

# **The Child Labor Amendment Debate of the 1920s; or, Catholics and Mugwumps and Farmers**

*by* Bill Kauffman\*

No fledgling feeds the father bird,  
No chicken feeds the hen—  
No kitten mouses for the cat,  
This glory is for men.  
We are the Wisest, Strongest Race—  
Loud may our praise be sung!  
The only animal alive  
That lives upon its young.  
—Charlotte Perkins Gilman<sup>1</sup>

Here you are, a Jeffersonian Democrat, the cardinal principle of which doctrine was the integrity of the states, urging me, a Hamiltonian Republican, to support a Constitutional amendment enabling the national government to deal with the children of the states. Strange times, these are. But I think I can encourage you to expect favorable action, as the women always get nowadays what they ask for.

—Senator William Borah (R-Idaho)  
to a constituent, 1924<sup>2</sup>

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[This is] a communistic effort to nationalize children, making them primarily responsible to the government instead of to their parents. It strikes at the home. It appears to be a definite positive plan to destroy the Republic and substitute a social democracy.

—Clarence E. Martin  
President, American Bar Association<sup>3</sup>

When the right of a father to govern his own family is taken away from him, God pity our Nation.

—D.H. Petree  
Florida legislator<sup>4</sup>

## I

The movement to regulate child labor began as a New England parlor revolt against industrialism, or at least its grimmer, more noisome aspects. Gradually, however, well-intentioned reformers with modest goals gave way to socialists whose reconstructionist dreams included the interposition of the state between the parent and the child.

The "gaunt goblin army"<sup>5</sup> of teenaged workers was cashiered by a series of laws prohibiting employment and prescribing schooling. While the mission was ostensibly accomplished, the triumph was incomplete: The Child Labor Amendment to the Constitution was rejected. Thwarted were what Columbia University President Nicholas Murray Butler called "more far-reaching . . . changes in our family, social, economic, and political life than have heretofore been dreamed of by the most ardent revolutionary."<sup>6</sup>

## II

Nascent American industries frequently employed families of the working class. Alexander Hamilton had remarked, in his "Report on Manufactures," that "children are rendered more useful . . . by manufacturing establishments than they would otherwise be."<sup>7</sup>

As the mill towns grew, so did the conviction of many genteel ladies that boys and girls ought to be scholars, not mill doffers. Ella Wheeler Wilcox keened:

In this boasted land of freedom there are bonded baby slaves,  
And the busy world goes by and does not heed.  
They are driven to the mill, just to glut and overfill

Bursting coffers of the mighty monarch, Greed.  
When they perish we are told it is God's will,  
Oh, the roaring of the mill, of the mill!<sup>8</sup>

Contrasting views of child labor can be found in the novels of Horatio Alger and the Gilded Age fictions of a passel of New England women novelists. Alger did not neglect the vice and dirt that spattered the forlorn "Child of the Street," but his glasses were tinted roseate. Tatterdemalion boys full of pluck and guile acted out the Algerian philosophy that "in the boot-blackening business, as well as in higher avocations, the same rule prevails, that energy and industry are rewarded, and indolence suffers."<sup>9</sup> Labor neither ennobles nor degrades the poor boy; it is simply necessary to his advancement.<sup>10</sup>

There were no indomitable Ragged Dicks in Elizabeth Stuart Phelps's influential 1871 novel, *The Silent Partner*. Phelps's heroine, the righteous spinster Perley Kelso, is the daughter of a Massachusetts mill owner. Upon learning that "factory girls ate black molasses and had the cotton-cough," Perley undertakes the reformation of the Five Falls working class. Weekly teas are inaugurated, at which millhands mix with proper Boston girls; the beaux-arts are cultivated; pacified and uplifted, the workers cheerfully accept a pay cut.<sup>11</sup>

*The Silent Partner* is a charmingly naive piece of didacticism by a woman whom Vernon Parrington called "an Andover Brahmin, highly sensitive, whose deeply religious nature was ruffled by every vagrant wind."<sup>12</sup> Perley Kelso presaged a new generation of reforming women for whom the home—the working-class home, at least—was no longer the inviolable castle defined by William Pitt. After Perley meets the eight-year-old urchin Bub Mell, a billingsgate-spewing millboy and a marble-sharp, she barges into Mell pere's apartment and confronts the feckless dad: "He was out so late about the streets, Mr. Mell. He uses tobacco as most children use candy. And a child of that age ought not to be in the mills, Sir, he ought to be at school! . . . The stairs in this house are in shocking condition. What is—excuse me—the very peculiar odor which I notice on these premises?"<sup>13</sup> Poor Mell's ruined tenement launches Perley on a life of good works. She never will marry; reform is her spouse. The Mell threshold offers as little resistance to her as a turnstile. Years later, the *Woman Patriot* would note of the schemes of Perley's living, breathing counterparts: "It is solely the poor man's right of castle that is sacrificed."<sup>14</sup>

### III

How many Ragged Dicks and Bub Mells were there? The federal census reported that in 1880, 1.18 million children between the ages of ten and fifteen (16.8 percent of all such children) were "gainfully employed." In 1890 that number climbed to 1.75 million (18.2 percent) and in 1910, 1.99 million (18.4 percent). But these 2 million were hardly a gaunt goblin army; for census takers included those farm children who constituted a "material addition" to the family income. Plowboys and farmers' daughters far outnumbered young cannery and coal mine workers. Of the 2 million child laborers counted in the 1910 census, 72 percent were farm kids, about 85 percent of whom worked on the family acres.

Farm labor, admittedly exhausting, was at first unassailable by the Perley Kelsos. Outdoor chores were salubrious, offering "none of the hazards of mines and factories to the growing body and soul."<sup>15</sup> Novelist Hamlin Garland, no dreamy pastoralist, wrote: "There are certain ameliorations to child labor on a farm. Air and sunshine and food are plentiful. I never lacked for meat or clothing, and mingled with my records of toil are exquisite memories of the joy I took in following the changes in the landscape, in the notes of birds, and in the play of small animals on the sunny soil."<sup>16</sup>

Moreover, farm children worked under the direction of their parents. They ate and wore the fruits of their labor, inspiring Jefferson's comment that "every family in the country is a manufactory within itself, and is very generally able to make within itself all the stouter and middling stuffs for its own clothing and household use."<sup>17</sup> Thus Hamilton's useful drudges in the factories, mills, and mines were the first candidates for deliverance. Next would be the tens of thousands of Ragged Dicks plying the street trades on city sidewalks. The farms were as yet off-limits—awaiting a Progressive Moment.

### IV

The emancipation of children from the factory began in New England. In 1836, Massachusetts barred children under fifteen from jobs in manufacturing unless they had attended school for at least three of the preceding twelve months. (The best child labor law is compulsory schooling, went the maxim.) Six years later, the Bay State forbade children under twelve from working more than ten hours a day; by mid-century, every state in the region had similar restrictions. By century's end, twenty-eight states

had enacted child labor laws, usually setting a minimum age (fourteen for factory work), prohibiting night work, and requiring school attendance. In 1872, the Prohibition Party became the first to include a child labor plank in its platform. The cause attracted dozens of Democratic and Republican paladins, though the parties did not formally endorse federal legislation until 1912, when a bidding war erupted for the votes of Progressives.

This "crusade for the children," as its adult warriors dubbed it, bogged down in the South. Parents, many of them new in the mill towns, just in from the piedmont or the hardscrabble, "felt the children should continue to do their part to help support the family, just as they had done on the farm."<sup>18</sup> The reformers, largely Northeasterners, were seen as meddling do-gooders at best, agents of the New England mills at worst. David Clark, the pugnacious editor of the *Southern Textile Bulletin*, claimed (without adducing much evidence) that the crusade "was financed to a considerable extent by New England cotton manufacturers in order to reduce competition."<sup>19</sup> In 1900, only ten percent of the minors employed in industry were from the South; nonetheless, the region came to be associated with this social blight. (The actual number of non-agricultural child laborers was higher in Pennsylvania than in every Confederate state combined.)

Even Southern proponents of child labor laws resented outside interference. Populist South Carolina Senator "Pitchfork" Ben Tillman, a charter member of the National Child Labor Committee, railed against "Northern millionaires who have gone down there and built mills and made industrial slaves out of white children instead of the chattel black slaves of the old days."<sup>20</sup> Yankee activists also spoke ominously of the "race degeneracy and race suicide" committed when white tykes toddled off to the mills while black kids went to school.<sup>21</sup> Episcopal clergyman Edgar Gardner Murphy of Fort Smith, Arkansas, trained at Columbia University and the General Theological Seminary, emerged as the movement's Southern knight. Murphy, though no agrarian—"The cotton mills," he wrote, "indeed our factories of every sort, are bringing their blessings to the South"—lamented the ruin of derusticated families.<sup>22</sup> Fathers, indispensable on the farm, were less so in the factory. The idle papa, lazing and drinking while mama and junior toiled the livelong day, became an object of obloquy. "Back of nearly every child at work," steamed Miss Jean M. Gordon, Factory Inspector of Louisiana, "is a lazy, shiftless father or an incompetent mother."<sup>23</sup>

The mills tore at the family in other ways. Murphy explained: "Upon the farm the child labors, as it labors in the home, under the eye of a guard-

ianship which is usually that of the parent, which is full of a parental solicitude. . . . In the factory the child works as an industrial unit, a little member of an industrial aggregate, under an oversight which must, of necessity, be administrative rather than personal."<sup>24</sup> At Murphy's prodding, in 1903 his adopted state of Alabama forbade children under twelve from working in factories—the strictest standard in the South. By decade's end, every state legislature in the South, save that of Georgia, had passed a minimum age law. (Oglethorpe's commonwealth did, however, punish able-bodied fathers who lived off the labor of their progeny.)

Murphy's abilities—and his Southern pedigree—won him a following in New York. He and Felix Adler founded the National Child Labor Committee on April 15, 1904 at Carnegie Hall. The NCLC was small but puissant. Its directorate read like a Who's Who of plutocrats and uplifters, virtually all resident in New York City and its overspill: John D. Rockefeller, E.H. Harriman, J.P. Morgan, Paul Warburg, Andrew Carnegie, Adolph C. Ochs, Gifford Pinchot, and a flock of "idle-rich, sentimental, good-hearted women."<sup>25</sup> Southern cousins included future Georgia Governor Hoke Smith and the aforementioned firebrand Tillman. (With the exception of Tillman, the NCLC and kindred organizations had no luck recruiting Populists and other agrarian radicals, for paternalism ran counter to the Populist character. Says Casy, the itinerant preacher in Steinbeck's *The Grapes of Wrath*: "On'y one thing in this worl' I'm sure of, an' that's I'm sure nobody got a right to mess with a fella's life. He got to do it all hisself. Help him, maybe, but not tell him what to do.")

The NCLC lobbied state legislatures to set minimum ages of fourteen in manufactures and sixteen in mining, to limit children to an eight-hour day, and to ban work after 7 p.m. The Southern cotton mills, the Pennsylvania coal mines where "breaker boys" picked slate and slag from the black chutes, coastal canneries, and urban street trades were the NCLC's prime targets. The newsboys, whose life was so picturesque, came in for special condemnation. Sing Sing Warden Lewis E. Lawes testified that 69 percent of his inmates had hawked dailies.<sup>26</sup> Profanity, gambling, fast women, even "the dubious frankfurter" conspired to corrupt the Ragged Dicks of the pavement.<sup>27</sup> Messenger boys faced even greater temptations. Polemicist John Spargo despaired: "Sad to relate, boys like to be employed in 'red-light' districts."<sup>28</sup>

Alger notwithstanding, few Ragged Dicks were orphans. NCLC operative E.C. Clopper found that over 75 percent of 400 Cincinnati newsboys were

from intact families. Myron E. Adams, a New York City social worker, determined that “only a very small number” of boys in the street trades were from alms-deserving families. Josephine Goldmark reported that just one-quarter of the incarcerated ex-newsboys she studied were raised by widows.<sup>29</sup> The point that Clopper and the others wanted to make was that the labor of children was not necessary to the economic life of the family; dad’s wages (and maybe mom’s, too) were sufficient. Inadvertently, though, they painted a picture of the newsboy as the product of a solid home.

## V

The battle shifted to Washington after a marathon three-day speech in January 1907 by Senator Albert Beveridge (R-Ind.), an apostle of Teddy Roosevelt’s brand of progressivism. Beveridge’s address was filled with fantastic allegations, though none dared call them mendacious. Relying on the notarized depositions of socialists Scott Nearing, Florence Kelley, and John Spargo, Beveridge narrated lurid tales of thumbless boys and girls who “don’t know how to play.”<sup>30</sup> He concluded: “More than a million children are dying of overwork or being forever stunted and dwarfed in body, mind, and soul.”<sup>31</sup>

Child labor was an evil to be extirpated in the same way that lotteries and obscene literature had been forever banished from God’s republic: by federal law. Beveridge proposed to prohibit the interstate transportation of articles produced in factories or mines that employed children under fourteen. His bill rent the NCLC asunder. Its New York City-dominated board endorsed it, prompting Edgar Gardner Murphy, a principled defender of states rights, to resign. (Unwilling to let its prize Southerner slip away, the NCLC rescinded its support of federal action, at least until Reverend Murphy died in 1913.<sup>32</sup>) Meanwhile, a Federal Children’s Bureau was created within the Department of Commerce and Labor. This information-gathering agency, invaluable in the coming propaganda war, boasted a payroll reading like Hull House East.

The Bureau’s supporters professed its innocuousness. We already gather data on the “diseases of hogs and cattle and sheep,” they reasoned; aren’t children at least as important?<sup>33</sup> Opponents stressed the threat the Bureau’s investigators might pose to the poor man’s right of castle. “The unmarried of the country who know how to raise children”<sup>34</sup> will be loosed upon “the class that is most helpless in their hands—those who toil for a living,” warned

Senator Weldon Heyburn (R-Idaho).<sup>35</sup> Why, these uplifters would have "taken Abraham Lincoln from his parents' care. . . . Some committee . . . would have gone down there and said, 'What, allow that child to lie down thee and eat corn pone and hoeecake by the hearth; he can not possibly amount to anything; we want to take him down to the headquarters, where we are drawing salaries for taking care of that kind of people.'" <sup>36</sup>

By a 39-to-34 vote, Heyburn and Senator Charles A. Culberson (D-Tex.) added a right-of-castle amendment to the bill to establish the Bureau: "No official or representative of said bureau shall, over the objection of the head of the family, enter any . . . family residence."<sup>37</sup> Notice had been served that there were limits beyond which the child savers could not go. Thus amended, the Bureau bill passed, 54 to 20; President Taft signed it into law on April 9, 1912. Hull Houser Julia Lathrop was appointed to head the Children's Bureau, with a modest budget of \$25,000 at her disposal.

## VI

Defenders of child labor in the mills and factories were at first paternalistic. Thomas Dawley, Jr., a disgruntled government inspector of Southern mills, indicted the muckrakers for "misrepresentations so gross . . . as fairly to astound an unbiased mind." Sent to Asheville, Dawley looked up that city's two most prominent children's crusaders: a minister and a social worker newly arrived from New York City—neither of whom had ever been inside a cotton mill. When Dawley entered, he found "bright, vivacious" mill girls and "happy and contented" boys, working none too hard and learning in mill-built schools. Contrasted with the "mountain homes of squalor" Dawley had seen, the mills were godsend. A Tennessee innkeeper told Dawley, "Why, thar' ain't enough cotton mills to take care o' them poor chil'ren what's in our mountains. If thar' only war . . . it would be the greatest thing in the world fer 'em."<sup>38</sup>

These apologists played up the advantages of living in a company town: steady wages, nearby churches, schools, and libraries, public parks—indeed, civilization. And the sweat and toil of children was said to be indispensable to economic progress. Lewis B. Parker, a Greenville, S.C. cotton manufacturer, explained: "All the people who are poverty stricken or who can not make a success of anything else have gravitated to the cotton mills." The pool of skilled adult labor, though, was yet too small: "We can not possibly [move] from . . . agriculturalism to . . . industrialism without the employment of minors."<sup>39</sup> Julia Magruder, replying in the *North American Review*

to "ignorant sentimentalists" who bled sugar over the 2 million wretched baby slaves, claimed: "The class from which the millhands in the South are drawn is the very lowest . . . [Praise be] the elevating and civilizing influence of the cotton mills."<sup>40</sup> Hadn't New England long demanded the mental and spiritual maturation of poor Southern whites? Emerson was willing to accept worse cotton if it meant better men; well, the mill towns were improving both.

Mill families themselves were downright hostile to the prohibitionists. "Some of the most devoted advocates of child labor . . . were the young themselves and their own parents," noted one labor historian.<sup>41</sup> Southern parents, to the bitter dismay of reformers, evaded the laws by lying about the ages of their offspring. Northerners were no less obdurate. Inconveniently for the NCLC, child laborers were neither mute nor idiot, and many resented their benefactresses. Inspector Helen Todd asked 500 children in twenty Chicago factories, "If your father had a good job, and you didn't have to work, which would you rather do—go to school or work in a factory?" To her horror, 412 chose the factory.<sup>42</sup>

Looking back, many adults no doubt regret spending their nonage at hard labor. Bertha Awford Black, after a lifetime in the Amazon Mills in Thomasville, N.C., recalled:

We'd go out there behind the mill at the warehouse and us girls we'd build us a little playhouse until they'd whistle for us and yell, "Time for the doffers to piece up again." Just nothing but children. You know, that ought to have been stopped a long time before it was. We didn't get no education. We weren't old enough to go to work. That thar' child labor law was wonderful when it came in. We, everyone, should have been in school.<sup>43</sup>

Amen, said the NCLC. Secretary A.J. McKelway urged laws "compelling the ignorant and indifferent parent to send his children to school."<sup>44</sup> By 1914, only Florida, Mississippi, South Carolina, and Texas lacked compulsory education laws, although the average rural school year was still forty days less than the urban term. If the nation was not yet "a vast kindergarten," as Alonzo B. See of the A.B. See Elevator Company complained, at least yesterday's bonded baby slaves had been legislated into school.<sup>45</sup>

To David Clark's question, "What are you going to do for them when you throw them out of the mills?" the child savers shouted with vigor: "Educate Them!"<sup>46</sup> (In 1918, the NCLC would join with the National Education Association to propose the creation of a federal Department of

Education.) "To keep the child from going to work," wrote historian Walter Trattner, "they had to follow him into the school, the street, and the home."<sup>47</sup> Families might resist remodeling at first, but not to worry: In NCLC executive Gertrude Folks Zimand's chilling aphorism, "laws make morals."<sup>48</sup>

That faith in the state as the fount of all things good suffused *Children in Bondage*, a 1914 tract coauthored by the poet Edwin Markham, Denver Judge Benjamin Lindsey, and George Creel, later chief propagandist for President Wilson's notorious Committee on Public Information. This remarkable best-seller contains wild assertions—"the average life of the children after they go into the mills is four years"; three of five home-knitters die of tuberculosis—that rival Creel's later concoctions of rampaging Huns and the villainy of Eugene V. Debs.<sup>49</sup> The book reads like a purple parody: Apple-cheeked munchkins peer into "the crater of death," while "greed plays with loaded dice and the little player loses all."<sup>50</sup> But shorn of its goofy grandiloquence, *Children in Bondage* offers us a frank Progressive view of child, parent, and state.

The authors are particularly exercised over "homework"; that is, the embroidering, stitching, and making of artificial flowers and such by mothers and their tots in tenements. Homework was nigh-impossible to regulate; New York law, for instance, required only that a tenement be "sanitary." Once her building was licensed, a mother could direct her children as she pleased. Markham tells of a widow who applied for a homework permit in New York City. She desired to sew at home and watch over her baby while her boys attended school and sold papers at dawn and dusk. The permit was denied; the relict's home reeked of "stench and filth." So she went to work in a factory, and the boys quit school to care for the infant. A bureaucratic injustice? No, says Markham. "In denying to mothers the right to work at home for their helpless young, and in denying to little children the right to work for needy mothers, it may seem that the law sets a cruel foot upon the neck of the broken poor. But for the larger good of humanity these denials must be: The public and the child must be protected, and the safeguard against inhumanity lies in the statute's recognition of motherhood as a service."<sup>51</sup>

## VII

Mill apologists and hidebound states-rights Democrats were no match for the Children's Crusaders, whose progress was braked, for a time, only by

the men in the White House. Disregarding the 1912 Republican platform, President Taft opposed federal child labor legislation as unconstitutional. His successor, Woodrow Wilson, agreed. (The Virginian in Wilson surfaced at the oddest times.)<sup>52</sup>

Hopeful that the President had shed his strict constructionist skin—the awesome responsibilities of office are a molting force—a delegation of social workers came calling, soliciting support for Congressman A. Mitchell Palmer's NCLC-drafted child labor bill. Palmer, a Pennsylvania Democrat and future Attorney General, from which position he orchestrated the Red Scare, sought to ban the interstate transport of articles produced by (1) children under fourteen who worked in factories or under sixteen who toiled in mines; (2) children under sixteen who worked more than eight hours a day; or (3) children under sixteen who worked between 7 p.m. and 7 a.m. Only about 150,000 of the land's 2 million young workers would be affected; the armies of newsboys and farmkids and bowling-pin setters were beyond the edifying reach of Mr. Palmer's bill. By 1912, thirty-one and twenty-two states already met the mine and factory standards, respectively; thirty-one states had adopted the eight-hour day, and twenty-eight had banned nightwork for minors.

The measure was flatly unconstitutional, Wilson lectured his supplicants, but he pledged neutrality.<sup>53</sup> The Palmer bill passed the lame-duck House in February 1915, 233 to 43, over the protests of South Atlantic legislators, who prevented a companion Senate bill from coming to the floor. The measure sailed through the next Congress, passing the House 337 to 46 and the Senate 52 to 12. The debate was brief and insipid; Congressman George F. O'Shaunessy (D-R.I.) confidently asserted that "this bill is in line with the enlightened progress of the age; in line with advanced thought." His colleague C.F. Reavis (R-Nebr.) added: "Down deep in the subconscious of the childhood of America lies embryonic greatness."<sup>54</sup> Out of the feeble opposition one voice carried. Pitchfork Ben Tillman, the NCLC pioneer, staked his position:

The United States had assumed the right to enter the homes of the people and tell them how they must rear their children, and how, when, and where they must work them. . . . The Prussianizing of our free Republic will have begun. Little by little the central government would finally assume all the powers of government, the states would sink to the level of mere counties, and Washington's control over the remainder of the country would be not less complete than Berlin's over all of Germany.<sup>55</sup>

President Wilson, locked in a tight race with progressive Republican Charles E. Hughes, reversed himself, signing the bill with the rather unseemly boast, "I congratulate the country and felicitate myself."<sup>56</sup>

Southern textile operative David Clark hunted up a North Carolina millworker, Roland Dagenhart, whose thirteen-year-old son John would be fired and whose fifteen-year-old son Reuben would see his daily hours cut from eleven to eight. Federal Judge James E. Boyd of the Western District of North Carolina pronounced the law unconstitutional; so, too, on June 3, 1918, did the Supreme Court. The Court's 5 to 4 decision was written by Justice William Rufus "Good" Day, a Ravenna, Ohio, attorney whose "faith in the small town as a symbol of the American brand of democracy" yielded his distrust of all centralized power, political and economic. Under such a broad reading of the interstate commerce clause, Day wrote, "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."<sup>57</sup>

Progressives were aghast. In the *New Republic*, Edwin S. Corwin fumed, "At a moment when the government is directing the mines, the factories, and the farms of the nation, is saying what price producers shall receive for their products, is conscripting the manhood of the country for the national armies, it is informed that it cannot regulate commerce with the end in view of conserving the health of those of whom its future armies must be composed."<sup>58</sup>

A new tack was chosen. Our future soldiers would be protected by Senator Atlee Pomerene (D-Ohio), who proposed to levy a 10 percent tax on the net profits of those industries whose practices violated the standards of the Palmer bill. The Senate approved Pomerene's amendment by 50 to 12 on December 18, 1918; friendly organs christened it "the children's Christmas present." The House voted 312 to 11 for Pomerene's tax, and President Wilson signed it into law on February 24, 1919. Again, Southern textile manufacturers found an aggrieved family to challenge the law; again, Judge Boyd voided the law in western North Carolina; again, the Supreme Court heard the case; again, the high court struck down the law, this time by a vote of 8 to 1. This time, most liberals concurred with the Court; Felix Frankfurter called Pomerene's levy "a dishonest use of the taxing power." He advised his nationalizing friends at the *New Republic*, "We must pay a price for Federalism."<sup>59</sup>

### VIII

By the early 1920s, discouraged reformers had turned to their last resort: a constitutional amendment. World War I had swelled the national government to an aggressive plumpness much admired by Progressives. Washington had conscripted youth, set prices, and jailed dissenters. The Eighteenth Amendment had banned the sale of spirits, and the Nineteenth Amendment had forced refractory states to grant women the vote; a Twentieth Amendment giving Congress the power to regulate child labor seemed a small step indeed. The Bourbons were weary; as one dejected state legislator complained: "They have taken our women away from us by constitutional amendment; they have taken our liquor away from us; and now they want to take our children."<sup>60</sup> The centralizing trend seemed inexorable. The disrepute of localism was such that Children's Bureau chief Grace Abbott could say, "The issue of states' rights has never been raised in behalf of a good cause."<sup>61</sup>

The push for an amendment began as the child labor force was shrinking. State laws had been toughened: all but two states now banned children under fourteen from the factories, and thirty states had adopted the eight-hour day. The number of working minors had fallen from 1.99 million (18.4 percent of all children) in 1910 to 1.06 million (8.5 percent) in 1920. Far and away the majority of this million (647,000) labored on farms—90 percent of them on their parents' land. The percentage of children aged ten to fifteen who worked at non-agricultural jobs had slipped from 7.1 in 1900 to 5.2 in 1910 and 3.3 in 1920. Barely 20,000 youngsters were employed as cotton mill operatives in 1920; fewer than 6,000 worked in the coal mines.

The South—the godforsaken South, as it was known in Northeastern salons—was still considered the Evilest Place. Alabama and South Carolina led the country in child workers (24 percent), but the vast majority of these were farm kids. Discounting agricultural labor, the South had proportionately fewer young toilers than the Middle Atlantic, the East North Central, or even the New England states.<sup>62</sup>

### IX

By 1924, a score of amendment resolutions had been introduced; the principal sponsors were Congressman Israel Foster (R-Ohio) and Senators Medill McCormick (R-Ill.) and Samuel Shortlidge (R-Calif.). As reported onto the House and Senate floors, the amendment read:

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

Section 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.

Two features gave lukewarm supporters pause. First was the use of eighteen years instead of sixteen. Secretary of Commerce Herbert Hoover, among others, preferred the tenderer age, but, he later recalled, "the lunatic fringe was demanding two years more than was attainable."<sup>63</sup> Second, the use of the term "labor" rather than "employment" was a tactical—and revealing—blunder. Only then, after twenty years of agitation by the NCLC and the Hull Housers, did ordinary Americans catch a hint that the child-labor movement had grander aims than simply taking Amanda out of the mill.

Grace Abbott was responsible for the substitution. She explained: "Children often work with their parents, and are not on the payroll."<sup>64</sup> Mary Kilbreth of the *Woman Patriot* immediately grasped the import of the word "labor": "A girl making the bed or washing the dishes. That is labor. Or a boy helping his father milk the cows."<sup>65</sup> Surely these homely chores were not to be brought within Washington's bailiwick—or were they?

Congressional hearings gave just the barest foretaste of the coming fight. Virtually every civic organization in the land lined up behind the Child Labor Amendment: the National Education Association, the American Legion, the Camp Fire Girls, the League of Women Voters, the Womens Christian Temperance Union, the PTA—even Presidents Warren Harding and Calvin Coolidge voiced their support. The two best-known witnesses against the amendment, *Southern Textile Bulletin* editor David Clark and James A. Emery of the National Association of Manufacturers, were dismissed as mouthpieces of the child exploiters. Also testifying were a stream of obscure self-styled "constitutionalists," most of them from sopping wet Maryland. They were paid little heed, but they adumbrated two of the most devastating anti-amendment themes.<sup>66</sup>

First—and no one disputed this—the Child Labor Amendment was cousin-german to Prohibition. Drunkard fathers had necessitated the Eighteenth Amendment; indolent dads would force the Twentieth. American men, it was implied, were dissolute bums whose failings cried out for Washington's remedies.<sup>67</sup> The second discordant note was introduced by Willis R. Jones, representing the Women's Constitutional League of Maryland: "The fathers and the mothers are better prepared to pass judgment 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 [it]."<sup>68</sup>

The charge that women supporters of the amendment were hypocrite humanitarians who bled for the abstraction "child" but blanched at real, live, fleshy bloody tykes was rude, clever, and partly true. When American Bar Association President Clarence E. Martin referred to "the maiden ladies resident in Hull House, Chicago . . . a hotbed of radicalism," the implication was clear: The child savers were officious spinsters, lesbians, and Reds.<sup>69</sup> Prominent among them were Grace Abbott, Lillian Wald, Jane Addams, Julia Lathrop, Katharine Lumpkin, and Florence Kelley. Martin and Jones, however tactless, had a point: National Consumers League chief Kelley, the amendment's lobbyist-dynamo, had been a fervid Socialist Laborite until she was expelled by the party on the (possibly trumped-up) charge of misusing funds. Marcet Haldeman-Julius, Jane Addams's niece, told of visiting her "Aunt Jenny" at Hull House and finding her distant, impersonal, and cold: "'She isn't a very auntly person,' I (aged six) complained to my mother on one of our visits. 'That,' I was informed in a tone of rebuke, 'is because she is aunt to so many. She hasn't much time for each of you.'"<sup>70</sup>

The childlessness of the child savers became a favorite refrain. Pennsylvanian Edward J. Maginnis wrote in a widely circulated open letter: "One class of citizens composed principally of cultured men and women of small or no families at all, living in comfort, albeit with good intentions, are attempting to force legislation on the industrial class, composed mostly of humble, stalwart men and women of large families."<sup>71</sup> The *Woman Patriot*, an anti-suffrage organ refitted for the broader "defense of the family against the state," entered the fray with articles alternately cogent and screed-like. Mary C. Kilbreth, its president, picked up the ball carried years ago by Senator Weldon Heyburn. "As women," she testified, "we are particularly concerned [about] the right-of-castle aspect of this amendment."<sup>72</sup> This phrase, worn threadbare over the next year, drove reformers up the wall. "The home is the castle!" jeered two socialist researchers. "Have they seen the 'castles' out of which child workers come?"<sup>73</sup> Shiftless or absent fathers; overworked skeletal mothers; poor little Bub Mell in his fetid cell, his mill town hell, a slangy kid headed for the pen. . . .

Labor for teenagers did find its defenders. "Give the children a chance to work," pleaded the principal of a girls' trade school. "Give at least as much attention to fostering work habits in all as we give to restrictive

legislation which affects relatively few.”<sup>74</sup> Kilbreth of the *Woman Patriot* declared:

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. . . . 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 over-cerebralized young intellectuals, from whom the radicals are recruited and who are the curse of society.<sup>75</sup>

Kilbreth and others beholden to industrial interests saw child labor as good and proper to a Jeffersonian America. Elders taught skills to youngsters that would enable them to live, in adulthood, as independent freeholders, sturdy hard-working unbought and unbossed citizens of the republic. The Hamiltonian uses of children—as cogs in a mighty industrial empire—went undefended in the 1920s, as David Clark and the National Association of Manufacturers played states’ rights tunes instead. Furthermore, Kilbreth’s allies saluted the salutary effects of wholesome work. Senator Bayard reminded scripture-spouting legislators that “as a boy of twelve Jesus worked in a carpenter’s shop. . . . He received no detriment from doing so, and He grew up to be the most wonderful man in the world.” No one dared gainsay Bayard.<sup>76</sup>

But carpenters and mill-hands were few; the vast majority of “child workers” were farm boys and girls. Grace Abbott assured solons that banning field work was the farthest thing from her mind, but the amendment must not exempt agriculture because, well, who knew what conditions would obtain in rural America in fifty years? (That rural America would very nearly cease to exist occurred to no one.) While Abbott may have been honest—although immediately after the amendment’s death she announced her support for federal regulation of family farm labor—her comrades were either disingenuous or liars. NCLC secretary Owen P. Lovejoy, for instance, claimed that “the farm child is frequently getting too much work, too little schooling, and too little developmental care. . . . He is too often a mere drudge who will grow up an ignorant, inefficient worker.” Yet Lovejoy hastened to add: “There is no thought on the part of advocates of this amendment to have the federal government interfere with the conditions of children on farms.”<sup>77</sup>

The NCLC disgorged study after study confirming the dreariness of the georgic world and the imbecility of its inhabitants. E.C. Lindeman found that "farm life in general does not produce a degree of mental alertness and neuro-muscular coordination essential to an enthusiastic and optimistic outlook on life."<sup>78</sup> The romantic vision of an American Arcadia was a joke; its cultured defenders were "typewriter agrarians," scoffed H.L. Mencken. Twenty years earlier populist Tom Watson had complained, "It takes these city fellows to draw ideal pictures of farm life—pictures which are no more true to real life than a Fashion Plate is to an actual man or woman."<sup>79</sup> Not to worry, Tom: The slickers soon realized that the valley of democracy was filled with morons. Progress kicked small farmers into towns that more often resembled Winesburg than Friendship Village. However unwittingly—Edgar Lee Masters, after all, was a Jeffersonian, and Mencken an anarchist—the debunkers of rural virtue blazed a path for the Remolders.

With deliberate speed, the Grange and the American Farm Bureau Federation rolled into opposition. Amendment foes had found their hook: defense of the forty-acre family farm. Congressman Fritz G. Lanham (D-Tex.) brought down the House with his mock psalm:

Consider the Federal agent in the field; he toils not, nor does he spin; and yet I say unto you that even Solomon in all his populous household was not arrayed with powers like one of these.

Children, obey your agents from Washington, for this is right.

Honor thy father and thy mother, for the Government has created them but a little lower than the Federal agent. Love, honor, and disobey them.

Whatsoever thy hand findeth to do, tell it to thy father and mother and let them do it.

Six days shalt thou do all thy rest, and on the seventh day thy parents shall rest with thee.

Go to the bureau officer, thou sluggard; consider his ways and be idle.

Toil, thou farmer's wife; thou shalt have no servant in thy house, nor let thy children help thee.

And all thy children shall be taught of the Federal agent, and great shall be the peace of thy children.

Thy children shall rise up and call the Federal agent blessed.<sup>80</sup>

How odd, how unsettling for the modern reader, in this age of the DEA and the IRS, to read of the deep-seated antipathy that conservatives of the

1920s had for Federal officers. Some warned of "house-to-house and farm-to-farm searches for youthful workers."<sup>81</sup> The *Woman Patriot* prevised "vicious espionage and invasion of the homes of the people in violation of Article IV of the Bill of Rights by swarms of bureaucrats from Washington with inquisitorial powers. It is absurd to pretend that these salaried professional humanitarians would have the interest of the youth of distant states as much at heart as the mothers who bore them or the communities in which they live."<sup>82</sup> But burlesques and dire prophecies were—yet—no match for the child savers. The House approved the Child Labor Amendment on April 26, 1924, by a vote of 297 to 69.

## X

The outstanding Senate foe of the amendment was James Wadsworth (R-N.Y.). Although detested by many of their neighbors as fox-hunting twits who abused the hired help in phony accents, the Wadsworths, like many old families, had an admirable sense of civic-mindedness, an almost proprietary feeling toward the Republic. The old America, Wadsworth thought, was slipping away; his revered Constitution had become the instrument of wrenching social change. "We are whittling away at the structure established by the fathers," the Senator lamented. "If we whittle long enough, we will destroy it."<sup>84</sup> Wadsworth had special loathing for uplifters and their constitutional amendments. He was New York's most vocal Wet; he and his wife, the daughter of John Hay, were the country's leading anti-women's suffrage couple. Now came yet another amendment striking at local rule—which in the Genesee Valley meant Wadsworth Rule.<sup>85</sup>

Although his motley Senate coalition was defeated on June 2, 1924, by 61 to 23, James Wadsworth introduced an issue that would, in six months time, scuttle the Child Labor Amendment. Congress, he predicted, would someday legislate "that no person of seventeen years of age . . . shall be permitted to do a certain kind of work unless that person had a certain kind of education; not only a certain amount of schooling but the *kind* of schooling."<sup>86</sup> American Catholicism awakened, as the Church was being besieged on several fronts. Prohibition was widely regarded as a swipe against "rum and romanism." The Ku Klux Klan, stressing anti-Catholicism, was enjoying a brief resurgence. New York Governor Al Smith had been denied the 1924 Democratic nomination for president partly on the papist question. His major opponent, William Gibbs McAdoo, was backed strongly by the Klan. Even more alarming, Oregon had effectively outlawed private

schools in a 1922 initiative. (The Oregon law, which required children between the ages of eight and sixteen to attend public schools, was struck down in 1925 by a unanimous Supreme Court in *Pierce v. Society of Sisters*.) A similar initiative was on the Michigan ballot in November 1924; anti-Catholics and Progressives had declared war on the parochial school.<sup>87</sup>

## XI

By the time the Child Labor Amendment was sent to the forty-eight states, a massive shift in popular sentiment was underway. The opposition had once consisted of mill owners and Southern politicians, whose valentines to the Anti-Saloon League made their orotund invocations of states rights seem like so much hot air. Now, as the amendment came before state legislatures, a fresh coalition assembled: the Catholic Church, farmers, anti-feminists, Northern Mugwumps (Senator Wadsworth, Nicholas Murray Butler, Elihu Root), and ordinary families afraid of the encroachment of the state and childless do-gooders.

Arkansas was the first state to ratify the amendment, in late June. After that, the deluge: State after state, including Progressive bastions, rejected the measure. In Georgia, where the repudiation was unanimous, State Representative McCorsey declared: "I don't want any more monkeying with the buzz-saw by that bunch in Washington. We don't mix nohow. We weren't born under the same regime and don't drink out of the same bottle."<sup>87</sup> The suspicion, as well, that Massachusetts manufacturers were behind the amendment, remained strong in the Confederacy. South Carolina's Senator Dial excoriated "the mill people of New England, who are jealous of the prosperity and progress the South has made."<sup>88</sup> Well, maybe. An Ohio state legislator named Robert Taft, for instance, supported the amendment "on the practical grounds that it would help Cincinnati industries meet unfair competition from other states."<sup>89</sup>

The amendment's backers were stunned. They had predicted swift ratification; *Survey* had foreseen only "the familiar bogeys . . . of states' rights, the Prohibition analogy, the grasping bureaucrats of Washington, [and] the sacred right of the seventeen-year-old farmer-boy to pick blueberries on the hill."<sup>90</sup>

How reasonable were the fears of the amendment's foes? How justified were their alarms?

Certainly the farmers had cause to worry. Children helping their parents in fields and barns must be rescued and spirited into schools, reformers

insisted; and if the local economy depended on their labor at harvest time, then perhaps the local economy ought to be modernized. A New Jersey cranberry bog owner's protests fell on deaf ears: "If man-made laws about when children must attend school are in conflict with God-made laws about when the crops shall ripen, then the laws of God must be obeyed."<sup>91</sup> The other, more speculative backroads fear, as expressed by the editors of *Power Farming*, was that the amendment would grant Congress "the power to forbid any farm boy from milking a cow or even driving in a cow from the pasture until he is eighteen years old. . . . It might and probably would be made illegal for sister Susie to wash a dish or sew on a button until after her eighteenth birthday."<sup>92</sup>

This was an exaggeration; even Edwin Markham saw nothing wrong with washing the dishes. (Hoeing was another matter.) But *Power Farming* was right: The amendment *did* grant that power—to a Congress that had so recently torn boys from their homes and communities and sent them across a vast ocean to die, or to return to a country in which bottles of beer were contraband. As New York attorney Austen F. Fox drily commented, "Granting power is not the best way to prevent its exercise."<sup>93</sup>

And what of the claims made by the *Woman Patriot* that governmental authority would supersede parental authority? That, as Senator James A. Reed (D-Mo.) feared, Congress would "trample upon the institution of the home; and establish an offensive and tyrannical socialism on the soil that was redeemed to freedom and that has been consecrated to individual liberty"?<sup>94</sup> Well, even moderate Raymond G. Fuller, NCLC research director, admitted:

If it is unsafe to leave children to the mercies of business for profit, so it is to leave their protection even to so great and beneficent a force in the life of mankind as parental love. . . . We must limit parental freedom as well as employers' freedom, but the main thing is to aid and strengthen the home—for the children's sake. The virtue of laws . . . is to make legal prohibitions and compulsions less and less necessary, through having promoted the intelligence of the makers of homes.<sup>95</sup>

Amendment advocates were determined to nurture some embryonic greatness. A popular theory was Government as Overparent. Denver Judge Ben Lindsey, coauthor of *Children in Bondage*, believed that "an economic earthquake has shaken the 'old home' to pieces. The foundations are crumbled, the walls are spread, the winds of the world blow through. . . .

The Nation, the State, the municipality, these have stepped in, assumed practical control of the family in its most intimate relations, and are over-parents."<sup>96</sup> Just how far this overparenting might go was unclear. Florence Kelley, Leninist *bete-noire* to the *Woman Patriot*, envisioned virtually no limits on the powers of the central authority. Suffragette Alice Paul, a marginal figure in this debate, insisted that "the state assume entire responsibility for the maintenance and education of children."<sup>97</sup>

Charlotte Perkins Gilman had predicted the family of the future in *The Home: Its Work and Influence* (1903). Decrying "the archaic cult of home-worship," Gilman urged housewives to turn over their two most time-consuming domestic duties (child rearing and cooking) to trained experts, versed in the advanced scientific thought of the age. Dinner would be taken in large communal eateries; infants would be cared for by professionals in nurseries. For too long American women had produced dyspepsia and spoiled brats; indeed, "that the care and education of children have developed at all is due to the intelligent efforts of doctors, nurses, [and] teachers." Home, in Gilman's view, stifled "social consciousness." There we become excessively attached to other members of the family, and disregard the outer world. "Christ rose above all family ties," she pointed out; oughtn't we be Christ-like?<sup>98</sup>

Once freed from the confinement of home, from the tedium of cooking and mothering, American women would take their rightful places in industrial society. Children, no longer dependent upon ignorant mamas lacking college degrees, would emerge "from the very lowest grade of private ownership into the safe, broad level of common citizenship. That which no million separate families could give their millions of separate children, the state can give."<sup>99</sup> In Gilman's view—largely shared by the Hull Housers who ran the Children's Bureau—the Federal government had not only the right, but the obligation, to intervene in family relations. And yes, if science determined that sewing buttons was bad for Susie, then Susie's mom must be prevented from passing on seamstress work to the poor girl.

## XII

The Child Labor Amendment met its Waterloo in Massachusetts, once thought to be its stronghold. Ratification there was expected: Massachusetts had been the first state to pass a strict child labor law; Bay State mill owners were at a competitive disadvantage with Southern employers; and Senators Walsh and Lodge—in fact, every candidate for a major office—endorsed

the amendment. In opposition was a Paddy-Brahmin united front. The Citizens' Committee to Protect Our Homes and Children, led by Harvard President A. Lawrence Lowell, warned of Congress interfering "in the discipline of every household. [It will] take from parents the right and duty to educate and guide their children."<sup>100</sup>

Cardinal William O'Connell and the Archdiocese of Boston mounted a vigorous (and, outside Massachusetts, widely denounced) campaign against the amendment. On three successive Sundays, priests inveighed against the amendment from the pulpit. It would unleash "swarms of paid Governmental workers through the country," one priest contended, "seeing that parents are complying with the bureau's ideas of bringing up their children, supervising their education . . . and interfering in the sacred rights of parents."<sup>101</sup> The Lutherans, if less powerful, were equally comminatory. The Lutheran Pastors of Boston declared: "We hold that the child belongs to the parents, not to the state. Any infringement of the fundamental rights of parents would be not only un-American, but also anti-Christian."<sup>102</sup>

The Child Labor Amendment died in Massachusetts on November 4, 1924, by a vote of 697,563 to 241,461. It was done in by Catholics and Mugwumps and farmers. That canniest of pols, Boston, Mayor James Curley, apostasized and presided over the amendment's last hurrah. The size of the defeat staggered observers, and the Massachusetts shot was heard 'round the country. Governor Al Smith, former champion of the amendment, backpedaled. When he proposed an advisory referendum for New York, Florence Kelley was furious. Convinced that working-class Catholics and the mossback cretins from Upstate would sink the measure, Kelley set out to collect the signatures of 100,000 "leading citizens," beginning with Mrs. John D. Rockefeller, Jr. The petition drive fizzled; no referendum was held, and New York never ratified. (Indeed, when the amendment drive was revived in the mid-1930s, Al Smith was among its loudest foes.)<sup>103</sup>

Florence Kelley's undemocratic folly was no aberration. Frustrated by the amendment's failure to excite enthusiasm outside of Hull House, reformers itched for an iron heel. Fumed Henry F. Pringle: "The fact of the matter is that I haven't much faith in the states. I don't think they are entitled to their 'rights' when they fail to exercise them."<sup>104</sup> Or as Raymond G. Fuller put it, "there is no democracy in permitting backward localities to use up childhood."<sup>105</sup>

By Christmas 1925, just four states—Arkansas, Arizona, California, and Wisconsin—had ratified the would-be Twentieth Amendment. Montana and Colorado later made it six, but twenty years of prologue had led to . . . a

roul. The amendment was killed, establishment historiography has it, by "reactionary religious elements and the rural and business interests."<sup>106</sup>

### XIII

The amendment was resuscitated in 1933. Swayed by the labor union argument that children were stealing scarce jobs from adults, fourteen states ratified the amendment in the New Deal's first year. (By 1933, however, every state had enacted a compulsory school attendance law covering youths up to the age of fourteen, so legislation was less necessary than before.) At the same time, under the National Recovery Act, the Roosevelt Administration was imposing a nationwide "code of competition" which forbade children under sixteen from working in any mining or manufacturing industry, and limited those between the ages of fourteen and sixteen to three-hour workdays between the morning and seven o'clock in the evening. More than 150,000 youngsters were thrown out of work, prompting NCLC general secretary Courtenay Dinwiddie to rhapsodize, "We have done more to eliminate child labor in the last three or four months than we were able to do in the preceding ten years."<sup>107</sup> Roosevelt announced "Child labor is abolished" in his 1934 State of the Union address, but the amendment trudged on, with four more states ratifying over the next two years.

The anti-amendment forces regrouped as well, led by the eminent quartet of Harvard president Lowell, Columbia University president Butler, ABA president Martin, and statesman Elihu Root, whose place in the Senate James Wadsworth had taken.<sup>109</sup> Martin, in a nationwide radio address, argued that under the amendment, "the children of the nation can be Russianized. . . . Military training can be made compulsory. . . . Congress shall acquire over children the primary power parents now have."<sup>110</sup> Amusingly, the newspapers, after ten years of flacking for the amendment, did a collective flip-flop. An NRA newspaper code had been adopted in February 1934: To combat the scourge of juvenile delinquency, paper boys in cities of 50,000 had to be at least fourteen, and in smaller towns at least twelve. Newsgirls were subjected to even stricter standards. Upon the promulgation of the NRA newsboy code, 60 papers that had championed the amendment as late as 1933 now gravely editorialized against it as subversive of all that is good and American.<sup>111</sup>

After the NRA was struck down by the Supreme Court in 1935, four more states ratified, bringing the total to twenty-eight. And there the drive stalled.

The Fair Labor Standards Act of 1938 included restrictions similar to those in the old Palmer Bill. When the FSLA was upheld by a chastened Court,

*Hammer v. Dagenhart* was laid to rest at last. The FSLA did, however, exempt children employed by their parents. The NCLC criticized this "loophole"<sup>112</sup> and Grace Abbott, erstwhile protector of the family farm, fretted that "agricultural work is not adequately controlled."<sup>113</sup> But the primary goals of the child savers had been achieved, and the amendment—eight states shy of enshrinement in the Constitution—was interred. "Finally," announced NCLC chairman Homer Folks, "in 1938, the long battle was won."<sup>114</sup>

#### XIV

As historian Richard B. Sherman has noted, "[t]he fight for the amendment scattered rather than consolidated . . . the old progressive coalition."<sup>115</sup> Nationalizers and centralizers split with anti-monopolists such as Senator Borah, who called the amendment "the most pronounced invasion of local self-government that has ever been proposed."<sup>116</sup> The rift presaged the breakup of the Progressive coalition in the late 1930s over the New Deal and U.S. involvement in World War II. With the Child Labor Amendment, the battle between partisans of the old republic and the *New Republic* was joined.

Industrial child labor was ended, but the sacred right of the seventeen-year-old to pick blueberries, at least on his own farm, remained intact. Those who would overrun the poor man's castle would later acquire many new weapons; but a Child Labor Amendment was not among them. Opposition to the amendment had united, in common—and successful—cause, an extraordinary coalition of rural Southern Protestants, Northern working-class Catholics, anti-feminists, localist Progressives, domestic manufacturers, farmers, and Mugwump wisemen. Together, they defeated a measure that had virtually the entire political establishment behind it.

A pity the coalition has never re-formed.

#### Notes

1. Quoted in Clarke A. Chambers, *Seedtime of Reform* (Minneapolis: University of Minnesota Press, 1963), pp. 45–46.
2. Claudius O. Johnson, *Borah of Idaho* (New York: Longmans, Green & Co., 1936), p. 188.
3. Quoted in Walter I. Trattner, *Crusade for the Children* (Chicago: Quadrangle, 1970), p. 199.
4. *Congressional Record*, May 31, 1924, p. 10,001.

5. Edwin Markham, Benjamin B. Lindsey, and George Creel, *Children in Bondage* (New York: Hearst's International Library, 1914), p. 41.
6. Quoted in Richard B. Sherman, "The Rejection of the Child Labor Amendment," *Mid-America*, January 1963, pp. 9-10.
7. Quoted in Grace Abbott, *The Child and the State*, vol. 1 (Chicago: University of Chicago Press, 1938), p. 277.
8. Quoted in John Spargo, *The Bitter Cry of the Children* (New York: Macmillan, 1906), p. 128.
9. Horatio Alger, *Ragged Dick* [1867] (New York: Macmillan, 1962), p. 46.
10. Alger, a benefactor of the Children's Aid Society, was no lackey of the Exploiters. He successfully lobbied the New York state legislature to criminalize the "padrone" system by which unscrupulous adults pimped out immigrant children. Horatio, alas, took too great a shine to boys: His pederasty got him booted out of his Unitarian ministry in Brewster, Mass., which is why he took up writing as a career. See Edwin P. Hoyt, *Horatio's Boys* (Radnor, Pa.: Chilton, 1974), pp. 4-6.
11. Elizabeth Stuart Phelps, *The Silent Partner* (Boston: James R. Osgood, 1871), p. 48.
12. Vernon Parrington, *Main Currents in American Thought*, vol. 3 (New York: Harcourt, Brace & Co., 1927) p. 61.
13. Phelps, *Silent Partner*, pp. 107-08.
14. In Katharine DuPre Lumpkin and Dorothy Wolff Douglas, *Child Workers in America* (New York: Robert M. McBride, 1937), p. 222.
15. Raymond G. Fuller, *Child Labor and the Constitution* (New York: Thomas Y. Crowell, 1923), pp. 37-38.
16. Hamlin Garland, *A Son of the Middle Border* (New York: P.F. Collier & Son, 1917), pp. 100-01.
17. Quoted in Fuller, *Child Labor*, p. 35.
18. Trattner, *Crusade for the Children*, p. 40.
19. Quoted in Stephen B. Wood, *Constitutional Politics in the Progressive Era* (Chicago: University of Chicago Press, 1968), p. 257.
20. *Congressional Record*, January 28, 1907, p. 1801.
21. Edward T. Devine, quoted in *Child Labor and Social Progress* (New York: National Child Labor Committee, 1908), p. 8. Senator Beveridge, the Teddy Roosevelt Progressive whose pet causes were child labor and imperialism, wailed that "whereas the children of the white working people of the South are going to the mill and to decay, the Negro children are going to school and improvement." Quoted in Markham et al., *Children in Bondage*, p. 332.
22. Edgar Gardner Murphy, *The Present South* (New York: Macmillan, 1904), p. 140.
23. Quoted in *Child Labor and Social Progress*, p. 70.
24. Murphy, *Present South*, p. 108.
25. *Congressional Record*, February 2, 1916, p. 2013.
26. Dorothy Dunbar Bromley, "The Newspapers and Child Labor," *Nation*, January 30, 1935, p. 131.
27. Markham et al., *Children in Bondage*, p. 226.
28. Spargo, *Bitter Cry*, p. 185.
29. Josephine Goldmark, "Street Labor and Juvenile Delinquency," *Political Science Quarterly*, September 1904, p. 424.

30. *Congressional Record*, January 28, 1907, p. 1800.
31. Albert Beveridge, introduction to Mrs. John Van Vorst, *The Cry of the Children* (New York: Moffat, Yard & Co., 1908), p. xv.
32. Murphy wrote: "The conditions of industry vary so greatly and so decisively from state to state and from locality to locality" that uniform laws were undesirable. The American Federation of Labor also opposed the Beveridge proposal. President Samuel Gompers feared "it would set a dangerous precedent and that further government interference in labor relations might follow." The union shortly thereafter reversed itself in the hope that barring child labor would drive up adult wages. See Murphy, *Present South*, p. 129, and *Crusade for the Children*, p. 89.
33. *Congressional Record*, January 8, 1912, p. 704.
34. *Ibid.*, p. 704.
35. *Congressional Record*, January 30, 1912, pp. 1526-27.
36. *Congressional Record*, January 8, 1912, pp. 704-05.
37. *Congressional Record*, January 31, 1912, pp. 1576-78.
38. Thomas Robinson Dawley, Jr., *The Child That Toileth Not* (New York: Gracia, 1912), pp. 7, 64, 30, 227, and 243.
39. In Abbott, *Child and the State*, pp. 477-78. See also William P. Few, "The Constructive Philanthropy of a Southern Cotton Mill," *South Atlantic Quarterly*, January 1909, pp. 82-90.
40. Julia Magruder, "The Child Labor Problem: Fact Versus Sentimentality," *North American Review*, October 1907, pp. 245 and 248-51.
41. Trattner, *Crusade for the Children*, p. 40.
42. Markham et al., *Children in Bondage*, p. 373.
43. Quoted in Victoria Byerly, *Hard Times Cotton Mill Girls* (Ithaca, N.Y.: ILR Press, 1986), p. 65.
44. Quoted in *Child Labor and Social Progress*, p. 27.
45. Quoted in Chambers, *Seedtime of Reform*, p. 38.
46. Lumpkin and Douglas, *Child Workers*, p. 225.
47. Trattner, *Crusade for the Children*, p. 154.
48. Quoted in Chambers, *Seedtime of Reform*, p. 47.
49. Markham et al., *Children in Bondage*, pp. 47 and 87.
50. *Ibid.*, pp. 58 and 66.
51. *Ibid.*, pp. 180-81. It is unknown just how many children helped with homework; in 1909, New York City's inspectors issued 11,162 tenement licenses. See Mary Van Kleeck, "Child Labor in Home Industries," *Annals of the American Academy of Political and Social Science*, March 1910, pp. 145-49. Some early opponents of homework argued from a pro-family position, which their modern heirs have abandoned. For a provocative interpretation of the homework debate, then and now, see Allan C. Carlson, *Family Questions* (New Brunswick, N.J.: Transaction, 1988), pp. 139-54.
52. Taft was the last president to wholeheartedly oppose federal legislation. In prose as sluggish as his gait, he wrote: "It seeks indirectly and by duress, to compel the states to pass a certain kind of legislation that is completely within their discretion to enact or not. Child labor in the state of the shipment has no legitimate or germane relation

to the interstate commerce of which the goods thus made are to form a part, to its character or to its effect. Such an attempt of Congress to use its power of regulating such commerce to suppress the use of child labor in the State of shipment would be a clear usurpation of that State's rights." William Howard Taft, *Popular Government* (New Haven: Yale University Press, 1913), pp. 142–43.

In his 1908 treatise *Constitutional Government*, Wilson wrote: "The proposed federal . . . regulation of child labor affords a striking example. If the power to regulate commerce between the states can be stretched to include the regulation of labor in mills and factories, it can be made to embrace every particular of the industrial organization and action of the country. The only limitations Congress would observe, should the Supreme Court assent to such obviously absurd extravagancies of interpretation, would be the limitations of opinion and circumstance." Woodrow Wilson, *Constitutional Government* (New York: Columbia University Press, 1908), p. 179.

53. Arthur S. Link, *Wilson: The New Freedom* (Princeton: Princeton University Press, 1956), p. 257.
54. *Congressional Record*, February 2, 1916, pp. 2008 and 2010.
55. *Congressional Record*, August 8, 1916, p. 12,294.
56. Quoted in Trattner, *Crusade for the Children*, p. 131.
57. Joseph E. McLean, *William Rufus Day: Supreme Court Judge from Ohio* (Baltimore: Johns Hopkins University Press, 1946), p. 17; Trattner, *Crusade for the Children*, p. 136. Day was that rarest D.C. specimen: a man of place in a high place. A village lawyer content in Ravenna and later Canton, Ohio, he was summoned to Washington in 1897 by his old friend William McKinley. He served with distinction as the in-house dove (McKinley's front-porch conscience?) during the Spanish-American War. Roosevelt appointed "Good" Day to the Supreme Court in 1902. On the bench, Day viewed "with distrust extreme concentrations of political or economic power"; though a strict constructionist of national powers, he allowed the states wide berths in the disciplining of monopolists and malefactors.
- Lowell Mellett of Scripps-Howard tracked down Reuben Dagenhart in 1923, on the eve of the amendment debate. Twenty years old, downcast, and living in Charlotte, Reuben felt no gratitude toward the court or his lawyers. "I don't see that I got any benefit. I guess I'd been a lot better off if they hadn't won it. Look at me! A hundred and five pounds, a grown man and no education. I may be mistaken, but I think the years I've put in in the cotton mills have stunted my growth. They kept me from getting any schooling." Quoted in Abbott, *Child and the State*, p. 516.
58. Quoted in Wood, *Constitutional Politics in the Progressive Era*, p. 188.
59. *Ibid.*, p. 291.
60. Quoted in Trattner, *Crusade for the Children*, p. 171.
61. Abbott, *Child and the State*, p. 464. Even the cautious NCLC had jettisoned its incrementalist, Southern-sensitive strategy, causing new chairman David Franklin Houston, a Texan who was President Wilson's Secretary of Agriculture, to jump ship in 1923.
62. Fuller, *Child Labor*, pp. 7–8. The 1920 U.S. Census discovered 1.06 million children between the ages of ten and fifteen who were "gainfully employed" or who "con-

tributed materially" to the family income. (The total population for that age group was 12.5 million.) Of this million plus, 714,000 were boys and 346,000 girls. More than 60 percent—647,000—were engaged in agriculture. The rest worked as or in:

|                                        |         | % of total employed |
|----------------------------------------|---------|---------------------|
| Messenger & office boys/girls          | 48,028  | 11.6                |
| Servants/waiters                       | 41,586  | 10.1                |
| Sales                                  | 30,370  | 7.3                 |
| Clerks                                 | 22,521  | 5.4                 |
| Cotton-mill operatives                 | 21,875  | 5.3                 |
| Newsboys                               | 20,706  | 5.0                 |
| Iron & steel industry operatives       | 12,904  | 3.1                 |
| Clothing industry operatives           | 11,757  | 2.8                 |
| Lumber & furniture industry operatives | 10,585  | 2.6                 |
| Silk-mill operatives                   | 10,023  | 2.4                 |
| Shoe factory operatives                | 7,545   | 1.8                 |
| Woolen-worsted machine operatives      | 7,077   | 1.7                 |
| Coal mine operatives                   | 5,850   | 1.4                 |
| All other occupations                  | 162,722 | 39.3                |

Resolution sponsor Israel Foster offered an expansive definition of child labor: "the work of children under conditions that interfere with the physical development, education, and opportunity for recreation which children require." How can the arduous labor on a small farm *not* "interfere" with "the opportunity for recreation"? *Congressional Record*, April 25, 1924, p. 7177.

63. *The Memoirs of Herbert Hoover* (New York: Macmillan, 1951), p. 102.
64. House Document 497, 68th Congress, 2nd Session, Judiciary Committee Hearings on the Proposed Child Labor Amendment to the Constitution of the United States, p. 160.
65. *Ibid.*, p. 161.
66. The Maryland witnesses, citizens of a state in which Governor Albert Ritchie and H.L. Mencken were very much in the bibulous mainstream, were soberly lectured by Rep. Earl Michener (R-Mich.) of the Judiciary Committee: "Maryland . . . made the same protest against that constitutional amendment [the Eighteenth] because it was doing something for Maryland that Maryland did not want done." House Document 497, p. 134. One poor fellow, having watched every previous amendment foe be rebuked as Wet, began his testimony, "I have never drunk a drop of beer, whisky, or wine in my life." *Ibid.*, p. 110.
67. To a lesser extent, ignorant immigrant men—Catholics and Jews and Italians and bohunks—were used as an argument for the Nineteenth Amendment. See Murray N. Rothbard, "The Progressive Era and the Family," in Joseph R. Peden and Fred R. Glahe, eds., *The American Family and the State* (San Francisco: Pacific Institute for Public Policy Research, 1986), esp. pp. 122–27.
68. House Document 497, p. 104.
69. Clarence E. Martin, "Shall Americanism Remain?" *Commonweal*, April 13, 1934, p. 649.

70. Marcet Haldeman-Julius, *Jane Addams As I Knew Her* (Girard, Kans.: Julius Publications, 1936), p. 3.
  71. Quoted in the *Congressional Record*, February 2, 1916, p. 2025.
  72. House Document 497, p. 159.
  73. Lumpkin and Douglas, *Child Workers*, p. 237.
  74. Quoted in Elizabeth Frazer, "Children and Work," *Saturday Evening Post*, April 4, 1925, p. 147.
  75. House Document, 497, pp. 159–60.
  76. *Congressional Record*, May 31, 1924, p. 9995.
  77. Owen P. Lovejoy, "Helping the Farmer Through his Children," *Annals of the American Academy of Political and Social Science*, November 1921, p. 149; *Congressional Record*, April 25, 1924, p. 7178.
  78. Quoted in Fuller, *Child Labor*, p. 41.
  79. Quoted in C. Vann Woodward, *Tom Watson: Agrarian Rebel* (New York: Macmillan, 1938), p. 127.
  80. *Congressional Record*, April 25, 1924, p. 7199. Lanham was one of the chamber's finer wits. He imagined a day when "above the fireplace, where used to hang the old familiar motto, 'What is home without a mother?' is another in its stead, which reads, 'What is home without a Federal agent?' and over the door [hangs] . . . another prayerful one, 'Bureau officer, bless our home.'" *Ibid.*, p. 7198.
  81. *Congressional Record*, May 31, 1924, p. 9976.
  82. *Ibid.*, p. 9963. There were still localists around; their case was nicely put by Missouri Congressman Harry B. Hawes: "We do not want men and women from outside of Missouri, who do not live there, who have no interests there, no local reputation, to be sent to our state to direct or regulate matters that are of purely local concern." *Congressional Record*, April 25, 1924, p. 7197.
- Cant dominated the debate, though wit made an occasional cameo. When Minnesota Rep. Oscar J. Larson asked John J. McSwain, "Does not the gentleman regard the children of the Nation as its most valuable resource?" the South Carolinian snorted, "Yes; but the children, if they are raised under a Prussianized system of submission to drill-sergeant methods of Federal control, will be of no value to America, I do not care how flushed their cheeks or how fat their forms." *Ibid.*, p. 7190. At least one Congressman dished out a heaping portion of apple pie. Millard E. Tydings (of Maryland, natch) asked plaintively, "Have we lost faith in the mothers of America—the mothers of the men who crossed the Alleghanies, settled the Western prairies, and bore the boys who fought the Revolutionary, Civil, and World Wars? Shame on us. No greater insult could be hurled at womanhood, sitting in the sacredness of her home, be it palace or thatched hovel, than to place over her these Federal agents." *Congressional Record*, April 26, 1924, p. 7305.
84. *Congressional Record*, May 29, 1924, p. 9859. The *Woman Patriot* was partly subsidized by Senator James and Alice Hay Wadsworth, who had previously bankrolled the National Association Opposed to Woman Suffrage. See Jane Jerome Camhi, *Women Against Women: American Anti-Suffragism, 1880–1920*, unpublished Ph.D. diss., Tufts University, 1973, p. 156.

85. The extent to which both friends and foes of the Child Labor Amendment saw it as of a piece with its predecessor amendments is indicated by Montana Senator Thomas Walsh, who dismissed Nicholas Murray Butler as "a stubborn reactionary, who has never become reconciled to the adoption of the Eighteenth Amendment, and who lent no aid to, if he did not actually oppose, both the Sixteenth and the Seventeenth." Quoted in Abbott, *Child and the State*, p. 553.
86. *Congressional Record*, May 29, 1924, p. 9863.
87. Quoted in Sherman, "Rejection of the Child Labor Amendment," p. 7.
88. *Congressional Record*, June 2, 1924, p. 10,118.
89. Quoted in James T. Patterson, *Mr. Republican* (Boston: Houghton Mifflin, 1972), p. 100.
90. Quoted in Trattner, *Crusade for the Children*, p. 282.
91. *Ibid.*, p. 150.
92. *Ibid.*, p. 284.
93. House Document 497, p. 84.
94. *Congressional Record*, June 2, 1924, p. 10,091.
95. Fuller, *Child Labor*, pp. 24-25.
96. *Congressional Record*, May 31, 1924, p. 9969.
97. Quoted in *ibid.*, p. 9972. Maryland Congressman John Philip Hull saw where all this was leading: "If you pass this Child Labor Amendment, you can not consistently refuse to pass a marriage and divorce amendment, placing under the charge of the Federal government the closest and most fundamental relations of the home and of married life." *Congressional Record*, April 25, 1924, p. 7186. Bentley W. Warren made the same point in an influential essay, "Destroying Our 'Indestructible States,'" *Atlantic Monthly*, March 1924, pp. 370-78.
98. Charlotte Perkins Gilman, *The Home: Its Work and Influence* (New York: McClure, Phillips & Co., 1903), pp. 313 and 59-60.
99. *Ibid.*, p. 335.
100. Quoted in W.A. Robinson, "Child Labor Amendment in Massachusetts," *American Political Science Review*, February 1925, p. 71.
101. Quoted in *ibid.*, p. 71.
102. Quoted in Lumpkin and Douglas, *Child Workers*, p. 221. Lutherans were decisive in defeating the measure in Nebraska and Missouri. While Oregon was trying to shut down Catholic schools, Nebraska was prohibiting the teaching of any foreign language (read: German) to elementary students and the teaching in any foreign language to students of all ages. The Nebraska law was struck down by the Supreme Court in *Meyer v. State of Nebraska*, 1923.
103. On Kelley's headstrong pursuit of plutocrat signatures see Josephine Goldmark, *Impatient Crusader* (Urbana, Ill.: University of Illinois Press, 1953), pp. 118-19.
104. Quoted in Chambers, *Seedtime of Reform*, p. 45.
105. Fuller, *Child Labor*, p. 248.
106. Trattner, *Crusade for the Children*, p. 178.
107. Quoted in *ibid.*, p. 193.
108. Quoted in *ibid.*, p. 198.
109. Root had also been an active Wet, inspiring the witticism that Hires Root Beer had been renamed Beer Hires Root.

110. Martin, "Shall Americanism Remain?" p. 650.
111. See Bromley, "Newspapers and Child Labor," p. 132. The most shameless volte-face was done by the *Chicago Tribune*, whose co-owner Medill McCormick had sponsored the amendment in the Senate.
112. Quoted in Trattner, *Crusade for the Children*, p. 204.
113. Abbott, *Child and the State*, p. 471.
114. *The Long Road: 40th Anniversary Report of The NCLC* (New York: National Child Labor Committee, 1944), p. 7.
115. Sherman, "Rejection of the Child Labor Amendment," p. 15.
116. Quoted in Johnson, *Borah of Idaho*, p. 188.