

CHILD LABOR ACT DECLARED INVALID

North Carolina Federal Judge Decides That Keating-Owen Statute Is Unconstitutional.

GOVERNMENT WILL APPEAL

Department of Justice Confident That the Supreme Court Will Uphold the Law.

GREENSBORO, N. C., Aug. 31.—Federal Judge Boyd of the Western District of North Carolina held the Keating-Owen child labor law unconstitutional today, and enjoined the United States District Attorney, William C. Hammer, and his "successors, assistants, deputies, and agents," from enforcing in the district the provisions of the act of Congress, which becomes effective tomorrow.

Judge Boyd's decision came at the conclusion of three days of argument on the constitutionality of the act. The case came before the court in injunction proceedings brought in the name of Roland H. Dagenhart and his minor sons, Reuben and John of Charlotte, who sought to restrain a Charlotte cotton mill company from discharging the two boys.

In announcing his decision Judge Boyd said he was gratified by the candor of Professor Thomas I. Parkinson of Columbia University, representing the Department of Justice, who asserted that Congress had used its power over interstate commerce for the object of regulation of local conditions within the State and the discouragement of child labor. This admission, said the Judge, left the issue clear and brought forward the question: "Can Congress do by indirection that which it undoubtedly can not do directly?"

"Congress," he said, "can regulate trade among the States, but not the internal conditions of labor."

Judge Boyd expressed his approval of laws tending to elevate the condition and moral state of all the people, and made it clear that his judgment on the act was based upon his interpretation of the Constitutional limitations of Congressional power.

After a preliminary recital of the facts, the Court, setting forth its opinion that the act "is unconstitutional and without the power of Congress to enact," enjoins the milling company from discharging or curtailing the hours of labor of the minor plaintiffs, and decrees:

That the said William C. Hammer, United States Attorney, as aforesaid, and his successors, assistants, deputies, and agents, be and they are hereby permanently enjoined from in any way or manner enforcing or attempting to enforce the provisions of the aforesaid act of Congress, or any part thereof, and from instituting or causing to be instituted any prosecution or proceedings under the aforesaid statute, or any of the provisions thereof."

The case will be taken to the Supreme Court of the United States, and persons interested in the law said today that special haste would be made in the presentation of the case on appeal.

Argument was concluded for the plaintiffs by Judge W. P. Bynum of Greensboro, whose chief contention was that the power to close the arteries of interstate commerce to lawful articles of exchange which were not in themselves injurious to public health, morals or safety, was not possessed by Congress.

The law prohibits the employment of any child under 14 years old in any factory, mill, workshop or cannery, whose products are to be shipped in interstate commerce, and requires that the working day of children 14 to 15 years old shall not be longer than eight hours. Reuben Dagenhart is under 16 and John Dagenhart under 14. The father contended that he had a right to their wages until they are 21, and that as the North Carolina law allows eleven hours a day, Reuben has a right to work more than eight hours a day, while John has a right to work in the mill, although under 14, because the State law permits it.

WASHINGTON, Aug. 31.—Department of Justice officials regard the decision of Judge Boyd holding the child labor law unconstitutional merely as a vehicle for getting the question before the Supreme Court, where they are entirely confident the action of Congress will be sustained. It had been assumed when the law was passed that the milling interests would not permit its enforcement without a vigorous fight.

The law becomes effective tomorrow,

and the decree at Greensboro affects only the North Carolina district. Except where the courts interfere it will be enforced.

The enforcement of the Law has been delegated by the Secretary of Labor to the Children's Bureau, and the head of the new child labor division of that bureau is Miss Grace Abbott of Chicago, a woman of wide experience in industrial betterment work in this and foreign countries.