status everywhere.

Of course, we know that to improve economic conditions is a very difficult thing and, of course, I know that you gentlemen realize that at the expense of the taxpayers we could not say that every child should be supported until it was 18 years of age if the parents were not able to support it. We think that is an unthinkable thing that our overtaxed people would sink under the burden.

Speaking of children that work in the mills, of course, I am not taking into consideration physically weak children. Of course we know there are any number of physically weak children, just as there are any number of physically weak adults, and, of course, we do realize there are some of those very children who should not go to school. They are physically unequal to leaning over a desk for the greater part of the day and doing lessons. But as to all those conditions I think it must be corrected in the community itself, and if you do not correct it in the community itself it will make for a spirit of antagonism, or a spirit that will make for unrest. Those problems have to be handled very carefully.

In Baltimore we have the family welfare association, and in a great many cases they find the families that need help and give it to them, and the families are held together, and the children that can make good in the schools are kept in the schools, and they have had the generous support of the public for a great many years. So for all this I do feel that Congress, of which you are all a part, can do nothing more important than to bring down the tax rate, and I think it would do infinitely more than adding another amendment to the Constitution.

The other cause of child labor I feel, as I say, is inherent in the different types of children.

In Baltimore we have a mental hygiene association. It is connected with the Johns Hopkins University—you know we are all very proud of Hopkins—and they have done awfully good work, and they have made mental surveys of the children in the public schools, and they have found throughout the public school system that there will be a class of children called the "work minded" children. Those are children incapable of receiving higher education. They can work with their hands and become useful citizens, but it is absolutely impossible to give them higher education.

In the past I think we felt that environment would do a good deal to raise the individual level, but scientists have proved that that is not so. But we can adjust the lives of those children so as to make them useful citizens, as I say, which is the very vital thing.

Of course, we do not feel that the taxpayer's money should be wasted on those children keeping them in school until they are 18, and it would not really be fair. But, of course, we do not want to exploit them any more than any other children, but nevertheless

there are things that they can do without any detriment to themselves, and I feel they are happier doing things they can do, and I think that all of us realize how active children want to be, and if we can only give them the things, and we are active in doing that work—I know my own boy, when he was 9 years old, went into the water business with a friend, and I thought it terribly hard. At that time we were all drinking spring water, and he and his friend used to drag a heavy wagon with a dozen bottles of water, and they had to go down a very steep hill and, what was worse, they had to go up that very steep hill, and I told my husband I felt we could not have him doing such hard things, and he was only 9 years old, but he said, "I am afraid you will have to let him do it, because nothing will develop him more than doing the thing he thinks is useful."

I was on the food production committee during the war, and we had the girls going on to the farms in groups. My own daughter did it and she worked, and I think the proof of the fact that they did good work and did hard work was that they were taken by a real dirt farmer any time that he could get them. There were eight of them and they would go on to the farm and thin corn and shock wheat and hoe potatoes, and they did hard work. And the wonderful thing about it was, they kept it up during the war for the two years, and we found that those girls all gained tremendously physically. There were a number of them that came as quite frail girls and before the summer was over they had put on weight, and it was quite remarkable. Of course, they had good nourishing food and everything that went with it. They had early bed hours, which the head of the camp insisted on, and sometimes young people do not like early hours. But that is one of the important things.

And now the other type of child is the type of child whose mind is all right but who has not a moral force. I think we can call it moral force. I think the psychologist says they do not respond to outside stimulus readily; you can not stimulate them; there is nothing in them to make them have ambition, and they are lazy mentally, I suppose, and apparently not especially physically, but slow witted, and if they did not have a definite task to do and were coerced a little, would probably sink back to what they call in the south "poor white trash" sometimes. But, anyway, that is the difficulty. There are those two types.

Now, of course, we all know the saying that you may lead a horse to water but you can not make him drink, and I think that is the case. As Browning says:

> Incentives come from the soul itself, and the rest avails not.

And I think we realize that much in life.

Now, in regard to one other thing, and that is, I do think perhaps you gentleman may not know it quite as much as I do, but there has been quite a change in the attitude of the people to the Government in the last few years. I think that up to the time when they could regulate their own affairs a good deal more than we have been able to lately, they did not criticize as much as they do now, and I do think that this great deal of spying and interference that the Federal Government is doing has created quite a spirit of antagonism, and I think that is one of the things this committee wants to regard.

And I think that these people coming from parts of Europe where the Government has oppressed them were having great resentment against that country, and I think we want to be very careful not to create that kind of spirit in this country.

It has been said that the least governed people are happiest, and Thomas Jefferson said that the function of Government is to keep men from injuring each other and leaving them otherwise free.

If there are any questions I could answer in my very humble capacity, I would be very much pleased to do so.

Mr. FOSTER. I want to ask you a few questions if the Chairman does not want to ask any. When you had your son employed in this water business and your daughter on the farm, did either of those employments interfere with their education?

Mrs. GIBBS. No. I merely meant that physically they were doing things that were hard, and perhaps that we as parents, wanting to protect our childdren, thought perhaps too hard. I thought it was too hard for my boy. He went to school up to 1 o'clock and went out all afternoon, you know, and worked in his particular way, and as he was only 9, it seemed a little bit trying for a soft-hearted mother, that was all.

Mr. FOSTER. And you found that the long hours on the farm and the physical exercise tended to build them up?

Mrs. GIBBS. Yes; we found that from the statistics we kept for the whole State of Maryland. We had these different units and they got girls from schools and colleges and they went into this unit and then went out to the farm in groups.

Mr. FOSTER. Would you conceive the condition of those two children to be quite analogous to the condition of those children working in the textile industry under 16 years of age?

Mrs. GIBBS. I would not. I should think there might be a difference. Then I feel as to my own children perhaps they spend too much time bending over the desk and lessons, which from the physical standpoint were perhaps too long, because they would be in school all day and only have about 2 hours for recreation.

Of course, I think that mill work for children would have to be on a basis where they would not be kept in a cramped position hours and hours, but I think with the expensive machinery furnished the manufacturer would not let children handle anything which was complex and too cramping. As I understand it, they do sort of diversify the tasks that are in keeping with their ability. But all I point out is—I do feel it should be under supervision, but I think it could so much better be under the supervision of public-spirited people in each community who are going to be alive to that thing and going to exert pressure on those manufacturers to see that it is done in the right way.

I think from the physical standpoint if we were all brought up like the colts and calves who run the pastures and never had to stay indoors, perhaps we would be a much better race physically. But, of course, we have two sides to figure.

Mr. FOSTER. Did either you or the organizations you are representing here make a study of the conditions prior to the first Federal child labor law and during it, and then between the first and second child labor laws and during the second and since, to see whether the

existence of the Federal laws has helped to stimulate the States or otherwise?

Mrs. GIBBS. As organizations we have not gone into that.

Mr. FOSTER. Have you, individually?

Mrs. GIBBS. Although our organizations stand against all Federal encroachments and we do not feel that the Government in Maryland stimulates us to anything better. It only antagonizes us.

Mr. FOSTER. Maryland, I understand, is one of the States that under the eighteenth amendment has seen fit in its wisdom to give no enforcement to the law. Are you in favor of that?

Mrs. GIBBS. I am personally very much against the Volstead Act. I have never come out and neither of my organizations has ever come out in regard to that particular thing, and I never have gone on record, especially publicly, in that matter, but my own feeling is it ought to be a case where local self-government can have the kind of law it can enforce.

Now, this same family welfare association that I am speaking of have shown that since the prohibition amendment went into effect they have had more cases of drunkenness than they had in all the years we did not have the amendment.

Mr. FOSTER. Still you have had no State law to try to regulate it, have you?

Mrs. GIBBS. Yes; I think there have been State laws and I think we have regulation; and I was talking to a young district attorney the other day, and he said that if the time ever came that he could get back to his legitimate business, as he called it, and did not have the docket so filled with these people—there was nothing else to do but keep prosecuting them. And I think if you follow our news you will find that almost every day there have been some arrests.

And in regard to that, I want to go over just what I heard a friend of mine, who came from a dry county on the Eastern Shore, say. He said it really was perfectly shocking to him to go down there and find they were breaking the law more than they had ever thought of before. And I think that is the difficulty. And I feel that while we are a very temperate class of people in Maryland who can take care of our own affairs and take care of them very satisfactorily, but, of course, the principle I stand for as an individual and as a representative of these organizations is local self-government, and that is the foundation on which all these principles must rest.

Mr. FOSTER. You referred to Governor Ritchie's reelection as the first reelection of a governor in the State. The Volstead Act was an issue there, was it not?

Mrs. GIBBS. Well——

The CHAIRMAN. I do not think we will go into the Volstead Act.

Mr. FOSTER. Unless the committee sustains the Chair, I am going to inquire of this lady one or two questions as to what she has testified to.

The CHAIRMAN. If you will pardon me a moment, we are not engaged in an inquiry as to the Volstead Act or the election of Governor Ritchie.

Mr. FOSTER. That is what this lady has testified to and I, as one of the committee, am interested in the viewpoint from which these

organizations sent this lady here, and unless the chairman overrules me I am going to ask the witness one or two questions.

The CHAIRMAN. I am not going to overrule anybody.

Mrs. GIBBS. We have one or two dry counties and they voted for Governor Ritchie.

The CHAIRMAN. Pardon me a moment while the Chair is speaking.

Mrs. GIBBS. Pardon me.

The CHAIRMAN. I do not want to be interrupted.

My only reason is that I want to get through with the hearing as soon as possible, and I thought this was aside from the issue. This lady, as I understand it, is here protesting against this as an improper amendment to the Constitution and she is not an expert on child labor or any other subject, but is simply presenting the legal aspect of this case, that is all. And I thought we might save time if we were to pursue the inquiry on that line.

Mr. FOSTER. I do want to ask a few questions, and I want to call the attention of the committee to the fact we have heard the opposition to the bill and we had no trouble taking the testimony, and three weeks prior to that we were required to hustle along with most of our witnesses except Miss Abbott, and I think it is quite in order for me to ask this lady a few questions that are in my mind concerning Governor Ritchie and his election.

Mr. SUMNERS. Personally, Mr. Chairman, I do not want to interpose, but I do not quite see the part that Governor Ritchie's election plays in the determination of the question as to whether or not a constitutional amendment——

Mr. MICHENER. If the gentleman had been here he probably would have seen the relevancy of this testimony.

Mr. FOSTER. She testified Governor Ritchie ran on a certain platform and was reelected.

Mr. SUMNERS. I would suggest such testimony should not be in the record.

Mr. FOSTER. She is here representing the Federation of Democratic Women of Baltimore and announcing the position of the membership in that organization, and she quoted what Governor Ritchie had said in his inaugural address as to how much money Maryland had paid into the Federal Government, and I was leading up to an inquiry as to whether in that inaugural address he had referred to how much money Maryland received.

Mrs. GIBBS. I think we turned down $400,000 for roads because they were going to dictate to us too much.

Mr. FOSTER. I want to ask one further question. You say you are here representing the Federation of Democratic Women?

Mrs. GIBBS. Yes.

Mr. FOSTER. Did they take action on this recently?

Mrs. GIBBS. Yes.

Mr. FOSTER. How recently was that?

Mrs. GIBBS. About a month ago they passed a resolution in which they authorized me as legislative chairman to oppose all further federal encroachment on the rights of the states.

Mr. FOSTER. Did they refer to the child labor constitutional amendment specifically in that resolution?

Mrs. Gibbs. No; because I did not know it was coming up then. We referred to the election bill and, of course, we have gone against the Sheppard-Towner maternity bill, and all further Federal amendments of the Constitution. They are against any other amendment being put in the Constitution.

Mr. Foster. If you will permit one further question on that, I am through. At that meeting of this Federation of Democratic Women was there before them this plank that was in the last Democratic platform? I am quoting:

We urge cooperation with the States for the protection of child life through infancy and maternity care; in the prohibition of child labor and by adequate appropriations for the Children's Bureau and Women's Bureau in the Department of Labor.

Mr. Sumners. My suggestion is the lady has testified to the date when this meeting was had.

Mr. Foster. Recently.

Mr. Sumners. I say she has testified to that date and the gentleman has the date when the Democratic platform was written.

Mr. Foster. Yes; the last Democratic platform is that which I have read. Was that discussed in your meeting?

Mrs. Gibbs. No; we did not discuss that. That was some time ago. There is going to be another one soon.

Mr. Foster. It is the last one I have quoted from.

Mrs. Gibbs. Perhaps the other one will change this when Maryland has its say.

The Chairman. I ask the stenographer to note from the Chair that no limit whatever was placed upon the presentation by the proponents of this measure of any evidence or testimony which they might have, but because of criticisms recently made that there was delay in action on this particular amendment, the Chair has thought it wise, and without objection upon the part of the committee until this moment, to hold the hearings as continuously as possible with a view to reaching a determination as soon as it would be practicable.

Mr. Foster. To which I, as one member, have no objection. I only wish we had started sooner.

The Chairman. I thought you said that in a censorious way that reflected upon the chair, and I do not think it is deserved. I am doing the best I can with the situation and hope that the hearings will be closed as soon as possible, and if the proponents have anything further to add, why I, for one, would be glad to hear them.

STATEMENT OF MISS MARY G. KILBRETH, PRESIDENT OF THE WOMAN PATRIOTIC PUBLISHING CO.

Miss Kilbreth. Mr. Chairman, gentlemen of the committee: I am appearing on behalf of the Woman Patriot Publishing Co. We publish a little political paper and send out bulletins on current legislation affecting the Constitution.

We are working in the political field now; that is, in the field of legislation. But we go further than that. We take the measures as far as we are able into the courts. That is, we go to the extreme limit in our stand on the constitutionality of legislation.

There seems to be suspicion about the motives of the opponents of this measure, so I will explain that the group of women I represent

are not financed by anyone. When our paper does not pay expenses we send out an appeal for funds, and if the appeal does not meet our needs we put our hands in our own pockets.

We are no more connected with labor than we are with manufacturers.

As merely part of the consuming public we are equally hit—to be colloquial—by manufacturer if he is predatory as we are by a trades-union if it is predatory, holding no brief for either.

Much has already been said about the State rights issue involved in the proposed child labor amendments. That has been covered, I think.

As women, we are particularly concerned in violation of the right of castle aspect of this amendment—possibly even more than in any other constitutional aspect of it. As women, that is very immediate to us. And we are opposed to the vast increase in bureaucracy and Federal job holders the administration of this measure would entail.

Many people are beginning to feel very much toward Congress as American colonists felt toward King George when they complained:

> He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

We would have the Federal Government keep within the bounds which we, the people, prescribed for it. Up to that time it was the only government under the sun which was created by the people. It is the creation of the people. We were not granted the rights we have under our Government. They were not concessions wrested from some higher power, as the barons wrested the Magna Charta from King John. We ourselves prescribed the limits of the Federal Government, and we want it kept by our lawmakers within those limits.

First, as to the good of the child. I think it was the Chief of the Childrens' Bureau, testifying before this committee, who divided public opinion on this subject into two classes—those who wish to protect the child and those who wish to exploit the child.

I resent that. Nobody would dare to-day to exploit the child. At least no one would dare to do it openly. But I believe under this amendment there would be danger of concealed exploitation.

If Congress passes this amendment, you will deprive the child of all the practical moral training inherent in work as against a purely theoretical brain stuffing from books—that is going on in our schools.

One of the witnesses—I think his name is Miller—made a profound statement before this committee as to the two classes of children—that some are on the intellectual plane, and others solely on the practical plane. He said the practical-minded child felt an "inferiority complex" under our present intellectual standard of school education.

If you train that child technically to be an expert with his hands he will not feel any inferiority in relation to the boy who is merely intellectual.

We are oppressed with white collarism. It is absurd that we Americans, who are supposed to be a democracy, have a contempt for manual work. I think the schools are inculcating that as a result. We have few expert craftsmen and have to import them. We have to import expert craftsmen and skilled labor.

The boy or girl who arrives at the age of 18 having had no work training has lost the most valuable years of his or her life. Most boys and girls learn more from the empirical education of work than they do from book education in the schools. We are not an intellectual people. In purely intellectual fields we are inferior to foreign nations. But thus far we have been a resourceful, self reliant, energetic people, and I contend that this amendment would result in the practical-minded children becoming idlers and loafers, and by the implied stigma on work in this amendment there would be more overcerebralized young intellectuals from whom the radicals are recruited and who are the curse of society than there are at present.

As to the specific provisions of the amendment. In House Joint Resolution 66 introduced by Mr. Foster of Ohio and indorsed by the Children's Bureau, and the Women's Joint Congressional Committee, section 1 reads:

> The Congress shall have power to prohibit the labor of persons under the age of 18 years and to prescribe the conditions of such labor.

I call attention to the use of the word "labor" instead of the word "employment," used in the other child-labor amendments. The word "labor" was substituted for "employment" by the chief of the Children's Bureau. She stated her reasons before the Senate Judiciary Committee last year. Miss Grace Abbott, at the Senate hearings (January 10, 1923, p. 38), said in part:

> * * * The children often work with their parents, and are not on the pay roll, and are not held to be employed, and we feel that it is a dangerous word to use. * * *
>
> Senator JOHNSON. That is, you prefer "labor."
>
> Miss ABBOTT. Yes. * * *

The word "employment" is taken to mean working for pay.

That point has been sufficiently brought out. This provision will give the Children's Bureau officials inquisitorial power that must result in the nullification of the fourth amendment. The daughter could be prevented helping her mother with the housework and the son forbidden to help his father on the farm if this amendment were strictly and literally interpreted, and no doubt it would be so interpreted, judging by the interpretation and administration by the Children's Bureau of the last Federal act—allowing invasion of the privacy of the home.

Mr. FOSTER. What do you mean by the last invasion of the privacy of the home?

Miss KILBRETH. The maternity act.

Mr. FOSTER. Do you also think the Volstead Act invaded the home?

The CHAIRMAN. We will not discuss the Volstead Act with this witness.

Mr. FOSTER. Unless the committee overrules me I will ask the lady in this connection, do you consider the Volstead Act is an invasion of the home, if you care to answer it?

Miss KILBRETH. Mr. Chairman, I am representing officially a company. At the time that the eighteenth amendment was passed we were not in the general political field; we were not in politics, and we have taken no stand whatever on either the eighteenth

amendment or the Volstead Act. As I am speaking for this company, I can not reply with my personal opinions.

Mr. FOSTER. I will withdraw the question if you do not want to answer it.

Miss KILBRETH. Mr. Chairman, I have no right to speak on that subject here. If the gentleman wishes to know my personal opinion, I will answer with pleasure later. Mr. Chairman, is that a sufficient answer?

The CHAIRMAN. Yes.

Mr. FOSTER. It was my question, Madam, and I asked if you cared to answer it. I thought perhaps you would have no objection to answering as to whether you considered it an invasion of the home. I asked you whether you considered that an invasion of the home along with the maternity bill?

Miss KILBRETH. The maternity act involved communistic government interference in the domestic relations, and so does the proposed child-labor amendment. They are closely allied.

Mr. FOSTER. And as an individual you do not care to answer this question?

Miss KILBRETH. I will be glad to answer it afterwards, when I have finished my testimony for the Woman's Patriot Publishing Co.

If the chairman will excuse me, I do not consider this germane to my discussion. We are interested in the subject from the woman's standpoint. That is the standpoint from which I am trying to speak.

This amendment would authorize the prohibition of a child, a girl, making the beds or washing the dishes. That is labor. Or the boy helping his father milk the cows on the farm. That is the only interpretation you can place on that special statement of the chief of the Children's Bureau. It is on page 38 of this report.

The CHAIRMAN. Page 38 of what?

Miss KILBRETH. Of the report of hearings on the child-labor amendment before the Senate Judiciary Committee in January, 1923.

Mr. FOSTER. Of the Senate hearing.

The CHAIRMAN. Oh, the Senate hearing. All right.

Miss KILBRETH. What I have to say I am saying with official documents.

Mr. SUMNERS. Is that a hearing at this session or at the last session?

Miss KILBRETH. The last session. It throws light on the intentions of the proponents. There has been some discussion as to the probable Federal standards in connection with the administration of this bill. The chief of the Children's Bureau, in a signed article in the radical "New Majority," of September 1, 1923, and in the "New York Call" (Socialist), of September 23, 1923, declared:

> A large part of the civilized world has adopted not only a national standard but an international standard with reference to the employment of children. The most important nations of Europe have joined in the child-labor conventions drafted at the International Labor Conference (of the League of Nations). * * * Ought it not to be possible for Congress to say that in no section of this country will children be allowed to work below standards now established by international agreement among many nations?

Consequently, we Americans shall not only have two governments on our backs; that is, the State laws and the Federal laws, but it is

actually further proposed to make us obey the standard of "many nations" of Europe.

Mr. FOSTER. Where did she say that?

Miss KILBRETH. Right here.

Mr. FOSTER. I listened very closely. She said "below standards now established by international agreement," did she not?

Miss KILBRETH (reading):

Allowed to work below standards now established by international agreement among many nations.

Mr. FOSTER. Yes.

Miss KILBRETH. House Joint Resolution 66 confers a blanket grant of power as to administration. This statement of the bureau chief, who would administer it, throws light on her intentions.

Mr. FOSTER. Miss Abbott does not say we are to join with Europe. She says we ought to have a standard not below the international standard.

Miss KILBRETH. There would be State standards which must not fall below the Federal standards, and if this amendment becomes law our Federal standards will be regulated by international standards of many nations. Many of those standards are totally at variance with our social and political ideals.

Section 2 of the amendment reads:

The reserve power of the several States to legislate concerning the labor of persons under the age of 18 years shall not be impaired or diminished except to the extent necessary to give effect to legislation enacted by the Congress.

The age limit of 18 years has not met with unanimous support by the proponents. At the women's industrial conference called by the Women's Bureau of the Department of Labor, in January, 1923, addressing the conference, Miss Abbott said:

Now, I find, and I am not alone in that, that a good many people get excited about the phrase "children under 18 years of age," and I want all of you to have that quite clear. It may be that we shall decide that it is possible to change "under 18 years of age." * * *

I hope this is entirely clear, because one or two have spoken to me about it and have thought that the amendment prohibited the employment of children up to 18 years of age; and, of course, we have not thought of asking Congress to do that. I presume the most we could expect immediately would be a little more than the standards of the first and second Federal child labor laws.

There you are told they had not thought of asking Congress to enforce the 18-year age limit.

Here, on the other hand, is a leaflet distributed by the Women's Trade Union League, also proponents of this amendment, which states:

The amendment must clearly give Congress power to legislate for boys and girls until they are at least 18.

Mr. FOSTER. What page are you reading from?

Miss KILBRETH. From the back. The pages of the folder are not numbered.

Mr. FOSTER. Are those two inconsistent?

Miss KILBRETH. That is for the committee to decide. I have read the two statements.

There are two other child-labor amendments to which I want to call attention. House Joint Resolution 66, in section 2 at least, refers to the reserve power of the several States.

But House Joint Resolution 4, which is the child-labor amendment generally attributed to Mrs. Florence Kelly, is wholly Federal. It proposes to amend Article X of the Bill of Rights. It makes no pretense of State rights, but lodges all the power in Congress.

Mr. YATES. What does that say? Is it brief?

Miss KILBRETH. Yes. Do you wish me to read it?

Mr. YATES. Yes.

Miss KILBRETH (reading):

The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States, respectively, or to the people: *Provided, however*, That the Congress shall have power to regulate or prohibit throughout the United States the employment of children under 18 years of age.

That wipes out the rights of the States completely as regards child labor.

Mr. FOSTER. Would it interrupt you if I called your attention to 184, concerning which Miss Abbott testified?

Miss KILBRETH. I was coming to that. House Joint Resolution 184 goes further than Mr. Foster's earlier Resolution 66. It is more autocratic in language. It cracks the Federal knout over the States. Section 1 of House Joint Resolution 66 gives Congress—

power to prohibit the labor of persons under 18 years and to prescribe the conditions of such labor.

House Joint Resolution 184 gives Congress—

power to limit, regulate, and prohibit the labor of persons under 18 years of age.

This means the same as "prescribe the conditions," but it is harsher in language.

Again, section 2 of House Joint Resolution 66 is less harsh:

The reserve power of the several States * * * shall not be impaired or diminished except to the extent necessary to give effect to legislation enacted by the Congress.

Section 2 of House Joint Resolution 184 provides that—

The operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress.

There is one important difference between House Joint Resolution 66 and House Joint Resolution 184. No age limit to State legislation is named in House Joint Resolution 184, whereas House Joint Resolution 66 specifies 18 years of age. It is pointed out to us by lawyers that the question might be raised in the courts under House Joint Resolution 66 whether the States could go beyond the Federal 18-year age limit of section 1, whereas under section 2 of House Joint Resolution 184 the States could legislate up to the 21-year limit, at which age any further inhibition conflicts with the right of contract.

Mr. FOSTER. Before you leave that I think you are entitled to this statement: I reintroduced House Joint Resolution 184 after consulting with several prominent Democratic Senators who were quite strong for State rights, thinking House Joint Resolution 184 was in line with their platform declaration and was better for those States who were insisting on State rights. That was the pur-

pose. Perhaps, from your conclusion, it has not served that purpose, but that was the motive.

Miss KILBRETH. We would think it at least doubtful. I can not quite understand the position of labor on this amendment.

We contend—and we have worked on this subject now for about a year—that this blanket grant of power would be followed by a block of most oppressive laws, with inquisitorial powers, which would eventually lead to nullification of the fourth amendment of the Constitution.

Yet article 4 of the Bill of Rights is always more precious to the poor than to the rich. In the maternity act and in the proposed child-labor amendments it is solely the poor man's right of castle that is sacrificed. The rich are not affected at all, nor their homes invaded.

There is no question that his right of castle is the right htat the poor man is most sensitive about. Nothing so quickly inflames an audience in popular or radical forums. In the campaign in Massachusetts against the maternity act, when it was explained to women what invasion of their homes might take place under that act—especially among the poor—they were wild.

Mr. FOSTER. May I ask you a question?

Miss KILBRETH. Yes, indeed.

Mr. FOSTER. Do you know why the Federation of Labor, which represents the poor fellow, has never been able to grasp your point, but has uniformly indorsed this child labor law?

Miss KILBRETH. No; I do not know.

Mr. MONTAGUE. What is your criticism of the attitude of labor?

Miss KILBRETH. I am not making any criticism. I merely say——

Mr. MONTAGUE (interposing). You say you do not understand it.

Miss KILBRETH. From their angle of self-interest I do not understand it.

Mr. MONTAGUE. I do not wish to interrupt you.

Mr. FOSTER. In my district half of my fellows are coal miners and members of the American Federation of Labor, and they are year after year asking for the passage of a child labor bill.

Miss KILBRETH. I am coming to that. I have some documents from the Socialist Party.

Mr. FOSTER. I would like to hear them, because I live there.

Miss KILBRETH. I may speak further about the effect on working women and children of this proposed amendment.

We contend that this would throw underground—into the sweat-shops—much labor that is now done openly in the factories—shops where it can be inspected. That is what I do not understand about in the position of labor.

If you make oppressive laws, the American people simply will not obey them. If they do not like a law, they evade it; they do not defy it; they get around it. It is deplorable but true.

If you make oppressive laws, restricting the work of women and children, or of children alone, and the alternative for them is to starve or not to have the bare necessities of life because the Federal Government tells them they can not work, I predict they will go right ahead working. And since they are forbidden to work openly they are going to work in their homes. And in order to find out where they are working and under what conditions you will have to

set up a system of espionage in this country—an inquisition—that is going to lead to I do not know what.

The chief result that has been accomplished so far in the amelioration of industrial conditions has been through the inspection of factories and the improved ventilation, cleanliness, sanitation of workshops, and in getting rid of sweatshop work, as far as the public has been able to effect it. There has been an earnest effort on the part of both labor and the public. The factories are in full view and subject to public approval or disapproval. An insanitary factory would not be tolerated.

I will quote Mrs. Kelley concerning home work. By home work is meant industrial home work, not domestic housework, which is also included in the inhibition in this amendment.

This statement was made at the Women's Industrial Conference in January, 1923. Mrs. Kelley was formerly an inspector, I believe; I don't remember exactly what her position was, but she is an authority on labor conditions.

Mr. YATES. She was a deputy factory inspector.

Miss KILBRETH. Mrs. Kelley (formerly Mrs. Wischnewetzky) says:

It is painful to be still talking about an evil that has been recognized for more than half a century and to have to confess that this evil does not grow less. Although it changes its character somewhat, it does not really grow less, following the efforts made with great persistence and with great variety, first, in the hopeful expectation of abolishing it, and later (when that proved impossible under our form of government)—

Probably this applies to the right of castle—

attempting to control it and to minimize the harm that it entails. Neither by organization nor by legislation can we claim success. * * *

It seems a monstrous thing that we can not go on and prohibit this; but long experience has taught us that no way has yet been invented of getting around the constitutional difficulties. (Proceedings Women's Industrial Conference, p. 47.)

This undoubtedly refers to the fourth amendment. If this work still persists in spite of all efforts to lure it out by improving the conditions of outside work, how enormously the evil will be increased. Should there be a law prohibiting labor until 18 years of age, regulated hours, and higher pay?

The question has been raised as to the cost of enforcing a child-labor amendment. There is no way of even surmising on that, but Mrs. Kelley throws some light on it at the Women's Industrial Conference of 1923:

Mrs. KELLEY. We had hopes of regulation by inspection.

There is not money enough in the richest State to pay for inspection that would really guarantee so extensive an industry as home work is in Connecticut, New York, New Jersey, and Pennsylvania. * * *

So far we have to register failure. No one can say that the people in the Eastern States have not made patient, long-continued efforts to control these conditions. More hundreds of thousands of dollars are squandered in each passing decade in sham inspection. This inspection can not be anything but sham, though by means of it the thoughtless public is lulled into a sense of security. Everywhere registration and inspection has in the long run failed.

Describing the distribution from New York of materials for home work in New Jersey, Mrs. Kelley says:

We might as well try to follow all the mosquitoes hatched in the New Jersey meadows as to follow the trucks and the parcel post to a line where the goods are that come from Manhattan. (Ibid., p. 50.)

Mr. YATES. I do not want to interrupt, but what document are you reading from?

Miss KILBRETH. From the proceedings of the Women's Industrial Conference, page 50.

The CHAIRMAN. If you will allow the witness to go on and read the excerpts, it will be better to have them in the record than to merely have the reference to them.

Mr. YATES. I am anxious to have the witness go on; I did not mean to stop her, but I am only asking what this publication is.

The CHAIRMAN. I think it is very important that you have the excerpts in the record where we can more conveniently refer to them.

Mr. YATES. I just wanted to know what the document was.

Mr. FOSTER. We might want to read the paragraph before and the paragraph behind the ones she reads.

Miss KILBRETH. That is the kernel of it.

The CHAIRMAN. Let her read the excerpts.

Mr. FOSTER. If she states what she is quoting from and if we have a record of that and have the book, we can look at it.

Mr. YATES. I think I was in my rights in asking what documents she was reading from.

The CHAIRMAN. Certainly.

Miss KILBRETH. I am not presenting anything unfairly. I have brought all documents for the committee's inspection.

Mr. FOSTER. There was no intimation of that kind.

Miss KILBRETH. I understand. I want my testimony to stand without question. Mrs. Kelley says specifically—this is page 50 in the same proceedings:

> The trade organization of home-working mothers is insuperably difficult.

This confirms our contention that organized labor is going to lose tremendously both as to the welfare of the workers and of the unions. All this work is thrown back into the homes without any labor restrictions, or any possibility of stabilizing wages. The unions will lose all home laborers and women and children sweated in the homes will be worse competitors than they are in the open.

Mr. FOSTER. In that connection may I ask one question?

Miss KILBRETH. Yes.

Mr. FOSTER. You evidently have been active in matters of this kind. Have you ever exercised yourself in behalf of improving the labor laws? Have you ever appeared before any legislative body or organization in an effort to improve labor laws?

Miss KILBRETH. I have not been active in labor matters. They do not come within my sphere of work unless they involve constitutional and social issues.

Mr. FOSTER. You spoke of being in Massachusetts. I wondered if you had ever taken any part in any place in behalf of any improved labor law?

Miss KILBRETH. No; I have only just recently taken up legislative work. The only occasion on which I took any part in labor legislation was in my home legislature of New York, when I went to Albany to oppose a group of so-called welfare bills, in 1917, I think. I considered the bills an outrageous injustice to women and I fought them in fairness to working women. I was not president of this company at that time.

Mr. FOSTER. Principally what I was trying to get at, in the legislative experience you have had here and elsewhere, has not the position that has been taken by you been different from the position that organized labor has taken?

Miss KILBRETH. I have said distinctly we are neither affiliated with organized labor nor with manufacturers.

Mr. FOSTER. My question was: Has not your position concerning legislation, so far as you have taken a position concerning legislation, been inconsistent with the position taken by labor?

Miss KILBRETH. Not that I am aware of. Our stand on legislative measures is not influenced by the attitude of labor or any faction or party toward those measures. We are concerned only with their constitutionality.

Mr. MICHENER. You are here representing whom to-day?

Miss KILBRETH. I thought I stated that very clearly.

The CHAIRMAN. You did.

Mr. MICHENER. I did not hear it.

Miss KILBRETH. I am representing the Woman Patriot Publishing Co.

Mr. MICHENER. Right there, just one word. This woman's publishing company, is it an incorporated company?

Miss KILBRETH. Yes; it is incorporated.

Mr. MICHENER. Where is the publication issued?

Miss KILBRETH. In Washington.

Mr. MICHENER. How long ago were you incorporated?

Miss KILBRETH. I do not know the year, because that was not done under me. That was done under the previous president.

Mr. MICHENER. I want to know about how long this publication has been doing business.

Miss KILBRETH. This special publication—under this exact name—began April, 1918. We formerly had another name but were differently organized.

Mr. MICHENER. What was the former name?

Miss KILBRETH. The former name of the publication was The Protest. It was not at that time an independent paper; it was the official organ of our organization at that time. Our general political work dates back——

Mr. MICHENER. I just asked the former name, please.

Miss KILBRETH. Oh, yes; Woman's Protest.

Mr. MICHENER. Woman's protest against what?

Miss KILBRETH. The Protest was the official organ of the National Association Opposed to Woman Suffrage.

Mr. MICHENER. That answers it.

You said you were sending out bulletins. Where do you get your list of those to whom you send your bulletins?

Miss KILBRETH. Chiefly to certain subscribers to our papers. Occasionally we send to presidents of bar associations.

Mr. MICHENER. My purpose is not to go into your private business——

Miss KILBRETH. Oh, certainly.

Mr. MICHENER. Let me finish. You appear here representing somebody except yourself and——

Miss KILBRETH. I do.

Mr. MICHENER. Pardon me. This committee has a right to know——

Miss KILBRETH. Certainly.

Mr. MICHENER. I am talking.

Miss KILBRETH. Excuse me.

Mr. MICHENER (continuing). Who you represent and what your purposes are, and if you answer those questions directly——

Miss KILBRETH. Will you tell me just which one you want to know? What the paid circulation of our paper is, first?

Mr. MICHENER. I am not interested in the details.

Miss KILBRETH. I thought that was what you asked.

Mr. MICHENER. I asked the general circulation. Do you send out 5,000 or 10,000 of those bulletins?

Miss KILBRETH. The bulletins?

Mr. MICHENER. Yes.

Miss KILBRETH. Generally not more than 50 to 100. We send them generally to lawyers, if some emergency arises.

Mr. MICHENER. That is an answer.

Miss KILBRETH. Would you like to know our board of directors? Our directors are Mrs. B. L. Robinson, Cambridge; Mrs. John Balch, Boston; Mrs. Randolph Frothingham, Boston; Mrs. Frederick L. Longfellow, New York; Mrs. Rufus M. Gibbs, Baltimore; and myself, Southampton, N. Y., my residence. Those are the women who control the policy of the paper. I made a mistake. Mrs. Longfellow is on our finance committee—not on our executive board.

Mr. MICHENER. Of the organization?

Miss KILBRETH. There is now no organization.

Mr. MICHENER. Well, of the paper.

Miss KILBRETH. We disbanded the National Association Opposed to Woman Suffrage after the proclamation of the nineteenth amendment. We held our antisuffrage organization until the nineteenth amendment was carried to the Supreme Court. The Supreme Court ruled against us in one of the most drastic decisions that it has ever handed down. Consequently that issue is closed and some of us have gone now into the general constitutional field.

Mr. MICHENER. That answer is sufficient.

Mr. FOSTER. May I follow with one question?

Miss KILBRETH. Yes, sir.

Mr. FOSTER. I asked you a question earlier in your testimony which you preferred at the time not to answer because you were not here individually but were here as representing this organization.

Miss KILBRETH. Company; yes.

Mr. MICHENER. Now, your remarks to-day—are they because of the action of this board of directors which directed you to come up and take this position?

We held a meeting of our board of directors here in Washington on December 11. At that meeting we agreed to oppose all measures that came in certain classes of legislation that we considered unconstitutional and to back other measures.

Mr. FOSTER. What I am getting at, in the meeting of your board of directors——

Miss KILBRETH. December 11.

Mr. FOSTER (continuing). Resolutions were passed defining the line of activity.

Miss KILBRETH. Yes.

Mr. FOSTER. And those directors whose names you read, were they all present?

Miss KILBRETH. They were not all present. We had a quorum present. Mrs. Gibbs, who spoke here to-day, was absent.

Mr. FOSTER. Was Mrs. Frothingham present?

Miss KILBRETH. Yes. Mrs. Frothingham, Mrs. Robinson, Mrs. Balch, and I were present, which made a quorum.

Mr. FOSTER. That is three?

Miss KILBRETH. No; four. I am ex officio a member of the board.

Mr. FOSTER. At that meeting was any action taken by resolution that incorporated child labor other than your four principles you refer to?

Miss KILBRETH. We passed resolutions on these four classes of legislation, and specific measures were not named in the resolutions.

Mr. FOSTER. I did not ask you that. In the meeting where the four members were present was there any resolution passed incorporating child labor?

Miss KILBRETH. No resolution was passed solely on the child labor amendment.

Mr. FOSTER. But you considered it came within those four classes?

Miss KILBRETH. Positively. This was one of the chief measures which we discussed.

Mr. FOSTER. You are president of that corporation?

Miss KILBRETH. I am president.

Mr. FOSTER. And your last meeting was December 11?

Miss KILBRETH. The meeting at which the resolution on congressional legislation, at which I was present. There is no question about the feeling on these bills. Routine meetings are held in Boston. We have been considering them for months.

The CHAIRMAN. Madam, may I ask you a question?

Miss KILBRETH. Yes, sir.

The CHAIRMAN. Was the child labor amendment, as it is called, discussed at that meeting?

Miss KILBRETH. Yes; at length.

The CHAIRMAN. So your resolution covered that as well as the others?

Miss KILBRETH. Absolutely. It was discussed at the meeting and discussed explicitly. We have been considering our congressional program of work since August.

Mr. DYER. Have you the minutes of that meeting?

Miss KILBRETH. I can bring them.

Mr. DYER. I mean of the legislation you said was all right.

Miss KILBRETH. Yes. The chief measure which we are backing is the Wadsworth-Garrett amendment giving the people a voice in the changes in this fundamental law. We oppose any more changes in the Constitution being imposed on the Nation, clamped down irrevocably over the heads of the people without the people themselves having any voice whatever in these changes. We hope, in fairness to the people, that the Wadsworth-Garrett amendment will be transmitted to the States ahead of all other amendments. There seems

to be a disposition to hurry that amendment through the committee on the part of the proponents.

Mr. FOSTER. Were you here prior to this week?

Miss KILBRETH. I was here two days.

Mr. FOSTER. I want to state this in my connection: My whole position has been—we reported out one in the last month of the last session——

Miss KILBRETH. Yes; I know.

Mr. FOSTER. I am trying to profit by our experience then.

Miss KILBRETH. We want the Garrett-Wadsworth amendment as protection to the people. We were beaten in the Supreme Court on our amendment on all the contentions. The people themselves must protect their own interests now.

Mr. DYER. Which one was that?

Miss KILBRETH. The nineteenth amendment.

Mr. DYER. Women's suffrage?

Miss KILBRETH. Yes.

Mr. DYER. What about prohibition?

Miss KILBRETH. We were not in general politics at the time that came up. We took no position on that. I am afraid the time is going very quickly and I want to take up the position of the Socialist convention on child labor.

Mr. FOSTER. Just as you are leaving your newspapers, I take it you are on the pay roll as an officer of that company?

Miss KILBRETH. No; I am not. I am very much out of pocket on my work.

Mr. FOSTER. You have no salary on the records of your company at all?

Miss KILBRETH. I am very much out of pocket on our work. We all are.

Mr. FOSTER. Independent of "out of pocket" there is no resolution on your minutes giving compensation of any kind whatever to the position you occupy?

Miss KILBRETH. Absolutely not. I have never in my life received any pay whatever, direct or indirect, either in the form of salary or as gifts for work I have done.

Mr. SUMNERS. I object to that. I want to take this position and submit it to the judgment of the committee: I conceive that the things that will perhaps be most helpful to us are the statements of reasons which to our judgment seem sound as to why this measure ought or ought not be reported. If they should come from the most obscure source or from an interested source, what is the difference?

Mr. FOSTER. I have no controversy with the gentleman from Texas. He missed the early part, and I am not interested in that except the lady took the position that individually she was not going to give an opinion except as the representative of this organization.

Mr. YATES. I am not taking any exception, but as long as I am a member of this committee I think I have a right to ask a proper question.

Mr. SUMNERS. Yes; I was only addressing myself to the soundness of the committee's judgment.

Miss KILBRETH. Has any one else been questioned whether they received a salary or not? I think not. Many of the proponents of

this amendment are salaried workers. If that question is raised in connection with me I contend that everybody who has appeared before this committee should be put on record as to whether or not they draw salaries.

The CHAIRMAN. That is perfectly fair.

Mr. FOSTER. I have not any objection.

The CHAIRMAN. You know these questions are asked for the purpose of affecting motive and trying to discredit your statements. I entirely agree with the gentleman from Texas—that what we ought to do is to base our judgment on the sufficiency and propriety and strength of the reasons given us for this amendment either going through or being halted.

Mr. FOSTER. There was no question I asked attempting to discredit your testimony whatever.

Miss KILBRETH. Discredit it. My testimony is based on official sources which are here for the committee's inspection.

Mr. FOSTER. And I have not attempted to discredit it, I want you to understand.

Miss KILBRETH. You couldn't discredit it. I have taken every precaution against that.

Mr. FOSTER. I did not say I could, but I say I had no desire to.

Miss KILBRETH. I wish now to read from the proceedings of the socialist national convention held in Chicago in 1908 to show the attitude of that group of working men and women on child-labor legislation. There were two factions at the convention—the "impossibilists," the extremists, out for straight revolutionary measures which could not yet succeed, and the "immediate demands" faction, who were opportunists and for taking inch by inch whatever they could get and gradually fastening their doctrine insidiously on the Nation. And the so-called impossibles were beaten every time, because Morris Hillquit and the great socialists who were controlling the convention said, "Don't make yourself a laughing-stock; don't make yourself ridiculous." All those socialists were attempting to do—and I have the proceedings here and challenge anyone to contradict this——

During the debate on section 7 of the platform entitled "Improvement of the industrial condition of the workers," part (d), "by forbidding the employment of children under 16 years of age" Delegate Joseph D. Cannon, of Arizona, moved to amend it by making it 18 years of age.

Section 7 of the platform was entitled "Improvement of the industrial condition of the workers." Part (d) of that section read, "By forbidding the employment of children under 16 years of age." At the opening of the debate on part (d) Dr. Joseph D. Cannon, of Arizona, moved to amend it by making it 18 years of age.

Delegate Marguerite Prevey, a delegate from Ohio, stated:

> I want to speak in opposition to the amendment offered that the age be made 18. We as Socialists fully realize that you can not legislate the child labor problem out of existence. We fully realize that as long as we have the capitalist system where the father of a family does not get wages sufficient to support the whole family, the children must go into the shops and factories to earn a living, and that they can't be kept at school until 16. * * *
>
> That is a condition that you can not legislate out of existence until the head of the family gets the full product of his labor. I am opposed to the amendment for that reason. Don't let us make ourselves ridiculous. We should understand the child labor problem better than to apply such an amendment to this proposition. (Proceedings National Convention Socialist Party, 1908, pp. 206–207.)

Mr. FOSTER. That is 16 years ago?

Miss KILBRETH. She was opposing the amendment to raise the age limit to 18 years.

Delegate H. L. A. Holman, of Texas, speaking on the same subject said:

I am opposed to that clause in the immediate demands. If that clause would say that we opposed child labor and make a provision then so that the State should clothe and care for the child, then I would be in favor of that clause. But to make no provision for it seems really worse to me than the mercy of the capitalist class in employing them so that they may get food and raiment. If they will have it that the State shall make provision to take care of the child and feed, clothe, and educate it, then I am for the resolution; otherwise, I am against it. (Ibid, p. 207.)

Delegate Edward Moore, of Pennsylvania, said:

Four years ago, at the behest of the trade-unionists, we got a law adopted in the State of Pennsylvania prohibiting the employment of children under 18 years of age in the bituminous coal mines. It was scarcely on the statute books before the district of Pittsburgh of the United Mine Workers of America passed a resolution denouncing the law. I have here to back up what I say a member of the United Mine Workers of the State of Pennsylvania coming from that district. (Ibid, p. 208.)

Delegate Morrison, of Arizona, said:

I am opposed both to the original and to the amendment—that is, to both the 16-year and the 18-year age limit—sorry as I am to say it. * * * Of the two I would rather have the original, and I will tell you the reason why. My comrade told us about his early days and about how he worked. Well, I think I can tell you something, too, comrades, of early struggles. Left alone in the world when I was 9 years of age in the frozen regions of Minnesota, I wished to know something about the world and went to work in the iron mines at 11 years of age. I think I know something of what it is to bow my neck to the taskmaster. And I will say, comrades, if I hadn't had a chance to work until I was 18 * * *. I would have starved to death. Unless there should be some provision in that, that we are going to have the power to feed these poor devils that can't work, we had better shoot them. (Ibid, p. 210.)

The amendment raising the age to 18 was voted down and industrial demand (*d*) of section 7 of the adopted platform stood: "By forbidding the employment of children under 16 years of age." (Ibid, p. 323.)

Gentlemen, you can not get away from the fact that the next step, if you pass this amendment, will be the support of the children by the State, and you will have made the greatest stride toward communism which you have made since you passed the maternity bill.

Mr. FOSTER. When we had the two Federal child labor laws that were declared unconstitutional, did you detect the tendency then to feed them?

Miss KILBRETH. I am very sorry I was not working on that subject then. I have been very remiss.

Mr. FOSTER. You have the statistics that were compiled by the different administrations.

Miss KILBRETH. They were State laws, if they were oppressive.

Mr. FOSTER. Pardon me, these were Federal laws. We had two Federal laws, each declared unconstitutional.

Miss KILBRETH. I am speaking of what I think is implied in this. Here are the statements of working men and women themselves. I would not have you believe that on my dictum.

Mr. FOSTER. Twelve years after the statements were made, and we have had two laws in the meantime.

Miss KILBRETH. They were in operation only a short time. The Federal law that was declared unconstitutional in Hammer *v.* Gagenhart was indorsed in this same 1908 Socialist convention as industrial demand (e) "By forbidding the interstate transportation of the products of child labor * * *." (Ibid, p. 323.)

Then he goes on and says:

The amendment raising the age to 18—

This is all reported down here—

The amendment raising the age to 18 was voted down and the industrial demand of the program stands.

This is as it was passed:

By forbidding the employment of children under 16.

Now, a more recent statement than that—that was passed by acclamation. It was not necessary even to take a vote. That is the way the Socialists thought. Those people, wage earners, not people drawing salaries, but those are the wage earners.

Here is a recent statement of Representative J. D. Beck, a Member of Congress from Wisconsin, a speaker at the Women's Industrial Conference of June, 1923. His statement is on page 126 of the proceedings. I saw it a minute ago.

I have had a little experience in enforcing labor legislation and in enforcing the child labor law in particular. I have had occasion to wonder a great many times whether we were not almost taking the bread and butter out of the mouth of the child and the parent by refusing a permit to work. And the same is true in the case of women.

Whatever mistakes humanitarianism may actuate true proponents, it is clear that radicals count on it to further their ends. At the Socialist Hall of 1908 Delegate Dorimo, of Washington, said:

We are just as much opposed to children working on farms as we are to children working in the factories, and we stand to abolish the whole present system of production. (P. 186, proceedings.)

Now, they admit that if you pass these laws prohibiting the child from working on the farm or doing any of these things, those people wish to abolish the whole present system of production.

Mrs. Kelley says that in that conference—she said in reply to a question that such and such things would have to be done "so long as we have the competitive industry," which means so long as we have private ownership, as long as we have not gone over to communism.

Now, here I want to quote from this book. These are the resolutions and theses of the Young Workers' League of America. This is the communistic youth outfit. It is absolutely under the auspices of Moscow, and it is also under the overground party, the Workers' Party of America, the Communist Party, you know, and this is simply their infant offspring. They say from the theses and resolution, page 12, it was their second annual convention; it is a young thing, you know. The militant program of the Young Workers' League states the ultimate and fundamental aim of the economic struggle of the young worker:

The complete transformation of the conditions of juvenile labor and its socialist reorganization. This means abolition of all wage slavery for all

young workers up to 18 years of age. The young workers must be cared for by the State and treated from an educational point of view until they have attained this age.

There is another flat statement that it means the overthrow of the present economic system, and the taking over of the child by the State, and if you think for one moment that the average woman is going to permit the State to interfere in her home and with her children, you are very much mistaken.

If you knew—why, take the case of the Democrat who is up now for a high political position. He was running for the Senate last year. In his State he had his entire political machine against him. I understand there was not a paper in the State that supported him. He went to the people directly on this issue of the invasion of the home and the attitude of the women toward it, and this man who had been the greatest opponent of the maternity bill in the Senate, a most ruthless opponent, he went to the women of the State on that issue. He was told—all the so-called politically organized women were against him, they had all their leagues in operation. What did he do? He went all through the State and had these meetings and called on the women to come and listen to what he had to say on the maternity act.

Mr. YATES. That was Senator Reed of Missouri?

Miss KILBRETH. Yes; it was. I am taking the newspapers. I have not seen Senator Reed since then.

Mr. MICHENER. Let us stick to the facts.

Miss KILBRETH. There has been a great deal said about women in this——

Mr. DYER. I am from Missouri. Would you permit me to state that Senator Reed was reelected purely upon the wet-and-dry issue? St. Louis City, which is a wet city and is Republican by a very large majority, reversed itself and gave a big majority to Senator Reed on the wet issue.

Miss KILBRETH. With no disrespect I do not think it was possible to tell what was in the heart of every voter that went to the polls.

Mr. MICHENER. That is the point in which I am interested.

Miss KILBRETH. There is the stubborn fact. This political issue was raised, that this man was killing himself on this, the papers that were opposed to him said that the women went to those meetings and the tears streamed down their cheeks when he told them what he meant. He spoke two weeks ago up in Maryland to the law school and brought up the question of the right of castle and the invasion of the privacy of the family, the invasion of the kitchen, and the newspapers said the law students almost went hysterical. He was not talking wet and dry there, he was talking this women's attitude.

Do you realize that in the State of Maryland the feeling is so strong against the maternity act that Dr. John Knox says he is being hampered by women, he can not get into certain counties, and one county about a month ago flung back the Federal quota to Doctor Knox. They said, "We don't want your Federal money and don't want Federal inspectors."

I am referring to that because the question has been raised. Now, to get back to the Socialists.

Mr. FOSTER. Mr. Chairman, I take it this Socialist matter is quite germane. I notice you do not exclude it.

The CHAIRMAN. I have learned not to interrupt anybody.

Miss KILBRETH. I want to read this, and I do not offer any explanation of this at all; no explanation has been made, but it leaves a great big question open. Here is a statement of Miss Abbott's. It was made at the proceedings of the National Women's Trade Union League of America.

Mr. FOSTER. What date?

Miss KILBRETH. This was June, 1922. Now, Miss Abbott is speaking on just what this bill means and what it will demand, and she says—she says, by the way, first, which is very illuminating and which we object to very strongly, the Children's Bureau has the whole field of child welfare and child care.

Well, I am not married and I have no children, but I can assure you, even as a spinster, I do not like that. I do not want to hand over the care of the children to any bureau in Washington.

Now, here is what she says:

> There are several points that come up now for decision—to give Congress power to regulate child labor or to give Congress power to establish a minimum standard with the States having power to raise but not lower that standard; another is, that whether we have a child-labor amendment at all, it should not have something more than child labor—that is, whether we should include in the amendment more in the way of language giving us constitutional authority to do some of the other things in the Federal field that we might like to do, and whether that is practically the thing to do at the present time, is the question.

Now, that is precisely the question of policy or expediency that the opportunists raised at the Socialist convention. Nobody proposed that anybody would dare go before the American—that is just the point, all these bills are insidious. Nobody would dare go before the American people, if the people had any knowledge what the child labor law meant; that that is what the Socialists, the real opponents of this mean; that it means taking care of the children, the substitution of doles for the children—you would not dare go before the people on this issue. But I can assure you it is being explained; in mass meetings in Massachusetts and in Maryland it is being explained.

Now, this Socialist——

Mr. FOSTER. Before you jump to that, you quoted the Socialist meeting and Miss Abbott's speech. Am I to conclude that is what Miss Abbott had in mind and that is the reason you put the two together?

Miss KILBRETH. I did not say that. I said I did not understand what that statement of Miss Abbott's meant. I have not found any explanation of it. I do say that it implies that there are certain desires on the part of the Children's Bureau that are not being satisfied.

Mr. FOSTER. In spite of the fact we had two Federal laws under operation for a short period of time there was no indication from that bureau at any time suggesting what the conclusion is you wish us to draw from it.

Miss KILBRETH. I am reading it to you and we can all draw whatever conclusion we like.

Now, would you just allow me to finish one minute about the Socialist opinion. In 1898 they did not dare as a matter of policy go beyond 16 years. In 1912 they did not dare go beyond 16 years of age—did not think it expedient. In 1916, however, they went up to the age of 18, so they have kept a lap ahead.

Now, this same convention demanded—I will find it in just one minute. I am sorry to be so slow.

Mr. FOSTER. That is the Socialist convention?

Miss KILBRETH. Here it is.

The CHAIRMAN. What are you reading from?

Miss KILBRETH. The Socialist convention again. I just want to find out where it advocates this law that was appealed in Hammer *v.* Dangenheart.

It is demand E under the industrial demands page 323, "By forbidding the interstate transportation of the products of child labor."

Now, that was your germ idea of that bill.

Now, they say elsewhere—this is an extraordinary book—they say elsewhere in that book, that they have not had a single check—the Socialists have not. It is amazing to see how many of the demands in that Socialist platfrom have become law, put over by the two major parties and that is the deliberate scheme. I contend the two major parties are the dupes of the Socialists—they are being played, outwitted, in the political game——

The CHAIRMAN. Madam, I think you have said enough on that.

Miss KILBRETH. Yes.

Mr. FOSTER. The conclusion I draw is this: If the Socialists advocate anything both the other parties must stay away from it, and if there is anything good in what they advocate, we must advocate it.

Miss KILBRETH. I think the Socialist knows exactly where he is going. He is a highly intelligent worker and has his plans exactly laid and knows exactly where he is headed for, and I think a good many other people do not.

The CHAIRMAN. That is quite true.

Miss KILBRETH. It is not intended the public will understand where these measures are leading us. That is the insidious radical policy, you take the letter—Mrs. Kelley, one of the principal opponents of this bill; she was a translator of Marx and Engels, the editor of a German Socialist paper in Germany, and I forget the year now, but I have all that information, but it seems a side issue; we have a letter to a personal friend from Engels telling her—now, I am quoting colloquially from memory—the question was to put more Socialists in America, or communists—the thing was the same that you get this in—impose this thing under the skin of the American people by experience, and the less you do it openly from outside the further you will go.

That is not exact. I can get the exact quotation. But there is a direct statement. That was Engels, the great communist, the colleague of Marx—to Mrs. Kelley, who from 1897–98 edited in Berlin the "Archiv für Socialgesetzgebung." Mrs. Kelley has been a proponent of most of this type of legislation.

That was the advice given to Mrs. Florence Kelley (formerly Wischnewetzky) and translator of Marx and Engels, in a letter by the latter:

FREDERICH ENGELS TO FLORENCE KELLEY.

"Our theory is a theory of evolution, not a dogma to be learned by heart and to be repeated mechanically. The less it will be knocked into the Americans from without, and the more they test it * * * by their experience, the deeper it will go into their flesh and blood."—FREDERICH ENGELS, January 27, 1887 (quoted in New York Call, Socialist, January 29, 1923).

Is this the reason why Mrs. Florence Kelley (formerly Mrs. Wischnewetzky) conducts a constant agitation in behalf of socialistic legislation, disguised as "social welfare"—a desire to inject into the "flesh and blood" of Americans under pretense of relieving the pains of poverty, the Socialist drugs manufactured by Marx and Engels, which Americans would never accept if properly labeled?

Is this the reason why Mrs. Kelley, formerly editor of the Archiv für Socialgesetzgebung, at Berlin (1897–98), translator of Marx and Engels, former president of the Intercollegiate Socialist League, etc., now advances socialistic legislation as general secretary of the "National Consumers' League" and chief agitator for "maternity and infancy" measures?

The question of the Communist influence on these measures can not be overlooked. I would not have touched this if I had not had my pretty good proof of these things.

Here is a book issued by the Children's Bureau. I maintain that the contact with Russia is there. What the channel of transmission for these ideas is, we do not know.

This is a book called Maternity Benefit Systems in Certain Foreign Countries, by the Children's Bureau at public expense.

Mr. YATES. What is the number of the book?

Miss KILBRETH. Legal series No. 3, Bureau Publication No. 57.

Maternity benefits means doles for maternity and not to be compared with widows' pensions. This system does not apply merely to the poor woman or the widow, who is to be helped. That is a different matter altogether. These are maternity doles. The Children's Bureau does not state specifically which system they prefer. They give all the dole systems in the different countries, and they are all recommended to the attention of the people of this country. The doles vary from help for every woman, rich or poor, giving birth to a child. It is the entering wedge.

Mr. FOSTER. You say they are all recommended to us?

Miss KILBRETH. They are all printed and transmitted, at the public expense, to the public.

Mr. FOSTER. That is quite different, whether it is transmitted or recommended.

Miss KILBRETH. I will read the statement.

Mr. FOSTER. You said "recommended."

Miss KILBRETH. For if the word was used correctly, Miss Lathrop's letter of transmittal at the end reads with this sentence, "In the hope that the information might prove useful to the people of one of the few great countries which as yet have no system of State or national assistance in maternity—the United States."

Mr. FOSTER. That was Miss Abbott?

Miss KILBRETH. No; that was Miss Lathrop, former chief. Miss Abbott was not in charge at that time.

Mr. YATES. Miss Julia Lathrop?

Miss KILBRETH. Miss Julia Lathrop. I am taking too much time.

The CHAIRMAN. I wish you would bring your argument to a close as quickly as possible.

Miss KILBRETH. I would just like to read this contact with Moscow.

The CHAIRMAN. For what purpose do you wish to read it?

Miss KILBRETH. I offer this to show we are tending in the direction of communistic regulation of children by the State.

The CHAIRMAN. I will have to rule that out of order. We can not consider that now in connection with this amendment.

Miss KILBRETH. I see. Well, that question was raised in connection with whether my reference was showed right—that it would lead to these things.

Mr. FOSTER. You said you made no inference. That is what you specifically told us.

Miss KILBRETH. I am showing the general trend is toward the communist system, and here is the indorsement of the soviet system in this book of Maternity Benefits. That is what I wanted to read, but it has been ruled out. That is one of my contacts.

Now, just one thing in connection with propaganda. This is from a communist source. This is from the resolutions and speeches of the Fourth Congress of the Third International.

Mr. FOSTER. I suggest that be left out, the minutes of some communist convention having no reflection on this constitutional amendment.

Miss KILBRETH. This is the thesis of the Young Worker.

The CHAIRMAN. I wish you would just omit that and get to the conclusion.

Miss KILBRETH. This is from the Young Workers' Convention here in America. Would that be germane?

Mr. FOSTER. Relating to child labor?

Miss KILBRETH. Yes; in the whole propaganda. He says: "The purpose is continually to point out"—

It is just part of the propaganda.

Mr. FOSTER. You said, "Yes; it related to child labor." There is nothing said about it.

Miss KILBRETH. Just on the previous page I read you the indorsement of the child labor laws up to 18 and the feeding and care of the child.

Mr. FOSTER. Not just previously to this you did not, because I paid close attention.

Miss KILBRETH. I beg your pardon; here it is. I did read that.

Mr. FOSTER. Instead of "just previously," you are going back about four quotations.

Miss KILBRETH. You will find it in the stenographic record.

Mr. FOSTER. But not just previously.

Miss KILBRETH. Because I am now coming to propaganda about this, and what I said about that was all.

Mr. DYER. Mr. Chairman, I make the point of order that is not germane to this question of whether or not there should be a child labor amendment to the Constitution. This committee is not going to be governed about what the lady reads about propaganda.

Miss KILBRETH. The only thing is that I am taking the statement of Lincoln that it is not fair to ignore entirely what the probable working out of the bill would be. I am not quoting him exactly.

This is germane. This is from the September, 1923, the International of Youth. It is a Communist organization entirely.

Mr. YATES. Printed in America?

Miss KILBRETH. In England. They are talking about America.

Mr. FOSTER. Just a moment. I want to submit whether a Communist publication in England——

Miss KILBRETH. But it is referring to conditions here.

Mr. FOSTER (continuing). Is germane on the question of this child labor amendment?

Miss KILBRETH. It is referring to the thing here in America.

The CHAIRMAN. I do not think it is germane, but on the same line, I think it has got about as much relevancy as the subject inquired of as existing in America.

Mr. FOSTER. I withdraw it in view of that statement, Mr. Chairman. I have no objection to your going ahead.

Mr. MICHENER. The practical part of getting these things in the record of the congressional hearing is that they are used later, sent out over the country, and these statements are used as appearing in these publications, and they are very often assumed in the country to have official sanction when sent out.

Miss KILBRETH. Yes.

Mr. MICHENER. You appreciate that, Miss Kilbreth?

Miss KILBRETH. Yes.

Mr. MICHENER. People involved in the controversy do send them out under a congressional frank.

Miss KILBRETH. Yes. May I give the statements of these different leaders as to the taking over of the care of the child by the State?

Miss Alice Paul says:

> We intend to insist also that the State assume entire responsibility for the maintenance and education of children until they become of age. When the women of the world have junked the battleships and other impediments of war, enough money will be released to take care of these reforms.

Mr. DYER. Where was that statement made?

Miss KILBRETH. We have used it and it has not been denied.

Mr. DYER. Where was it made?

Miss KILBRETH. Washington Herald, October 25, 1920.

Mr. DYER. I make the point of order that is not proper testimony and nothing but hearsay.

Miss KILBRETH. I beg your pardon, this has not been denied. We use it a great deal, and the newspaper verified it.

Mr. FOSTER. Did you ask her about it?

Miss KILBRETH. Our office called up.

Mr. FOSTER. Did you?

Miss KILBRETH. No; I did not. I would not do that. Well, here is Harriet Stanton Blatch. Would that be considered?

Mr. DYER. What was it in?

Miss KILBRETH. The official organ of the National Women's Party.

Mr. DYER. I make the point they are not germane.

Mr. MICHENER. These people are in the city if you want to bring them here.

Miss KILBRETH. No, indeed. They are our opponents. But I want to show that the idea of the States taking care of the child is in the air.

Mr. FOSTER. It is not in the Constitution.

The CHAIRMAN. Her argument is that that is one of the results of the working out of this law.

Miss KILBRETH. It will have to be.

The CHAIRMAN. That is what she presented it for.

Miss KILBRETH. I am taking what the Socialists themselves claim openly is necessary if this thing is done.

Now, Harriet Stanton Blatch—oh, you threw that out, did you? Because it is a very startling statement.

Mr. YATES. Nobody has thrown anything out yet.

Miss KILBRETH. She is one of the great leaders and exerts a great deal of power in Congress.

Mr. DYER. I ask that that statement be stricken from the record.

Mr. YATES. Power in Congress?

Mr. DYER. Yes.

Mr. BOIES. I make the point of order that the committee is not permitted to sit at this hour.

Mr. FOSTER. Let us finish it up.

Mr. BOIES. If the lady will bring it to a close, I will.

Miss KILBRETH. Will you let me quote this? You need not put it in the record.

Mr. BOIES. The committee will decide that.

Miss KILBRETH. It may be considered ridiculous, but Harriet Stanton Blatch, the daughter of Harriet Cady Stanton, says:

> The enfranchised women of America, through pressure brought by a woman's party, broadening perhaps to an international woman's party, could be instrumental in bringing political freedom to the women of the world, and behind all such social and economic demands lies the most important item on the woman's program, namely, the endowment of motherhood. (Suffragist, October, 1920, p. 235.)

Mr. BOIES. You offer that for what purpose?

Miss KILBRETH. Namely, the endowment of motherhood.

Mr. FOSTER. You dropped your voice so we did not hear the last of it.

Miss KILBRETH. The most important item in the women's program, namely, the endowment of motherhood.

Mr. BOIES. Your purpose in reading that is to show what?

Miss KILBRETH. My purpose in reading it was to show that there were these ideas of the Government taking over the care of children and of the mother. They are in the air now.

Mr. FOSTER. You feel if this amendment is adopted and Congress has the power, it will do those things?

Miss KILBRETH. I say these are the ideas back in the heads of the people who are in favor of this type of legislation. I think I have presented material to show that. That was my purpose in showing that.

I thank the committee, Mr. Chairman.

The CHAIRMAN. You are through?

Mr. Dickinson?

STATEMENT OF MR. EDWARD F. DICKINSON

The CHAIRMAN. Give your full name to the reporter, please.

Mr. DICKINSON. Edward F. Dickinson of Massachusetts. Mr. Chairman and gentlemen: There has been much time taken this

morning, and I do not wish to overtax the time of the committee, and if desired and thought best I have here a statement that I made a year ago before a Senate committee and if desired——

The CHAIRMAN. Would you wish instead of orally addressing the committee to submit that statement and to let it go in the record?

Mr. DICKINSON. I would like to do that, sir, and if I might have 3 minutes otherwise I would be pleased to do that, sir.

The CHAIRMAN. Very good.

Mr. DICKINSON. I love the boys and girls of America, and I love America, and I wish my country's best and the best for our children, and this question seems to me to connect very vitally in one respect with our concept of education. I have covered that partly in this, but perhaps I may enlarge very briefly.

Does education consist mostly of book learning? A very competent authority, one who has stood in some of the favorite pulpits of our land and has been listened to as an author and a very cultured man, has said this in a little book, Culture Without College, given for the encouragement of those who were not allowed to have and could not have the advantages of college—he said has this:

> Those of you who are so forbidden to get the benefits of the university, may have the solace of this thought, that culture without college is still possible for you, because there are three teachers that we can all have teach that, in school, in college, or out, and they are in this order: First, our work; next, our society; next, our books.

This is in a little booklet written by Rev. William C. Gannett, of Boston, Culture Without College.

I have been an interested student of life in a way from a private standpoint. I have had to make my own way; to work when I was young. I feel that work has been a very definite part of my own education. Of recent years, as the result of having worked, and worked in my earlier years, and having accumulated by work a modest competence, I have been privileged to come on winter vacations to the city of Washington on 20 or more vacations with my wife, and I have gained what I could in studies here and from studies at home, and from my observation of life and the progress of our children I have felt more and more impressed with that vital element in the child's life of work. Not undue work and not work that should exclude books as far as may be. I have no quarrel with all the broad culture that may be gathered, but I do say, let us put character, work, productive training at the bottom of our ladder of child preparation for life.

Our small town in Massachusetts, just south of Lowell, Billerica, was privileged some 40 years ago to send a governor to the capital. What was the story of Thomas Tolbert, called Honest Thomas Tolbert? At 12 years of age he was working in a textile factory at Cambridge, N. Y. Being fatherless, he worked to support his mother and younger brothers and sisters; later, to make the story very brief, he came to Lowell, and came to our town with his brother and came into ownership of a water power and built up a manufacturing business there, a business that some 60 years ago started small, and there has been a most thriving, happy village there, largely consisting of his own factories—another one or two, but largely his own work—with scores and scores of families, happy and thriving, because of his industry and thrift. And his education was largely that of work; not more than a grammar-school opportunity came to Thomas Tolbert.

He had two sons. Those sons did not start from his background. Work was not in their early years. They went through Harvard College. Thomas Tolbert from limitation went up to the governor's chair. His sons went otherwise.

If this legislation as proposed goes through, would it not, Mr. Chairman and gentlemen of the committee, seem to give the stamp of approval to that course of training for our young that among others did turn out a Harry Thaw? Would it not seem to impinge and make most illegal that training which gave us a Lincoln? What would Benjamin Franklin say? I wish we had with us to-day Benjamin Franklin—his wisdom. I wish his broad, high, practical mind could reach this question and give us judgment.

As I have suggested, there is this in the modern thought of education: I have seen many educators, I have an efficient score card to which I have called their attention, even educators in Washington. Is there not too much attention put on education as taught in books and on education as something to come in books instead of a training of the faculties to work?

Now, this might seem questionable in our present educational attitude, I know, but there is an instance in which this thought has been tried. Go to the home State of one of the gentlemen of your committee, of Ohio, I understand; go to Yellow Springs, to the College of Antioch, and you will find there, as I have been informed, a very, very valuable experiment being tried out where there is a combination of the older form of education through books and the new form of education through work. Mr. George E. Morgan, I think, is the name of its president, who has come to realize, as has been said, a wonderful ideal in the combination of work with study.

Just one moment and I will be through and take no more time. I have here a memorandum suggesting that the present evils—that there are evils I would not question—be localized; that if in Michigan there are children working in the wheat fields to their harm and injury, injuring their health by working at a too early age with too long or too hard work, locate that difficulty.

And it does seem to me, Mr. Chairman, that a modicum of the great effort being made to change the condition of this country could change the evils of those communities. Evils should be cured; but cure them educationally if possible—educationally if possible.

Let us in our free country be very slow to use compulsion for reform. And I am for reform in all directions. I am quite an idealist, but I like to keep my feet upon the ground, and I feel that that perhaps is a wise suggestion for those who make the laws.

It does seem as though a small part of the effort that is being given to change the form of government would change its application in the few States, and I think they are but few where difficulties and unfortunate conditions exist.

I suppose this is very informal, but I want to leave upon this table a picture of the merchant prince of Lowell, Arthur G. Pollard. I will lay it there.

His story is one that touches this question. If this proposed law were enforced, he would not have been allowed to take that preparation that qualified him for leadership in the city of Lowell to-day, the leading merchant, interested in all things, trustee in I don't know how many institutions, and he told us within a few months,

Mrs. Dickinson and myself, of his early life, how he worked early and worked late. His mother being asked at one time why it was that Arthur was a boy without question of character, said, "Well, I guess he hasn't much time to go wrong."

There is another thought or two and then I will sit down. We have in Lowell and in Lawrence and in my own town, many thousands of workers in textile mills, and while I am not conversant of everything in my vicinity—I live quite a busy life—still I do not remember one instance in our New England section of even a claim that any child was oppressed in our mills.

Mr. FOSTER. Are you in sympathy with the laws in Massachusetts to-day, the child labor laws?

Mr. DICKINSON. I think so, sir.

Mr. FOSTER. You think they are pretty good laws?

Mr. DICKINSON. Yes, sir.

Mr. FOSTER. You do not see that those laws do any injustice to the children as far as work is concerned?

Mr. DICKINSON. Well, I am not informed just on one point——

Mr. FOSTER. Well, you speak as an observer. I say you do not see anything wrong with the Massachusetts laws, do you, so far as preventing children from working is concerned?

Mr. DICKINSON. Our rule is 16, I think. I think that is a very good law.

Mr. FOSTER. I say, you do not see anything wrong with them?

Mr. DICKINSON. No, sir.

Mr. FOSTER. Then you would have no objection to other States having similar laws?

Mr. DICKINSON. No, sir.

Mr. FOSTER. Your only objection then is to interfering with the Constitution?

Mr. DICKINSON. Having the Federal Government made an overlord over us.

Mr. FOSTER. Your conditions in Massachusetts were worse before the child labor law came in than since?

Mr. DICKINSON. I could not say as to national——

Mr. FOSTER. I do not say national. I say your textile industry was not run as well, as far as children are concerned, before the child labor law as since?

Mr. DICKINSON. I am well satisfied with it.

Mr. FOSTER. That is what we are trying to do. Texas, Mississippi, and some other States have not seen fit to come up to what we call a reasonable standard. You tell about your experience in youth and about the governor, and all that. For 13 years, from the age of 7 to 20, I had the pleasure of carrying newspapers from 4 to 9 o'clock in the morning, and it did not hurt me any, but that does not say we should not have laws to protect the health of children, not that somebody might not be demoted from newspaper carrier, to Member of Congress, or promoted, as you prefer. As I remember my logic it used to go, "post hoc; ergo hoc."

The fallacy of your reasoning, it apepars to me, is that if some fellow became governor on account of his handicap, handicap everybody. That is the argument.

The CHAIRMAN. I do not think it is proper to tell a person his logic is fallacious.

Mr. FOSTER. I said it appears to me to be the fallacy of it.

The CHAIRMAN. That is your individual opinion.

Mr. FOSTER. That is what I am stating.

Mr. DICKINSON. I will occupy but a moment or two. That question did occur to me which is raised by a member of the committee whether we wish to delimit the newsboys. I was talking with a very bright little boy from Asheville, coming up from the South, and I bought a paper from him. I said, "Are you going to put some money in the bank?" He said, "No; I can't. My father is dead and I have to support the family."

In Lowell we have something over $80,000,000 in the savings banks—I think it is $88,000,000, but I know it is over $80,000,000—and being somewhat acquainted with the leading bankers there I asked one of them if he could tell me as to the number of depositors that were juveniles, and he indicated that while he could not make an offhand estimate he thought about one-seventh of the depositors in the Lowell savings banks were juveniles.

Again, I asked a very thoughtful individual recently what he thought as to the average showing in character of those childen who had savings bank accounts. He said, "I think universally good."

Now, we can only have children putting money into banks usually by earning that money, and if being allowed to earn that money is a character insurance as well as a savings addition, I commend it to the thought of the committee.

I think, sir, I will not have to say more, although I would be pleased to, but you are wearied with a long sitting so I will just offer this statement which I made a year ago, together with a supplementary statement which I have prepared, and thank you.

STATEMENT OF EDWARD F. DICKINSON

Mr. Chairman, and members of the subcommittee, upon the question before you, represented in various bills—that of child labor—may I offer some suggestions? My viewpoint is that of a citizen seriously interested in the welfare of the boys and girls of our country, and for the realization of the best things in the future of America, which they will make.

As I understand the proposition before you, it may be resolved into three parts; first, it is desirable that all children continue in school up to the age of 18; second, that this be made mandatory; and third, that this be enforceable by the Federal Government. Are not the first and last of these theals subject to serious question, even by those of us who claim to be second to none in desiring the welfare of the child and society?

Aside from the long period of nonproduction coming from this extension of the possible work age to 18, we will ask what of economic education of the child in all this time? Is this not a vital matter? And is book education the only education or even that first in importance? William C. Gannett in his booklet, small in size but large in wisdom, Culture Without College, tells the uncolleged boy and girl that culture is still possible for them, as there are three teachers available either in school or out; and in this order of importance; first, our work; next, our society; and third, our books. He makes this clear in his words following: May we not, with him, recognize work as a friend—a teacher—an anchor for the best life either in the child or the man, temperance to be followed in this as in all things? Personally, I have known work, worked in my early years, work now, and shall be glad, if, like a veteran of the Grand Army in my home town, North, I can still plant, care for, and enjoy my garden at 85.

Do not our children need to learn personal economy (this by work and thrift) as well as to study political economy from their books? Is it safe, either for them or the country, that they have no experience or training in production—for the part which they are soon to take in economic society—up to the age of

18? At this age, from the soft life of the school and dependency, they may be called to go to the trenches to defend their country from its enemies. A wise saying it is—that "responsibility makes men," yet there is propaganda, we know, for this lessening of responsibilities and adding to the privileges of the children of to-day. One recently at the head of the Children's Bureau has said practically in these words, that "up to the age of 16 no child should work, either with hand or head, so as to become weary." Is this not an effeminizing principle? Has our continent been conquered by those whose children in their teens have no part in the struggle? What of Franklin's early life? What of Lincoln's? What of the effort, even to weariness in their teens, of most of those leading in our country's life and affairs to-day—and at other times Yet with such sentiment as this in the Children's Bureau, and the adoption of the plan of national authority, in so-called child labor, this policy would be furthered with all the children of all the States in the Union. Should we do well to weaken the fiber of the child life of our country by following this path of sentimental indulgence? To ask this question seems a sufficient answer in the negative.

Granting, now, that child life should be reasonably protected from too heavy or too early employment, should not this control be kept in the hands of the several States? It would seem that the framers of the Constitution (if they were here to-day) would answer yes to this. If the welfare of its children is not the care of an individual State—if this is to be taken over by the central government—what care or right has the State remaining that may not so be taken over? If such disintegration of powers originally reserved to the States is to continue, where will it end except with the merging of State and sectional government in the one Government at Washington? Will this, if accomplished, not remove many barriers thought necessary for the success of our great American undertaking in self-government by the fathers—and still approved by the large majority of our thoughtful citizens—and make more possible a socialistic régime?

For these reasons and others, I will not take time to mention, Mr. Chairman and members of the subcommittee, I am opposed to the so-called child-labor amendment.

Respectfully submitted.

EDWARD F. DICKINSON,
Billerica, Mass.

CHILD LABOR.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: On Saturday last, at the end of a long sitting of the committee, I offered brief testimony upon this question.

May I be allowed now to conclude by way of a further statement in writing?

Quoting again from Wm. C. Gannett, he tells us that "The workless man is the worthless man"; and, further, speaking of the self-made man, he tells us there is no other "in school or college, or out."

In the beautiful Library across the way we see this inscription: "It is the mind that makes the man, and our vigor is in our immortal soul."

This is not written there, but might be, "Books are the mirrors of men."

The older idea of education used to deal almost wholly with the branches of knowledge, and with books; now it is coming every day to deal more and more with human values and character building of the boy and girl—this through work and play—as well as by book studies. The progressive, new ideal is evidenced, as I suggested the other day, in the half-work half-study program lately established at Antioch College, Ohio, which is attracting world-wide attention and most favorable comment.

A testimony to work as an asset to success is given by Leslie M. Shaw, who, on page 97 of his book Vanishing Landmarks, says:

"I can recall very few men whose names are or have been known beyond the confines of local communities, whether bankers, lawyers, manufacturers, merchants, or railroad presidents, whose hands have not been calloused with humble toil."

Does not "From Log Cabin to White House" tell us this story of Garfield's life? Has this not been, in all probability, the story of the early life of most Members of the House and of the Senate, even to-day? Has this not been the story of most men who have contributed in largest part of the making of America?

Andrew Carnegie, at the age of 10, was a bobbin boy in a cotton mill, earning $1.20 per week; at 13 he was running the mill's engine amid smoke and steam. Samuel Colt, at 14 years, had designed one of the world's most effective firearms. In my own home district we have perhaps the pioneer on prohibition work in the United States, or the world, in the case of Mr. R., who, of splendid physique at 60, with compelling personality and fitness for this difficult office, at the age of 8 was picking coal at a colliery in Scotland.

I will not further take space or time, Mr. Chairman and gentlemen of the committee, to lengthen this list of those who have succeeded in life from a basis of work and application in their teens. Such a list would be practically a directory of those prominent and active in this generation. We would be glad, maybe, to think so—but is there a better way than that of effort? A softer road to success that is as promising?

In the extension service of the Agricultural Department, Federal and State, boys' and girls' club work is quite a feature. I happen to be a local director of this extension service in my home town. The aims of this club work plan are for work, efficiency, production, and profit for the young people of our country districts. This is usually home work and not for wages, but is sympathetic with wage employment. It is learning by doing and earning by doing; it is work for profit, educationally and financially.

If the word work should be used rather than employment in a reported amendment (as we learn has been proposed), this plan of club work, designed for the benefit of our children by its training in thrift and economy, might be controlled or forbidden.

May I mention here that, as I remember it, the largest crop of corn per acre ever grown in the country was raised by a boy in the Carolinas some 15 years old—this from this club work connection.

We all, as virile Americans, know and approve of the organization of Boy Scouts. May I call attention to article 0 of the scout law, which is this:

A scout is thrifty; he does not wantonly destroy property; he works faithfully, wastes nothing, and makes the best use of his opportunities. He saves his money so that he may pay his own way. Is generous to those in need, and helpful to worthy objects.

He may work for pay, but not receive tips for courtesies or good turns.

This is the scout code, in part—his self-determination to act a manly part—and, as a young scout told me, was the motto of his group, to "be prepared."

This is the scout's self-determination and not a determination put upon him by a distant Federal authority.

The evils of divorce are to-day much deprecated; and the breaking up of families from this cause.

Is it not also an evil to divorce the child from his family, by substituting (as by amendments proposed) for the authority of the father and mother the authority of the superstate at Washington?

If we distrust the American family for the upbringing of its children, where may our confidence for this be placed?

Can the Congress be wisely designated as a general educational board for the Union—superseding the authority (in industrial and economic matters) of the 48 States, the local communities, and the homes of our land? To ask this question seems sufficiently to disprove it.

A greater authority than myself tells us that the child is not a ward of the state but of the family. He is not a national child. This principle is violated in Russia, under its Soviet régime; but holds respect in America, still.

The problem of a million homes in our land is a problem of economics—a problem of income and thrift and subsistence.

Solve this problem for these families, and you have largely solved the problem of the child in them. After bread will come books.

As we view it, Mr. Chairman, this proposed legislation by constitutional amendment forbidding (reasonable) child labor is an instance of sentimentalism opposed to wisdom—one of the many proposals in the direction of reform by hysteria, which if not resisted, and successfully, will work to weaken the political and social fiber of our country. Have we not had such amendments, accomplished by such appeals, before? Upon this question must depend the support of my claim. Many would concede that in some recent amendments, such was the case—but let us look further back, beyond recent differences and the recent clash of different opinions. What of the fifteenth amendment? Can we not, now—those of all parties and all parts of the country (now that pas-

sions have measurably ceased) allow that this great change to our Constitution was sentimentalized into being—and unwisely so?

Did this change, by its fiat, the fundamental facts of group differences and relationships in a part of our land? Is the amendment, adopted 54 years ago, even now enforced in its spirit across the Potomac? And further, has not resistance to this constitutional enactment been the cause of the political solidarity of one part of our country for more than 50 years? So sentiment, without wisdom, may fail of its own ends. It is our claim that this proposed legislation is sentimental in its inception, and not sane; and it is our hope that the committee will so judge it, and not report it favorably.

Now may we consider broader sides of the question? Those speaking adversely to the proposed amendment, in my hearing, upon grounds of constitutionality, spoke most convincingly—and as convincingly of it as violating family rights as well as State rights; as giving authority far removed (enforcible by an army of Federal officials); as a long step toward socialism; as leading to public support of families, often, when children whose work was needed, and they able to help the family in independent living, were by law forbidden to connect with employment. All these arguments have been presented to the committee clearly and convincingly as it has seemed to us. Two or three other arguments I will now offer—unreferred to before, as I believe.

In a Supreme Court decision in a labor case which is referred to in Atlantic Monthly for January, 1924, page 84, as reported, the court says:

"There is no more sacred right of citizenship than to preserve, unmolested, a lawful employment in a lawful manner. It is nothing more than the sacred right of labor."

Yes; the sacred right to labor! Not a condemnation to labor. Not a narrower of life, not a narrower of education—but a broadener of both. The Savior has said, "My Father worketh hitherto, and I work." May not the child follow the footsteps of the Savior in this?

To conclude, Mr. Chairman, this proposed legislation seems to us uncalled for, unwise, and socialistic! So others have expressed themselves to whose attention I have called it in recent days by showing copies of bills offered. Among these are men prominent in private and public life in this city.

The representative of the National Grange said he did not approve of such legislation "certainly for country children" and the Secretary of Agriculture, Mr. Wallace, gave me permission to say for him that "he believed children should be taught to work in their early years." Others in the Agricultural Department expressed similar views.

A public referendum (we are assured) would emphasize this general sentiment of opposition to this proposed child-labor amendment, which would virtually put the 30,000,000 youth of our land into an industrial District of Columbia, to be controlled by Congress through the Children's Bureau, with far-removed and autocratic authority.

EDWARD F. DICKINSON.

The CHAIRMAN. The hearings are adjourned until next Thursday at 10 o'clock, by resolution of the committee on motion of Mr. Foster. The committee itself will meet on Wednesday for the transaction of other business.

(Adjourned.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Thursday, March 6, 1924.

The committee met at 10 o'clock a. m., Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. Is Mr. Clark present?

Mr. CLARK. Mr. Chairman and gentlemen: I wish to introduce Mr. Carter, executive secretary of the Child Welfare Commission of North Carolina.

The CHAIRMAN. Mr. Carter, we will be glad to hear from you.

Mr. HERSEY. I do not understand your position.

STATEMENT OF MR. E. F. CARTER, EXECUTIVE SECRETARY CHILD WELFARE COMMISSION, STATE OF NORTH CAROLINA

Mr. CARTER. I am executive secretary of the State child welfare commission.

Mr. HERSEY. What State?

Mr. CARTER. North Carolina.

The CHAIRMAN. Mr. Carter, if you would make your remarks as brief as you can, with due regard to giving emphasis to what your thought is, we will be obliged to you; because we have to be in the House at 12 o'clock and have other business to consider.

Mr. CARTER. Yes, sir.

I wish to make a statement, Mr. Chairman, as to the commission, its powers and functions, in the beginning, and the administration and the actual work accomplished in the last year, showing the employment situation in North Carolina as it relates to children under 16 years of age.

This commission was created by an act of the general assembly of 1919, which became effective July 1 of that year. The act names the superintendent of public instruction, the secretary of the State board of health, and the commissioner of public welfare ex officio as constituting the State child welfare commission.

It gave them the power, which has been held by the attorney general of the State to be founded upon the paternal power of the State over children seeking employment, to make regulations as to children under 14 years of age in employment under all of the terms mentioned under the child labor law. It says:

No child under the age of 14 years shall be employed, or permitted to work, in or about or in connection with any mill, factory, cannery, workshop, manufacturing establishment—

Those first five terms or classes, I wish to state, agree identically with the Federal law which was enacted. Then, in addition to that, the North Carolina law goes on and adds 15 others:

laundry, bakery, mercantile establishments, office, hotel, restaurant, barber shop, bootblack stand, public stable, garage, place of amusement, brickyard, lumberyard, or any messenger or delivery service, except in cases and under regulations prescribed by the commission hereinafter created.

Section 6 reads as follows:

No person under 16 years of age shall be employed, or permitted to work, at night in any of the places or occupations referred to in section 5 of this act between the hours of 9 p. m. and 6 a. m., and no person under 16 years of age shall be employed or permitted to work in or about or in connection with any quarry or mine.

SEC. 10. That if the employer of any person under 16 years of age shall, at the time of such employment, in good faith, procure, rely upon, and keep on file a certificate issued in such form and under such conditions and by such persons as the said commission herein provided for shall prescribe, showing that the person is of legal age for such employment, such certificate shall be prima facie evidence of the age of the person and the good faith of the employer. No person shall knowingly make a false statement or present false evidence in or in relation to any such certificate or application therefor, or cause any false statement to be made which may result in the issuance of an improper certificate of employment.

Mr. HERSEY. What is your claim, Mr. Carter—that North Carolina has a good child labor law?

Mr. CARTER. Yes, sir.

Mr. HERSEY. Well, how does that help us here? We are not legislating for North Carolina alone, but for the Nation.

Mr. CARTER. I wanted to show to the committee that, in the tying in in this commission of the combined forces of education, health, and public welfare, which have to do with the greatest elements in dealing with child labor, we think we have a good plan which, if interfered with at this time, would seriously retard the constructive work that is being done in North Carolina.

Mr. HERSEY. How would this amendment interfere with your work?

Mr. CARTER. If there were other regulating powers set up under the machinery of the Federal Government, we do not feel that there would be the same cooperation between the departments, and there would not be the same results accomplished in the individual departments through the cooperation of the board of education, the board of health, and the board of public welfare.

Mr. FOSTER. Under your present State law can 12-year-old boys work in mills during vacation time?

Mr. CARTER. Yes, sir; I can make that statement under the head of that item, which I have here. There is a rule of the commission to the effect that after the places have been investigated by the superintendent of public welfare, the superintendent of schools, or an agent of this commission an employment certificate for work during vacation may be issued when it is sure that there is nothing that will harm the morals or the health of the child, and on the strength of these sections which I have just read the State child welfare commission has formulated the following standards:

Unlawful physical conditions:
Children employed with symptoms of disease contributory to retardation or disability.

Under that section, it is not infrequent for us to deny a certificate to a child under 16 years of age, and remove that child from employment. In one county in which clinics were established as a result of our work 33 per cent of the children were found to come under the class covered by that very rule or standard, which was passed by the commission regulating all children under 16 years of age under the certification plan.

The second unlawful physical condition is as follows:

Children employed when determined by physical examination that employment is injurious to health.

I want to say that it is very common for our authorized agents or the superintendent of public welfare in the counties to have a list of such cases; and sometimes two or three examinations are made of a child before the certificate is issued. If there is any doubt as to the child's physical condition, that certificate is held with a 30-day recall for examination; and it is not an uncommon thing to find those slips or memoranda upon the desks in the offices of our local agents, in the following up of this kind of work.

Mr. FOSTER. May I ask this question: Your State law still lets out the prisoners in your prisons who work under private contracts, does it not? You have a law that permits that, have you not?

Mr. CARTER. I am not positive that that is practiced to any great extent anymore.

Mr. FOSTER. Well, is not this your present law in North Carolina—that prison labor in the prisons is limited to eight hours per day, prison labor under contract is limited to nine hours, and as to your women and children there is no limit?

Mr. CARTER. Yes, sir; we have a 10-hour labor regulation in North Carolina.

Mr. FOSTER. For what?

Mr. CARTER. For women and children.

Mr. FOSTER. Why not make it as low as for your convicts, at least?

Mr. CARTER. That is a question for the general assembly to decide.

Mr. FOSTER. Of course, I was not putting it up to you personally, but I was just taking up the question of the law; and I notice that your statute does limit the hours of labor of prisoners in the penitentiary to 8 hours; and when those inmates are contracted out, the limit is 9 hours a day, and Mr. Pringle, who has been here, has been making a survey; and in one of his articles he says it is common practice in North Carolina to find women and children working 10 or 11 hours a day under your law.

And I wish to find out about that condition.

Mr. CARTER. I wish to state to the committee that the law making a 10-hour day does not say definitely that it shall be 10 hours each day, but 60 hours per week; and it has become a general practice in North Carolina that, with a half-holiday on Saturday, which has become a recognized practice, they will have 55, and sometimes less, or sometimes 56, 57, or even 60 hours in a week. That gives us sometimes a schedule of 11 hours per day, in order to give the half-holiday on Saturday. That is a common practice, and has been brought about very largely by the employers making Saturday a half-holiday.

Mr. FOSTER. If your statute reads that way, would you, by virtue of your position, feel like recommending legislation that the hours of labor for women and children should be not greater than those for convicts?

Mr. CARTER. I take this position, gentlemen: That in regulating as to the child employment, it should be based upon the same principle as already established in our State—that of tying-in education with health and public welfare, as we are trying to do at the present time, making that the unit of employment of children over 14 years of age.

I wish to state that, since July 1, we have put into practice our individual checking system, of inspecting each plant by an authorized agent of this commission; of making a detailed inspection of the plant, taking up the certificates which are issued in each plant, and checking those against each child that is employed in the plant; making an official record of that, and turning it in to the commission for tabulation. That is the first time, to our knowledge, that this work has been accomplished in North Carolina, showing the exact employment situation of children.

According to the previous reports of the census, showing the employment of children in manufacturing places in 1920, we find that

there were 6,244 employed. The labor report issued in the same year showed 6,623 children under 16 years of age employed.

Mr. HERSEY. In the whole State?

Mr. CARTER. In the whole State. And as a result of our eight months' work, which has just been completed, on March 1 we find 4,691 children actually employed. That, I wish to state, is information shown above the signature of an authorized agent of this commission specially designed for that work of investigation.

Mr. HERSEY. Does your investigation show what the ages of the children are?

Mr. CARTER. Under 16 years of age.

Mr. HERSEY. Yes; but have you not any further information than that they are under 16 years of age? How much under 16 years of age?

Mr. CARTER. From 14 to 16 years of age covers 4,691 children.

Mr. HERSEY. Are there any below 14 years?

Mr. CARTER. We found in that connection in all the plants a grand total of 66 children. That covers all of the 24 terms used in the law; taking the State as a whole, and checking it off, we found 66 children under 14 years of age employed in the several terms that I have read to you in this child labor law. They are in there, as our labor investigators report, under different excuses; we find children in there who have gone in at the noon hour with their parents' dinner pails, and have remained after the noon hour; yet they were in there by the side of the machinery, or in the place of business which we were investigating. I wish to say that that takes in all of the laundries, the bakeries, the machine shops, and the textile plants as an entirety, and as a grand total we have discovered 66 children.

We have gone at this thing, gentlemen, without any desire whatever to leave anything undone, because of the exacting position that has been taken by the public as to the conditions in North Carolina, and as to the wide publicity given to the armies of children who are presumed to be employed there. So that I feel in making the statement that it is absolutely true, that it has been certified to by men who have been definitely designated and authorized to make the investigation. It is the first information that we have had as to our actual child-labor situation in North Carolina; and not only that, but in these investigations we have investigated the sanitary conditions of the buildings, the stairways, the fire exits, and the general conditions of the rooms, as to first-aid equipment, and all of those things that go to contribute to the general welfare of the employees.

Mr. FOSTER. How long has your State had a child-labor law?

Mr. CARTER. I am sorry that I can not state that definitely. This reconstruction of all this program came about in 1919, but the act was passed which gave the powers of inspection over all of these different places that I have spoken of.

Mr. FOSTER. This is the first survey that you have made, is it?

Mr. CARTER. No, sir. We have known what our certification work was all the time, but this is the first check against the actual employment of children that we have had. I am drawing these contrasts and trying to show that these 6,623 cases were reported voluntarily as a result of the questionnaire of the labor department in 1920.

Mr. FOSTER. That 6,623 is the number of children under 16 years of age?

Mr. HICKEY. And does your survey include children engaged in agriculture?

Mr. CARTER. We have a survey which I might state exceeds that of the industrial proposition, as to the employment of children——

Mr. FOSTER (interposing). Do these figures include your children employed in agriculture?

Mr. CARTER. They do not. The conclusion that I wanted to draw, or the contrast, is between the Census reporting 6,642 and the Labor report of the same year reporting 6,623; and our act was checked showing, as I have indicated——

Mr. MONTAGUE (interposing). Does your own report give more than the United States census?

Mr. CARTER. No, it gave less.

Mr. FOSTER. Four hundred less, was it not?

Mr. MONTAGUE. The 6,642 were the census figures.

Mr. CARTER. Yes. And there was about a thousand difference.

Mr. MONTAGUE. I misunderstood your figures then.

Mr. CARTER. There were 1,032 less children actually employed, according to our investigation, this year than were reported in 1920.

Mr. MONTAGUE. I am talking about the report made in 1920 by the United States Government and the report made by your own officers in the same year.

Mr. CARTER. I wish to state that, on account of the duplication of work, gentlemen, we did not press the certification of children while the Federal act was in force. However, we tried to cooperate as best we could, and informed the manufacturers throughout the State where this service could be secured. Our local offices were headquarters sometimes for these United States agencies. We did that in order to simplify the work of the Federal machinery operating in our State; and not until 1922 did we attempt to secure State reports as a whole of the children between 14 and 16 years of age, for the reasons already explained, where it would be a duplication of work—bringing the parents before us, and bringing all the evidence before us, and assembling the children for physical examination, and all of those things. We simply tried to cooperate.

The CHAIRMAN. Would that duplication not exist if a constitutional amendment was adopted and the National Government had enforcing laws and the State had enforcing laws? Would not that duplication exist then?

Mr. CARTER. I would not know, unless I knew the nature of the bill that might be adopted by the Federal Government.

The CHAIRMAN. Well, if that was regulated at all by the Federal Government, would it not be a double regulation?

Mr. CARTER. There has been a double regulation, I might say.

The CHAIRMAN. You have just described one when there was a Federal law in operation, have you not?

Mr. CARTER. Yes, sir.

The CHAIRMAN. Well, would not that be likely to be the same if you had National as well as State regulation?

Mr. CARTER. I think so; yes, sir.

The CHAIRMAN. Would there be duplication— answer yes or no?

Mr. CARTER. I mean to say, Mr. Chairman, that it would be a duplication of work on our part if we followed the same broad, constructive plan of work which we are following to-day, because we never had any records available, as far as the study of our school records and the study of the health certificates are concerned, under Federal supervision; and even though we passed the rule requiring physical examination, we did not secure the benefits of that rule until after we had taken complete control of the work in the State.

Mr. SUMNERS. At some time in the course of your remarks, I wish you would give the committee—or, at least, I will ask the chairman if I may request the information as to how the sentiment with regard to the protection of children in practice developed in your State; how it has grown; and give us some idea as to its progress. I do not want to interrupt you, but I would like to have that information before you are through.

Mr. CARTER. I wish to state in reply to that just a few words in the way of explanation and illustration. We had no mothers' aid law, but when this bill was first enacted there was a companion act placed upon the statute books of the State which provided that the board of education should set aside in their budget an amount which would be sufficient to allow as much as $10 a month to any dependent child who came within the compulsory school law. That law, I wish to state, was not very widely observed. We found out in our survey that there were cases where there was a widowed mother of a child, or a consumptive person who was the breadwinner for that child, or some other person that was unable to work, and the child was on the border line and its earnings were needed to add to the family budget and to help solve the family problem of making a living—we found that those cases were not taken care of and that the child needed work.

But since that time we have had a mothers' aid law enacted, which has secured wonderful results; and I have from the Manufacturers' Association of North Carolina a request for us to do away with that 12 to 14 vocation employment. It reads as follows:

Therefore, the executive committee of this association, in session this 22d day of June, 1922, respectfully recommends and requests that the State child welfare commission prohibit the employment of male children between 12 and 14 years of age in any mill, factory, cannery, workshop, manufacturing establishment, and so on, in this State, in or out of the school term.

Mr. SUMNERS. I do not believe you quite understood what I would like to have you indicate to the committee. There was a time when you had no child-labor regulation in your State, I assume. There was a beginning, and then something had to happen, I assume, before you got any legislation. Legislatures usually reflect the sentiment and purpose of the people at home. Now, you have indicated to the committee to some extent what progress the State of North Carolina has made in dealing with this problem—a matter of the growth and development. I do not want to take too much time of the committee, but if you could indicate to the committee briefly how the results which you now describe have been arrived at, I believe it would be helpful to the committee.

Mr. CARTER. Well, I will try to confine my remarks to my personal contacts.

Mr. DYER. Would you mind, before you answer the question of Mr. Summers, explaining this: Will you state, if you know, why that association only made reference to male children? They do not object, apparently, to the employment of female children.

Mr. CARTER. I wish to state that the commission never did make an exception as to girls. I would like to read that ruling.

Mr. DYER. Did you not just read a resolution where it said that male children between 12 and 14 should not be employed?

Mr. CARTER. Yes; because that is the only exception we made; there is no girl allowed to work in any place in North Carolina under 14 years of age. That is the only exception we have ever made to the law; and I have already stated, it is from humane considerations that we have done that; and it was done as a result of a two-days' hearing in the State capitol.

The CHAIRMAN. What do you mean by "humane considerations"? Will you explain what you mean by "humane considerations"?

Mr. CARTER. I mean by that, as I have already stated, that where there is a case of family dependency that comes up, and where there is no machinery provided to take care of that case, except by separating the mother from the child, and taking the child to an orphanage, or some child-caring institution—that it is simply a matter of trying to keep the family together and take care of the budget.

The CHAIRMAN. You mean it was where the necessities of the family made it advisable that the child should be permitted to work?

Mr. CARTER. Yes, sir; that is what I wished to say.

Mr. HERSEY. I understood that your law applied only to the males?

The CHAIRMAN. No; he has explained that only males were employed under that age.

Mr. HERSEY. I want to know about the law. Does the law prohibit females under that age from being employed?

Mr. CARTER. The law prohibits males and females under 16 from being employed, except under the conditions prescribed by this commission.

Mr. HERSEY. There is not one law for males and another law for females, is there?

Mr. CARTER. No, sir; it includes both; that is definite. In answer to your question, I will state that in our contacts from time to time throughout the State we have been emphasizing the three elements of education, of health, and of welfare, and in only a very few cases have we found anything thrown in the way to block our schedule. Just as an illustration of our progress, I only recently reviewed the plans of a school building in Guilford County that is an outstanding piece of work. The expense was so great that even the board of education was staggered at the figures which were submitted to them for a bond issue to take care of the expense.

Mr. SUMNERS. Now, you are discussing the results, and I am trying to find out how you got those results. This proposition before the committee is very definite; that is, the committee is trying to determine whether or not, in view of the history and the progress in the several States, it is necessary that the Federal Government shall interpose its power in the protection of the children of the several States. In determining whether or not that ought to be done, I assume that it would be important for the committee to know whether

or not the States, working by themselves, have in a given length of time attained a degree of substantial achievement which would make the Congress hesitate to disturb that growth. Do you understand what I am trying to get at?

Mr. CARTER. Yes; I think I get the point; but please correct me if I am wrong. I wish to state that these personal investigations that we have reported here of 4,691 children, which we assume are the actual figures as to the children employed by the plants here described, show that we are efficient in our department to-day. The fact that the employers themselves have cooperated in securing this information and in bringing about the good results that we have already secured, I think is another point which emphasizes the fact that we are handling our problem, and handling it intelligently and efficiently; and this has been brought about through legislation which we consider is effective.

Mr. SUMNERS. How was that legislation brought about?

Mr. CARTER. By the principle, as recognized in this first act, of tying the school legislation with child-labor legislation—not making it a lone prohibitory measure, but one which would be constructive in its form. If I do not get your exact point, I am very sorry.

Mr. SUMNERS. Well, I will not question you any further on that point.

Mr. CHRISTOPHERSON. How many people are required in administration of this law in your State?

Mr. CARTER. This act provides that we may use the superintendent of public welfare as the authorized agent in each county; it also provides that where a superintendent of public welfare is not appointed the superintendent of schools shall assume the office.

In addition to that, the commission has passed a rule in which they have specially designated this officer as the authorized agent in each county. In addition to that we have medical officers sometimes serving. And we have principals of schools in some places that we have investigated who have proved very efficient; they are in symphathy with this work; and they are cooperating with the local organization in taking it over. So that altogether I assume that we have approximately 110 to-day who are interested in this matter of supervising child labor in the 100 counties of the State; which gives us more than one agent to each county.

Mr. FOSTER. How many of the 110 people would be embraced in the superintendents of schools, and those who are merely ex officio your agents? In other words, how many have you absolutely engaged on this enforcement work independently of other positions?

Mr. CARTER. There are 67 part-time and whole-time superintendents; I think there are 63 that are on a full-time basis to-day. That takes in the central piedmont section of our States, in which the majority of the industries are located; all of those have full-time officers, and they are especially trained in social welfare.

Mr. CHRISTOPHERSON. Do they travel around and serve in different parts of the State?

Mr. CARTER. The officer that is designated for the county is charged with duties in that county. I might state that we have four field agents, who are doing investigation work continually; one of them specializes in engineering, and another in social welfare and statistical

work; and we have in view now the placing of a graduate nurse on our staff for the following up of the health side of our work, in encouraging families and educating them along those lines.

Mr. FOSTER. Are you at the head of all that machinery?

Mr. CARTER. Yes, sir. We have two ladies in the office, one of whom is my assistant, and takes charge of the stenographic work, and one is in charge of statistics. Our appropriations were double last year, and we feel that that gives the machinery for checking against every plant in the State once in each month. We made this check a little ahead of our schedule.

Mr. HICKEY. What was your last appropration?

Mr. CARTER. $20,000. I wish to state that we have a tentative rule drafted which will be submitted to the commission next year, which will comply with the requests that have been made for the abolishment of this 12 to 14 year old work. We feel now, with the efficient functioning of the mothers'-aid work in North Carolina, the cases that need relief will be very few, and that we may be able to solve that problem without causing any real distress; so that that part of the rule affecting boys from 12 to 14 years old, and permitting them to work under certain circumstances, which is the only exception that the commission has ever made, will probably be changed, and it will only be permitted in cases where it is made a unit of vocational training in conjunction with the employment. So that we propose to have that as a constructive measure throughout; and with the growing efficiency of the mothers'-aid relief, we feel that within a short time there will be no need of having dependencies.

Mr. FOSTER. How do you pay these 60 men, who you say are exclusively enforcing this law, on a total appropriation of $20,000?

Mr. CARTER. How do we pay them?

Mr. FOSTER. Yes.

Mr. CARTER. Well, of course, we can not pay them all salaries. We have graduates of our technical college in North Carolina, the university, and the graduates of Trinity College, and others, who are interested in making that contact and following up their college work. That is the way we do it. We could not afford to get old and experienced people and get the personnel that we have got; but I wish to state to this committee that in all of my connections anywhere I have never seen any young people more interested in or enthralled with the work that they are accomplishing than the work that is being done by those young people in North Carolina.

Mr. MONTAGUE. If I understand correctly the question of my brother, Mr. Foster, to you was this: How can you get along and do this work with an appropriation as small as $20,000?

Mr. FOSTER. Yes; I understood him to say that there were some 60 people used exclusively by them, independent of the county school superintendents; and it occurred to me that if you could employ that many people with an appropriation of only $20,000, you must have very patriotic people who were serving for nothing.

Mr. CARTER. I wish to state that it has come under my personal observation that school superintendents, as well as superintendents of welfare, who had no expense allowance in the world for carrying on the work under this law, have taken the money out of their own personal salaries and paid for the hire of automobiles and bought

gasoline for use in making trips to investigate these cases and report on them; and there have been numerous instances of that kind. I could read from the report where one man reported to us the investigation of seven cases of dependency in his county, and in doing so, he said, "It has not all been accomplished yet, but I paid the expenses of doing this work out of my own income."

Mr. MONTAGUE. But upon that small appropriation, can you say that in your judgment the administration is efficiently accomplished?

Mr. CARTER. I certainly do. And I think the next general assembly will recognize the efficiency of the program and will take care of any need we have; in fact, our budget has already assured us of that.

Mr. MONTAGUE. There is a difference between efficiency and cost of administration; sometimes we have very efficient administration at low cost, and sometimes we have a very heavy cost with an inefficient administration; and then again, when you look at those things with the background of the United States Treasury on the one hand, and the background of the State treasury on the other hand, it makes a vast difference.

Mr. CARTER. Yes, sir. I would like to explain to the committee that these surveys are arranged in groups of units, in which we try to figure up the least amount of travel and travel expenses, and at the same time to make the greatest number of contacts; and those groups of units of one man are compared against the groups of units of another; so that we are always trying to get the lowest possible cost basis for each thing accomplished; and we shall know at the end of this year just what each visit cost, and what the conferences that are held in trying to put the matter over in an educational way cost us; and whenever we find anything which duplicates what is being done by others, we cast that off and get rid of it; so that only the vital things that belong to the administration of this commission will be done by it.

Mr. SUMNERS. What is the state of public opinion in your State with regard to this general child-welfare program?

Mr. CARTER. I think it is unanimous in support of it.

Mr. SUMNERS. Do you find any considerable degree of local cooperation among women's organizations, etc.?

Mr. CARTER. Yes, sir; the Rotary Club, the Civitans, the Kiwanis Club, and all of those organizations have cooperated with us. My assistant, Mr. Brooks, who just visited Gastonia, found that the superintendent of public welfare of that county had just been called upon to address one of those meetings; and their attitude was, "How many boys have you that you can be a big brother to?" And those children are selected from the different villages in that vicinity, or they may be selected from the town itself; and they will take those children and do some constructive work to properly develop the character of the child.

Mr. SUMNERS. Is it your judgment or not that better and more substantial progress is being made under local and State responsibility than if the Federal Government was exercising a supervisory control over the general situation?

Mr. CARTER. My experience is that that is most decidedly so. Since we have taken this administration over we have secured the physical examination of every child that was certified under Federal

authority previously; something which we previously had not done. We have a school record of every child in North Carolina that has been certified for employment. We know where he is working, and we know under what conditions he is working; and moreover, in the cases of dependents, we have a family history of those cases; and that is something that we never had before.

Mr. SUMNERS. From your observation as to the way in which both State and Federal expenditures are made, do you believe that $20,000 expended by the Federal Government in connection with the work in which you have been engaged would have covered the same field and brought about the same results as have been brought about?

Mr. CARTER. I do not, sir; as far as I have been able to ascertain from personal investigations and contacts at the different plants. I do not wish to make any reflection on anyone, because we had perfect cooperation throughout the administration of the Federal law. But they had only the object of certifying that child; of establishing the fact whether he was old enough to work or not. In very few cases, to my knowledge, was any personal examination made as to the family dependency, or any other circumstance that might affect that child.

Mr. SUMNERS. What is your experience as to whether or not general interest in child welfare is aroused by the community assuming the responsibility with regard to some particular phase of child welfare.

Mr. CARTER. I wish to state that I think that is one of the best ways of solving that matter. In fact, we have found that the more we can throw that responsibility upon the community the more we can depend upon them to fulfill it; and I think that is the function and position of the superintendent of welfare and the superintendent of schools in promoting the welfare in their own community and taking care of their own problem. In that way we try to place that as forcibly as we can before the community.

Mr. SUMNERS. What I am trying especially to arrive at is whether or not, when you are inquiring into the general conditions or the specific conditions under which children work in a certain community, as a result of that inquiry and the investigation that you make, there is aroused in that community an interest in seeing that the child lives under proper physical and moral conditions, whether it has the proper surroundings, and whether it goes to school under proper conditions, and things of that kind?

Mr. CARTER. We have checked over those things in the inspection that we have made, taking the certificates in the plant, and going around with the superintendent of schools in that particular place, and checking those certificates as to each of those children. And we have found that there are approximately 60 per cent in the places which we have investigated, on an average, who have gone back to school; that is, of children above the compulsory school age; I wish that point made clear; that is, of children above the compulsory school age; we are not dealing with truancy, but children above the compulsory age. Those children have voluntarily, in the face of any lure in the way of financial return offered to them, returned to school. And that has met with the unanimous support of the authorities. In one place we checked over 85 per cent; that is an extreme figure. But I checked that over myself in some places.

I looked over the pay roll of the employees in one place, and there was one young lady who was making about the same salary as the stenographers are getting in our town; she was working in a hosiery mill; and she left that position and went back to school.

So that we feel that, with the cooperation of the school officers, and with the cooperation of the business managers in North Carolina, and the industrial managers, we have strongly in hand the situation as to taking care of those children.

Mr. Bonn. Would we be safe in assuming that this wholesome local support that you have received contributed materially to the action of the legislature in increasing the appropriation last year from $10,000 to $20,000?

Mr. Carter. Yes, sir. I wish to say that the committee was most favorably impressed with our report; and though they had limited our previous appropriation to $10,000, they unanimously approved of $20,000, in consideration of what we had accomplished. I wish to state just one other fact as to our inspections, and then I will be open for any questions.

In order to insure the accuracy of our check on this proposition, we have taken the census report, and we have taken our labor department report in North Carolina, of the number of industries, and we have added them all together; and we found the grand total approximated what we had actually accomplished; in other words, we had made 1,939 detailed inspections and visits in order to secure this information, which is beyond what is reported in the industrial and manufacturing plants in North Carolina, including the furniture factories, the textile mills, etc., which assures us, in checking over the labor report plant for plant, that we have completed the job and that we know that these figures are accurate.

There is just one point in reference to our local agents, which I wish to make plain. The county assumes the expense of this local agent; the county board of education and the county commissioners usually go 50-50 on the salary of the superintendent of public welfare, and all counties having over 32,000 population are required to have a full-time officer; those having under that population are required to provide office assistants and supplies in taking care of this work. The law provides that they shall investigate child-labor cases in their respective counties.

Mr. Montague. They are not within the $20,000 appropriation?

Mr. Carter. No, sir; that is outside and independent. And that cooperation, gentlemen, we feel is one of the features of our success. We could not put over the program which we have reported here this morning, in the individual investigation of these plants and the detailed inspections which have covered all of these details of work, unless we had had a unit in those communities which was cooperative to the fullest extent—some of them, as I have said before, even sacrificing their own salaries in order to meet the ends which we had in view in solving this child-labor problem in North Carolina.

I thank you, gentlemen.

The Chairman. Mr. Carter, I should like to ask you one or two questions: You necessarily are a student of child welfare?

Mr. Carter. Yes, sir.

The Chairman. Now, you have in your position knowledge of the character of the work that is being done for the protection of

children: In your judgment is the welfare of the children cared for efficiently in your State of North Carolina?

Mr. CARTER. Yes, sir; I think that it is being administered efficiently. I think that our problems are being taken up and they are being handled promptly, as a whole; yes, sir.

The CHAIRMAN. Is the spirit of the care for the children growing or diminishing?

Mr. CARTER. Is the spirit of the care of children——

The CHAIRMAN (interposing). Is the desire to care for the children growing or diminishing in your State?

Mr. CARTER. I would say the reverse, if I understand the question—that the care of the children is increasing at tremendous rates; that is, the education of them, the public health, the correcting of defective children and cripples, and all of those things, are growing at a tremendous rate.

The CHAIRMAN. I wish you would state whether or not it is your opinion that the local management and handling of this question promotes more local cooperation and help than if a central point like Washington became the controller and regulator of child labor?

Mr. CARTER. I certainly think that the problems of any community can be approached and handled by their local machinery more effectively; and that has been demonstrated to me since we have taken over the commission's work and assumed the responsibility for the program.

The CHAIRMAN. That is all.

Mr. FOSTER. Just one question, Mr. Carter: Do you know Mr. David Clark?

Mr. CARTER. Yes, sir.

Mr. FOSTER. He is the gentleman who accompanies you here now, is he not?

Mr. CARTER. He is here, as I am, in defense of our State in answer to statements that have been made in the newspapers throughout the country, stating that we in North Carolina had millions of children employed, or hundreds of thousands of them; and we wish to make the facts I have stated here plain and definite and correct.

Mr. FOSTER. By "we" whom do you mean besides yourself?

Mr. CARTER. Mr. Brooks, my assistant.

Mr. FOSTER. I was referring to Mr. Clark. He came up here with you, did he not?

Mr. CARTER. No, sir; he came up this morning. I came here yesterday.

Mr. FOSTER. He arranged for you to come here; he asked you to come here last week, did he not?

Mr. CARTER. Yes, sir.

Mr. FOSTER. Is he the same David Clark that has been managing editor of the Southern Bulletin for some years?

The CHAIRMAN. Mr. Clark will testify; he can be asked about that.

Mr. FOSTER. Well, if the chairman assures me that Mr. Clark will testify, that is all right.

The CHAIRMAN. Mr. Clark is here and has asked to be heard; there is no doubt about that; we do not have to ask other people questions about him when he is going to testify himself.

Mr. PERLMAN. Mr. Carter, could you not do the same work that you are doing now with a Federal child labor law?

Mr. CARTER. I wish to state that the Federal child labor law did not do it.

Mr. PERLMAN. I did not say the Federal child labor law did it; I asked, could you not do that work with a Federal child labor law just as effectively?

Mr. CARTER. I can only state, from what has been true in the past, that we were not able to get the information that we now have, under Federal supervision; and we were not able to stimulate the feeling and get the responses in the communities that we have now gotten, while it was under Federal supervision.

Mr. PERLMAN. Do you not think you could do the work just as well under the Federal child labor law?

Mr. CARTER. Well, I am open to be convinced.

The CHAIRMAN. Your experience is that you did not and could not?

Mr. PERLMAN. You said you did not do it?

Mr. CARTER. We did not do it under Federal supervision.

Mr. FOSTER. And still, you told us that there was hearty cooperation between your bureau and the Federal bureau.

Mr. CARTER. We offered every cooperation we could in carrying through the program that they had in the State.

Mr. FOSTER. My understanding was that you testified that there was hearty cooperation between your force and theirs at that time.

Mr. CARTER. Yes, sir; I wish to state that as to the certification of children and the program that they followed.

STATEMENT OF MR. JAMES A. EMERY, GENERAL COUNSEL NATIONAL ASSOCIATION OF MANUFACTURERS OF THE UNITED STATES

The CHAIRMAN. Please state your name and whom you represent.

Mr. EMERY. Yes, sir. James A. Emery, general counsel of the National Association of Manufacturers of the United States.

Mr. MONTAGUE. Where is your residence—where are you from?

Mr. EMERY. Washington. I appear here, Mr. Chairman, on behalf of the National Association of Manufacturers of the United States and the following State associations of manufacturers throughout the United States: California Manufacturers' Association, Manufacturers' Association of Connecticut, Manufacturers' Association of Delaware, Associated Industries of the Inland Empire (Idaho), Indiana Manufacturers' Association, Iowa Manufacturers' Association, Associated Industries of Kansas, Associated Industries of Kentucky, Associated Industries of Maine, Manufacturers and Merchants' Association of Baltimore, Associated Industries of Massachusetts, Michigan Manufacturers' Association, Associated Industries of Missouri, Nebraska Manufacturers' Association, Associated Industries of New York State, Ohio Manufacturers' Association, Oklahoma Employers' Association, Merchants and Manufacturers' Association of Oregon, Pennsylvania Manufacturers' Association, Employers' Association of Rhode Island, Manufacturers and Employers' Association of South Dakota, Tennessee Manufacturers' Association, Utah Associated Industries, Associated

Industries of Vermont, Virginia Manufacturers' Association, Federated Industries of Washington, West Virginia Manufacturers' Association, and Wisconsin Manufacturers' Association.

Mr. MICHENER. Just one question before you proceed. I am from Michigan. Has the particular matter about which you are going to talk been taken up with the Michigan Manufacturers' Association?

Mr. EMERY. It has; yes. I am about to read a resolution.

Mr. MICHENER. Very well.

Mr. EMERY. These associations met in semiannual conference in November last in the city of New York. They meet twice a year to discuss matters of mutual interest to the manufacturers of the United States through representatives of these associations, generally the president of the association, who is a representative manufacturer of the State, and the executive officers of the association, and at these conferences they take up various subjects of interest to the associations.

They discussed the resolution proposing a constitutional amendment pending in the last Congress, and which is substantially similar to the one pending in the present Congress, and adopted the following resolution; and this, I may say, was done not merely by the individuals present, but representing the views of their respective associations, since they may proceed in these matters only under their instructions.

Mr. DYER. How many representatives were present from each of these associations?

Mr. EMERY. At least two; the president of the association and the executive officer of the association.

The CHAIRMAN. From each one of the subordinate ones?

Mr. EMERY. From each one of the subordinate ones; yes, sir. They comprise what is called the "National Industrial Council," being an association of the State associations of manufacturers of the United States, in affiliation with the National Association of Manufacturers of the United States, for the purpose of discussing and defending and promoting the common interests of the memberships of such associations and for the furtherance of the efficiency of the organizations themselves, and to study and analyze and provide a central source of information with respect to all the common industrial problems confronting manufacturers. The resolution is as follows:

Resolved, That we are opposed to further amendments to the Federal Constitution constituting invasions of the reserved powers and prerogatives of the States. We join in the condemnation of the exploitation of children at labor beyond their strength and under improper conditions, and we insist that our growing youth shall be taught the dignity, duty, and necessity for labor.

In view of the fact that substantially 42 of the 48 States have laws relating to child labor fully up to the requirements of attempted Federal legislation, we recommend that all efforts to be made by those interested in this subject be directed to securing the enactment of proper laws in the six remaining States, rather than to attempting to amend the Federal Constitution in a manner violative of its fundamental purpose.

We call upon the manufacturers in all the States which have not kept step in such beneficient legislation to put themselves in line on that subject.

Mr. DYER. Who wrote that resolution?

Mr. EMERY. Sir?

Mr. DYER. I say who wrote that resolution?

Mr. EMERY. It was presented by the committee on resolutions of the conference and adopted by the conference. I do not know that it was suggested by any particular individual.

Mr. HERSEY. Will you read the wording again there—where it says that 42 States had laws now equal to what the constitutional amendment would give them?

Mr. EMERY. Yes, sir.

The CHAIRMAN. It did not say that.

Mr. EMERY (reading):

In view of the fact that substantially 42 of the 48 States have laws relating to child labor fully up to the requirements of attempted Federal legislation.

The CHAIRMAN. It does not say the amendment.

Mr. FOSTER. The contemplated legislation.

Mr. YATES. I did not hear that after the word "requirement"—says "fully up to" what?

Mr. EMERY (reading):

Fully up to the requirements of attempted Federal legislation.

All attempted legislation.

The CHAIRMAN. It refers to the legislation; that is what I said.

Mr. YATES. It refers to the legislation; well, that is the amendment, is it not?

The CHAIRMAN. No; that is the attempted legislation which we have passed.

Mr. MONTAGUE. It refers to the two attempts at legislation heretofore.

Mr. HERSEY. Well, I assume that any legislation would be covered by that, the same as the former legislation; that was attempted legislation; this is attempted legislation.

The CHAIRMAN. Well, anybody can undersand that language that wishes to—that it refers to the acts of Congress that have been passed.

Mr. DYER. Well, Mr. Emery, you know about that: What did that resolution refer to—the legislation that had been enacted, or the proposed amendment?

Mr. EMERY. Mr. Chairman, I think the resolution plainly referred to the opinion of those who adopted the resolution that substantially 42 of the States had adopted standards with respect to the regulation of child labor which were similar to those which had been proposed in Federal legislation.

Mr. HERSEY. "Fully up," it said.

Mr. EMERY. Well, I will not be technical about it; there is the resolution, and you can readily form your own opinion as to its meaning.

Mr. DYER. It did not, then, have reference to the proposed amendment to the Constitution which the committee is now considering?

Mr. EMERY. Well, the preceding paragraph did; and if the committee will just permit me to proceed, I am sure that I can satisfy you as to the matter as to which you desire information with respect to their views.

Mr. MICHENER. Was the vote unanimous, or was it just a majority vote?

Mr. EMERY. Yes, sir; it was unanimous.

Mr. CHAIRMAN. I want to make clear the position of manufacturers with reference to this proposed amendment, so far as I can speak for them.

I want to call attention first to the fact that the manufacturers' associations for which I can speak are not here, and have never appeared here, in opposition to child labor regulation, except upon a constitutional ground. None of these associations have appeared in opposition in the various States to the establishment of high standards for child labor; and I can say with authority that I know of no representative body of manufacturers that desires the employment of children under the age of 16 years. And that, Mr. Chairman, for many social reasons, as well as for the fact that I believe it to be the general opinion of industrial management that such labor is inefficient, if it were not unsocial, undertake its employment for any extensive period of time.

Mr. DYER. You do not speak for the North Carolina manufacturers, however, do you?

Mr. EMERY. No, sir; I am not speaking for them.

I want to call attention, furthermore, Mr. Chairman, to the fact that what I say with respect to these associations is demonstrated by their conduct to be true.

They have been leaders in the movement, for example, for the subversive revolution in our law of negligence which has been represented in workmen's compensation legislation, and in the general campaign for accident prevention. Our association made their original investigations in Europe; and long before the States had taken advanced steps in the matter, they were advocating it among their own members, giving to the State legislatures the benefit of their own researches in Europe and in this country, furnishing charts illustrating the results of their studies in the experience of other nations; and they had undertaken to form among their own members a strong opinion with respect to that subject.

The Federal Commission on Industrial Relations, which could not be very well accused of prejudice favorable to the manufacturers in its general attitude toward them, had this to say in the majority report, made in 1915, with respect to accident prevention:

> At the same time, three great private associations have sprung up which are doing as much or more for safety than all the State and Federal Governments combined. The conference board of the National Allied Safety Organizations, composed of representatives from the National Association of Manufacturers of the United States, the National Founders Associations, the National Metal Trade Association, and the National Electric Light Association, have begun the standardization of safety devices for employees, regardless of any standard which the State or Government officials may set up.
>
> And they have set up and maintained at this time the best engineering organizations which can be put together, for the purpose of advising the members in all their plants with respect to practical methods of accident prevention, and for the inculcation by them of other things most essential in the prevention of accidents—the habit of caution.

I refer to these things, sirs, because there is a natural suspicion that when the manufacturer appears in opposition to what has been described as child-labor legislation, he is opposed to the terms of the proposal, and he is opposed to the proper protection of children in industry—a position which I absolutely reject.

And furthermore, Mr. Chairman, I beg to call attention to the fact that the resolution pending before you is much broader than any proposal that has ever been made in any Federal statute for the regulation of child-labor through the exercise of the commerce power.

The pending amendment, House Joint Resolution 184, in terms similar to that pending before the Senate, reads—and I shall ask that it be inserted at this point in my remarks, if you please, Mr. Chairman, after the preamble:

SEC. 1. That Congress shall have power to limit, regulate, and prohibit the labor of persons under 18 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 Congress.

The two child-labor statutes, which were the subject of much discussion between 1907 and their ultimate passage and the ultimate rejection of them by the Supreme Court of the United States, undertook to prohibit—in the first instance suggested by Mr. Beveridge—undertook to penalize carriers who accepted for transportation in interstate commerce products into which the labor of children under 14 years of age, or between 14 and 16 years of age who worked more than eight hours in one day, had entered, in whole or in part.

The legislation subsequently enacted prohibited the introduction into interstate commerce of the products of any mill or quarry, or of any mine or manufacturing establishment of a commodity into which the labor of a child under 14 years of age had entered, or the labor of a child between 14 and 16 years of age who had been employed more than eight hours in one calendar day, or outside of the hours between 7 a. m. and 7 p. m., or more than six days in one week.

So that you have here a proposal that Congress shall undertake not only the regulation but to limit and prohibit the labor of all persons under 18 years of age.

That means, sirs, that it is proposed that the National Government shall undertake substantially to limit, prohibit, or regulate the labor of minor persons of both sexes—and 18 years of age, I need not remind you, sirs, was the age, or the average age, of a great part of those who engaged in the great civil struggle to save the Union.

So that this goes far beyond the regulation of what may be termed children; and it is really directed to the question of whether or not we shall incorporate or whether it is necessary, as the Constitution provides, that you shall propose the incorporation in the Federal Constitution of an article looking to the regulation, prohibition, or limitation of persons under that age.

Now, I beg to suggest to your committee, first of all, that in our opinion that regulation is not necessary.

First, because while it is true that there have been backward States, whose legislation upon this subject has not met with the approval or has not marched with the desires of those who expected and wished the acceptance of higher standards for child labor, nevertheless, the progress has been steady; and that from a period not so remote in our national history, when there was no regulation on that subject, we had passed to the point where substantially every State of the 40 or 41 more populated States of the Union has enacted the most elaborate legislation, not only with relation to the hours of employ-

ment of what may properly be termed children in the ordinary meaning of the word, but has either prohibited that employment entirely or provided for part-time employment and school work, or otherwise, in various complex and intricate details and in accordance with the local conditions under which they live, has undertaken to meet that problem, so far as it is a police problem to be met by law.

It has been urged in connection with this subject that it is necessary that the Federal Government should interpose its authority or a great number of children in agriculture or in industry will be left without sufficient protection by the States.

I say, first, that the march of events over the past 15 or 18 years has demonstrated not only that the States are capable of meeting this subject but that their communities are willing to do so.

And the proposition that is really presented to you is this: Should the Federal Government amend the Constitution of the United States, by granting to the Congress power over the local life of all minor persons under 18 years of age, with respect to their labor, in order to compel four or five States whose regulations upon this subject has not met the approval of those who urge this movement—in order to compel them to do so?

Now, Mr. Chairman, there is no more serious matter than the amendment of the Constitution of the United States; and it is not a light matter to propose its amendment with respect to a subject that has always been regarded, and is to this day regarded, by the great body of our population as a matter best met by local regulation, which, in its very nature, is within the purview of local government, and by the very circumstances of the thing itself, can be met only by a body of detailed regulation and exception and condition, peculiar to the community in which it originates.

If you will examine all the statutes that have been enacted upon this subject, or in relation to it, in the various States you will see that every one of them possesses exceptions, limitations, and provisions for circumstances that express the local life of the State in which the legislation is had.

Why, even the Senate of the United States could not legislate for the District of Columbia, without excepting from the operation of its own child labor act the labor of the children who work as pages for the Congress of the United States.

So, sirs, a subject is one that requires in its very nature a knowledge of local conditions, and of local circumstances.

It represented a subject that, for years in its inherent nature, has been one to which we have always believed local information, local knowledge, and local authority were essential for it to be dealt with satisfactorily in terms of local conditions.

For here is a great nation of 110,000,000 of people, not only with immense variations, in every local circumstances of life, every diversity of climate and production, and every degree of capital possessed, and every variety of progress represented—with the changes that have been appearing in America in the course of its transformation from an agricultural to an industrial population; with different traditions, different backgrounds, different views upon all the subjects involved in the local regulation of the life of minors, and sometimes of adults.

Mr. Frederick Stimson, in his very interesting work on the American Constitution—a gentleman who could speak with some authority; for some 15 years he was law lecturer at Harvard and professor of comparative legislation in that university—called attention to the fact that he had acted as secretary for the commission on uniform legislation, which some years ago had its inception in the American Bar Association and was reinforced by appointments made by the governors of the various States; and he pointed out that in the endeavor to secure greater uniformity in many subjects of legislation two were always excepted from the discussions of the representatives present, because they were found to be two upon which the differences of local conditions and local influences were so great that agreements could not be had; and any attempt to press them would threaten the disruption of the conference. And those two subjects were the regulation of labor and the regulation of marriage and divorce.

Mr. DYER. Now, Mr. Emery, are your remarks being made as the attorney for the Manufacturers' Association, or are they your own views?

Mr. EMERY. Why, I am undertaking, sir, to express the reasons for the views they hold; and I am undertaking to present to you the considerations which caused them to possess those—I am endeavoring to express for them the state of their opinion.

Mr. FOSTER. Those were the reasons assigned by them when they passed the resolution, were they?

Mr. EMERY. No, sir; it is not a subject that was settled in one discussion. That subject has been a matter of discussion over many years.

Mr. SUMNERS. Mr. Chairman, it seems to me, as I observed before, that what we are trying to find out is whether this resolution should be favorably reported. Personally I do not care what the manufacturers as such think or do not think.

Mr. EMERY. Well, I am sorry, sir, that any considerable body of the citizens of the United States should not be given that consideration.

Mr. SUMNERS. No, sir; I do not have the slightest concern for what they think, when I come to discharge my duty as a Representative in this Congress dealing with this matter.

Mr. DYER. I am from Missouri; and I will say to the gentleman that, so far as these manufacturers' associations from Missouri are concerned, their views upon this question would not affect me one iota.

Mr. SUMNERS. What I was trying to get at is that Mr. Emery may have reasons. In those I am interested. It is not what somebody's position is but the reasons therefor which can be helpful to the committee.

Mr. DYER. Mr. Emery is a very able lawyer.

The CHAIRMAN. Shall we continue this colloquy, or shall we go on with the witness?

Mr. DYER. Well, I am just trying, Mr. Chairman, to find out what we are going to do in these hearings. It was stated that this hearing was to close to-day; and there are people here that have said they wanted to be heard, from out of the city; and I think that we should hear them. I do not propose to agree to any further extension of

these hearings. The committee may decide otherwise; but that is my view.

Mr. CHRISTOPHERSON. Mr. Emery is giving us an argument upon this question.

Mr. DYER. But we have heard about everything on this subject. We have heard about the system in Russia, and we have heard about the Socialists——

The CHAIRMAN (interposing). Not from Mr. Emery.

Mr. DYER (continuing). And I do not think it will help the committee at all.

The CHAIRMAN. The chair rules that the remarks of Mr. Emery are entirely in order and pertinent to the subject that we are discussing; and whether, as Mr. Summers of Texas said, the opinion of the manufacturers influences us or not we should hear anything that touches upon the vital question upon this amendment—whether there is such a necessity for it as would warrant the Congress in recommending it to the States for adoption.

Mr. PERLMAN. Mr. Emery, you called attention to the fact that the amendment gives Congress the power to limit, regulate, or prohibit the employment of children under 18 years of age. Would you and your association be in favor of such an amendment, provided it was 16 years of age instead of 18?

Mr. EMERY. Why, Mr. Chairman, I hope I have made plain the fact that I am speaking for manufacturers as citizens, who bring to this subject the experience that they have gained in the carrying on of their industries, and who are here before you merely as citizens who are expressing their views; and I would fail entirely if I did not make it clear that they do not believe that this is a subject for Federal regulation; and no matter what the standards which would be proposed might be, they would be opposed to it as a subject for Federal regulation.

But as to any State, I would say that any manufacturers—every manufacturers' association with which I am concerned—would feel that the standards that have been proposed with respect to the hours and ages of employment are generally acceptable standards. There must, of necessity, be variations as to the terms of the regulations, in accordance with the community life of the States.

I wanted to call attention, Mr. Chairman—I think that is quite pertinent—to the fact that between the ages of 14 and 18 years, men who are to receive training in the trades are expected to receive that training. Now, this means, if it means anything, that there shall pass to the Federal Government, so far as the Congress cares to exercise it, control of the whole subject of child-labor legislation.

When the child-labor tax law was in operaton, for example, the Treasury Department was confronted with cases which arose in Ohio and in other States where an apprentice in a shop who was said to be under 16 years of age, was the cause of assessing penalties amounting to thousands of dollars against the manufacturing establishment, because it was held that he was under 16 years of age, or because of the fact that he was more than 16 years of age had not been shown by a record made in a form satisfactory to the Bureau of Labor; and for that reason, this organization or establishment, which was not an employer of child labor at all in any common understanding of

that word, found itself with these tremendous penalties assessed against it; and it took months to present its case to the Treasury Department and overcome the situation which had been created by a Federal bureau regulation.

And I want to make another point: That if you undertake to do this, if you undertake to regulate this subject in this way, it would require of necessity the creation of an enormous bureaucracy—and that is evidenced by a single instance.

Those who have toiled so well and so ably in the Children's Bureau began with an initial appropriation of $25,000 in 1915, and to-day their appropriation is over $1,400,000. The growth of these independent establishments has been enormous, in the endeavor to carry Federal regulation into the details of local life.

In 1900 you had three independent establishments outside of the departments. They had an annual appropriation of $820,000. In 1920, you had 33 independent establishments, for which you have appropriated more than $650,000,000 annually, which is $200,000,000 more annually than was required to operate all the departments of the Federal Government, including their contribution to the District of Columbia, in 1900.

Mr. BOIES. Will you let me make this remark? In view of the suggestion which has been made here, that the manufacturers might not or ought not to be heard, I think the membership of this committee might analyze the statement coming from a manufacturer a little more critically than they might from some other sources. But if a person appearing as a manufacturer expressing their ideas expresses anything that appears to be for the welfare of child labor, we ought to listen to that.

Mr. EMERY. Thank you, sir; I hope that is true.

Mr. BOIES. That is my idea.

Mr. EMERY. And that the manufacturers are not excluded from consideration by congressional committees.

Mr. DYER. Mr. Chairman, if I may refer to the question that I asked, I want to state for the benefit of the gentleman that I represent one of the largest manufacturing districts in the United States, and I think I can speak for the manufacturers in my district and say that they do not want—that they do not favor the employment of child labor between 14 and 16 years of age.

Mr. EMERY. Well, I concur very heartily in the gentleman's statement. The only difference that I can see between what I am undertaking to say and what you have so well said is that the manufacturers' organizations are interested in the fundamental nature of this Government. They have a very great stake in it; and they believe that it is a tremendous innovation in one of the five great essentials that characterize the American Government. I mean by that, first, that it is a representative Government; I mean by that, second, that it looks to the individual citizens, as distinguished from the mass; third, it undertakes to separate the three great departments of the Government, and provides that neither shall exercise the functions of the other; fourth, it undertakes to establish a dual form of government, in which the power of national authority operates direct on the citizens, and not through the States, but through the great, central source of power from the citizen himself, while leaving

him independently in control of his local affairs; and fifth, that in any difference of opinion as to the rights of the individual citizen as against his agent when exercising his political authority, he has the right to have the Constitution, which is the ultimate will of the people, interpreted and determined in a proper proceeding in the Supreme Court. Now, this is a fundamental issue——

Mr. FOSTER (interposing). Just in that connection, I am one member of this committee that wants you to understand that I am willing to give thorough consideration to the views of any representative of the manufacturers' association.

Mr. EMERY. Yes.

Mr. FOSTER. But here is one point that has come up in my mind: You were here last week, when the committee had its hearings, were you not?

Mr. EMERY. Yes, sir.

Mr. FOSTER. And I notice that you were put over until to-day, at the request of a gentleman from North Carolina, Mr. Clark. And when I tried to find out who initiated the movement protesting the validity of the last law on child labor, I found that none of your clients were in that list, but that Mr. Clark of North Carolina started the movement, and levied the assessment, among the mill owners and not among your clients at all; and he selected the person and he selected the attorney; and he admits that he employed prominent attorneys to come here and delay the proceedings; that he delayed the legislation in the House and delayed it two months in the Senate. And the question in my mind is why the opponents of this measure, who have asked for an hour to reply, have not testified before the committee; the gentleman who appeared in behalf of the mill interests of North Carolina, who levied contributions, and who selected the attorneys who had the law on this subject declared unconstitutional—and your clients had nothing to do with the efforts to get that law declared unconstitutional—but the gentleman who admitted raising funds and hiring the attorneys and levying contributions on the mills in North Carolina, apparently does not intend to testify any time before these proceedings close. I regret that.

The CHAIRMAN. You are not obliged to answer that question, Mr. Emery.

Mr. FOSTER. I did not ask you to answer the question.

The CHAIRMAN. That is a statement to the country.

Mr. FOSTER. I know you have intelligence enough to know that that is not a question: so that the Chairman did not have to tell you that, Mr. Emery.

The CHAIRMAN. Well, I think some respect ought to be paid to the chair.

Mr. FOSTER. And I think the chairman ought to have some respect for the members of the committee.

The CHAIRMAN. If you object to my rulings, you can appeal from the decision of the chair. But I do not propose to be controlled by you as to the conduct of the hearing, even if you are an enthusiast and blinded in your view.

Mr. FOSTER. Well, this committee is not to be controlled by the chairman, unless there is a majority.

The CHAIRMAN. The committee will be in order, please.

Mr. EMERY. Mr. Chairman, as you know, I sought an opportunity to appear before your committee; and this was the first time you could give me to do it. I was here at the last meeting, but I was not given time.

Mr. MONTAGUE. You were pursuing a line a while ago, Mr. Emery, in which you were speaking of the growth of the bureaus here in Washington?

Mr. EMERY. Yes.

Mr MONTAGUE. Had you completed that?

Mr. EMERY. No, sir; I had not completed that.

Mr. MONTAGUE. If you could complete that, I would like very much to have it in the record, as one member of the committee.

Mr. EMERY. Yes, sir. In order, sir, to effect——

Mr. YATES (interposing). I did not want to interrupt, Mr. Chairman; but I would like to know whether we have a hearing beyond this morning in this matter?

The CHAIRMAN. The resolution adopted by the committee at its last meeting was this: That we proceed to-day and continue our sessions until the hearings were closed. That was the committee's order.

Mr. YATES. Very well.

Mr. EMERY. Mr. Chairman, in order that any Federal regulation could be effective, assuming that the Congress takes control of this important question, it would involve of necessity not merely a statement of general principles of regulation by the Congress but a great body of regulations and administrative orders for the purpose of accommodating the general rules established by Congress to the local life of the communities to which it would have to be applied.

Mr. HERSEY. May I interrupt you a moment? Were not those same rules passed under the two preceding laws which were set aside by the courts? They were in operation some years before they were declared invalid, were they not?

Mr. EMERY. Yes, sir; and they illustrate exactly the point I desire to make—that these rules, often with the best of intentions, were incapable of operation in the community. For instance, when a rule required that a county superintendent of schools had to certify, for example, to the age of a minor person seeking employment, and there was no county superintendent of schools, there was no person who, under the rigid regulation, could take his place. That is precisely what, in the particular instances to which I referred, caused a penalty to be levied under the tax law against a manufacturer because a person over 16 years of age had not been properly certified as a proper person, when there was no such person there, and the certification had to rest, for example, on the statement of the father of the child or the clergyman who baptized him.

Now, if that is done, Mr. Chairman, you immediately proceed to create an enormous body of regulations, which require the knowledge and study of the specialists in order that the local citizenship may be familiar with the operation of the Federal organization that undertakes to regulate the minute details of minor employment.

This is illustrated well, for example, under the operation of the revenue act of 1921; 2,236 regulations have been promulgated, and there is complaint made——

Mr. HERSEY (interposing). Is that the Volstead Act?

Mr. EMERY. No; the Volstead Act has its own separate body of regulations, which cover a 64-page pamphlet, which can be had on application to the Prohibition Unit of the Internal Revenue Bureau; and there is in addition to that a great body of as yet uncodified and unpublished regulations, of which the citizen must inform himself at his own peril.

Mr. HERSEY. You are alluding to the income tax law, are you?

Mr. EMERY. No; the whole Internal Revenue Bureau. That covers all the operations of the bureau, and various regulations which the bureau is compelled to promulgate in order to handle very diverse and complex subjects.

Mr. YATES. I do not know that I follow you. I was a collector of internal revenue at one time, and we had about a thousand different regulations at that time. How does that bear on this question? All important bureaus have regulations.

Mr. EMERY. Yes; and in view of the diversity in a thing of this kind, I say that all of those rules would have to be multiplied in order to accommodate this to the local communities. The moment that you undertake—I will put the matter this way, Mr. Chairman, and I can save your time and mine by calling attention to what Mr. Charles E. Hughes said with respect to exactly the situation which we reach when we attempt to exercise local control through Federal authority with respect to questions which, in their nature, vary in the different communities of the United States. In addressing the New York Bar Association, in January, 1919, Mr. Justice Hughes said:

> But in the face of the difficulties already before us, and destined to increase in number and gravity, we remain convinced of the necessity of autonomous local governments. An overcentralized government would break down of its own weight. It is almost impossible even now for Congress in well-nigh continuous session to keep up with its duties, and we can readily imagine what the future may have in store in legislative concerns. If we did not have States we should speedily have to create them. To preserve the essential elements of this system without permitting necessary local autonomy to be destroyed by the unwarranted assertion of Federal power, and without allowing State action to throw out of gear the requisite machinery for unity of control in national concerns, demands the most intelligent appreciation of all the facts of our interrelated affairs and far more careful efforts in cooperation than we have hitherto put forth.

When the Constitution was offered to the people of the United States for its consideration, Mr. Jefferson, you will find, in No. 14 of the Federalist, said:

> Were it proposed by the plan of the convention to abolish the governments of the particular States, its adversaries would have some ground for their objection, though it would not be difficult to show that if they were abolished the General Government would be compelled, by the principle of self-preservation, to reinstate them in their proper jurisdiction.

Mr. MONTAGUE. You say Mr. Jefferson said that?

Mr. EMERY. Yes, sir; that is in the Federalist, No. 14.

Mr. MONTAGUE. In the Federalist?

Mr. EMERY. Yes, sir.

Mr. MONTAGUE. I did not know that he wrote any of the articles in the Federalist.

Mr. EMERY. Yes, sir; he wrote a great many of them.

Mr. MONTAGUE. You mean Mr. Madison, do you not?

Mr. EMERY. Pardon me; I meant Madison; it was a slip of the tongue.

The CHAIRMAN. Yes; Madison wrote that.

Mr. HERSEY. Neither Mr. Hughes nor Mr. Madison were speaking about this child labor law, or anything of that kind, were they?

Mr. EMERY. They were speaking about the principle of government which is involved, as I understand it, in your proposed amendment of this Constitution; and that is, whether or not the regulation of the child life of the Nation shall continue to remain a local matter in the control of the States, or whether the Federal Government shall undertake to take it over and supersede the State, as the general mother-in-law of the minor persons in the United States. That is the proposal that is involved in this constitutional amendment; and I say it is a far larger question than the regulation of child labor; because it deals with persons who, by their age under this amendment can not be termed "children," in any ordinary understanding of the word.

Mr. HERSEY. That age is only a limitation?

Mr. EMERY. That age is only a limitation; but it expresses the limit of the Federal power in dealing with the subject matter of the legislation.

Mr. HERSEY. It is dealing with the child life of the Nation?

Mr. EMERY. Well, if you deal with the child life of the Nation in that regard, you are taking it away from the control of the States, and you are going to undertake to substitute a distant, remote, irresponsible, unsympathetic, unreachable authority for the local authority which controls that life to-day, which is within easy reach of the citizenship which lives in the community.

Our fundamental propostion on this—and I hope the committee will understand it—is always that we are undertaking to present our objections to the principle of government that is here involved, and not to the terms of the regulation which you seek to impose. It is not that we are opposed to the regulation of children in industry, but that we are opposed to the taking away of that subject by the Federal Government, as being another step in the centralization of power, and one step further in that tremendous centrifugal authority, that grows by leaps and bounds, so that to-day our Government has become so great, so complex, so expensive that now, at this very moment, one dollar in every eight is required for the support of National, State, and local government; and 1 out of every 12 of the persons engaged in gainful occupations in the United States is a Federal or a State or a municipal employee; and 6½ per cent of the net income of the Nation is going to the support of the various branches of government necessary, or deemed to be necessary, for the control of the liberties and properties of the citizens; and that, sirs, is equal to 45 per cent of the pay roll in all the manufacturing plants in the United States having a product in excess of $5,000 in the year 1921.

That, sirs, is why we are here making our protest as citizens against the further enlargement of expensive Federal authority, that can not accomplish as effectively, as sympathetically, as intelligently, as understandingly, the local control of life which is the very basis of self-government, upon which our fathers were determined to rest this Government.

Why, sirs, the tendency already established has come to this, as we can plainly see:

That the new-born child, if the tendency goes forward, will be subjected to the control of maternity regulations that apply to him and to his mother. That every step of his education, and every circumstance of his labor is to be subjected again to the control of the Congress of the United States; and that, as he undertakes to enter into the state of manhood and to enter into his matrimonial relations, under the proposed amendment for uniform marriage and divorce laws whether they will compromise upon the principle of South Carolina, where they recognize no ground of divorce, or upon that of Nevada, where they recognize 32, I know not; but the marital relation is to be subjected to Federal control; and then a blank check is to be issued, under the taxing power of Congress, which now claims the right to take his income, substantially without limit; and, finally, when he dies and his estate is passed upon, the tax is divided between the State and Federal Governments, and it may amount to one-half of his property.

Mr. SUMNERS. Does not this, in your view, represent a conflict between the two ideas of government?

Mr. EMERY. It does.

Mr. SUMNERS. One is that you should have government come up from the people; and the other is that the Federal Government, with an elected personnel of less than 600 and between five and six hundred thousand appointed officials should substitute its will and government for the will and government of the people of the States or citizens of the States?

Mr. EMERY. You have expressed very well what I have been desiring to impress upon the committee.

Mr. SUMNERS. And that is a fundamental difference of viewpoint?

Mr. EMERY. Yes, sir. And by the approval or disapproval which this committee gives to this amendment, you will be going further than any Congress has gone up to this time in determining whether this tremendous centralization of control over local authority by the United States is to receive further impetus; and it is to that that I address this argument; and I hope you will believe that when I come here representing manufacturers' associations, I am speaking for them only as citizens of the United States, who are undertaking to make a study of these great subjects as part of the duty which they have by reason of their national and local citizenship; and they ask you to test any argument or representation which they make to you by the acid test of the national interest; and if their argument does not meet with the national interest, it is not worthy of your attention; but if it does meet with the national interest, it is worthy of your attention; and they have no other consideration to offer than that great, fundamental principle of government that they believe is an issue in this great controversy presented here to-day.

Mr. HERSEY. May I interrupt you there?

Mr. EMERY. Yes.

Mr. HERSEY. Suppose this committee, or a majority of this committee, believes that this is a fact: That in this Nation of ours

there are over 30 States that have child labor laws, and that this committee believes that those child labor laws are not up to the standard of what they ought to be in this Nation in the employment of child labor; and that there are States that have no child labor laws whatever; and if we find in a great many of the States there are inhumane child labor laws, or no laws at all, do you not think that the Federal power ought to intervene by making a standard for the Nation in its child life, so that no State could do what it ought not to do, while another State does enact very fair child labor laws? Should there not be a standard to which the people can be brought by the Federal Government when the State refuses to do its duty? Will you discuss that?

Mr. EMERY. If any such condition as you describe were demonstrated, it would go far beyond anything which the facts in our possession to-day justify. There is a conflict of opinion over what are the standards, and I say that each community must work that out. Now, the Congress of the United States has the power to give publicity to any condition that it finds——

Mr. MONTAGUE (interposing). What is your opinion as to the relative ability and conscientiousness and integrity and courage of Members of the Congress of the United States as compared with the legislators of many of the States of the Union?

Mr. EMERY. Well, comparisons are——

Mr. MONTAGUE (interposing). Of course, you would not like to say in our presence, but, in my judgment, many of the men of the State legislatures are just as competent as we are.

Mr. EMERY. Many of them are good men. I hesitate to join in any declaration that would inflict an inexcusable and indefensible criticism upon any community in the United States.

Mr. MONTAGUE. I withdraw the question. But I am just a little impatient sometimes at the satisfactory exclusiveness of some of our people here in Washington.

Mr. EMERY. Yes, sir; there is great complaisance with respect to that——

Mr. MONTAGUE (interposing). And when you come to the bureaucratic dogmatism that you sometimes find, it seems contrary to patriotism.

Mr. EMERY. Yes, sir; and there is no more important relation than the marital relation; and yet I hesitate to believe that any member of this committee coming from any one of the States would be willing to permit any other State or group of States to regulate the laws relating to that relation in his State.

Mr. HERSEY. Why should we discuss the marital law in talking about the child labor law?

Mr. EMERY. Because the principle is the same; if it is important to protect the child life, it is certainly important to protect the relation under which the child life is produced, since the parental condition is the fundamental condition. And we can go too far by legislation; we can build up on weakness as well as on strength; we can make our citizens glorified, independent citizens having intelligence and initiative, or we can make our States dependent provinces, to be governed by proconsuls sent from Washington, who will undertake to carry out the national will, determined at Washington, and depriv-

ing the community of the power to prescribe the conditions under which we shall live. I do not believe that the people are willing to accept that principle; and I am free to say that I do not think the circumstances justify this tremendous departure from local self-government, or that any necessity has arisen which justifies this committee in presenting to the Congress of the United States a recommendation that such a constitutional amendment as this shall be enacted.

I thank you, gentlemen.

The CHAIRMAN. The next witness is Mr. Coolidge. Please state your name and whom you represent.

STATEMENT OF MR. LOUIS A. COOLIDGE, BOSTON, MASS., CHAIRMAN OF THE SENTINELS OF THE REPUBLIC

Mr. COOLIDGE. Louis A. Coolidge, Massachusetts; I am chairman of the Sentinels of the Republic. I shall take but a few minutes of your time.

Our organization, which extends all over the United States with sentinels enrolled in every State of the Union, and which is engaged primarily in preserving the fundamental principles of the Constitution, has asked me to come here to oppose this amendment—not because it relates to labor, or child labor, or anything of that sort; but because, to our mind, it is the attempted continuation of a tendency which has been getting stronger and stronger for the last 20 years, to subordinate to Federal control all local activities, the police powers of the States, and the private rights of the individual citizen in order to concentrate everything here in Washington, in bureaus, in Congress and, gentlemen, in your hands.

The Federal Government is taking on more complicated responsibilities than it can properly handle.

We have one very good example of what Washington, through national agencies, can do. We have it right here in the District of Columbia. The Nation here has absolute control; the people of the District of Columbia have nothing to say about their own affairs; and the District of Columbia is the most lawless spot in the United States; they are shooting down Senators of the United States under the shadow of the Capitol, in a futile attempt to enforce a non-enforceable law.

But that is not what I started to say. I think—we think—that no further amendments to the Constitution affecting the individual rights of citizens, or the reserved rights of States, should be proposed or ratified until after the ratification of the so-called Wadsworth-Garrett amendment, which would give the people in their capacity as citizens of the United States, an opportunity either to vote directly on a proposed amendment, or to vote through conventions in the States chosen to consider that particular amendment to the Constitution, and not through legislatures selected for other purposes and subject to pressure from all sorts of organized and passionate minorities.

There is just one point I would like to dwell on; I do not know whether it has been brought out here or not: The amendment now under consideration gives the Congress "power to prohibit the labor of persons under the age of 18 years and to prescribe the conditions of such labor."

That sounds fairly harmless. Congress can do it, or not do it, just as it likes. Some of you may say "probably Congress will not do it; probably they will be very gentle about it."

But there has never been a provision of the Constitution yet, whether in the original Constitution or in the amendments to the Constitution, where Congress is given the power to enforce the provision, that Congress has not gone to the utmost limits in enforcement legislation.

Take the interstate commerce clause. Did anybody imagine, when the interstate commerce clause in the Constitution was adopted, that it would ever be followed by the Mann Act? And yet that act which reaches far beyond the comprehension of those who framed and ratified the Constitution became a law with hardly any comment.

Take bills of credit; the national banking system; the Federal reserve act—very beneficient acts. All right; take the income tax, under the taxation clause——

Mr. HERSEY (interposing). Were you in favor of the constitutional amendment for an income tax?

Mr. COOLIDGE. No, sir; I was against it, absolutely against it. I believe there has been no provision in the Constitution, and no enactment of Congress, that has gone so far to destroy the rights of the individual States and of the individual citizen as the Federal income tax. It deprives the States of one of the main sources of revenue. It accumulates in Washington a gigantic fund to be expended in multiplying Federal activities.

Mr. HERSEY. How many of the amendments to the Constitution are you in favor of?

Mr. COOLIDGE. The first 10 absolutely; because they emphasize the reservation of certain inalienable rights of the individual citizen. The Constitution could not have been ratified without them, and they are our only salvation; the eleventh and twelfth, because they relate to Federal features in the Constitution—and after that, I would not have been in favor of one, except perhaps the thirteenth amendment which simply recognized an existing condition.

Mr. HERSEY. Were you in favor of that?

Mr. COOLIDGE. Why, of course; of course, but it was not necessary.

Mr. HERSEY. Would you stop on the fourteenth?

Mr. COOLIDGE (continuing). And it is not enforced in certain States of the South, strange to say.

Mr. SUMNERS. How do you know?

Mr. COOLIDGE. How do I know? We had certain peonage cases in Florida.

Mr. SUMNERS. Do you mean that because the law is violated it is not enforced? Is that true of the law as to murder, that because it is violated sometimes it is not enforced?

Mr. COOLIDGE. Heavens, no. But I mean to say that involuntary servitude still prevails in the South—and in some other States, I have no doubt.

Mr. SUMNERS. I challenge that statement as not being true.

Mr. COOLIDGE. As to the fourteenth amendment, that is all right. But the fifteenth amendment was violative of the rights of the States. And I am a Republican. Neither of these amendments has ever been enforced. They were imposed upon reluctant States.

Mr. DYER. Mr. Coolidge, I do not want to interfere with your statement; but you know the question that is before this committee is whether or not the Government of the United States should favor a general law with reference to the employment of children. Massachusetts has one, has it not?

Mr. COOLIDGE. Yes.

Mr. DYER. Are you in favor of the Congress doing it, or leaving it to the States entirely——

Mr. COOLIDGE. Leaving it to the States.

Mr. DYER (continuing). Provided the States, some of them, refuse and neglect to adopt such laws as Massachusetts has?

Mr. COOLIDGE. I am not asking to have the laws of Massachusetts nationalized.

Mr. DYER. In other words, the people of Massachusetts do not care anything about the children in other States; is that what you mean by that?

The CHAIRMAN. I do not think that is a fair inference from anything that the gentleman has said.

Mr. COOLIDGE. No.

Mr. DYER. Well, he says he does not want the laws of Massachusetts applied to other States?

Mr. COOLIDGE. I do not know. Certainly not unless the other States want them. That is a selfish proposition. Massachusetts has its child labor laws; it is said by some that they hamper our textile industry.

Mr. DYER. Are you in favor of the Massachusetts child labor laws?

Mr. COOLIDGE. I am heartily in favor of any humanitarian, intelligent, and effective State law which will prevent the exploitation of the labor of children.

Mr. DYER. Are you in favor of some of them and opposed to some of them?

Mr. COOLIDGE. I do not know them all; we get along very well. I am treasurer of the United Shoe Machinery Corporation. We are not affected by child labor one way or the other; it does not come under our purview. The textile mills are interested in it; and the textile mills of Massachusetts come in competition with those of North Carolina, South Carolina, and Georgia.

Mr. DYER. Did you support the Massachusetts child labor law, or were you opposed to it?

Mr. COOLIDGE. Of course, I was not opposed to it. I had nothing to do with it.

Mr. DYER. Well, you were a citizen, were you not?

Mr. COOLIDGE. I was not a resident of Massachusetts at the time I was living in Washington.

The CHAIRMAN. Your objection to the amendment is on the ground that it is subversive of the basis upon which our Government was established and the dual relationships of State and Federal Governments inter se?

Mr. COOLIDGE. Absolutely, Mr. Chairman; but I had not quite completed what I had in mind on this particular proposed amendment. When Congress comes to enforce it, it provides that Congress may prescribe the conditions of such labor. If they follow the example set in the Volstead Act with regard to the eighteenth amendment,

there is practically nothing they can not do with regard to children. They can determine how children shall be educated; they can determine the moral character of parents and guardians; whether they shall be Roman Catholics, or Protestants, or Jews.

Mr. PERLMAN. How can they do that?

Mr. COOLIDGE. They can absolutely control everything with regard to all children in the United States, and I do not think Congress is competent to do that.

Mr. PERLMAN. How can Congress do that with reference to the religion of the children?

Mr. COOLIDGE. Why not?

Mr. PERLMAN. What provision is there in the resolution that would enable them to do that?

Mr. COOLIDGE. Why, this provision: "The conditions of labor." Suppose at some time some other committee than this should feel that every child in order to be properly educated has to be a Roman Catholic, oh has to be a Baptist——

Mr. PERLMAN (interposing). That would be in violation of the Constitution itself.

Mr. COOLIDGE. No; not at all.

Mr. PERLMAN. I am sorry to differ with you on that.

Mr. COOLIDGE. No; there is nothing in the Constitution that would prevent.

Mr. MONTAGUE. Well, you would have something which would permit it under that amendment, and that would be a constitutional amendment. [Laughter.]

Mr. COOLIDGE. Exactly.

Mr. YATES. Is that not a reductio ad absurdum?

Mr. COOLIDGE. No, sir; after the way in which Congress has translated the eighteenth amendment into the Volstead Act nothing is a reductio ad absurdum.

Mr. YATES. I am very glad that you have made that statement. That characterizes the whole thing.

Mr. FOSTER. How about the nineteenth amendment?

Mr. COOLIDGE. Without regard to the merits of woman suffrage, I think it was an outrage that it should have been put through as a constitutional amendment. I think it was a violation of the fundamental principles of the Constitution. Each State should control its own conditions of suffrage.

Mr. HERSEY. Do you want to give your opinion of the League of Nations while you are here?

The CHAIRMAN. I think that is going too far.

Mr. YATES. No; nothing is going too far after that.

Mr. COOLIDGE. One member of the committee asked about standardizing conditions of labor among children. You can not do it; you can not standardize things of that kind. You can standardize industry; you can standardize railroads; and you can standardize the drinking of liquor, if you like; but you can not standardize human souls; it is impossible. I hope you are not going to try it.

(Thereupon, at 12.05 o'clock p. m., the committee adjourned until Friday, March 7, 1924, at 10 o'clock a. m.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Friday, March 7, 1924.

The committee this day met, Hon. Leonidas C. Dyer, presiding.

Mr. DYER. The first witness this morning is Mrs. Johnson. Will you please state your address and your business?

STATEMENT OF MRS. KATE B. JOHNSON, RALEIGH, N. C., CHAIRMAN STATE CHILD WELFARE COMMISSION OF NORTH CAROLINA

Mrs. JOHNSON. My address is Raleigh, N. C.; I am chairman of the State Child Welfare Commission of North Carolina.

Mr. DYER. Have you a statement you desire to make, or do you simply wish to be interrogated by members of the committee? If you have a statement you wish to make, you may proceed and make it as you desire.

Mrs. JOHNSON. I am here, Mr. Chairman, to represent the State Child Welfare Commission of North Carolina, which is composed of the commissioner of public welfare, the secretary of the State board of health, and the State superintendent of public instruction.

This commission is charged with the enforcement of the child-labor laws in North Carolina.

I believe we have good child-labor laws in our State, with the possible exception of a weakness in connection with the working hours. I know that is wrong, and we hope to have that corrected very soon. With that exception, I think we have as good laws as any State in the Union on that subject.

We are trying to administer those laws efficiently and conscientiously, having in view the education, health, and recreation of the child, and that, it seems to me, is of vital importance. Just taking children out of industry, making no provision for the use of their time, paying no attention to whether or not they are in physical condition to go into industry, making no provision for linking up their leisure time with recreational facilities in the community, is not a very constructive measure, it seems to me. It is not positive, but it is negative.

That is what we are trying to do in North Carolina. North Carolina is deeply concerned with the welfare of her children, and we have passed preventive laws along those lines.

We have one of the best widows' and mothers' laws of any State in the Union, and in cooperation with our state-wide juvenile courts we are trying to make that what it should be, and trying to make the courts function as satisfactorily as we think they may in the future.

I want to express, in behalf of the State child welfare commission, a resentment against the misrepresentation of facts in connection with the assertion that North Carolina is not deeply concerned for the welfare of her children.

The facts are misrepresented. At least, statements were made that are only a part of the truth.

In a recent article in the Pictorial Review by Senator McCormick, he makes a statement like this, speaking of a great many things and the influence that they have, and when he comes to North Carolina

he says, "Do you know that boys 12 years of age may work in the mills in North Carolina?" That is the truth, but it is only a small part of the truth, because it creates a mistaken impression.

The law is this: Children between 12 and 14 years of age during the vacation period and after school may work for eight hours only, during the vacation period, provided the superintendent of public welfare and the State child welfare commission are assured that the child is working in moral and sanitary surroundings, and that he is physically able to go to work.

The truth of the situation is very different from the impression that Senator McCormick gave in this article in the Pictorial Review, which, I suppose, he has presented to you.

I could speak of other things, but that is one statement I want to make here. If you are going to fight us we want you to use fair weapons; we want you to state the truth, and then give us credit for the things we are doing.

I want to state again that I am representing the Child Welfare Commission of North Carolina, and I am not representing any private corporation or manufacturers or anyone else. I want to repeat what I said in the beginning, that we are trying to do our duty by the children of our State, and I believe that we are more deeply concerned for their welfare than any outside agency. It will only be a question of a short time before the one weakness in our law will be remedied, and we believe we can do our job much better than anyone else can do it for us.

Mr. FOSTER. What are the present working hours?

Mrs. JOHNSON. Sixty hours a week.

Mr. FOSTER. You referred to a 12-year-old boy working eight hours during vacation and after school. You have a limit on that time, which is eight hours, have you? Is that the law?

Mrs. JOHNSON. Yes; that is the ruling of the State child welfare commission.

Mr. FOSTER. They do not limit other children?

Mrs. JOHNSON. They do not limit children between 14 and 16 years of age to eight hours.

Mr. FOSTER. But you do limit the inmates of the penitentiaries to eight hours?

Mrs. JOHNSON. Yes.

Mr. FOSTER. I asked that question in order to bring out that fact, and I was wondering if people who are in the position you are in do not feel that legislation should be asked to reduce the time of children from 14 to 16 years of age and make it as low at least as that of the inmates of the penitentiaries?

Mrs. JOHNSON. We do, indeed. As a matter of fact, the situation in regard to working men in the penitentiary is wrong, and we are trying hard to get rid of that. I mean we think the semiconvict lease system that we have should be abolished. My own commission does not stand for that, and we fought it in the last legislature. I think eventually we will get rid of that.

Mr. HERSEY. How will the adoption of this amendment injure your work in North Carolina?

Mrs. JOHNSON. That would depend entirely upon the plans they make for putting the law into operation in the various States. I can not answer that until I know how they are going to work this amendment, what they are going to take out of our hands and what they are going to do with it.

I think I can say that the machinery we have in North Carolina now is very much more satisfactory than the machinery that operated under the old law.

Mr. MICHENER. You mean under the law which was declared unconstitutional?

Mrs. JOHNSON. Yes.

Mr. MICHENER. How did you succeed, so far as cooperation with the Federal authorities was concerned, when the Federal law was in operation?

Mrs. JOHNSON. I did not have my present position at that time, and I would rather Mr. Carter would answer that question.

May I ask some questions?

Mr. DYER. You are here to give testimony to the committee as to whether or not the committee should report the amendment. What do you want to ask?

Mrs. JOHNSON. I would like to ask Mr. Pringle some questions. He was in our State for two weeks and wrote an article on the subject.

Mr. FOSTER. I think we should take that up later on.

Mr. DYER. Of course, that would not be the proper manner of procedure.

Mrs. JOHNSON. I do not want to ask anything unreasonable, but there are one or two things I would like to bring out if possible.

Mr. MICHENER. Can not the lady make her statement? If you have anything you want to state, we would like to hear it.

Mrs. JOHNSON. I can make this statement. Mr. Pringle wrote an article in the New York World. He was in North Carolina——

Mr. MICHENER. We have not that article before us. We have never had that gentleman here.

Mrs. JOHNSON. He is here right now, and I think some of you have seen the article.

Mr. MICHENER. If we follow all the newspaper articles, and try to keep up with their suggestions, we would not get far.

Mr. DYER. Has the gentleman been a witness before the committee?

Mr. FOSTER. No; he has not.

Mr. DYER. We will proceed in order, and if you have any further statement to make, we will be glad to hear it.

Mrs. JOHNSON. I wanted to ask Mr. Pringle some questions, but I think I can make a statement about it.

Mr. Pringle was sent down by the New York World to gather information in regard to child-labor conditions in various parts of the country. He came to North Carolina and he was in our State for about two weeks before we knew he was there.

He made his own investigation in one of the largest manufacturing counties in the State, Mecklenburg County, and I think also in Gaston County.

When he came to my office we gave him all the facilities available for him to get such information, from our point of view, as he wished. He made this statement to me, that he had been in North

Carolina in a number of mills and that he received the most courteous treatment from everyone with whom he came in contact, and that he did not find what he considered, or what he felt, were any violations of the child labor law.

He told me that he left New York, of course, feeling that the proposed amendment was absolutely necessary, but that since he had made his investigations, particularly in North Carolina, he was very uncertain as to what he was going to recommend to his paper, and that he was frank to say that nothing he had found anywhere equaled the conditions in the beet-sugar fields of the West.

STATEMENT OF MR. DAVID CLARK, EDITOR THE SOUTHERN TEXTILE BULLETIN, CHARLOTTE, N. C.

Mr. DYER. Mr. David Clark is the next witness.

Mr. CLARK. Mr. Chairman, I understood that some members of the committee wished to ask some questions.

Mr. DYER. I think you had better make your statement. First, give your name and your business, and then proceed with your statement.

Mr. CLARK. My name is David Clark; I am editor and owner of the Southern Textile Bulletin, Charlotte, N. C.

I wish to put into the record a statement showing the position of the manufactureres of Alabama, as stated by Mrs. L. B. Bush, superintendent of public welfare in Alabama.

Mr. FOSTER. If he is going to present that kind of evidence here, I think the committee should decide whether it is to go into the record.

Mr. DYER. Whose statement is that?

Mr. CLARK. That is the statement of Mrs. L. B. Bush, superintendent of public welfare in Alabama. She states the attitude of the manufacturers toward the enforcement of the law.

I understood the committee was considering the possibility of the taking over of the enforcement of the law by the Federal Government, because the States were alleged to be not enforcing their laws.

Mr. HERSEY. This paper is not signed by the witness, or anybody else.

Mr. CLARK. No, sir; that is an extract from a statement.

Mr. FOSTER. I have no desire to curtail any evidence offered by Mr. Clark, or what is proper for Mr. Clark to put in the record.

He was here last week, and he was here when the hearings began. Last week he asked for a week's adjournment to get witnesses here from North Carolina. The gentleman who is now in the chair asked him if his witnesses could be here for yesterday's session, and he assured us they could be.

I do not object to that, but now he starts by wanting to read hearsay evidence, beginning with Alabama.

If the proponents of this amendment would adopt the same course, we could go on indefinitely. I will say to the committee I have no less than 400 petitions, and I would have no thought of putting them in the record. They are from all sections of the Union, in regard to this proposition.

Mr. Clark was here at the previous hearing, a week ago, and then the chairman received a wire stating that Mr. Clark was threatened with pneumonia, as I recall it, and wanted another postponement.

I want to state here, so that the committee will know what I mean in raising this question, that Mr. Clark stated editorially in his paper, following the decision declaring the last Federal child-labor law unconstitutional, that he had followed a policy of delay and caused a delay of over two months.

Mr. DYER. I suggest that you proceed and make a statement of what is of your own knowledge.

Mr. CLARK. I wish to go on record as differing with the statement made by the gentleman who spoke just now, in a good many details. In a good many details the statements are not correct.

Mr. DYER. The only question is whether or not what you were about to read is proper testimony, and that paper being not signed, and you yourself not having heard this statement made, it merely being an extract from a letter, I doubt whether we ought to permit you to put that in the record and open the gates that wide, because it would incumber the record with a lot of hearsay testimony which it is not to the best interests of the committee to have.

So I suggest you make your own statement as to your knowledge of the conditions, having reference to the matter before the committee.

Mr. CLARK. Will I be permitted to offer an explanation in answer to the statement made by Mr. Foster? I have been put in an incorrect position.

Mr. FOSTER. I will be glad to have you make any explanation you desire.

Mr. CLARK. I want to be fair in this matter, but I want to state my position correctly. I asked the privilege of bringing witnesses before the committee. I was taken sick last Sunday with ptomaine poisoning, and I can furnish the committee with ample certificates from doctors to that effect, having had three of them.

I wired on Wednesday that I was ill of ptomaine poisoning, and never suggested pneumonia, or anything else, and I asked if the hearing could not be given on Monday, because I was in bed and I could not attend to the matter at that time.

As a matter of fact, I had two long-distance telephone calls from Mrs. Bush and I was unable to answer either one of them because of my condition.

Mr. FOSTER. I am willing to say that I misread the telegram. I thought it said Mr. Clark was ill or threatened with pneumonia.

Mr. CLARK. My illness prevented me from getting Mrs. Bush and other ladies as witnesses.

Mr. DYER. I think the discussion in reference to what Mr. Foster said and your explanation are both immaterial, so far as this issue is concerned, but we will be glad to have you make your statement in reference to this matter which is before the committee.

Mr. CLARK. The only statement I can make is in the way of presenting documents in connection with this matter.

I am an editor and naturally accumulate information of this kind. I have here statements from different people relating to the necessity or the lack of necessity for this legislation or for the enactment of this amendment, and unless the committee will permit me to present these statements there is very little I can tell the committee.

Mr. DYER. Suppose you state what you can of your own knowledge, and then ask permission to include in your remarks certain data, and the committee can decide that question when you ask the privilege.

Mr. CLARK. It has been represented to the committee that in North Carolina and Georgia and other States the employment of children under 14 years of age is permitted, or they are allowed to be employed. Several of the newspaper articles have used that word.

On yesterday we were able to show, from the testimony of the superintendent of child welfare of North Carolina that only 432 certificates were issued in 1923 in North Carolina, and that they only found 66 working in the mills, referring to boys between 12 and 14 years of age.

I have statistics for Georgia, which I would like to put in the record.

Mr. DYER. What do you mean by statistics?

Mr. CLARK. I mean a statement showing the number of children given certificates to be employed last year.

Mr. DYER. Is that a record of some official charged with that duty?

Mr. CLARK. Yes, sir. I can give you the whole letter of Mr. McLaurine, of Atlanta, Ga., and statistics——

Mr. DYER (interposing). Who is that gentleman?

Mr. CLARK. He is the secretary of the Cotton Manufacturers' Association of Georgia, and he gives me the number of permits issued——

Mr. DYER (interposing). You say he is the secretary of a cotton manufacturers' association?

Mr. CLARK. Yes; and he evidently went to the State Department and got the number of certificates issued.

Mr. DYER. You may include that in your statement.

Mr. SUMNERS. Does the statement indicate that they are a part of the official records of the State of Georgia?

Mr. CLARK. Yes, sir.

Mr. SUMNERS. If some one brings in here a statement of the proper official of the State of Georgia with reference to these records, that ought to be incorporated in the hearings. But the witness ought not to take a memorandum written on the back of a letter, from the secretary of some organization indicating what the records of the State of Georgia disclose.

Mr. MICHENER. That is my position exactly in regard to the matter.

Mr. SUMNERS. I assume there is no reason why you can not furnish those figures to the committee from the proper State official in Georgia before this hearing is printed. We might accept the figures you have with the understanding that when the proper official record is submitted the figures you have will be stricken from the record of the hearings.

Mr. DYER. Who would be the official in Georgia who would naturally have that official data?

Mr. CLARK. I do not know who that would be. They have somebody who issues permits to children or widowed mothers or orphans to be employed.

Mr. FOSTER. Can you not agree to get that information from the proper official in Georgia; can you not get that from the man who issues the permits?

Mr. SUMNERS. I think the committee should ask for that information. This is not a contest between various groups of people, but it is an effort by the committee to find out what the facts are and what the committee ought to recommend to the House.

Mr. CLARK. That is what I am trying to give you. The figures are entirely contrary to those given by other witnesses, and I think they ought to be presented to you.

Mr. SUMNERS. It is too important a matter to be presented to the committee simply from a memorandum written on the back of a letter by a third person.

Mr. DYER. It comes in the testimony of Mr. Clark, and he gives the source of his information, and the committee will give it whatever weight it is entitled to.

Mr. HERSEY. We do not know the name of the official.

Mr. CLARK. I assume he has the data. He is an officer of the State of Georgia, but I do not know what his title is.

In North Carolina the person who would be in charge of that data would be Mrs. Johnson.

Mr. FOSTER. You did not read the title of any official in the State of Georgia, but you read the title of an official of the Cotton Manufacturers' Association. He sends you what purports to be the official data?

Mr. CLARK. Yes, sir.

Mr. FOSTER. I think the committee ought to have it from the State officer who is in charge of those statistics.

Mr. MICHENER. My objection to having that in the record is that the hearings of committees of Congress are considered, in many parts of the country, as official documents. We all know that various organizations secure thousands of copies of hearings and send them out as authoritative. Here is a man who has been here day after day waiting an opportunity to show that the figures of the Department of Labor were incorrect. He was going to show the falsity of those facts and official figures.

Mr. CLARK. I did so yesterday.

Mr. MICHENER. Now he comes to-day with a letter from a secretary of a cotton manufacturers' association giving what are purported to be official figures. You could as easily bring in the official figures from the proper State official, about which there could be no controversy.

Mr. CLARK. I wish to submit that I did that on yesterday. I did submit witnesses who testified to the actual employment of children in North Carolina.

Mr. MICHENER. But these figures refer to Georgia.

Mr. CLARK. You said I was putting in certain figures; but I had witnesses here yesterday who gave figures absolutely contrary to the figures which had been presented, and I sustained my position.

Mr. MICHENER. But they have not the proper authority. You might as well bring in your editorials from your publication.

Mr. CLARK. I understand they will be brought in.

Mr. DYER. Go ahead, Mr. Clark.

Mr. CLARK. Does the chairman rule that these figures can not be read?

Mr. DYER. The chair said that you will be permitted, in connection with your testimony, to read them, and if the committee wishes to decide otherwise, that is up to the committee. If there is no other action, you may go ahead.

Mr. HERSEY. Do I understand the chair to rule that he is to read these figures?

Mr. DYER. I made the statement before any question was raised that those could go in the record in connection with Mr. Clark's statement, giving the source of the information. If the committee wishes to object to that, that is up to the committee.

Mr. CHRISTOPHERSON. It goes in for what it is worth.

Mr. DYER. We will proceed, and if there is anything more like that which comes up I will submit it to the committee.

Mr. CLARK. I will read the letter:

COTTON MANUFACTURERS' ASSOCIATION OF GEORGIA,
Atlanta, Ga., March 3, 1924.

Mr. DAVID CLARK,
Editor of Textile Bulletin, Charlotte, N. C.

DEAR MR. CLARK: Your telegram to Mr. Glenn was referred to me. I am inclosing a copy of the Georgia Child Labor Movement, a copy of an amendment introduced by the Georgia association, a copy of statistics of children at work in Georgia, and a copy of permits necessary to have for children to be able to work.

Yours very truly,

W. M. MCLAURINE, *Secretary.*

In this letter he gives me the number of certificates issued to textile mills in 1923—that is, to children between 14 years and 14½ years of age, who must have a certificate—and his figures show that there were 246 school certificates, 35 orphans' certificates, and 92 widowed mothers' certificates, making a total of 373 certificates.

Mr. HERSEY. I understand that is made a part of the record?

Mr. DYER. Yes.

Mr. HERSEY. The committee has not voted upon it?

Mr. DYER. The Chair has ruled on the question, but if the committee wishes to overrule the chair, it has that privilege.

Mr. HERSEY. I move to strike it out of the record. It is not evidence of anything.

Mr. CHRISTOPHERSON. It is evidence just the same as any other letter; it does not have any more weight than any other letter.

Mr. FOSTER. He has read the letter, and below the signature are written the figures he presented.

Mr. CLARK. As I stated.

Mr. FOSTER. Just a minute; I am addressing the Chair. I think we ought to have some semblance of regularity in taking testimony. The Department of Labor presents what they claim are statistics, and Mr. Clark is within his rights if he wants to present witnesses to refute those figures. He put their testimony in yesterday in regard to North Carolina, and he wants to refute the figures concerning another State by introducing a postscript on a letter from the secretary of a cotton manufacturers' association.

I will support the motion to strike that out, not because I want to limit Mr. Clark's testimony, but because I think it is a wrong system on which to proceed.

Mr. MICHENER. The figures are written on the bottom of the letter he read.

Mr. FOSTER. I assume the gentleman who signed the letter wrote them himself; there is no question about that. But the question is what policy the committee is going to adopt.

Mr. DYER. Of course, that paper speaks for itself. It is a letter from the secretary of the Cotton Manufacturers' Association of Georgia.

Mr. CHRISTOPHERSON. We have been very liberal in regard to the introduction of testimony, and it seems to me we are wasting a lot of time in discussing this matter. The letter carries whatever weight it may, and it is received on the same basis as any other letter, for whatever it may be worth.

Mr. DYER. The gentleman from Maine (Mr. Hersey) has made a motion, and unless he wishes to withdraw it I will put the motion.

Mr. HERSEY. I will withdraw the motion.

Mr. CLARK. In the same letter Mr. McLaurine refers to a resolution passed by the Cotton Manufacturers' Association of Georgia asking that the exception in reference to children below 14 years of age be eliminated. I have only a copy of that.

Mr. DYER. What is the pleasure of the committee?

Mr. CLARK. I am simply saying that the cotton manufacturers of Georgia are trying to advance the age limits.

Mr. MICHENER. I am going to agree with the Chair, but I seriously object, and want the record to show that fact, because I know how these hearings are used, and certain publications throughout the country will later comment on these hearings and will quote these figures from these hearings as figures which the committee sent out to the country and which are not authentic.

Mr. FOSTER. In other words, these are cotton manufacturers who have a representative who comes up here.

Mr. DYER. The Chair finds that this is simply a copy of some paper which is not signed by anybody, and it will not be permitted to go into the record.

Mr. CLARK. Mr. Chairman, I have appeared before some committees before, and I have only tried to proceed along the same lines as I have proceeded along before. I do not mean to say that this committee has not full power to make its own rules, but not being able to present evidence of the attitude of the manufacturers toward child welfare, and in regard to the fact that they are advancing their age limits——

Mr. DYER (interposing). You can make a statement yourself as to what you understand is the attitude of these people, just the same as the gentleman who appeared here yesterday and spoke for the National Association of Manufacturers, quoting resolutions passed by that organization and saying he was present when they were adopted. We will accept a statement of that kind. But I do not think, in view of the attitude taken by members of the committee, that we could admit alleged testimony that does not even bear the signature of anybody.

Mr. SUMNERS. I do not want to be misunderstood as to my position. It seems to me that the attitude of manufacturers, as such, can be of no concern to this committee. The attitude of the people of the States in which these manufacturers happen to live and of which they are citizens is important. We are concerned with what

progress you are making and how you are taking care of the children in the States. We are not going to turn this thing over to the manufacturers. It is not a controversy between the manufacturers and the Government, but it is a question as to what ought to be done.

Mr. HERSEY. That is my position, Mr. Chairman, and I want to state further that if this witness has any letters, stating from actual knowledge the condition of affairs there under child labor, that is what we want, but I do not want him to state hearsay evidence.

Mr. CLARK. I can only be governed by the will of the committee, and I will have to leave out a large part of the testimony which I thought had a bearing on this proposition.

Mr. FOSTER. By that you mean you show the attitude of the mill workers of the South?

Mr. CLARK. I am saying I am speaking there of the views of the mills, the managers.

Mr. FOSTER. The cotton manufacturers?

Mr. CLARK. I had extracts from the testimony given by Mr. Stuart W. Cramer before the welfare commission.

Mr. SUMNERS. I am interested in what the welfare commission have to say.

Mr. CLARK. At Blue Ridge, N. C., there is held an industrial conference on welfare every year, and I have an extract from the statements made by Mr. Stuart W. Cramer, setting out their plan, giving the attitude of the manufacturers.

Mr. HERSEY. Have you the statement there?

Mr. CLARK. No, sir; it has been published, and it is a matter of record.

Mr. HERSEY. Lots of things are being published these days.

Mr. CLARK. It is published in the last issue of the Nation's Business.

Mr. FOSTER. Suppose when you are offering testimony, I would have sought to offer each of the articles written by Mr. Pringle, of the New York World, during the last six weeks? A person in your position would not have the right to object, because Mr. Pringle could be brought here. I could have introduced them, but I assume these articles would not be recognized as proper testimony.

We are not conducting this hearing like a lawsuit. You had a week to prepare and to show the conditions that exist. Now, you want to put in an unsigned article in behalf of some element that is not before the committee, and expect the committee to open the gates wide and allow you to put in newspaper articles and extracts from speeches.

Those people should come here and offer the statements themselves.

Mr. CLARK. It is impossible for a great many of them to come. Of course, I yield to the will of the committee.

I have a pamphlet here which was written by Mr. Ashmun Brown entitled, "A Study of the Cotton Industry North and South." I would not endeavor to put this entire pamphlet in the record. But I have a typewritten copy of certain sections of it, which can be verified from the pamphlet itself. It relates to the cotton-mill workers.

Mr. MICHENER. Is that an official document?

Mr. CLARK. No, sir; it is a private publication, written by Mr. Ashmun Brown, the Washington correspondent of the Providence

Journal. He made an investigation of the textile industry, and the typewritten statement to which I referred is a short statement by Dr. James A. Hayne, the executive officer of the South Carolina Board of Health.

Mr. FOSTER. If he is anxious to get that in the record, then we will put these articles of Mr. Pringle's in, but I think they are both incompetent.

Mr. CHRISTOPHERSON. I suggest that that be left with the committee, so that the committee can determine what to do with it later on.

Mr. DYER. You can give that to the reporter, and we will consider it later.

Mr. CLARK. I would like to ask one other question, and I do not wish to take up the time of the committee and carry the proceedings along wrong lines.

I have had very little opportunity to study the testimony given by the other side, but I have here a statement made by Miss Abbott, which is a part of the record, in regard to the fact that she does not think this law should apply to agricultural labor.

I have copied from a newspaper report Miss Abbott's statement in reference to North Dakota's farm conditions.

Mr. HERSEY. Miss Abbott's testimony is in the record.

Mr. CLARK. Yes; but I wanted to put this other statement of hers in the record. She has testified that she does not want this law applied to agricultural labor.

Mr. HERSEY. And you want to put some other statement in the record?

Mr. CLARK. Something she said in regard to agricultural labor.

Mr. DYER. Do you want to comment on it?

Mr. CLARK. I want to show Miss Abbott's position is not sound.

Mr. DYER. Is this your own statement?

Mr. CLARK. No; this is Miss Abbott's statement in regard to the deplorable conditions in farm labor.

Mr. DYER. You want to put in your own statement to show that what she testified is not correct?

Mr. CLARK. To show that it is inconsistent.

Mr. FOSTER. He wants to show that some other statement of Miss Abbott is inconsistent with her testimony.

Mr. CLARK. I will say this is copied from a public document, although I have not a copy of the document here.

Mr. FOSTER. I think he ought to be allowed to do it.

Mr. LARSON. Let the witness read it.

Mr. HERSEY. Are you willing to have him do that, Miss Abbott?

Miss ABBOTT. I am willing to let it go in, Mr. Chairman.

Mr. DYER. You may read what you want to put in the record.

Mr. CLARK. I would like first to quote from Miss Abbott's testimony a few days ago, when she said:

> If it were a question of a statute being passed at this time to regulate child labor on the farm, I would be among those who would not favor the enactment of such a statute.

That is the statement made by Miss Abbott in answer to a question.

Miss ABBOTT. They are arguing that the amendment should apply to agricultural labor, and this was a question of the statute at the present time.

Mr. HERSEY. What have you to say further about it?

Mr. CLARK. In Miss Abbott's report are described the findings of a recent study of the work of children in rural districts, made by the Federal Children's Bureau in cooperation with the children's code commission of North Dakota. She says:

> Almost every variety of work done on the farms of that State was performed by the boys and girls included in the study. Much heavy and more or less hazardous farm work such as handling machinery or dangerous implements, plowing, and driving of four-horse or five-horse teams was done by children from the age of 10 years up. Boys as young as 7 and girls as young as 10 years of age had driven stackers, hay forks, and harrows. Nearly half the children studied had done some plowing in the course of the year, and this was found to be one of the principal kinds of work which children did. It was also continued over longer periods of time than almost any other work.
>
> Dakota children are still finding that to guide a team for a few minutes as an experiment was one thing—to plow all day like a hired hand * * * was not a chore, but it was a job, and a job means meager educational opportunities in the spring and autumn——

Miss Abbott says. The cold and lonely children, she continues, count the days in the fall till the ground freezes too deep for plowing, as they go round and round the fields. Over half the 845 children studied had missed at least one month of school and nearly one-third had missed two months or more. Nine per cent had missed half the school term.

Mr. HERSEY. That is all of the statement?

Mr. CLARK. Yes, sir.

Mr. DYER. You may proceed, Mr. Clark.

Mr. CLARK. A map was prepared last year by my organization showing the child labor laws with regard to factories in the United States. In that we showed two States that did not have child labor laws—Wyoming and Utah. Since that time I have been informed by Senator Warren and by the Congressmen from those States, to whom I wrote, that child labor legislation has been passed in those States. But I do not know the exact provisions of the child-labor legislation of those States.

Mr. FOSTER. Who prepared that map?

Mr. CLARK. It was prepared by my organization.

Mr. FOSTER. When you say "my organization," what organization do you mean?

Mr. CLARK. The Southern Textile Bulletin, showing the factory laws of the United States as they apply to children.

Mr. DYER. There has been no change in the situation since you prepared the map?

Mr. CLARK. There have been some advancements made. Those two States I referred to had no such provisions when the map was prepared, but now have provisions of that kind.

Mr. DYER. What States?

Mr. CLARK. Utah and Wyoming.

Mr. DYER. What have they done?

Mr. CLARK. They have passed child labor laws.

Mr. FOSTER. To what effect?

Mr. CLARK. I do not know. Senator Warren wrote me a letter stating that Wyoming, in the early part of 1923, passed a child labor law. He did not state what the provisions of the law are.

Mr. FOSTER. Did you inquire?

Mr. DYER. And Utah has also?

Mr. CLARK. They claim they have that under some school-permit provisions.

Mr. DYER. You wish to file that map?

Mr. CLARK. No; I am discussing the matter of that legislation.

Mr. DYER. Could you not file that with the committee?

Mr. CLARK. I will be glad to file this map with the committee.

As the situation stands now, with minor exceptions, particularly in North Carolina and Georgia, all States prohibit the employment of children under 14 years of age, and therefore the necessity for this legislation comes down to the proposition in regard to children between 14 and 16 working more than 8 hours per day.

That is the position I take now. We contend, in North Carolina, that we are caring for our children properly.

As I see it, there is no more reason for the Children's Bureau particularly to take up the matter of the work of children than any other question. This is not primarily a matter of labor; it is a matter of health of women and children. But it appears to be the attitude of the Children's Bureau that they seem to have less interest in whether children go to jail or go to hell, just so they do not work.

Mr. FOSTER. Why do you say that?

Mr. CLARK. Because, when you come to the matter of juvenile delinquency, there seems to be no work done. It is very difficult to get any statistics in regard to that. The statistics for 1910 were not published until 1917, on juvenile delinquency, but juvenile delinquency, according to the statement of judges of juvenile courts, and according to a letter which I will put in the record, which I have signed, is on the increase. There are far more children in the jails than there are working. The census of 1920 showed only 9,473 children under 14 years of age employed in manufacturing establishments.

Mr. CHRISTOPHERSON. Where do you get the fact on which you base the statement that there are more in jail than there are working?

Mr. CLARK. In the city of Chicago alone——

Mr. FOSTER (interposing). Where do you get those facts?

Mr. CLARK. I was going to give them——

Mr. FOSTER (interposing). Where do you get them from?

Mr. CLARK. From a letter of the Illinois Manufacturers' Association, containing a statement of Louis N. Blumenthal.

Mr. FOSTER. That same question comes up again right here. This letter purports to show statistics of the number of children in penal institutions. You propose to give us that information by virtue of a letter from a manufacturers' association. That is the class of testimony you propose to offer to refute, as you say, the figures of the Federal Bureau.

I submit that the gentleman who writes that ought to be here so we can find out what he bases his figures on. That is the only orderly way to take testimony here. That is to be offered to back up another statement made by a gentleman who offers testimony to the effect that evidently the Children's Bureau would rather have children to go to hell than to go to work.

Mr. DYER. You say part of your information is from that source?

Mr. CLARK. The other part is from a study of the 1910 census of prisoners and juvenile delinquents, isued in 1917.

Mr. DYER. Did you get those figures from the Census?

Mr. CLARK. I have studied those figures, but when I had these later figures and a signed letter quoting the official figures——

Mr. LARSON (interposing). The Census has studied that matter and put those statistics in convenient form for use. Can you not get those figures from the Census Bureau and give them to the committee?

Mr. CLARK. I suppose we can.

Mr. FOSTER. If the witness will submit the letter to the chairman, and the chairman says it is pertinent, I have no objection.

Mr. DYER. The Chair does not think this is proper evidence. We do not think his comment on the census figures is proper because the census statements are printed, and there is no objection to the witness putting in any figures that the Census Bureau prints upon the subject.

Mr. CHRISTOPHERSON. We have been admitting hersay evidence in this hearing right along, Mr. Chairman. I can not see the objection to the introduction of this letter, under the statement made by the witness. We could take it for what it is worth. If this were a court procedure, of course it would be excluded.

Mr. HERSEY. You are willing that it should go in and not be made a part of the record?

Mr. CHRISTOPHERSON. I am willing to listen to it.

Mr. HERSEY. Without being made a part of the record at the present time?

Mr. DYER. The Chair has ruled that testimony of this kind is not proper for the record and that the witness may file it with the clerk of the committee for the use of the committee, the committee giving to it such consideration as they think proper, but that it shall not be put in the record and be published. It is not any better than hearsay testimony. It does not come from any official of the Government or of any State.

Mr. LARSON. But the witness said it was hearsay, so people who read it would know.

Mr. DYER. The Chair is not advised of previous rulings on this kind of a question.

Mr. CLARK. So far as statistics on juvenile delinquency are concerned, the Children's Bureau does not seem to furnish those statistics. They have something on everything but juvenile delinquency.

Mr. DYER. Do you wish to present any further testimony, Mr. Clark?

Mr. CLARK. Under the ruling of the committee I would just make this summary statement of my position.

Mr. DYER. You may call attention to any further testimony you have on this line and the Chair will rule as it is presented; and if we find we can not include it in the printed record, we will be glad to have you leave it with the committee.

Mr. CLARK. I understood the committee was considering this proposition on the ground of the necessity for it, because of the fact that the States were not caring for the children, and that therefore the Government must take over those functions of the States.

I am trying to submit evidence showing that the States are caring for their children; that the State laws in regard to child labor are being steadily advanced.

There was a decrease of 71.2 per cent in child labor in factories between 1910 and 1920. The statistics in regard to the period since that time, trying to show an increase in child labor, are not sound.

For instance, during the past year statistics from certain cities in Connecticut and other places were presented, comparing the figures for the first two months of 1923 with those of the first two months of 1922.

Any business man knows that conditions in 1922 were particularly bad. There was very little employment of any kind. Business men also know that conditions in 1923 in those particular months were very flourishing, and necessarily there was an increase in employment.

They base their evidence upon the certificates issued. In most of the States a child can not be employed except under the standards arbitrarily set by the Children's Bureau, and yet the number of certificates issued was used as a comparison, and the story is sent over the country showing a 35 per cent increase in child labor. I maintain that that was an improper use of statistics. That is a type of the thing that is presented to the country, and I have been told that there were 31 different publications pledged to run child-labor articles in the early part of 1924 in a propaganda campaign for the enactment of this very legislation.

The proponents know that the child-labor laws are being steadily strengthened, and they have a hard time showing the necessity for this legislation. They have been hard pushed and they have had to call on all kinds of journals and have had to resort to all sorts of arguments to show the necessity for this legislation.

I do not consider that child labor, as generally recognized to-day by the public, gives the true story. I do not consider there has been any evidence brought to the attention of any committee showing that children have been injured by working in cotton mills between the ages of 14 and 16 years.

At the Agricultural Department there is a poison squad, and half of them are given certain food which they taste in order to see what the effect is as compared with the other half.

There are thousands of boys and workingmen working to-day who started work at very young ages. There are thousands of others who did not.

It is a very simple matter to make comparisons to determine whether those men have been stunted or whether their health has been injured.

There are thousands of women with children to-day, women that started working at a young age. There are thousands of other women who did not work when they were young. It is a very simple matter to make a physical examination of the children of those two classes to substantiate the statement that the women who work can not have healthy children.

I have never appeared before any State legislature in opposition to a State law on this subject. I have never advocated child labor and have never appeared before a State legislature in opposition to

child labor laws. I have appeared in opposition to this interference with the rights of the States to control their own affairs.

I believe North Carolina can control its own affairs. We have a great State; we are building $100,000,000 worth of hard-surface roads, and along those roads we are building the finest system of public schoolhouses in this country.

We appropriated $15,000,000 last year for our penal institutions and our educational institutions, and we have the lowest tax rate to-day. But we are not afflicted with this army of women trying to run our affairs. I believe we have a better system of government, a more economical system, at least, than there is in Washington.

We certainly resent interference from Washington in these matters, and we do not like these further suggestions of trying to interfere with the rights of the people of North Carolina.

The proponents of this legislation are offering no evidence which proves the necessity for this legislation. They get newspaper men to come down and bring out exceptional cases, as was done in the case of the Bennets.

Mr. HERSEY. You are speaking of the proponents offering that kind of evidence before this committee; but we have not allowed any of that kind of evidence to go in the record.

Mr. CLARK. They have tried to state the number of children employed in North Carolina, but that is not correct.

Mr. HERSEY. That is from those who officially should know about it.

Mr. CLARK. I will correct that by saying that——

Mr. HERSEY (interposing). We do not consider propaganda; we are here to consider evidence.

Mr. CLARK. But I submit that the propaganda has tremendous power behind it in influencing, not the committee, but influencing the friends of the committee. That campaign has been effective.

Mr. HERSEY. We do not allow propaganda, if we can help it, to be introduced before the committee.

Mr. CLARK. Mr. Emery stated yesterday, I think, that $1,000,000 is now appropriated for the Children's Bureau in the Department of Labor.

Mr. DYER. His testimony will show.

Mr. CLARK. If this legislation is passed it will add at least another $1,000,000, and possibly more than that. The chief advocate of this proposition is, therefore, the chief beneficiary.

Mr. HERSEY. Do you want to dispute the testimony of Mr. Emery?

Mr. CLARK. I was referring to those figures, and I think I have them correct. I have not the figures before me. It is a matter for your own record to show.

Mr. HERSEY. They can easily be obtained from the officials.

Mr. MONTAGUE. He was commenting on the fact; he is giving his opinion. We need accept it or not. He has a right to give his opinion in his argument, upon any fact that has been presented here.

Mr. CLARK. I submit that if this legislation is passed it will put a burden of another $1,000,000 upon the people of the United States, and I feel certain that these matters can be properly handled and much more economically handled by the States. I submit that the chief advocate of this proposition is the official of the department that will be the chief beneficiary.

In other words, if this bill goes through there will be another $1,000,000 appropriated for the Children's Bureau in the Department of Labor.

I do not feel that there is any necessity for the Government spending that money merely to eliminate all differences now existing between certain States in permitting children between 14 and 16 years of age to work more than eight hours a day. Neither do I consider that there has been any evidence submitted to this committee showing sufficient injury to the health of the child or to the health of the coming generation to warrant the enactment of this legislation.

Mr. SUMNERS. May I ask you this question? So far as the people who are employed in your mills are concerned, it has been my understanding that many of them have come out of the mountains and hills down to the mill villages?

Mr. CLARK. Probably 90 per cent.

Mr. SUMNERS. And their entire families with them.

Mr. CLARK. Yes.

Mr. SUMNERS. As a rule—or is there any rule with reference to what sort of school facilities are provided in the mill villages?

Mr. CLARK. The State has a compulsory school law for children up to 14 years of age, and in compliance with that the mills all furnish schools.

Mr. SUMNERS. I want to get that straight. The provisions made by the States are supplemented by provisions made by the owners of the mills?

Mr. CLARK. Yes, sir; in almost every case. Some of the very small mills do not do that.

Mr. SUMNERS. I am speaking of the usual custom. Do these mills in the mill villages provide any other assistance or help to the families that live there and are engaged in the mill work, such as social welfare workers, in connection with their general activities?

Mr. CLARK. Most of them do. They try to couple it up with the people themselves. It is not good for any people to have things thrust on them. The mill owners try to cooperate with the people in handling the mill village community affairs.

They find it is much more satisfactory to let the operatives control these matters, and they would rather have it that way.

If they are going to build a church, the operatives will furnish half or two-thirds of the money and the mill will give them the other third.

The cotton-mill people of the South know that if they are going to succeed and if the industry is going to be the first industry in the world, as we expect it to be, they must have a healthy, intelligent class of people there working toward that end.

There is absolutely no desire upon the part of the cotton-mill people of the South to do anything to retard the development of the operatives. We have recently put into effect a textile-student loan fund so that a boy in a cotton mill who is not able to get enough money can borrow money to go to college, and he can go to any college he desires to attend and pay the money back later.

The cotton-mill people want the operatives to be in a position to be able to say that there is no boy in the cotton mills in the South that can not get an education if he desires it.

Mr. FOSTER. I just looked at this letter you submitted to the chairman, from the secretary of the Illinois Manufacturers' Association, and I want to direct your mind to that. I want to get correctly in my mind just what your statement is. You say this was your proof that there were more children in jail and in prisons than in factories.

Mr. CLARK. Yes, sir; that is a part of the evidence. I am going by the census figures of 1910——

Mr. FOSTER (interposing). Let us leave out the census figures for a moment, because I want to direct my question to this letter.

This letter, as I understand it, was part of your proof?

Mr. DYER. The chair will state that the letter was not permitted to go into the record, and I think if you are going to interrogate the witness upon the letter we will have to take it as evidence.

(The letter referred to is as follows:)

ILLINOIS MANUFACTURERS' ASSOCIATION,
Chicago, March 5, 1924.

Mr. DAVID CLARK,
Raleigh Hotel, Washington, D. C.

DEAR SIR: Following the letter we dictated early in the day, in relation to the increased delinquency among juveniles, Louis N. Bloomenthal, an assistant in the State attorney's office of Cook County, expresses the belief that juvenile delinquency is increasing in Chicago largely because of the lack of suitable employment for boys between 17 and 21 years of age.

"In 1923," said Mr. Bloomenthal, "there were 115,000 boys in Chicago between 17 and 21. Of this number 7,234 were tried for crimes, or 1 boy out of every 16. Two-thirds of them were discharged, one-twelfth were released on probation, and one-fifth of the number that were tried were convicted and punished. Boys of that age having nothing to do, and being fond of amusement such as theater going, readily engage in burglary, holdups, and the more serious crimes, including robberies with guns. A great majority of the prisoners sent to the State penitentiary are under 25 years of age, and this is primarily due to their social status. There is more loafing than formerly. When a boy is at work he does not have time to think of crime. In the cases which came under my personal supervision, I was unable to find any boys with a record of two years' regular employment."

The number of delinquent cases received at the Juvenile Detention Home of Chicago for the last three years was as follows:

	1921	1922	1923
Boys	2,796	2,753	3,191
Girls	921	947	709
Total	3,717	3,700	3,900

I was unable to obtain figures previous to 1921.

The statistics of delinquent children brought into the juvenile court between 1916 and 1923 show a decrease in the latter year, but this does not signify anything except that the present policy is not to bring into court so many children as formerly. The real measure of increase in delinquency is probably indicated by the number of children received at the juvenile home. The total delinquent children brought into the juvenile court in 1916 amounted to 2,786, or 2,192 boys and 594 girls. By 1919 this had jumped to 3,402, or 2,647 boys and 755 girls. About that time the policy of the juvenile court officers was changed and they did not take children into court for the minor offenses, so by 1923 the delinquent children brought into the juvenile court had decreased to 1,774, or 1,287 boys and 537 girls. A good many delinquent boys and girls are taken to the home without being brought into court, which would account for the larger number at the home.

Burglary cases against boys in which final orders were entered in the juvenile court from 1916 to 1922, inclusive, are as follows:

1916	320	1920	312
1917	307	1921	329
1918	377	1922	386
1919	388		

The ages of children brought into the juvenile court of Cook County between 1921 and 1922 show that in the ages between 14 and 16 the criminal tendencies are most pronounced.

Under the Illinois law minors under the age of 14 are not permitted to work in any gainful occupation. Over the age of 14 years and under the age of 16 years it is necessary for employers to have an employment certificate for each minor. Certain hazardous employments are forbidden all minors under 16 years of age. The law relating to part-time or continuation schools provides that minors between 14 and 17 years of age must attend such continuation schools not less than 8 hours per week for at least 36 weeks each year, or 300 hours if such attendance is confined to a period of 3 consecutive months. In most districts of the State, including Chicago, there are not enough continuation schools to take care of students over 16 years of age, so the 17-year limit has not been strictly enforced. Beginning September 1, 1925, the continuation school law applies to minors between 14 and 18 years of age.

Very truly yours,

JOHN M. GLENN, *Secretary.*

Mr. FOSTER. You did not state to the chairman that instead of the secretary of the association giving these figures he quoted an assistant in the State Attorney's office of Cook County, who understood the figures to be complete.

Mr. CLARK. I think your record will show just what I said.

Mr. FOSTER. I want to ask you a question or two along this line, in view of what you just testified to. You have been opposed to any Federal regulation of child labor for some time, and you believe it is a mistake. That is your position?

Mr. CLARK. Yes, sir.

Mr. FOSTER. That is because of the belief that you can take care of it locally better than the Federal Government can take care of it?

Mr. CLARK. Yes, sir; at least, that is our right.

Mr. FOSTER. That is the viewpoint from which you have waged your contest in opposition to this legislation?

Mr. CLARK. I have waged my contest from the standpoint that that was a right reserved by the State of North Carolina.

Mr. FOSTER. When the last Federal law was declared unconstitutional, who selected the case which went to the Supreme Court in that appeal?

Mr. CLARK. I did.

Mr. FOSTER. Were you the secretary of any organization at the time you selected that case?

Mr. CLARK. I was.

Mr. FOSTER. What was that organization?

Mr. CLARK. It was simply a committee. There was no official organization formed. I formed it myself.

Mr. FOSTER. You formed the committee?

Mr. CLARK. Yes.

Mr. FOSTER. Hw did you go at it to form it?

Mr. DYER. Do you think that is material?

Mr. FOSTER. I think it is very material in view of this statement, and I waited until he took the stand he did in reference to this mat-

ter. I think it is as important as anything which has been developed in this hearing.

Mr. CLARK. I have no objection to stating, Mr. Chairman.

Mr. FOSTER. You selected that committee?

Mr. CLARK. Yes.

Mr. FOSTER. How?

Mr. CLARK. I called a meeting of two or three manufacturers and asked them what man would work with me.

Mr. FOSTER. Why did you limit it to manufacturers?

Mr. CLARK. Because my paper is limited to manufacturers.

Mr. FOSTER. But you were working from the standpoint of the good of the children of the State. Why limit it to employers alone?

Mr. CLARK. My own opinion was— I say my paper goes to the manufacturers, and I naturally wanted in that conference men who had the same views.

Mr. FOSTER. You did not call in any representative of the State welfare organization?

Mr. CLARK. No.

Mr. FOSTER. Why?

Mr. CLARK. I had no reason to do so.

Mr. FOSTER. Do you think they were interested in the children of your State?

Mr. CLARK. I certainly assume they are. Neither did I call in any ministers.

Mr. FOSTER. Did you employ Mr. Kitchin as the representative of your organization in Washington? I am not referring to Claude Kitchin, but to his brother, the former governor.

Mr. CLARK. Gov. W. W. Kitchin?

Mr. FOSTER. Yes.

Mr. CLARK. No; Mr. Kitchin was employed to appear before one of the committees early in the hearings.

Mr. FOSTER. You are sure your committee did not employ him?

Mr. CLARK. I am very sure we did not.

Mr. FOSTER. Were you at that time the owner and editor of the Textile Journal?

Mr. CLARK. Yes, sir; and Mr. Kitchin was employed, and I think some other lawyers were from time to time, to make arguments before committees.

Mr. FOSTER. In the editorial in your paper following the decision of the United States Supreme Court declaring the last child labor law unconstitutional, did you not say you had employed Mr. Kitchin to stay in the Halls of Congress and that he had succeeded in causing a delay of over two months in the bill reaching the committee?

Mr. CLARK. I do not think I stated just that.

Mr. FOSTER. I will submit the editorial for a question or two. I will hand the witness this volume and ask him to turn to the date marked Thursday, June 6, 1918, and ask you if that editorial was published in your paper at that time.

Mr. CLARK. What is the gentleman referring to?

Mr. FOSTER. That is a book which I obtained from the Library of Congress, purporting to contain a file of your publication.

Mr. CLARK. Yes, sir; that is correct.

Mr. FOSTER. That is the leading editorial of that date, is it not?

Mr. CLARK. Yes, sir.

Mr. FOSTER. Did you know of that editorial being in there?

Mr. CLARK. I wrote that editorial.

Mr. FOSTER. And approved everything in it?

Mr. CLARK. I think so; yes, sir.

Mr. FOSTER. You still believe that everything in there was true?

Mr. CLARK. As far as I know; I have not read it lately. But I do not believe we employed Mr. Kitchin. I may have, but I think Mr. Kitchin was employed outside. But I have employed most of the lawyers that appeared in this case.

Mr. FOSTER. You picked the family in your State which you thought would be an ideal family to test the case with, did you not?

Mr. CLARK. Mr. Kitchin did not appear in the first case.

Mr. FOSTER. But you picked the case that went from your State to the Supreme Court?

Mr. CLARK. I did not select Mr. Kitchin.

Mr. FOSTER. I am not talking about the attorney. What was the name of the case?

Mr. CLARK. Which case?

Mr. FOSTER. The case that went from your State to the Supreme Court, when the law was declared unconstitutional.

Mr. CLARK. I prepared both cases, or all three.

Mr. FOSTER. Which you refer to in your editorial?

Mr. CLARK. I prepared all three cases.

Mr. FOSTER. I wish you would look at that editorial.

Mr. CLARK. I prepared the first case—the Dagenhart case.

Mr. FOSTER. I wish you would look at that editorial. In the second paragraph it says:

This means that the Keating law is nothing but a "scrap of paper," and mills of each State will operate in accordance with their State laws.

You follow that?

Mr. CLARK. Yes, sir.

Mr. FOSTER. The next paragraph says:

All of the Federal inspectors and certificate-issuing ladies can pack their trunks and start for home, for there is no longer any Federal child labor law and people of each State can conduct its own affairs.

You remember that?

Mr. CLARK. Yes, sir; with a great deal of pleasure.

Mr. FOSTER. The editorial also says:

It seems a long, long time since we began the fight against this Keating law; and we have spent many hours and many days in what seemed an almost hopeless fight. Many of our best friends had long ago considered it a lost cause, and we could count upon the fingers of one hand the men besides ourselves who thought we would win.

We had believed that we would win, and because we realized that it meant so much to the textile industry we kept up the fight.

Where did you refer to children there?

Mr. DYER. What is the purpose of these questions?

Mr. CLARK. Mr. Chairman, I am a citizen of the United States, and I have a perfect right to answer in law.

Mr. FOSTER. I do not question that. I will answer the chairman in this way. My purpose is perfectly legitimate, as this editorial will show, if the chairman will withhold that for a minute or two.

Here is a gentleman who will admit—and it is in the editorial—that the purpose in his mind, in testing the constitutionality of the

last law—and in the editorial he refers to the delays in the House and in the Senate, and he secured the delay in the Senate, and the editorial shows he was here in Washington, and when our hearings began and after they had gone on for three weeks he asked for a week, and he comes here now——

Mr. CLARK (interposing). I beg to differ with you.

Mr. SUMNERS. Why does that make any difference?

Mr. FOSTER. I think I know why Mr. Clark wants in the record what he offered this morning.

Mr. SUMNERS. He did not put it in.

Mr. FOSTER. He has said why. I put these questions only because he injected a paragraph telling why he had not taken the interest he took from the standpoint of the children of North Carolina. He states in his editorial that he organized the fight, that he secured the money from the mill people and tells how he went out and told the mill men they should join with him in rejoicing, and there is no reference made to motives, which he now says prompted him. So that is his statement.

Mr. SUMNERS. I can see how it would be proper, even before the committee, or helpful in making up the record, upon which the committee expects to state to the House the reasons for its determination.

Mr. PERLMAN. I want to know whether this man is responsible. I would not want to take the word of a man whose reputation is bad; and if this man is not telling the truth, or if his past record is such as to make him not responsible, we want to know it.

Mr. DYER. The only question before the committee is whether it is material to the issues to go into the questions which Mr. Foster has been asking the witness with reference to the editorial.

He has stated that he wrote the editorial; he has stated that he did lead the fight to have this law declared unconstitutional, and the principal question, in my mind, is whether he is going to accomplish anything by continuing it.

Mr. FOSTER. May I call attention to this? I did not assume to cross-examine him concerning his editorial position until he had made the unwarranted statement that a department of the Federal Government was more interested in seeing the mill children go to hell than to go to work. Is it possible that the sworn officers of the United States can be reflected on to that extent by a man whose editorial shows what his position is in that regard?

Mr. DYER. You are referring entirely to the editorial?

Mr. FOSTER. I am cross-examining the witness to show his prejudice on the proposition against the department.

Mr. CLARK. I appeal to the chairman that I may be properly quoted.

Mr. DYER. You are using the editorial as a basis?

Mr. FOSTER. Yes; I will confine myself to the editorial.

Mr. CLARK. I feel that I am entitled to be properly quoted.

Mr. FOSTER. All right. I have no desire to misquote you.

Mr. MONTAGUE. I would like to know what he started to say.

Mr. CLARK. The gentleman stated that I stated that the Children's Bureau were more interested in children going to hell than in their going to work. I did not say they were more interested.

Mr. FOSTER. What did you say?

Mr. CLARK. My statement was that the Children's Bureau apparently is less interested in children going to jail or going to hell than in going to work. I think that can be substantiated by the record.

Mr. DYER. I suggest that we proceed with the testimony, unless there is objection.

Mr. FOSTER. I am going to exercise the right of one member of the committee to cross-examine the witness and ask him a half dozen more questions on what is before me.

Mr. DYER. I want to make this suggestion in the interest of expediency, and that is that the editorial referred to go into the record.

Mr. FOSTER. That will not be satisfactory.

Mr. SUMNERS. Then I move to strike out the editorial and everything connected with it.

Mr. DYER. I am making that as a suggestion.

Mr. FOSTER. I will ask questions with the editorial before me. As I said, I am only asking these questions in view of his last statement concerning the Child Labor Bureau.

Mr. PERLMAN. We have permitted most of these witnesses who have appeared before us to testify as they have in order to determine whether or not they are fair and open-minded and are here to give us the benefit of their opinions, which are invited. Certainly we ought to be able to learn from this witness whether he is worthy of belief, whether or not we can rely on his testimony not only for our sake but for the sake of the Members of the House who will read the record, and for the sake of the individuals who may read the hearings.

Mr. DYER. There has not been any question of character in connection with this man.

Mr. FOSTER. Let me try another question.

Mr. CHRISTOPHERSON. The witness admits his hostility toward this form of legislation.

Mr. FOSTER. I am trying to cross-examine him to find the motive that impels his opposition, which he says is for one thing, and which I think by cross-examining him I will show is another thing.

Mr. DYER. It might also be interesting to know whether or not Congress has been criticized for doing its duty.

Mr. FOSTER. Did you not employ ex-Governor Kitchin, of North Carolina, to stay in Washington and look after the interests of the cotton manufacturers, realizing that the pressure of the agitators and labor unions would pass the bill through the House, and that you therefore began a fight for delay in your effort to have the bill referred to a different committee, and thereby caused a delay of over two months in the bill reaching the committee?

Mr. CLARK. As I have stated already, I do not think I employed Governor Kitchin.

Mr. FOSTER. Did you not say that in your editorial?

Mr. CLARK. I see it stated in the editorial, but I do not think it is a correct statement; I do not believe I employed Governor Kitchin.

Mr. FOSTER. Did you open the fight through southern Senators to delay the consideration by the Senate, and "had succeeded in having the bill put away so that it could not come up before the

next session of Congress, when President Wilson, under the influence of certain agitators, went to the Senate and demanded the passage of the law?"

Mr. CLARK. I think so.

Mr. SUMNERS. I think we are coming to a show-down, now, and I respectfully object to the question as leading into a field of inquiry from which it can not be hoped there will be gotten any testimony helpful to the committee in determining the question before it.

Mr. MICHENER. The only bearing this may have, in my judgment, would be as bearing upon the gentleman's statement now that, as he appears here opposing this legislation for a specific purpose or reason. The editorial clearly shows, when he appeared before, he opposed it for another reason.

Mr. CLARK. I object to that statement.

Mr. MICHENER. Now he states in there that he appears for a class or group of manufacturers, and that this class or group have great reason to rejoice, as a group; and, as he tells you, he is their official organ, or, at least, one of their trade journals, and in there he says they have reason to rejoice, because he has succeeded in delaying, by methods which I believe are not methods approved by the country in delaying legislation. Now, if this is that kind of a man, and if these hearings are to be sent out to the country as his statement, to be given to the people as evidence from an authority, I think we should know all about him.

Mr. CHRISTOPHERSON. Is not his position just the same now? He is the head of this official organ, and he is opposing the legislation as such head?

Mr. PERLMAN. Has he been delaying this proceeding for the same object?

Mr. MONTAGUE. The question is has he been delaying this proceeding?

Mr. PERLMAN. Yes.

Mr. MONTAGUE. And why should we question him as to what was done at another time? We are not trying him for anything.

Mr. PERLMAN. He stated last week he desired a delay to get his witnesses.

Mr. SUMNERS. Suppose he did; what of it?

Mr. DYER. He got his witnesses; he produced them.

Mr. PERLMAN. I think the public ought to know.

Mr. SUMNERS. How would the public be interested in this?

Mr. FOSTER. Let me try another question, and see if I can get at it in another way.

Mr. SUMNERS. That is my position about it. This witness is here representing these mill people. He has told us the mill people are opposed to this.

Mr. FOSTER. Does he say he is here representing the mill people in this testimony?

Mr. SUMNERS. I do not know whether he says so or not; it is perfectly evident it is so.

Mr. LARSON. Is the witness willing to admit that he is here as the official representative of the mill people now?

Mr. CLARK. Not officially. I am representing them in my publication though.

Mr. FOSTER. Let me proceed to try this question: Did you not, in the contest of the other law, levy assessments and collect your money to hire lawyers, exclusively from the mill owners?

Mr. CLARK. Yes.

Mr. SUMNERS. I object to that.

Mr. FOSTER. He has answered.

Mr. SUMNERS. I think now, with all due respect——

Mr. DYER (interposing). I think he has gone far enough, now.

Mr. FOSTER. I am going to yield; I do not propose to go against the wishes of the majority of the committee. I am going to ask if it is not your sole motive now, as a mill owner, and here as the representative of the mill owners, and not, as you claim, on behalf of the children of your section, and not as you claim, that you are acting in the behalf of the interests of your section and not acting in behalf of the dollars-and-cents interests of the mill owners, but are you not actuated by the same motive that you were when you wrote that editorial, winding up by calling on the mill men, and no one else, in your section, to join you in rejoicing at the work you had done in Congress? Is not that the state of your mind?

Mr. CLARK. I have not had a chance to intervene any statement.

Mr. FOSTER. If my question now calls for an answer, you may answer it in any way you see fit.

Mr. SUMNERS. I think the gentleman ought to answer that question for the record.

Mr. CLARK. My position now is the same as my position was then, that the textile manufacturers should rejoice, not because of the privilege of employing children, but because they got rid of the inefficient army of Government supervisors.

Mr. PERLMAN. If they were efficient, would you have liked to have had them?

Mr. CLARK. No, sir; I would not have liked to have had them, and they rejoiced at getting rid of the things that had been forced on them by other States.

Mr. PERLMAN. Not because of their inefficiency?

Mr. CLARK. Yes, sir; partly because of that. The first enforcement of the Federal child labor law was so inefficient that when they passed a second one they took it away from the Children's Bureau and put it into a separate department.

Mr. FOSTER. Is your present state of mind just the same as it was when you closed your editorial with this statement:

> This is the history of the Keating child labor law, and every millman in the South should rejoice with us at its successful termination.

Is that your state of mind now?

Mr. CLARK. My state of mind now is the same as it was then. You can put it in that language if you want to; but it was not based—I want emphatically to state that it was not based—on any idea of the privilege of employment and the exploitation of children that they could rejoice, but that the illegal Government supervision in violation of our State rights was terminated.

Mr. FOSTER. In that entire editorial, at no time did you call on anybody to rejoice with you except the people, and only the people who contributed money to the fight, to wit, the millmen. That is right?

Mr. CLARK. I think it would be foolish for me to call on ministers, when ministers did not read the paper.

Mr. FOSTER. But when you got to the end of the editorial, you called on the millmen to rejoice?

Mr. CLARK. I called on the millmen to rejoice.

Mr. FOSTER. Why did you not call on the mothers of the children to rejoice?

Mr. CLARK. They did rejoice with me.

Mr. FOSTER. Why did you not call on them?

Mr. CLARK. They did call on me, and congratulated me in getting rid of Government supervision.

Mr. DYER. I think that is sufficient.

Mr. FOSTER. I have got some of the points out.

Mr. DYER. I think you have gone very fully into the matter. Have you any further statement to make?

Mr. LARSON. I do not want to be put in the position that the committee is trying to restrain Mr. Foster in bringing this matter out. I think it is important. The gentleman has expressed an opinion on this proposed legislation. Undoubtedly, should this committee favorably report on this legislation, and it should come before the House, some one very probably will get up, who is opposed to this constitutional amendment, and argue from the opinion expressed by this gentleman here, who is a publisher of a responsible trade journal, that this legislation would be vicious, that it would interfere with local self-government, and I think it is proper that the House should know and that the country should know what his bias is, if he has any, in the matter.

Mr. DYER. I have no objection. I think that has been shown; but I have no objection, if some member of the committee requests it, that the editorial referred to, upon which the questions have been asked, go in the record. Does any gentleman of the committee desire the editorial to go in the record?

Mr. FOSTER. I do.

Mr. PERLMAN. I object to it. I do not think it is a bit of evidence.

Mr. SUMNERS. I suggest that we leave the matter of putting the editorial in until we come to executive session.

Mr. DYER. We will file it with the other data that has been filed for consideration.

Mr. FOSTER. That is your editorial, is it not?

Mr. CLARK. Yes, sir.

Mr. FOSTER. And the date is what, at the head of it there?

Mr. CLARK. June 6, 1918.

Mr. FOSTER. At that time you were the owner and editor of that journal?

Mr. CLARK. I was, and still am.

Mr. FOSTER. I call your attention to the issue of January 31, 1924, and ask you if you wrote an editorial entitled, "Federal child labor law will be passed"?

Mr. CLARK. Yes; I wrote that.

Mr. FOSTER. You remember that?

Mr. CLARK. Yes, sir.

Mr. FOSTER. You have in black type there a quotation of the proposed amendment. I wish you would look at it and see if you notice any error in the language?

Mr. CLARK. It was from a copy furnished to me at that time.

Mr. FOSTER. My question is, Do you notice any error in the black-faced type?

Mr. CLARK. No, sir; I did not notice any error in the one furnished me at that time.

Mr. FOSTER. There was no error in your newspaper?

Mr. CLARK. It is my understanding of it. I think I have the copy of it. There was a number of them introduced.

Mr. FOSTER. You have carried through a series of your papers and have started a controversy with the Department of Labor on this issue, have you not?

Mr. CLARK. On what issue?

Mr. FOSTER. On the issue of child labor.

Mr. CLARK. I have carried through and have started a controversy, charging them with the misuse of statistics; and they have gotten to the point where they could not answer.

Mr. FOSTER. Did you understand the resolution that was pending here, that you quoted in your issue of January 31, says Congress shall have power to prohibit labor of persons under 15 years of age, to provide the conditions of such labor, or to prescribe—have you with you the one you used in your preparation of that editorial?

Mr. CLARK. No, sir. The one I have with me was the one entered in December, sir. There was a number of them, I think about 12.

Mr. FOSTER. And in this issue of January 31, did you not in your editorial state this:

> We spent some time in Washington this week, and are positive a constitutional amendment resolution will be passed.

And so forth. You were here on that mission, on January 31, were you not?

Mr. CLARK. Yes, sir.

Mr. FOSTER. Still, two weeks ago, you told this committee, as I understood you, that you first learned then that any hearings would be held here?

Mr. CLARK. I did, absolutely.

Mr. FOSTER. That was not to procure any delay, such as you stated Mr. Kitchin was employed to do, in the editorial I have referred to?

Mr. CLARK. Last year the matter came up first in the Senate and I understood it would do so again. I talked to two Congressmen, if you wish to call them in to corroborate me——

Mr. FOSTER (interposing). But with all your years of activity here as an opponent of this proposition, and your writing of editorials, and your being in Washington, you had not even inquired of the clerk of this committee as to when the hearings would be held?

Mr. CLARK. I inquired of two Congressmen——

Mr. FOSTER (interposing). I said the clerk of the committee.

Mr. CLARK. No, sir; I had not.

Mr. FOSTER. You had had a great deal of experience with committees?

Mr. CLARK. Yes, sir.

Mr. PERLMAN. In this editorial of 1918, explain this to me; you said:

> The task of getting a man to apply for an injunction and a mill to permit the case to be brought against them was placed upon David Clark, and after con-

siderable work he found Ruben H. Dagenhart at the Fidelity Manufacturing Co., of Charlotte, whose family offered an ideal case, and he induced Dagenhart to permit his name to be used. It can be stated now that Dagenhart never had an idea of making a test until approached by David Clark, and was only a figurehead. He was not even in the employment of the Fidelity Manufacturing Co. when the case was heard before the United States Supreme Court.

You seemed to have some difficulty at that time to get any employee to test this law, did you not?

Mr. CLARK. Yes, sir. Mr. Chairman, it is the right of any citizen of the United States to test any law of the United States, and I do not think I should be held up before this committee as having committed any improper act in carrying a law, inflicted upon my State, to the United States Supreme Court, where the Supreme Court held I was entirely correct.

Mr. PERLMAN. You did not test it; you got some one to permit his name to be used to test it.

Mr. CLARK. I prepared the test case; yes.

Mr. PERLMAN. But you did not test it yourself; you got some one who did not want to test it to bring the action.

Mr. CLARK. I prepared the best case I could find, because I wanted to have the thing declared unconstitutional. I had a perfect right to do it; I proceeded along legal lines, and I resent the insinuation I was doing anything improper.

Mr. PERLMAN. You say the person in whose name the action was brought was not in the employ of this company?

Mr. CLARK. He was not in the employ at the time the case was decided; he was in the employ at the time the case was begun.

Mr. PERLMAN. Was that brought to the attention of the Supreme Court?

Mr. CLARK. No, sir.

Mr. DYER. Is there any further statement you care to make?

Mr. CLARK. I would just like to go into one other matter, since it has been brought up here in regard to my statement. I contend, as I have contended, that this is a matter of the health of women and children primarily, and you can not put it on any other ground. I contend, therefore, that if the Children's Bureau have such an intense interest in the health of the children that they wish to reduce the working hours of those between 14 and 16 (and that is all this law, practically, it is admitted will do), they should have an interest in the other phases of the welfare of the children. The letter which I have produced will not be in the record. I have not the 1910 juvenile statistics with me, for the same reasons I have stated, that those statistics were not compiled.

Mr. MONTAGUE. You mean they were not compiled by the Census Bureau?

Mr. CLARK. By the Census Bureau; it has not compiled them since 1910. They got everything else but the juvenile deliquency, and I contend the juvenile deliquency is doing more injury to the children than the juvenile work; but, for some peculiar reason which I am not able to understand, those things are covered up. I have gone into the States to try to get the information, and I find the statistics are hard to get there; but I do say from the 1910 census that juvenile delinquency—that the States that are particularly interested in this matter of picking the mote out of the North Caro-

lina eye have a very large per cent of juvenile delinquents. Now, they do not seem to take an interest on eliminating juvenile delinquency, but they want to come down in North Carolina, with the Federal Army, and pick the mote out of its eye in working children under their arbitrary standard.

We contend we are not injuring the children; we contend our laws are constantly being advanced, and we give the mother of the child absolutely the benefit of her children. We give her a pension, rather than let the children work; we give them $15 a month for the first child; $10 for the second, and then $5. We are doing all we can to relieve the distress among the children, and yet States who have juvenile delinquents, and where it is on the increase, and who ought to be ashamed of their juvenile delinquency, are coming here and advocating legislation to compel us to do something we do not think they have a right to do.

If this matter of blocks of States joining together to pick the motes out of the eyes of other States is going to go on, I do not know where the Government of the United States is going to end. There are certain things in other States that we in North Carolina do not approve of; we do not approve of theaters being kept open on Sundays, and many forms of vice in other States; but are we to combine with other States to pass a Federal law closing those theaters in other States simply because we have an idea that it is improper? We believe the people in those States who have a moral interest can be depended on to do what is best for their people.

I contend that the Children's Bureau of the Department of Labor has neglected the welfare of the child on the great question of juvenile delinquency; and, as far as I am concerned, I have not seen any evidence of any good resulting to the Government of the United States in turning a million dollars a year over to the Children's Bureau to spend, except the agitation for another million dollars. These statistics, were they shown here, as in that letter the committee has, will show that Chicago has an abnormal number of children in jail. In the 1910 census there were 508 children under 10 years old in jails; there were over 8,000 under 14 years of age; whereas in 1920 there were only 9,000 children working under 14 years of age.

Mr. MICHENER. Are you using that word "jail" advisedly?

Mr. CLARK. I should say jails and penal institutions.

Mr. MICHENER. Are you familiar with the law of Illinois, which provides that children under 14 or 16 can not be confined in a jail?

Mr. CLARK. I stand corrected. I mean juvenile institutions.

Mr. MICHENER. It might be quite important.

Mr. CLARK. In those juvenile institutions, industrial institutions, there are no restrictions in regard to their work. Since you are talking about children working, I contend that the Children's Bureau, if they really have at least the interests of the children, rather than expending the appropriation for that bureau, could do more for the children of this country by working on the juvenile delinquency than they can in trying to pass this forced piece of legislation, knowing as they do that the States are advancing their interests. I contend that the entire bill is aimed to eliminate certain minor conditions between 14 and 16 years of age in which there are differences of opinion between the different States.

Mr. FOSTER. Referring to your figures of the children in jails, I am reminded of the testimony given before this committee last year by Mrs. Willebrandt of a very startling nature, that each 12 months in the United States there are 500,000 adults discharged from penal institutions. That is out of the total population.

Mr. CLARK. There were 493 persons in jail, in penal institutions, juvenile institutions, in 1910, in three States. I prefer not to name them, but those three States have been active in this effort to force this matter on North Carolina, States which had one-sixth of the juveniles in institutions on January 1, 1910, and of those committed in 1910 one-fifth of them came from those States. Yet those States are here to-day talking about North Carolina, about her inhumanity to children, and trying to tell us what we shall do, as a sovereign State.

Mr. FOSTER. Let me say for one that I have had the least tendency in the world, or no tendency, to try to heap any injustice on North Carolina. I think the finest gentleman I ever met in my life was Claude Kitchin. What I have read had to do in the main with a reference to North Carolina; but, as one member of the committee, I have not tried to center on North Carolina; only, in reading your editorial and knowing your activity, I gravitated that way because of that. But I have no hard feeling toward any State in the South.

Mr. CLARK. I wish to state again, Mr. Foster, that my editorial refers not to any desire or any elation over having the privilege of working children; because we have gone right ahead and passed laws which show we did not want that, but wanted to get rid of Federal interference.

Mr. PERLMAN. Did you appear before the Legislature of North Carolina and urge the passage of the convict act?

Mr. CLARK. I never appeared against it.

Mr. PERLMAN. Did you ever appear before the Legislature of North Carolina urging the passage of an act regulating the employment of children?

Mr. CLARK. No, sir; and I never appeared against it.

Mr. PERLMAN. You have an interest in that State?

Mr. CLARK. Yes.

Mr. FOSTER. Do you now favor reducing the hours of work for children at least as low as for convicts?

Mr. CLARK. I have taken no position on that matter.

Mr. FOSTER. Do you mind stating whether you contemplate taking a position on it?

Mr. CLARK. Under certain conditions, but, as a matter of fact, those things you speak of are not things with which the mill man is connected.

Mr. FOSTER. It is humanitarian law; you limit to eight hours the labor for convicts in penitentiaries.

Mr. CLARK. There is a reason.

Mr. FOSTER. Is that the law or not? There is a law limiting to nine hours the labor of convicts when they are let out to contract.

Mr. CLARK. I understand so; but I have never seen the law.

Mr. FOSTER. Under your laws there, from 14 to 16 years of age, you can work children 11 hours, can you not?

Mr. CLARK. You can work them for 60 hours a week.

Mr. FOSTER. Yes. Now do you, because of your public interest down there, feel you ought to be one that would help the legislature reduce the child labor down to the hours prescribed for convicts?

Mr. CLARK. I do not think the provision in regard to convicts should have been passed, to lease them outside.

Mr. FOSTER. You do not care to answer my question?

Mr. CLARK. Mr. Chairman, is that matter of the convict—just before I close, let me explain my position on that. I do not know anything about it, except this scout you got, when he came down there he happened to discover that fact, there was any such law, and I am informed this fact exists, that in North Carolina, some convicts are leased, and very largely to the quarries, and they have to work under very difficult conditions, at the bottom of the quarries, in water, and after and before work they must walk several miles to their camp. The State legislature seems to have decided that those people employed by outsides—and I am opposed to any employment of convicts by outsiders—should be limited, on account of the class of the work to eight hours; that they could not stand up under working more than eight hours, at the bottom of the quarry, and then going and coming back. I do not know of any further statement to make in regard to that.

Mr. DYER. Is there any further question any member of the committee desires to ask?

Mr. CLARK. Mr. Chairman, I wish to file the following statement:

STATEMENT OF DR. JAMES A. HAYNE, EXECUTIVE OFFICER, SOUTH CAROLINA BOARD OF HEALTH, AS QUOTED IN A STUDY OF THE COTTON INDUSTRY OF NORTH AND SOUTH CAROLINA, BY ASHMUND BROWN.

The truth is that were the general health of the State as good as it is in the mill communities our statistics would make even a better showing, for it is an absolute fact that health conditions in the mill villages are materially better than in the other communities. For example, while the death rate in all the United States in 1922 was 11.0, that in Spartanburg, a mill center, was only 10.

It is astonishing what amount of rot has been printed in the northern papers regarding the poor health of southern mill workers and the low standards of health, particularly among mill children.

Only the other day I attended a baby clinic at Abbeyville where 140 babies from the mill village were examined. They were the healthiest, rosiest, finest looking lot of youngsters that could be found anywhere.

The truth of the matter is that the mills have advanced civilization in this State and not retarded it. Their coming is directly responsible for a vast improvement in the living conditions of our people.

They (the mill operators) see no imposition in what you northerners speak of as long hours of work. Everything in the world is comparative. They get larger returns with less effort under conditions in the mill villages than they or their ancestors got living in the mountains. They know their condition is better.

But if they believed for an instant that they were being exploited or repressed, as some of the northern writers have declared, they would not remain. There is nothing to compel them to remain. They can pick up their belongings and go back to their mountains and freedom, if you want to use the word, whenever they feel like it. The fact that they do not do so is a complete answer to misrepresentations that have been afloat.

Sustaining the records of the vital statistics of the State were the findings of the United States Government in connection with medical examinations made of men called for military duty under the selective service act. Figures are now available on the basis of a total of 2,510,791 men examined, of which number 49,350 men were from North Carolina. This study gives a cross section of the physical condition of the male population at an age when physical

defects that may shorten life are beginning to appear, and may be taken as a good picture of the general physical condition of the people.

These statistics show that North Carolina averaged fewer rejections than the country as a whole, and on individual points ranked well above the average. As compared with the entire country, there were in this State fewer defects per thousand, fewer defective men per thousand, fewer mechanical defects, less hernia, less underweight, fewer defects of the eyes, of the ears, of the throat, less organic heart disease, and less defective and deficient teeth.

STATEMENT OF MRS. KATE B. JOHNSON—Resumed

Mrs. JOHNSON. A question was asked in regard to the mill schools in North Carolina. I want to say even if those schools are entirely supported by the mills, they come up to the requirements set by the department of education, both in the matter of employing teachers and the cirriculum. I want to say also if Mr. Clark had been allowed to read the statement by Mr. Stuart W. Cramer you would have seen that many mill men in North Carolina are interested in this thing from a child-welfare point of view. I was a member of the committee that went before the North Carolina Legislature and asked for the passage of our child labor laws, and the man who helped us as much as anyone else and who made the most telling plea to the legislature was himself a manufacturer, Mr. Julian Carr, jr., who has since passed away. He was the head of the largest knitting mill, I think, in the world. And many of the manufactureres in North Carolina do not fight the child labor laws, when it comes to State laws, and they have helped us to get them through, and they have cooperated with us in the administration of those laws.

I want also to make our position clear on the opposition to the Child Welfare Commission to deal with the public welfare of the child. When it comes to the Children's Bureau in Washington we do not believe in the Children's Bureau administering the laws; otherwise, I want to say we have gotten a great deal of help from the Children's Bureau; that we approve and appreciate a great deal of the work they have done, and they assist us and we work with them in various ways in a very fine spirit of cooperation.

Mr. DYER. We have a witness who only wants to take a couple of minutes—Mr. Gray Silver.

STATEMENT OF MR. GRAY SILVER, WASHINGTON REPRESENTATIVE OF THE AMERICAN FARM BUREAU FEDERATION

Mr. SILVER. Mr. Chairman and gentlemen, my name is Gray Silver, Washington representative of the American Farm Bureau Federation. I am asking that I may be permitted to file with you a statement as the word of the American Farm Bureau Federation on this subject.

Mr. DYER. What is the gist of the article, Mr. Silver?

Mr. SILVER. It tends to support the theory of local self-government.

Mr. DYER. Is there any objection to the witness filing that?

Mr. FOSTER. I have no objection. Is the article prepared by you?

Mr. SILVER. Yes.

Mr. FOSTER. Pursuant to what?

Mr. SILVER. Your thought is as to how I arrived at this conclusion?

Mr. FOSTER. Yes.

Mr. SILVER. After this question came up in this Congress I visited the executive committee at Chicago and, under their instructions, I took the different matters of this sort before the committee and sent them to the different States, and the replies from the different States are summarized in this statement.

Mr. HERSEY. You oppose the amendment—your organization?

Mr. SILVER. In effect, yes.

Mr. HERSEY. How do the other farm organizations stand on this subject, outside of yours?

Mr. SILVER. I do not know.

Mr. HERSEY. I have been given to understand the last national convention of the Grange——

Mr. SILVER. I think the Grange has spoken.

Mr. HERSEY (continuing). Put themselves on record in favor of this bill.

Mr. SILVER. I do not know.

Mr. HERSEY. You do not know?

Mr. SILVER. No, sir. I was cognizant of it at that time, because I read the resolution.

Mr. MICHENER. May I ask a question? In my district there are many members of your organization.

Mr. SILVER. Yes.

Mr. MICHENER. Ninety per cent of the members in your organization are also members of the Grange.

Mr. SILVER. Yes.

Mr. MICHENER. Now, when the Grange takes an attitude, which they do on this in the State of Michigan on a piece of legislation like this, favoring and the Farm Bureau takes an attitude of opposing it, and 90 per cent of the members of the Grange are Farm Bureau people, or [illegible] per cent of the Farm Bureau people are Grangers, where am I? [Laughter.] To carry that just a little further, in the final analysis, is not the decision of the executive committee controlling on the Washington representative of the organization? Is not that really what we get here, instead of what the people back home want?

Mr. SILVER. If I may answer that, while I will say, so far as this particular statement I prepared is concerned, it is not the result of a referendum, but our methods of determining—you are asking generally—our method of determining this is provided for in our constitution and the method pursued, so far as possible, is by referendum to the individual members. We tally the votes for and against when we take a referendum——

Mr. MICHENER. If you will pardon me, just let me state, personally, my position. I had the same thing up last year on the ship subsidy bill. I addressed an audience at home of farmers, probably a thousand of them, and I was criticized by one of the speakers for voting against the ship subsidy bill. Finally I asked all the people in the audience who were Grangers to raise their hands. Then I asked all those who were Farm Bureau people to raise their hands. Practically the same people raised their hands. Then I asked them what they wanted me to be down here, a Granger or a Farm Bureau man.

Mr. SILVER. It is very true that the membership in certain States is very overlapping; that is very largely true. But the Farm Bureau

organization does have a regular referendum as a means of arriving at its conclusions.

Mr. HERSEY. You are the Washington legislative representative?

Mr. SILVER. The Washington legislative representative, but I have to do with the departments here in the administration of the laws.

Mr. HERSEY. They pretend to represent the farmers of the country. They do not agree very well—your farm organizations do not always agree on legislation?

Mr. SILVER. Not always, no; they usually do, however.

Mr. SUMMERS. For that reason it is sometimes necessary for a Member of Congress to use his own best judgment. [Laughter.]

Mr. SILVER. The proposal to amend the Constitution giving Congress power to prohibit the labor of persons under the age of 18 years and to prescribe the conditions of such labor does not find a favorable response among the farmers. In making this statement it must be distinctly understood, however, that the farmers are adverse to child labor which interferes with the proper growth, development, and schooling of children. Farmers, of course, at the same time do not countenance idleness and believe that children are better off when fully employed at either work or play.

By far the majority of States already have laws regulating the labor of minors or of children less than 14 years of age. As a matter of fact, the conduct of children is so completely hedged about by State laws in most of the States that any Federal legislation which would follow this proposed amendment to the Constitution by Senator McCormick would coincide with the State legislation or tend to confuse it. Further, it seems to me because of the diversity of employment this is one of the matters which can be regulated most efficiently by the States themselves.

I am sure the farmers would be among the first to resent the activities of the Federal bureau if it would try to take the place of the parents in telling their children what duties they should or should not perform and what kind of work they should do. In fact, I believe such a proposal is unnecessary, especially as it might apply to the families on the farms. If a Federal law is needed to regulate child labor it should be directed toward industry where undoubtedly there is still some need for regulation. The farmers do not ask for exemption for they are not in the offending class.

Some of the child-labor enthusiasts who would save all children from work until manhood and womanhood have become unduly exercised over a few statistics which they do not understand. They have forgotten the very pertinent fact that the cities recoup their virility from the farm where the boys and girls are always given something to do in the line of light tasks which cheats the devil of unemployment and builds sturdy frames and muscles.

When questioned, some of these enthusiasts say that any Federal regulation or law on this subject would exclude the boys and girls on the farm. However, others are not so sure. The chances are that if unlimited authority is given to some bureau that it will grow until it becomes a nuisance.

A lot of propaganda has been sent out which is thoroughly resented by farmers. Certain syndicates have published the greatest lot of rot about young boys starting to work at 4 a. m., continuing

late into the night, and being given insufficient food. It is always possible to find exceptions to every rule. It will be admitted that there are nomadic types of farmers just as there are hobos in industry. Occasionally agriculture is "industrialized" by some contractor hiring all of the men, women, and children available to harvest certain truck crops. Frequently these people come from the city in large numbers and labor during part of the summer and fall months in this way. Those who cry out in our national weekly publications that there are "more than a million children who must be set free" grab off a lot of undigested statistics and hurl them at the public with their sob-sister methods. At the time of the last census there were recorded 1,060,959 children under age "regularly employed under unfavorable conditions", according to these statements. Of this number, 647,909 were employed on farms. This, of course, makes a very different picture, for everybody knows that 90 per cent or more of these children were working at home at the lighter tasks involved in farming—learning as they worked. Further, they probably are employed only part of the time. The census figures, however, showed that 63,990 were "working out." The unintelligent returns made by census takers opens these figures to grave questioning. How many of these children actually were working out regularly month after month and how many really were working during vacation time or during periods when the crops of a community had to be saved? Thus there evaporates into thin air the bugaboo of children laboring on the farms, who must be set free. If there are cases in which children on the farm are required to work too hard it is due to the pressure of economic conditions which should be righted and which in turn will bring better conditions generally on the farms.

I feel sure that no one on this committee is going to vote for a bill or resolution which might eventuate in some bureaucrat determining whether a community whose livelihood depends upon the raising of strawberries, should not close school for a few weeks and thus permit the children to aid in the harvest upon which the financial returns of the whole year depend. Nor would the farmer relish regulations from Washington prohibiting children from aiding in the harvest of many other crops where light labor at reasonable hours is necessary, and rightly so, the capital which sensational magazines are making of the idea that he raises a family for the purpose of harvesting a cotton crop.

As a matter of fact, the movement for Federal regulation of child labor comes several years too late, for the States to a very large extent have already taken adequate action, and if the States do not control it sufficiently, frequently unemployment laws and regulations are enforced by the counties, not only from the standpoint of labor, but as to requirement for attending school.

To pass this resolution making it possible for the States to amend the Constitution would straightway result in the normal course of events, in the passage of the bill authorizing the Children's Bureau in the Department of Labor to issue some regulations which would make it illegal for boys and girls reared on the farm to be anything but first-class loafers.

Mr. DYER. We are very much obliged to you, Mr. Silver. There are three other witnesses who wish to be heard, but we can not hear

them this morning, and we will hear you to-morrow morning at 10 o'clock.

Mr. WEBB. I have a short statement to make, and I have been here for two days.

Mr. DYER. How long will it take?

Mr. WEBB. Oh, just a few minutes.

Mr. DYER. Proceed.

STATEMENT OF MR. CHARLES J. WEBB, PHILADELPHIA, PA.

Mr. WEBB. I am the executive head of the Salvation Army; I am a manufacturer; I am a woolgrower; I am a wool jobber; I am a wool merchant, both in domestic wool and foreign wool.

I go into that length of my activities, because I have been, since I was 8 years old, working for a living, and I believe that you should approach this subject from a different standpoint than what the most of you are now attempting to do. It has been my privilege to have traveled all over the world, as well as all over this country, and I have noticed the development of people under different environments and under different climatic conditions, is so widely different that no one, unless they have come personally in contact with those environments and those conditions, can form an opinion. I believe it is just as difficult to sit here in Washington and undertake to say at what age a boy or girl should start to work in Florida or in Maine, as it is to solve the tariff question of what is required for those States. It has been my privilege to have helped to start the cotton industry in North Carolina. I was interested with a gentleman by the name of J. W. Cannon. The people from that section will know his name. I remember when the industry was started. We built factories; we brought the people down there from the Green Mountains. They had very little to eat. The pay was very small, a few dollars a week. I am ashamed to say at that time they put the boys and girls to work on the spindles when they had to get up on a little soap box to learn how to manipulate this machinery.

The families had at least 8 to 10 children; they got a few dollars a week, but it was a great uplift to that community. I personally said to Mr. Cannon: "You will have to enact a child labor law in this State because it is cruel; it is not right to let these little children come in here at this age." He said, "If we do not do it, our competitors will do it; therefore if we do not make the money, our competitors will make it, and we can not continue in the industry."

Since that time I have seen rapid strides in child labor laws in the South. To-day I think they have reached almost perfection. I think that it is a mistake to limit the time that a boy or a girl has its energies, its visions, its intuitons to produce other than through the educatonal idea. There are a lot of children that can not take education; that will not take an education; and to compel certain people with vision, with imagination, to study that which they do not like is wrong. It is evidently better to let those children go to work with their hands, whereby they create a certain man building, a character building, which never can be created by study or idleness until they are 18 years old.

Mr. MONTAGUE. You mean study in the schools?

Mr. WEBB. Brains, my boy, are not made in schools or colleges; you are born with them. But we point with pride to the captains of industry in this country, and I defy any of you to point me to a man who did not start when he was very young. That is what makes the United States such a great Nation. Are we going to legislate against such an upbuilding of character, and such upbuilding processes as that? I want to tell you it is a proposition of "stop, look, and listen." I am old enough to be your father, and I have been working since I was 8 years old. It has not stunted my growth.

Mr. MONTAGUE. What is your height?

Mr. WEBB. Six feet one and a half. I was six feet two, but I got married. [Laughter.]

Mr. MONTAGUE. What do you weigh?

Mr. WEBB. I weigh 255 pounds.

Mr. SUMNERS. You say you started work at 8 years of age. Was that what stunted your growth?

Mr. WEBB. My boy, listen: I started, because I will tell you why—I was one of five in a family. Unfortunately, my father died when I was 6 weeks old. I did not come here to give you my biography, because it is pretty well known in the United States. I was brought up with a desire to help my widowed mother, and if you had such a law as you are undertaking to pass here (which I could give you an illustration of), I would have starved to death, perhaps, or I would have been a public charge. But I was burned up with a desire to accomplish something, and I have had this desire ever since I have been alive. I am not in business to-day for the almighty dollar. I have heard the "dollar" mentioned. I want to tell you the captains of industry in this country are in this business for the joy of accomplishment; not for making money. I have seen the great South build up its industries, and from where do we get the money to run our Government if it is not from the factories and industry?

Mr. FOSTER. May I ask a question?

Mr. WEBB. Yes, sir; I will be glad to answer.

Mr. FOSTER. You say you have traveled all over the world?

Mr. WEBB. Yes, sir.

Mr. FOSTER. Here is a list of 12 countries—Belgium, Bulgaria, Czechoslovakia, Denmark, Germany, Great Britain, Greece, the Netherlands, New Zealand, Norway, Rumania, and Switzerland. Have you been in practically all of them?

Mr. WEBB. Practically all of them and in India, China, and Japan.

Mr. FOSTER. I have read these 12. Our child labor laws are lower than the laws there. That is the reason we are more prosperous—that we have poorer child labor laws?

Mr. WEBB. No; my boy. Study your country. We are prosperous in this country because we have——

Mr. FOSTER. I have studied coal mining in Ohio and Indiana.

Mr. WEBB. I will give the modus to you; I will illustrate to you. You have got in this country the aggregate brains and ability from every country, molded together. The drones do not come here; it is the people who are burned up with a desire to accomplish. That is what makes this country so great, and what makes this country so great is the fact that the people work for the joy of accomplishment.

Mr. FOSTER. You ought to have no immigration limitations then, had you?

Mr. WEBB. No; I do not think that is right. You must let them keep coming here. You have the wrong idea in Congress, and the wrong idea in business. I want to tell you we have too many laws; that is what I want to say. For goodness sake, let the States handle the business.

(The committee thereupon adjourned until to-morrow, Saturday, March 8, 1924, at 10 o'clock a. m.)

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Saturday, March 8, 1924.

The committee met at 10.30 o'clock a. m., Hon. Leonidas C. Dyer presiding.

Mr. DYER. When we adjourned yesterday there were two witnesses from Philadelphia, Mr. Charles Webb and Miss Miles, who had not been heard. But I understand from the clerk of the committee that they returned to Philadelphia last night and are not here to-day.

If there is no one else present who desires to be heard this morning for the amendment or in opposition to it, we will hear further statements from Miss Abbott.

Mr. FOSTER. Mr. Chairman, I want to introduce for the proponents of the legislation extracts from the two national platforms. The first is from the Republican platform of 1920, which says:

> 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.

I also desire to quote from the national Democratic platform for 1920, as follows:

> We urge cooperation with the States for the protection of child life through infancy and maternity care; in the prohibition of child labor and by adequate appropriations for the Children's Bureau and the Woman's Bureau in the Department of Labor.

I want also, Mr. Chairman, to call attention to the case of Bailey *v.* Drexel Furniture Co., decided by the Supreme Court May 15, 1922, directing particular attention to this language of the opinion of Chief Justice Taft:

> We can not avoid the duty, even though it requires us to refuse to give effect to legislation designed to promote the highest good.

I also desire to put in the record the following telegram dated Chicago, Ill., February 28, 1924, addressed to me, as follows:

> The Mississippi Valley conference on legislation assembled at Chicago, Ill., on February 28, 1924, including members from 17 States—Washington, Montana, Minnesota, Wisconsin, Illinois, Iowa, Indiana, Kentucky, Arkansas, Louisiana, Mississippi, Ohio, New York, Missouri, Oklahoma, West Virginia, Maryland, South Carolina, and Texas—deplores delay in the passage of a joint resolution or a Federal child-labor amendment and urges immediate action by the House Committee on the Judiciary.
>
> JEANETTE RANKIN, *Secretary.*

I also desire to put in the record the following telegram dated March 3, 1924, from Madison, Wis., addressed to me, reading as follows:

The Consumers' League of Wisconsin, at its annual meeting held at Madison on March 1, Professor Commons presiding, voted unanimously to request favorable report by the Committee on the Judiciary to the House of Representatives upon the child-labor amendment, which has been favorably reported. The following organizations joined in the resolution: The League of Women Voters, The Catholic Women's Club, American Association of University Women, Women's League for Peace and Freedom, Business and Professional Women's Club, Parent-Teachers' Association.

Mr. MICHENER. Is that from same town?

Mr. FOSTER. That is from Madison, Wis.

I also desire to submit, Mr. Chairman, a few signed statements for insertion in the record.

Mr. DYER. If there is no objection, they will be put in the record.

ATHENS, OHIO, *January 18, 1924.*

Hon. I. M. FOSTER,
Washington, D. C.

DEAR SIR: I have the honor of informing you that the Pallas Club of Athens has placed itself on record approving your action in introducing in the House the amendment regarding child labor.

(Mrs. W. F.) HELEN R. COPELAND,
Corresponding Secretary.

COLUMBUS, OHIO, *January 25, 1924.*

Mr. I. M. FOSTER,
Washington, D. C.

DEAR SIR: At a public luncheon, held at the Girls' Athletic Club, January 11, the Franklin County League of Women Voters passed the resolution unanimously indorsing the Foster bill, the proposed amendment to the Federal Constitution permitting the enactment of laws regulating the employment of children.

Mrs. Bing gave a splendid talk at this luncheon. The league wishes to express appreciation of your work in this cause.

Yours truly,

MARY KAHLE, *Secretary.*

OHIO LEAGUE OF WOMEN VOTERS,
Columbus, Ohio, January 31, 1924.

Hon. ISRAEL FOSTER,
House of Representatives, Washington, D. C.

MY DEAR MR. FOSTER: It is a source of great satisfaction and pride to the Ohio League of Women Voters that the resolution for a child labor amendment to the Constitution of the United States has been introduced in the House by one of our Ohio Representatives. Our league is greatly interested in the amendment, and many are doing active educational work in its behalf. If at any time during the session you see something which we, as a league, might do "back home," we would esteem it a favor if you would let us know.

Under separate cover I am sending you a copy of one issue of the Ohio Woman Voter which contains a short article entitled "Onions and children," which gives the findings of a study of child labor conditions in Ohio onion fields.

Respectfully yours,

JULIETTE SESSIONS, *President.*

COUNCIL OF JEWISH WOMEN,
Columbus, Ohio, February 6, 1924.

Hon. ISRAEL FOSTER,
Washington, D. C.

DEAR SIR: The Columbus Section, National Council of Jewish Women, most heartily indorses an amendment to the Federal Constitution which will give Congress the power to regulate child labor.

We earnestly urge you to do all in your power to bring about the adoption of such an amendment by Congress.

Thanking you for using your influence in this matter, we are,

Respectfully yours,

COLUMBUS SECTION, COUNCIL OF JEWISH WOMEN,
MRS. ROBERT BLASHKE,
Corresponding Secretary.

NATIONAL REPUBLICAN FEDERATION,
OF MOUNT PLEASANT AND CHAPPAQUA, N. Y.,
March 4, 1924.

Hon. ISRAEL M. FOSTER,
Washington, D. C.

DEAR SIR: At the meeting of the executive committee of this organization, held on February 27, the chairman was directed to write to our Senators and Representatives requesting them to support and vote in favor of the McCormick-Foster amendment to the United States Constitution which will enable Congress to regulate child labor.

Very truly yours,

FLORENCE HARMON DOCK, *Chairman.*

NATIONAL LEAGUE OF WOMEN VOTERS,
Washington, D. C., March 5, 1924.

Hon. ISRAEL M. FOSTER,
House of Representatives, Washington, D. C.

MY DEAR MR. FOSTER: At the time of the first hearing on the child labor amendment this brief was submitted by the American Federation of Teachers. Miss Mary Stewart presented the indorsement of the resolution offered by you for the organizations represented on the woman's joint congressional committee. The American Federation of Teachers was one of the list given at that time and this brief should have been put in the record on the day of that testimony.

Will you see that it is incorporated in the records in its proper place?

Very cordially yours,

(Mrs. John Jay) LOUISE M. O'CONNOR,
Chairman Child Welfare Committee.

(The brief referred to is as follows:)

BRIEF IN FAVOR OF A CHILD LABOR AMENDMENT TO THE CONSTITUTION

[Submitted by the American Federation of Teachers]

To: Judiciary Committee, House of Representatives, Washington, D. C.
From: The American Federation of Teachers.
Subject: The child labor amendment.

The American Federation of Teachers, which is the national organization composed of classroom teachers, and hence the group which has the most intimate contact with the child, respectfully petitions your committee for early favorable consideration of an amendment to the Federal Constitution which would enable Congress to—

1. Prohibit the labor of persons under (an age to be fixed by Congress) years of age.

2. Limit and regulate the employment of boys and girls, which employment would not be prohibited entirely.

The American Federation of Teachers wishes to secure to each child that opportunity to develop into a self-supporting economic unit which the American Constitution intends him to have. We feel that it is socially and economically unjust to permit the indiscriminate labor of of young children, as such lack of protection in youth will prevent his developing into a citizen who can intelligently and helpfully serve his Government. We deplore facts revealed in the statistics compiled by the Child Labor Bureau, which shows so large a percentage of American children to be physically below a standard which would assure their developing into healthy men and women, and we submit to you, gentlemen, that a material improvement in the physical standards of American children would be secured were the evil of child labor eliminated.

The American Federation of Teachers is mindful of the very high degree of correlation between the per cent of illiteracy and the per cent of child labor existing in certain localities in this country. We feel that illiteracy must be wiped out and that the elimination of child labor would aid materially.

I submit herewith copy of the resolution which our organization adopted on this question at its annual convention in 1922.

Respectfully submitted.

S. M. BORCHARDT,
Legislative Representative American Federation of Teachers.

(The following resolution was adopted by the American Federation of Teachers at its sixth annual convention held in Chicago, Ill., July 5 to 7, 1922:)

RESOLUTION ON CHILD LABOR AMENDMENT

Whereas no evil exists in our land more revolting to every sense of humanity or more fraught with social dangers than the power to force helpless children into industry at an age when the stunting of their physical, mental, an moral natures must inevitably result; and

Whereas such treatment is not only cruel to the children but a menace to society in that it produces a degenerate group which must contribute an undue proportion of burdens to society; and

Whereas the competition with cheap child labor tends to lower adult wages, thus making it impossible for men to support their families without the added incomes from work of wives and children; and

Whereas decisions of the United States Supreme Court have twice set aside Federal laws prohibiting this evil of child labor; and

Whereas in those States where prohibitory laws are most needed, the interests profiting by child labor are often powerful enough to prevent the enactment of such legislation: Therefore be it

Resolved, That the American Federation of Teachers calls upon all its members to seek, consciously and actively, to spread a knowledge of the cruelty and danger of this evil and to arouse by every means at their command a sentiment against it; and be it

Resolved, That the American Federation of Teachers approves the efforts of the American Federation of Labor to have enacted an amendment to the Federal Constitution which shall give the Federal Government the right to legislate in such a matter as to prohibit child labor, and does pledge itself to participate in a campaign to secure the immediate introduction and ratification of such an amendment; and be it further

Resolved, That a copy of this resolution be sent to the American Federation of Labor, the Secretary of Labor of the United States, the National League of Women Voters, the National Federation of Women's Clubs, and to each member of the Committee on Labor in the United States House and Senate.

Attest:
[SEAL.]

F. G. STECKER, *Secretary-Treasurer.*

Mr. DYER. Miss Abbott, we will be very glad to hear you now.

ADDITIONAL STATEMENT OF MISS GRACE ABBOTT, CHIEF CHILDREN'S BUREAU, DEPARTMENT OF LABOR, WASHINGTON, D. C.

Miss ABBOTT. Mr. Chairman, there have been a number of points raised in connection with the testimony of other witnesses before the committee to which I would like to refer.

Reference was made to the general work of the Children's Bureau, its appropriations, and its expenditures, and I want to call attention to the fact that the appropriation for the Children's Bureau is a little over a million and a half dollars, or, to be exact, $1,551,040. Of this amount $1,240,000 is for the payment of a subsidy to the States cooperating in the promotion of the welfare and hygiene of maternity and infancy under the maternity and infancy act.

So far as the remainder is concerned, the expenditures of the Children's Bureau have been along several different lines. The present organization of the bureau provides for a maternity and infancy division, which administers or enforces the maternity and infancy act; a social service division, which makes studies in the care of dependent, neglected, and delinquent children; a child hygiene division, which makes studies in the field of child health; an industrial division which makes studies in the field of child labor.

The interests of the Children's Bureau therefore, I think, can not be fairly said to be confined to child labor.

It has conducted investigations in the field of infant mortality, and since it has carried on that work the number of deaths of children have been reduced by something like 50,000 in the birth-registration area in the United States in 1922 since 1915; that is, 50,000 fewer babies died in that year than would have died if the 1915 rate had prevailed in 1922.

I am aware that there are certain people who have testified before the committee who would say, "What are 50,000 babies, after all, as compared with other interests of other sorts?" So the value of the expenditure of the money that has contributed toward that reduction may not seem as significant to them as it seems to me.

With reference to the appropriation of $1,240,000 which is available to the States if they accept the terms of the maternity and infancy act and match the appropriation offered by the Federal Government, 40 States have accepted the terms of the act and are cooperating with the Children's Bureau. All of the Southern States have received a share of that fund with the exception of Louisiana.

With reference to the statement that the Children's Bureau has published or done nothing in the field of delinquency, I may say that we have, as a matter of fact, published practically as many reports on that subject as we have on any one other subject which the Children's Bureau has had under consideration.

The various studies relating to delinquency are as follows:

Publications of the Children's Bureau relating to juvenile courts and juvenile delinquency

No. 32. Juvenile Delinquency in Rural New York.
No. 39. Juvenile Delinquency in Certain Countries at War.
No. 43. Children Before the Courts in Connecticut.
No. 65. Courts in the United States Hearing Children's Cases.

No. 70. A Summary of Juvenile-Court Legislation in the United States.
No. 80. Probation in Children's Courts.
No. 96. The Practical Value of Scientific Study of Juvenile Delinquents.
No. 97. Proceedings of the Conference on Juvenile-Court Standards, held under the auspices of the United States Children's Bureau of the National Probation Association, Milwaukee, Wis., June 21-22, 1921.
No. 99. The Legal Aspect of the Juvenile Court.
No. 103. The Federal Courts and the Delinquent Child.
No. 104. The Chicago Juvenile Court.
No. 121. The Juvenile-Court Standards: Report of the committee appointed by the Children's Bureau, August, 1921, to formulate juvenile-court standards, adopted by a conference held under the auspices of the Children's Bureau of the National Probation Association.
No. 124. List of References on Juvenile Courts and Probation in the United States and a Selected List of Foreign References.
In press: Juvenile Courts at Work. (The following 10 cities are included in the study: Boston, Buffalo, Denver, Los Angeles, Minneapolis, New Orleans, San Francisco, St. Louis, Seattle, Washington, D. C.)
Now in progress: Court Methods of Dealing with Family Problems Affecting Child Life. Delinquency in Georgia. Laws Relating to Sex Offenses Against Children (in press).
Other publications: Directory of Courts in the United States Hearing Children's Cases (mimeographed). Social and Environmental Factors in the Moral Delinquency of Girls Committed to the Kansas State Industrial Farm; in collaboration with the United States Public Health Service. Reprint No. 598, United States Public Health Service, 1920.

A questionnaire study which included all the courts in the country established the fact that approximately 175,000 children are annually brought before our juvenile courts, including not only delinquents, but dependent, neglected, and truant children.

We have in press at the present time a study of the juvenile courts of 10 cities in different parts of the country, including far western as well as eastern and southern representative courts.

Mr. HERSEY. On yesterday testimony was given before the committee by Mr. Clark, I think, to the effect that the great number of delinquents is due largely to those children not having employment. What have you to say in regard to that?

Miss ABBOTT. I would like to take that up now. Mr. Clark also said that the Children's Bureau does not care anything about what becomes of the children, and that all we were concerned with was preventing child labor.

I would like to file with the committee the bureau's reports on delinquency, not for publication in the hearings, but as a matter of record.

I have here the results of an investigation with reference to the relationship between delinquency and child labor. This was a study made by the Bureau of Labor Statistics, as a part of a larger inquiry which that bureau was directed by Congress to make on the subject of the condition of women and child wage earners in the United States.

This report [1] says, on page 273:

To secure representative cases for study, seven cities—Indianapolis, Baltimore, Boston, Newark, New York, Philadelphia, and Pittsburgh—were selected, both as affording abundant and varied opportunities for child labor and as having juvenile courts and probation systems, without which aids a detailed study of juvenile offenders would be exceedingly difficult. Moreover, in all

[1] Summary of the report on condition of women and child wage earners in the United States, Bulletin of the U. S. Bureau of Labor Statistics, Whole No. 175, Washington, Government Printing Office, 1916.

these places child labor is supervised and regulated, so that there was little risk that the case against it would be unduly weighted by abnormally injurious conditions of work. The children coming before these courts during the year 1907-8 were studied, with the exception of those in New York, where the numbers concerned were too large for inclusion, and only those were taken who were on probation at the time of the visit of investigation. From these courts the cases of 2,934 boys and 309 girls were secured.

To give the study a wider basis, the children committed during the selected year from other localities to reformatory institutions in or near these cities were also included. From these sources the cases of 1,344 boys and 252 girls were secured, so that in all the investigation dealt with 4,839 children, 4,278 boys and 561 girls.

The offenses committed by these children vary widely, ranging from truancy and trivial breaches of municipal ordinances to such crimes as arson and burglary. Larceny is the leading offense for boys, with burglary second, but far behind; among the girls, immoral conduct leads, with larceny second. Among both boys and girls "incorrigibility" appears as a frequent cause of arrest, the term indicating a generally unsatisfactory condition rather than any one definite misdemeanor. Recidivism is common, 48.6 per cent of the boys and 22.6 per cent of the girls having records of previous offenses.

* * * * * * *

A working child is defined as one who has been employed, whether or not he is working at the time of his latest offense. According to this definition 56.6 per cent of the boys and 62.6 per cent of the girls were working children. By comparing the number of the working and nonworking delinquents with the census figures for working and nonworking children in the places studied it is shown that the workers are disproportionately numerous.

* * * * * * *

The excess of workers appears even more strongly among the recidivists than among the first offenders (65.8 per cent of the recidivists were working children, 34.2 per cent nonworking), and in general among the serious offenders as markedly as among the petty delinquents.

* * * * * * *

The proportion of working delinquents is especially striking among the younger offenders. Of the 938 boys under 12 more than one-fifth (22.4 per cent) were workers, an impressive percentage when it is remembered how small a proportion of all the children under 12 can be at work in the localities studied. Among the boys of 12 and 13 years 42.4 per cent and among those from 14 to 16 years 80.8 per cent were workers. At this latter age, however, the majority of boys would naturally be at work, so the high percentage here is less significant. Among girls the proportion of working delinquents stood, under 12 years, 0.4 per cent; 12 and 13 years, 36.4 per cent; 14 to 16 years, 77.7 per cent.

These figures were taken, as I read at the beginning of the quotation, from cities in which there were relatively good child labor laws, in which there were well-established juvenile-court systems, so the showing is not as bad as it would be in many other communities.

The discussion we have had in the last few days has been the first I have heard in many years in which the right to employ young children was actually advocated. The question which has been discussed by almost all of those opposing the bill has been whether there should be any prohibition of child labor instead of the question as to whether it was to be prohibited or regulated by the State or the Federal Government or by both.

Delinquency was one of the subjects mentioned. I am sure that most of you must have thought, as the witness from North Carolina testified, that since the little girls who are brought before the juvenile courts are mainly charged with or are victims of some moral delinquency on the part of themselves or some one else, no one could have any sense of security for little girls who go to work still in North Carolina and other States at 14 years of age and who work 11 hours a

day, so that they have to leave home in the winter season before daylight in the morning and return after dark at night.

If you have not had occasion, in your work to know what goes on in the juvenile courts of the country, you can not be as familiar as those who have studied the records with the fact of how frequently the responsibility for a condition that none of us likes to think about has been due to the fact that these children were started out at the age of 14 years or younger as wage earners to be responsible for themselves.

Certainly the kind of things that the record of any juvenile court will show have been done to little children, to little girls—because they are still little at 14 years of age, as far as these offenses are concerned—is not a thing to be treated lightly by anybody testifying before a committee.

Reference was also made to the census figures with reference to prisoners and children in jails and workhouses. The last report of the Census Bureau on prisoners and juvenile delinquents is for the year 1910.

The Census Bureau is at the present time at work in organizing the material that has been secured during the past year. This material is not secured in connection with regular decennial enumerations, but by questionnaires sent out from the Bureau of the Census to various institutions and organizations. That, of course, is one of the sources of error in these reports, as compared with those secured by personal visit of an enumerator.

The number of juvenile delinquents who were inmates of juvenile reformatories on January 1, 1910, was 24,974; the number of juvenile delinquents committed in 1910 was 14,147, the total number under care in 1910 being 39,121.[1]

You will notice that the figure 175,000 is given as the number who were before juvenile courts in a single year. That is as far as we were able to find in an enumeration conducted by the Children's Bureau. That included dependent and neglected children as well as delinquent children, so, of course, the numbers are quite different.

The total number of prisoners under 18 years of age committed to penal or reformatory institutions in 1910 was 25,422. The number of prisoners, that is, juvenile delinquents, in various divisions of the United States—I have not calculated these on the basis of the population of the particular regions, which ought to be done in order to get a fair representation—but the total number was 25,422, made up as follows: New England division, 1,935; Middle Atlantic division, 7,249; East North Central division, 4,270; West North Central division, 2,341; South Atlantic division, 4,365; East South Central division, 2,326; West South Central division, 1,501; Mountain division, 724; and Pacific division, 693.

That is not weighted for the difference in population between those areas.

When it comes to prisoners under 18 years of age in State prisons and penitentiaries—your attention was especially called to that—I regret to say that in 1910 there were 911 children under 18 years of age committed to prisons; that is, State prisons and penitentiaries,

[1] Prisoners and Juvenile Delinquents in the United States, 1910, U. S. Department of Commerce, Bureau of the Census, Washington, 1918, p. 26.

and they were divided in this way: New England division, 9; Middle Atlantic division, 34; East North Central division, 12; West North Central division, 25; South Atlantic division, 273; East South Central division, 271; West South Central division, 225; Mountain division, 28; Pacific division, 16; Illinois division, none; Ohio division, none; North Carolina division, 8; South Carolina division, 69; Georgia division, 80.

Especial mention was made by the speaker appearing before the committee of Illinois, I suppose, because I lived and worked in Illinois for more than 10 years. Otherwise I know no reason why that State should have been singled out.

But in Illinois no person under the age of 18 was committed to a jail or penitentiary, so the record for that section of the country includes none from Illinois. There were also none from Ohio, whose child-labor law has the highest standard of any yet enacted.

Mr. SUMNERS. Does that mean that no offenses were committed by children in those States, comparable with the offenses committed in the States where the children were in the penal institutions?

Miss ABBOTT. I gave the number committed to other institutions than penitentiaries; that is, to juvenile institutions.

Mr. SUMNERS. What you mean in that connection, I assume, is that instead of the delinquents within the States you are discussing being committed to penitentiaries, they are probably sent to other institutions?

Miss ABBOTT. Yes.

Mr. SUMNERS. So it has to do more with the character of the institution than it does with the offense committed?

Miss ABBOTT. Yes; it does. That is what I am trying to indicate. Mr. Clark said the other day that the States that had the high child-labor laws were not undertaking to take care of their children in other directions.

After all, if I may be allowed to say so, what is done with reference to child labor is in a sense the touchstone of what happens to children in general, because if you regard children as merely of commercial interest to the State, and if that is the attitude of a State with reference to its children, it is not going to do the things in behalf of children that it ought to do.

Mr. SUMNERS. That is what I think, too. But does it occur to you that if the communities where the sentiment is growing for protecting children wherever child labor is permitted to grow, it will tend to protect them from that; at the same time there will also be a growing sentiment to protect children with regard to the other things.

Miss ABBOTT. Yes; and I want to call your attention to what child labor has done. The gentleman from North Carolina testified about some things being done there. In North Carolina an effective child labor law was not passed until the Federal act was in effect and until they wanted to go on record with something in the way of a State statute.

That State passed a state-wide juvenile court law only as recently as 1919 and passed a mothers' pension act last year; it established practical working State machinery for the care of children only within the last few years. It still has many things to do, but they have made a good beginning in the last five years.

I mean to say that child labor law stimulated the people of North Carolina to an interest in the whole problem of the welfare of its children.

Mr. SUMNERS. You mean to say the passage of the national child labor act is responsible for the local law in North Carolina?

Miss ABBOTT. It was a contributing cause.

Mr. SUMNERS. How do you prove that?

Miss ABBOTT. I can not prove it beyond the dates. It came about after the passage of the Federal law.

Mr. SUMNERS. But the people of North Carolina had enacted some sort of a child labor law before the national law was passed, had they not?

Miss ABBOTT. Yes; they had had a child labor law.

Mr. SUMNERS. And many of them claim that the enactment of that law was responsible for all of this after development, including the Federal law, do they not?

Miss ABBOTT. They had a child labor law which did not permit the State factory inspector to go into any factory, so there was no enforcement of it at all.

You asked for the history of child-labor legislation in North Carolina, and I have here a volume which gives it. It is a report by a distinguished Virginia woman, Dr. Elizabeth Lewis Otey, on the history of child-labor legislation in both Northern and Southern States, which shows how, in attempting to get legislation in North Carolina, the friends of the children were opposed at every turn by the manufacturers of North Carolina, but that when the sentiment of the State for the act had become general then they turned their attention to enacting a law, but at the same time providing that there would be no enforcement. Apparently they thought that having opposed, unsuccessfully, the enactment of a Federal law, they would consent to the enactment of a State law.

Mr. SUMNERS. Was not the history of that development in Massachusetts and in every State practically the same? I understood Mr. Tague, when he appeared before the committee, to say that when they began agitating this matter in Massachusetts they were opposed by the manufacturers, but they finally whipped the manufacturers.

Miss ABBOTT. I think manufacturers have always appeared in opposition to a child labor bill. I do not think all the manufacturers have, nor that there has been a unanimity among manufacturers in reference to it, but, generally speaking, we have had in every State almost the same lineup that we have had here opposing this amendment. All of the women, practically, have been for the measure, the churches have been for the measure, the labor organizations have favored the measure, and at least some representatives of the manufacturers' organizations have appeared against it with a few others that may have been gotten together in one way or another. I do not think that the lineup differs, as far as that is concerned.

I was speaking a while ago of the census volume on prisoners. Mr. Clark made a statement that there were more children in jail than there were child laborers, and, of course, the figure of 25,422 would show a very much smaller number in jails and prisons than there are at work.

The number of children in almshouses was also referred to. The census volume,[1] giving the number of children in almshouses, shows a similar situation with reference to the different divisions of the country; that is, that the percentages are smaller for the sections of the country that have the higher child-labor standards.

The question of child labor with reference to health was also brought up, and a doctor testified that he had interviewed, in one way or another, about 200 people, and they had told him that early child labor was not injurious.

I have here a report which was made by a committee of doctors of which Dr. George P. Barth, director of school hygiene of the city health department of Milwaukee, was the chairman, the other members being Dr. Emma M. Appel, of the employment certificate department, Chicago Board of Education; Dr. S. Josephine Baker, chief of the bureau of child hygiene, department of health, New York City; Dr. Taliaferro Clark, representative of the United States Public Health Service; Dr. C. Ward Crampton, dean of the Normal School of Physical Education, Battle Creek, Mich.; Dr. D. L. Edsall, dean of the Harvard Medical School; Dr. George W. Goler, health officer, Rochester, N. Y.; Dr. Harry Linenthal, of the industrial clinic, Massachusetts General Hospital, Boston, Mass.; Dr. H. H. Mitchell, representing the National Child Labor Committee; Dr. Anna E. Rude, director hygiene division, United States Children's Bureau, and Dr. Thomas B. Wood, chairman of the committee on health problems and education, of Columbia University.

This committee made and formulated definite standards of normal development and physical fitness for the use of physicians in examining children applying for work permits. They made a few general recommendations, among which was the following with reference to the minimum age for entrance into industry:

> The minimum age for the entrance of children into industry should not be younger than 16 years. Since it is recognized that the physiological and psychological readjustments incident to pubescence (which in the vast majority of cases are not completed until the sixteenth year) determine a period of general instability which makes great and special demands upon the vitality of the child, it is of paramount importance that he should be protected during this period from the physical and nervous strain which entrance into industry inevitably entails. The committee recognizes the fact that pubescence may occur early or may be very greatly delayed, and is convinced that the longer it is delayed the stronger is the indication of a physical stage during which it is highly inappropriate to subject the child to the strains of industry.

On this committee was a group of doctors who were either actually personally examining or were responsible for the examination of very large groups of children.

Doctor Barth, in Milwaukee, examined or was responsible for the examination of all children going to work in that city. In 1923 this was 3,818 children between 14 and 16 years of age.

Doctor Appel, of Chicago, according to the report of the Chicago office, for the year 1922-23 was in charge of the corps of doctors making 28,761 physical examinations on 15,441 children.

In New York City in 1923 the bureau of which Doctor Baker was former chief examined 36,518 children who received first employment certificate for regular employment.

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[1] Paupers and Almshouses 1910, U. S. Department of Commerce, Bureau of the Census, Washington, 1915, p. 36.

Doctor Golar, at Rochester, N. Y., is at the head of a bureau which examines approximately 2,000 children a year who take out their first working certificates.

So four of the members who served on the committee and who signed the report I have just read were immediately responsible for the examination of something like 58,000 children a year and spoke out of an experience of that sort.

Doctor Edsall, dean of the Harvard Medical School, is not only dean of that school, but has also been responsible for the organization of a clinic for industrial workers in Boston for many years.

So these men and women have spoken out of a wide experience in the examination and reexamination of working children over and over again, and that is their recommendation with the reference to child labor and health.

The question of child labor and poverty was also brought up over and over again. In every move in any direction on the subject of child labor, whether it has been to establish a 9, 10, or 11 year minimum, the question of the poverty of the parents has been brought forward in opposition to the law. It is an example of a serious social disease and the application of a worse remedy than the disease.

Child labor and poverty are inevitably bound together, and if you continue to use the labor of children as the treatment for the social disease of poverty, you will have both poverty and child labor to the end of time.

One of the witnesses, I think a manufacturer from Philadelphia, testified that poverty was not the commonest reason why children went to work, and it is not the reason for great numbers of children going to work. There are, however, a small percentage of whom that is still the reason.

But we are having in the United States increasingly effective social provisions for such children. As long as we rely upon child labor to take care of that situation, we will get no other remedy. When you undertake to get rid of child labor, then you must make some other provisions for the care of those children.

At the present time in the United States mothers' pension laws or laws providing for aid to dependent children in cases where the fathers have died or became incapacitated have been adopted in 42 States.

All the States except New Mexico, Mississippi, Alabama, Georgia, South Carolina, and Kentucky have adopted such laws. North Carolina adopted that kind of a law last year, and I think Mrs. Johnson would testify that the reports of the Children's Bureau were helpful in this connection.

Mr. SUMNERS. Was that law adopted as the result of the enactment of the national child labor law, or the result of declaring that law unconstitutional?

Miss ABBOTT. I was the very inefficient person who was in charge of the enforcement of the first child labor law that Mr. Clark described, and I went through the South in reference to that, quite generally. I found that what they had frequently done was to send the widow with children into the mill town and let her and the children work in the mill on the theory that these dependent children ought to go into some kind of work. That was their social

solution. But when the children could no longer work, the necessity of some other arrangement was brought home to them.

They passed another law, the first mothers' pension law, at the time the Federal child labor was in operation; it was, I understand, ineffective, administratively impossible. A new law was passed last year, so that was passed after the Federal law was declared unconstitutional.

The old theory of 100 years ago was that to find them work was what we should do with the orphan and dependent children. There was a nice theory that children should not be brought up in idleness or "eat the bread of charity"; if they lost their father or their mother they must go to work very early, and must therefore support themselves. Having already suffered the misfortune of having no father they were to be without education, or recreation, or any other of the joys of childhood. They were never to be allowed to forget their birth, or that they were orphans or dependent children.

In a hundred years Americans have gotten away from that attitude, and the community says if the child has lost his father and is dependent we shall, as a community, undertake to supplement that loss in some degree, at least.

A mere money payment will not make up for the loss of the father, and the child is going to be handicapped through life anyway, but at least he shall not be robbed of all the joys of childhood.

When the poverty argument is brought up it means you go back to the old theory of social treatment, although, because of increased earnings and because of the mothers' pension laws in the United States, we are rapidly getting away from the type of grinding poverty that would seem to compel any child to work before he has had sufficient education to entitle him to assume his rights and obligations as an American citizen. If anyone wants to go to the other remedy, I do not want them to vote for a child labor law, because it defeats the theory of a hundred years ago as to how poverty, orphanage, dependency, and neglect in general are to be dealt with.

We have also heard reference several times to the fact that there were in every community a certain number of children mentally retarded and that this group could not profit by attendance at school, and consequently a child labor law should not pass.

There is no question but that in the last few years very great progress has been made with reference to the knowledge concerning mentally-retarded children and the kind of instruction that they should get.

But there is by no means an agreement among psychologists that the best plan is to take these children out of school and put them at work. There are a very large number of students of this subject who believe that such children can profit by specialized training, and very interesting experiments are being made in various parts of the country relative to the special training that is adapted to the needs of these children.

Mr. FOSTER. Have not those experiments lasted over a considerable number of years and demonstrated that more than 85 per cent of that class, when they are treated separately and allowed to specialize, become successful?

Miss ABBOTT. I do not know about the 85 per cent.

Mr. FOSTER. That was the figure established in the city of Milwaukee, because I had occasion to discuss the matter not long ago with two ladies who are familiar with it. In the city of Milwaukee, by allowing these children to specialize, 85 per cent of them were developed by specialists in the proper lines of study, and became self-supporting.

Miss ABBOTT. The Children's Bureau at present is making a study of the work history of subnormal children in the cities of Newark, Rochester, Cincinnati, Oakland, and San Francisco, where records have been kept over a period of several years.

Mr. SUMNERS. Manual training is now being taught in the schools, is it not?

Miss ABBOTT. Yes; but some are better than others. Some schools have provided little more than "busy work" for these children, and others have real vocational training. Of course, the Massachusetts School for the Feeble-minded has done some very remarkable things for children of extremely low mentality, showing absolutely that except in the case of idiots this class of children are capable of working under supervison and doing good work.

There is a group of people who think that supervision in industry is the remedy. In Baltimore Doctor Dunham is making some very interesting experiments. In 1923, 215 children who could not measure up to the educational requirements for work permits in Baltimore—the completion of the fifth grade—were granted special permits to work under supervision.

But these 215 children are 215 as compared with 4,145 to whom certificates for regular work were issued in 1923. They have a number of people there who are following up these children who have been placed in positions, very carefully. There are also some other places where experiments are being made.

Still the great majority of psychologists do not agree with Doctor Dunham; but I think he is making an interesting experiment, and we are watching it with interest to see what it will show. You do not get anywhere by saying that 10 per cent of the children can never attend school or that 2 per cent are suffering from some kind of inferiority complex, and therefore they should be allowed to go into industry. It is contrary to the whole trend of the modern educational system. We now have taught in the modern high schools every kind of thing from plumbing to furniture making and carpentry, as well as Latin, Greek, trigonometry, and algebra.

More and more we are bringing into the schools all kinds of subjects, recognizing the educational value of vocational traning, of handwork, as well as of what used to be called headwork.

Certainly, to the group handicapped by special mental defects, we want to give very careful consideration before we assume that those are the ones who are to be denied opportunity of attending school and be clapped into factories while other children are not allowed to go to work.

Mr. DYER. Have you gathered any data upon the results of the work that has been done for these children in the public schools?

Miss ABBOTT. Yes, sir; we have. As I was saying awhile ago, we have in process the preparation of a report on the work history of

children who came from these special classes and special rooms for the mentally retarded children in Newark, Rochester, Cincinnati, Oakland, and San Francisco, having chosen those cities in which records had been kept over a considerable period of years, so that the work history over a period of years could be obtained. Eventually we shall publish those results. The study will be completed this year.

Mr. DYER. We have secured some very good results from the public schools in St. Louis.

Miss ABBOTT. Yes; there are very interesting things there.

Mr. DYER. We are enlarging upon that, and some very good results have been obtained.

Miss ABBOTT. There has been a very great development in the last few years. At first there was merely a separation of the subnormal children, on the theory that they held back the brighter ones, because they could not do the difficult problems, and the subnormal children were not given very close attention. But that has changed very greatly. There are some schools that are not accomplishing very much along that line, but there are others which are doing remarkable work.

There are some communities in which the other experiment is being tried—of supervisory care in factories.

The question was brought up in regard to the position I have taken with reference to children in agriculture. I do not know where the statement came from which was read yesterday. I think perhaps it was a newspaper statement based upon an annual report of mine. But I should like to read what I said in my last annual report relative to this subject, as follows:

> The protection of the city child from premature employment has in large measure been secured by the votes of country legislators, who were shocked to find young children working in the mines, before furnaces, at dangerous machinery, or for long hours at monotonous indoor tasks. The advantages of farm work as compared with factory work do not need enumeration. But with the improvement in rural schools by State distributive funds and by other means we should make sure that the farm boys and girls are given the same opportunity to attend school and to profit by group games and other forms of recreation as are the city children. Unfortunately the advantage which the country, as compared with the city, has offered to children is being steadily reduced. The infant mortality rate in the city is going down, while the rural rate, although lower to begin with, is remaining stationary. Illiteracy is more general in the country than it is in the city and the number of children who are going to high school is relatively smaller.
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> As the conditions are most serious where migratory families are employed in farm labor, this problem is probably the one that should be first attacked; but, unfortunately, it presents special difficulties. That the ordinary machinery for local enforcement of the school attendance laws will not reach these forlorn migratory children is obvious. Other methods can hardly be said to be in the experimental stage as yet. As to the children who cross State lines, the authorities in the State from which they come are helpless and those in the State to which they go do not regard the education of children from another State, although temporarily under their jurisdiction, as a local problem. This would seem to be a situation in which Federal action may eventually be necessary.

Mr. SUMNERS. Did you have another report in which you dealt with the same subject?

Miss ABBOTT. I did not have another report; I have an annual report which summarizes the various investigations.

Mr. SUMNERS. I am wondering if you can identify the report from which the excerpt which was read the other day probably came.

Miss ABBOTT. You mean the one which Mr. Clark read?

Mr. SUMNERS. Yes.

Miss ABBOTT. I think it was a newspaper story based on my annual report for 1922.

I should like to speak very briefly on the methods of administering the Federal child labor law, because I think it does go to the heart of a number of questions that have been raised.

Mr. HERSEY. You are speaking of how you administered the law that was declared unconstitutional?

Miss ABBOTT. Yes. I called attention to the fact that it was possible to cooperate with the States in connection with this law, and also called attention to the fact that the work-permit system is at the bottom of the enforcement of a child labor law, and that through the machinery involved in the acceptance of work permits it was possible to reduce the necessity for Federal action to a minimum.

When the Children's Bureau undertook to administer the first Federal child labor law, we found that no certificates were issued in the State of North Carolina at that time; we found that certificates were issued in South Carolina on the basis of the parents' affidavit alone; that Georgia had practically no certificate system; that Mississippi had none, and we undertook the issuance of work permits in those States.

Later we found that the Virginia system was wholly inadequate, and we issued certificates at the end of the year in Virginia. Since that time the North Carolina laws and the Virginia laws have very greatly improved. From what I am told, the certificate system in those States is as good as the certificate system in many of the States in which it was possible to accept work permits, so it would seem it ought now to be possible to accept them there.

In the State of Texas, which had a 15-year age minimum for a great many occupations, and was not as much of a manufacturing State as some of the others, it was possible to secure the cooperation of the local people and because they had no regular certificate system, the local officials were designated and did issue the Federal permits, sending them into the Children's Bureau along with the evidence of age, to be filed as Federal certificates.

There was no authority given to issue State certificates under the Texas law. These Texas officials were made special agents of the Children's Bureau that year and issued Federal certificates, when in the other States State certificates were accepted.

That means that we issued directly employment certificates in five States and indirectly in the one State of Texas for all occupations and in Missouri, through the State factory inspector, for children of 16 employed in mines.

The representative of the National Manufacturers' Association referred to the fact that we have a national conference of commissioners on uniform State laws in the United States, and he said that the one subject concerning which these commissioners had never undertaken to adopt a uniform law was the subject of the regulation of labor.

Mr. MONTAGUE. Did he say labor and marriage?

Miss ABBOTT. I do not know whether he said marriage. He referred to marriage a number of times.

Mr. MONTAGUE. I understood him to say marriage and divorce.

Miss ABBOTT. I want to call your attention to the fact that the Conference of Commissioners on Uniform State Laws in 1909 appointed a committee to draft a uniform State child labor law. The first report was made in 1910, and finally the report on uniform State laws recommended by the commissioners was submitted in 1911, and that body of Commissioners on Uniform State Laws has a committee at present, of which a local attorney, Mr. Clephane, has been chairman. This committee is working on a redraft of a uniform State law. So the testimony that this was the one subject on which a uniform State law had never been adopted or recommended was a mistake.

Mr. MONTAGUE. May I ask, is it in the contemplation of those gentlemen who compose that committee, which is dealing with the subject of uniform State laws, to recommend a constitutional amendment or not?

Miss ABBOTT. No; I do not think it is. I think they are working wholly on the problem of the State laws.

Mr. MONTAGUE. Getting the States to do it?

Miss ABBOTT. Wholly on the problem of the State laws. And I can not say that too strongly—I am going to remind you that as to the Federal law, I shall be enormously disappointed if we do not have the Federal law only a minimum law, but we will have continuing the problem of raising the standards in the States.

Mr. MONTAGUE. If you are the head of the unit, that may be true.

Miss ABBOTT. No; it would be whether I am the head of it or not.

Mr. MONTAGUE. How can you state that?

Miss ABBOTT. I can not tell except that was the experience of the other two laws.

Mr. MONTAGUE. Has that been the history of the Federal Government, where it has taken over the enforcement of these laws?

Miss ABBOTT. It was the history with reference to the child labor law. I called the committee's attention to the fact——

Mr. MONTAGUE. You did not have that in force long enough to determine; because there was a general state of doubt as to its constitutionality.

Miss ABBOTT. The only laws the United States has that are parallel to the child labor laws are the laws like the pure food and drug acts, where there is the same kind of cooperation with the State and local people to enforce the law. And where there has been a Federal law there has always been an increasing tendency to raise the State standards; that is, the methods of administration are practically the same. There is a uniform minimum standard that the United States attempts to enforce through its Federal control under the pure food and drugs acts, the enforcement of which is under the administration of the Bureau of Chemistry. They have been on the statute books for a good many years.

Mr. MONTAGUE. My experience, of course, is the one of the practical working of the Federal laws, and that result has been a constant extension of the enforcement of the Federal law to the exclusion of the State and State activities.

Miss ABBOTT. I do not think that the history of the legislation will show that.

Mr. MONTAGUE. I think the facts will sustain that.

Miss ABBOTT. I shall be very glad to submit some evidence on that if you are really interested in the food and drugs act as well as the child labor law. The other Federal laws are not analogous in most ways; at least, I think of no other that is comparable, where you aim to have a minimum standard and at the same time a development of the State standard such as is recommended with reference to the prevention of child labor.

Mr. MONTAGUE. The constitutional amendment and the supplemental Federal legislation respecting the liquor traffic would be somewhat analogous, would it not?

Miss ABBOTT. No. I want to call your attention to that fact——

Mr. MONTAGUE. Is it not also analogous to the food and drugs law? You state the food and drugs law is the only law analogous to this?

Miss ABBOTT. Of course, the eighteenth amendment contains the prohibition itself; the prohibition itself is contained in the eighteenth amendment. The eighteenth amendment would be more nearly analogous to this if it gave Congress the power to prohibit and left to Congress the question of whether it would or would not prohibit.

Mr. MONTAGUE. The Congress has the power to prohibit?

Miss ABBOTT. In the enforcement of the amendment it has power, but this proposed amendment itself has no prohibition.

Mr. MONTAGUE. It gives the full power to deal with the subject?

Miss ABBOTT. This gives Congress the full power to deal with it; the other does not. The other prohibits in the amendment itself. The eighteenth amendment contains the prohibition, and gives Congress and the States concurrent jurisdiction to carry out that prohibition. This amendment does not contain the prohibition; it gives Congress the power to prohibit, if it desires. The two are quite different in the way they are drawn and in the power that is given Congress with reference to them.

Mr. MONTAGUE. I do not have in mind so much the actual identities of the two as the fact which you suggested of the enforcement, of withholding the power in its application to the State, and I asked you whether that had been the case with the prohibition law. Has there not been a weakening in the States in their endeavor to enforce it and turning it over more and more to the Federal Government?

Miss ABBOTT. It has not in the States with which I am most familiar.

Mr. MONTAGUE. How has it been in New York, Maryland, and other places?

Miss ABBOTT. I am not from there; I am from Nebraska, and I have not made a special study of the enforcement of it in those States. I do not believe the enforcement of it in those States is what it should be. However, I think the prohibition amendment is one of the greatest child-welfare measures that has ever been enacted.

Mr. FOSTER. On the enforcement of the prohibition law in Ohio we have statistics showing that over 90 per cent of the prosecutions for violations were under the State laws.

Mr. MONTAGUE. I have no doubt that is true in some of the States.

Mr. FOSTER. We have very stringent laws on prohibition in the State of Ohio.

Mr. MONTAGUE. I am not speaking about the laws themselves, but the enforcement of the laws.

Mr. FOSTER. All I am trying to state is that prior to the Federal law coming into effect on prohibition, the State law had been so strong, and the machinery already in operation, that that might account for the high percentage of prosecutions under the State law.

Miss ABBOTT. We have heard several times of the fact it was going to be specially disadvantageous for the States 9,000 miles away from Congress, if we had a Federal law of this sort; but I want to call the attention of the committee to the fact that the States of California, Nevada, Washington, Wisconsin, North Dakota, and Massachusetts have petitioned Congress for the submission of the amendment to the States.

Mr. MONTAGUE. In what manner was that petition signed?

Miss ABBOTT. The State legislatures petitioned Congress.

Mr. DYER. How many States did you mention?

Miss ABBOTT. California, Nevada, Washington, Wisconsin, North Dakota, and Massachusettts are the only cases I know of. I do not know whether there have been any others or not.

Mr. MONTAGUE. What sort of child labor laws have they, according to your standard?

Miss ABBOTT. The California law has a 15-year minimum age, with some exceptions. The Washington law is a good law; the Wisconsin law is a good law, with excellent enforcement machinery; the North Dakota law is a good law; and the Massachusetts law is also a good law? I do not remember about the Nevada law.

Mr. MONTAGUE. You would not call the California law a good law? Would you or would you not?

Miss ABBOTT. The California law is a good law in many particulars. It has some exemptions.

I also want to call the attention of the committee to the fact that there was a good deal put into the record the other day about the fact that the movement for the child labor laws, especially for the Federal child-labor amendment, was initiated in the Socialist Party and in the Socialist and Communist convention and movements generally, and especially from the Socialist convention of 1908, in which it was claimed that the whole plan for the use of the interestate commerce clause of the Constitution to prohibit child labor was suggested.

Mr. SUMNERS. Do you not think the Socialists would have just as much right to do it as anybody else?

Miss ABBOTT. Oh, I just wanted to call the attention of the committee to the fact that two years before that convention met Senator Lodge and Senator Beveridge, in the Senate, and Mr. Herbert Parsons, in the House, had all introduced bills looking to this very end, and it seems queer to trace it back to a convention that came two years later, when those gentlemen (whom I do not think are charged with being among the Socialists), had proposed a law of this sort. I want to remind the committee also that President Harding and President Coolidge both recommended the submission of an amendment in their annual messages to Congress. I also want to remind the committee that President Wilson was very active in the support of both the first and second child labor laws. I remember seeing him after

the first child labor law was declared unconstitutional, and he indicated that he had every intention of keeping up the fight for the protection of children to the very end.

Mr. MONTAGUE. Did he recommend an amendment to the Constitution?

Miss ABBOTT. He indicated he would do that if necessary, at that time.

Mr. MONTAGUE. I mean is there any official record of his recommending it?

Miss ABBOTT. Not that I know of. In the campaign of 1916 the child-labor law was one of the most discussed pieces of legislation that the Democratic Party was responsible for, and the President was a very ardent convert to the theory of the necessity for a Federal minimum for the protection of children.

Mr. FOSTER. I think the most conclusive point there is the editorial of Mr. Clark, in which he had a paragraph where he said they would not have passed the last Federal law had not President Wilson come to the Senate and urged its passage.

Mr. MONTAGUE. I did not say he did not do it; I just wanted the evidence of what he did. That is all.

Miss ABBOTT. We have had very generally a very wide support for the theory of a Federal amendment. I think that this whole proposition of an amendment to give children this decree of national protection represents a new step in a new direction by the National Congress; a step, however, which is absolutely a logical one from the other two Federal laws that were enacted. It recognizes, so far as children are concerned, that there is a difference between them and men and women, who are working, and there is a difference in the responsibility of the Nation for what happens to the children, as compared to what happens to adults who are able to control their own conditions in a different sort of way.

Mr. SUMNERS. Right on that point. Of course, the Nation is made up of the people, is it not?

Miss ABBOTT. Yes; including the children.

Mr. SUMNERS. Including the children. [Laughter.] I did not imagine that it would be thought by anybody that I was excluding the children. But, after all, it is the folks, and the child's welfare is of interest to them; but does it not still remain a question through which of the agencies of the Government the interests of the people can best be protected and promoted?

Miss ABBOTT. Yes; as to this thing?

Mr. SUMNERS. Yes.

Miss ABBOTT. And we are recommending a double agency, both the Federal and the State. That is, I am trying to get for the children the advantages of the Federal form of government. I am a very hearty believer in the Federal form of government. I want to get a Federal minimum, and at the same time give the States an opportunity to raise, but not lower, the Federal standards. I can conceive of a State being jealous of its power to protect the child and wanting to be given more power. I can not conceive of a State being jealous of its power to exploit children in factories.

Mr. SUMNERS. I do not think they are.

Mr. HERSEY. Can you conceive how anybody being in favor of Congress passing a child-labor law like they have passed it on two occasions, and then not being in favor of a child-labor amendment?

Miss ABBOTT. I can not understand the logic of it.

Mr. SUMNERS. You say you can not?

Miss ABBOTT. No; I can not.

Mr. MONTAGUE. I can understand the logic of it; that is, it was contended that the power existed under the interstate commerce clause for Congress to deal with the subject. Some thought it did and some thought it did not. If Congress did have the power under the Constitution, few had any objection to its exercise; if it did not, then that is a different matter.

Miss ABBOTT. I can see a difference from the legal question involved, which is a very interesting one, but as to why the law should be passed and why we needed a Federal law or an amendment, I can see no difference. Whether it was a power which the people thought they already had in the Constitution, and find they do not have, and now seek to get, as long as they have decided that the use of the power through the interstate commerce or the tax clause was desirable, Federal action for the protection of children is involved.

Mr. DYER. It has to be assumed that those who voted for that legislation believed it was constitutional; believed that Congress had the authority?

Miss ABBOTT. And believed that it was in the interests of the children that it be done.

Mr. DYER. Yes; both.

Mr. FOSTER. Mr. Clark yesterday referred to the million dollars spent by your bureau and that you wanted another million, as he thought. You explained, before some of the members came in, how that million was expended other than for child labor and, in that connection, I want to ask you if you happen to know why, in the last national platform of the Democratic Party, in addition to declaring for a Federal child-labor amendment, they added the very significant language calling for adequate appropriations for the Children's Bureau and the Women's Bureau of the Department of Labor? Do you know the history of why that should be particularly specified in their platform? Have you any knowledge of that?

Miss ABBOTT. No; I do not have.

Mr. MONTAGUE. Before you finish that subject, may I ask if you would put in the record the initial appropriation for the establishment of the Children's Bureau and the number of employees for the first year of that appropriation?

Miss ABBOTT. I would be very glad to do so. I can give that right now.

Mr. MONTAGUE. Very well, if you have the figures before you.

Miss ABBOTT. I have the figures.

Mr. MONTAGUE. And last year's appropriation and the number of employees under the bureau as it is now being administered.

Miss ABBOTT. The first year the Children's Bureau was established, in 1912, it had an appropriation of $25,640. Its appropriation last year was $1,551,040.

Mr. MONTAGUE. How much did you ask for last year?

Miss ABBOTT. We asked for just what we got.

Mr. MONTAGUE. One million?

Miss ABBOTT. No; we asked for this amount—$1,551,040. Of this $1,551,040, as I testified before you came in, $1,240,000 is for the promotion of the welfare and the hygiene of maternity and infancy, through subsidies to the States, and that all of the Southern States are accepting subsidies and cooperating, with the exception of Louisiana; and out of that money there is paid, for example——

Mr. MONTAGUE. Are there any other States accepting subsidies excepting the Southern States?

Miss ABBOTT. All except eight States have accepted.

Mr. MONTAGUE. Why did you emphasize the fact that the Southern States did?

Miss ABBOTT. Because I thought you would be interested in that fact.

Mr. MONTAGUE. Not any more than I am in the other States, except my own.

Mr. FOSTER. I was interested in the standpoint of the gentleman from North Carolina yesterday who was complaining of the appropriation of money from one of the States which did not take advantage of it.

Mr. MONTAGUE. I am not complaining of its purpose at all; I was wondering why Miss Abbott singled me out.

Miss ABBOTT. The fact you were not here yesterday made me mention that.

Mr. MONTAGUE. I was here yesterday. I came in about 10 minutes late.

Miss ABBOTT. All of the Southern States have accepted except Louisiana. Virginia received in 1923, $25,574; North Carolina, $27,259, and Texas, $35,318. And the Children's Bureau, which was described by the opposition to this maternity bill as being given an opportunity to have an army of employees under this $1,240,000, has eight persons administering the act, and every now and then I review my army of eight persons that are administering that maternity and infancy appropriation. We are allowed out of that to expend for administrative purposes $50,000 a year. We have not spent that amount in any one of the years.

Mr. DYER. Will you state the other States which are not cooperating?

Miss ABBOTT. Under the maternity and infancy act?

Mr. DYER. Yes.

Miss ABBOTT. The States that are not accepting are the States of Maine, where the legislature accepted and the governor vetoed it; Vermont, Massachusetts, Rhode Island, Connecticut, Illinois, Kansas, and Louisiana.

Mr. MONTAGUE. Do you think they acted wisely or unwisely in not accepting it?

Miss ABBOTT. Well, it is a question of whether you care very much about what happens to the mothers and babies, or not, and whether you want to promote the hygiene of maternity and infancy.

Mr. MONTAGUE. Would you say, then, their failure to accept indicated they have less interest in the subject than the other States that did accept?

we have on the press a summary which I will be extremely glad to send you. That was the Sheppard-Towner Act. I also testified before the gentleman came in that the Children's Bureau was concerned with other things besides infancy and maternity and besides child labor.

I want to remind you of the fact that, after all, the reasons why we are asking for a Federal minimum standard with reference to the employment of children, or that Congress be given power to enact a Federal minimum standard with reference to the employment of children, is (1) because we have shown that the numbers involved are very large; that is, that there are more than a million children between 10 and 16 years of age employed; and something over 300,000 of them are between 10 and 14 years of age; and that nearly half a million are in nonagricultural employments; (2) that this employment is confined to no one section of the country, nor to no one part of a single State; (3) that while the States in various parts of the country have enacted child labor laws, those laws have been uneven and inadequate, sometimes because of successful opposition to the enactment of a law, and sometimes because of successful oposition to the effective enforcement of the law; (4) because, after all, we feel that the question of children involves the citizenship of the country in a way which justifies national concern and interest; (5) no one State alone can protect itself wholly against the evils of child labor; the children who grow up in other States migrate frequently to States in which ample provision has been made for the protection of children, and bring with them bad health and illiteracy to the State to which they go; (6) the State can not protect itself against the competition of low standards in other States.

The volume which I have filed, prepared [referred to] by Miss Otey, shows that even in undertaking the enactment of the very lowest standards, the question of the competition of other States has always been raised, and the fact that capital might be driven out of one State into another was used as a reason for not passing the act. So that the enactment of a Federal minimum not only benefits those whose standards are actually raised thereby, but it

releases the good intent and the good will of the States that have already raised their standards pretty high and want to raise them higher by the removal of that kind of competition.

(7) I also want again to call attention to the fact that the States are not able to protect their children, as was demonstrated very spectacularly in the case of New York and New Jersey, in the home-work situation. New York and New Jersey both have home-work laws. New Jersey officials were eager and willing to enforce those laws and punish the persons who placed factory work in the homes in violation of the law. But some of the people who placed the work in the homes in New Jersey were not citizens of New Jersey but citizens of New York, crossing State lines and dodging behind State lines in order to employ little children, which they were not allowed to do in New York and, therefore, were sending it over into New Jersey homes.

We have other instances of that in various parts of the country. There is a group of children that, every year, travels practically the entire length of the country, going from one State to another to work in the canneries of the country; leaving Maryland, for example, they finally reach the State of Mississippi, subject apparently to the law of no State and being in the schools of none; moving about from one fruit crop to another and from one season to another, until almost the entire year is taken up in that way, in defiance of the laws of the State to which they go and of the laws of the States to which they return. They grow up without education. So that there is, so far as the enforcement of the States' own standards is concerned, the necessity of a Federal minimum; that is, the State can not protect its own children; it can not protect its own manufacturers; it can not protect its consumers against what they desire not to be sharers in; that is, using the products of child labor, and so be responsible, indirectly, for the fact that children are employed.

I think reference was made in the testimony of the representative of the Women's Patriot Publishing Co. to the fact that attention had been called to the international standard with reference to child labor, and I want to call attention to that again. A number of the nations of Europe have ratified the child labor conventions which establish a 14-year minimum age standard; that is, England has joined with Greece and with Denmark, Czechoslovakia, and other countries in an agreement on the standard. The United States has elected not to go into these agreements. But is there any reason for supposing that the States of the United States which, after all, are members of the Federal Union, should not be able to do, for the protection of the children, what most of the countries of the world have undertaken to do for their children, and have agreed to a standard that is substantially as high and, in some respects, higher than the first child labor law that we enacted? Is our Union so loose that the matter of what happens to the children of one part of the country is not of concern to the rest of the country? I think we are concerned with the children everywhere. We have poured out millions for children in other countries the world around, and it is time that we considered the welfare of our children at home, in every part of the country, all of whom will be American citizens and all of whom are entitled to what, after all, is the one thing that ought to be the birthright of every American child, the right to its own

childhood, the right to health, education, recreation, and happiness. I know of no advantage in being the greatest and richest country of the world unless we can give to the children of the United States better opportunities than the children of any other country in the world have.

Mr. MONTAGUE. Do you think our children now have better opportunities than any other country in the world?

Miss ABBOTT. I am sorry to say that in many of the States they do not. Our death rate, for instance, among babies, Governor Montague, is just about twice what it is in New Zealand. There are four countries that have a lower death rate among babies than we have; there are 18 countries that have a lower maternal mortality rate than we have.

Mr. MONTAGUE. Take the European countries; not New Zealand. Take the European countries?

Miss ABBOTT. The maternal mortality in practically all European countries is lower than it is in the United States. It is safer to be a mother in the European countries than it is in the United States. And, after all, one of the most important things in child welfare is the mother, and you can not even make a beginning until you have done something to protect the mother.

Mr. MONTAGUE. Why have those countries not gone ahead of us? You just said we were the greatest country.

Miss ABBOTT. I said the richest.

Mr. MONTAGUE. And most powerful.

Miss ABBOTT. And most powerful.

Mr. MONTAGUE. Have you been to those countries? You ought to go and just look at them and, with your own vision, see that they have not come up to our standards.

Miss ABBOTT. Of course, I have been in Europe, Governor Montague.

Mr. MONTAGUE. I understood you to say you had not.

Miss ABBOTT. No; I have been in Europe, and I enormously prefer the United States to any country I have visited, and I think that the good intention of the United States toward its children is not met by any country in the world. But we have not always put that good intention into effect. We can show instances of the best things for the children that have been done, anyway. We can show we have better obstetricians than any other country—better pediatricians; but we have higher maternal mortality than almost any country in the world. I always tell the distinguished visitors that come to see us from foreign countries, I can always show them examples of the best things and the worst things that are done for children anywhere; that there are jails in the United States where children are confined under worse conditions than in Europe, and I think the penologists who visited Russia testified to that fact. There are instances in which the children are wholly inadequately taken care of. We do not have a uniform standard by any manner of means. I hope we shall not have a uniform standard, but I hope we shall at least have a minimum standard which will express in some degree the interest the people of the United States as a whole have for their children, whether they are in one section of the country or another.

It is recognized that, after all, its greatest crop is not its cattle, on which the Federal Government has spent vast sums, as compared

with the small amount the Children's Bureau has spent, or its crops of any other sort or kind, but that its most valuable crop is its children, and that its first concern and last concern should be for its children. I am perfectly sure that with a wider appreciation of what the possibilities of care are and what the neglect has been, that we shall have increasingly better standards throughout the country. At the time the first Federal child labor act was passed we led the world in the standards of that law; there was no single nation that had as high a standard. Now, as I say, practically all of the nations of Europe have that standard.

Mr. MONTAGUE. What is the highest standard now—is it more than 18 years? Does any European country have a higher standard than 18 years?

Miss ABBOTT. They are prohibited up to 18 years in no country nor in the United States.

Mr. MONTAGUE. I do not mean the United States—abroad?

Miss ABBOTT. No.

Mr. MONTAGUE. None of them go more than 18?

Miss ABBOTT. You mean in regulation?

Mr. MONTAGUE. Yes; to prohibit under 18, as this bill gives the power to do?

Miss ABBOTT. Well, they go up to 18 years in their regulations.

Mr. MONTAGUE. That is what I asked.

Miss ABBOTT. They do not prohibit the employment, except in specified industries—at night work, or in some industries, in unhealthy employments, or in specially hazardous occupations; which is, after all, what we do in the States here which have the better class of laws.

Mr. FOSTER. At the time the maternity bill was up in Congress I remember statistics being presented, I presume authentic, that were used freely in the debate, proving the contention you made awhile ago that practically all of the European countries had a lower mortality rate for maternity and infancy both than we do in America. That was used in the testimony.

Miss ABBOTT. That was true some years ago; but we have almost cut our infancy mortality rate in two since then.

Mr. FOSTER. Since that law has been in operation?

Miss ABBOTT. No; we began the reduction before that.

Mr. FOSTER. I have a pamphlet here that somebody presented to me, and I have asked some questions from it. It says "the following organizations issue this appeal for the passage of the children's amendment to the next Congress," and then there are 17 organizations here. I think it is essential, before we finish, that we get from you, if we can, any information, or some kind of a statement, anyway, as to the accuracy of these statements. This pamphlet says, in showing why this country needs a congressional act, that in the United States 1 child out of every 12 and, in some States, out of every 4, is a child laborer. Do you know whether that is the case, or not?

Miss ABBOTT. Yes; that is based on the United States census of 1920 figures.

Mr. FOSTER. It says over 1,000,000 children from 10 to 16 years of age are working in the factories, mills, canneries, agriculture, mines,

and other industries and occupations, and that nearly 400,000 of them are between 10 and 14 years of age. Is that a correct representation?

Miss ABBOTT. That is true of 1920; that is the census figure for 1920.

Mr. FOSTER. It says American children are now denied equal protection of the laws; that there are only 13 States which are up in all respects to the conservative standards of the first and second child labor laws. Is that true now, that there are only 13?

Miss ABBOTT. Yes.

Mr. FOSTER. That nine States now have no law prohibiting children under 14 from working in both factories and mills. Is that correct?

Miss ABBOTT. I do not remember as to that. I think it is probably true.

Mr. FOSTER. It says 23 States, which have a 14-year minimum age limit, have weakened their laws by permitting exemptions under which children not yet 14 may work. I ask whether that is correct?

Miss ABBOTT. Yes; I think it is.

Mr. YATES. May I ask from what you are reading?

Mr. FOSTER. I am reading a pamphlet which says the following organizations issue this appeal for the passage of the children's amendment to the Constitution, to wit; the American Federation of Labor; the Federal Council of the Churches of Christ in America; the General Federation of Women's Clubs; the Girls' Friendly Society of America; the National Child Labor Committee; the National Congress of Mothers and Parent Teacher Associations; the National Consumers' League; the National Council of Jewish Women; the National Council of Women (Inc.); the National Educational Association; the National Federation of Teachers; the National Federation of Business and Professional Women's Clubs; the National League of Women Voters; the National Woman's Christian Temperance Union; the National Women's Trade Union League; the Service Star Legion; the Young Women's Christian Association.

I would like to be sure, because some of my questions have been predicated on that, and I thought as Miss Abbott was here I would like to check that. The next one is that 35 States allow children to go to work without common-school education. Is that true?

Miss ABBOTT. Common-school education is the eighth-grade education; yes.

Mr. YATES. What did you say?

Miss ABBOTT. Common-school education is eighth-grade education.

Mr. FOSTER. Eighteen States do not make physical fitness for work a condition of employment. Is that so?

Miss ABBOTT. Yes.

Mr. FOSTER. Fourteen States allow children under 16 to work from 9 to 11 hours a day. One does not regulate in any way the daily hours of labor of children. I call attention to that, in view of the statement made by the gentleman yesterday, where he said he understood the two remaining States had recently passed laws. What are the facts about that?

Miss ABBOTT. No. There was no legislation passed in 1922 in those States.

Mr. FOSTER. Do you have any knowledge of any laws passed in the last year or two, in the two remaining States?

Miss ABBOTT. Yes; in Wyoming.

Mr. FOSTER. It says five States do not protect the children under 16 from night work. Is that true?

Miss ABBOTT. Yes.

Mr. SUMNERS. Which are they?

Miss ABBOTT. There is no prohibition of night work in Nevada, Utah, Texas, and South Dakota.

Mr. FOSTER. May I leave this with you, if the committee approves, and let you submit your answers to this, just on one sheet there, so that we will have something authentic as to the States? It is stated generally that all States except two have certain kinds of child-labor laws. Now, Miss Abbott has mentioned, as I take it, five points of test, and these 17 organizations apparently summarize it here. Now she represents a bureau which studies those statistics, and I suggest that we just submit this to her and let her put her answers in writing and correct it up to date, and then we can see whether this communication is authentic.

Mr. DYER. There is no objection to Miss Abbott entering into her remarks statements coming from the records.

Mr. FOSTER. That is what I meant.

STATEMENT BY MISS ABBOTT, MADE AT REQUEST OF CONGRESSMAN FOSTER AS TO ACCURACY OF THE STATEMENTS FOUND UNDER THE HEADING, "WHY DOES THE COUNTRY NEED CONGRESSIONAL ACTION?" IN A PAMPHLET ISSUED BY SEVENTEEN NATIONAL ORGANIZATIONS, TOGETHER WITH AN ENUMERATION OF THE STATES TO WHICH THE STATEMENTS APPLY

Only 13 States measure up in all respects to the conservative standards of the first and second Federal child-labor laws.

Correct. These States are Alabama, Connecticut, Illinois, Indiana, Kansas, Kentucky, New York, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wisconsin.

Nine States have no law prohibiting all children under 14 from working in both factories and stores.

Correct. These States are Florida, Georgia, Mississippi, Montana, Oklahoma, South Carolina, Utah, Vermont, and Wyoming.

Twenty-three States with a 14-year minimum age limit have weakened their laws by permitting exemptions under which children not yet 14 may work.

Correct, with the qualification that the 14-year age minimum is understood to include at least factories and workshops. These States are Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Iowa, Kansas, Minnesota, Missouri, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Vermont, Washington, West Virginia, and Wisconsin.

Thirty-seven States allow children to go to work without a common-school education.

Legislative changes made during the last year reduce this number to 35. These 35 States are Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wyoming.

Eighteen States do not make physical fitness for work a condition of employment.

This number is now 10, as follows: Arkansas, Colorado, Georgia, Idaho, Kansas, Louisiana, Mississippi, Montana, Nevada, New Mexico, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and Wyoming.

Fourteen States allow children under 16 to work from 9 to 11 hours a day.
Legislative changes during the last year change this to 11 States. These are Florida, Idaho, Louisiana, Michigan, New Hampshire, North Carolina (has eight-hour day for children under 14), Pennsylvania, Rhode Island, South Carolina, South Dakota, and Texas.
One [State] does not regulate in any way daily hours of labor of children.
This is true of Georgia only at the present time. (Georgia limits the legal hours of work per week in cotton and woolen mills to 60 hours for all employees, with certain exceptions.)
Five States do not protect children under 16 from night work.
This number is now 4, namely: Nevada, South Dakota, Texas, and Utah.

Mr. SUMNERS. In that connection, Miss Abbott, in order that we may clearly understand really who are classified as child laborers: Would a boy 13 years old, who during vacation helps his father with the stock and in gathering or cultivating crops for him for the three months of his vacation, be classed as a laborer under the classifications given by you?

Miss ABBOTT. No. Those are the classifications of the census. You mean as to the numbers of children rather than the laws?

Mr. SUMNERS. Mr. Foster, as I understood him, read some figures with reference to the number of children engaged in labor. Now, I ask if, under the census, or from whatever source those figures came, in the States from which those figures came, would a boy 13 years old who, during his vacation period, helps his father to work on the farm be classed as a laborer?

Miss ABBOTT. The instructions of the Census Bureau to the enumerators were that they should not be counted if they were doing only chores.

Mr. SUMNERS. I did not say that——

Miss ABBOTT. I know; but I want to complete this. The census, however, was taken in January, 1920, when they would have failed to catch any number of boys who would work on the farms in the summer time when the school was not in session, and the census report on "Occupations of children" expressly states the fact that the reduction in the number of child workers as between 1910 and 1920 is very largely due to the fact the census was taken at that time, so that as to the child workers enumerated as rural child laborers in 1920 there it was a different situation from what you described about the summer months.

Mr. SUMNERS. May I ask my question again; that is, if under the rules governing these enumerators, without regard to when they took the census, if the information should be given to the enumerator that a given boy, 13 years old, during the year, worked for three months during his vacation period, helping with the work on the farm, out in the fields, and helping with the cattle, and whatever was required to be done, would he be regarded as a rural laborer—an agricultural laborer?

Miss ABBOTT. The instructions are "of the date when taken." They are supposed to be taken as of that time, and not of a date three months or six months later.

Mr. SUMNERS. If at that time?

Miss ABBOTT. If at that time they were working all day for their father, they would have counted them as farm laborers on the home farm. A distinction is given between home farms and the others.

Mr. SUMNERS. If they worked as much as three months in a year?

Miss ABBOTT. Of course, that is a weakness of the census enumeration, that it takes the population at just one moment, when the enumerator visits them, so that you do not get, really, what the people have been doing. I think you would have a very different showing if they got all the children who worked.

Mr. FOSTER. You mean if the enumerator happened to drop in on the farm on a day when, because of some peculiar condition, the child happened to be working that week, he would be classed as a rural laborer?

Miss ABBOTT. He would not, if it was a brief period.

Mr. SUMNERS. Whereas the next house that they got to, the boy may have worked for six months, but would not happen to be working that day?

Miss ABBOTT. I think it is perfectly possible that kind of thing might have been done, because there are some 89,000 enumerators. But the instructions I read the other day on that were perfectly definite as to what they should do and, if the employment was only occasional, and in the nature of assistance with the chores at home, in home work, they would not be counted as gainfully employed; but if a substantial part of the work was being done by children, then they were to be counted as farm laborers on the home farm. As I say, there is a very large chance of error both ways; children are not likely to be counted who should be counted, or are counted when they should not be counted; but in an enumeration of such a vast area as this country, those errors tend to eliminate themselves in the census.

Mr. FOSTER. The instructions you read into the record when you first testified were the instructions given to the enumerators under which they were supposed to do it?

Miss ABBOTT. Yes. There are a great number of enumerators.

Mr. SUMNERS. I do not like to press this, but I want to get it clear.

Miss ABBOTT. I am very glad to answer it.

Mr. SUMNERS. With regard to those instructions Mr. Foster has referred to, from what information you have, do they include children, rural children, who work on the farm aiding in the regular farm work in the fields during the vacation?

Miss ABBOTT. They do not, as the census itself points out, because of the time that the census was taken and, consequently, the very great reduction that has been shown between 1910 and 1920 in rural child labor is due to that fact.

Mr. FOSTER. In other words, it is not so much your conclusion as it is what was reported in the census?

Miss ABBOTT. Yes.

Mr. SUMNERS. What I asked, and I do not like to press it or to take to much of Miss Abbott's time, but, from all the information shows, taken from every source, is there not included in those figures you have read children that work as much as three months a year, out in the fields, helping their fathers and making a regular hand during that period?

Miss ABBOTT. Of course the checkup we have been able to make has indicated, if all those were included, the number would be vastly larger.

Mr. SUMNERS. You think practically none of them were included?
Miss ABBOTT. That is what I am trying to state.
Mr. SUMNERS. That is what I want to get at.
Miss ABBOTT. I am sorry I did not make my answer clearer.
Mr. FOSTER. You would have some trouble in answering correctly, because they had 89,000 different people to put their construction on those instructions you read.
Miss ABBOTT. That is one of the sources of error, the great number of enumerators, and the fact that one makes errors on one side, and another on the other side, but these errors in such a large number as 110,000,000 people, tend to correct themselves. It is not so great as if the reports were for only 100 people. Then the error would not be corrected in the same sort of way; but it tends to be corrected where there is such a large number.
Reference was made to the figures that the Children's Bureau has given out, as to the trend of child labor in the United States. These were described as a part of a propaganda that the Children's Bureau has started with reference to this amendment and that we had carefully selected cities that would show the facts we had in mind. I should like to file with the committee the figures which we published in April, 1921, in the Monthly Labor Review, of the Bureau of Labor Statistics, showing the trend of child labor in the United States from 1915 to 1920; a second one showing the trend from 1920 to 1923. I think all of you realize that in that cycle there was a peak of employment as well as a peak of depression, and of normal conditions. The cities that we got the reports on were the cities that are keeping the figures of this sort, that could supply them to us. We included cities which had very greatly reduced the numbers of child laborers as well as cities in which they had increased.
For example, the figures from Detroit are extremely interesting. In 1913, the number of certificates granted to children to work were 3,058 and, in 1923, 277, and that city is included in the high per cent of increase shown in some thirty cities that were covered. In the city of San Francisco, in 1913, there were 787; and, in 1923, there were 381. In Waterbury, Conn., where the figures were specially challenged as not being representative of the real facts and as being due to a change from a period of depression to a period of relative prosperity, the number of children granted certificates were 531 in 1913 and 736 in 1923, which was between two and three times as many as were issued in the city of Detroit. In Baltimore the number dropped from 6,571 in 1913 to 4,145 in 1923. That is, the cities which had decreased were included as well as the cities which showed a substantial increase, and the average increase for the period was shown. I have put those percentages and numbers both, at your request, Mr. Sumners, in the record. And, in view of what was said, I should like to file the two complete reports of the trend of child labor in the United States. I do not mean they should be published, but that the committee should have them for reference. I do not think anyone would think they looked like popular propaganda pamphlets [exhibiting]; but they have been so described.
Mr. MONTAGUE. Miss Abbott, I do not recall what it is, and when you give the appropriation, will you give the initial number of employees of the Children's Bureau?

Miss ABBOTT. I would be very glad to.

Mr. MONTAGUE. And the present number.

Miss ABBOTT. And the initial number.

Mr. MONTAGUE. If you have not the figures now——

Miss ABBOTT. Oh, I know the number. The initial number was 15 and the present number is 184 most of the time. It varies according to the number of temporary employees taken on for special investigations.

Mr. SUMNERS. The eight employees you mentioned, do you mean they constitute the office employees?

Miss ABBOTT. No; the eight employees I mentioned are those who are responsible for the administration of the maternity and infancy act. It was said the reason the Children's Bureau urged that act was because it would bring to us a large army of Federal employees that the chief of the Children's Bureau could direct and be responsible for, and that that was the object we had in mind, instead of reducing the death rate among mothers and babies. I merely pointed out that that army was eight persons, who are administering that act.

Mr. MONTAGUE. I did not mean the maternity act; I meant your bureau.

Miss ABBOTT. For the bureau, I gave the figure 184.

Mr. MONTAGUE. The original act creating your bureau—how much was the appropriation under that?

Miss ABBOTT. $25,000.

Mr. MONTAGUE. And there were eight employees?

Miss ABBOTT. No; the number of employees was 15.

Mr. SUMNERS. Those who are now connected with your work. How many of them are located in Washington and how many are engaged in field work, Miss Abbott?

Miss ABBOTT. I would have to look that up. That varies very much. We have investigations going on in various parts of the country. I referred to the study of subnormal minors in three or four States of the country. At the request of the Children's Code Commission of Georgia, we have been making a study of delinquency and child labor in Georgia; at the request of the Pennsylvania Child's Welfare Commission, we are beginning an investigation of the work for dependent and neglected children in the county unit system, and also the care of children in the courts of domestic relations; we are making investigations with reference to the incidence of rickets and prevention of rickets in New Haven, Conn., at the present time, and studies with reference to other matters in other parts of the country. They cover the whole range of subjects of the Children's Bureau. Sometimes the agents are out for several months; sometimes they are out for only several weeks. It depends on the type of investigation that is being made. The official station of all the employees is Washington, and they work out from Washington to other places.

Mr. SUMNERS. Do you pay the expenses of all this activity and the salaries of these employees engaged in the work, other than the maternity work, with the $50,000 appropriation?

Miss ABBOTT. No. The maternity and infancy act is $1,240,000. Out of that we have $50,000 for the administration of the maternity

and infancy act. For the rest of the work of the Children's Bureau we have approximately $300,000. We spend about $50,000 a year on the child-labor investigations made by the industrial division of the bureau.

Mr. SUMNERS. You were good enough to give me a pamphlet yesterday.

Miss ABBOTT. On North Dakota?

Mr. SUMNERS. Yes. What did it cost to make that study; to get that information?

Miss ABBOTT. I can not tell you offhand; but we have a cost-accounting system which enables us to tell what the cost of any one study is. That study was also made at the request of the Children's Code Commission of the State of North Dakota, and we made, at the same time, an investigation not only of the child labor of North Dakota, but the dependency and delinquency of children, and we filed our reports with the commission, and the commission, on the basis of our reports, made recommendations to the legislature. We also cooperate with a great many child-welfare commissions. The new children's code of Virginia is a very great advance—the one passed some time in 1921 or 1922, at the last session of the legislature, and we have requests in now from other States for information, studies and reports as to what has been done in other States.

The great advance that has been made in recent years in the whole field of child welfare has been through code commissions. A very considerable number of States have had such commissions, and the Children's Bureau has cooperated with them, at the request of those commissions, and has supplied them with the facts of what was being done in other States and other countries, and the types of laws, and in some States has made intensive investigations of some one of the aspects in which we felt there was not only a local but a national interest.

Mr. SUMNERS. Do you happen to know what legislation was recommended to the North Dakota Legislature?

Miss ABBOTT. I would be very glad to give you a copy of Mr. Young's report. It is a very complete report of the child welfare commission's work. I think, out of 25 laws they recommended to the Legislature of North Dakota, 20 were adopted.

Mr. SUMNERS. I would like to have that.

Miss ABBOTT. I would be very glad to send you that report.

Mr. MONTAGUE. What States have adopted a code?

Miss ABBOTT. The first State that had a children's code commission was Ohio, the second was Missouri.

Mr. MONTAGUE. When was the one in Ohio?

Miss ABBOTT. The one in Ohio was in about 1911, and a very large number of the States now have them. Some of them have not been as useful as others.

Mr. MONTAGUE. Was the one in Ohio initiated as of its own motion, or was it done at the instance and suggestion of the Federal Government?

Miss ABBOTT. Oh, I think of its own motion.

Mr. FOSTER. You may not wish to have this go in the record, but it was done by Governor Cox. He was the actuating spirit.

Mr. MONTAGUE. I do not want to get into personalities; I just wanted to see whether Ohio initiated that of its own accord or at the instance of the Federal Government.

Mr. FOSTER. That is the reason I suggested it could be left in or out of the record, as you saw fit.

Miss ABBOTT. We have a report of the work of the children's code commissions, and I would be very glad to file it with any of the gentlemen who are interested.

Mr. MONTAGUE. How much money now is appropriated to administer the maternity act?

Miss ABBOTT. The amount appropriated last year was $1,240,000, the full amount authorized by the act. This year we have asked a little bit less than the $1,240,000, the full amount authorized by the act, because of the fact not all of the States have accepted, and we have asked for about what we thought would be taken by the States, under the terms of the act providing that the States should get the full amount authorized. So we did not ask for the $1,240,000.

Mr. MONTAGUE. How many States have not accepted?

Miss ABBOTT. Eight. Forty States have accepted. I think if there are no further questions, and if I may be allowed to file the various papers to which I have referred I am done and I am very grateful to the committee for listening so patiently.

Mr. DYER. We will be very glad to have you file those, Miss Abbott. I take it there are no further witnesses to be heard.

Mr. FOSTER. I want to say this, if it is agreeable for you to close the hearings, it is agreeable to me; but I do not want to cut anyone off, because of the interest I have taken in the proponents' part of this; but in talking to some of those folks this morning they called my attention to the fact we used substantially two weeks in hearing the opposition on this proposition. Take, for instance, the gentleman from North Carolina, who testified on child-labor employment. Then there is Mr. Pringle, who made an investigation through the South, that has been referred to, and Judge Lewis, dean of the law school in Philadelphia. I spoke to the chairman about him, whether he wanted him to come, and I said Senator Pepper had expressed a willingness to come over to the committee, and the chairman thought it perhaps would be inadvisable.

Mr. MONTAGUE. Is he for or against the measure?

Mr. FOSTER. He is for it.

Mr. DYER. I take it that the committee has consumed ample time upon the subject, and while we could go on and hear other people from now until the close of this session, it would not really benefit the committee very much more, when we have sufficient.

Mr. MONTAGUE. As far as I am concerned, I am perfectly willing to continue; if you wish to conclude the hearings I have no objection.

Mr. DYER. It is my judgment, as acting chairman, that the hearings have been ample and sufficient; and unless there is some one asking specially to be heard, which, of course, the committee will give consideration to, it is my intention to close the hearings to-day.

Mr. FOSTER. Could you give five minutes to this gentleman from North Carolina, who is an officer from this organization? He is shaking his head.

Mr. DYER. Let those advise the Chair who are here and wish to be heard and have not been heard. Is there anyone?

Mr. SWIFT. I am from North Carolina and I suppose I am the one to whom Mr. Foster referred; but, as far as I am concerned, I have no desire on my part to say anything.

Mr. DYER. What is your name?

Mr. SWIFT. Swift.

Mr. DYER. What is your relation to this matter?

Mr. SWIFT. I am special agent assigned to legislation on the national child labor committee.

Mr. DYER. By what?

Mr. SWIFT. By the national child labor committee.

Mr. DYER. Of what?

Mr. SWIFT. New York City.

Mr. DYER. Has Miss Abbott and the other witnesses covered the subject sufficiently?

Mr. SWIFT. I think they have covered it very fully, in every respect.

Mr. FOSTER. Is Mr. Lovejoy here? What is his position?

Mr. SWIFT. He is secretary of the national child-labor committee. I do not speak for him, however.

Mr. DYER. I am not trying to force you to appear before the committee, but I want to know who these folks are.

Mr. SWIFT. As I come from North Carolina, if there is any question the committee would care to ask, I would be glad to answer it; but, speaking for myself, I do not want to say anything.

Mr. DYER. Is there anyone else who desires to make a statement? If not, the hearings will be formally closed and the committee will adjourn until its regular meeting day.

(The committee thereupon adjourned.)

APPENDIX

TEXT OF THE FIRST FEDERAL CHILD LABOR LAW AND THE FEDERAL CHILD LABOR TAX LAW AND OF THE SUPREME COURT DECISION DECLARING THOSE LAWS UNCONSTITUTIONAL

[PUBLIC—No. 240—64TH CONGRESS]

[H. R. 8234]

AN ACT To prevent interstate commerce in the products of child labor, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 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 30 days prior to the time of the removal of such product therefrom children under the age of 16 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 30 days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 years and 16 years have been 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 7 o'clock postmeridian, or before the hour of 6 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 de-

liveries 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, quarries, 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 violations 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 1 of this act, or who refuses or obstructs entry or inspection authorized by section 3 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 $200, 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 30 days prior to their removal therefrom no children under the age of 16 years were employed or permitted to work, or in a mill, cannery, workshop, factory, or manufacturing establishment, in which within 30 days prior to the removal of such goods therefrom no children under the age of 14 years were employed or permitted to work, nor children between the ages of 14 years and 16 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 7 o'clock postmeridian or before the hour of 6 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, or manufacturing establishment, if the only employment therein, within 30 days prior to the removal of such product therefrom, of a child under the age of 16 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 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 "person" 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.

HAMMER v. DAGENHART

Hammer, United States Attorney for the Western District of North Carolina, v. Dagenhart et al. Appeal from the District Court of the United States for the Western District of North Carolina. No. 704. Argued April 15, 16, 1918. Decided June 3, 1918.

The act of September 1, 1916 (c. 432, 39 Stat. 675), prohibits transportation in interstate commerce of goods made at a factory in which, within 30 days prior to their removal therefrom, children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 and 16 years have been 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 7 p. m. or before the hour of 6 a. m. Held, unconstitutional as exceeding the commerce power of Congress and invading the powers reserved to the States.

The power to regulate interstate commerce is the power to prescribe the rule by which the commerce is to be governed; in other words, to control the means by which it is carried on.

The court has never sustained a right to exclude save in cases where the character of the particular thing excluded was such as to bring them peculiarly within the governmental authority of the State or Nation and render their exclusion, in effect, but a regulation of interstate transportation, necessary to prevent the accomplishment through that means of the evils inherent in them.

The manufacture of goods is not commerce, nor do the facts that they are intended for, and are afterwards shipped in, interstate commerce make their production a part of that commerce subject to the control of Congress.

The power to regulate interstate commerce was not intended as a means of enabling Congress to equalize the economic conditions in the States for the prevention of unfair competition among them, by forbidding the interstate transportation of goods made under conditions which Congress deems productive of unfairness.

It was not intended as an authority to Congress to control the States in the exercise of their police power over local trade and manufacture, always existing and expressly reserved to them by the tenth amendment.

Affirmed.

Mr. Justice Day delivered the opinion of the court.

A bill was filed in the United States District Court for the Western District of North Carolina by a father in his own behalf and as next friend of his two minor sons, one under the age of 14 years and the other between the ages of 14 and 16 years, employees in a cotton mill at Charlotte, N. C., to enjoin the enforcement of the act of Congress intended to prevent interstate commerce in the products of child labor. Act of Sept. 1, 1916 (c. 432, 39 Stat. 675).

The district court held the act unconstitutional and entered a decree enjoining its enforcement. This appeal brings the case here. The first section of the act is in the margin.[1]

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[1] 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 30 days prior to the time of the removal of such product therefrom children under the age of 16 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 30 days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 and 16 years have been employed or permitted to work more than 8 hours in any day, or more 6 days in any week, or after the hour of 7 o'clock postmeridian, or before the hour of 6 o'clock antemeridian.

Other sections of the act contain provisions for its enforcement and prescribe penalties for its violation.

The attack upon the act rests upon three propositions: First. It is not a regulation of interstate and foreign commerce. Second. It contravenes the tenth amendment to the Constitution. Third. It conflicts with the fifth amendment to the Constitution.

The controlling question for decision is: Is it within the authority of Congress in regulating commerce among the States to prohibit the transportation in interstate commerce of manufactured goods the product of a factory in which, within 30 days prior to their removal therefrom, children under the age of 14 have been employed or permitted to work, or children between the ages of 14 and 16 years have been 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 7 o'clock p. m. or before the hour of 6 o'clock a. m.?

The power essential to the passage of this act, the Government contends, is found in the commerce clause of the Constitution, which authorizes Congress to regulate commerce with foreign nations and among the States.

In Gibbons v. Ogden (9 Wheat. 1) Chief Justice Marshall, speaking for this court and defining the extent and nature of the commerce power, said: "It is the power to regulate—that is, to prescribe the rule by which commerce is to be governed." In other words, the power is one to control the means by which commerce is carried on, which is directly the contrary of the assumed right to forbid commerce from moving and thus destroy it as to particular commodities. But it is insisted that adjudged cases in this court establish the doctrine that the power to regulate given to Congress incidentally includes the authority to prohibit the movement of ordinary commodities, and therefore that the subject is not open for discussion. The cases demonstrate the contrary. They rest upon the character of the particular subjects dealt with, and the fact that the scope of governmental authority, State or National, possessed over them is such that the authority to prohibit is as to them but the exertion of power to regulate.

The first of these cases is Champion v. Ames (188 U. S. 321), the so-called Lottery case, in which it was held that Congress might pass a law having the effect to keep the channels of commerce free from use in the transportation of tickets used in the promotion of lottery schemes. In Hipolite Egg Co. v. United States (220 U. S. 45) this court sustained the power of Congress to pass the pure food and drugs act, which prohibited the introduction into the States by means of interstate commerce of impure foods and drugs. In Hoke v. United States (227 U. S. 308) this court sustained the constitutionality of the so-called "white slave traffic act," whereby the transportation of a woman in interstate commerce for the purpose of prostitution was forbidden. In that case we said, having reference to the authority of Congress, under the regulatory power, to protect the channels of interstate commerce:

"If the facility of interstate transportation can be taken away from the demoralization of lotteries, the debasement of obscene literature, the contagion of diseased cattle or persons, the impurity of food and drugs, the like facility can be taken away from the systematic enticement to and the enslavement in prostitution and debauchery of women and, more insistently, of girls."

In Caminetti v. United States (242 U. S. 470) we held that Congress might prohibit the transportation of women in interstate commerce for the purposes of debauchery and kindred purposes. In Clark Distilling Co. v. Western Maryland Ry. Co. (242 U. S. 311) the power of Congress over the transportation of intoxicating liquors was sustained. In the course of the opinion it was said:

"The power conferred is to regulate, and the very terms of the grant would seem to repel the contention that only prohibition of movement in interstate commerce was embraced. And the cogency of this is manifest, since if the doctrine were applied to those manifold and important subjects of interstate commerce as to which Congress from the beginning has regulated, not prohibited, the existence of government under the Constitution would be no longer possible."

And, concluding the discussion which sustained the authority of the Government to prohibit the transportation of liquor in interstate commerce, the court said:

"* * * the exceptional nature of the subject here regulated is the basis upon which the exceptional power exerted must rest and affords no ground for any fear that such power may be constitutionally extended to things which it may not, consistently with the guarantees of the Constitution, embrace."

In each of these instance, the use of interstate transportation was necessary to the accomplishment of harmful results. In other words, although the power over interstate transportation was to regulate, that could only be accomplished by prohibiting the use of the facilities of interstate commerce to effect the evil intended.

This element is wanting in the present case. The thing intended to be accomplished by this statute is the denial of the facilities of interstate commerce to those manufacturers in the States who employ children within the prohibited ages. The act in its effect does not regulate transportation among the States, but aims to standardize the ages at which children may be employed in mining and manufacturing within the States. The goods shipped are of themselves harmless. The act permits them to be freely shipped after 30 days from the time of their removal from the factory. When offered for shipment, and before transportation begins, the labor of their production is over, and the mere fact that they were intended for interstate commerce transportation does not make their products subject to Federal control under the commerce power.

Commerce "consists of intercourse and traffic * * * and includes the transportation of persons and property, as well as the purchase, sale, and exchange of commodities." The making of goods and the mining of coal are not commerce, nor does the fact that these things are to be afterwards shipped or used in interstate commerce, make their production a part thereof. Delaware, Lackawanna & Western R. R. Co. *v.* Yurkonis, 238 U. S. 439.

Over interstate transportation, or its incidents, the regulatory power of Congress is ample, but the production of articles, intended for interstate commerce, is a matter of local regulation.

"When the commerce begins is determined, not by the character of the commodity, nor by the intention of the owner to transfer it to another State for sale, nor by his preparation of it for transportation, but by its actual delivery to a common carrier for transportation, or the actual commencement of its transfer to another State." (Mr. Justice Jackson in In re Green, 52 Fed. Rep. 113.) This principle has been recognized often in this court. Coe *v.* Errol, 116 U. S. 517; Bacon *v.* Illinois, 227 U. S. 504, and cases cited. If it were otherwise, all manufacture intended for interstate shipment would be brought under Federal control to the practical exclusion of the authority of the States, a result certainly not contemplated by the framers of the Constitution when they vested in Congress the authority to regulate commerce among the States. Kidd *v.* Pearson, 128 U. S. 1, 21.

It is further contended that the authority of Congress may be exerted to control interstate commerce in the shipment of child-made goods because of the effect of the circulation of such goods in other States where the evil of this class of labor has been recognized by local legislation, and the right to thus employ child labor has been more rigorously restrained than in the State of production. In other words, that the unfair competition thus engendered may be controlled by closing the channels of interstate commerce to manufacturers in those States where the local laws do not meet what Congress deems to be the more just standard of other States.

There is no power vested in Congress to require the States to exercise their police power so as to prevent possible unfair competition. Many causes may cooperate to give one State, by reason of local laws or conditions, an economic advantage over others. The commerce clause was not intended to give to Congress a general authority to equalize such conditions. In some of the States laws have been passed fixing minimum wages for women; in others the local law regulates the hours of labor of women in various employments. Business done in such States may be at an economic disadvantage when compared with States which have no such regulations; surely, this fact does not give Congress the power to deny transportation in interstate commerce to those who carry on business where the hours of labor and the rate of compensation for women have not been fixed by a standard in use in other States and approved by Congress.

The grant of power to Congress over the subject of interstate commerce was to enable it to regulate such commerce, and not to give it authority to control the States in their exercise of the police power over local trade and manufacture.

The grant of authority over a purely Federal matter was not intended to destroy the local power always existing and carefully reserved to the States in the tenth amendment to the Constitution.

Police regulations relating to the internal trade and affairs of the States have been uniformly recognized as within such control. "This," said this court in United States v. Dewitt, 9 Wall. 41, 45, "has been so frequently declared by this court, results so obviously from the terms of the Constitution, and has been so fully explained and supported on former occasions, that we think it unnecessary to enter again upon the discussion." See Keller v. United States, 213 U. S. 138, 144, 145, 146. Cooley's Constitutional Limitations, 7th ed., p. 11.

In the judgment which established the broad power of Congress over interstate commerce, Chief Justice Marshall said (9 Wheat. 203): "They (inspection laws) act upon the subject before it becomes an article of foreign commerce or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation, which embraces everything within the territory of a State, not surrendered to the general Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, etc., are component part of this mass."

And in Dartmouth College v. Woodward, 4 Wheat. 518, 629, the same great judge said:

"That the framers of the Constitution did not intend to restrain the States in the regulation of their civil institutions, adopted for internal government, and that the instrument they have given us is not to be so construed may be admitted."

That there should be limitations upon the right to employ children in mines and factories in the interest of their own and the public welfare all will admit. That such employment is generally deemed to require regulation is shown by the fact that the brief of counsel states that every State in the Union has a law upon the subject limiting the right to thus employ children. In North Carolina, the State wherein is located the factory in which the employment was had in the present case, no child under 12 years of age is permitted to work.

It may be desirable that such laws be uniform, but our Federal Government is one of enumerated powers. "This principle," declared Chief Justice Marshall, in McCulloch v. Maryland (4 Wheat. 316), "is universally admitted."

A statute must be judged by its natural and reasonable effect. (Collins v. New Hampshire, 171 U. S. 30, 33, 34.) The control by Congress over interstate commerce can not authorize the exercise of authority not entrusted to it by the Constitution. (Pipe Line cases, 234 U. S. 548, 560.) The maintenance of the authority of the States over matters purely local is as essential to the preservation of our institutions as is the conservation of the supremacy of the Federal power in all matters entrusted to the Nation by the Federal Constitution.

In interpreting the Constitution it must never be forgotten that the Nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the National Government are reserved. (Lane County v. Oregon, 7 Wall. 71, 76.) The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority is inherent and has never been surrendered to the General Government. (New York v. Miln, 11 Pet. 102, 139; Slaughter House cases, 16 Wall. 36, 63; Kidd v. Pearson, supra.) To sustain this statute would not be, in our judgment, a recognition of the lawful exertion of congressional authority over interstate commerce, but would sanction an invasion by the Federal power of the control of a matter purely local in its character and over which no authority has been delegated to Congress in conferring the power to regulate commerce among the States.

We have neither authority nor disposition to question the motives of Congress in enacting this legislation. The purposes intended must be attained consistently with constitutional limitations and not by an invasion of the powers of the States. This court has no more important function than that which devolves upon it the obligation to preserve inviolate the constitutional limitations upon the exercise of authority, Federal and State, to the end that each may continue to discharge harmoniously with the other the duties entrusted to it by the Constitution.

In our view the necessary effect of this act is by means of a prohibition against the movement in interstate commerce of ordinary commercial commodities, to regulate the hours of labor of children in factories and mines within the States, a purely State authority. Thus the act in a twofold sense is repugnant to the Constitution. It not only transcends the authority dele-

gated to Congress over commerce but also exerts a power as to a purely local matter to which the Federal authority does not extend. The far-reaching result of upholding the act can not be more plainly indicated than by pointing out that if Congress can thus regulate matters entrusted to local authority by prohibition of the movement of commodities in interstate commerce all freedom of commerce will be at an end and the power of the States over local matters may be eliminated, and thus our system of government be practically destroyed.

For these reasons we hold that this law exceeds the constitutional authority of Congress. It follows that the decree of the district court must be affirmed.

Mr. Justice Holmes, dissenting.

The single question in this case is whether Congress has power to prohibit the shipment in interstate or foreign commerce of any product of a cotton mill situation in the United States in which within 30 days before the removal of the product children under 14 have been employed, or children between 14 and 16 have been employed more than eight hours in a day, or more than six days in any week, or between 7 in the evening and 6 in the morning. The objection urged against the power is that the States have exclusive control over their methods of production and that Congress can not meddle with them, and taking the proposition in the sense of direct intermeddling I agree to it and suppose that no one denies it. But if an act is within the powers specifically conferred upon Congress, it seems to me that it is not made any less constitutional because of the indirect effects that it may have, however obvious it may be that it will have those effects, and that we are not at liberty upon such grounds to hold it void.

The first step in my argument is to make plain what no one is likely to dispute—that the statute in question is within the power expressly given to Congress if considered only as to its immediate effects and that if invalid it is so only upon some collateral ground. The statute confines itself to prohibiting the carriage of certain goods in interstate or foreign commerce. Congress is given power to regulate such commerce in unqualified terms. It would not be argued to-day that the power to regulate does not include the power to prohibit. Regulation means the prohibition of something, and when interstate commerce is the matter to be regulated I can not doubt that the regulation may prohibit any part of such commerce that Congress sees fit to forbid. At all events it is established by the Lottery case and others that have followed it that a law is not beyond the regulative power of Congress merely because it prohibits certain transportation out and out. (Champion *v.* Ames, 188 U. S. 321, 355, 359, et seq.). So I repeat that this statute in its immediate operation is clearly within the Congress's constitutional power.

The question, then, is narrowed to whether the exercise of its otherwise constitutional power by Congress can be pronounced unconstitutional because of its possible reaction upon the conduct of the States in a matter upon which I have admitted that they are free from direct control. I should have thought that that matter had been disposed of so fully as to leave no room for doubt. I should have thought that the most conspicuous decisions of this court had made it clear that the power to regulate commerce and other constitutional powers could not be cut down or qualified by the fact that it might interfere with the carrying out of the domestic policy of any State.

The manufacture of oleomargarine is as much a matter of State regulation as the manufacture of cotton cloth. Congress levied a tax upon the compound when colored so as to resemble butter that was so great as obviously to prohibit the manufacture and sale. In a very elaborate discussion the present Chief Justice excluded any inquiry into the purpose of an act which apart from that purpose was within the power of Congress. (McCray *v.* United States, 195 U. S. 27. As to foreign commerce see Weber *v.* Freed, 239 U. S. 325, 329; Brolan *v.* United States, 236 U. S. 216, 217; Buttfield *v.* Stranahan, 192 U. S. 470.) Fifty years ago a tax on State banks, the obvious purpose and actual effect of which was to drive them, or at least their circulation, out of existence, was sustained, although the result was one that Congress had no constitutional power to require. The court made short work of the argument as to the purpose of the act. "The judicial can not prescribe to the legislative department of the Government limitations upon the exercise of its acknowledged powers." (Venzie Bank *v.* Fenno, 8 Wall. 533.) So it well might have been argued that the corporation tax was intended under the guise of a revenue measure to secure a control not otherwise belonging to Congress, but

the tax was sustained, and the objection so far as noticed was disposed of by citing McCray v. United States; Flint v. Stone Tracy Co., 220 U. S. 107. And to come to cases upon interstate commerce, notwithstanding United States v. E. C. Knight Co., 156 U. S. 1, Sherman Act has been made an instrument for breaking up of combinations in restraint of trade and monopolies, using the power to regulate commerce as a foothold, but not preceding because that commerce was the end actually in mind. The objection that the control of the States over production was interfered with was urged again and again but always in vain. (Standard Oil Co. v. United States, 221 U. S. 1, 68, 69. United States v. American Tobacco Co., 221 U. S. 106, 184. Hoke v. United States, 27 U. S. 308, 321, 322. See finally and especially recent cases of Eckman's Alternative v. United States, 239 U. S. 510, 514, 515.)

The pure food and drugs act which was sustained in Hipolite Egg Co. v. United States, 220 U. S. 45, with the intimation that "no trade can be carried on between the States to which it (the power of Congress to regulate commerce) does not extend," 57, applies not merely to articles that the changing opinions of the time condemn as intrinsically harmful but to others innocent in themselves, simply on the ground that the order for them was induced by a preliminary fraud. Weeks v. United States, 245 U. S. 618. It does not matter whether the supposed evil precedes or follows the transportation. It is enough that in the opinion of Congress the transportation encourages the evil. I may add that in the cases on the so-called white slave act it was established that the means adopted by Congress as convenient to the exercise of its power might have the character of police regulations. Hoke v. United States, 227 U. S. 308, 323; Caminetti v. United States, 242 U. S. 470, 492. In Clark Distilling Co. v. Western Maryland Ry. Co., 242 U. S. 311, 328, Leisy v. Hardin, 135 U. S. 100, 108, is quoted with seeming approval to the effect that "a subject matter which has been confided exclusively to Congress by the Constitution is not within the jurisdiction of the police power of the State, unless placed there by congressional action." I see no reason for that proposition not applying here.

The notion that prohibition is any less prohibition when applied to things now thought evil I do not understand. But if there is any matter upon which civilized countries have agreed—far more unanimously than they have with regard to intoxicants and some other matters over which this country is now emotionally aroused—it is the evil of premature and excessive child labor. I should have thought that if we were to introduce our own moral conceptions where in my opinion they do not belong, this was preeminently a case for upholding the exercise of all of its powers by the United States.

But I had thought that the propriety of the exercise of a power admitted to exist in some cases was for the consideration of Congress alone and that this court always had disavowed the right to intrude its judgment upon questions of policy and morals. It is not for this court to pronounce when prohibition is necessary to regulation, if it ever may be necessary; to say that it is permissible as against strong drink but not as against the product of ruined lives.

The act does not meddle with anything belonging to the States. They may regulate their internal affairs and their domestic commerce as they like. But when they seek to send their products across the State line they are no longer within their rights. If there were no Constitution and no Congress, their power to cross the line would depend upon their neighbors. Under the Constitution such commerce belongs not to the States but to Congress to regulate. It may carry out its views of public policy, whatever indirect effect they may have upon the activities of the States. Instead of being encountered by a prohibitive tariff at her boundaries, the State encounters the public policy of the United States which it is for Congress to express. The public policy of the United States is shaped with a view to the benefit of the Nation as a whole. If, as has been the case within the memory of men still living, a State should take a different view of the propriety of sustaining a lottery from that which generally prevails, I can not believe that the fact would require a different decision from that reached in Champion v. Ames. Yet in that case it would be said with quite as much force as in this that Congress was attempting to intermeddle with the State's domestic affairs. The national welfare as understood by Congress may require a different attitude within its sphere from that of some self-seeking State. It seems to me entirely constitutional for Congress to enforce its understanding by all the means at its command.

Mr. Justice McKenna, Mr. Justice Brandeis, and Mr. Justice Clarke concur in this opinion.

[PUBLIC—No. 254—65TH CONGRESS]

[H. R. 12863]

AN ACT To provide revenue, and for other purposes

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' or 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 16 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 14 years have been employed or permitted to work, or children between the ages of 14 and 16 have been 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 7 o'clock p. m., or before the hour of 6 o'clock a. m., 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 cent 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. 1201. 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 compensations for personal services actually rendered, and for depreciation;

(c) 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 taxable year or part thereof, whether under any agreement, arrangement, or understanding or otherwise, sells or disposes of any product of such mine, quarry, mill, cannery, 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 by 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. 1203. (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 fact 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, cannery, 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 30 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 to 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. 1207. 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 60 days after the passage of this act and December 31, 1919, both inclusive, or such portion of such period as is included within the fiscal year (as defined in section 200) of the taxpayer.

Approved 6.55 p. m., February 24, 1919.

J. W. Bailey and J. W. Bailey, collector of internal revenue for the district of North Carolina, plaintiff in error, *v.* Drexel Furniture Co. Internal revenue—power of Congress—child labor tax law—reserved rights of States.

The child labor tax law of February 24, 1919, imposing a tax of 10 per cent of the net profits of the year upon an employer who knowingly has employed, during any portion of the taxable year, a child within the age limits therein prescribed, is not a valid exercise by Congress of its powers of taxation, under United States Constitution, article 1, section 8, but is an unconstitutional regulation by the use of the so-called tax as a penalty of the employment of child labor in the States, which, under United States Constitution, tenth amendment, is exclusively a State function. (For other cases, see Internal Revenue, I. b; States, IV., in Digest Sup. Ct. 1908.)

(No. 657)

Argued March 7 and 8, 1922. Decided May 15, 1922

In error to the district court of the United States for the western district of North Carolina to review a judgment against a collector of internal revenue for the recovery back of a tax imposed under the child labor tax act. Affirmed.

See same case below, 276 Fed. 452.

The facts are stated in the opinion.

Solicitor General Beck and special assistant to the Attorney General Roeder for plaintiff in error.

Messrs. William P. Bynum, Junius Parker, William M. Hendren, Clement Manly, and John N. Wilson for defendant in error.

Mr. Chief Justice Taft delivered the opinion of the court:

This case presents the question of the constitutional validity of the child labor tax law. The plaintiff below, the Drexel Furniture Co., is engaged in the manufacture of furniture in the western district of North Carolina. On September 20, 1921, it received a notice from Bailey, United States collector of internal revenue for the district, that it had been assessed $6,312.79 for having, during the taxable year 1919, employed and permitted to work in its factory a boy under 14 years of age, thus incurring the tax of 10 per cent on its net profits for that year. The company paid the tax under protest, and after rejection of its claim for a refund brought this suit. On demurrer to an amended complaint, judgment was entered for the company against the collector for the full amount with interest. The writ of error is prosecuted by the collector direct from the district court under section 238 of the Judicial Code.

The child labor tax law is Title No. 12 of an act entitled "An act to provide revenue, and for other purposes," approved February 24, 1919 (40 Stat. L. 1057, 1138, ch. 18, Comp. Stat. sec. 6336½a). The heading of the title is "Tax on employment of child labor." It begins with section 1200 and includes eight sections. Section 1200 is as follows:

"SEC. 1200. That every person (other than a bona fide boys' or 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 16 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 14 years have been employed or permitted to work, or children between the ages of 14 and 16 have been 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 7 o'clock postmeridian, or before the hour of 6 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 cent 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."

Section 1203 relieves from liability to the tax anyone who employs a child, believing him to be of proper age, relying on a certificate to this effect issued by persons prescribed by a board consisting of the Secretary of the Treasury, the Commissioner of Internal Revenue, and the Secretary of Labor, or issued by State authorities. The section also provides in paragraph (b) that "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 permited to work under a mistake of fact as to the age of such child and without intention to evade the tax."

Section 1206 gives authority to the Commissioner of Internal Revenue or any other person authorized by him "to enter and inspect at any time any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment." The Secretary of Labor or any person whom he authorizes is given like authority in order to comply with a request of the commissioner to make such inspection and report the same. Any person who refuses entry or obstructs inspection is made subject to fine or imprisonment, or both.

The law is attacked on the ground that it is a regulation of the employment of child labor in the States—an exclusive State function under the Federal Constitution and within the reservations of the tenth amendment. It is defended on the ground that it is a mere excise tax levied by the Congress of the United States under its board power of taxation conferred by section 8, Article I, of the Federal Constitution. We must construe the law and interpret the intent and meaning of Congress from the language of the act. The words are to be given their ordinary meaning unless the context shows that they are differently used. Does this law impose a tax with only that incidental restraint and regulation which a tax must inevitably involve? Or does it regulate by the use of the so-called tax as a penalty? If a tax, it is clearly

an excise. If it were an excise on a commodity or other thing of value, we might not be permitted, under previous decisions of this court, to infer, solely from its heavy burden, that the act intends a prohibition instead of a tax. But this act is more. It provides a heavy exaction for a departure from a detailed and specific course of conduct in business.

That course of business is that employers shall employ in mines and quarries children of an age greater than 16 years; in mills and factories, children of an age greater than 14 years; and shall prevent children of less than 16 years; in mills and factories, children of an age greater than 14 years; and shall prevent children of less than 16 years in mills and factories from working more than eight hours a day or six days in a week. If an employer departs from this prescribed course of business, he is to pay to the Government one-tenth of his entire net income in the business for a full year. The amount is not to be proportioned in any degree to the extent or frequency of the departures, but is to be paid by the employer in full measure whether he employs 500 children for a year or employs only one for a day. Moreover, if he does not know the child is within the named age limit, he is to pay; that is to say, it is only where he knowingly departs from the prescribed course that payment is to be exacted. Scienters are associated with penalties, not with taxes. The employer's factory is to be subject to inspection at any time, not only by the taxing officers of the Treasury, the department normally charged with the collection of taxes, but also by the Secretary of Labor and his subordinates, whose normal function is the advancement and protection of the welfare of the workers. In the light of these features of the act, a court must be blind not to see that the so-called tax is imposed to stop the employment of children within the age limits prescribed. Its prohibitory and regulatory effect and purpose are palpable. All others can see and understand this. How can we properly shut our minds to it?

It is the high duty and function of this court in cases regularly brought to its bar to decline to recognize or enforce seeming laws of Congress, dealing with subjects not intrusted to Congress, but left or committed by the supreme law of the land to the control of the States. We can not avoid the duty even though it requires us to refuse to give effect to legislation designed to promote the highest good. The good sought in unconstitutional legislation is an insidious feature, because it leads citizens and legislators of good purpose to promote it without thought of the serious breach it will make in the ark of our covenant or the harm which will come from breaking down recognized standards. In the maintenance of local self-government, on the one hand, and the national power on the other, our country has been able to endure and prosper for near a century and a half.

Out of a proper respect for the acts of a coordinate branch of the Government, this court has gone far to sustain taxing acts as such, even though there has been ground for suspecting, from the weight of the tax, it was intended to destroy its subject. But in the act before us the presumption of validity can not prevail, because the proof of the contrary is found on the very face of its provisions. Grant the validity of this law, and all that Congress would need to do hereafter in seeking to take over to its control any one of the great number of subjects of public interest, jurisdiction of which the States have never parted with, and which are reserved to them by the nineteenth amendment, would be to enact a detailed measure of complete regulation of the subject and enforce it by a so-called tax upon departures from it. To give such magic to the word "tax" would be to break down all constitutional limitation of the powers of Congress and completely wipe out the sovereignty of the States.

The difference between a tax and a penalty is sometimes difficult to define, and yet the consequences of the distinction in the required method of their collection often are important. Where the sovereign enacting the law has power to impose both tax and penalty the difference between revenue production and mere regulation may be immaterial; but not so when one sovereign can impose a tax only, and the power of regulation rests in another. Taxes are occasionally imposed in the discretion of the legislature on proper subjects with the primary motive of obtaining revenue from them, and with the incidental motive of discouraging them by making their continuance onerous. They do not lose their character as taxes because of the incidental motive. But there comes a time in the extension of the penalizing features of the so-called tax when it loses its character as such and becomes a mere penalty, with the characteristics of regulation and punishment. Such is the case in the law

before us. Although Congress does not invalidate the contract of employment, or expressly declare that the employment within the mentioned ages is illegal, it does exhibit its intent practically to achieve the latter result by adopting the criteria of wrongdoing, and imposing its principal consequence on those who transgress its standard.

The case before us can not be distinguished from that of Hammer v. Dagenhart (247 U. S. 251, 62 L. ed. 1101, 3 A. L. R. 649, 38 Sup. Ct. Rep. 529, Ann. Cas. 1918E, 624). Congress there enacted a law to prohibit transportation in interstate commerce of goods made at a factory in which there was employment of children within the same ages and for the same number of hours a day and days in a week as are penalized by the act in this case. This court held the law in that case to be void. It said:

"In our view, the necessary effect of this act is, by means of a prohibition against the movement in interstate commerce of ordinary commercial commodities, to regulate the hours of labor of children in factories and mines within the States—purely State authority."

In the case at the bar, Congress, in the name of a tax which on the face of the act is a penalty, seeks to do the same thing, and the effort must be equally futile.

The analogy of the Dagenhart case is clear. The congressional power over interstate commerce is, within its proper scope, just as complete and unlimited as the congressional power to tax, and the legislative motive in its exercise is just as free from judicial suspicion and inquiry. Yet when Congress threatened to stop interstate commerce in ordinary and necessary commodities, unobjectionable as subjects of transportation, and to deny the same to the people of a State, in order to coerce them into compliance with Congress's regulation of State concerns, the court said this was not, in fact, regulation of interstate commerce but rather that of State concerns and was invalid. So here the so-called tax is a penalty to coerce people of a State to act as Congress wishes them to act in respect of a matter completely the business of the State government under the Federal Constitution. This case requires, as did the Dagenhart case, the application of the principle announced by Chief Justice Marshall in M'Culloch v. Maryland (4 Wheat. 316, 423, 4 L. ed. 579, 605) in a much-quoted passage:

"Should Congress in the execution of its powers adopt measures which are prohibited by the Constitution, or should Congress under the pretext of executing its powers pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land."

But it is pressed upon us that this court has gone so far in sustaining taxing measures the effect and tendency of which was to accomplish purposes not directly within congressional power that we are bound by authority to maintain this law.

The first of these is Veazie Bank v. Fenno (8 Wall. 533, 19 L. ed. 482). In that case the validity of a law which increased a tax on the circulating notes of persons and State banks from 1 per cent to 10 per cent was in question. The main question was whether this was a direct tax, to be apportioned among the several States "according to their respective numbers." This was answered in the negative. The second objection was stated by the court:

"It is insisted, however, that the tax in the case before us is excessive, and so excessive as to indicate a purpose on the part of Congress to destroy the franchise of the bank, and is, therefore, beyond the constitutional power of Congress."

To this the court answered:

"The first answer to this is that the judicial can not prescribe to the legislative departments of the Government limitations upon the exercise of its acknowledged powers. The power to tax may be exercised oppressively upon persons, but the responsibility of the legislature is not to the courts but to the people by whom its members are elected. So if a particular tax bears heavily upon a corporation or a class of corporations, it can not for that reason only be pronounced contrary to the Constitution."

It will be observed that the sole objection to the tax here was its excessive character. Nothing else appeared on the face of the act. It was an increase of a tax admittedly legal to a higher rate, and that was all. There were no elaborate specifications on the face of the act, as here, indicating the purpose to regulate matters of state concern and jurisdiction through an exaction so

applied as to give it the qualities of a penalty for violation of law rather than a tax.

It should be noted, too, that the court, speaking of the extent of the taxing power, used these cautionary words (p. 541):

"There are, indeed, certain virtual limitations arising from the principles of the Constitution itself. It would undoubtedly be an abuse of the power if so exercised as to impair the separate existence and independent self-government of the States, or if exercised for ends inconsistent with the limited grants of power in the Constitution."

But more than this, what was charged to be the object of the excessive tax was within the congressional authority, as appears from the second answer which the court gave to the objection. After having pointed out the legitimate means taken by Congress to secure a national medium or currency, the court said (p. 540):

"Having thus, in the exercise of undisputed constitutional powers, undertaken to provide a currency for the whole country, it can not be questioned that Congress may, constitutionally, secure the benefit of it to the people by appropriate legislation. To this end Congress has denied the quality of legal tender to foreign coins and has provided by law against the imposition of counterfeit and base coin on the community. To the same end Congress may restrain, by suitable enactments, the circulation as money of any notes not issued under its own authority. Without this power, indeed, its attempts to secure a sound and uniform currency for the country must be futile."

The next case is that of McCray *v.* United States (195 U. S. 27, 49 L. ed. 78, 24 Sup. Ct. Rep. 769, 1 Ann. Cas. 561). That, like the Veazie bank case, was the increase of an excise tax upon a subject properly taxable, in which the taxpayers claimed that the tax had become invalid because the increase was excessive. It was a tax on oleomargarine, a substitute for butter. The tax on the white oleomargarine was one-quarter of a cent a pound, and on the yellow oleomargarine was first 2 cents, and was then by the act in question increased to 10 cents per pound. This court held that the discretion of Congress in the exercise of its constitutional powers to levy excise taxes could not be controlled or limited by the courts because the latter might deem the incidence of the tax oppressive or even destructive. It was the same principle as that applied in the Veazie bank case. This was that Congress, in selecting its subjects for taxation, might impose the burden where and as it would, and that a motive disclosed in its selection to discourage sale or manufacture of an article by a higher tax than on some other did not invalidate the tax. In neither of these cases did the law objected to show on its face, as does the law before us, the detail specifications of a regulation of a State concern and business with a heavy exaction to promote the efficacy of such regulation.

The third case is that of Flint *v.* Stone Tracy Co. (220 U. S. , 55 L. ed. 389, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912B, 1312). It involved the validity of an excise tax levied on the doing of business by all corporations, joint-stock companies, associations organized for profit having a capital stock represented by shares, and insurance companies, and measured the excise by the net income of the corporations. There was not in that case the slightest doubt that the tax was a tax and a tax for revenue; but it was attacked on the ground that such a tax could be made excessive, and thus used by Congress to destroy the existence of State corporations. To this this court gave the same answer as in the Veazie bank and McCray cases. It is not so strong as authority for the Government's contention as they are.

The fourth case is United States *v.* Doremus (249 U. S. 86, 63 L. ed. 493, 39 Sup. Ct. Rep. 214). That involved the validity of the narcotic drug act (December 17, 1914, 38 Stat. L. 785, chap. 1, Comp. Stat. Sec. 6287g, 4 Fed. Stat. Anno. 2d, p. 177), which imposed a special tax on the manufacture, importation, and sale or gift of opium or coco leaves or their compounds or derivatives. It required every person subject to the special tax to register with the collector of internal revenue his name and place of business, and forbade him to sell except upon the written order of the person to whom the sale was made, on a form prescribed by the Commissioner of Internal Revenue. The vendor was required to keep the order for two years, and the purchaser to keep a duplicate for the same time, and all were to be subject to official inspection. Similar requirements were made as to sales upon prescriptions of a physician and as to the dispensing of such drugs directly to a patient by a physician. The validity of a special tax in the nature of an excise tax on the manufacture, importation,

and sale of such drugs was, of course, unquestioned. The provisions for subjecting the sale and distribution of the drugs to official supervision and inspection were held to have a reasonable relation to the enforcement of the tax, and were therefore held valid.

The court said that the act could not be declared invalid just because another motive than taxation, not shown on the face of the act, might have contributed to its passage. This case does not militate against the conclusions we have reached in respect to the law now before us. The court, there, made manifest its views that the provisions of the so-called taxing act must be naturally and reasonably adapted to the collection of the tax, and not solely to the achievement of some other purpose plainly within State power.

For the reasons given, we must hold the child labor tax law invalid, and the judgment of the district court is affirmed.

Mr. Justice Clarke dissents.

CHILD-LABOR LEGISLATION PENDING BEFORE THE JUDICIARY COMMITTEE

[H. J. Res. 4, 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 amendment to the Constitution of the United States is proposed, under and by virtue of which Article X shall read as hereinafter set forth, which, when ratified by the legislatures of three-fourths of the several States, shall be valid as part of the Constitution, to wit:

"ARTICLE X

"STATE RIGHTS

"SECTION 1. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people: *Provided, however*, That the Congress shall have power to regulate or prohibit throughout the United States the employment of children under 18 years of age."

[H. J. Res. 7, 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 —

"The Congress shall have power to regulate throughout the United States the employment of persons under 18 years of age."

[H. J. Res. 11, Sixty-eighth Congress, first session]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States relating to child labor

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 be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said legislatures, shall be valid as part of the Constitution:

"ARTICLE —

"Congress shall have power to limit or prohibit the labor of persons under the age of 18 years: *Provided*, That any State may, as to its citizens or persons residing therein, by law limit or prohibit such labor in any way which does not lessen any limitation or prohibition thereof by Congress."

[H. J. Res. 15, 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, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"The Congress shall have power to regulate throughout the United States the employment of women and of children under eighteen years of age."

[H. J. Res. 16, 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, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"The Congress shall have power to limit and to prohibit the labor of persons under eighteen years of age, and power is also reserved to the several States to limit and to prohibit such labor in any way which does not lessen any limitation of such labor or the extent of any prohibition thereof by Congress."

[H. J. Res. 21, 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 —

"The Congress shall have power to establish uniform hours and conditions of labor for women and minors throughout the United States, and to prohibit the employment of children under such ages as Congress may from time to time determine."

[H. J. Res. 28, 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 hereby proposed as an amendment to the Consti-

tution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid as a part of the Constitution of the United States:

"ARTICLE —

"The Congress shall have power to regulate throughout the United States the employment of persons under eighteen years of age."

[H. J. Res. 32, 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 XVIII

"The Congress shall have power to regulate throughout the United States the employment of women and of persons under the age of twenty-one years."

[H. J. Res. 42, 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 amendment to the Constitution of the United States is hereby proposed, under and by virtue of which Article X shall read as hereinafter set forth, which, when ratified by the legislatures of three-fourths of the several States, shall be valid as part of the Constitution, to wit:

"ARTICLE X

"STATE RIGHTS

"SECTION 1. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people: *Provided, however*, That the Congress shall have power to regulate or prohibit throughout the United States the employment of children under eighteen years of age."

[H. J. Res. 45, 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 XX

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

[H. J. Res. 64, 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 amendment to the Constitution of the United States is hereby proposed under and by virtue of which Article X shall read as hereinafter set forth, which, when ratified by the legislatures of three-fourths of the several States, shall be valid as part of the Constitution, to wit:

"ARTICLE X

"STATE RIGHTS

"SECTION 1. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people: *Provided, however*, That the Congress shall have power to regulate or prohibit throughout the United States and all territory subject to the jurisdiction thereof the employment of children under eighteen years of age."

[H. J. Res. 66, 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 prohibit the labor of persons under the age of eighteen years and to prescribe the conditions of such labor.

"SEC. 2. The reserve power of the several States to legislate concerning the labor of persons under the age of eighteen years shall not be impaired or diminished except to the extent necessary to give effect to legislation enacted by the Congress."

[H. J. Res. 83, 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 shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"The Congress shall have power to prohibit or to regulate the hours of labor in mines, quarries, mills, canneries, workshops, factories, or manufacturing establishments of persons under eighteen years of age and of women."

[H. J. Res. 87, 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 amendment to the Constitution of the United States is hereby

proposed, under and by virtue of which Article X shall read as hereinafter set forth, which, when ratified by the legislatures of three-fourths of the several States, shall be valid as part of the Constitution, to wit:

"ARTICLE X

"STATE RIGHTS

"SECTION 1. That the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people: *Provided, however*, That the Congress shall have power to regulate or prohibit throughout the United States the employment of children under eighteen years of age.

"SEC. 2. That the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

[H. J. Res. 90, 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 —

"Congress shall have power to establish uniform hours and conditions of labor for women and persons under the age of eighteen years, throughout the United States, and to prohibit the employment of children under such ages as Congress may from time to time determine; and power is also reserved to each State, as to its citizens or persons residing therein, to limit and to prohibit the labor of minors in any way which does not lessen to any extent any limitation or prohibition thereof by Congress."

[H. J. Res. 98, 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 amendment to the Constitution be and hereby is, proposed to the States, to become valid as part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:

"SECTION 1. That after one year from the ratification of this article Congress shall have power to regulate, limit, or prohibit throughout the United States and all territory subject to the jurisdiction thereof the employment of persons under eighteen years of age.

"SEC. 2. That the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

[H. J. Res. 100, 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 amendment to the Constitution of the United States be, and is hereby, proposed to the States, to become valid as part of the Constitution when ratified by the legislatures of three-fourths of the several States as provided by the Constitution:

"The Congress shall have power to regulate and limit in the United States, and all territory subject to the jurisdiction thereof, the hours of labor of all persons under eighteen years of age and the conditions under which they are employed."

[H. J. Res. 102, 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, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"The Congress shall have power to limit and regulate throughout the United States the employment and labor of women and of children under eighteen years of age." *Provided*, That any State may, as to its citizens or persons residing therein, by law limit or prohibit such labor in any way which does not lessen any limitation or prohibition or regulation thereof by Congress."

[H. J. Res. 155, 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 labor of children under the age of 16 years in any mine, mill, factory, workshop, or other industrial or mercantile establishment in the United States is prohibited.

"SEC. 2. The Congress shall have the power to regulate the employment and labor of women and of children under 18 years of age and to prescribe the conditions of such labor in any manner not inconsistent with the provisions of section 1.

"SEC. 3. The several States shall retain the power to prohibit or prescribe the conditions of labor of women and children in any manner which does not conflict with any limitation or prohibition thereof by the Congress."

[H. R. 199, Sixty-eighth Congress, first session]

A BILL Proposing an amendment to the Constitution of the United States

Be it enacted 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 to limit and to prohibit the labor of persons under 18 years of age, and power is also reserved to the several States to limit and to prohibit such labor in any way which does not lessen any limitation of such labor or the extent of any prohibition thereof by Congress."

[H. J. Res 178, 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 prohibit the labor of persons under the age of 16 years and to prescribe the conditions of such labor.

"SEC. 2. The reserve power of the several States to legislate concerning the labor of persons under the age of 16 years shall not be impaired or diminished except to the extent necessary to give effect to legislation enacted by the Congress."

[H. J. Res. 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. That 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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