

~On Child Labor



INTEREST RECENTLY HAS BEEN REVIVED in the so-called Child Labor Amendment to the Constitution of

the United States. This amendment was submitted by Congress to the legislatures of the several states almost ten years ago. Fifteen states have ratified, and the original sponsors, encouraged by recent successes and by the publicity accompanying the exclusion of child labor under the National Recovery codes, are redoubling their efforts.

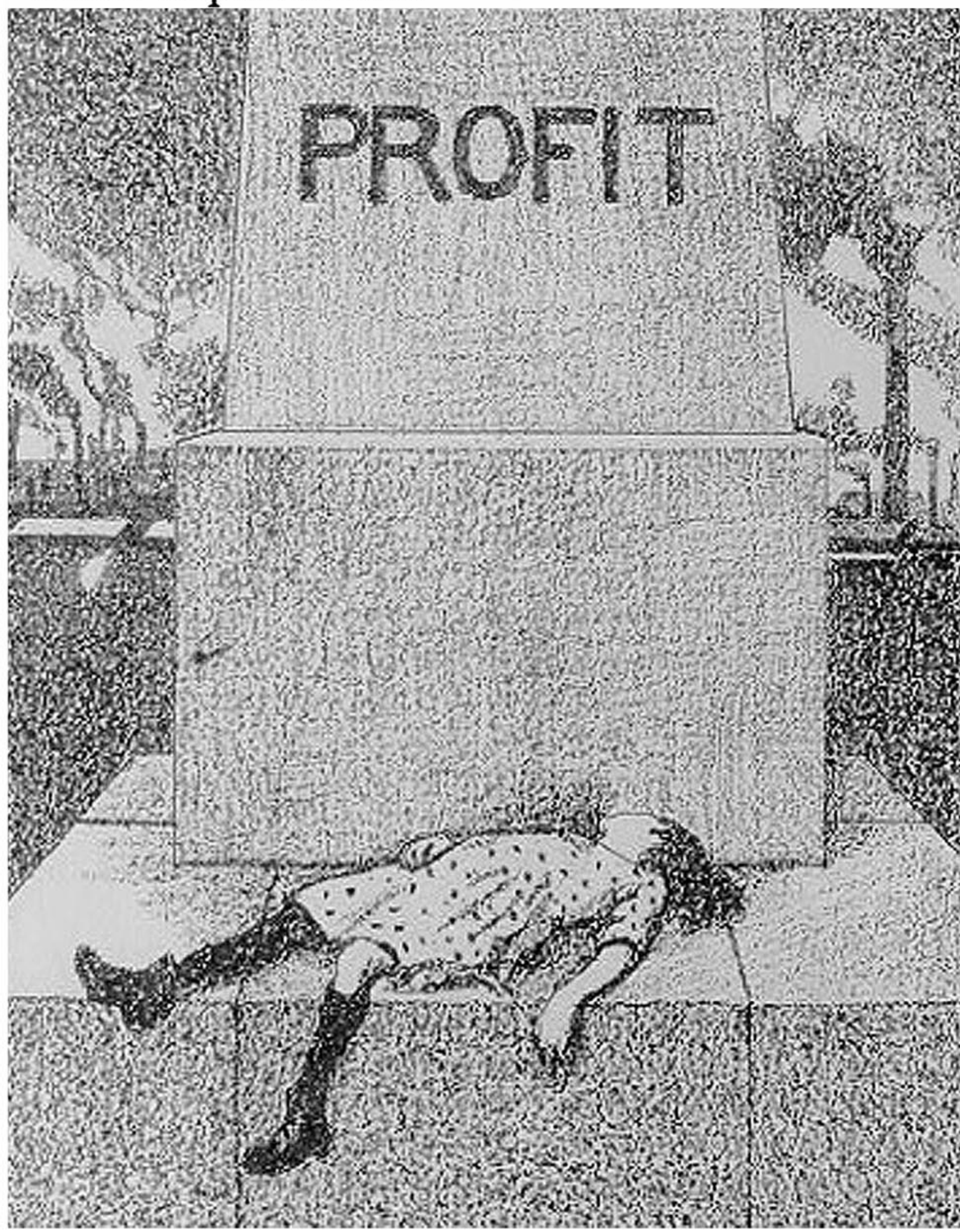
What are the arguments of the sponsors of the amendment? I believe they may be stated briefly and fairly as follows: Child labor is barbarous and un-American. It is a form of human slavery which should be dealt with by the people of the United States as a whole, in the same way as Negro bondage—that is, by a thunderous “No” ringing out from the Constitution itself. Moreover child labor permits the so-called backward states to flood their more progressive neighbors with the cheap products of the sweat and blood of those who should be at play or in the classroom. Finally, child labor cheats out of their jobs hundreds of thousands of adults who must support themselves and their families.

The arguments against the child labor amendment have not been so well publicized, and do not lend themselves so readily to campaign slogans and popular appeals, but they merit close study. In the first place, freedom of persons under eighteen from labor is not an absolute, basic human right. It is a relative matter of age, race, climate, family and economic conditions, and local sentiment. In other words, it is a matter to be settled by the conscience and common-sense of each community and not by Federal mandate.

Another powerful argument against the proposed constitutional Amendment is that it is vague and defective in form, and that its adoption would lead to uncertainty and confusion. Moreover, the process of the adoption of the Amendment is basically wrong. The Amendment does not merely prohibit child labor. It gives Congress “power to limit, regulate, and prohibit the labor of persons under eighteen years of age.” Who knows what kind of laws will be passed by Congress under the authority to limit and regulate?

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Opponents of the Amendment, furthermore, ask whether the Federal government can regulate child labor on a nation-wide basis through control of interstate commerce and Federal enforcement any more successfully than it enforced prohibition by the same methods. Federal regulation and enforcement mean huge expenditures, waste, graft, duplication of effort, bootlegging, and disrespect for all laws. Is it possible that a United States Attorney in a southern state will prosecute vigorously offences against a Federal child labor law and that a jury will convict, if local sentiment is against Federal interference? Is it conceivable that Federal control can be exercised otherwise than through a new army of inspectors, investigators, sleuths, bloodhounds and statisticians traveling about in trains, automobiles and on horseback, stopping at hotels, and bedevilling the work of labor departments?



Those in opposition also ask why, if the National Recovery Act has abolished child labor by fiat as the Recovery Administration claims, do we need a constitutional Amendment to accomplish what has already been done? They say that child labor has not been, and cannot be, abolished by fiat. The claim of the National Recovery Administration is simply a slogan in the Blue Eagle drive, which may, or may not, be justified by the end in view. The atmosphere at present is a good deal like that of a revival meeting. The industries em-

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ploying persons under eighteen years of age have "got religion" too fast. With the coming of the cold gray dawn of the morning after, the test of sincerity and sacrifice will begin. When that time comes, they say, it will be found that the same old patient struggle for state child labor laws and adequate state enforcement is the only answer.

Finally, hardheaded and realistic critics, who are sceptical of salvation by constitutional tinkering, charge that a Federal amendment is the last resort of ambitious reformers who have not the stamina to educate and persuade their opponents, but demand Federal coercion as the easy way to whip the objecting states into line.

After careful, and I may say almost prayerful, consideration of these arguments for and against the child labor amendment, I wish to be recorded in the negative. No one can accuse me of being callous or indifferent to the needs of children. I won my service stripes in the war against exploitation of children many years ago when there were few enthusiasts, and many powerful opponents. I find it difficult and distressing to oppose now my loyal comrades of these early battles. I have, however, learned in recent years the bitter lessons of the Eighteenth Amendment. I devoutly hope that the people of this country will not permit themselves to be deluded by sentiment, tricked by false logic, coerced by minorities, or stampeded by rhetoric, into a repetition of their recent monumental folly in attempting to legislate morality into the United States Constitution. It does not seem possible that the same states which are relieving us of the curse of the Eighteenth Amendment, will now impose another constitutional curse upon us under the guise of abolishing child labor.

~ Alfred E. Smith

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