

## THE CHILD-LABOR AMENDMENT

There are "three people interested in getting the child out of school: the parent, the child, and the employer. The parent wants the child's wages; the child wants to be independent; the employer wants cheap labor." Nevertheless, Congress enacted the Keating-Owen Bill into law on September 1, 1916. The act forbade the shipment in interstate commerce of products made by persons under fourteen years of age. President Wilson said, "I want to say that with real emotion I sign this bill because I know how long the struggle has been to secure legislation of this sort, and what it is going to mean to the health and to the vigor of this country."<sup>29</sup>

Notwithstanding the long struggle and the health and vigor of the country, the Supreme Court declared the law unconstitutional in 1918. Within weeks after this decision the NEA called for the enactment of a more inclusive law, one that would meet the objection of the Court.<sup>30</sup> In February 1919, Congress passed a new law, levying a tax of 10 per cent on the entire net profits of any establishment that employed persons under fourteen years of age. In 1924 this law too was overthrown by the Supreme Court.

Even before this decision, the NEA called for a child-labor amendment, giving Congress power to enact laws to regulate the employment of children.<sup>31</sup> In the following year, 1924, the association called upon the states to ratify the child-labor amendment that Congress had proposed.<sup>32</sup> This call was repeated in varying forms by every convention from 1925 to 1956. The NEA was by no means the only proponent of the child-labor amendment. Scores of civic, fraternal, educational, and religious groups approved it. In fact, support for it assumed something of the nature of a crusade, and opposition was branded as gross selfishness or moral blindness.

In the meantime progress of the amendment in the state legislatures was disturbingly slow. Nine years after its recommendation by Congress only six states had ratified it. Then in 1933, during the enthusiasm of the beginning of the New Deal, fourteen more added their approval. Success seemed near. But the movement came to a virtual halt; only a few more states ever ratified it.

How did it happen that the child-labor amendment, approved by almost countless organizations and popularly regarded as a matter of simple justice, nevertheless became a lost cause?

<sup>29</sup> NEA, *Proceedings*, 1917, 830-831.

<sup>30</sup> NEA, *Proceedings*, 1918, 25.

A few manufacturers openly opposed the amendment and a few upholders of states' rights voiced their opposition; some influential religious organizations also opposed it; but the greatest opponent was latent indifference. To placate the opponents of increased Federal power, the authors of the amendment tacked on the absurdly redundant and self-contradictory provision that "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," which is equivalent to saying that "states' rights remain the same except as they are appropriated by Congress." Naturally such an obvious display of tautology did not reassure those who opposed the amendment on the principle of restricted Federal powers.

Millions of farmers opposed the amendment because they feared that Congress would forbid them to utilize the labor of their own children. The tribal survivals on this point were well exposed before the NEA in 1934. "It is almost amazing how tenaciously the human mind has clung to the fiction of parent ownership of children . . . and to another fancied right, the privilege of parents to profit by the labor of children . . . the right to appropriate the child's earnings."<sup>83</sup>

The defeat of the child-labor amendment was brought about not by its opponents but by social developments. During the depression years, when young people could not find employment, thousands continued in school. State after state raised compulsory-school-attendance requirements to high-school graduation or to eighteen, whichever came first, and granted control over work permits to school officials. These measures gave educators virtual control of child labor in most states. Economic aids in the form of mothers' pensions, unemployment compensation, and disability allowances lessened the need of child labor and consequently the need of laws to restrict it. With the opening of war in Europe in 1939 and our subsequent entry, wages and salaries rose markedly; the problem of child labor became less critical.

In spite of the changing status of child labor, the NEA repeated year after year its request for the ratification of the proposed amendment. In the face of changed conditions such an amendment was no longer a national issue; hence this NEA resolution was not only ineffectual but probably lessened the association's influence on other public issues. It is obvious that the child-labor amendment is, if not a lost cause, at least a lost method.

<sup>81</sup> NEA, *Proceedings*, 1923, 56.

<sup>82</sup> NEA, *Proceedings*, 1924, 56.

<sup>83</sup> NEA, *Proceedings*, 1934, 133.