

THE ROOSEVELT COUP D'ETAT
OF 1933-40

**THE HISTORY OF THE MOST SUCCESSFUL
EXPERIMENT EVER MADE BY MAN TO GOVERN
HIMSELF WITHOUT A MASTER**

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CHAPTER 1

Legislative Steps toward Executive Control of the Social and Economic Life of the States

Coup d'etat (koo detah) – a sudden decisive exercise of power whereby existing government is subverted without the consent of the people.

- Webster's New International Dictionary

The people of the United States have been too close to the political drama that has been unfolding in the affairs of their government, and too bewildered by phrases deliberately chosen to delude them, to understand the cataclysmic significance of what has happened, but to the future historian the period of 1933-1940 will clearly mark the end of a political cycle for the North Americans, in the final failure of the most successful experiment ever made by man in civil society to govern himself without a master.

The historian will trace its beginnings in the revolt of a few million colonists against the oppressions of the English Crown in the late Eighteenth Century, and their erection of a unique system of government, having for its primary object a realization of the innate worth and dignity of the individual, by emancipating him from the inveterate ambition, vanity, and folly of his rulers, through substituting freedom for force as the underlying principle of the system. The results will be recorded as having excited the hope and envy of the world as an example in which a small and sturdy group, favorably situated geographically in a new land, wrought themselves into the mightiest and most prosperous nation on earth and governed themselves as freemen for a century and a half.

Those who formed this peculiar system of government had earnestly studied the history of the rise and fall of civil societies in search of a formula for a permanent order of freedom. They saw that man invariably counted for little more than the beasts of the field under all political forms in which power was centralized in his rulers, whether they appeared as autocracies, aristocracies, oligarchies, theocracies or democracies. And they will be credited by the historian with having deducted the political maxim, that the freedom of the individual is possible only under a polity in which governmental power is limited and divided and kept so. Not centralization but decentralization was the great essential principle. As Thomas Jefferson wrote in a spirit of warning, in 1816:

"What has destroyed the liberty and rights of man in every government that has ever existed under the sun? The generalizing and concentrating all cares and powers into one body, no matter whether of the autocrats of Russia and France or of the aristocrats of a Venetian Senate."

In the system constructed by the Americans were thirteen independent States, just freed by arms from alien rule as colonies, which formed a Union. Then they delegated to a common federal government certain of their powers to deal with matters concerning their interrelations and with foreign affairs. And these certain powers which the federal government might exercise were reduced to writing and enumerated in a Constitution of the United States, with provision for a solemn oath to be taken by the Chief Executive "before he enter upon the execution of his office," to "preserve, protect and defend" it.

Thus the powers of the federal government were not only limited, in the hope of escaping the common degradation of other peoples, but the powers that were delegated were divided and allocated to three co-ordinate, co-equal and independent branches. All power to enact the laws, dealing with but twenty enumerated subjects, to be found in Section 8 of Article I, was placed with the legislative branch, or Congress, exclusively; all power to enforce or execute the laws thus enacted was placed with the Executive exclusively; and all power to interpret and to decide the intent and meaning of the laws under the limited grants of power, was placed with the judiciary branch, or the federal courts. Such was the framework erected upon the principles of decentralization, limitation, and division of governmental power over the citizen. In a note written in his Annals, in 1792, Jefferson recorded:

"I said to President Washington that if the equilibrium of the three great bodies, the Legislative, Executive and Judiciary, could be preserved, if the Legislature could be kept independent, I should never fear the result of such a government; but that I could not but be uneasy when I saw the Executive had swallowed up the Legislative branch."

But it was not enough to erect a government of limited authority over the citizen as a mere paper instrument, as will be noted from the examples of failure of the score of American republics to the south that were formed in imitation and on the constitutional pattern of the government of the United States. From the time of their independence from European rule, in spite of their constitutional forms, they oscillated between anarchy and despotism, remaining republics in name only.

Obviously, if man is to restrain the control which government may exercise over him, and escape anarchy in liberty becoming license, he must assume the high moral duties and practice the difficult virtues of self-control and self-reliance, to make possible self-government in the mass. And the same capacity and willingness to control ambition and greed must be practiced by those who are chosen to wield governmental power over him. That is the hard price that man must pay for ordered freedom in civil society.

It will be written for the instruction of those who come after us, that in the years 1933-

1940, the outstanding experiment of the North Americans in seeking to preserve a free political system by means of limitation and division, or decentralization of governmental authority, came to an end, and that a new cycle began in which they again found themselves the mere pawns and playthings of centralized power. And in the analysis of the failure, the impartial historian will not hesitate to ascribe it to the loss of those qualities of character in the mass and in government, without which the constitutional paper forms are lifeless and vain.

He will note many social and political phenomena that are familiar accompaniments in the record of like vicissitudes among other peoples whose civilizations have flourished and declined, particularly among the Romans. He will first mark what Ferrero declares to be "the disease that killed the Roman Empire," which he terms "excessive urbanization," the piling up of population in great cities, drawn from the peace and quiet industry of the country by the infinite but frivolous attractions of urban life. Then came the periodic economic crises, and the impoverishment of large numbers of the improvident classes, in the midst of continuing luxury, with widespread discontent.

Before the Roosevelt era this problem was met without danger. It was localized in the cities and, while relieved to some extent by private charity, was allowed to solve itself in the natural way, of forcing those unable to find employment or free support to return to work in the fields, whence they came. It was a hard solution for many, but it preserved the spirit of self-respect and self-reliance in all who thus surrounded their own difficulties. It was implicit in the free system that each man, through the exercise of prudence, must care for himself; that society needed the active cooperation and productive energy of each citizen, and that the provision which a man made for himself and his family was the measure of his worth and self-respect. His failure so to provide, while provoking pity, also carried the stigma of neglect of obligations to himself and to the community.

In the great economic depression in the third decade of this century, the central government, recognizing the millions of unemployed to be voting citizens, who, through public largess, might be permanently attached to the new course the Roosevelt administration had embarked upon, proclaimed it the duty of the federal government to feed, house and clothe all unable to care for themselves. "The people must not be allowed to starve" had a kind-hearted meaning, which all politicians readily approved.

This was the artificial expedient adopted by declining Rome, of treating poverty as a national, instead of as an individual concern, with vast public works for the unemployed, regardless of their utility, and the distribution of money and food for all who applied. There was no inducement to look carefully into the qualifications of recipients, since numbers were important. The evil was thus only intensified by reversing the current and stimulating a continuing exodus from country to city, until almost one-fifth of the population was exempted from the necessity of seeking self-support.

The corrupting effects were seen not only in the making of chronic paupers of millions of citizens congested in the cities, but in demoralizing the Mayors of cities and the

Governors of State, in their constant journeys to the capital, like mendicants, to solicit of the President as large portions as possible of the immense sums which he was permitted to dole out. Excessive taxation supplied barely a half of the demands of this profligacy, the remainder was supplied regularly by new borrowing and new public debt, with no concern over future repayment.

Among the people themselves there naturally resulted a spirit of carelessness and indolence, with no interest more serious than the pursuit of entertainment and amusement, in the theaters and at games, as an escape from boredom.

History discloses the apparent paradox that the periods in which man has most lavishly adorned his great cities are not periods of continued healthy growth, but are periods of decline. The magnificent temples and other buildings of the ancients are, in fact, symbols of decadence. So the years 1933-1940 will be mentioned as a time of splendid adornment of the capital of Washington, with great new public buildings displacing private structures throughout the city to house the hundreds of thousands of new federal officials appointed to enforce the new order of universal regulation and care of the affairs of the people.

The old simplicity of a federal government going about its limited duties without fuss will be seen to have given way to stir and bustle in the assumption of new powers, and repeated harangues by radio, arraiging as popular enemies every element of opposition to the full realization of presidential supremacy. This was accompanied by preferment for the sycophant and exclusion from all appointive offices of citizens of independence and worth.

And the chronicler will record, too, a remarkable coincidence in which almost simultaneously, a like experiment on the American model, made by another great and numerous people in Europe, came to a like end after a brief trial. And the immediate instruments in both transformations will be identified as two magnetic and ambitious men, who carried out coups d'etat against the republic of which they were the elected constitutional heads, strangely coupling the names of Franklin Roosevelt and Adolf Hitler as the two chief actors in this historical human drama.

In each of the two countries in 1933, there were present the same disintegrating forces among the peoples themselves making for success in any attempted coup d'etat – unsettled economic conditions and economic distress, class division and factionalism, unbalanced budgets and accumulating debt, unsound currencies, and a cleverly encouraged and accepted delusion that a strong one-man government could bestow happiness and do for the people what they felt hopeless to do for themselves. In Germany there was the added factor of a national feeling of impotence under injustice arising out of the harsh terms imposed upon her in the late treaty of peace of 1919.

Hitler, leading a people enjoying constitutional liberty, but who for centuries were accustomed to authoritarian rule, could and did destroy limited constitutional government in Germany by one open and daring stroke. His National Socialist party won

almost complete control of the Reichstag in the election of March 5, 1933, with a popular vote of 17,269,629 to 13,590,258. On the same day this "rubber stamp" legislative body of his creatures, passed on enabling act clothing him with supreme power as Reich's chancellor, thus putting an end to the fourteen-year-old Weimar Constitution and the German Republic. All constitutional rights of the people were swallowed up in the new "Third Reich."

Roosevelt, head of the Democratic party, was elected to the Presidency of the United States in 1932 by a popular vote of 22,821,857 to Mr. Hoover's 15,761,841, and his party's candidates won 322 of the 435 seats in the lower House, with 68 of the 96 seats in the Senate. He appointed no man of recognized ability or attachment to our free institutions to his Cabinet posts. Among those he did appoint were four not of his party, who were associated with the elder La Follette, in his Progressive and Socialist campaign for the Presidency in 1924. He also surrounded himself with a group of young radicals as a sort of inner Cabinet, as his special personal advisers. It was they who secretly concerted and drafted the plan for the overthrow of constitutional government, which he put into execution.

Being the elected head of a people long practiced in and the hereditary possessors of personal and political freedom, he could not proceed in the forthright manner chosen by Hitler, but adopted the more adroit course of disguise and pretense.

There were three principal obstacles to any successful assault upon the existing limited constitutional system. First was the Constitution itself, which contained provisions for its own further limitation or expansion of power by amendments proposed by Congress to the legislatures or to conventions in the States, requiring the approval of three-fourths for ratification; or by the calling of a national constitutional convention on the application of the legislatures of two-thirds of the States, to propose amendments to be similarly ratified. The very purpose of the amending clause was to provide a peaceable way to make any change urgently desired by the people and to obviate revolution and violence, the only alternative left to other peoples, and customarily used to right their grievances against the oppressions of government.

Second, there was the Supreme Court of the United States constantly on guard to prevent usurpation of power by declaring null and void all acts of Congress and all executive acts outside of the written authority permitted in the Constitution.

And finally, there was the economic system of private industry and commerce, which it was intended to subject to political control, from which no complaint submission could be expected.

The first step in the plot was a "smearing" campaign by hundreds of administration press agents, to disparage and discredit the Constitution, the Supreme Court, and business generally. Hence, we heard much of the Constitution being "antiquated" and "outmoded," and "slush over the Constitution." The President himself joined in this assault at a press conference by terming the Constitution something suited to "the horse and buggy days."

The Supreme Court was held up to public view as "Nine Old Men," equally out of step with the times. And the great institutions of private industry, the source of livelihood to our millions of workers at wages paid nowhere else in the world, became "economic royalists" and an "economic autocracy," actuated solely by greed in its exploitation of the workers. Those persons who came to the defense of the Constitution and the Court were called "old fogies" and "reactionaries."

And to gain the popular ear, new catch-phrases such as "emergency," "social justice," "social security," "planned economy," "collective bargaining," "ever-normal granary" filled the press and masked the course of the revolutionary change. It was with Roosevelt as Gibbons relates of Augustus, that mankind is governed by names, and he was not deceived in his expectation that the Senate and people would submit to slavery, provided they were respectfully assured that they still enjoyed their ancient freedom.

By 1933 the stage was set for the series of legislative acts, drafted behind the backs of the people by the young radical advisers, which were so to change the nature of our limited dual system as to release the federal government from the restraints of the Constitution, and to subordinate the States and the people to an all-embracing central executive authority. In rapid succession bills were sent to Congress for presidential control of banking, public utilities, the security exchanges, and in the deceptively-named National Industrial Recovery Act and the Agricultural Adjustment Act, the President was given complete power over the industrial and agricultural life of the nation, with authority to compel cooperation in industry, to fix prices and wages and hours, in place of the former free, competitive system. In the N.I.R.A. was also provision for \$3,000,000,000 to be given to the President to use in his discretion in relief and public works. And, in the "Emergency Agricultural Relief" act, levying taxes on processors of agricultural commodities, to be paid to farmers, was a further provision empowering the President to issue \$3,000,000,000 of unsecured paper money.

Under the N.I.R.A., the Administrator, the appointee of the President, was empowered to set aside the anti-trust laws and compel industry to enter into regulated combinations in restraint of trade. When Representative Edward W. Pou of North Carolina reported the bill for passage in the House on May 25, 1933, he said, not in shame, but with a note of satisfaction:

"It is very true that under this bill – and I shall not attempt to discuss its merits – the President of the United States is made a dictator over industry for the time being, but it is a benign dictatorship; it is a dictatorship dedicated to the welfare of all the American people."

A servile Congress, like Hitler's Reichstag, permitted the immediate enactment of these measures, practically without debate. Then followed the gold control act, repudiating and annulling public and private contracts to pay debts in gold, and devaluing the dollar; the federal emergency relief act, home owners' loan corporation act, revival of the Reconstruction Finance Corporation, subsistence homestead act, the Tennessee Valley public utility government monopoly act, crop credit loans to farmers act,

communications act, compulsory railroad pension act, tobacco control act, the Guffey coal act, to fix prices and wages and hours in mining; the creation of the farm mortgage corporation with authority to borrow \$2,000,000,000 to relieve farm debtors; national housing act, loans to industry act, as part of 714 acts approved by Congress in that year. The authority of Congress had sunk into such contempt that these legislative acts centering despotic power in the President, were, in effect, executive decrees sent to Congress for mere registration. The Executive had swallowed up the Legislative branch.

In the gold control act, the first of the series, the President was given dictatorial power over all forms of money and authority to devalue the dollar as much as fifty percent. All gold was called in from the people, with severe penalties for hoarding and exportation. The execution of contracts payable in gold was prohibited, and promises in United States bonds so to pay were repudiated. Meantime the content of the dollars we had previously known, with 25.8 grains of gold, was reduced to 15-5/21 grains, giving the government all of the gold and a paper profit of about \$15 an ounce on all the gold called in, or a total of about \$2,000,000,000. This \$2,000,000,000 was turned over to the Treasury Department as a "Stabilization Fund" to be used to support the price of government bonds and to rig the market in maintaining prices, during a period of reckless borrowing.

All of these acts were calculated to attach and render acquiescent certain large classes of voters through subsidies in various forms, and to confuse and strangle the private activities and enterprise of citizens in various fields of industry and commerce which their intelligence and energies had built up under our traditional free system. To execute these several new powers conferred on the President, new boards or commissions were created, to be filled by his appointees. Invariably they were staffed with persons who were known to be hostile to the system of free enterprise and favorable to political control of private industry and commerce, under what was termed "a planned national economy."

The Tennessee Valley Authority was created in 1933 as a government utility monopoly, operating in Tennessee, North Carolina, Georgia, Alabama, Mississippi and Kentucky, in competition with private utility plants. Being financed out of the federal Treasury with hundreds of millions of dollars, paying no taxes and caring nothing for deficits, it has already compelled one great private utility to sell out or go broke, and is a like menace to other private utilities in those six States.

It will illuminate the utterly alien character of this government enterprise to refer to a decision of the Supreme Court of the United States, handed down in 1905, in the case of South Carolina vs. U.S. South Carolina established a State liquor monopoly, and the question was on the right of the federal government to tax its operations. The court held that, when a State engaged in business ordinarily of a private character it could be taxed; that if this were not so, a State might take over all private business and defeat taxation for the support of the government in the whole field of internal revenue. Continuing, it said:

"There is a large and growing movement in the country in favor of the acquisition

and management by the public of what are termed public utilities, including not merely therein, the supply of gas and water, but the entire railroad system. Would a State by taking into possession these public utilities lose its republican form of government?...

"Moreover, at the time of the adoption of the Constitution, there probably was not one person in the country, who seriously contemplated the possibility of government, whether State or national, ever descending from its primitive plant of a body politic, to take up the work of the individual as a body corporate.... Certain it is that if the possibility of a government usurping the ordinary business of individuals, driving them out of the market, and maintaining place and power by means of what would have been called, in heated invective of the time, 'a legion of mercenaries,' had been in the public mind, the Constitution would not have been adopted, or an inhibition of such power would have been placed among Madison's amendments.... If we look upon the Constitution in the light of the common law we are led to the same conclusion. All avenues of trade were open to the individual. The government did not attempt to exclude him from any. Whatever restraints were put upon him were police regulations to control his conduct in business and not to exclude him therefrom. The government was no competitor, nor did it assume to carry on any business, which ordinarily is carried on by individuals. Indeed, every attempt at monopoly arose, whether from the government of the Sovereign or otherwise. The framers of the Constitution were not anticipating that a State would attempt to monopolize any business heretofore carried on by individuals."

Yet the federal government is now engaged in many businesses, ordinarily considered of a private character, in competition with the citizen. An investigation into the subject by the Shannon Committee of the lower House of Congress in 1932 revealed this competition is carried on in not less than two hundred fields of business. Two outstanding instances are in water transportation and in the manufacture and sale of electricity. The Inland Waterways Corporation is thus depriving the railroads of tonnage which it carries at lower rates on the Mississippi River and its tributaries, while the huge electrical project, the Tennessee Valley Authority, is purposely seeking to destroy private utility plants in its territory.

But when it comes to the matter of taxation by the States of these federal ventures into private business the Supreme Court forbids it. In a recent T.V.A. case it was held that the federal government was engaged in "flood control" on navigable streams, and that the incidental production and sale of electrical power from dams was the excuse of a governmental function and not subject to taxation by the States. Thus the federal government may tax any venture into Socialism by the states but may itself strip the States of taxable property in displacing private enterprise with no right in the States to tax such operations.

The ventures of the federal government into house-building, called "slum-clearance," is another field in which private industry is suffering from government competition, with the building projects now held to be proper government functions.

In the Securities and Exchange act of 1933, under the pretext of protecting the purchaser of securities, a new commission is given power to starve industry and prevent the raising of new capital for extension of plant. All manufacturing and other concerns desiring to raise additional capital through the issuance of new securities must first obtain the approval of this commission. The stock exchange and brokerage houses likewise come in for regulation in the handling, and the buying and selling of any securities. In addition, there is particular provision for control by the commission in the matter of public utility corporations, both as to their finances and to their corporate interrelations.

In the Federal Communications act of 1934, the President assumed control over interstate communications by wire and radio, through a commission to which all radio stations must apply regularly for rents of six-months licenses to operate. The result has been a censorship on whatever opponents of the President and his policies may wish freely to broadcast, with none upon the President, who may use the radio at his pleasure and without cost.

That the Federal Communications Commission has been guilty of a glaring act of oppression and repression of private enterprise is seen in its decision in March, 1940, forbidding the Radio Corporation of America to manufacture and sell television sets to the public, which would open up an entire new industry based upon years of costly research and provide new employment for an incalculable number of persons now wishing employment.

In 1933 came the National Labor Relations act to enforce "collective bargaining," giving a partisan federal Labor Board arbitrary power over employers, in behalf of organized workers, with the power to summon, prosecute and decide, and impose heavy financial burdens in the form of "back pay," in cases of its own charges of vague "unfair" practices; and, further, to compel workers to join the unions of favored labor leaders.

The act, following a campaign of vituperation painting the employer as the enemy and sordid exploiter of the employees, forbids any intercourse or discussion of their relations between them, which might be initiated by the employer, as an "unfair" practice. Thus a condition of permanent hostility is legally imposed upon their relations. Meantime the law defines an "employee" as "any individual, whose work has ceased in consequence of or in connection with any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment." The employee is thus given a property right in his job, even after striking, in connection with which he is entitled to "back pay."

In 1938 a companion piece to the Labor Board act was passed under the title, the Wages and Hours act, fixing minimum wages and maximum hours for large classes of workers in the States, alleging in the preamble of the act that the existence of living conditions below certain standards is a burden on interstate commerce, and "interferes with the orderly marketing of goods."

For the year of October, 1938 to October, 1939, the act provided for minimum wages of 25

cents an hour and a 44-hour week; for 1940-1941, 30 cents an hour and a 42-hour week, and thereafter, 40 cents an hour and a 40-hour week, with time-and-a-half for overtime, or 60 cents an hour. The act caused an immediate loss of jobs to thousands of workers in small concerns which could not meet the new burden upon the payroll in addition to the payroll taxes imposed by the Social Security act.

The National Labor Relations act and the Wages and Hours act are both given the semblance of being constitutional by limiting their application to workers engaged in "interstate commerce," as a means of removing burdens upon such commerce by preventing labor disputes, which they, in fact, have fostered. But this limitation of the acts has been rendered nugatory by the Roosevelt Supreme Court, in construing "interstate commerce" to include manufacturing as well as transportation. Thus, in the case of Labor Board vs Fainblatt, a women's clothing manufacturer, decided in October, 1939, the court said that an "employer is subject to the National Labor Relations Board although not himself engaged in commerce," and that the power of Congress over interstate commerce is one for "the protection of interstate commerce from interference due to activities which are wholly intrastate;" wherefore, all business activities in the States are brought under federal control.

In a vigorous dissenting opinion Mr. Justice McReynolds pointed out that the court had long held that manufacturing is not commerce but transformation; that buying and selling and transportation among the States constituted interstate commerce. By such attenuated reasoning, he said, the court "permits a disruption of the federal system." And then he added this remarkable indictment of the new court:

"The present decision and the reasoning offered to support it will inevitably intensify bewilderment. The resulting curtailment of the independence of the States and the tremendous enlargement of federal power denote the serious impairment of the very foundation of our federated system. Perhaps the change of direction, no longer capable of concealment, will give potency to the efforts of those who apparently hope to end a system of government found inhospitable to their ultimate designs."

And even where employers have signed contracts with local unions for a longer hour week at a flat rate, suits are now being instigated claiming enormous sums as "back pay" calculated on the hours worked beyond the 44 or 42 hours, as overtime with time-and-a-half-pay.

The fixing of wages and hours by government has always tended to create unemployment in enforcing new economies upon employers, thus creating an evil outweighing any benefits conferred. Its greatest evil, however, lies in denying to free men the right freely to make their own contracts of employment.

The "Social Security" act comprehends ten separate programs for levying and distributing new taxes on industry and the workers, namely, old age and survivors insurance, unemployment pensions, aid to the blind, aid to mothers and children,

maternal and child welfare, material and child health services, services to crippled children, child welfare services, public health services, vocational rehabilitation. These new taxes amounted to \$631,223,715.09 in 1939, and to \$703,400,000 in 1940.

The word "services" means the personal attention to mothers and children and others by a new army of federal agents specializing in various social, recreational and health fields, sent out into the States.

The old age and survivors insurance and the unemployment compensation plans are patterned after the social legislation devised by Bismarck between 1883 and 1889, in an attempt to allay socialist agitation in Germany, by partly meeting their demands. In the old age plan the employer and employee are taxed an equal percentage on the payroll and on the wage, respectively, starting at 1% and rising to 3%. These sums are remitted quarterly by the employer to the federal government, and, presumably, constitute a trust fund to be guarded for future application to pensions for those who reach 65 years of age or for payments at death. Actually, this trust fund of millions has been used largely to meet a part of the current deficit spending by the federal government.

The unemployment compensation plan levies a straight federal payroll tax of 3% on the employer, in addition to all other taxes. As a means of inducing the States to levy a like payroll tax on the employers for the same purpose, the act provides that any State setting up a Social Security Board which meets federal standards, will have its administrative expenses paid by the federal government. This means much more easy money and more patronage for the politicians of the States and has been readily adopted by all.

The act further provides that if a State has an employment tax law approved by the National Social Security Board, each employer may credit against his federal tax the taxes levied by the State for its unemployment fund up to 90% of the federal tax. These taxes must be paid whether the employer is making a profit or losing money. Meantime, the powers of the Federal Trade Commission to harass business with questionnaires and investigations, were expanded to include the field of advertising, and to suppress whatever it considered "unfair."

In 1938, in connection with the alleged "strike" of capital and his "spending for prosperity" campaign, President Roosevelt asked for \$3,000,000,000; and, in further pursuit of his policy to discredit private enterprise, he requested an investigation of "concentrated economic power" and monopoly in the United States. Congress promptly constituted a body, known as the Temporary National Economic Committee, with twelve members: three of the Senate, three of the House, and six of the executive departments. The course of the investigation, largely guided by radical Roosevelt appointees from the departments, is showing deep interest in the billions of assets of the great insurance companies, invested as security for their millions of policy-holders. The report, which is yet to be made, can scarcely be anything but a further condemnation of the citizen in his right freely to labor and trade and pursue his own material well-being, known as the system of "free enterprise." Common prudence should prompt the citizen to manifest far greater alarm over "concentrated political power" than over concentrated economic

power. The latter is plainly necessary in large assets for large undertakings: The former usually means their confiscation.

At the same time, through the taxing power and the billions of dollars borrowed and voted to the President for use in his discretion for "Relief," from which he distributed subsidies and pensions, he announced that he was seeking "the redistribution of wealth" to bring about "the more abundant life." Among these subsidies are those to farmers to effectuate crop control, amounting to about \$1,000,000,000 a year.

All students know that these two aspects of Roosevelt's program – government control of industrial production and commerce and labor, and the exercise of the power to take from one and give to another, constitute the two main pillars of State Socialism. The common definition of Socialism or Social Democracy is:

"...a political and economic theory of social reorganization, the essential feature of which is governmental control of economic activities, to the end that competition shall give way to cooperation and that the opportunities of life and the rewards of labor shall be equitably apportioned."

Yet the President was probably not intentionally becoming the great American Socialist leader, however much his policies won for him the active support of Socialists and Communists. Having never been under the necessity of earning a living or paying a wage he had had no experience with the practical operation of our system of private economy and its cooperative demands. He was a theorist like all the professors and young college graduates with whom he surrounded himself.

In his attitude of hostility toward all successor business men, the psychologist would probably find it based upon the common vice of envy and a desire to exhibit what he conceived to be his own superiority, through his exercise of political power over them, however questionably obtained. That in arraying the mass of employees against their employers in the process, he was wrecking the best example of self-government ever built up by the free men, to satisfy his ambitions, was of no concern.

The Constitution provides in Article V the means of orderly change and to attempt it otherwise is a "high crime and misdemeanor" calling for impeachment. Yet Donald Richberg, a confidant of the President and later Administrator of the N.I.R.A., admitted that the Roosevelt program was of revolutionary character, when he said:

"In this favored nation of ours we are attempting possibly the greatest experiment in history. Revolution by the sword and bayonet is nothing new. Revolution by pen and voice is something different. The violent overthrow of parliaments and rulers is nothing new, but the peaceful transition of all departments of government from one fundamental concept of a politico-economic system to another is different."

But what Mr. Richberg lauded as a "peaceful transition" was, in fact, brought about by the greatest violence to the Constitution itself. In daring alone to bring about a new "politico economic" system through legislation unauthorized by the Constitution, President

Roosevelt destroyed the exclusive right of the people themselves to amend the Constitution in any manner they please, and transferred that power to himself. The amending power of the people is now useless, and in its place, new accession of power in the federal government will be made by the government itself by legislative construction, based upon precedents of usurpation which Mr. Roosevelt has established. This peaceable means for change in the fundamental law may now be said to be closed to the people, and we shall have no alternative in the future but that of other peoples for redress of grievances, namely, violence; and we, therefore, enter upon that "endless cycle of oppression, rebellion, reformation; oppression, rebellion, reformation again; and so on forever," which Thomas Jefferson affirmed was the only remaining choice if the avenue of orderly amendment were shut.

Thus step by step, Roosevelt seized power personally which, from the foundation of our government, had been judicially determined as forbidden to the federal government, and compounded the limited dual system into an unlimited unitary one. Flushed with his success he was bold enough to tell Congress, on January 3, 1934, that he had brought about "a permanent readjustment of many of our social and economic arrangements;" and, on January 4, 1935, that he had effected "a new order of things." And, in commenting on the "new order of things," he confessed his work of destroying our constitutional guarantee, with the justification pretended by every man who has overturned a free government, namely, the welfare of the people, saying:

"They (the people) realize that in 34 months we have built up new instruments of public power. In the hands of a people's government this power is wholesome and proper, but in the hands of political puppets of economic autocracy such power would provide shackles for the liberties of the people."

These "new instruments of public power" are, of course, the numerous new alphabetical boards and commissions, created under his "must" legislation and filled by his appointees as personal agents for his personal rule. Each agency is a petty tyranny in its own particular field, combining within itself the three essential powers of government: the legislative, the executive and the judicial; the power to make rules and regulations with the force of law, the power to enforce its own rules and regulations, and the power to inflict penalties for any failure of the citizen to comply with its decision, free from any right in the victim to obtain redress in the courts. This right is defeated by clauses in the acts creating the agencies, which though permitting appeal, deny to the courts the right to reverse a board decision if there is a scintilla of evidence to support its "findings of facts." As the boards dispatch their examiners charged with the duty of finding certain evidence in support of certain favored interests or policies, a wholly partial decision results which the courts may not disturb.

As the President views it, the United States is divided into two hostile camps engaged in a social and economic war. They are industry, or the employing class, and the worker or employee class. The employing class, which provides wages for the employee and taxes to support the government, constitutes an "economic autocracy" that must be destroyed. And through the "new instruments of public power" the President has put "shackles" on

its liberty, through various measures adopted by his administrative lieutenants to blacken its name, to prevent it from obtaining capital to expand and increase employment, and to prevent its normal functioning, while at the same time loading it down with new and crushing taxes.

The conviction is widely held, and with reason, that it is the deliberate purpose thus to make all private business unprofitable, as a prelude to its expropriation by government as the sole operator and employer, under the false plea that the system of free men in a free economy is no longer capable of sustaining the general welfare of the country. However fantastic this may seem, it has been publicly professed by some of the alien-minded and anti-American presidential lieutenants brought in to operate the "new instruments of public power."

The arbitrary, capricious and partial conduct of these new boards and the widespread complaints that have followed, induced the American Bar Association to propose a general statute, applicable to all administrative boards, restoring to the citizen his right of appeal to the courts with power to pass on the law and the facts, and to reverse any decision not based upon a preponderance of the evidence, and to set aside any rule or regulation found contrary to law or violating any constitutional rights of the complaining citizen.

Such a bill was sponsored by the late United States Senator Logan of Kentucky, and introduced in 1939. It was passed without a dissenting vote, but immediate pressure put upon the Senate compelled a hurried recall of the bill and its recommittal to the Judiciary Committee, where it has since remained.

However, the companion bill, exempting the interstate Commerce Commission, the Federal Trade Commission, the Federal Reserve Board and the federal lending agencies, came up for debate in the House in April, 1940, where congressional "yes-men" used every effort to cause its rejection, and predicted that the President would veto it, if it were passed. The President himself let it be known, at a press conference on April 5, that he opposed any interference with his new boards and commissions by the courts, nor did he wish the courts to pass on the legality of their decisions. It would slow up the machinery of government, he said. Yet the House was courageous enough to pass the bill on April 19, by a vote of 280 to 97, and send it on to the Senate for reconsideration.

If the independence of the courts had not been seriously compromised during the Roosevelt era through many appointments of judges who share the President's alien philosophy of government, the Logan bill would go a long way toward destroying one-man government and again making ours a government of laws. In the Pottsville Broadcasting case, decided by the Supreme Court in 1939, for example, we find the pedantic new Associate Justice Frankfurter saying:

"To assimilate the relations of these administrative bodies and the courts to the relationship of lower and upper courts is to disregard the origin and purposes of the movement for administrative regulation.... Unless these vital differentiations

between the functions of judicial and administrative tribunals are observed, courts will stray outside their province and read the laws of Congress through the distorting lenses of inapplicable legal doctrine."

Why this was couched in such bewildering language, only Justice Frankfurter knows. He might have said in simple English for all to understand:

"It is no function of the courts to restrain administrative boards."

And that is the view of the President.

One contemporary historian, and only one, Mr. Mark Sullivan, appeared at the time to understand what was happening in Washington as the President's legislative program unfolded in the succession of bills he sent to Congress. In a dispatch to the New York Herald Tribune, he said:

"The country has not even a faint realization of what is taking place at Washington. By laws so numerous that even members of Congress do not follow them, so intricate that only close study can understand them, and in some cases carrying hidden meanings and unrevealed intentions on the part of the writers of the laws, there is being imposed upon our country not merely an enormous number of regulations attended by criminal penalties but actually a new system, a whole new philosophy of society and government."

On May 27, 1935, the Supreme Court, in a unanimous decision, declared the National Industrial Recovery Act unconstitutional as an unwarranted attempt on the part of the federal government to reach into the States and control manufacturing and internal commerce, which were reserved to the States in the division of power by the Constitution. And it said particularly:

"If the commerce clause were construed to reach all enterprises and transactions which could be said to have an indirect effect upon interstate commerce, the federal authority would embrace practically all of the activities of the people and the authority of the State over its domestic concerns would exist only by inference of the federal government... It is not the province of the court to consider the economic advantages or disadvantages of such a centralized system. It is sufficient to say that the federal Constitution does not provide for it."

This decision merely confirmed a long line of decisions declaring that the constitutional power of Congress to regulate interstate commerce became operative when an object of interstate commerce began to move in interstate transportation and ceased when the object came to rest at the end of its journey. As Woodrow Wilson had affirmed in his Columbia University lectures in 1907:

"If the federal power (to regulate interstate commerce) does not end with the regulation of the actual movements of trade, it ends nowhere, and the line between State and federal jurisdiction is obliterated."

President Roosevelt was so deeply wounded in his vanity by the decision holding the act unconstitutional that he devoted more than an hour on the radio in a harangue to the people, in further disparagement of the Supreme Court.

On May 18, 1936, the Guffey coal act was declared unconstitutional on the same ground, that mining was also a subject that was exclusively within the reserved powers of the States to regulate, if they wished. But the second decision revealed a division of 5 to 3 in the Court, Justices Cardozo, Brandeis and Stone, upholding the Roosevelt measure. And on June 6, 1936, the Agricultural Adjustment Act was also declared void as an attempted usurpation of the reserved powers of the States. Again Justices Cardozo, Brandeis and Stone dissented. The coup d'état appeared to have been defeated.

On the eve of his reelection in 1936, in a campaign radio address to the nation, the President revealed a defiant impatience with those leaders of private industry who had sought a remedy in the Courts against his new and arbitrary power over them, in a multiplicity of suits, and had finally frustrated him in the Supreme Court. He wantonly stigmatized these citizens as "economic royalists." They had "met their match" in the last four years, he declared, and, in the next four years they would meet their master."

To one of President Roosevelt's ambition and purpose, his reelection in 1936 by the great majority of 27,476,673 to 16,679,583, constituted a "popular mandate," or a ratification of his setting aside the old limited constitutional order and his inauguration of an unlimited unitary system in its place. In taking the oath of office for his second term, on the main portico of the capitol, his head bared in the rain, he "reconsecrated" his government to leadership of "the American people forward along the road over which they have chosen to advance." And history afforded him what seemed to be a supporting precedent for popular ratification of unconstitutional executive acts, which his young personal advisers had no doubt called to his attention. It was in 1848, on the formation of the Republic of France, that Louis Napoleon was elected constitutional President for a term of four years, and by the Constitution, he was ineligible to reelection. As the end of his term approached in 1851, he dismissed the National Assembly, announced the end of the Republic and inauguration of the Second Empire, with himself as Emperor, which the people of France ratified at an election on December 20 and 21, in voting away their liberties, 7,437,216 to 640,737.

But a persisting majority of "Nine Old Men" of the Supreme Court would ignore the "popular mandate" as a mere fiction and would confirm no change in the government brought about other than by the orderly process prescribed in the Constitution itself. How to overcome this obstacle was the problem of the moment. Another precedent, this time from English history, was available as the solution. It was in the reign of James II, likewise distinguished for a persistent effort to overturn the English Constitution. Although James' predecessor, Charles II, had taken an oath in 1672, to abide by the laws concerning the dispensing power (laws forbidding appointment of Catholics to office), James was determined to name Catholics not only to civil and military, but even to spiritual, offices. In 1686, as a first attempt to release himself from the law, he sought an

opinion from the courts of common law that he possessed the power to appoint Catholics "in particular cases," and he summoned the judges before him.

As Macaulay relates, four of the judges demurred. Jones, the Chief Justice of Common Pleas, "a man who had never before shrunk from any drudgery, however cruel and servile," now held in the royal closet language which might have become the lips of the purest magistrates in our history. He was plainly told that he must give up his opinion or his place.

"For my place," he answered, "I care little. I am old and worn out in the services of the Crown; but I am mortified to find that your Majesty thinks me capable of giving a judgment which none but an ignorant or a dishonest man can give.

"I am determined," said the King, "to have twelve judges who will be all of my mind as to this matter."

"Your Majesty," answered Jones, "may find twelve judges of your mind but hardly twelve lawyers."

Jones was dismissed from office, as were Montague, Chief Baron of the Exchequer, and Judges Neville and Charlton, and the court was packed, one of the new judges being Christopher Milton, younger brother of the great poet. The King also dismissed his Solicitor General Finch and his Attorney General Sawyer, who equally refused to endorse his course.

Thomas Powis, "an obscure barrister," was appointed Solicitor General to succeed Finch, and undertook to argue for the dispensing power before the packed court, with mock parties at interest. By a decision of eleven to one, the King's power to appoint Catholics "in particular cases," was affirmed. The one dissenting judge is stated to have acted collusively, to give some semblance of independence in the court. James lost his throne and fled to France within the same year that records this perfidy to the courts and constitution of England.

But President Roosevelt's Attorney General Cummings was more loyal than King James; Attorney General Sawyer. He not only drew the bill to pack the Supreme Court with the addition of six new partisan Justices, but appeared before the Senate Judiciary Committee on March 10, 1937, to defend it as necessary, on the ground that the Court was overburdened with work, an argument which the Chief Justice himself proved false in a letter to the Chairman of the Senate Committee a few days later.

To the President's surprise, something of a rebellion swept the country against "the forward movement" along the road he assumed "the people had chosen to advance," and Congress failed him. Almost immediately following this failure, however, fate played into the President's hands and success came to him through enough vacancies, caused by death and resignation, to give him a majority of the Court through new appointments.

Practically every one of President Roosevelt's laws that was declared unconstitutional

by the Supreme Court that he found on taking office in 1932, has been resubmitted and passed by a continuing docile Congress, with a mere change of form or name. And all that have been challenged by citizens and reached the newly-reconstituted Court have been pronounced constitutional. As the result of these recent decisions, the President, through his nominees and administrators, may be said now to control local industry, manufacturing, retail distribution, mining, planting and growing crops, prices and wages, and hours of labor, throughout the country. The coup d'état against the States and against the limited constitutional system is finally judicially confirmed, with a minority of two, the valiant survivors of the "Nine Old Men," still holding their ground and dissenting. It is implicit in some of the new Court's decisions, also, that the federal government may apply the public money of the taxpayer to any purpose, public or private, foreign or domestic, it sees fit. The President seems to have made certain that the Constitution may no longer be successfully invoked to limit the unrestrained exercise of national power for the full domestic development of Social Democracy, as the new philosophy of our society and government.

No lawyer can today advise his client with any assurance as to the continuing validity of any principle of constitutional law, and he is even more at sea as to that immense and vague volume enacted, not by Congress, but by administrative boards, with which his main practice is now concerned. Until Congress passed the Federal Register act in 1938, to compile all of these rules and regulations as a code of "administrative law," much of it was unpublished and secret and withheld from both lawyer and client. In April, 1940,, this code was published, embracing all rules and regulations that had legal effect on June 1, 1938. And it consisted of seventeen volumes, each containing between 1000 and 1200 pages.

This same confusion that exists in our system of internal law has been introduced by President Roosevelt into our foreign policies. Until the Roosevelt era the United States had pursued with safety and credit the foreign policies laid down by Washington, Jefferson, Monroe and all of their successors, up to Woodrow Wilson. The two principal ones were (1) "minding our own business," expressed technically as non-intervention in the affairs of other nations, and (2) forbidding European interference in American political affairs. They embraced cultivating impartially peace, commerce and honest friendship with all nations and entangling there was a third policy of constant striving for the progressive improvement and clarification of the principles of international law in the promotion of peaceable processes in the settlement of international disputes.

The new Roosevelt foreign policies appear to repudiate all of the foregoing. In the place of non-intervention in the affairs of other nations he has adopted the policy of direct interference, even to the point of lending large sums of money to particular favored nations as belligerents, as in the case of China and Finland.

There is nowhere to be found in the Constitution any authority under which the President may lend the money of American taxpayers in gambling upon favorites in foreign wars, but that is what this particular Roosevelt policy consists of. And in the close financial understanding of the Roosevelt administration with Great Britain and France,

and in the cooperation that is lent to sustain their financial structures, there exists what is, in fact, a financial alliance that may logically develop into military cooperation when they again call for help, as they did with their "backs to the wall" in 1917. And let it not be forgotten that this is what Great Britain and France confidently calculated upon in their new war against the old enemy.

Instead of pursuing the policy of impartially cultivating peace, commerce and honest friendship with all nations, he and certain heads of his departments have blatantly cultivated enmity in publicly making invidious distinctions between the "totalitarian governments" and the "Democracies." In the place of seeking to promote the progress of law he has placed his reliance upon force in the ordering of international affairs. Such a policy of constant war as a means of promoting peace, was enunciated by President Roosevelt in a radio address to the nation from Chicago, on October 5, 1937, when he said:

"The peace-loving nations must make a concerted effort in opposition to those violations of treaties and those ignorings of humane instincts which are today creating a state of international anarchy and instability from which there is no escape through mere isolation and neutrality.... There must be positive endeavors to preserve peace."

Then the President proposed the "quarantine" of "international lawlessness" by concerted action, presumably through boycotts and embargoes on our commerce with "lawless" nations. The President actually lent himself to the solicitation of Great Britain to inject the United States into the Italian war in Ethiopia in 1935, by embargoing the shipment of oil to Italy. This was such unneutral conduct as to amount to an act of war, but it exemplifies one of the President's new foreign policies.

At the time of the enunciation of President Roosevelt's policy of universal interference in the broils of others, the Brussels Conference was in session to see what could be done to stop Japanese military action in China. All of the delegations of the other governments represented urged the United States "to take the lead," but the popular reaction to the President's Chicago address admonished him that the people would not support him in a war with Japan, and the United States delegation was not committed.

In his report to the House of Commons on December 20, 1937, Prime Minister Chamberlain said that the Brussels Conference proved that "There was only one way the (Sino-Japanese) conflict could be brought to an end – that is, not by peace, but by force," that is to say, by war. Mr. Chamberlain added that while the Brussels Conference was disappointing "to all friends of peace," presumably because the United States would not "take the lead" in war against Japan, there was one satisfactory feature – "throughout the Conference we found ourselves in complete and harmonious agreement with the delegation of the United States in all matters discussed." And this "complete and harmonious agreement" between the Roosevelt and British policies appears to have continued unbroken, with no public revelation of how far we are involved. It would logically include coming to the aid of the "Democracies," if considered necessary, and thus again "making the world safe" for them.

The prudent and enlightened doctrine of Neutrality, developed largely from our own contributions toward the growth of law, is one of passing no judgment and playing no favorites in the wars of others, while insisting upon our rights. This policy has been scrapped by the President, in favor of a new one of taking sides in all wars, because, as he told Congress in his message in January, 1939:

"We have learned that when we deliberately try to legislate neutrality, our neutrality laws may operate unevenly and unfairly – may actually give aid to an aggressor and deny it to his victim. The instinct of self-preservation should warn us that we ought not to let that happen again."

This statement embodies a policy having no relation to any principle of law, but rather scuttles law for an unrestrained course of whim and caprice. The President states unequivocally that he wishes the power to pass judgment upon the justice of all future wars, and to discriminate against the belligerent he doesn't like, whom he calls the "aggressor," in favor of the one he does like, whom he calls the "victim." That is a simple policy of international meddling. Under the universally accepted principles of international law, no neutral State may adjust its attitude of conduct toward either belligerent in any war by any idea it may have of the merits of the controversy, except by frankly and honestly becoming an ally of the one it favors. To play favorites without becoming a co-belligerent is dishonest as well as unlawful, for which the law itself provides both hostile and peaceable remedies. The belligerent thus discriminated against may declare such unneutral conduct an act of war and treat the neutral State accordingly, or it may rightfully claim pecuniary damages, which only a lawless nation could refuse to entertain. We ourselves established this principle of pecuniary liability for unneutral conduct in international law, and, in 1871, in the Alabama claims, collected \$15,500,000 in damages from Great Britain for her acts of favoritism to the Confederacy during the Civil War.

It is one of the distinctive glories of our past that, as a young and weak nation, we dared to challenge the might of England's naval power in defense of the rights of all neutral nations to pursue their peaceful commerce on the high seas, which, from the time of Grotius, were recognized by all but England as the common property of all nations and free for the common use and enjoyment of all. And out of our courageous support of this principle came the doctrine of "the freedom of the seas," finally recognized even by Great Britain, in the great law-making treaties, The Hague Conventions of 1899 and 1907. The persistent violations of the principle by Great Britain and Germany in 1914-1918 met with constant protest from our government until we became a co-belligerent and condoned them as a temporary beneficiary of the lawless blockade against the German people.

In the present war renewed violations of "the freedom of the seas" by Great Britain are not only not protested against but under the new Roosevelt policy, the principle is abandoned altogether, and our ships are forbidden to assert it in any seas which Great Britain may unlawfully close. Meantime the government has also supinely submitted to the seizure of our neutral mails, which were declared in The Hague Convention of 1907,

to be "inviolable."

In the new Roosevelt policy of "concerted" action, with two or three other great powers to enforce our ideas of international justice – always colored by self-interest – the whole idea of the progressive development of a system of international law for the rule of a Society of Nations, large and small but legally equal before it, is destroyed. Yet this is the goal toward which all enlightened modern statesmen have striven, with our earnest participation, as giving the only promise of an ultimate international order of peace with justice.

As the rule of law has been displaced by the rule of force and caprice in our national system, so the new reliance in international policy is not upon law but upon superior force. It is a policy which will plant millions of new little white crosses over the graves of young Americans throughout Europe and the Orient in the days ahead.

The usurpations of power the President has practiced have become precedents, upon which new precedents will be built for new usurpations. That is the natural method of expansion of power in all governments. It is possible for some heroic figure, like Kleisthenes, to arise and create in the people and force upon leading politicians "that rare and difficult sentiment which we may term 'a constitutional morality,'" as Grote relates of a period of regeneration of the subsidized and demoralized Athenians. But the complaisance of our people toward governmental usurpations setting aside their most cherished rights and contributing to their moral degradation, leaves one wondering whether they are longer capable of that righteous wrath toward representatives who have betrayed them, out of which might come their deliverance. Then, too, there are interested classes of millions of beneficiaries of the sinister policy of attaching great masses of voters through financial dependence upon the public treasury.

The form of constitutional government remains; its substance has all but disappeared. While the violation of law does not repeal law, a series of violations of a Constitution of government, premeditated and lasting over a period of seven years, and submitted to, if not acquiesced in by other departments of government and by a large part of the people, is, in fact, a form of repeal which will be more dearly seen when it becomes complete.

So, too, the States, once self-governing and autonomous in a limited federal dual system, remain in name. But they are fast being reduced to mere geographical divisions under the guidance and direction of thousands of agents sent out by the central authority.

The Republic of Germany was a short-lived experiment among a people not practiced in recent centuries in self-government. It might have changed in time by the choice of its people to an authoritarian form. But it can be said of the Republic of the United States of America, that it lasted longer than any other republic ever set up; that its basic principles of the sovereignty and indefeasible rights of the citizen against government, leaving his energies free, made possible the development of a higher degree of comfort and happiness and virtue in its people than anywhere before found on the earth, and that, like a star falling into the immensity of time, it will be recorded as the most

luminous attempt ever made by man to govern himself without an overlord.

In the centralization of unrestrained power over the citizen in the President, the most cherished principle of Anglo-American liberty we once enjoyed, that man may freely labor and trade and acquire and be protected in the fruits of his labor, has, of course, vanished. This principle of limitation upon royal power, came into being for the first time in the world's history in the Charter of Liberties of Henry I in 1100, and was reaffirmed in a like charter of Henry II in 1154. In 1215 it was embodied in Chapter 39 of Magna Charta, extorted from King John at Runnymede in these words:

"No freeman shall be taken or imprisoned or be disseised of his freehold or of his liberties or his free customs or be outlawed or exiled or otherwise destroyed but by lawful judgment of his peers or by the law of the land."

And to maintain these rights Englishmen were compelled to force thirty-two written reconfirmations of them by six of their arbitrary Kings before they became fixed in their fundamental law. Many may think that rights protected by law are a free gift from Heaven; actually they can be won and preserved only by manly and constant resistance to the natural aggressive tendency of all government at all times to suppress them. The only means thus far known to political scie

nce for a reconciliation of liberty with government lie in the imposition of restraints upon governmental power, embodies in written constitutions, with an alert citizenry watchful to repel encroachments. Writing of the limitations imposed upon the powers of our federal government in the New Constitution, when commending it to the people of the States for ratification in 1788, James Madison said:

"It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature. If men were angels, no government would be necessary.

"In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

The expansive English guarantee, found in Chapter 39 of Magna Charta, was transplanted in our federal Constitution in Amendments V and XIV and in the Constitution of every State in the Union. It appears in the phraseology, "no person shall be deprived of life, liberty or property without due process of law," the term "due process of law" being the equivalent of "the law of the land." Generally, due process of law is defined as a pledge of individual rights and liberties, designed to secure to every person those fundamental and inalienable rights of life, liberty and property, inherent in every man, against the invading power of government.

But the guarantee is also found in our State Constitutions, in some such language as is used in that of Missouri:

"That all persons have a natural right to life, liberty and the enjoyment of the gains of their own industry; that to give security to these things is the principal office of government, and that when government does not confer this security it fails of its chief design."

Mr. Justice Matthews of the Supreme Court, said of the term "due process of law," that it is one of those grand monuments, showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the Commonwealth "may be a government of laws and not of men." The phrase embraces innumerable protective principles, not the least important of which is the citizen's right of access to his independent courts at all times to defeat any arbitrary action of government or its officials.

The apparent conflict between this vital right to life, liberty and property, and the necessary power of the government to tax, was reconciled in that other great complementary Anglo-Saxon principle, that taxes may be levied but the proceeds must be applied, not to private or class interests, but to public purposes only, which also disappeared in the Roosevelt coup d'etat.

The historic position of our once-free system, as to the citizen's immunity against spoliation by government, may be illustrated in a concrete and pertinent case arising in a United States District Court in 1891, in which Richard V. Sauer of Uvalde County, Texas, a German immigrant, sought naturalization as an American citizen. On being interrogated by Judge Paschal, he stated that he was a Socialist, and that he favored the taking of land from all who owned more than 200 acres, and its distribution among those who had none.

"Thereupon," reported Judge Paschal, "I stated that, in the judgment of the court the principles of Socialism are directly at war with and antagonistically to the principles of the Constitution of the United States of America, and absolutely inconsistent with his being 'well disposed to the good order and happiness of the people and government of the United States.'"

"I further explained to him that private property could not, under the Constitution, be taken by the government for private use, and that this was a fundamental principle of the government and one of the most sacred and guarded rights of the citizen. He repelled the suggestions with derision and scorn."

And Sauer was denied citizenship.

A full discussion of what has been legislatively superimposed upon our unique system of free government in "economic" control, by all of the new federal corporations, commissions, boards, bureaus, and other administrative agencies created or reformed,

would require volumes, but an outstanding interpretative symbol, or germ plasm, in the field of "social readjustment," is to be found in a single bureau, the history of which will illuminate what has happened in the social aspect of "the new order of things." And that symbol is the innocent-sounding and appealingly-named feminist instrumentality, located in the Department of Labor, and known as the Children's Bureau. The "new order" is, in fact, the fulfillment and triumph of the socialistic aims pursued with unceasing tenacity and intelligence by this Children's Bureau since the day of its creation by Congress in 1912.

CHAPTER II

The Federal Children's Bureau as an Agency for Social Reorganization of American Family Life

There can be no adequate understanding of this agency, the Federal Children's Bureau, the first of its kind in any modern government, and of the inspiration of those who have guided it, without a reference to the remarkable woman whose generalship forced its creation after seven years of unremitting lobbying from 1905 to 1912, and who subsequently nurtured it with the logical care of a mother. This woman, whose sincerity and zeal were of a high and self-sacrificing order, was Florence Kelley, born in Philadelphia in 1859, the daughter of William D. Kelley, at one time a member of Congress. In 1882 she graduated at Cornell and shortly thereafter went abroad to study in Zurich and at Heidelberg.

Zurich, at the time, had become the rendezvous and asylum of many of the leading radical socialists of Germany as the result of repressive action against them by the German government following the two attempts made upon the life of the aged Emperor, William I, on May 11 and on June 2, 1878. While the would-be assassins had apparently acted on their own initiative, the Socialists were nevertheless denounced as responsible. In October, 1878, a law was passed by the imperial parliament forbidding all associations, meetings and publications having for their object "the subversion of the social order," or in which "socialistic tendencies" should appear. The suspicion of police officials was sufficient to expel subjects from Germany as suspected or accused of being Socialists. Agitation and propaganda, however, continued to be carried on from Zurich.

Later the government of Bismarck sought to allay the sowing of discontent among the workers by various social legislative acts; among these were the sickness insurance law of 1883, the accident insurance laws of 1884-1885, and the old age insurance law of 1889. Bismarck wished the State to bear the entire expense but the Reichstag would not agree. Finally, with respect to accident insurance, employers were made to bear the burden alone. In the case of sickness insurance the employer was charged with 1/3 and the employee 2/3, and in the case of old age and incapacity insurance the premiums were

paid by the employer, the employee and, to some extent, by the state.

In 1903 the cost of old age and incapacity insurance was paid $\frac{1}{2}$ each by employer and employee with some small contribution from the public treasury.

This social legislation enacted under Bismarck, is practically what has been adopted in the Roosevelt era and put into practice without any constitutional authority. However, the system of benefits, including youths, mothers and children, has gone far beyond the German program.

It was during Mrs. Kelley's sojourn in Zurich that she married, though little is known of her husband beyond the fact that his surname was Wischnewetzky, which she used for a short period after her return to the United States in 1886, and as the translator of one of the works of Frederick Engels, the patron and associate of Karl Marx. From the contacts that she made abroad she became fired with the theories of Socialism and made the acquaintance and gained the friendship of Engels. Neither *Das Kapital* of Marx nor any other of his or Engels' writings had at that time been translated from the German, and Florence Kelley eagerly sought the opportunity to introduce them to American readers. Engels permitted her to undertake to translate a work of his, "The Condition of the Working Classes of England in 1844." She returned to the United States in 1886 to complete it and to find an American publisher.

The character of this volume may be judged from the following paragraph in her translation:

"The war of the poor against the rich now carried on, in detail and indirectly, will become direct and universal. It is too late for a peaceful solution. The classes are divided more and more sharply; the spirit of resistance penetrates the workers, the bitterness intensifies, the Guerilla skirmishes become concentrated in more important battles, and soon a slight impulse will suffice to set the avalanche in motion. Then, indeed, will the cry resound through the land, 'war to the palaces, peace to the cottages,' but then it will be too late for the rich to beware."

There are extant a number of letters written to Mrs. Kelley by Engels between 1885 and 1888. Excerpts from the appear in a small volume of communist literature entitled, "The Little Red Library, No. 6, Marx and Engels on Revolution in America," published by The Daily Worker Publishing Co." in Chicago. These letters are full of explanation and instruction as to the development of the "class war." In one dated June 3, 1886, Engels writes:

"What the breakdown of Russian Czarism would be for the great military monarchies of Europe – the snapping of their mainstay that is, for the bourgeoisie of the whole world, the breaking out of class-war in America."

In a letter dated January 27, 1887, Engels explains the most effective method for introducing Socialism in America, saying:

"Our theory is a theory of evolution, not of dogma to be learned by heart and to be repeated mechanically. The less it is hammered into the Americans from the outside and the more they test it through their own experience.... The more will it become part of their own flesh and blood."

That is to say, it should be introduced by successive steps in legislative acts, after the manner adopted by President Roosevelt, transferring functions to the State which the individual, if left independent, would perform in his own self-reliance. Since that time the Socialists in the United States have successively formulated a number of specific planks or "demands" many of which have been adopted, including graduated and ever heavier inheritance taxes for the confiscation of large fortunes; graduated and ever heavier income taxes; unrestricted equal suffrage for men and women; a federal Department of Education for the regimentation of education; abolition of the Senate and abolition of the power of the Supreme Court to declare an act of Congress void. And in the 1932 Socialist platform there were "demands" for a federal appropriation of five billions for relief; five billions for public works; resettlement of the unemployed; compulsory unemployment compensation; old age pensions; minimum wage legislation; enforced collective bargaining; public ownership of mines, oil and power, public utilities, transportation, communication; socialization of credit; shift farm taxes to incomes and inheritances; recognition of Soviet Russia, many of which are realized in the "new order."

All of these "demands" not yet realized are repeated in the Socialist platform adopted in Washington in April, 1940, together with that for public ownership and operation of essential industries to replace the capitalist profit system

On May 14, 1887, Florence Kelley appeared in the role of a militant Socialist in an address before the New York Association of Collegiate Alumnae entitled "The Need of Theoretical Preparation for Philanthropic Work." A few quotations will reveal the completeness of her conversion to Marxian Socialism:

"Our bourgeois philanthropy, whatever form it may take, is really only the effort to give back to the workers a little part of that which our whole social system, systematically, robs them of, and so to prop up that system yet a little longer..."

"It is the workers who produce all values, but the lion's share of what they produce falls to the lion – the capitalist class – and enables the capitalist arbitrarily to decide what he will do with it and whether or not he will use a part of the spoils for the good of the despoiled, a part of the plunder for the good of the plundered; and, however, disinterestedly individual men and women may devote themselves to this task of restitution, the fact remains that, for the capitalist class as a whole, all philanthropic effort is a work of restitution for self-preservation..."

"Shall I cast my lot with the oppressors, content to patch and darn, to piece and cobble at the worn and rotten fabric of a perishing society? Shall I spend my life in applying palliatives, in trying to make the intolerable endurable yet a little longer?"

"Shall I not rather make common cause with these, my brothers and sisters, to make an end of such a system?..."

"As loyal members of the ruling class, our work must, I repeat, be merely palliative. For a radical cure of the social disease means the end of the system of exploiting the workers.

"Another of the indispensable books is 'The Condition of the Working Class in England,' by Frederich Engels, which is especially valuable for American readers, because the conditions described in it as they prevailed in England at the time of its appearance in Germany are reproduced upon a still larger scale in America now, at the moment of its publication in an English translation. It is the best introduction to the study of modern scientific political economy and of the fundamental work par excellence thereof, 'Capital,' by Karl Marx."

Mrs. Kelley's address was printed in pamphlet form and a copy of it was sent to Engels. He acknowledged its receipt, without a word of comment, in a letter dated September 15, 1887. It appears from a letter dated May 4, 1887, written to F. A. Sorge, a Communist lieutenant, sent to the United States by Marx and Engels in 1857, that Engels was not pleased with the American edition of his book. He wrote:

"I think simpler fare more digestible for the untheoretic matter-of-fact Americans, we having gone through a history outlined in the (Communist) Manifesto, which they have not. My Book has been completely bungled by Mrs. Wischnewetzky, who gave Miss Foster carte blanche, and she gave it to the publishers. I protested immediately but it was already done. Mrs. W. has bungled everything she has undertaken. I will never give her anything more and she can do what she likes, and I shall be glad if she ever does anything good, but I have had enough, and in future she must leave me in peace."

However, Engels exhibited no dissatisfaction in subsequent letters to Mrs. Kelley, which he invariably subscribed, "I remain, dear Mrs. Wischnewetzky, very sincerely yours, F. Engels."

F. A. Sorge had long been associated with Marx and Engels. After the abortive revolution in Germany, in 1848, which they had fomented there and in France, he fled to Switzerland. In 1851 he joined them in England, where they had found asylum and where they were proselytizing among the English workers. In 1887 Sorge was sent to the United States to break ground in the new American soil and sow the seeds for the coming "class war." The history of his work is set out in the Communist booklet previously mentioned. He formed the first Communist Club, which later became the American section of the First International, upon which has since been erected the Communist Party and all the mischief it has been guilty of in the United States in recent years.

Before his death in Brooklyn in 1906, Sorge collected Engels' letters and other writings pertaining to American activities, and published parts of them in a volume entitled

"Briefe und Auszüge Aus Briefen Von Frederick Engels, Karl Marx U. A. and F. A. Sorge and Anders."

The appearance of Engels' English translation in America seemed to have stimulated much alien interest in the progress Communism was making among us, manifested in visits from various leading Socialists from abroad. In 1886, Dr. Aveling and his companionate wife, Eleanor Marx, arrived from England. There is no public record of what they did, but, apparently Mrs. Kelley complained of them to Engels on some ground. In a letter of May 4, 1887, to Sorge, he wrote:

"The Avelings have sent you 'Time,' with their article on America. I suppose you have received them (March-April-May). Even the Tory 'Standard' praises them. The Avelings are now doing more than all the others here, and their work is far more useful, and I am to quarrel with them on account of Mrs. W. and her childish scruples!!!"

In 1888, Engels himself came for a visit, as did Sidney Webb and E. R. Pease, secretary of the Fabian Society. The headquarters of the general council of the First International had been transferred to New York in 1872, following the suppressed revolutionary outbreak in Paris in 1871. Sorge continued in his work of organization from New York until his death.

In 1890 Mrs. Kelley left New York for Chicago and settled down at Hull House Settlement, where her long association with Jane Adams began. From 1893 to 1896 she was chief factory inspector for Illinois by appointment of Governor Altgeld. During this time she obtained a law degree from Northwestern University.

In 1899 she assisted in organizing and became General Secretary of the National Consumers' League, and returned to New York, taking up her residence with Lillian Wald in Henry Street Settlement. Here she passed many busy years in the exercise of an unusual talent for organization and leadership, and in lobbying for "social" legislation before Congress. Her active associates during most of these years included Jane Adams of Hull House, who was President of the International League for Peace and Freedom; Mrs. Raymond Robbins, founder of the International Federation of Working Women; Mrs. Carrie Chapman Catt, former President of the International Woman Suffrage Alliance, and founder and honorary President of the National League of Women Voters; Owen R. Lovejoy, a Socialist, General Secretary of the National Child Labor Committee, which she and Miss Adams and Miss Wald founded in 1904; Anna Louise Strong, a Communist, now Editor of the *Moscow News*; and others.

The organizations which Florence Kelley brought into being or largely dominated or used, and which for many years served her purposes in promoting legislation before Congress, included:

The Inter-Collegiate Socialist League, now the League for Industrial Democracy – chief promoter of Socialism in our schools and colleges – of which she was president.

National American Woman Suffrage Association, of which she was vice-president, and whose organ, *The Woman's Journal*, sheds much light on the period.

National Consumers' League, of which she was General Secretary.

The American Assn. For Labor Legislation.

The National Women's Trade Union League.

General Federation of Women's Clubs.

National Congress of Mothers and Parent and Teachers' Associations.

National Council of Jewish Women.

The W. O. T. U.

American Association of University Women.

National Child Labor Committee, of which she was a founder.

Women's Joint Congressional Committee, the lobbying spearhead which she organized and directed as representing all of the organizations previously enumerated.

The program of national legislation which she promoted during a period of more than thirty years, some of which was realized after her death in 1932, includes:

Creation of the federal Children's Bureau in 1912.

- . Keating-Owen Act of 1916, forbidding shipment in interstate commerce of goods the product of young workers, declared unconstitutional in 1918.**
- . Act of 1918, imposing a ten percent super tax on net earnings of employers of young persons under certain ages, which was declared unconstitutional in 1922.**
- . The Sheppard-Towner Maternity Act of 1921-29.**
- . The "Child Labor" Amendment, proposed in 1924, as yet unratified.**
- . The Smith-Towner education department bill, 1919.**
- . Social Security Act, 1935, with grants for mothers' and children's pensions:**
- . The Wage and Hour Act, 1938, containing provisions for control of employment of minors in the States.**
- . The Wagner Health Bill of 1939, contemplating annual appropriations of about**

\$300,000,000 to be matched by the States.

The first venture into lobbying for national "social" legislation was in connection with the creation of a federal children's bureau in 1905. And the first measure, drafted for Mrs. Kelley by Professor S. M. Lindsay of Columbia University, provided for a chief, an assistant chief, a private secretary to the chief, one chief clerk, one statistical expert, 22 clerks, 2 copyists, 1 messenger, and 2 special agents, with an appropriation for the first year of \$51,820.

The bill encountered serious opposition and made very little progress, but the women returned at each session of Congress to press for its enactment. In the Senate its sternest opponents were Senators Bailey of Texas, Gallinger of New Hampshire, Heyburn of Idaho, Overman of North Carolina, Stone of Missouri, and Works of California. They viewed the measure as seeking not only to arrogate to the federal government a sphere of the general police power reserved to the States by the Constitution, but also as one based upon ideas of the relation between the individual and the State that were alien to those upon which our institutions rest, ignoring particularly the conceptions of the inviolability of the home, the sanctity of the family and a jealous regard for the rights and responsibility of parents in the matter of their children.

But Mrs. Kelley, Miss Wald, and others considered such a bureau a national necessity. Appearing before the House Committee on Expenditures in the Interior Department on January 27, 1909, Mrs. Kelley said:

"If any stupid, illiterate farmer up near Catskill in New York, wants to know something about raising artichokes on his farm, all he has to do is get his son or the village postmaster to write the Department of Agriculture, and he will be supplied with information not only about artichokes, but about everything relating to agriculture, in every mail, much of it very valuable. But how different is the situation with regard to children?"

Miss Wald submitted a statement at the same hearing, in which she said:

"Whereas the government, as such, has been active and done its part for a great many interests in the community, by a strange and almost incomprehensible way, the children, as such, have never been taken within the scope of the federal government.... The full responsibility for the wise guardianship of these children lies upon us.... No longer can a civilized people be satisfied with the casual administration of that trust.... In the name of humanity, of well-being, let us bring the child into the sphere of our national care and solicitude."

Thomas F. Walsh of Denver, head of the Colorado Bureau for the Protection of Children and Animals, and an associate of Judge Ben Lindsey of the Denver Juvenile Court, also urged the creation of a children's bureau, in the work of which he said, "Our national government should take a parental lead."

Also present, at his own request, was Mr. S. N. D. North, Director of the Census, who

objected to the new proposed bureau as one that would, in part, duplicate the work of his office. He said:

"The Census is a purely statistical office. Its function is to collect the cold-blooded facts and analyze and interpret them and leave to the public at large the duty of drawing the ethical or moral or industrial conclusions which those facts convey. I feel very strongly that if any legislation is enacted which in any way modifies the function of the Census Office in that regard, it will be highly detrimental to the work of the Office. I feel that the Census Office cannot engage in the business of propaganda; and that will be the main work of this new bureau, as I read the bill."

At the conclusion of the hearing, Mr. Hardy, a member of the Committee, made this comment:

"When we get the bureau of health, the bureau of education, and the bureau of morals, and the bureau of children, what is there left for local government to do?"

The Senate Committee report of August 14, 1911, of hearings on the children's bureau proposal, quotes the following from a statement of Jane Adams:

"How absurd State lines are when it comes to industrial questions.... These great questions of education and child labor cannot be adequately cared for by the States whose boundaries are determined by rivers and mountains.... We cannot confine ourselves to child labor and detach it from all other things which pertain to children; and then we are forced into a consideration of education, of health, of recreation – into all sorts of other questions."

By 1911 the propaganda and agitation on the part of what appeared to be many women's organizations was taking effect. In that year Anna Louise Strong conducted "child welfare" exhibits in many American cities, with the dramatization that the subject naturally lends itself to. There seemed to be an overwhelming demand for a Children's Bureau on the part of America's mothers. Senator Borah of Idaho was now championing the measure in the Senate and Congressman Andrew Peters of Massachusetts, was behind it in the House.

Judge Ben Lindsey of the Denver Juvenile Court, one of the chief speakers for the bill in the campaign, wrote an article appearing in *The Woman's Journal* on February 10, 1912, which was reprinted and widely circulated as campaign literature. In an ironic paraphrase of the Earl of Chatham's fine description of the "right of castle," he said:

"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."

The measure then pending was defended by Senator Borah as creating a mere "statistical agency," with no powers to trench upon any rights of the American family. It provided

that such proposed bureau "shall investigate and report to said department (then of Commerce and Labor) upon all matters pertaining to the welfare of children and child life among all classes of our people, and shall especially investigate the questions of infant mortality, the birth rate, orphanage, juvenile court, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several States and Territories."

On January 30, 1912, Senator Heyburn, speaking against the bill, said:

"While upon the face of this measure it merely provides for the taking of statistics, the accumulation of knowledge, yet we know from other measures which have been introduced, some from the same source, that it contemplates the establishment of a control through the agencies of government over the rearing of children.... There may go into the household of the poor man, who is defenseless against this inquisition, a man stamped with authority, or who thinks he is, and he may ask the resident questions as to his habits, as to his wife's habits, as to whether they play cards or drink or gamble or dance, and then you have made a record by which the child is to be judged or the parent or guardian is to be judged. You have indulged in an inquisitorial proceeding, which, except for the purpose of discovering crime or enforcing the law against it, we ought never to permit under the laws of this country."

Senator Heyburn was moved by that keen sense of legal right that once permeated the breasts of all American freemen, and saw in the violation of the rights of others an attack on their own persons. It was a generous sentiment which Americans once were quick to feel at the thought of governmental intrusion into the home, and courageous enough to resent. The home was still, at that time, the American's "castle," and his rights within it continued as inviolable as were the Englishman's, as the inspiring symbolism of the Earl of Chatham depicted it:

"The poorest man may in his cottage bid defiance to all the force of the crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter, the rain may enter – but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement."

Americans of that period also recalled the principles of protection accorded the citizen under Amendment IV against "unreasonable searches," as particularized in the notable decision of the Supreme Court in the case of *Boyd vs. U.S.* in 1886, where they were termed "the very essence of Constitutional liberty and security;" and, further:

"They apply to all invasions on the part of the government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking down of his doors and the rummaging of his drawers that constitutes the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty and private property."

When the Children's Bureau measure came up for passage in the Senate on April 4, 1912,

Senator Culberson offered this amendment, which was adopted:

"But no official or agent or representative of said bureau shall, over the objection of the head of the family, enter any house used exclusively as a private residence."

Although this first campaign for "social" legislation had been crowned with success, it was short of what was desired. The total appropriation allowed for the first year was only \$21,936.45.

In its issue of April 6, 1912, *The Woman's Journal* printed a striking cartoon entitled, "Pigs versus Children," depicting Uncle Sam in an armchair with two pigs in his lap, scowling at the pathetic figures of a mother and child standing before him, and an accompanying editorial, which said:

"Congress, which appropriates \$8,000,000 to promote the health of pigs and other animals, has at last appropriated the meager sum of \$80,000 for a Children's Bureau.... This is the outcome of seven years of indirect influence of Mrs. Florence Kelley and many other earnest women."

In its issue of May 11, *The Woman's Journal* said:

"We shall not be willing to let the establishment of the Children's Bureau mean simply investigation – it must mean power to change things."

Mrs. Kelley's ambitions and interests were too expansive to be confined within the limited sphere of an administrative public office; she wanted none of them for herself, and when the bureau was set up she reached back into Hull House for Miss Julia C. Lathrop, a social worker, and brought about her appointment to the position of first Chief of the bureau, where Miss Lathrop served until 1921.

Also brought from Hull House was Miss Anna Louise Strong, as "exhibit expert," or publicity director, of which there was to be great need in the subsequent flow of propaganda, in innumerable studies and reports, and in the bureau magazine, *The Child*, in striving after enlarged power and appropriations. Miss Strong left the bureau in 1916 and settled in Seattle. She immediately identified herself with radical labor leaders. She was elected to the School Board in 1917 but in 1918 she was recalled. In that year, according to a volume, entitled "Americanism vs Bolshevism," written by Mayor Ole Hanson of Seattle, she conspired with Leon Green, (Butowsky), William D. Hayward, national secretary of the I.W.W., and others, to bring on the general strike, which was declared on February 6, 1919, in an attempt to sovietize the city. Only the presence of United States troops prevented the most violent excesses.

From Seattle, Miss Strong went to Russia in 1918 as correspondent for American Communist newspapers, and became a co-worker in the cause, not only aiding in establishing "children's colonies," but as a prolific writer of propaganda. In 1930 she organized, with the Soviet government's approval and support, the *Moscow Daily News*, the first English newspaper to be published in Russia under the Communist regime. In

1932, she married a Communist fellow-worker, Joel Shubin of Moscow. She returns to the United States freely on propaganda tours and has been welcomed as a lecturer at many women's colleges, including Wellesley, Smith and Vassar, and at Columbia and Stanford Universities.

CHAPTER III

The Beginnings of the Program for National Social Legislation

The determination of the Children's Bureau not to remain a mere statistical agency was reflected in its first efforts to regulate the employment of young persons in the States, and in its success in inducing Congress to enact what was known as the Keating-Owen law in September, 1916. This act prohibited shipment in interstate commerce of any article the product of a mine or quarry in which persons under 16 years of age were employed, or any article of any other establishment in which young persons under 14 years of age were employed or in which any young persons between 14 and 16 were employed more than 8 hours a day and 48 hours a week. The administration of the law was confided to the Children's Bureau.

An article, written by Mrs. Kelley and printed in *The Survey* on August 26, 1916, said:

"The factory children and mine children, having at length caught the attention of Uncle Sam, so long blind and deaf to their need, the enormously larger numbers engaged in agriculture cannot forever be ignored; the inevitable logical sequel of this law is federal aid to education."

In June, 1918, the Keating-Owen act was declared unconstitutional on the ground that it was not, in fact, intended as a regulation of interstate commerce, but was actually an attempt to regulate manufacturing in the States; that the power over this subject was reserved to the States, and that Congress could not do indirectly what it had no constitutional power to do directly. Speaking for the Court, Mr. Justice Day further said:

"The maintenance of the authority of the States over matters purely local is as essential to the preservation of our institutions as is the conservation of the supremacy of the federal power in all matters entrusted to the nation by the federal Constitution. In interpreting the Constitution it must never be forgotten that the nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the national government are reserved. The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority, is inherent and has never been surrendered to the general government."

The women of the Children's Bureau, with the aid of Mrs. Kelley's various organizations,

returned to Congress and induced it to enact a like measure, ostensibly for raising revenue, by levying a 10 percent additional tax on the net earnings of any establishment employing young persons below the standards set up in the previous law. As this was a supposed revenue measure, its administration was not confided to the Children's Bureau but to the Treasury Department. On May 15, 1922, the Supreme Court held this act unconstitutional, on practically the same ground set out in the previous decision; that, under the guise of a tax, the federal government was seeking to regulate manufacturing in the States, which it had no power to do.

By 1919, the appropriations for the Children's Bureau had grown to \$393,261, and "inquisitorial proceedings," which Senator Heyburn had feared, had, in fact, become the common practice of agents of the bureau in many homes of the poor in the course of gathering statistics on "infant health and economic welfare." In an article which Miss Lathrop herself prepared for the *American Journal of Public Health*, for April, 1919, entitled "Income and Infant Mortality," reprinted and widely circulated by the bureau, she said:

"None of the studies made by the bureau attempt to approach infant mortality as a medical question. They are concerned with the economic, social, civic and family conditions surrounding young babies.... The surroundings of each child are traced through the first year of life.... by women agents of the bureau who call upon each mother. While it is plainly necessary to accept the mother's statement with reference to matters directly pertaining to the daily life of the baby, it was thought that she might not always know about her husband's earnings and that other sources of information might be more important. Payrolls were consulted and employers and fathers themselves were interviewed.

"The logic of the evidence adduced seemed to indicate that a very large ratio of the families of the United States obtain incomes too small to make possible the rearing of children in the manner which scientific and humane considerations, as well as the prosperity of the nation, demand.... The cost of living must come down or there must be a nationalization of financial responsibility which will relieve the individual family of a portion of the cost which they must now bear or wages must rise to cover the cost of living."

As early as 1917, the investigations of the bureau had brought the conviction of the necessity for "nationalization of financial responsibility" for motherhood, as appears in the annual report dated October 8th of that year, in which, under the heading, "Public Protection of Maternity and Infancy," Miss Lathrop stated:

"There is a question, however, now pressing for attention, which affects not only the lowest income groups, but the greater share of American mothers; it is how to make promptly and uniformly available to all mothers and children irrespective of income, in town and country alike, the services of nurses, doctors, conference centers and hospitals."

It may be significant that the year before, in 1916, Madame Alexandra Kollontai, a Communist associate of Lenin and Trotsky, was in the United States on a pacifist lecture tour and that she released and caused to be widely circulated, with the assistance of fellow Communists, a volume of her own entitled "Society and Motherhood – State insurance of Motherhood." In October, 1917, she was back in Petrograd during the revolution in Russia, and became Lenin's first Commissar of Social Welfare, charged with the segregation of children from their parents, the care of mothers, and the destruction of the institution of the family. Her first announcement as Commissar was that of the appointment of herself and four others as charged with "the immediate organization of the Department of Protection of Mothers and Children," according to U.S. Senate Document, "Bolshevik Propaganda," issued by the Overman Committee in March, 1919. Madame Kollontai was successively Soviet Commissar of Social Welfare, Commissar of Propaganda, Minister to Mexico, Minister to Norway, and is now Minister to Sweden. She is almost the only Communist prominent in the Revolution who has survived in the confidence of Stalin.

It is an interesting fact that in President Roosevelt's program for our Social Democracy a great Department of Social Welfare is contemplated. A bill for the creation of such department was proposed to Congress by the President on January 12, 1937, but thus far there has been no action upon it.

As to how completely Madame Kollontai did her job of colonizing Russia's children as Commissar of Social Welfare, we have the testimony of Lieut. A. W. Klieforth, assistant military attaché under Ambassador Francis, when Lenin came to power. He said, as one of the State Department's witnesses at the Senate Foreign Relations Committee hearing on the recognition of Russia, in February, 1920:

"If you want to visit your children – that is to say, those who were once your children – who have been removed to communal schools, you will get a permit, because the children are not really yours at all, but have become wards of the State. All the children have been reported from their homes to those schools. The younger generation in Petrograd is systematically herded into freight cars and sent away from 800 to 1000 miles to completely isolated institutions, where they are trained in principles of Communism.... Parents have a habit of loving their children.... and by whatever influence or bribes they are able to bring to bear, seek to discover and rejoin them. Therefore, the Soviet carefully destroys all records of birth and relationship, leaving nothing undone to completely isolate every child in Russia from all human ties, except those relations advocated by bolshevism."

In the annual report of the Children's Bureau for 1917, there is a reference to the need for "the protection of maternity and infancy," with five recommendations, among them:

"Public-health nurses who shall be available for instruction and service as are public school teachers and other public officers."

In 1919, the federal Children's Bureau issued its publication No. 57, a 200-page volume,

entitled "Maternity Benefit Systems in Certain Foreign Countries." On Page 175 of this work there is an endorsement of Madame Kollontai's book, "Society and Motherhood," as "the most comprehensive study of maternity benefits and insurance which has yet appeared in any language." The bureau the same year called an international conference on child welfare standards, with representatives attending from Great Britain, Belgium and Japan. As the result of that conference the bureau issued its publication No. 60, a 460-page volume entitled "Standards of Child Welfare," containing various recommendations, among them one for the appointment of one public-health nurse for each 2000 of our population; that is to say, 52,000, all presumably to be under the Children's Bureau.

In the volume is also printed, it must be assumed with approval, the statement of Dr. J. Whitridge Williams, a physician delegate to the conference, in the following words:

"I take it that the first step in such a campaign of education for the improvement of obstetrical conditions must consist in the compulsory registration of pregnancy, through the local health officer. In this event, it will be possible for every pregnant woman throughout the entire country to be supplied gratis with certain of the publications of the Children's Bureau."

In the annual report of the bureau for 1919, Miss Lathrop expressed the hope that the international conference would prove an influence in realizing two measures which "are implicit in the standards," namely:

- . Federal aid to the States for universal elementary education for the prompt and immediate abolition of illiteracy and child labor.
- . Federal aid to the States for the universal protection of maternity and infancy.

A campaign was then inaugurated to obtain legislation which would give the Children's Bureau authority to deal with the subject of maternity in the States, and Mrs. Kelley became Chairman of a sub-committee on maternity of the Women's Joint Congressional Committee, to bring it about.

Senator Sheppard and Representative Towner of the House, agreed to sponsor what became known as the Sheppard-Towner Maternity and Infancy Act, "an act for the promotion of welfare and hygiene of maternity and infancy," with an appropriation of \$4,000,000 for the first year, to be allocated to the States on a matching basis, in the discretion of the Chief of the Children's Bureau as to the adequacy and conduct of the cooperating State units. The progress of the legislation was slow and the women became impatient. At the Senate Committee hearing in May, 1920, Mrs. Kelley said:

"The question that is arising amazingly in people's minds now is, why does Congress wish to have mothers and babies die?... If Congress adjourns without taking effective action - no mere committee report will answer; we want a committee report, but we want a committee report as a basis for action.... If this bill is not passed - it will be one of the most interesting questions that will go on and on in the press, because our organization will see that it does go on, if no other

organization does. Why does Congress continue to wish to have mothers and babies die?"

And, again, at the House Committee hearings, December 20 to 29, 1920, Mrs. Kelley said:

"This is the week of the child, who was born and laid in a manger, and this is the time when people's minds turn especially to children; and those people who will go to church in Christmas Eve and on Christmas Day will be reminded, not only of the child who was born that day but of the circumstances under which that child was born. And the story of Herod will be in everybody's mind.

"We do not know how many children were slaughtered by Herod; history does not record that. But the deaths of those children have remained in the minds of the human race for nearly 2000 years; and the Congress now, after its long delay and its failure to interest itself in those daily deaths of 680 children – or 20,000 children a month – has to choose where it will be recorded in history."

As the maternity bill had been formulated in the Children's Bureau it contained, in Section 8, a provision for "medical and nursing care for mothers and infants at home or at a hospital when necessary, especially in remote areas;" but after the bill was introduced this section was stricken out with the bureau's approval. Although Mrs. Kelley had indicated Congress as "Herods," and being responsible for the deaths of 240,000 children annually by its delay in enacting the measure, it developed during the hearings that the entire proposed \$8,000,000 (\$4,000,000 from matching States) was to be used "solely for service" in the "social and economic" fields, according to Miss Lathrop's testimony before the House Committee in December, 1920. Dr. Anna A. Rude, bureau director of the division of hygiene, had also testified that "its real purpose is for educational extension work.... And is broader than a simple health measure."

With \$8,000,000 to be disbursed annually to social and economic investigators and for printed matter, there would open up a greatly expanded field for professional social workers on the public payroll, which led Speaker Champ Clark of the House to remark on October 11, 1919:

"The milk in this cocoanut is to create a lot of new fat jobs."

Social work was then becoming a new and respectable career for women, and for men also. Those entering it considered it a little above the professions of nursing and teaching, and it offered quicker and greater financial rewards from the charitable rich. In an article entitled "Social Work as a Profession for College Men and Women," written by Miss Kate Haliday Claghorn, member of the faculty of the New York School of Philanthropy in 1915, she stated that a young man going into social work might command a salary of \$2500 to \$3000 within a few years. Some positions, she said, pay from \$5000 to \$10,000, adding:

"And certainly the names of Miss Adams in the settlement field, of Miss Richmond in organized charity, of Mrs. Kelley in the field of social legislation, and of Miss

Lathrop at the head of the federal Children's Bureau, come at once to mind as representative leaders, indicating that the higher reaches are not altogether barred to women."

That men social workers may surpass Miss Claghorn's calculations, was exemplified by the appointment of Harry L. Hopkins, now Secretary of Commerce at \$15,000 a year, as federal Relief Administrator in 1933, at \$12,000 a year. Hopkins placed many thousand fellow social workers on the federal payroll, with salaries not far below his own, including Aubrey W. Williams as his assistant, now head of the National Youth Administration, and of the Federal Security Agency.

The provision originally inserted in the maternity bill concerning "medical and nursing care," had misled Congress to consider it a health measure, and prompted Representative Winslow to ask Miss Lathrop during a House Committee hearing in December, 1920:

"Would it cause any hindrance to the progress of your work if it were to be transferred to the United States Public Health Service?"

"I should regard it as a fatal error to transfer a bureau whose business is to investigate and report upon all matters relating to the welfare of the children and child life to the sole supervision of physicians," replied Miss Lathrop.

In the Senate on December 18, 1920, Senator Hoke Smith, addressing Senator Sheppard, asked:

"Does the Senator think it would take \$8,000,000 annually simply to carry information on that subject?"

"That was the co _____ looked into the matter very carefully," replied Senator Sheppard.

Senator Brandegee asked by whom the matter was looked into very carefully.

"By the Children's Bureau," said Senator Sheppard.

Senator Moses thereupon introduced an amendment to provide for \$5,000 for each county in every State that would put up a like amount to build a hospital to be approved by the county and state health officials, with actual training of women in maternal nursing, with the advisory assistance of the United States Public Health Service.

"If the real desire of the proponents of this measure is to give real help to expectant mothers, they should realize that provision should be made for doctors, not documents, for medical men instead of meddlesome Matties," said the Senator.

Of Senator Moses' proposal for a maternity hospital in every county needing one, supervised by county and State health boards and advised by the United States Surgeon General, with training for women in maternal nursing, Mrs. Kelley said before a Senate Committee, on April 25, 1921:

"We have made a study of the Moses amendment and it seems to us to be intended to destroy this bill.... It would be a terrible retrogression in regard to the standard of the care of mothers and children in this country and we cannot afford to retrogress.... Our hope is that this bill will be passed to give them this instruction and not provide bricks and mortar."

In the following July, 1921, before the House Committee, Dr. Charles E. Humiston of Chicago, then President of the Illinois Medical Association, expressed the ground upon which many State medical associations and the American Medical Association opposed the bill. He said:

"This is a medical question and it is supervising the practice of medicine in the different States, through the Children's Bureau in the Department of Labor, that this bill provides. That is why we object to it.... We object to placing the practice of medicine under the supervision of a lay board."

By this time the parallel campaign, carried on by practically the same women for woman suffrage, had been successful, the Nineteenth Amendment having been ratified on August 18, 1920; and Mrs. Kelley and her Women's joint Congressional Committee felt a great augmentation of power. She had boasted at a House Committee hearing on another subject on May 2, 1921:

"We have the votes and we are now organized with a thousand ramifications. We have more interlocking directorates than business has."

She definitely claimed "12,000,000 women votes" and the members of Congress appeared to be duly impressed. Nothing more was heard of the Moses Amendment, and the Sheppard-Towner Maternity and Infancy Act was passed on November 23, 1921. But the duration of the act was limited to 5 years and the proposed appropriation of \$4,000,000 was scaled down to \$1,480,000, to be apportioned to the States as they matched the sums allocated and as they created spending agencies meeting the approval of the Chief of the Children's Bureau. Five States – Connecticut, Illinois, Kansas, Maine and Massachusetts – rejected the offers to share in the money and to submit these activities to federal control.

Miss Julia Lathrop resigned as Chief of the federal Children's Bureau in 1921, and another former social worker of Hull House, Miss Grace Abbott, who had joined the staff of the bureau in 1917, was named as her successor. With the approach of the period, June 30, 1927, when the maternity act would lapse, the women of the Children's Bureau and their co-working groups inspired a bill for its continuation for two years, which became known as the Phipps-Parker bill, and they arranged hearings which were opened before the House Committee on January 14, 1927.

The bureau had stressed the need for the act upon what it alleged was the backwardness of this country in maternal and infant care, and had adopted as a part of the original campaign for the measure, the slogan, "It is safer to be a mother in 17 foreign countries

than in the United States." Dr. John Howland, pediatrician in chief at Johns Hopkins Hospital, Baltimore, had testified on July 12, 1921, saying:

"I am quite sure from considerable experience with statistics that there is no basis for the statement that the United States stands seventeenth in maternal-death rate. Even civilized countries have not sufficiently accurate statistics to enable anyone to make a definite statement."

In the bureau's endless stream of studies and reports there was much terrifying literature on the hazards of child-birth, with the use of statistics that were not always in agreement with the findings of the non-political Census Bureau. The literature was calculated to alarm mothers, not only on their own account, but on account of their children as well. Thus an undated release entitled "The Child's Right to Be Well Born," contains this statement:

"Perhaps you are so fortunate to have a baby in your household. If so, do you realize that if that baby had chosen its home in any of five other countries it would have had a better chance at life than in the United States? For in the birth registration area of this country, out of every 1000 babies born live, 76 die, while in New Zealand, only 42 babies out of every 1000 die; and four other countries have an infant death rate lower than ours.... Studies by the Children's Bureau and other agencies have shown clearly what causes our high death rates among mothers and young babies. These causes are all susceptible to human control; we can eliminate them if we want to hard enough. What are they? Briefly, poverty and ignorance."

The significant fact was brought out at these hearings to extend the maternity act that the infant mortality per 1000 births in the 5 States which refused to work under the bureau, were lower than in the 43 States that has accepted the bureau's direction, being 69.9 in the former and 74 in the latter.

At the first House Committee hearing for continuing the maternity act, Miss Grace Abbott, the new bureau chief, used the old theme, saying:

"The maternal mortality rate is the one that is so seriously high as compared with other countries.... We have not had the same period during which this has been considered as a national problem that other countries have had. We have been slower in coming to it than some other countries have."

Then she was asked whether the two-year additional period they had requested was sufficient. She would not commit herself further than to say, in reply to the suggestion of five years, that the need would certainly continue that long. During these years President Coolidge sounded a number of forthright warnings against the constant intrusion of the federal government into the States, accomplished through the expedient of "federal aid." In his Budget Message of December 2, 1924, he said:

"I am convinced that the broadening field of this activity is detrimental to both the federal and State governments.... I am opposed to any expansion of these subsidies.

My conviction is that they may be curtailed with benefit both to the federal and State governments."

Yet in his Budget Message in December, 1926, President Coolidge yielded to the pressure of the women of the Children's Bureau and recommended a continuation of the appropriation under the Maternity and Infancy Act for two years.

In the course of the debate in the House on March 3, 1926, supporters of the act sought to justify it as proper legislation under "the general welfare" clause of the Constitution. This prompted Henry St. George Tucker of Virginia, to relate the history of the clause from its first mention in the Constitutional Convention of 1787, to its final inclusion in the Morris revision, and to demonstrate that it was never considered a substantive power, but was always held to be qualified by the seventeen powers delegated to Congress immediately following it. It was a great surprise to his colleague, Mr. Oliver of Alabama, who asked:

"Do I understand the gentleman to take the position that the power vested in Congress to tax is limited to certain declared purposes or powers set out in the Constitution, and these same declared powers or purposes likewise define and fix the limits on the power of Congress to appropriate money?"

"Mr. Tucker: I certainly do hold, as every judge on the Supreme Court discussing this subject was held, that taxes can be levied only for public purposes, and those purposes are limited by the power of the government.

"Mr. Tydings: What would be the use of the other seventeen powers if the general welfare clause gave power to Congress to do anything, anyway?"

Nearly every session of Congress since the first which met in 1789, of which James Madison, the Father of the Constitution and its clearest interpreter, was a member, has heard repeated the constitutional limitations upon its powers of legislation in appropriating money. For Madison himself took occasion to expound them in opposing a bill introduced in that first session by a New England member to pay a bounty to cod fishermen, that is to say, to subsidize a private class of persons.

It was contended by the supporters of the measure that Congress had the power to grant bounties under "the general welfare" clause of Article I, Section 8, which declares:

"The Congress shall have "power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States;...."

In a lengthy discussion, Madison said:

"I, sir, have always conceived – I believe those who proposed the Constitution conceived – it is still more fully known and more material to observe, that those who ratified the Constitution conceived that this is not an indefinite government, deriving its powers from the general terms prefixed to the specified powers – but

a limited government, tied down to the specified powers, which explain and define the general terms.

"It is to be recollected that the terms 'common defense and general welfare' as here used, are not novel terms, first introduced into this Constitution.... They are repeatedly found in the old Articles of Confederation, where.... It was never supposed or pretended that they conveyed any such power as is now assigned to them.... I ask gentlemen themselves, whether it was ever supposed or suspected that the old Congress could give away the money of the States to bounties to encourage agriculture or for any other purpose is pleased....

"If Congress can employ money indefinitely to the general welfare, and are the sole and supreme judges of the general welfare, they may take the care of religion into their own hands; they may appoint teachers in every State, county and parish and pay them out of their public treasury; they may take into their own hands the education of children, establishing in like manner schools throughout the Union; they may assume the provision for the poor;... in short, everything from the highest object of State legislation down to the most minute object of police, would be thrown under the power of Congress; for every object I have mentioned would admit of the application of money, and might be called, if Congress pleased, provisions for the general welfare.... I venture to declare it is my opinion that, were the power of Congress to be established in the latitude contended for, it would subvert the very foundations, and transmute the very nature of the limited government established by the people of America."

In the case of *Gibbons vs. Ogden*, decided in 1824, Chief Justice Marshall construed the "general welfare" clause in these words:

"Congress is authorized to lay and collect taxes, etc., to pay the debts and provide for the common defense and general welfare of the United States. This does not interfere with the power of the States to tax for the support of their own governments; nor is the exercise of that power by the States an exercise of any portion of the power that is granted to the United States. In imposing taxes for State purposes they are not doing what Congress is empowered to do. Congress is not empowered to tax for those purposes which are within the exclusive province of the States."

The progressive usurpation of the reserved powers of the States by Congress concerning health, education, maternal and child welfare and other local matters, now reaching an engulfing climax, have this same un-historical and unconstitutional background. Matters of education, health, mothers' pensions, children's pensions, old age pensions and all other federal relief to private classes, are in the same unlawful category. These subjects, or such of them as pertain to public, as distinguished from private or class interest, fall under what is known as the "police power," which, in the words of the Supreme Court, is "in its fullest and broadest sense reserved to the States." It includes such legislation as is appropriate or needful to protect the public morals, the public health, or the public

safety, and to promote the good order and domestic peace of the community. The federal government has no such general police power, but through a species of bribery, with the use of federal moneys, the field is now being dominated.

Andrew Jackson himself pointed out the unconstitutionality of these practices in a vigorous message to Congress in 1833, vetoing a bill allotting certain public lands to seven Western States, to be applied to the "objects of internal improvements or education." President Jackson said:

"It appears to me a more direct road to consolidation cannot be devised. Money is power, and in that government which pays all the public officers of the States will all the political power be substantially concentrated. The State governments, if governments they might be called, would lose all their independence and dignity; the economy which now distinguishes them would be converted into profusion, limited only by the extent of the supply. Being dependents on the general government, and looking to its Treasury as the source of all their emoluments, the State officers, under whatever names they might pass and by whatever forms their duties might be prescribed, would, in effect, be the mere stipendiaries and instruments of the central power."

In the Senate there was also much opposition to continuing the maternity act, voiced by Senator Bayard of Delaware, Senator Bruce of Maryland, Senator King of Utah, Senator Reed of Missouri, and others. On January 13, 1927, Senator King carried his opposition to the point of demanding the abolition of the bureau. He opposed uniformity, standardization, and regimentation, he said, and hoped there would be a diversity and an earnest rivalry among the States. Our government is founded upon the theory of the competency of the people to govern themselves, he said; upon the right of the States and the people within them to determine their own destinies in their internal and domestic affairs. But, he said, Congress declares to the people, "You do not know enough to govern yourselves. We must therefore have a federal department of education. You do not know enough about hygiene and sanitation, therefore we must have federal doctors and inspectors and maternity homes and maternity bills, and all these measures which find their most eloquent expositors in Bolshevik Russia today." And he added:

"We are not without knowledge of the limitations imposed upon us with respect to the setting up of a Congressional regime of power over the children of the country, over their labor, over their play, over their nutrition, and over their education, health, wakefulness and sleep; over their comings and goings; over their religious tuition; and over their duties to their mothers and fathers within the authority of the family relationship.

"These matters are none of our business. They are even less the business of the Children's Bureau and of the propagandists and publicists who invoke and provoke us to pass legislation of this character. What is to become of the fundamental principle of the liberty and responsibility of the people, personally and collectively, in a free government, if Congress is to persist in the project to set up State

domination of children in this country? If the government is to take care of the people, who, I ask, is to take care of the government?... The whole theory of State control of children is a thing that is repugnant to the principles of this Republic....

"Social investigations are no more in the province of Congress than are investigations into religion or partisan politics, and it is because the primary objective of the work of the Children's Bureau is sociological,... that the pending bill ought not to be passed, and the functions of the Children's Bureau ought as a whole to be discontinued.... We made a blunder when the Children's Bureau was created. We ought to retrieve that blunder by repealing the act which created the Children's Bureau."

On February 25, 1927, Senator King did introduce a bill to repeal the act of 1912 creating the bureau, and in the House like bills were introduced by Representative Platt Andrews of Massachusetts on March 1, and by Representative Gordon Browning of Tennessee on March 3. But Mrs. Kelley and her "12,000,000 women voters" were a formidable deterrent to the main body of Congress. Not only did nothing come of the repeal bills, but the bill extending the maternity act was reported out and passed. The prediction of Representative Merritt, of Connecticut, who signed a minority report against it, that "this sort of federal aid will not end in two years but become perpetual," proved erroneous as to this particular measure, which again lapsed on June 30, 1929, but this and various other types of federal aid for mothers and children is again being administered by the Children's Bureau on a much vaster scale.

The appropriations for the Children's Bureau had risen from \$393,261 in 1919 to \$1,521,571.86, expended in 1929, by reason of the added functions of the Maternity Act, which finally expired that year. In spite of the discontinuance of the bureau's activities under the maternity act, the maternal-mortality and infant-mortality rates appear to have constantly lowered in the United States. As to maternal-mortality, the official figures show the number of deaths of mothers per 10,000 live births to have been 62 in 1930; 62 in 1931, 59 in 1932; 58 in 1933; 55 in 1934; 54 in 1935; 51 in 1936; and 44 in 1937. As to infant-mortality under 1 year, per 1000 live births, the rates of deaths of infants are 62 in 1930; 60 in 1931; 56 in 1932; 54 in 1933; 56 in 1934; 52 in 1935; 53 in 1936; and 50 in 1937.

The State of Massachusetts not only refused to accept the small bribe offered to place her "child welfare" services under the direction of the federal Children's Bureau, but true to a distinguished history of alert patriotism, her attorney-general brought suit against the Secretary of the Treasury to enjoin this unconstitutional disbursement of public moneys, in the case of Massachusetts vs. Mellon in 1923. The whole question of the use of "federal aid" as a means of federal intrusion into and usurpation of the reserved powers of the States thus came before the Supreme Court, but the Court held that it had no power to decide it, since the question was of a political character. It was a matter of policy, said the Court, which the States were free to accept or reject.

Attorney General William D. Mitchell, discussing the case later, said that other questions relating to the constitutional powers of the federal government affect the rights of

citizens in such a way as to permit appeal to the courts but "no one has yet been able to devise a method" by which the constitutionality of "federal aid" in the field of the reserved powers can be tested.

While Congress refused to extend the Maternity Act beyond 1929 and the Children's Bureau was left with relatively small appropriations and little to administer for several years, a new and wider field was opened in 1935 in connection with the "Social Security" Act. In title V of the act, three categories of "service" were detached from the general authority of the Social Security Board and confided to the bureau, namely: (1) for promoting "the health of mothers and children, especially in rural areas and in areas suffering severe economic distress." "\$3,800,000; (2) for services to crippled children, \$2,850,000; and (3) for child welfare services, \$1,500,000, to become available June 30, 1936.

As to the first two "services," the sums allotted to the States, subject to the approval of the Chief of the bureau as to the adequacy of the State cooperating agencies, must be matched by State funds, as in the old maternity act. As to the child welfare services, the bureau has the \$1,500,000 to spend as it pleases, and no matching with State funds is required.

Incidentally, in title IV of the Social Security Act, the Communist demand for State support for all youths under 18 years of age was partly adopted in a provision for the support of "needy dependent children" under 16 years of age, with an initial appropriation of \$24,750,000, to be matched on the basis of one-third for the federal government and two-thirds for the States. The administration of this provision, however, rests for the present with the Social Security Board. This fund is distributed as children's pensions of \$18 a month for the first child and \$12 for each additional child. More than 700,000 children are now receiving these pensions, we are told in Children's Bureau literature.

CHAPTER IV

The Plan for Government Control in the Rearing of American Youth

The first federal child labor act of 1916, forbidding the interstate transportation of the products of factories employing young persons below certain ages and beyond certain hours, was administered by Miss Grace Abbott, head of the industrial division of the Children's Bureau, until the act was held unconstitutional in 1918. The administration of the second act of 1918, passed ostensibly as a revenue measure, and levying a 10 percent super tax on the net earnings of such concerns, was confided to the Treasury Department, a very unsatisfactory arrangement from the standpoint of the Children's Bureau. It was an invasion of an important field of "child welfare" by another and

uninterested agency. In May, 1919, a United States district court in North Carolina had held the second act unconstitutional and the case was appealed to the Supreme Court, which upheld the decision of the lower court in May 15, 1922. After the decision of the lower court in 1919, the Children's Bureau set about to recapture this power over youthful workers for itself, through an amendment to the Constitution of the United States.

The interest of the Socialists in national control of youthful toilers had been manifested as early as 1908 when the National Socialist Convention, in its "industrial demands," declared for –

- . The improvement of the industrial condition of the workers by forbidding the employment of children under 16 years of age; and,
- . By forbidding the interstate transportation of the products of child labor."

In the new campaign Mrs. Kelley again took the leadership. In February, 1920, Miss Abbott was sent to the convention of the National League of Women Voters, became chairman of its resolutions committee, and promptly committed the organization to –

"The adoption of a constitutional amendment giving to Congress the power to establish minimum labor standards."

The ten pending Sheppard-Towner Maternity Act was also endorsed.

The General Federation of Women's Clubs was next committed to a constitutional amendment. At the convention of the National Women's Trade Union League, held in June, 1922, Miss Abbott, then chief of the Children's Bureau, said:

"The Children's Bureau has the whole field of child welfare and child care.... The question at the present time comes down to a constitutional amendment. There are several points to come up for decision: to give Congress power to establish minimum standards;.... Another is whether we should have a child labor amendment at all, it should not have something more than child labor – that is, whether it should include in the amendment more in the way of language giving us constitutional authority to do some of the other things in the federal field that we might like to do, and whether that is tactically the thing to do at the present time, is the question."

The "child labor" amendment, which the women of the Children's Bureau and their associates were finally able to induce Congress to pass and propose to the States, did, in fact, contain language broad enough to permit them to do many "other things" that they "might like to do" as political guardians of America's children, if the amendment is ever ratified by the states.

Mrs. Kelley's National Child Labor Committee, with Owen R. Lovejoy as general secretary, now became the chief propaganda agency of the Children's Bureau, as it has ever since remained, enrolling thousands of women contributors at \$10 a year, through

the effective emotional appeal of its literature in behalf of the "child."

The pressure which the women's lobby exerted was sufficiently strong to cause the Judiciary Committee of the House to inaugurate hearings on the subject of child labor on June 1, 1922, two weeks after the Supreme Court had declared the second federal child labor act unconstitutional. The Children's Bureau had a firm supporter in the elder Senator La Follette of Wisconsin, who, addressing the American Federation of Labor on June 14, on the Supreme Court's recent decision, said:

"We have not time to amend the Constitution every time the Supreme Court throws out a good law.... I would amend the Constitution so as to provide (1) that no inferior judge shall set aside a law of Congress on the ground that it is unconstitutional; (2) that if the Supreme Court assumes to decide any laws of Congress unconstitutional.... The Congress may, by reenacting the law, nullify the action of the Court. Thereafter the law would remain in full force and effect, precisely the same as though the court had never held it unconstitutional."

In 1933, when the Supreme Court held the District Minimum Wage Law unconstitutional, representatives of a number of organizations met in Washington and appointed a committee, including Mrs. Kelley, to effectuate Senator La Follette's proposed change. Mrs. Kelley, in an article entitled the "Children's Amendment," appearing in *Good Housekeeping* for February, 1923, said:

"We have not the time to amend the federal Constitution every time the Supreme Court throws out a good law,' said an eminent Senator in a significant speech. Congress has done all that ingenuity could suggest to lawmakers hampered by a Constitution older than the first American cotton mill, interpreted by men appointed for life and responsible only to their consciences, with none to fear save the grim reaper, Death."

Almost a score of amendments designed to give the federal government power over the youthful workers in the States were introduced in Congress toward the end of 1922 and in 1923, but the one which Mrs. Kelley herself took part in drafting, was introduced in the Senate by Senator Medill McCormick of Illinois, and in the House by Representative Israel Foster of Ohio, with a provision that it be submitted to the legislatures of the States for ratification. Its text is as follows:

"Sec. 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.:

Appearing before the Senate Committee hearing on the proposed amendment on January 10, Mrs. Kelley affirmed in a long statement "that there is insistent and powerful pressure in all industrial States to use the labor of children at as early an age as they can get it and

there is no prospect that the pressure will grow less. That is the reason it is unsafe to leave children to the tender mercies of the pressure of ignorant parents or economically weak parents who may wish wages that can be commanded for children."

At the Senate hearing the same day, Owen R. Lovejoy of the National Child Labor Committee was asked by Senator Shortridge:

"I assume that you looked closely and curiously at the language in the resolution, the wording, to the end that it would give ample power and make it possible to achieve the object in view?

"Mr. Lovejoy: Mr. Chairman, we have done so, but at the same time I should like to say the legal advisers of the committee are still at work.

"Senator Walsh: What is the feature on which your counsel and advisers are still at work?

"Mr. Lovejoy: There are two or three points on which they are working at the present time. One relates to whether, if this resolution were adopted – the so-called McCormick resolution – there would be given to Congress power in relation to the physical and educational interests of children, as well as to their industrial protection."

Mr. Lovejoy's testimony disclosed the purpose of the Children's Bureau to assume power in relation to all young persons in the United States under 18 years of age – 43,000,000 of them and some of them married and with children of their own – in the three other principal fields outside of health, namely in the economic, the educational and the recreational.

The generic word "labor" used in the amendment means physical or mental toil, physical or intellectual exertion, according to its ordinary definition in all dictionaries; and courts, of course, construe words in grants of power according to their usual meanings. It is also a settled rule of constitutional construction that the delegation of power on a given subject carries with it all incidental powers considered necessary to make the delegated power effective. In a Prohibition case, decided by the Supreme Court in 1923, on the question of "implied powers" that attach to the grant of express powers, the Court said:

"The Constitution confers upon Congress the power to make all laws necessary and proper for carrying into execution all powers that are vested in it. In the exercise of such non-enumerated or 'implied' powers, it has long been settled that Congress is not limited to such measures as are indispensably necessary to give effect to its express powers, but, in the exercise of its discretion as to the means of carrying them into execution, may adopt any means appearing to it most eligible and appropriate, which are adapted to the end to be accomplished and consistent with the letter and spirit of the Constitution.

"It is likewise well settled that where the means adopted by Congress are not prohibited, and are calculated to effect the object intrusted to it, this court may not inquire into the degree of their necessary, as this would be to pass the line which circumscribes the Judicial department, and tread upon legislative ground."

If Congress, therefore, in the exercise of power under the proposed amendment, should prohibit all employment to those under 18 years of age, it would also be empowered to prevent the evils of enforced idleness by prescribing such educational and recreational measures as it deemed necessary. And to offset poverty, resulting from enforced idleness, it could provide government support, in its own discretion.

Mrs. Kelley and her co-workers gave to this proposal the title, the "Child Labor" Amendment, although the word "child" nowhere appears in it. In fact, the use of the term "children under 18 years of age" was favored by some of the proponents in the Senate, but was strenuously objected to by Mrs. Kelley. "I am indeed very apprehensive about the use of the word 'child,'" she told the Senate Committee on January 15, 1923. Mrs. Kelley also expressed the hope that "the spacious wording" of the amendment will be retained. Professor William Draper Lewis, representing the National Child Labor Committee, had made an investigation into the legal implications of the word "child" and told the Senate Committee that "the term 'child' has been held to mean persons under 14 years of age."

As the Children's Bureau had declared "child welfare is a national and even an international problem," in its annual report for 1919, and as Miss Abbott had served as "unofficial American observer" on the commission on international traffic in women and children of the League of Nations in 1923, it is not surprising that the bureau induced Albert Thomas of France, head of the International Labor Office at Geneva, to come to Washington in behalf of the "Child Labor" Amendment. He appeared before the Senate Committee on January 5, 1923, the day Mrs. Kelley had also given testimony.

Thomas said he represented the International Association for Labor Legislation as well as the labor office of the League of Nations. He told of proposals for legislation adopted by the international association, including "a proposition to protect the children before birth." Then he said, "we voted also a draft convention for the situation of children in agricultural work.... Children under the age of 14 years may not be employed or work in any public or private agricultural undertaking or any branch thereof except outside of the hours fixed for school attendance." Toward the end of his testimony Senator Walsh asked Thomas what association he had had with the labor movement before his appointment to the international labor office. He replied:

"The position of deputy (in the French parliament) representing the Socialist Party."

On February 15, 1924, when Miss Abbott appeared before the House Judiciary Committee to urge the adoption of the amendment, Mr. Sumners asked if she desired to express an opinion on the wisdom of regulating the labor of children on farms. She parried the question for some time with other questions. Then Mr. Sumners asked her if she wouldn't

be fearful that an amendment giving such power would not be ratified by the States. She replied that she had "no fears on that score." In reply to further questioning she finally said:

"I would make no exception at all. I favor a general grant of power."

In much of the literature of the Children's Bureau, and of its principal outside propaganda agency, the National Child Labor Committee, the evil of children working in agriculture and on farms had long been stressed as presenting the most difficult aspect of the child labor problem, and, it was said, a greater number were involved. Among other objections was that the schooling of farm children was sacrificed.

On March 7, 1924, among those appearing at the House Judiciary Committee hearing, was Mr. Gray Silver of Washington, representative of the American Farm Bureau Federation. He said:

"Some of the child labor enthusiasts who would save all children from work until manhood and womanhood have become unduly exercised over a few statistics which they do not understand. They have forgotten the very pertinent fact that the cities recoup their virility from the farm where the boys and girls are always given something to do in the line of light tasks, which cheats the devil of unemployment and builds sturdy frames and muscles.

"I feel sure that no one on this committee is going to vote for a bill or resolution which might eventuate in some bureaucrat determining whether a community, whose livelihood depends upon the raising of strawberries, should not close school for a few weeks and thus permit the children to aid in the harvest upon which the financial returns of the whole year depend. Nor would the farmer relish regulations from Washington prohibiting children from aiding in the harvest of many other crops where light labor at reasonable hours is necessary, and rightly so, the capital which sensational magazines are making of the idea that he raises a family for the purpose of harvesting a cotton crop.

"To pass this resolution making it possible for the States to amend the Constitution would straightway result, in the normal course of events, in the passage of a bill authorizing the Children's Bureau in the Department of Labor to issue some regulations which would make it illegal for boys and girls reared on the farm to be anything but first-class loafers."

It was about this time, in 1924, that Miss Lillian Wald of the Henry Street Settlement, with whom Mrs. Kelley still lived, took a trip to Moscow to investigate "social conditions," according to an article in the *Survey Graphic*, December 1, 1924. Anna Louise Strong was already there as correspondent for American Communist papers. A little later the Communist groups and the Communist press in the United States, launched into a violent campaign "to abolish child labor." The Young Communist International, at its Third International Congress held in Moscow in December, 1922, at the time the Children's Bureau decided to work for a "child labor" constitutional amendment, adopted "a new

program of economic demands of the young workers, which it herewith submits to the great mass of the oppressed and exploited young proletariat and to the entire working class, -

"The basis and aim of our program is the -

"Socialistic reorganization of juvenile labor;

"This means: Abolition of wage slavery for all young workers up to 18 years, who must be cared for by the State and treated from an educational point of view until they have attained this age."

This was immediately echoed in the second national convention of the Young Workers' League of America, the United States section of the Young Communist International, which met in Chicago, May 20-22, 1923, and demanded:

"Abolition of child labor," with this statement: "The militant program of the Young Workers' League does not take account of the needs of the capitalist system, nor is it merely a means of eliminating the worst instances of the exploitation of working class youth. It must... Proclaim the ultimate and fundamental aim of the younger worker, the complete transformation of the condition of juvenile labor and its socialist reorganization. This means abolition of all wage slavery for all young workers up to 18 years of age. The young workers must be cared for by the State and treated from an educational point of view until they have attained this age."

On April 26, 1924, the McCormick-Foster "Child Labor" Amendment came up for passage in the House, and fifteen proposed amendments were offered from the floor in an effort to change its phraseology. Representative Montague of Virginia, offered the first, in these words:

"This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the conventions of the several States, within seven years of the submission hereof by Congress."

Mr. Foster, who had sponsored the amendment, objected and Mr. Montague's amendment was defeated without a roll call. Mr. Garrett of Tennessee, the floor leader, offered an amendment to substitute conventions for legislatures as the ratifying agencies. Mr. Linthicum of Maryland proposed adding a limit of five years within which it must be ratified, and Mr. Harrison of Virginia offered a substitute forbidding ratification by legislatures until State elections had intervened. All were rejected, Mr. Garrett's by a vote of 175 to 84. Mr. Garrett again moved to substitute conventions for legislatures, and again it was rejected. Mr. Lafferty of California proposed reducing the age limit to 16 years in place of 18.

"I am perfectly willing the State should have, as they now have, the right to legislate for the age of 18, or the age of 19, 20, or 21," said Mr. Lafferty, "but I... Do not want the American Congress, situated in Washington, the capital of the nation,

situated 3000 miles from my home, to have the right to say to a big husky fellow 17 years old in the State of California, 'You shall not work for a living.'"

Mr. Lafferty's amendment was approved, 148 to 136.

Mr. Ramseyer of Iowa proposed a substitute in these words:

"Congress shall have power to limit, regulate and prohibit labor in mines, quarries, mills, workshops, factories and manufacturing establishments of all persons under 16 years of age."

"Mark right here," declared Mr. Ramseyer, "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 out by his father to milk the cows, labors. If the same boy is hired by a neighbor to milk cows he is employed.... Under the proposed amendment Congress will have the power 'to limit, regulate and prohibit' the labor of girls under 18 in the homes and of boys under 18 on the farms."

Mr. Ramseyer's substitute was rejected by a vote of 158 to 120.

Mr. Oliver of Alabama sought to limit the power to that exercised by any State legislature on the subject prior to April, 1924, but failed.

Mr. McSwain of South Carolina offered the following proviso:

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

It was rejected, 192 to 76.

Mr. Moore of Virginia offered a like amendment excepting from control "the labor of such persons in the homes or on the farms where they reside," which was rejected, 185 to 89.

Mr. Linthicum offered a time limit of seven years in the matter of ratification, which was rejected. Mr. Jones moved to insert the word "commercial" before the word "labor," with a like result. Mr. McKeown moved to strike out the second section, and failed.

Mr. Lafferty's amendment, reducing the age limit from 18 years to 16, was again voted on when the Committee of the Whole House rose, and it was rejected by a vote of 199 to 169, and the 18-year age limit restored. The Children's Bureau amendment, as originally drawn, with the cooperation of Mrs. Kelley, was then passed by a vote of 297 to 69.

In the Senate on May 31, Senator William H. King of Utah made a bitter attack on the amendment. He said:

"Every Bolshevik, every extreme Communist and Socialist in the United States is back of this measure. The Bolsheviks of Russia were familiar with the scheme that was about to be launched to amend our Constitution. In conversation with one of the leading Bolsheviks in the City of Moscow, one of the educators, when I was

there last September and October, I was remonstrating with him about the scheme of the Bolsheviks to have the State take charge of the children.

"Why,' he said, 'You are coming to that,' and he called my attention to the statutes in many States in regard to compulsory education. Then he said:

"A number of Socialists in the United States,' and he mentioned a number of names, but I shall not mention them here, 'are back of the movement to amend your Constitution of the United States, and it will be amended, and you will transfer to the Federal government the power which the Bolshevik government is asserting now over the people of the State.'

"Of course, this is a Communistic, Bolshevistic scheme, and a lot of good people, misled, are accepting it, not knowing the evil consequences which will result and the sinister purpose back of the measure."

On June 2, 1924, the day the amendment was on the Senate calendar for action, Senator James A. Reed made a lengthy address against it. He said:

"Today a State has no power to prohibit the labor of a boy 17 years of age. If the State of Utah or of Missouri or California were to pass a law prohibiting the labor of boys under 18 years of age – broadly prohibiting it as this amendment proposes the Congress may do – such a law would be declared unconstitutional in five minutes....

"There is no power in any State to limit the right of a healthy boy or girl to work for a living in a perfectly healthful and proper place; there is no power in any civilized government worthy of the name to do it.... Always the police power of the States had to have back of it something aside from arbitrary will of the legislative body."

Senator Reed might have cited the fact that before the Roosevelt coup d'etat, the courts had held that the constitutional protection found in Amendments V and XIV, that "no person shall be deprived of life, liberty or property, without due process of law," applied quite as fully to youths as to adults; and that youths are citizens, though not yet in possession of political rights, and might sue through their parents or guardians to vindicate their constitutional rights; and that the right of "liberty" had been judicially construed as embracing "the right to follow any of the common occupations," and "to pursue any livelihood or avocation." To prevent young persons under 18 years of age from earning their living is plainly a violation of their right of "liberty" and a withdrawal of the protection of the constitutional provision referred to.

When the question came up to be voted upon Senator Reed offered a proposal excepting from the amendment "those engaged in agriculture and horticulture," but it was rejected by a vote of 42 to 38. He next proposed to reduce the age to 14 years, but that was rejected, 57 to 25. Senator Dial of South Carolina proposed to except those young persons "engaged in outdoor employments," which was rejected without a roll call. Senator Reed then proposed a reduction of the age to 16 years, which was lost, 43 to 40. Then he offered

this substitute:

"The Congress shall have power reasonably to limit and regulate the labor of persons under 18 years of age and to prohibit such labor in pursuits involving special hazards to health, life or limb."

This was rejected, 58 to 25.

Senator Bayard proposed that the amendment be submitted to conventions in the States instead of to the legislatures, but it failed, 58 to 22.

Senator Fletcher of Florida proposed to limit the period in which it might be ratified to five years, which was also defeated. Senator Reed made a final effort to eliminate from the amendment the words "and prohibit," which was defeated, 57 to 23. The amendment was then adopted by a vote of 61 to 23, and sent to the States for action.

Just before the opening of the year 1925, when many State legislatures would meet in regular session, the Communist newspapers in the United States opened a "united front" campaign for ratification. Said *The Daily Worker* on December 1, 1924:

"State legislatures must be compelled to ratify immediately the child labor amendment to the Constitution. Congress and the State legislatures must be compelled to pass laws providing for full government maintenance of all school children of workers and poor farmers."

And on December 15:

"This is the struggle of the Workers Communist party and Young Workers Communist League in their joint war against child labor. Labor must learn that the fight against child labor is a fight to abolish the capitalist State, an effort to establish Soviet rule... and the ushering in of the Communist social order under which children will become heirs of their childhood for the first time since human history began."

The Workers Monthly for January, 1925, said in a leading editorial:

"What will happen under a proletarian regime is strikingly illustrated by the story in this issue by Anna Louise Strong, formerly of Seattle, and now in Russia. Anna Louise Strong tells about the one spot on the globe where the life problems of the working class are being solved in a comprehensive manner. It is only when the workers in the United States have similar power to control, through their own government of workers' councils, the social and economic life of the country, that child labor will cease its destructive work.

"The prohibition of child labor, unless it is accompanied by government maintenance of children, is absolutely ineffective.... And such pressure upon the capitalist, in order to have any effect whatever, must be given point and substance by demands for governmental maintenance to be paid for by special taxes upon

large incomes. The right who appropriate the wealth produced by the working class, must be made to disgorge a part of it for this purpose, as one of the first steps toward making them disgorge all... to make way for the new system of society."

Although Congress had been told that "millions of women" demanded this amendment, within less than three years, that is, up to March 18, 1927, the amendment had been rejected by the legislatures of 38 States, or more than three-fourths, and had been ratified by but five. In Massachusetts, where an advisory referendum was held on the amendment, the people sustained the legislative rejection of it by a vote of 697,563 to 241,461.

Within the last twenty-five years every State in the Union has been legislating to prohibit child labor, and every State now has not only child labor laws, but compulsory school attendance laws as well. There has long ceased to be any child labor problem in the United States, except in the views of the Children's Bureau and the Communists, who insist that all young persons should be compelled to remain in school until 18 years of age, with State support. North and South Carolina were for many years unjustly stigmatized as the arch exploiters of children in cotton mills, yet these two States are admitted, even by the Children's Bureau, to have almost model child labor laws, forbidding any employment of young persons under 16 years of age during school hours.

In the annual report of the Children's Bureau for 1925, despite the admission that 34 States had by that time rejected the "Child Labor" Amendment, Miss Abbott says:

"It is not to be expected that the efforts to secure ratification of the amendment will be abandoned."

When the maternity bill was being discussed by Senator Bayard in the Senate, on January 10, 1927, Senator King interrupted him and asked:

"Does the Senator believe that it is consistent with our theory of government for the executive departments and bureaus to become propagandists for legislation, and to go out to various organizations and try to secure their endorsement and their approval of legislation which they seek to have enacted, extending their functions, and, of course, diminishing the powers of the States?"

"Senator Bayard: I will say to the Senator, in answer to his question, that in civil life, if funds are entrusted by one person to another for a definite purpose, and they are expended but not for the purpose for which they are given, that is commonly called embezzlement. The best answer I can suggest to the Senator is that, in my opinion, if these people are not committing actual financial embezzlement, they are certainly committing a moral embezzlement."

And yet there is an act of Congress, of 1919, which declares that "no part of any money appropriated by any act shall be used, directly or indirectly, to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device intended or designed to influence in any manner a member of Congress to favor or oppose by vote or otherwise any legislation or appropriation by Congress," with the

penalties of removal from office and a fine of \$500 or imprisonment for not more than one year or both, for violation of the act. Nearly all departmental officials constantly violate this law and no effort has ever been made by the prosecuting authorities to enforce it against them.

With the election of President Roosevelt in the fall of 1932 the Children's Bureau, knowing of his previous endorsement of the "Child Labor" Amendment, quietly made plans to revive the campaign for its ratification, despite the lapse of nearly nine years since it was submitted and its overwhelming rejection. It was believed that President Roosevelt's popularity and the argument that "children should not be employed while adults were walking the streets looking for jobs would overcome the earlier opposition.

Mrs. Kelley had died in 1932, but her National Child Labor Committee, with more than \$100,000 annually to spend, lived on to direct this campaign, with the aid of the National League of Women Voters, the General Federation of Women's Clubs, the National Council of Jewish Women, and union labor organizations.

Copies of the original resolution proposing the amendment and officially sent to the States on June 2, 1924, were hardly to be retrieved from the musty legislative records of rejecting States for reintroduction. Hence copies had been privately made and privately handed to those selected in each legislature to meet in 1933, who would reintroduce them and work for ratification.

On January 31, 1933, before Mr. Roosevelt was inaugurated, Oregon, which had rejected the amendment in 1925, ratified. Six States had previously ratified: Arkansas, California, Arizona and Wisconsin in 1925, Montana in 1927, and Colorado in 1931. In February, 1933, the State of Washington, which had rejected in 1925, ratified; and later came North Dakota, which had also previously rejected.

When Miss Frances Perkins was installed as Secretary of Labor in March, the movement was getting momentum. Ohio ratified on March 22; in May, Michigan and New Hampshire, all of which had rejected in 1925. In June, New Jersey and Illinois followed, and in July, Oklahoma. In December, Iowa, West Virginia, Minnesota, Maine and Pennsylvania all reversed their actions of 1925, making fourteen ratifications within the year, and a total of 20. In the same period Florida, Kansas, Maryland, Massachusetts, Missouri, South Dakota, Texas, Utah and Wyoming rejected the amendment for the second time.

In 1934 the campaign continued before the legislatures then in session, but the march of ratifications had apparently halted. In February, Massachusetts and Texas rejected the amendment for the third time. It was alarm over this situation that prompted President Roosevelt to make public his interest in ratification, in his reply to a letter of inquiry from Mrs. Dorothy Brown, in which he had said: "Of course, I am in favor of the child labor amendment." It also spurred Miss Perkins to make personal pleas before the Tennessee and Kentucky legislatures. In her address before the Kentucky legislature, on February 21 that year, she insisted the word "labor" used in the amendment meant

"employment for profit" only, and not unpaid labor of young persons in the home or on the farm. And she also said:

"We have come to a time when there is not enough work for our adult population, and we have to look at the problem of child labor not only as a problem of young people who have to be protected, but we have to recognize that if there is not enough work to go around.... We must preserve such jobs as there are for the adults... because young people under 18 years of age can be and must be well and profitably employed, - and I say profitably not in the money sense, but in the social sense, in the pure common sense, well and profitably employed at some kind of education."

On March 1, only about a week later, the Kentucky Senate Rules Committee killed the amendment, Kentucky having previously rejected it in 1926. The Tennessee legislature likewise rejected the amendment again. The result for the year 1934 was that thirteen State legislatures either rejected or failed to act on the proposal and no State legislature ratified.

In 1935 the amendment was rejected to ignored by nineteen States: Connecticut, Delaware, Florida, Georgia, Kansas, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New Mexico, New York, North Carolina, Rhode Island, South Carolina, South Dakota, Texas, Vermont and Alabama, but it was ratified by four States: Wyoming, Utah, Idaho and Indiana. Thus one-half of the States, 24, had ratified, but three-fourths, 36 were necessary to make the amendment a part of the Constitution.

In 1936 the legislatures of six States rejected the amendment but none ratified. On January 8, 1937, President Roosevelt intervened personally again with letters addressed to the Governors of nineteen States whose legislatures were to meet that year, urging that ratification of the amendment be recommended to their legislatures as "one of the major items in the legislative program of your State this year." In response to that pressure, four States ratified, namely, Kansas, Kentucky, Nevada and New Mexico, but fourteen States either rejected or ignored the matter.

In 1938 there was no ratification but there were three rejections, and in 1939 no ratifications and seven rejections. Up to May, 1940, resolutions to ratify the amendment reappeared in the legislatures of New York, Rhode Island and South Carolina. In New York the resolution was rejected again in the Judiciary Committee of the Assembly on February 9. The total ratifications now stand at 28, after the lapse of nearly sixteen years since the proposal was submitted to the States by Congress. Many States have rejected it four and five times, while New York has acted unfavorably seven times and Massachusetts eight times.

This determination of those at the head of the federal government thus to take the entire youth of the country from under the protection of their States and of the Constitution itself, and to make guinea pigs of them in "Social" experimentation is one of the strangest spectacles in our constitutional history. It not only reveals a new audacity on the part of

an administration flushed with power, but also an unusual supine ness on the part of the State governments towards raids upon their reserved rights.

Only two States, Tennessee and Massachusetts, have shown any public resentment over the amendment and the constant pressure from Washington to force its ratification. In 1925, the Tennessee legislature, in a lengthy resolution of rejection denounced the proposal as one that attempts to invade the rights of the States to "a revolutionary degree" and seeks "in a socialistic manner to place the federal government in loco parent is toward all young persons under 18 years;" and it petitioned Congress to prevent the submission of any other amendments of such a "paternalistic form." In 1937, both Governor Gordon Browning of Tennessee, and Governor Hurley of Massachusetts, issued statements of opposition in reply to President Roosevelt's letters to Governors urging ratification.

How intense the former spirit of the States was in jealously guarding their reserved rights, has a piquant illustration in the Life of John Randolph of Roanoke, by former Senator William Cabell Bruce, who quotes Randolph as saying:

"Asking a State to surrender part of her sovereignty is like asking a lady to surrender part of her chastity."

When the Kentucky legislature reversed its former position and ratified the amendment in January, 1937, the validity of the ratification was challenged in the courts; and the Kentucky Court of Appeals held the ratification void on the following grounds:

- . That the power reserved to the States to act on a constitutional amendment, when once exercised, whether to ratify or reject, is exhausted;
- . That, by 1927, the legislatures of twenty-one States had rejected the amendment and certified their acts to the Secretary of State of the United States, and that affirmative rejection by more than one-fourth of the States, or 13, constituted a final and irrevocable decision of the referendum; and
- . That ratification must take place by three-fourths of the States within such a reasonable time as to make the action an expression of approval of the people, sufficiently contemporaneous as to reflect the popular will in all sections of the country, at relatively the same period; that twelve years and seven months was not such a reasonable time.

Ratification by the Kansas legislature in 1937 resulted in a like case that was carried to the Kansas Supreme Court. The Kansas court took a view opposite to that of the Kentucky court, and both cases were taken to the Supreme Court of the United States. The decision of the Supreme Court, newly constituted with its Roosevelt majority, handed down on June 5, 1939, with Mr. Justice Butler and Mr. Justice McReynolds dissenting, upheld the contention that the amendment is still validly pending and open for further action. But it is a remarkable decision in that it passed on none of the important constitutional questions that were briefed and argued. The case was disposed

of on the novel ground that the question is a "political," and not a "judicial" one, and that Congress alone may decide whether a constitutional amendment is validly pending; and, even after three-fourths of the States have ratified it, whether it shall become a part of the Constitution. It is ignored the questions (1) whether a State that has acted may later reverse its action; (2) whether affirmative rejection by more than one-fourth of the States defeats an amendment; and (3) whether an amendment must be ratified within a reasonable time, as the Supreme Court had held in a case in 1921.

With the resumption of this campaign in 1933 to ratify the old amendment, the Communists also resumed their activities in support of it, not only in their newspapers but by personal appearance at hearings before committees of some of the State legislatures. Typical of their editorial support are the following excerpts from *The Daily Worker*, January 11, 1937:

"The majority of the Nine Old Men on the Supreme Court have twice decreed that it is lawful to exploit little children in the United States for profit.

"The Supreme Court, the rich Southern landowners, and the big trusts (on the ground that there must be no federal laws regulating child labor) have conspired together to force children to work so that they could make profits out of baby flesh.

"Urge your trade union local, all church organizations, Negro societies, youth groups, to pass resolutions demanding the immediate adoption of the child labor constitutional amendment."

The Daily Worker printed a series of lurid illustrated articles on the subject, written by one, Harry Raymond, and appearing on January 11, 12, 13 and 14, 1937, and in *The Sunday Worker*, on January 10 and 17. In the issue of January 17, *The Sunday Worker* printed two complimentary letters concerning the Raymond articles, one from Gil Green, "in behalf of the National Committee of the Young Communist League," which he signed as national secretary, and the other from Jane Whitbread, signed as "assistant editor" of the *American Child*, monthly propaganda magazine of the National Child Labor Committee. Miss Whitbread's letter, addressed to Raymond himself, is as follows:

"I have just seen your first child labor articles which were left here during the lunch hour this noon. We appreciate the good place they are getting and the good and capable work that has gone into them and hope you will call on us for further material if you need it. The enlargements turned out very well, I think, and are effectively used."

Not only did President Roosevelt personally use his influence to induce ratification of the amendment but many others high in his administration intervened also. Even Mrs. Roosevelt made a trip to Richmond in 1934 while the Virginia legislature was in session, to see what could be done about it. However, the Virginia Senate rejected the resolution a little later by a vote of 30 to 9. Among others who have taken an active part in pressing the State legislatures for action is Aubrey Williams of the National Youth Administration.

Invariably since 1924 the annual report of the Chief of the Children's Bureau winds up with propaganda for ratification of the "Child Labor" Amendment, as, for example, in 1939:

"We can keep children under the age of 16 years in school and provide proper safeguards for the gainful employment of older children through completing ratification of the child labor amendment and strengthening national and State legislative child labor standards and administrative procedures."

Although the Children's Bureau has not yet acquired the vast control over all youths in the United States under 18 years of age which the as yet ungratified "Child Labor" Amendment was designed to confer upon it, the bureau did obtain new power over the employment of young persons in the Wage and Hour law of June 14, 1938, which it terms "The fair Labor Standards Act." This law is based on the assumed power of Congress to prohibit shipment in interstate commerce of the products of business and manufacturing concerns employing young workers below certain ages longer than certain hours, or paying less than established minimum wages. The power of Congress thus to control hours of work and wages in the States under the interstate commerce clause, long held to be non-existent, was denied by the Supreme Court in 1918, in holding the first federal child labor act of 1916 unconstitutional; but that ruling was reversed by the Court, under the new dispensation, in 1937.

Under the Wage and Hour law, the Children's Bureau is administrator in respect of youthful workers under 18 years of age. None shall be employed under 14 years of age, and those only 14 to 16 may work, who can obtain a permit from the Children's Bureau. Incidentally, the law fixes minimum wages. Children in farm families are exempted when not legally required to attend school, as also are movie children.

That the Children's Bureau has real power under this law was demonstrated in the prosecution of two Chicago concerns in 1939 for permitting home work, in connection with which it was alleged 250 young members of families, under 16 years of age, took part without permits from the bureau. The companies had notified the heads of the families of the provisions of the law as to the employment of young persons, and had even appointed private inspectors to check on the work. The inspectors reported finding no violations. However, the companies were not only enjoined in a consent decree by the United States District Court from further employing such young persons, but, under the minimum wage provisions, were compelled to pay back wages to them amounting to \$103,000.

CHAPTER V

The Progress toward Standardization of Education under National Direction

As a measure complementary to the "Child Labor" Amendment, Mrs. Kelley and her women's lobby were promoting nationalization of education, and particularly the Smith-Towner bill, introduced in 1919, entitled:

"A Bill to create a Department of Education, to authorize appropriations for the conduct of said Department, to authorize the appropriation of money to encourage the States in the promotion and support of education, and for other purposes."

Under the Constitution, as has been said, no power has been delegated to Congress to regulate or control education in the States, directly or indirectly. In setting up "standards in the Smith-Towner bill, to which States receiving grants must conform, there was plainly contemplated an indirect control or regulation. It would, in time, lead to a demand for more effective power for full centralized supervision, with a million teachers transferred from the States to the federal payroll as a political bloc in national politics.

In his final report to the President, Franklin K. Lane, retiring Secretary of the Interior, said on February 28, 1920, that "federal control of schools would be a curse because the inevitable effect of federal control is to standardize." And to nationalize the great school systems of the States and their cities would only further reduce them to impotence in the political system.

In the Children's Bureau's Publication No. 64, entitled "Every Child in School," were the two approving statements:

"The Towner (education) bill, introduced in Congress in May, 1919, seeks to find an alternative for child labor; and Secure in your community higher salaries for teachers."

The Smith-Towner bill contemplated that a large part of the \$100,000,000, the initial appropriation, should go for better pay for teachers. The organized and unionized teachers were actively promoting its passage, as they ever since have demanded it, along with federal aid for "education." The latest instance was at the meeting of the American Association of School Administrators in St. Louis, Missouri, on February 26, 1940, when a resolution for "federal aid" was adopted. On February 27, Dr. George O. Strayer of Columbia University was quoted in the press as announcing that a bill had been drawn for introduction in Congress for the payment of a \$25 per month pension to each pupil in a public school with an enrollment of 160, as a means of keeping in school young persons 17 years of age and older.

In 1920, Mrs. Kelley committed the League of Women Voters to an aggressive campaign in behalf of the Smith-Towner bill, in which all State chairmen were urged to "send personal letters addressed to their Senators and Representatives," according to a campaign bulletin of May in that year. Nothing resulted but such a bill has reappeared at almost every session of Congress, the latest being the Thomas bill of 1939.

The drift away from the spirit, principles and traditions of our American institutions during the last two or three decades is nowhere more clearly revealed than in the

profession of teaching; and the influence of the teachers has been a powerful factor in accelerating the retrogressive movement. The relation of teacher to child is only a little less intimate and personal than that of mother to child, with comparable responsibility. Yet teaching has become the mere materialistic pursuit of a livelihood in a class with other labor; and the chief concern of those engaged in it seems to be to obtain the highest pay, the shortest hours and be assured of the earliest and largest pension through political action.

And in our higher public and privately-endowed institutions of learning there is the same widespread loss of fidelity to the deep responsibility which the professor owes to the solicitous guidance of youth in its formative years. As long ago as 1916, the late Elihu Root noted and deplored this change, in what he termed the growing disparagement of our institutions even in our law schools, and sounded a warning in an address to the New York State Bar Association. He said:

"Somebody has got to make the spirit of those institutions vocal. Somebody has got to exhibit belief in them, trust in them, devotion to them, loyalty to them.... The change may be seen in our colleges and law schools, where there are many professors who think they know better what law ought to be, and what the principles of jurisprudence ought to be, than the people of England and America, working out their laws through centuries of life. And these men, who think they know it all, these half-baked and conceited theorists, are teaching the boys in our law schools to despise American institutions."

The most potent force that has been operating to corrupt education in the United States, and the principal means by which there has been and is being instilled into the minds of the youth of the country a disrespect for our free institutions, is the Intercollegiate Socialist League, which Mrs. Kelley assisted in organizing in 1905, and, of which, she was a director until her death in 1932. Its unpopular activities in opposing our part in the war in 1917 and 1918, prompted its directors, in 1921, to change its name and disguise its socialistic purposes under the title, League for Industrial Democracy. This organization has established chapters of its "Intercollegiate Student Council" in 140 of our principal colleges, and in our high schools as well. And it has the zealous cooperation of hundreds of teachers and professors in proselytizing among their students. To the young mind is painted the socialist Utopia, which they can assist in creating, where the hardness of competitive life, the necessity for toil and sacrifice for those who would succeed and the greed of the "capitalist," will all be displaced by brotherly cooperation and the equal distribution of all the products of labor to the workers, under the direction of a benign workers' government.

The national president of the League for Industrial Democracy is Professor Robert Morss Lovett of the University of Chicago, the fourth most richly privately-endowed college in the United States with \$71,000,000, most of it given by John D. Rockefeller, Dr. Professor Lovett, who lives at Hull House, is now on leave as Government Secretary of the Virgin Islands, by appointment of President Roosevelt in 1939. The Virgin Islands constitute a new socialistic colony of the United States, owning and operating the principal local

industry, the making of rum, as a government monopoly.

It was from such colleges as the League for Industrial Democracy had permeated that were recruited the scores of professors and graduates as advisers and administrators, who aided in overturning our free system of government during the last seven years, and who are busily engaged in Washington and elsewhere today to perfect the centralized coercive one that has taken its place.

There are now in the States more than a million organized school teachers, including the American Federation of Teachers, affiliated with the American Federation of Labor. Today they are broken up into 48 blocs, in lobbying before the State legislatures for increased pay, pensions and privileges. As the subject, the "Child," the most appealing thing in nature, lends itself so readily to emotional publicity, they have been most successful in capturing for themselves and for their school buildings about one-third of the total revenues of the States. Under a federal Department of Education, they could count on greater effectiveness in lobbying before a single legislature, Congress, for what they wanted. School children are their stock in trade; therefore, the more pupils and the longer they are compelled to remain in school, the more teachers, the more money, the more powerful numerically the organization.

In 1933, when there was being practiced some necessary and prudent economy among the States as to their huge outlays for school teachers, new pressure was exerted upon Congress for "federal aid." Miss Selma M. Borchardt, Vice President of the American Federation of Teachers, wrote an article on the breakdown of the impoverished schools for the Y.W.C.A. organ, *The Woman's Press*, which was put into the Congressional Record on June 13. And Congress appropriated many millions to take care of unemployed teachers. It was done through the Works Progress Administration, created by the President's executive order in 1939, which instituted a new "emergency" educational system in the States, with 1,324,144 adults enrolled in 87,912 classes, under 34,440 teachers, and 46,661 children in 1466 nursery schools with 4982 teachers.

The protoplasm of the proposed federal Department of Education exists in the Office of Education, headed by a United States Commissioner, which was planted in the Interior Department in 1869 to administer subventions to the so-called "land-grant" colleges in the States, under the Morrill Act of 1862. President Buchanan had vetoed a previous act of 1859, granting 6,600,000 acres of public lands to the States for the establishment of agricultural colleges, on the ground that the federal government had no power over the subject of education and could not compel the execution of the trust.

Under later acts money has been annually appropriated to the land grant colleges, and the United States Commissioner of Education has acquired power to prescribe standards and to withhold money to compel compliance. In 1920, the Commissioner entered the field of vocational education in the States and has under his direction 1,810,000 students.

In the approach toward elevating the Office of Education into a great department with a Secretary of Education in the Cabinet, President Roosevelt, under his powers to

reorganize the government departments, has taken this agency from under the control of the Interior Department and dignified it with the position of an "independent establishment," responsible to him. Its administrative expenses in 1940 were \$5,457,680, and it had at its disposal a total of \$28,727,380 of public money.

Meantime, since 1887, the Department of Agriculture has been engaged in directing the teaching of agriculture in the States at Experiment Stations, in connection with State agricultural colleges, and, in 1940, applied \$13,000,000 to this purpose.

Then there is the National Youth Administration, with 1965 new job-holders, nine drawing salaries above \$5000 a year, not authorized by an act of Congress, but created by the President's executive order in 1935. It is now a part of the "Social Security" program, and partly fulfills the Communists' demands for government support of youths in school up to 18 years of age, though the Youth Administration has raised the age to 24. In 1939 there were 374,000 of its enrolled young men and women who received "student aid." More than 262,000 were in high schools, 109,000 in undergraduate colleges, and 2700 were doing graduate work. The high school students received a minimum of \$3 a month, the college students \$12, and the graduate students \$18.

In addition, the National Youth Administration pays an average of \$18 per month to about 322,000 youths between the ages of 18 and 24, engaged in what it calls "out-of-school" work. They are paid from 18 cents to 41 cents an hour and work for seven days or about 52 hours a month. The work is usually manual labor in improving grounds around public buildings, sewing, and other "made" jobs, in an attempt to inculcate "work habits."

At a round-table discussion of a section of the American Association of School Administrators, held in St. Louis, Missouri, on February 28, 1940, Aubrey Williams, National Youth Administrator, suggested that the present minimum of \$3 for high school children was mere "pin-money" and should be raised to \$10 monthly.

Constant increase in consumption of taxes is one of the characteristics of all public offices, and the National Youth Administration is no exception. Its allotments have been \$35,000,000 for the year 1935-36; \$65,000,000 for 1936-37; \$51,200,000 for 1937-38; \$75,000,000 for 1938-39 and \$100,000,000 for 1939-40. In 1939 the administration was permanently incorporated into the federal structure under President Roosevelt's power to reorganize the departments, and made a part of the Federal Security Agency, in charge of all kinds of "social security" under Chief Administrator Paul McNutt.

As to the public money to be allocated for "security" for 1940-41, a subcommittee of the House Appropriations Committee held hearings during February and March, 1940. Among those who appeared was Professor George F. Zook, formerly in the U.S. Office of Education, who, on March 5, submitted the report of a conference called in December, 1939, by Security Administrator McNutt to consider the problem of youth. Attending the Conference were Zook, Youth Administrator Williams, and many other federal officials. They computed that 3,700,000 young persons between 16 and 24 were out of school and unemployed and needed money. "For even a reasonably complete program" the report

said, the National Youth Administration should have \$1,000,000,000 in 1940-41. But, said the report, such rapid expansion of the administration might result in inefficiency and waste. Hence the report recommended only \$200,000,000 for 1940-41.

Joseph Cadden, Executive Secretary of the American Youth Congress, recommended \$500,000,000. He readily admitted the American Youth Congress represented the Young Communist League and the Young People's Socialist League, among other organizations.

Mrs. Mary Jeanne McKay, president of the National Student Federation, admitting the federation's membership in the American Youth Congress, asked for an appropriation that would meet more adequately the needs of young students.

The Communists' demand for government support for all youth has been hearkened to in Senate bill No. 3170, introduced on January 23, 1940, by Senator James E. Murray of Montana, and by Representative Vito Marcantonio of New York, in the House. The bill originated with the American Youth Congress, according to Executive Secretary Cadden's admission before the subcommittee of the House Appropriations Committee on March 4, 1940. It proposes an appropriation of \$500,000,000 for the first year, "to provide for increased educational opportunities for high-school, college and post-graduate students, and for other purposes," for persons between the ages of sixteen and twenty-five. Then there is this Declaration of Policy:

"The traditional American ideal of opportunity for young people must be preserved. In the past, new fields were opened by the federal government to provide an outlet for the initiative of generations of American youth, through such legislation as the Homestead act of 1862. With the closing of the physical frontier, this was ended. Through circumstances beyond their control, many young people of the United States are being deprived of the chance to work. Through similar circumstances many others are now being deprived of the chance for education and vocational training to which they are rightfully entitled, and which the future welfare of our Nation requires that they have. It is hereby declared to be the policy of Congress, in order to promote the general welfare, to make it possible for the youth of the United States to obtain these opportunities once more."

The bill then provides for the establishment of a National Youth Administration, by law instead of by Executive order, with a National Board of Directors of twelve to be appointed by the President from among names submitted to him by youth organizations, labor organizations, educational, civic, and social service organizations, for terms of two years, without salary. But no labor organization will be recognized as such if it is subject to the domination or interference of an employer. The President, with the consent of the Board, shall appoint a National Youth Administrator. The Board shall establish "Academic Works Projects," such as the C.C.C. youths are engaged in. It shall request the heads of all colleges to submit lists of names of students. The students shall be paid the prevailing hourly rate for similar work under "collective bargaining," but in no case less than 50 cents an hour. The Board shall also establish Federal Scholarships, and obtain from principals of all high schools lists of eligible young persons, to be financed through

college, in courses such as law, medicine, dentistry, engineering, with a minimum of \$5 a week spending money.

No Young person shall be denied the benefits of this system "because of sex, race, color, religious or political opinion or affiliation, past or present," or for participation in strikes or refusal to work for less than the rate provided for adults engaged in similar work, or "because of past criminal record."

CHAPTER VI

The Fruition of the Program for Governmental Responsibility for the Family

In 1934, at the dawn of the lush years for the Children's Bureau and for professional social workers, incident to the readjustment of our "social arrangements," Miss Grace Abbott resigned as Chief of the bureau and went to the faculty of Northwestern University as professor of public welfare. She was succeeded by Miss Katharine Lenroot, who had been Deputy Industrial Commissioner of Wisconsin in 1913, before coming to Washington with her father, the late U.S. Senator Lenroot, the colleague of the elder La Follette. She obtained a position in the Children's Bureau in 1915 as special agent at \$1200 a year, at the time of the "social and economic" investigations in the homes of the poor, to prove the necessity for the now realized "nationalization of financial responsibility" toward low-income groups. Her salary as the Chief of the bureau today (1940) is \$8000. Thought the bureau began with only 15 social workers and clerks, its personnel today number more than 200. The new millions for its services are permitting constant growth. A recent leaflet sets out that the bureau now maintains the following divisions: research on child development, industrial, social service, delinquency, statistical research, editorial, correspondence, maternal and child health, crippled children, public health nursing, and child welfare. The leaflet also says the bureau has sponsored the celebration nationally of May Day as Child Health Day.

During the relatively lean years for the bureau, from 1929 to 1936, it had been persistent in extending its contacts, calling conferences, forming committees, largely among office-holders in the States who are benefiting by federal grants, carrying on effective publicity, and otherwise seeking to entrench itself against any future bills in Congress to abolish it.

One of the best advertised of the many conferences the bureau calls is the White House Conference on Child Health, or on some other aspect of this most appealing subject. The conference President Hoover was induced to call in 1930, adopted a Children's Charter. As Miss Lenroot tells us in a paper issued in 1939 entitled "The Nation's Responsibility Toward its Children," the Children's Charter sets out nineteen standard aims, one of which is –

"For every child the right to grow up in a family with an adequate standard of

living and the security of a stable income as the surest safeguard against social handicap."

Apparently, it is intended that this is a "right" which every child may demand of its government, as is also being contended for by certain alien groups whose "demands" have been mentioned. Miss Lenroot's paper also deals with a letter sent to all State Governors in February, 1939, by Secretary of Labor Perkins, inviting them to the first "White House Conference on Children in a Democracy," which was held in the White House April 29, of that year under President Roosevelt's sponsorship.

The persistent use of the term "democracy" by President Roosevelt and others in his administration to characterize our government has, no doubt, been puzzling to many persons. It is historically incorrect and a departure from the common practice of all preceding administrations, in which public men characterized our system as a "Republic." But, that, of course was before the coup d'état, that made us a Social Democracy.

The fourth article of the federal Constitution guarantees to every State in the Union, not a democratic, but a "republican" form of government. Technically, a democracy is a system of government in which the people exercise the supreme power directly, without restraint and without appeal, a rule by the majority; and it permits the exercise of unlimited power by the majority to oppress or wholly to liquidate any dissenting minority. That is why the framers of our free system introduced, not only the representative principle to prevent direct action by the people, but also written constitutional limitations upon the powers of the government itself to protect the equal rights of minorities, which constitute the essential features of a republic. It is also the reason that they divided the federal government into three co-equal, co-ordinate branches – the executive, the legislative and the judicial – as distinct and separate, as checks upon one another in the exercise of their respective limited powers.

A pure democracy is also distinguished by legal and political equality of its members, with no privileged or favored classes. And in order to develop into a safe working system, as William Graham Sumner told his Yale students over fifty years ago, it must oppose the same cold resistance to claims to favor on the grounds of poverty as on the grounds of rank and birth. For a man who can command another man's labor and self-denial for the support of his existence is a privileged person on the highest species conceivable on earth. Princes and paupers meet on this plane, and no other men are on it at all.

A free man in a free democracy is necessarily an independent man. He cannot be both independent and dependent upon others at the same time. The central idea of freedom is that each man is protected in the full use of his powers and faculties for his own welfare exclusively, and he has the freedom of choice as to how and to what extent he will apply the products of those exertions. As he possesses rights he also is charged with reciprocal duties, requiring the contribution of his full share toward the public interests and common necessities. The status of a free man involves the practice of the rare virtues of self-control and self-reliance, the foundations of self-respect.

It is difficult to conceive of a successful democracy containing millions of mothers and children, youths, the unemployed the aged and farmers, all enjoying public pensions, which the rest of the people must pay. And this is particularly so in a society having universal male and female suffrage, where the perpetuation and expansion of the pension system is a matter of deep personal interest to the beneficiaries. It must result, sooner or later, in an authoritarian government capable of curbing excessive popular demands. This is the phase "Social Democracy" has reached in Germany.

There was a time in England when aristocrats, who held the political power, received pensions, and, being thus corrupted were made useful to government. The expectation of repayment for such favors has always been entertained and usually fulfilled. In fact, certain high government officials have not hesitated to tell our pensioned classes not "to bite the hand that feeds them."

The Communist International meeting in Moscow, in 1935, described Soviet Russia as "one of the great democracies," of which the others were Great Britain, France and the United States. And various Communist fronts have been organized in the United States ostensibly to promote "Peace and Democracy," and "Industrial Democracy," and to aid the Spanish Democracy. All this has given the term "Democracy" an added sinister meaning.

In connection with the "White House Conference on Children in a Democracy" of 1939, the Children's Bureau issued a large number of newspaper releases, indicating an intense interest in further pensions for children and family pensions. With no apparent realization of the moral and political mischief involved, there was even an air of boastfulness in one release which cited as evidence of social progress the fact that our pension rolls are rapidly increasing, and that, in ten years they had risen from one son in a hundred, or 1,300,000, to one person in six or 22,000,000, under the new order of things." This proportion, one out of six, was the ratio of tax-exempted and pensioned aristocrats in France to the total population, reported by Jefferson, our Minister, before the Revolution. Thus, in a release, entitled "Economic Aid to Families," prepared by the Conference:

"It is estimated that, by building on present foundations of work, relief, aid to dependent children, special assistance programs, and general relief, a system that will assure suitable provision for all children in this country who families need economic aid will be possible by 1950....

"Where 1 in 100 of our total population were aided by public funds in 1929, 1 in 6 were receiving such aid in March, 1939.... Society not only must support dependents, but must support them in such a way as to hasten the transfer of as many as possible to the ranks of the self-supporting.

"Where 51 States and Territories have set up old-age assistance programs, only 42 have aid for dependent children. The aged aided in August, 1939, numbered 1,872,000; the children but 751,000.... The number of children affected by these programs was estimated as follows: in families living on W.P.A. wages, 3,000,000; in

families on general relief, 2,000,000; receiving aid to dependent children grants, 751,000; receiving Farm Security subsistence grants, 150,000; receiving from private agencies, 'a few;' receiving no assistance, 'many.'"

In an address delivered by Miss Lenroot on May 24, 1939, before the Washington branch of the American Association of University Women, she said:

"The amounts of money allotted for children are niggardly compared to the amounts allotted in the act for the aid of the aged. The federal government contributes 60 percent of the cost of aid to the needy aged and one-third of the cost of aid to needy dependent children, a maximum amount of \$30 per individual a month for an aged person, and \$30 for a family of mother and two children in the case of aid to needy dependent children. Moreover, we see that the maximum age limit specified in the Social Security Act for dependent children is too low for the general trend in this country. Under the act aid must cease at the age of 16 if the federal reimbursement is to be made.... It is necessary, if a person continues in school and is not employed between the ages of 16 and 18, that the benefit from the program continue...."

"We know that one-half the families in this country have an annual income of less than \$1260 a year. We know that 60 percent of the babies that will come into the world in this country in 1939 will come into homes where the income is \$1000 or less.... We come to the conclusion that the burden of rearing and maintaining children must be distributed on a basis of greater justice than at the present time...."

Then Miss Lenroot turned to the subject of education, which has for long interested the bureau, saying:

"The report of the President's Advisory Committee on Education, made public a year ago, states that... 810,000 children between the ages of 7 and 13, most of them living in the poorest rural areas, were not going to school at all.... The Advisory Committee concluded that federal aid for education was essential... Raising the age of entrance into industry through economic changes and governmental action makes the acceptance of this responsibility all the more imperative. Human beings can stand an amazing amount of pain, sorrow, frustration and disappointment, but they must have some fundamental securities and satisfactions if the body is to be kept healthy and the mind sane. Democratic philosophy will give way, in time, to other philosophies if means for maintaining standards of living furnish too meager a basis for individual satisfaction or personality growth."

In another undated release, entitled "Health and Medical Care for Children," referring to a report worked out for the "White House Conference on Children in a Democracy," which met in Washington, January 18 to 20, 1940, it is stated:

"Of the 43 million children in this country, about 16 million are in families with income of less than \$800 a year or on relief, an economic condition which precludes

adequate medical care. In most States there is no adequate provision for medical care of the 750,000 dependent children receiving aid under the Social Security of Mothers' Aid Program....

"Care by a public health nurse should be made available for every infant born at home when a private duty nurse is not available, and for all newborn infants discharged from hospitals....

"Facilities and services must be provided."

In the field of public health in the States the bureau has been at work for some time on the most ambitious program for matching federal money thus far devised. It had its origin in the appointment by President Roosevelt of the so-called Technical Committee on Medical Care, which reported to him on February 14, 1938. The Committee, all public office-holders, found urgent need for "federal aid" and recommended a program for hospital construction, general medical and surgical care, maternal and child health services, and services to crippled children, involving an expenditure which, in three years, would reach an annual cost to the States and the federal government of \$850,000,000. The Chairman of the Technical Committee was Martha M. Eliot, of the Children's Bureau.

The recommendation eventuated in a bill introduced in the Senate on February 28, 1939, by Senator Wagner of New York, "to promote the general welfare," with three categories of appropriations. The first, for maternal and child health services, to be administered by the Chief of the Children's Bureau, provided for \$8,000,000 in 1944; \$20,000,000 in 1941 and \$35,000,000 annually thereafter, "to enable, especially in rural areas and in areas suffering from severe economic distress," the giving of medical care "and other services" in promoting the health of mothers and children.

For medical care and for services to crippled children, in the same rural and distressed areas, the Wagner bill provided for appropriations of \$13,000,000 in 1940; \$25,000,000 in 1941 and \$35,000,000 annually thereafter. The additional sum of \$2,500,000 was to be appropriated for administration expense.

These sums, reaching \$70,000,000 annually in 1942, were to be allocated to the States by the Chief of the Children's Bureau, under rules and regulations prescribed by her, on any basis she determined, taking into account "the financial resources" of the particular State. A rich State might be required to match on a fifty-fifty basis. A poor State on a basis of 1/3 to 2/3 or less; and, if the State agency spending the federal money failed to satisfy the Chief of the Bureau that it was applying the funds in accordance with her regulations, the Chief of the Bureau could discontinue supplying the money.

In the Wagner bill also was a provision for the Surgeon General of the Public Health Service, in the Treasury Department, to allocate money to the States for construction of hospitals, hospitalization of the needy, medical care generally and the training of nurses, necessitating appropriations of \$61,000,000 in 1940; \$113,500,000 in 1941 and \$199,000,000 annually thereafter, with the same powers of control proposed for the Chief of the

Children's Bureau in respect of her appropriations.

In addition, the Wagner bill provided for a matching system in introducing public disability pensions, with a starting appropriation of \$10,000,000, which the Social Security Board might allot to the States, with powers comparable to those of the Chief of the Children's Bureau and the Surgeon General, over their respective funds.

If a prize were offered for the best record in growth of power and patronage on the part of any governmental bureau, in any country, at any time since history was first recorded, it would, of course, go to the little "agricultural section," created in 1839, "to gather agricultural statistics" and placed in the Patent Office, with an appropriation of \$1000. In 1889 it became the Department of Agriculture. In 1939 the appropriations under its control had risen to more than \$2,300,000,000, while it provides public jobs for approximately 60,000 partisans. Yet the subjoined tabulation from the Treasury Department records, shows a much more rapid progress in the first 28 years on the part of the Children's Bureau, with a comparable prospect for the reasonably near future, if the wealth of the country is sufficient to support its plans.

APPROPRIATIONS FOR THE CHILDREN'S BUREAU		
Fiscal Year	Salaries & Expenses	Total
1913	\$21,936.45	\$21,936.45
1914	25,640.40	25,640.40
1915	161,265.00	161,265.00
1916	164,640.00,	164,640.00,
1917	214,640.00	214,640.00
1918	273,760.00	373,760.00
1919	268,261.00	393,261.00
1920	280,085.22	280,085.22
1921	268,240.00	268,640.00
1922	242,394.85	717,825.00
1923	343,526.75	1,068,435.59
1924	460,048.48	1,207,625.55
1925	358,271.31	1,287,387.61

1926	351,628.76	1,297,714.96
1927	339,932.91	1,241,757.62
1928	335,479.59	1,295,236.10
1929	392,612.00	1,193,145.00
1930	318,072.00	318,072.00
1931	350,848.00	350,848.00
1932	381,172.00	381,172.00
1933	333,462.00	333,462.00
1934	324,765.00	324,765.00
1935	344,563.00	344,563.00
1936	504,623.00	2,717,511.00
1937	681,069.00	6,648,711.00
1938	755,539.00	8,524,330.00
1939	879,989.00	8,912,500.00
1940	1,242,295.64	10,663,780.00
1940 (estimated)		12,297,047.00

The ultimate program that the Children's Bureau has mapped out for itself, when it becomes a great Department of Social Welfare, has never been fully disclosed, but it is sufficiently adumbrated in what has been recounted to permit of approximation.

- . There is the purpose to extend maternal and child welfare care to all who supposedly cannot afford it. It is claimed that 16,000,000 children are in families having an annual income of less than \$800 a year. Figuring 3.9 children to the family gives us something over 3,000,000 families needing such care, requiring the services of thousands of public physicians. And, in view of our "nationalization of financial responsibility" for them, their incomes should be raised to \$2000 a year at least, through pensions. Multiplying the added \$1200 a year to be given to each family by 3,000,000 families, we have an annual family pension bill of \$3,600,000,000.
- . If we are to have one public health nurse to each 2000 of population, as the bureau has contended, it must have 65,000 of them in the field, at not less than \$1800 a year,

which adds \$117,000,000.

- . If the bureau is to have power, under the "Child Labor" Amendment, over the economic educational and recreational activities of the 43,000,000 young persons in the United States under 18 years of age, there must first be a special national census to obtain accurate data as to age, health, schooling, family income, fitness of families to rear them, and as to other subjects. There must be an adequate number of public physicians, oculists and dentists for those in need of such services, all at a cost that cannot be guessed.
- . If all young persons under 18 are forbidden to work and are compelled to remain in school, this will cut the family budget and require more public support. Meantime, there must be an adequate number of federal truant officers to compel school attendance and a sufficient force of federal inspectors to see that employers do not permit "bootleg work." Also there must be physical directors for recreation centers in every community to supervise their play.
- . Finally there must be new hundreds of millions allocated as "federal aid" to education, which must eventuate in placing a million or more teachers on the federal payroll, with all education standardized from Washington.

With such unlimited "services" in view for the Children's Bureau, it is justified in the boast appearing in the March-April, 1937, 25th anniversary number of its magazine, *The Child*, that the work of the bureau "in all phases of child life has just begun." The Chief of the Children's Bureau is indeed becoming the "official mother" of the nation, as an article in the *New York Times* described Miss Abbott on November 9, 1930.

That the socialistic control of the economic life of the country has been paralleled by the most extensive and impoverishing measures to effectuate "social" control, may be read in the figures of the federal budget. While the great expenditures are not accomplishing any ideal redistribution of wealth, they are rapidly causing the dissipation of wealth, rendering the industrial system less and less able to give private employment, and making unemployment chronic among large numbers.

Thus, from 1935 to 1940, inclusive, there has been expended for "social" purposes \$32,912,228,640, according to a reasonably careful computation from difficult official statistics, leaving out six or seven billions given to farmers. And they consist of the following items:

W.P.A. \$24,179,059,400.00

General Relief 4,966,322,000.00

Old-Age Pensions 1,193,408,000.00

Mothers' and Children's Pensions 442,216,000.00

Aids to Youth, C.C.C. 1,706,333,000.00

Student Aid, N.Y.A. 337,880,240.00

Aid to the Blind 87,000,000.00

The expenditures for the same purposes in 1940 were:

W.P.A. \$1,809,923,400.00

General Relief 1,125,000,000.00

Old-Age Pensions 225,000,000.00

Mothers' and Children's Pensions 45,000,000.00

Aids to Youth, C.C.C. 285,000,000.00

Student Aid, N.Y.A. 95,000,000.00

Aid to the Blind 8,000,000.00

Total \$3,592,923,400.00

This list omits "aids to agriculture" of \$1,316,841,518, Veterans' Pensions of \$550,379,400 and "unemployment compensation" of \$225,000,000, coming from payroll taxes, which will be increased in the 1941 appropriation to \$602,800,000.

It is as well to note here that the total taxes collected from 1932 to 1940 by the federal government amounted to \$37,477,752,665, the total expenditures, \$67,821,309,357, while the appropriations were \$80,165,000,000, showing something over \$12,000,000,000 authorized but unexpended. Meantime the federal debt rose from \$19,487,009,766 in 1932 to approximately \$50,000,000,000.

The federal government has no money except such as it is able to extract from the people of the States. Through plundering taxation and borrowing, which must be repaid or repudiated, part of what is taken goes back to the States in any unequal or discriminatory manner the federal government may determine. A large part goes for salaries for newly-created federal offices, filled with new federal agents and officials to the number of nearly 500,000 within the last seven years, making a total of 978,538 on the federal payroll, as of December 1939, drawing salaries alone amounting to \$1,827,678,708 annually. This is now about twice the number of federal job-holders President Roosevelt found on taking office in 1932, and more than twice the sum paid in salaries. And of this almost one million federal officials in the executive departments, who are daily wielding all of the new powers of government in regulating our lives, only a single one of them, the President, has been elected by and is accountable to the people. All of the others are unelected, irresponsible and irremovable, insofar as the people are concerned.

CHAPTER VII

The End of the Cycle of Constitutional Freedom for the American Citizen

We have forgotten that almost everywhere on earth, from the dawn of history until about a century and a half ago, man was not even conscious that he possessed any indefeasible rights which government was bound to respect; that he was exploited by his rulers as something with claims not much above those of the flocks and the herds. Among the English-speaking peoples alone had there been any recognition of inherent rights, but not without periodical losses of them in times of lethargy and inattention to the encroachments of political power.

Today, without any general appreciation of it among the masses of our citizens, we find the same old oppression fastening itself upon us, with the use of the same disguises and chicanery. Take, for example, the "Fair Labor Standards" act, which has robbed the worker of his most essential right, to work when, and for whom, and at what wages and for how long or how little as he pleases, or not at all. This is, in fact, a reversion to the early and despotic English Statute of Laborers of 1349. The act will be seen to be anything but "fair" when it is understood that this new usurped power to decree high wages and a 40-hour week is the same power that the government of Edward III exercised to compel all men under 60 to work for anyone requiring their labor on his terms or go to jail. And it is the same power the government of Turkey has just used to decree low wages and a 72-hour week. It is one of the "new instruments of public power," which President Roosevelt "built up," which may work favors for a time, in the hands of "a people's government," but, woe to the worker when this power gets into the hands of another type of government. Samuel Gompers abhorred the thought of any government interference with the free American workman.

"Social Security," which the federal government has just assumed, equally unlawfully, as a duty toward the citizen, with the assumed duty and power to feed, clothe and house the unemployed on "relief," are also the duty and power to place the recipients in compulsory labor camps, when the wealth has been distributed and dissipated. He who becomes dependent upon government may be dealt with as government pleases.

Roosevelt's coup d'etat was the culmination of progressive assaults upon our free system by many of his predecessors. But the chance of complete transformation of the system would have been remote but for a momentous alteration of the Constitution itself, in the adoption of the Sixteenth Amendment in 1913, delegating to the federal government complete control of the wealth of the people in the unlimited power to take their earnings and income. A federal government, frugal from necessity, in its limited power to tax and borrow, could never have been a menace to liberty. But the new power to tax is not only a power to take all of the earnings, from rich and poor alike, but it is enforced with a multitude of complicated regulations, some of them secret, and with penal provisions

which may be readily used for purposes of prosecution for even unintentional errors found in the tax returns of the relatively small class of citizens now selected to pay.

This cannot be considered a constitutional power of taxation, since a constitutional power is necessarily a limited power; being uncontrolled by any provision of the Constitution, it is, on the other hand, a power of confiscation. As Judge Story says in his Commentaries on the Constitution:

"Indeed, in a free government, almost all other rights would become utterly worthless, if the government possessed an uncontrollable power over the private fortune of every citizen. One of the fundamental objects of every good government must be the due administration of justice; and how vain it would be to speak of such an administration, when all property is subject to the will or caprice of the legislature or the rulers."

From 1789 to 1913, the federal government had a constitutional power of taxation. The framers of the Constitution, knowing "the power to tax is the power to destroy," hedged it about with the conditions that direct taxes could be levied only according to population in the several States, and that all other taxes must be levied uniformly and equally. That is to say, in any direct tax levied before 1913, New York, with a population of 12,000,000, would pay three times as much of it as Missouri, with a population of 4,000,000. There could be no discrimination. As the Supreme Court declared in a case in 1897:

"Equality in right, in protection and in burdens is the thought which has run through the life of the nation and its constitutional enactments from the Declaration of Independence to the present hour."

The equal protection of the law is implicit in the many-faceted right to liberty, and its denial, as the Supreme Court said again, may occur in many ways. It will most often occur in the enforcement of laws imposing taxation. An individual is denied the equal protection of the law if his property is subjected by the State to higher taxation than is imposed upon like property of other individuals in the same community.

It is for this reason that exemption from taxation is but a form of class legislation, since all exemptions tend necessarily to increase the taxes levied on the non-exempted. Equally of burden, by making each citizen, according to his means a contributor to the expenses of government, was one of the most salutary principles in our past development; for it is the contributing citizen who is the voting and watchful citizen, giving the best assurance of honesty and economy in the public expense.

But now we see that the federal government has slowly established unequal and discriminatory taxation, on a progressively rising scale on incomes, not for the purpose of meeting the expenses of its legitimate public functions, but to regulate incomes, to depress one class of citizens and seek to elevate another.

The principal vice of this graduated system is that there is no known rule by which it may

be applied, except the whim of those who wield the power. Meantime, the huge sums annually taken are dissipated in non-productive extravagance, robbing industry, commerce and the worker of benefits which its application to private effort might have brought. Progressive and unequal taxation ended during the French Revolution, when the exempted majority liquidated the property-owning minority, called the "superfluous," with a tax rate of one hundred percent. The graduated income tax rates adopted by our government have already reached a maximum of 75%.

Likewise the right of bequest is an essential right of liberty. The love of parent for child grows stronger and more tender with advancing civilization. The parental desire to bequeath property for the care of the child has been one of the main obstacles to successful attacks on capital by Communists and Socialists. They have, therefore, attacked the institution of the family and seek to educate children in colonies, and to destroy the tie of parentage. And, again, we find our federal government has attached this right of bequest, with a tax rising to 70%, and, to make it inescapable, has levied a tax rising to 52 ½% on gifts made to children during the parent's lifetime. Thus, if a father wishes to give his son capital with which to establish a business, to employ workers and thereby enhance the well-being of the community, as well as his own, the federal government discourages it with heavy taxation on the gift.

The policies of excessive income taxation, and prodigal borrowing, of competition by the government with the citizen in private callings, as in the utility and other fields; of obstruction to the raising of new capital by industry, through control of the newly-created Securities and Exchange Commission, and the policy of official "smearing" of business men as pariahs, all seem to be parts of a deliberate plan to destroy free enterprise, for which some other system – such as the socialistic one of "production for use, and not for profit" – must be substituted, under rigid government control.

The next form of taxation to which the American citizen will be subjected to meet the gigantic and increasing costs of the Social Democracy, will, in all probability, be capital taxes. There need be only a revival of Huey Long's amendment to House Bill No. 5040, which was debated in the Senate on May 12, 1933. He proposed a very moderate start, in order to get the principle established with the least alarm, exempting all persons whose accumulations were valued at \$1,000,000, but nevertheless requiring federal general property tax returns from them. The rate was one percent on all having property valued over \$1,000,000 up to \$2,000,000 and rising arbitrarily to 45 percent on all persons possessing \$100,000,000.

There is now no recourse against the oppressions the federal government may practice, such as might have afforded protection before the coup d'état.

From the beginning of our Republic to recent times the Supreme Court of the United States had not failed us as the final guardian of our constitutional immunities. In discussing its duty to protect the citizen against invasion of his rights by government, in a famous case, it expressed its policy in these words:

"This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy and leads to a gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the courts to be watchful for the constitutional rights of the citizens, against any stealthy encroachments thereon. Their motto should be obsta principiis."

Such was the sense of solemn responsibility which was reflected in the decisions of the Supreme Court throughout its history, until about three years ago, when President Roosevelt was able, through vacancies, to reconstitute the majority of the court through his own appointments. In that short time the new majority of the Court has overruled many long settled principles previously enunciated to restrain federal power, plainly indicating its sympathy with "the new order of things."

There is no longer displayed any solicitude for the rights of citizens invaded by arbitrary administrative agencies, empowered to make and enforce their own law as judge, jury and prosecutor, nor does there appear to be longer entertained the view that the nation is made up of "an indestructible Union of indestructible States," to which latter are entrusted the powers of local self-government. On the other hand, in upholding new legislation setting aside the rights of both the citizens and the States, the Supreme Court is furthering what, in the past, the same tribunal has condemned from the time of its establishment as simple usurpation of power. And it seems only reasonable to expect a continuation of this process of blotting out the State divisions until all power is consolidated in an authoritarian despotism operating over all from Washington.

What has happened is a fulfillment of the warning of Thomas Jefferson, toward the close of his life, - at Monticello, in 1821:

"When all government, domestic and foreign, in little as in great things, shall be drawn to Washington, as the center of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated."

Every principle of law which has protected our rights as freemen anywhere had first to be wrung from governmental power that denied it, sometimes in struggles lasting for centuries. We are the heirs of those who manfully strove and won for us these principles that protect the dignity and worth of the individual, but we have permitted a filching of the heritage.

It has been said with great truth that, in defense of one's essential rights, man is defending not only his physical, but his moral existence; that the assertion of them at all times is a duty of moral self-preservation, and that a surrender of them is moral suicide.

There is much evidence of the destruction of spiritual values, as they affect the individual in his own character, accompanying this transformation of our institutions. We observe, for example, a general spirit of helplessness and resignation toward the defense of our

constitutional rights and immunities, in the face of various expedients of intimidation and harassment which government itself has become bold enough to practice against those who are manful enough to oppose its oppressive policies. In part, this results from a whittling down by government of our traditional remedies against its arbitrary action, in narrowing our right of appeal to independent courts for protection, and in the undermining of the integrity in those courts themselves.

There is yet another afflicting loss in "the new order of things," in its influence upon an outstanding development of self-reliance in the national character of our people, of which the late John W. Burgess wrote prophetically his "Recent Changes in American Constitutional Theory," soon after the Nineteenth, or Woman Suffrage Amendment was ratified, in 1921. He pointed out that paternalistic functions of government must necessarily narrow the domain of individual immunity against governmental power, and that we, in America, had found the safe alternative to governmental paternalism in voluntarily occupying this field through our private cooperations, constituting what he terms "voluntary socialism."

The great enterprises of voluntary socialism, which have distinguished this country from all others, have been carried forward primarily by the patient work of women; they have been the makers of the home, the builders of the churches and the ministrants of charity, while politics and government have been left to men. He greatly feared the Woman's Suffrage Amendment would tempt women to abandon their private cooperative efforts in these fields for the easier method of passing it on to government. And he adds:

"The very finest thing which the world's civilization has ever reached is this wonderful sphere in these United States of America of free social cooperation for the advancement of education, religion and morality, the care of the sick and needy, the spread of neighborly kindness and helpfulness, and for the upbuilding, thereby, of enlightened character, which dispenses with paternalism in government and makes democracy safe for our country.

"Without this we could never have attained and maintained that system of limited government and individual liberty which has made us a great and happy and relatively contented people.... It would be a very moderate statement to say that it is now trembling in the balance. It would be near the mark to suggest, at least, that it is anxiously awaiting what may be its death blow. If the women of the country, in becoming members of the electorate, shall shift their interest from the home, the church, the school, the hospital, the associations of charity, etc., to the political club, the caucus, the convention, the legislature and office, and abandon their supreme work for civilization within the realm of voluntary socialism, making necessary, thus, the substitution of compulsory socialism, state socialism, governmental socialism, for voluntary socialism, then indeed will the American system of limited government and constitutional civil liberty have made its cycle and reached its end....

The rapid development of State Socialism, engrossing many of the old fields of willing

private sacrifice and effort for the public good, has brought discouragement and a sense of despair to the thinning numbers still at work in the spheres not yet absorbed. With the purposeful confiscation and dissipation by government of private wealth in the hands of those still able to encourage and support such free social cooperation, the time cannot be distant when these remaining spheres, perhaps even the church itself, will succumb to the necessity of government support and its corollary, dominance by the State, as the final stage of the new Social Democracy in America.

The freedom of the individual, in his old immunities against governmental power, has vanished as the proud attribute of American citizenship, along with the courage and nobility of character so essential to maintain it. But, with the undying passion of mankind to possess it, and the tears and blood that have been shed in the struggle to achieve it, we may look forward to some future period of uncertain American history which will again record its recovery.