labor, it is needless to say that the Nation is in hearty sympathy. But to hasten its accomplishment by such a straining of the Constitution as would be involved in this bill—in essence identical with the Beveridge bill of six or seven years ago—would be dangerous.

Mr. Lovejoy may be quite right in the opinion, indicated in the foregoing quotation, that such a law would not be declared unconstitutional by the Supreme Court. The power conferred on Congress by the Constitution "to regulate commerce with foreign nations and among the several States" is not limited by any words of that instrument. What limit, if any, the Supreme Court would regard as set by the whole spirit not only of the Constitution but of our entire policy as it has existed in fact from the foundation of the Union, we cannot pretend to predict. But the burden of maintaining the spirit of the Constitution, of the object of our whole life as a nation, cannot justly, and cannot safely, be placed exclusively on the shoulders of the Supreme Court. In the largest way, this duty rests primarily on Congress and the President. And the issue brought up by this bill is one that concerns the largest way imaginable. Nobody pretends that the measure proposed has for its real object the regulation of interstate commerce; its real object is the regulation of the ways of life of the people of the several States. And the question before Congress is whether its power over the commerce among the States shall be used as a club to compel any reform of conditions within the States which a majority of Congress may deem desirable. The passage of this bill would be a precedent of almost boundless potency for the assertion, as occasion may present itself, of Federal authority over one department after another of the life of the people of the several States.

If experience showed that the end could be attained in no other way, it might be urged that the importance of the specific object outweighed the gravity of these general considerations, serious as they are. But no such plea can be maintained. It is true that in a number of States progress in the abolition of child labor has been slow. But in many of the States it has been very rapid; and in those which have remained backward as to legislation or administration, in the furtherance of the movement, both public sentiment is evidently gaining force at such a rate as to in-

sure the achievement of the purpose in a fairly near future. Nor are we required to rest on experience relating to this matter only. The closely related subject of workmen's compensation has had a history of the most significant character. State after State is adopting advanced measures for lifting from the working people the burden of distress due to industrial accidents. And the comprehensive body of laws adopted by the State of New York for the general improvement of factory conditions, after only a year or two of agitation of the subject, bears eloquent witness to the possibilities of separate State action on this whole class of questions. The old story that no State will act upon them because of the fear that other States may not do the same has lost almost all the force that once was ascribed to it.

The means necessary to the effective enforcement of a national child-labor law give added emphasis to the objection that lies against it. Its advocates complain of the inadequate enforcement of existing child-labor laws in some of the States, quite as much as the slowness of others in adopting such laws. In order to insure the enforcement of a national law, therefore, it would obviously be necessary for Federal authorities to interfere, on an extensive scale, with a matter touching in an intimate way both the lives of individuals and the conduct of private business. Any one can see how far this would go towards breaking down our traditional ideas of the limitation of Federal power; how easy it would be to justify by the precedent any new invasion of the domain of local self-government. The figures of the national census show a rapid diminution in the percentage of child labor engaged in the country's industries. The Children's Bureau was instituted by Congress less than two years ago, and its publicity work is sure powerfully to stimulate this movement throughout the nation.

To rush into a measure of national compulsion in these circumstances would be, in our judgment, a deplorable error.

AMERICAN JUDGES AND THE AMERICAN TEMPEST.

In this city two judges were this week pronouncing sentences in two cases of unusual interest. In both cases, the guilt of the accused had been established, to the full satisfaction of the court. Judge Thomas sentenced the brothers Littauer to six months' imprisonment for smuggling and conspiracy to defraud the Government; but he suspended the sentence, so that it becomes inoperative except as a personal humiliation. Justice Jaycox sentenced Cassidy, the boss of Queens, to eighteen months' imprisonment for the attempted sale of a judgeship, and declared that no lighter punishment could meet the requirements of justice. That the judge who did not flinch from the imposition of the penalty was right, and that the other judge's clemency was misplaced and regrettable, is doubtless the general opinion, and it is emphatically ours. But the remarks addressed to the guilty men by the judges in passing sentence have something in common which throws an instructive light on the general course of criminal justice in this country.

Judge Thomas castigated the Littauers severely, but felt that their public humiliation was sufficient punishment; Judge Jaycox sternly performed his duty as to the sentence, but felt that it was no more than fair to give Cassidy credit for courage in his career as a politician. And in all probability it was no more than fair. It gave the judge a certain feeling of acting "on the square" with Cassidy; there was about it a human quality to which every American instinctively responds. We cannot find it in our heart to blame the judge for it. And yet in their own way these friendly and sympathetic words addressed to Cassidy betray, as does in a different way the leniency shown to the Littauers, a weakness which, in one form or another, is continually manifested by American judges. It goes against their grain to maintain, in a case of which the "human side" has been in any way brought sharply home to them, that cold, inflexible, and impersonal attitude which is an essential element in the effective operation of the criminal law. Paradoxical as it may seem, it is largely owing to our very democracy that our courts are open, so much more frequently than those of less democratic countries, to the charge of being respectors of persons. Inflexibly to set aside one's own impulse to be humane and considerate, when that impulse is inconsistent with the stern requirements of the judicial office, requires a constant and paramount sense of the elevation and isolation of that office; and this runs counter to our democratic habits of thought—indeed, it
runs counter to the national good nature which is closely related to our democratic habits of thought.

But in actual operation all this works out results the reverse of democratic. For it is quite out of the question to carry on the ordinary business of the criminal courts in any such spirit. In grinding out their daily gist of commonplace convictions and sentences, they act mechanically enough. It is only when there is some special appeal to the feelings that there is a chance to get the human sympathy of the man interposed between the criminal and the sternness of the judge. And this can be done a hundred times for the man of wealth, the man of good standing in society, the man with powerful or respectable friends, to once that it can be done for the poor and friendless violator of the law. The feeling that has grown up, with only too much basis, that there is one law for the rich and another for the poor, owes its origin in the main not to corruption, not to legal chicanery, not even to any class partiality, but to the accessibility of our judges to the effective human appeal of any individual case. This being impossible in the common run of cases, we have the spectacle of the noteless and humble ruthlessly condemned to suffer the full penalty of the law, while those who in one way or another stand out above the crowd have a chance for some form or other of mitigation in their punishment.

Unfavorable comparison of our criminal justice with that of other nations is no more familiar than is the like comparison in regard to our elementary and secondary education. It is constantly pointed out that our young people take a year or two longer than those of European countries to be prepared for university studies, and that when they do take up those studies their preparation is found to be less thorough. Now, whatever other causes may contribute to this, we feel sure that there is almost complete unanimity among competent authorities that the predominant cause is the lack of rigid discipline. And this is no accident. The severity of an exacting discipline at school, a discipline based on the idea that the claims of scholarship are paramount and that the business of the teacher is to assert them as an undeviating rule, is not congenial to the American temper. If teachers or school authorities were to attempt to enforce it, they would have not the support but the opposition of the typical American parent. When we really wish to have it, wish it from our hearts, we shall get it. And so, too, we shall get a firm and unenthusiastic administration of justice when we desire it from our hearts; we shall not get it so long as, in our hearts, we care more for the claims that the individual culprit may have on our forbearance or sympathy than for the stern demands of a justice that is really and truly no respecter of persons.

THE STORY OF A LEGISLATURE.

From San Francisco comes a volume giving an account of the California Legislature of last year, the session made nationally notable by the visit of Secretary Bryan in connection with the Astor exclusion legislation. The story as told is a long one, but readable and apparently fair. It is written by Mr. Franklin Hichborn, the correspondent of the Sacramento Bee, and is the third such publication he has put out. His previous volumes are credited with having been read by every newspaper editor and every candidate for the Legislature, and with having had much to do with recent political developments in California. The session of last year attracted wide attention. It was the first Legislature in regular session under the initiative, referendum, and recall, under the legislative recess arrangement, and chosen at an election in which women participated. No act could become a law until ninety days after the Legislature had adjourned, and not then if the referendum was invoked against it; in that case, it had to wait the verdict of a popular vote.

The Legislature was overwhelmingly Progressive. This fact, coupled with the fact that the preceding Legislature had been Progressive, too, and had thrown off the railway domination which had long prevailed, put the session of 1913 in a peculiarly favorable position for constructive work. The old engine had been relegated to the scrap-heap, and the People—Mr. Hichborn always capitalizes the words—had only to open the throttle of the new one. But difficulties confronted the majority at the very beginning. A proposal was made for a non-partisan caucus to decide upon the officers of each house. Objection was made, however, that such a joint caucus was unprecedented; it was almost equally hard to arrange a caucus in which party Progressives and progressive Republicans could all participate. But why, with a large Progressive majority, bother about Republicans of any sort? Well the "logical candidate" for President pro tem of the Senate was a hold-over Republican who could not see his way clear to entering a purely Progressive caucus. In the end, however, good officers were chosen, including the "logical candidate" for President pro tem. But the distribution of patronage was not affected by the new political ideals. It "was conducted upon the same vicious system of division among members as had ruled during the days of 'machine' domination."

Nor can a favorable verdict be passed upon the subsequent proceedings of the Legislature. As Mr. Hichborn confesses: "For the first time in the political history of California, the Legislature was put to the test of constructive work. It was found unequal to the task." The most conspicuous cause of this failure, we are told, was the lobby. What! one exclaims, a lobby in California! What was the recess for if not to give The People opportunity to say what they liked and what they did not like among the bills that had been introduced? This was the idea; moreover, "the Legislature had acted in accordance with the spirit of the new provision" by not passing many bills before the recess. It also provided for distribution of the bills throughout the State, each member being permitted to send full sets to as many as ten constituents. Thus "the Legislature had done its part. It remained for the People of California to do theirs." But consider what this meant. There were 3,738 bills and 149 constitutional amendments pending. One newspaper divided these into 237 sections, and published a synopsis of each bill and a complete index. Another devoted two columns a day to them, but managed by this method to deal with less than one-seventh of the total number. The upshot was that one or two measures especially brought to the public attention were aided by the recess. On the other hand, even the weapon of the recess was seized upon by favor-seeking persons to advance their interests, and The People were either puzzled or deluded by some of them! Yet Gov. Johnson and the Pro-