authorized to deal. The course of decision in this Court exhibits a firm adherence to these principles."

It is, therefore, submitted that, if the proposed Federal child-labor amendment were every duly ratified, and Congress thereupon enacted a statute prohibiting the labor of persons under 18 years of age, whether in the home, on the home farm, or otherwise, such a statute would be constitutional and valid, and would be due process of law under the fifth amendment, in view of the evidence as to the broad intent of the framers of the amendment contained in the Congressional Record, of the grounds pressed upon Congress in 1924, and of the express and clearly plain and unambiguous grant of power not only to limit and regulate, but to prohibit such labor.

THE PROPOSED CHILD-LABOR AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

[Joint hearing on the question of ratification before the judiciary committees of the senate and assembly of the Legislature of the State of New York, in the senate chamber at Albany, on Wednesday, Jan. 23, 1935]

(Remarks by William D. Guthrie, chairman special committee of the American Bar Association, appointed to present to the legislatures of the several States the views of the association in opposition to ratification)

Gentlemen of the judiciary committees of the senate and assembly, the American Bar Association at its annual meeting in 1933 adopted a 'resolution in which it declared that " the proposed child-labor amendment to the Constitution of the United States should be actively opposed as an unwarranted invasion by the Federal Government of a field in which the rights of the individual States and of the family are and should remain paramount " ; and at the annual meeting in 1934 it adopted a further resolution directing that a special committee of its members be appointed by the President to present to the legislatures of the several States the views of the association in opposition to ratification. A committee of five members was thereupon appointed, and I was named its New York representative and its chairman. It is as the spokesman of that committee of the American Bar Association that I am now appearing before you.

After thorough study of all the pertinent questions of constitutional history, law, and practice arising under the proposed amendment, this special committee made its report, which was published in the January number of the Journal of the American Bar Association, and copies thereof have been sent to all the members of the legislature of this state and otherwise widely distributed. I urge its candid consideration and reading and the study of the authorities it cites.

The concurrent resolution before you presents the exceptionally, if not unprecedently, important question whether or not this proposed amendment to the Constitution of the United States should be now ratified by the legislature of the State of New York notwithstanding the lapse of more than 10 years and 7 months since its proposal by Congress on June 2, 1924, and its rejection 10 years ago by both branches of the legislature in 13 States within 9 months after its proposal by Congress and in 34 States by one or both branches within 11 months, and notwithstanding the fundamental change which it would bring about in our Federal system and in our heretofore recognized and cherished political principles of State rights, home rule, and local self-government.

The proposed amendment in our judgment is the most far-reaching amendment that has ever been proposed by Congress insofar as the personal rights, liberties, and privileges of our people are concerned. When it was emphatically and overwhelmingly rejected 10 years ago, this view was generally appreciated, and public opinion was then fully advised as to its true scope, intent, and purpose.

Although the wording of the proposed amendment may be familiar to you all, it will, nevertheless, be as well to recall it again at this point in order to emphasize once more its exact language, which unfortunately is constantly being disregarded or misrepresented by advocates of ratification. It has no title, and the word " child " is not mentioned therein. Indeed, it is a misnomer to call it a child-labor amendment at all, when it was intended to operate and would

operate mostly with regard to the millions of persons throughout the United States who are over 14 and under 18 years of age and who are conceded to be no longer children but youths, whether male or female. The language is as follows :

" 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."

This language is certainly plain and unambiguous, and, to repeat, the terms " child " and " child labor " are not mentioned therein, obviously because it was to include and cover persons over 14 and under 18 who, it is well established, are not legally speaking children, Thus, it is the " labor " of all persons under 18 years of age that is to be limited, regulated, and prohibited, without any limitation or qualification whatever, and not " labor for hire " or " child labor " as those terms are generally understood and employed in the phraseology of statutes, but clearly and indisputably labor of every nature and kind. If you will consult any English dictionary, or any law dictionary, or Corpus Juris, you will find quite conclusively that the word " labor " means physical or mental work, physical or mental toil, physical or mental exertion of any kind, and whether for pay or without pay.

You are, therefore, now called upon to determine whether the New York Legislature will vote to ratify this proposed amendment to the Constitution of the United States, and thereby transfer from the State to the Congress and from home rule and local self-government here to the Government at Washington and its bureaucracies, the far-reaching and vitally important " power to limit, regulatc, and prohibit the labor of persons under eighteen years of age " residing in our State, and thereby authorize the suspension of the operation of any, and it may be all, of our excellent and beneficent child labor State laws as may be necessary to give effect to legislation enacted by Congress. In other words, the proposition before you and your present duty and responsibility involve vitally the future welfare and practical control of all the children and youths of this State under 18 years of age, that is to say, of about 5,000,000 of our inhabitants, of whom about 750,000 are over 14 and under 18 years of age; in other words, who are 15, 16, and 17 years of age. The subject is so important, the consequences would be so momentous, and the problems it would create so complex, that I cannot possibly deal with them adequately even in the liberal time you are courteously according to me. Hence, we must rely in great measure upon your perusal, study, and due consideration of the printed matter we have submitted.

The question that arises at the threshold of the argument is whether or not, after a delay of nearly 11 years and its overwhelming rejection meanwhile by public opinion and forty-odd State legislatures, this proposed amendnient is, nevertheless. now still pending for ratification. You have heard read today the opinion of former Chief Judge Hiscock of the New York of Appeals that it is not still pending for ratification. In the case of *Dillon v. Gloss, 256* U. S. 368, decided in May 3.921, which decision has never since been questioned or limited in any way whatever, the Supreme Court of the United States declared that an amendment to the Constitution of the United States must be ratified within a reasonable time. The special committee's report discusses this point at length, quotes fully from the decision of the Supreme Court, and expresses the opinion that more than a reasonable time has elapsed since June 2, 1924, and since the rejection of the amendment by 34 States as early as February 1925.

The special committee further points out in its report that, in view of this long interval and these prior rejections, the preferable course in 1933 and 1934 would have been to apply to Congress, to the end that, if Congress should then still " deem it necessary ", as expressly required by article V of the Constitution of the United States, the amendment might be " a second time proposed by Congress." This was pointed out by the Supreme Court in *Dillon v. Gloss, to* be manifestly " the better conclusion." Had this course been followed, the amendment could have been modified in its language so as to make it conform to the more reasonable and very limited extent and purpose now being professed or represented by its advocates and propagandists as its true purpose and intent, and so as not to transfer to Congress such sweeping and all-inclusive power as the proposed amendment now clearly provides.

The reason why. this obviously preferable, reasonable; fair, and common-sense course was not pursued undoubtedly was that it was considered unlikely that;

Congress would be willing to propose even a modified and restricted amendment in view of the emphatic and overwhelming disapproval and rejection of the amenclment in 1925. It may be that it hncl learned this lesson as to the public opinion of the country. Resource was, therefore, had to the plan of attempting to resurrect-that is the very term used by the Supreme Court-to resurrect this dead amendment, and endeavor to reverse, circumvent, and overthrow the prior public opinion, judgment, and action of 40 State legislatures.

Thereupon, in 1933, unexpectedly and certainly before it was publicly disclosed or generally known that any such over-smart scheme was on foot, votes of ratification were obtained from 16 State legislatures. However, as soon as the opposition realized what was being done and the bodies that clefented the amendment 10 years ago could be reorganized, there were no further ratifications, but, on the contrary, rejections in every case where the amenclment came to a vote in any legislature or committee thereof. There were no ratifications, but many rejections, in 1934.

The American Bar Association has long been opposed and is now emphatically opposed to any injurious labor by young children, or their working for hire in mines, factories, mills, or other objectionable and injurious occupations. It has prepared and has been urging a uniform State law. to regulate the subject. All the States, however, have their own distinct child-labor laws, adequately enforced in most of the States, and most of them have heretofore wisely preferred to retain power with respect to this branch of home rule and local self-government and the protection of their own children. The association is convinced that the regulation of child labor is now, as it has been for many years, a matter of vital importance, but that such regulation is within the domain of the States as essentially a matter of home rule and local self-government, and that child-labor laws should be enforced and administered by local resident officers, known locally, acquainted with local conditions, subject to local control, and accountable and responsible as such to the State, and not to bureaucrats in Washington. The association is now actively opposing the ratification of the proposed amendment solely because, to repeat the language of its resolution adopted at its annual meeting in 1933, it is convinced that it would constitute, if ratified, " an unwarranted invasion by the Federal Government of a field in which the rights of the individual States and the family are and should remain paramount."

Let us now analyze the language of this proposed amendment. It would not only authorize Congress to limit and regulate the labor of our children and youths but to prohibit any such labor. It would patently confer upon Congress a power that could reach into every home where there were boys and girls under IS, and it would be a power of investigation and supervision that would clearly authorize invasion of the privacy of the home by Federal inspectors, investigators, or, to use the current and true term, " snoopers." It would unavoidably tend to undermine and impair the authority, control, and duty of patents. It would, in the language of Chief Justice Marshall, be a constitutional power that could " be exercised to its utmost extent and at the will of those in whose hands it is placed." This effect of a constitutional provision has been the settled rule of constitutional law for more than a century, and it is challenged now solely by the advocates and propagandists of ratification of this amendment, who are advancing the extreme and plainly untenable proposition that although Congress would be granted the express power to prohibit, in addition to the power to limit and regulate, nevertheless, under some novel and heretofore unimagined and unknown construction of the due-process-of-law clause contained in the fifth amendment or of the clause reserving to the States or to the people the powers not delegated to the United States contained in the tenth amendment, Congress could only prohibit to a reasonable and limited extent, and that the Supreme Court would have power to curb Congress in this regard. You are in fact and effect being told that an act of Congress prohibiting " the labor of persons under eighteen years of age ", in the identical words of this amendment and its express grant of very power, would not be due process of law, and that it would, forsooth, be void on the ground. that it was an attempt to exercise a power not delegated to the Unitecl States. And this, too, in the teeth of the fact, to repeat, that Congress would be expressly and unqualifiedly empowered by the amendment, not only to limit and regulate but to " prohibit the labor of persons under eighteen years of age."

The framers of the proposed amendment would accept no limitation whatsoever upon the power they were seeking. They substituted the word " labor " for the word " employment " because, as they told Congress, the word employ-

ment might be held to imply " hired for pay " ; and they wanted, as the Congressional Record proves, to reach the children and youths who work or do chores in the home or on the home farm without pay. The Congressional Record demonstrates that every reasonable and provident limitation moved in 1924 was intransigently rejected. Several amendments were proposed and rejected which would have expressly excluded any power in Congress over persons doing work or chores in the home or on the home farm. The fanatical representatives of the Labor Department, however, would allow no qualification or limitation whatever, and declared that they " would make no exception at all." A substitute was moved but rejected which would have confined the power of Congress to labor in mines, quarries, mills, canneries, workshops, factories, or manufacturing establishments of persons under 18 years of age and of women, but this likewise was rejected. In a word, the Labor Department would accept no limitation whatever upon its desired, all-inclusive, and far-reaching power and attendant political patronage.

The newspapers have advised us that the New York League of Women Voters has issued a public statement, preliminary to their appearing on this hearing, in which they challenge the construction that Congress would have power to limit, regulate, or prohibit labor in or about the home or home farm. They assert in this statement, and perhaps will now repeat before you, that the term " child labor " has an absolute technical meaning, and they inform or admonish you that " the courts interpret laws according to the meaning the words carry in current usage." " Child labor ", they proceed to tell you, " means the work of employed children " ; and they declare that " it does not mean and never has meant the work of children in or about their home or in school." I venture to assert quite categorically and positively that there is no precedent or authority or decision anywhere that defines " child labor " as " the labor of persons under eighteen years of age ", although there has long been a current usage to use the term " child labor " in referring generically to the labor of children under 14 in mines, mills, factories, etc.

These ladies completely overlooked the fact that the amendment does not contain any such term as " child labor " and does not even mention the word " child " at all, whether in title or body. This, of course, would have been readily obvious to them if they had only taken the pains to read the very brief two sentences of this proposed constitutional amendment to the Constitution of the United States concerning which they were about to memorialize, aclmonish, and instruct the New York Legislature. They assert that " child labor means the work of employed children." Here, again, had they only taken the pains to examine the Congressional Recorcl, or even the published report of the special committee of the American Bar Association, they would have been advised of the fact that the amendment as first submitted to Congress contained the word " employment ", but that the word " labor " was substituted by advice of counsel because the word " employment " might be construed to imply " hired for pay ", and full jurisdiction was wanted over the work of children working in or about the home without pay.

This is but another striking example of the innumerable and regrettable instances of ignorance and inaccuracy of language and of the great difficulty of rationally discussing and opposing this amendment when its advocates depart from and misrepresent its actual language. Of course, everybody wants to protect children under 14, and the word " child " and the phrase " child labor " appeal strongly to the sympathy and emotions of all of us. But few even of the intelligentsia and the academicians who rush into print and seek to instruct the legislatures will take the pains even to read the two simple, plain, and unambiguous sentences of the amendment itself, and few, if indeed any of them, will take the trouble to consult the Congressional Record in order to ascertain the purpose actually understood and intended by Congress, and that, too, even when they are passing judgment and venturing. to instruct legislatures and public opinion upon the intent and scope of an amendment to the Constitution of the Unitecl States,

Again, and more pitiably, we have the case of the official spokesman of the National Child Labor Committee and its principal professional propagandist. He is a Mr. Dinwiddie; and he is constantly issuing equally inaccurate and misleading chilcl-labor literature. For example, in an article by him published this month in the Journal of the American Association of University Women, he makes the statement that " the amendment confers no power upon Congress to regulate the work children do about the home or farm for their parents." As a matter Of fact, Mr. Dinwiddie ought to be familiar by this time with the

proceedings in Congress published in the Congressional Record of 1924; his atention has been repeatedly called thereto, and he must know that it there conclusively appears that the word " labor " was substituted for the word " employment " because it was the deliberate and avowed intention to reach right into the home and home farm, where as the chief of the Children's Bureau in the Labor Department testified, " children often work with their parents without pay and hence are not on the pay roll." He knows, or ought to know, that she testified unqualifiedly upon this point, that " we (that is the Labor Department officials) feel that the word (that is, the word ' employment ') is a dangerous word to use ", and that it was therefore changed to " labor." He ought by this time also to know that the record further shows that she testified that the power over children the Labor Department was then seeking and reaching for would include "power to regulate labor upon the farms and in agriculture ", and that she then added emphatically, if not intransigently, that they " would make no exception at all." Yet, he continues day after day to misrepresent the amendment, and the self-styled National Committee permits him to continue his misleading methods.

So, similarly, in an article written by the Secretary of Labor, Miss Perkins, in support of ratification, published the clay before yesterday in The Forum, the Secretary cites a number of organizations that are supporting the amendnient ; but I venture to suggest quite confidently that probably their members have no more idea or knowledge of the wording and purport of the amendment itself than is disclosed in the plea of the League of Women Voters, or by Miss Perkins, or by Mr. Dinwidclie. Likewise, and even more regrettable and deplorable, this ignorance is probably true also of many of the distinguished citizens, lawyers, clergymen, labor or social-welfare leaders and the professional propagandists of the National Child Labor Committee, whose names are being paraded before you as sponsors of the amendment, It has long seemed to me truly discouraging that no pains are being taken by educated Americans, men and women, to acquaint themselves with the history and true meaning and intent of' this proposed amendment to the Constitution of the United States, but that they are willing blindly and ignorantly to sponsor its ratification simply because they heartily and emotionally sympathize with all movements purporting to be for the protection of little children, without reflecting upon or inquiring as to the effect otherwise of any particular proposal or measure.

I notice that Mayor La Guardia is present at this hearing; and, as he was a Member of Congress in 1924, he can probably give us first-hand and reliable information as to whether or not I am correct in what I am stating as to the proceedings in the House and the true scope, intent, and purpose of this amendment.

As he can readily recall and confirm, a number of amendments to or substitutes for the proposed child-labor amendment, in curtailment of the broad and all-inclusive language then before Congress, were moved in House and Senate, but that all were rejected. I shall quote only two of them, but they will serve to indicate the tenor of most of them.

Thus, for example, a motion was made that the following proviso or limitation be added to the amendment :

" *Provided,* That no law shall control the labor of any child in the hquse or business or on the premises connected therewith of the parent or parents."

This was rejected, and I am infornied, and Mayor La Guardia, can tell you whether or not the information be correct, that he was present when this motion was made and rejectecl. I am assuming that he votecl against it.

There was likewise moved the following equally reasonable and provident proviso :

" But no law enacted under this article shall affect in any way the labor of any child or children on the farm of the parent or parents."

I am also informecl, and Mayor La Guarclia will correct me if I am' in error, that he was present when this proviso was moved, and I am assuming that he votecl against it. He will tell us whether he did and, if so, why.

The record further shows that he was present on March 29, 1924, when the chairman of the Jucliciary Committee of the House, Mr. Graham, of Pennsylvania, a distinguished lawyer, presented the dissenting report of the minority of the committee, which report statecl, with regard to the then understanding of Congressmen as to the scope, the intent, and the purpose of the proposed amendment, as follows:

" It is possible to pass a law prohibiting the labor of all minors under IS years of age. If so, the States would have no jurisdiction whatever left upon. that subject. The New England farmer's boy could not pick blueberries on the hills ; the city schoolboy could not sell papers after school; the country boy, white or black, could not work in the cotton, wheat, or hay fields of the South or West; the college student even, if under 18, could not work to pay his way through college.

" It would not do to say that Congress would not pass such a drastic law. Perhaps it might not. We should not forget, however, that the sixteenth (income tax) amendment was adopted upon the supposedly unanswerable ground that without it the Nation in case of war or other public emergency would be without adequate means of raising revenue. Yet it was hardly ratified before Congress levied an income tax, and at a time when the country was at peace with the whole world. Almost before the eighteenth amendment took effect the extreme Volstead Law was enacted, which is so extreme that in the opinion of many thoughtful citizens its severity is responsible for the unsatisfactory enforcement of prohibition."

I am further informed that Congressman LaGuardia in no way challenged this statement as to the true construction of the proposed amendment, but acquiesced in it. I am also informed that on April 26, 1924, Congressman LaGuardia was present when Representative Ramseyer, of Iowa, who, by the way, voted in favor of the amendment, stated as follows :

" Mark right here, too, it does not say the ' employment ' of persons under 18 years of age, but the ' labor' of persons under 18 years of age. * * * A boy who is sent by his father to milk the cows, labors. Under the proposed amendment Congress will have power to regulate the labor of a boy under the direction of his father as well as the employment of the same boy when he works for a neighbor or stranger. * * * Congress will have the power to ' limit, regulate, and prohibit ' the labor of girls under 18 years of age in the home and of boys under 18 years of age on the farms. Gentlemen admit that the effect of the proposed amendment is just as I stated it."

So far as I can ascertain, and so far as the record shows, Congressman LaGuardia did not challenge the correctness of this statement.

The record likewise shows that Representative Crisp, of Georgia, on the same date, and I am informed in the presence of Congressman LaGuardia, stated, likewise unchallenged, as follows :

" This amendment does not limit or confine the power of Congress to legislate with respect to the work of persons under 18 in mines, factories, sweatshops, and other places injurious to moral or physical welfare, but it goes further—it is as wide open as the heavens-and provides authority to say they cannot work in the fields, stores, or in other wholesome and healthful occupations. Aye, it goes even further; it confers upon Congress the power to say that a girl under 18 cannot assist her own mother in doing the housework, cooking, or dish washing in her own home, and that a son of like age cannot help his father to work on a farm."

This gentlemen, is the story as contained in the official Congressional Record; it surely speaks for itself and convincingly as to the true scope, intent, and purpose of the proposed amendment and the then understanding and intention of Congress. Perhaps Mayor LaGuardia will now explain if all this accords with or warrants the contrary assertions and representations being made by many who are now the advocates and propagandists of ratification.

There is another and even more important aspect of the Secretary of Labor's article in The Forum to which I particularly desire. to call your attention and to analyze. In speaking of the amendment she states that the American Federation of Labor has always been one of its principal sponsors, and she emphasizes also the support of the labor groups. These statements are, of course, well known to be quite true, and they are ominous. As matter of fact, the principal sponsors and the most active, openly and behind the scenes, have long been the American Federation of Labor and the labor unions, It is in fact a part of their legislative program.

This calls for a consideration and an explanation of the real attitude of organized labor and an inquiry as to their underlying motive and purpose, not always professed. As matter of fact their purpose is not altruistic but in aid of their program and campaign to prevent competition by minors with adult labor, and to exclude all under 18 from employment in jobs that adult labor might fill. Bills are pending in Congress with this object in view in addition

to the Rich bill discussed in the report of the special committee of the American Bar Association.

In apparent support and aid of this program of organized labor, that is, to prohibit the competition of minors with adults, and to transfer the present jobs of all minors to adults, and perhaps in anticipation of the introduction of the bills I have mentioned, the Department of Labor in October 1933 issued and distributed among Members of Congress and others, an educational pamphlet entitled "Child Labor-Facts and Figures." I have a copy of this pamphlet here before me if you desire to peruse it.

In this official Government publication, it is stated that the country could easily spare the labor of all persons under IS years of age. I shall quote two or three sentences from page 20 of this official document, which reads as follows :

"Minors of 16 and 17 play a somewhat larger but still insignificant role in modern economic life. Like the younger group they are relatively more important in agriculture than in other pursuits. * * *

"It is apparent, therefore, that the portion of the population under 18 years of age could easily be spared from the Nation's productive forces, if it appeared socially desirable for them to engage in other activities or for the jobs to be held by. adults."

In the State of New York there are today, as I estimate, more than 750,000 minors who are 15, 16, and 1'7 years of age, and probably at least nine-tenths of these minors-who are certainly no longer children-are either supporting themselves or helping to support their families, or helping at home or on the home farm, as some of us had to do in our youth. There are many millions of such minors, 15, 16, and 17 years of age, in other States who are today likewise engaged in labor in order to help themselves and their families. Such labor, whether at home or on the home farm, or elsewhere, has always and justly been regarded as one of the great sources, if not the greatest source, of character upbuilding and implanting of a sense of duty and responsibility, as well as the source of our sturdy manhood and womanhood.

But what is to become of these minors, 15, 16, and 17 years of age, now working and helping to support their families, whether at home or elsewhere, to repeat the euphemism and the lulling anaesthetic phrase of the Labor Department, "if it appeared socially desirable for them to engage in other activities or for the jobs to be held by adults"? What are the other activities in mind? What other than to become unemployed, and frequently dependent upon charity, public or private, with all the demoralization and the undermining and sapping of character that idleness invariably brings about? Of course, the pay of the adults who are to take these jobs would have to be fixed or coerced by the unions themselves, and "the prevailing rate" laid down by them, and an enormous additional burden imposed upon our industry by the usual methods, and thereby further retard recovery.

The Labor Department since its foundation has been dominated by organized labor. In 22 years it has cost the taxpayers of the country over $264,000,000 to run this Department, and I am convinced that it has been run mainly in the interest and for the benefit of organized labor. At the present time, as never before, the domination of the American Federation .of Labor and the labor unions is in evidence everywhere in Washington and patently in the Labor Department. For example, now filling the important office of First Assistant Secretary of Labor is Edward Francis McGrady, at one time legislative agent and lobbyist at Washington for the Federation and recently one of its vice presidents. The Labor Department now has a bureaucracy or paid staff of over 5,000, and many of them, it is fair to assume, are ever anxious and ready to serve and promote the interests of the Federation and the labor unions. This amendment would call for many thousand more---and thus so much additional political patronage. Can there be any doubt that if tbis amendment should ever be ratified, organized labor, with the aid of the Labor Department, will try to make it appear to Congress that it has become "socially desirable" to prohibit the labor of all minors under IS years and for their "jobs to be held by adults" at wages fixed or imposed by the unions? Is not that the real purpose and the real policy of organized labor? Many of these American minors would then be turned adrift into the corrupting morass of idleness and dependence on public or private charity, and the Labor Department would then probably again certify to Congress its opinion that the interests of these millions of American minors were "insignificant" and their exclusion from labor "socially desirable!"

In the same article in The Forum by the Secretary of Labor, published as I have already said the day before yesterday, perhaps in view of this hearing, she further tells the public' that " penalties for violation of child-labor laws fall on the employers of children, not on their parents "; that " only places where children are, to use the census language, ' gainfully employed '-in other words, working for pay-come within the scope of a child-labor law ", and that " all Federal legislation, of course, is subject to review by the Supreme Court." As. matter of fact, as the Attorney General or any competent lawyer could readily have advised her had she only taken the trouble to ascertain the law, Congress could, if this amendment were ever ratified, impose on anyone, including parents, penalties of fine or imprisonment or both ; the amendment, as we have seen, would reach, and was intended to reach, children and minors not " gainfully employed ", who work or labor at home or on the home farm without pay, and' the Supreme Court could not grant any relief from the operation of a statutory prohibition expressly authorized by the language of the amendment no matter how ill advised or oppressive it might be, such for example, as a statutory prohibition of labor by any person under 18 years of age !

Another important and sound objection to the proposed amendment for your consideration is that the real " power to limit, regulate, and prohibit the labor of persons under IS years of age", would in all probability be exercised not by Congress, but by the bureaucracy of the Labor Department. Congress would undoubtedly find it impracticable to prescribe specific limitations, regulations, or prohibitions applicable to all kinds of labor. The differences, are infinite. It would inevitably be found or claimed to be necessary to prescribe a standard in general humanitarian phrases, such as prohibiting labor of persons under IS years of age that tended to injure their health or morals. or impair their education or future welfare, and then delegate to the Secretary of Labor or other bureaucrat the power to determine what kind or class or hours of labor would be injurious or prejudicial. Such a statute could' further provide that the decisions of these officials or bureaucrats should be conclusive on the facts and not subject to review in the courts on the facts so founcl. You will readily recall that, in the recent " hot-oil " decision by the Supreme Court, the statute was declared to be an unconstitutional delegation of legislative authority, only because no standard had been therein fixed by Congress to guide in its administration. The Supreme Court has upheld the constitutionality of such delegations of authority, or of so-called " administrative discretion ", to executive officers, departments, or commissions, empowering them to make findings, decisions, orders, rules, or regulations on the facts as ascertained by them, and although these findings or decisions, or whatever they may be labeled, would have the effect of laws, they would not be subject to review or redress in the courts on the facts. But they would, nevertheless, be enforcible criminally by fine or imprisonment or both.

Finally, it ought not to be necessary to say to you as legislators that the question before you is not whether the present Congress or the present Federal Administration can be trusted to be conservative, reasonable, and sympathetic in the exercise of this new grant of unlimited power, but solely what could be clone now or in the future under the plain and unambiguous language of the proposed amendment. No greater fallacy could be advanced than that we can rely on what we personally believe to be the benevolent or conservative and good intentions or professions of the present administration and its present Secretary of Labor. The only sound test and criterion in considering this amendment to the Constitution of the United States must be, what could be done under its plain and unambiguous terms ; not merely what is now likely or promised to us under and by the existing Federal administration and Congress, but at any time in the future. No one knows who are going to be in power in Washington even 3 years hence, and certainly not 10 or 20 years from now. Surely, the protection of the future welfare of our children is much too vitally important a duty to be dealt with by you on the notion that because you believe that well-intentioned, sympathetic? sentimental, or unselfish men and women happen at this moment to be in power in Washington, they will always. be there, and that their successors, will be reasonably, unselfishly, and benevolently inclined or self-restrained in the exercise of their unlimited power.

The **CHAIRMAN.** The committee will go into executive session. That closes the public hearings.

(Whereupon, at the hour of 10:35 a. m., the public hearing before the committee was closed.)