TWELVE PAGES

THE OMAHA DAILY BEE.

OMAHA, SATURDAY MORNING, MARCH 12, 1892-TWELVE PAGES.

THE PURE FOOD BILL

TWENTY-FIRST YEAR.

Full Text of Senator Paddock's Argument in Support of the Measure.

IN THE INTEREST OF CONSUMING MASSES

Many Attempts Made to Sidetrack or Nullify the Bill Ably Evaded.

DEATH BLOW TO FOOD ADULTERATION

The Paddock Pure Food Bill Has Been Endorsed by Granges and Alliances.

WILL SAVE MILLIONS FOR THE PEOPLE

Ringing Appeal to the Senate in Behalf of the People-The Bill Passes the Senate-The House Favorable to It.

For two years the Paddock pure food bill has been before the senate. Wednesday it passed that body by a vote of 31 to 19. The bill goes over to the house intact in every essential provision as the first general unadulteration law which has ever passed either branch of congress, or which has ever been considered on the floor of either house. It is thought the house will pass the bill.

The bill was debated at length last week. Senator Paddock held the floor of the senate for two hours in advocacy of this important measure.

The discussion will be found most interesting. The BEE reproduces Senator Paddock's speech in support of the bill and the running debate in the senate upon it. So important is the subject to the consumer generally that it has been deemed advisable to give the merits of the bill the widest possible circulation throughout the west.

Food and Drug Adulteration.

The senate, as in committee of the whole, resumed the consideration of the bill (S. 1) for preventing the adulteration and mis branding of food and drugs, for other pur-

Mr. Paddock-I understand that the sena-tor from Missouri (Mr. Vest) is entitled to

the floor. Mr. Vest-Mr. President, when the senate adjourned yesterday evening I was endeavorto give my understanding as to the scope d compass of the measure pending before the senate. I was unfortunate enough, as see by the morning papers, to have made the impression that I was arguing in behalf of impression that I was arguing in benaif of the bill. I had not stated what my opinions were as to the general tendency of such leg-islation or as to this specific bill, but had con-tented myself so far with simply examining the scope and compass of the provisions of the bill if enacted as it now stands before the senate. I was particularly addressing myself to the question of what is interstate commerce, of, as the constitution expresses it, "commerce among the states." I took is-sue with my friend from Texas (Mr. Coke) when he stated that everything throughout the entire country is the subject of commerce among the states. It is true that everything

essary to establish inspection as to all articles of drink and food in the United States, in the interest of the public health, then the is the interest of the public health, then the only sure and safe way in which to do it is to use the instrumentalities and exercise the power which I believe the constitution of the United States intended to leave to the states in the shape of police regulations. In the case of Gibbons vs Ogden, 9 Wheaton, which is the leading case, and was decided by Chief Justice Marchall that could added that the power of the United States, or rather the nspection power attempted to be created, is Justice Marshall, that great jurist stated that all the powers as to quarantine, as to inspec-tion, as to the health and morals of the people, belonged to that large class of powers called the police powers, that are reserved by the states,

I admit that it is greatly to be desired-nec-

There has been no question about which there has been such diversity of opinion among jurists and between the judges of the supreme court as in regard to the line be-tween the police powers of the states and the commercial power of the general government or of congress. In the case of Leisy vs Hardin, decided in 135 United States reports, the supreme court divided, with five judges on one side and four on the other, and that division arose as to what was the effect of the congress of the United States declining

to legislate as to intercommercial regula-tions and whether that gave the states the power to make such regulations, and also as to the distribution between the powers con-ferred under the commerce clause of the con-

stitution upon congresses and the police powers reserved by the states. Mr. Paddock-I should like to ask the senator a question, if he will yield. Mr. Vest-Certainly. Mr. Paddock-Does the senator say that

either or the powers may not be used to sup-plement the other in order to carry out the special purpose or the particular purpose as Mr. Vest-Mr. President, that is another question. The supreme court has decided that the quarantine laws and the inspection aws of a state, and the instrumentalities used for that purpose by the states, may be used by the general government, but it is no concession of power to the state. That is simply a question of using certain means to effect an end. We are discussing now the question of whether the general government under the commerce clause of the constitu-tion, exercise the police nowers of the states, I do not propose to read all these decisions-but if any senator is curious on the subject I refer him to the last decision made, which he

will find in 140 United States reports, and in which Chief Justice Fuller delivered the opinion of the court. I will not read from it except to give the syllabus. This is the case in re Rohrer, and in it Chief Justice Fuller summarized this whole discussion in the following words, quoting from a decision

Fuller summarized this whole discussion in the following words, quoting from a decision of Justice Catron: And here is the limit between the sovereign power of the state and the federal power. That is to say, that which does not belong to commerce is within the jurisdiction of the po-lice power of the state; and that which does belong to commerce is within the jurisdiction of the United States. And to this limit must all the general views come, as I suppose, that were suggested in the reasoning of this court in the cases of Gibbon vs Orden. Brown vs the state of Maryland and New York vs Miin. What then is the assumption of the state court? Unidoutedly, in effect, that the state had the power to declare what should be an article of lawful commerce in the particu-lar state; and having declared that ardent spirits and wines were deleterious to morals and health, they censed to be commercial commodities there, and that then the police power state or could not interfere. The exclusive state bries could not interfere. The exclusive state or word is made to rest, not on the fact of the state or could not of the article, nor that it is property usually pussing by sale from hand to hand, but on the decipration found in it is property usually passing by sale from hand to hand, but on the declaration found in the state laws, and asserted as the state policy, that it shall be excluded from com-merce. And by this means the sovereign jur-isdiction in the state is attempted to be

created, in a case where it did not previously

If this be the true construction of the con-

right to do so.

to that subject.

subject entirely to the volition of the party who has the meat under his control. Sup-pose a United States officer goes to a packing house and demands that the proprietor shall exhibit salted meat or pork, and looks to this iaw for his autority. He can only inspect such salted meat as is intended for exporta-tion, and how is that fact to be ascertained it is meat a secretained from the meatal It must be ascertained from the mental direction or intention of the party who con-trols the meat, and therefore it is entirely voluntary with him whether he puts that meat within this category or not. The next act that we passed was for the inspection of live cattle, hogs and their car-casses. The first section of that act uses

That the secretary of agriculture shall cause to be made a careful inspection of all cattle intended for export to foreign countries. The second section repeats the same lan-

cause to be made a careful inspection of salted pork and bacon intended for exporta-

Now, I submit that under this language

subject entirely to the volition of the party

guage: That the secretary of arriculture shall cause to b; made a careful inspection of all live cattle, the meat of which is intended for

xportation. The third section repeats the same innguage. In all these cases it is a question with the owner of the meat or the party in possession whether he shall put it within the category or not. Suppose that he says to the United States officer, "this product is not intended for exportation," what is the officer then to do? Is he to go into a judicial in-quiry or a quasi judicial inquiry to ascertain

the fact? These bills are necessarily imperfect because, to be frank about it, the judiciary

committee and the committee on foreign re-lations-one bill coming from the committee on foreign relations, and the other from the committee on the judiciary—were both at-tempting to keep within the commerce clause of the constitution, and at the same time meet the evil, the suppression or removal of But I call the attention now of senators interested in this matter to the act with which we are all familiar, that in regard to

trusts, "An act to protect trade and com-merce against unlawful restraints and mo-

merce against unlawful restraints and mo-nopolles." The act reads as follows: Section J. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several states, or with foreign nutlons, is hereby declared to be illegal. Every person who shall make any such contract or eugage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both said punish-ments. In the discretion of the court. The sixth section of that act reads as fol-lows:

lows: Section 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this act, and being in the course of transportation from one state to another, or to a foreign country, shall be forfeited to the Un ted States.

In other words, two things are necessary to a forfeiture; first, that the article shall be the subject of unlawful conspiracy in restraint of trade; second, that it shall be actually in transitu from one state or ter-ritory to another or to a foreign country. I call attention to this language to show that in all this legislation which has been enacted the idea is prominent that the subject about which we are legislating must be in transitu or in the hands of the carrier for that purpose, and until it reaches the point of desti-nation and the package is broken or passes by sale from one citizen or another the com-

merce clause of the constitution still affects it. That is the meaning of the decision of the supreme court in Gibbons vs Ogden, that the original package, until broken and the goods mingled with the goods of the citizens of the commonweaith, is still subject to this commerce clause of the constitution. Mr. President, I call attention to the sev-

If this be the true construction of the con-stitutional provision, then the paramount power of congress to regulate commerce is subject to a very material multarion; for it takes from congress, and leaves with the states, the power to determine the commodi-ties, or articles of property, which are the subjects of lawful commerce. Congress may regulate, but the states determine what shall or shall not be regulated. Upon this theory enth subdivision on page 5 of the bill, which seems to me exceedingly objectionable. In stating the articles which come under this or shall not be regulated. Upon this theory the power to regulate commerce, instead of being paramount over the subject, would be-come subordinate to the state police power: for it is obvious that the power to determine the articles which may be subjects to com-merce and thus to circumscribe its scope and operation. Is, in effect, the controlling one. The police power would not only be a formid-able rival, but, in a struggie, must necessarily triumph over the commercial power, as the power to regulate is dependent, upon the power to fix and determine upon the subjects to be regulated. inspection law, it says: Seventh. If it consists of the whole or any part of a deceased, fitthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a deceased animal, or of an animal that has died otherwise than by slaughter. Provided, that an article of food or drug which does not contain any ad led poisenous ingredient shall not be deemed to be adulterated— Now, I call attention to two features of this provision. this provision. Mr. Paddock-I hope the senator will not I shall not quote any further from this deread that proviso as connected with and reision, and I quoted so much for the purpose lating to the first paragraph of that section It relates to the definition that follows, of showing what the supreme court has at last determined to be the line between the commercial power of congress and the police Mr. Vest-Very good. I will take it with the amended definition and will proceed powers of the state, and further to show this with what little I have to say about i most ant fact in the present discussion, most important in view of the pending bill, Mr. Paddock-It was made entirely as con nected with the definition that follows. Mr. Vest-I will come to that in a momen that the power is here given to congress under this decision of the supreme court, will call attention in the first place to the definition of animal or of vegetable stances which are attacked in this bill: about which there never should have been vegetable sub any doubt, to state which articles shall be the subjects of commerce among the states. If it consists of the whole or any part of eased, filthy, decomposed or putrid animal. Mr. President, that touches me in rather That is within the power of congress, and so long as congress sees proper to exercise that power it does it by virtue of this ex-clusive grant. Therefore it follows that if ensitive part of my dietary organizatio From defects, possibly of early education, i am very much addicted to the products o he congress of the United States should say the hog, and I do not know any animal whi that an article should not be transported is more filthy in its habits; yet under this from one state to another it would have the provision hog meat would come within the desunciation of this bill. It is an amend-But at the same time it is clear and ment to the Old Testament of a most violent questionable that congress has no right under description. It seems to me that, standing as it is, there could be no more fatal defect in he commerce clause of the constitution to exercise any right of inspection within the any legislation for a southern or western territorial limits of a state. If that power of I do not think in all the category of going into a state for the purpose of inspect-ing an article to ascertain whether it is healthy or deleterious to human life and animal life there can be found anything more filthy in its habits than the ordinary American hog; for, whatever he may be in foreign countries, here he is addicted to the most health exists at all, it comes from the broad and general blanket clause of the constitufiltby practices and habits. tion in regard to "the general welfare." Mr. Paddock-Will the senator allow me? Mr. Vest-Certainly. Mr. Paddock-That is the exact language of all the statutes or substantially the same does not come from the commerce clause of the constitution, because the power to go into a state and regulate commerce does no exist in the congress of the United States, and, therefore, it follows logically that none as all the statutes that have been enacted. commencing with England and running through the alimentary laws of Germany, of the instrumentalities necessary to the or ercise of that power can be given to con-gress. That is all I propose to say in regard and all the way through for twenty years since there has been any legislytion of this kind. The criticism of the senator is hyper-Mr. President, what is the meaning of this critical. legislation f it belongs to that brood of meas-ures which in my judgment arc most dele-Mr. Vest. It is a great defect of legisla tive definition, and I can harvely think that terious and most inimical to the proper con-struction of the constitution of the United States, that commenced with the olsomarthe old Saxons, whose first historical life consisted in herding swine, would ever in their legislation, if they had been consulted garine bill, and which I opposed with all the strength that I was capable of exercising, about it, have denounced the hog or put him in the catalogue found in this section. whereby the taxing power of the national government is to be used for police purposes in a state. It was declared both in the house of representatives and on the floor of the sen-

ated.
First, in the case of mixtures or combounds which may be now or from time to time here-after known as articles of food under their own distinction ranges, and not included in definition fourth of this section.
Second, in the case of articles labeled, branded or targed so as to pinling indicate that they are mixtures, compounds, combinations or blends.
Third, when any matter or ingredient has been added to the frood or drag because the same is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consuspition, and not fraudulently to increase the bulk, weight or measure of the food or drag, or conceal the same shall be labeled, branded or targed, as proscribed by the secretary of agriculture, so as to show them to be compounds and the exact character thereof; And provided further, Thus nothing in this act shall be construed as regulting or company of agriculture. quiring or compailing proprietors or manu-cturers of proprietary medicines to disclose

Fourth, where the food or drug is unavoid-ably mixed with some extraroous matter in the process of collection or preparation. Mr. Paddock-That is the usual provision,

but sometimes by accident in making the compounds something may be put into them in the assembling of the ingremients. Mr. Vest-Exactly; still this provision in

very plain language provides --That an article of food or drug which does not contain any added polynous ingredient shall not be deemed to be adduterated.

That is to say, although it may be poisonous aiready, if it is honestly labeled, and al-though it may kill a whole township by its use, if there is no other poison put into it, it does not come within the provisions of the statute.

Mr. Paddock-That is a very extravagant and very extraordinary assumption. Mr. Vest-Very good. Mr. Paddock-Certainly nothing in the

phraseology or in the association with the other definitions all the way through the definition paragraphs of the bill can possibly admit of any such construction

Mr. Vest-Very good, Mr. President. I think I can exist under the senator's criticism after reading his bill. The extraor-dinary language he uses here to convey an idea which he says he did not intend to conver excoorates him from any disposition to be harsh in his criticisms on what I say. I submit that here is the language:

Provided, That an article of food or drug which does not contain any added poisonous ingredient shall not be deemed to be adulter-

First. In the case of mixtures or compounds which may be now or from time to time here-after known as articles of food under their own distinctive names, and not included in definition fourth of this section.

And so on. In other words, let us take a practical illustration. Suppose that a man invents a food product which he calls the es-sence of corn, or of wheat, or of rye-I will take any healthy article of food-and he brands it the essence of corn, when, on in-spection, it turns out that it contains a poisonous article, strychnine, argenic, prus-le acid, or any of the known poisons, deleterious to human life; it is honestly branded

Mr. Paduock-Suppose the senator takes some practicable thing, something that everybody knows about. Suppose he takes a peculiar and particular brand of cornstarch or something of that kind, of which there are very many, upon which the trade-mark of the manufacturer is found, that is, cornstarch defined as such. If there is added to it—and there is no objection to that, because there is no disposition to discriminate against anything that is honest and fair and is adjed to that cornstarch, which is a special and particular manufacture known to all the world under the trade-mark of the manufac turer, any ingredient which is in any respect polsonous, then it is taken out from under this description. That is all there is of it. It

is perfectly plain. Mr. Vest-Then the language is most un-fortunate, "any added poisonous ingredient." Mr. Paddock-What is "added?" Some thing that is added to that which is defined and presented and has a distinctive charac-

Mr. Paddook-What is the exact motion? Mr. Paimer-If the senator from Neoraska will cermit me, I will move to strike out all of section 1 after the woods "chief chemist." n the tenth line of the section, and also all of the third section and all of the fourth sec-

The Vice President-There is an amendment already pending, submitted by the sen-

ator from Texas (Mr. Coke). Mr. Paddock-Tue amendment of the senator from Texas embraces a part of the proposition which the senator from Illinois now makes.

Mr. Palmer-If the proposition I make is not in order, of course I withdraw it. Mr. Paddock-It can be offered at the

proper time. Mr. Palmer-At the suggestion of gentle-

men who are more familiar with the rules than I am, I withdraw the amendment for the present. Mr. Paadock-Mr. President, I had not in-

tended, as I stated at the commencement of this discussion, to make a formal speech, but the very carefully prepared arguments of the senators from Texas and Tennessee the other day, and the speech of the senator from Missouri [Mr. Vest] today, have seemed to make it necessary to give to many of their statements and conclusions a more format statements and conclusions a more format and thorough answer than would be possible in a running debate. With this apology in advance, and indulging the hope that the very great importance of the measure under consideration may command for me the at-tention of the senate. I will proceed. Mr. President, when this buil was first taken up for discussion, in answer to the ex-travarant estimates placed 1 pon the cost of

travagant estimates placed upon the cost of its administration if it should become a law, made by both the senator from Tennessee [Mr. Bate] and the senator from Texas [Mr. Coke], 1 insisted that such estimates had no foundation in reason, or common sense, or fairness. In support of what I then said, I now present the letter of Prof. Wiley, written under the direction and with the approval of the secretary of agriculture upon this subject. It is as follows:

In subject. It is as follows: DEPARTMENT OF AGRICULTURE, DIVISION OF OHEMISTRY, WASHINGTON, D.C., February 24, 18:2.-Sir: I beg to submit the following estimate of the cost, in so far as the chemical work is concerned, of carrying out the provis-lons of the pure food bill now under considera-tion in the senate:

work is concerned, of carrying out the provis-tion in the senate: There are, of course, many difficulties in the way of giving anything like an accurate esti-mate of the amount of money necessary; but thave carefully gone over each provision of the bill, and I think I can safely say that the total cost of the chemical work, including the procuring of samples and the necessary trav-eling expenses of the chemists who may be de-tailed for this purpose, will not exceed \$100,-000 per annum. In all such work I have found that it is far better to have the chemist himself obtain the samples of the suspected foods rather than depend upon an inspector who has no tech-nical knowledge of the matter under consid-eration. In the work which has aiready been done by this division in food adulteration, we have purchased all our samples of suspected foods through our own chemists, finding this method of procedure far superior to any other one. The estimate which I give, therefore, in-cludes not only chemical work, but also the necessary expenses attending the procuring of samples. It does not, of course, include the ercetion and equipment of a laboratory large enough to accommodate the increased number of workers. This matter is already provided for in a bill which is now before the house for the excement of scientific laborato-ries for the use of the Department of Agricul-tics. I think I can safely say, with the experience

It is not the use of the Department of Agricul-ture. I think I can safely say, with the experience of six years in this business, that the law can be thoroughly enforced, his of ar as the chem-leal work is concerned, for the amount men-tioned above. Respectfully, Hon. A. S. PADDOCK, United States Senate. Both of the senators to whom I have re-ferred insisted that thousands and tens of thousands of officials would be required, and this, too, in the face of the fact that the last this, too, in the face of the fact that the last section of the bill, which was stricken out yesterday on my motion, providing for an appropriation for one year's work under it, placed the requirement at the same amount indicated in the official estimate I have read. The senators appear to have assumed that there will be required under its provisions a that

which does not contain any added poisonous incredient shail not be decaded to be adulter-ated. First, in the case of mixtures or compounds Mr. Paddock-What is the exact motion? It is point to any provision or any line in this But, "to make assurance doubly sure" as

olli which discriminates especially against any bonest and houestly branded article of od in favor of any other such article. The senator from Tennessee indulged in a good deal of very extravagant criticism as to certain imaginary political aspects of this legislation, and, in order that I may avoid any possible misstatement of what was so freely and, as I think, so ungenerously said under this particular head by him, I quote an extract or two of the many in his speech of this character.

The senator said :

cyract of two of the many in his speech of this characier.
The scontor said:
The country is about entering upon the great quadrennia: campaign for the presidency, and this bill proposes to put it within the power of one department to appoint as many "chemployes" as the head may deem necessary to carry out the provisions of this sat, and any political work for which their hands and heads may be a demand for pure food legislist on but that demand does not contemplate the says:
There may be a demand for pure food legislist on, but that demand does not contemplate the addition of the says:
There may be a demand for pure food legislist on, but that demand does not contemplate the addition of the says:
There may be a demand for pure food legislist on, but that demand does not contemplate the additerated voting, and the misbranded election devices which lurk concealed within the limitless discretion conferred on any secretary of agriculture by this bill. "For the purtoose of protecting commerce" this bill renders it possible for one of the executive departments to thus corrupt the polities of the country by commissioning a multitude of partisan employee. In every state.
Ta not vote to introduce a Trojan horse with a beily full of inspectors and other employes. In every state, and for those, if no other employes to open our gates for a republican or a democratic triumph, and for those, if no other employed is possibilities, yea, probabilities, of political evil.
He further says:
There is a possibility within the discretion of partisan any secretary of 3,355 active officers, and in othing a political work in a political contex of the second of

Campaign. This is, to say the least of it, bringing the This is, to say the least of it, bringing the discussion of a most important measure, which this is believed by the great body of the people of this country to be, down to a very low plane. It is not only an assault upon American official integrity generally, but it is a direct charge that the motive of all of us who have been laboration is motive all of us who have been laboriously employed in the promotion of this legislation has not been to secure the passage of such a measure because there is a great public need and an overwhelming and honest demand for the same, but for the purpose of setting in mosame, but for the purpose of setting in mo-tion certain political machinery which is in-tended to be corruptly used for partisan pur-poses. It would be difficult to conceive of any legislation which could possess more strongly the characteristics of politics than did the political discussion of this measure in which my friend from Tennessee indulged himself. It is certainly rather a serious matter to charge, even by indirection, that not only those who have been directly en-gaged in its formulation and presentation, but the great body of the people themselvea, who have almost universally demanded it, have been moved chiefly by the desire to have inaugurated a cheep, marky, political scheme for corrupt partisan uses.

cheme for corrupt partisan uses. Mr. Bate-May I interrupt the senator? Mr. Paddock-I prefer not to be inter-

upted. I have only a very short time, and the senator will have plenty of opportunity to make any statement he desires after l conclude my remarks. For, if this plan of legislation is of the character described by been instrumental in bringing it forward must have been moved by partisan motives in socking its enactment. This is the logical conclusion of his argument, and none other than this is possible. So it is a reflection upon the state legislatures, the boards of upon the state legislatures, the boards of trade, the great commercial exchanges and associations, the farmers' alliances and granges, the groat army of reputable manu-facturers and dealers, and the thousands of other honored citizens all over the country who have indorsed the provisions and urged

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to this, on my motion yesterday the essential provisions were amended in the direction of greater definiteness by the insertion of the

exact definition now recognized by the pres-ent state of the law and the adjudication of the courts, as follows: "Articles which are subjects of interstate commerce," Mr. President, when, where and under what circumstances these articles, which

must be subjects of interstate commerce, to be dealt with at all, may be lawfully demanded under its provisions for analysis, is to be determined by the rules and regula-tions to be prescribed by the secretary of agriculture, which must be based not alone upon the requirements of this particular act, but upon the entire state of the inw as set-

but upon the entire state of the naw as set-uled by the decisions of the supreme court respecting the powers of the federal author-ity in such cases. Wheever administers this proposed act will be bound not only by the constitution, but by all the law and all the decisions of the supreme court affecting the same. There is nothing whatever in this bill, with its qualifying provisions, specific-ally authorizing an impection or analysis of ally authorizing an inspection or analysis of anything that is not in all respects a subject

of interstate commerce. Whether the analysis can commence in the manufactory where the original packages are already made up and directed with the usual shipping address to the party or parties re-siding and doing business in a state or territory other than that in which manuractured, or whether they cannot be touched until they are upon a dray moving to the railroad depot,

or, even later, until they are upon a car of a freight train ready to be moved out from the state where manufactured into the state the state where manufactured into the state or territory to which they are destined; and when they shall have arrived at the point of destination in such state or territory, whether the inspection or analysis of such original packages is to be undertaken at the depot on their arrival, or on the dray convey-ing them to the wholesale or commission house, or whether the sample can be de-

manded from these original packages when they shall have been placed on the shelves of the wholesale or commission house of the seller; or whother at each and all of these places, is not a question requiring to be de-termined here now, but it is a matter of ad-ministration to be hereafter determined, if the bill becomes a law, not by the provisions of this act alone, but by the exact measure ment and limitations of the power granted by the constitution to the federal government to regulate commerce among the sev-eral states and to promote the general wei-

The purpose and aim of this proposed law The purpose and aim of this proposed law is, by general definitions only, to confer all the authority, and no more than lawfully flows from the constitution, as the volume of the same may have been determined by the decisions of the court of last resort, and there is nothing whatever in the provisions of the bill indicating an intention on the part of its framers and promoters to attempt to go further than this; nor is there anything in it to warrant the statement that it gives any agent of the government of the United agent of the government of the United States authority to go juto a manufactory or retail place of any kind in any state without the consent of the proprietor thereof, and demand to purchase any of the samples au-thorized to be purchased for analysis which as not distinctively the subjects of inter-state commerce. The bill, however, is pur-posely drawn on lines bread enough to admit of this being done under an understanding with a state willing and consenting to cowith a state willing and consenting to co-operate with the federal government to pre-vent the frauds at which the bill aims. In states where the present state of the law does not admit of such co-operation the bill is simply anticipatory. Indeed, Mr. President, I may safely admit all that the senator from Texas-Mr. Coke-has said in respect of the constitutional limitations ap-bicable to its provisions, and the bill will licable to its provisions, and the bill will stand unimpeached.

Hera, Mr. President, I desire to read no extract from a speech which I had the bonor to make in the senate in the first session of . the Fiftieth congress upon the pleuro-pacumonia bill, which is somewhat on the ine of the observations I am now submitting as to the general principles. However, be-fore reading this extract I desire to say, in a prefatory way, that I do not claim nor experifor my views on a constitutional question the same respect from the lawyers of the senate as is due to the arguments on the powers and duties in question by my learned friend from Texas, whose reputation as an able lawyer is so firmly established. It must be remembered, however, that the senator from Texas argues always upon the most radically restrictive lines as to the constitutional limitations upon the federal au-thority, while I freely admit that I induige a much broader view as to these limitations looking from the standpoint of liberal con-struction respecting, particularly, the treatment of all matters and things obstructive or injurious to interstate commerce or prejudi-cial to "the general welfare." resulting from poorly executed, perhaps whelly unexecuted, or, perhaps overexecuted state inspection aws, or from any other like causes arising in the state. Mr. President, I now read from my former remarks to which I have referred : "But, sir, it is contended by some that the powers reserved to the states to enact quar-antine, health, inspection, and other similar laws carry with them exclusive control as to police regulations of all kinds and for all purposes whatsoever; that the national jursdiction over this subject, if it exists at all, is secondary, subordinate, or auxiliary to state authority, and that the exercise of the same is permissible only when the state to be affected gives assent thereto. Abstractly considered this may be true, but in the con-crete it is not true. The power to regulate commercial intercourse between the states belongs exclusively to the national government by specific grant. It is a power to be exercised solely and independently by authority of congress. not for the states as such, but for all the people of the United States standing together, and perfectly equal as to their rights, privileges and im-munities as citizens of one nationality in respect of all matters and things connected with such commerce and intercourse beween the states. This power is not only specifically granted to the national government for the benefit of the whole people, but it is with equal defin-iteness prohibited to the states. The inspection laws are distinctly subordinate to this larger grant of powers, and in order to em-phasize this subordination more fully and forcefully it is provided that these very laws shall be subject to the revision and control of the congress in order to make it certain that this exceptional authority may not be used in my manner or form to impede in the slightest degree the free course of commerce between the people in all sections of the union, which the national government is specially required to promote and preserve. Undoubtedly, sir, there is a perfect and un broken concensus of opinion running through broken concensus of opinion running through all the decates in congress and all the deci-sions by the courts since the adoption of the constitution that the state may legislate primarily for the protection of the public morals, the public health, and the domestic weifare generally of society in the state; but I have been unable to find any decision of the supreme court, from Chief Justice Marshall down to the present day, indicating that if down to the present day, indicating that, if through an incompetent, a negligent, or an indifferent administration of the affairs of a state, the sufficiency of its general statutes or the poverty of its resources, or all of these combined, the health or other local conditions have been permitted to fall so low as to be-come continuously a menace, an obstruction to the commerce between other states neces sarily passing through the state so afflict d, that the national government could not intervene and act directly upon such conditions for amelioration or removal, and the rela-statement of the commerce thus interrup ed and threatened with destruction. Indeed, from my reading of the cons-tion I am satisfied that the warrant of aut ity is not only given, but the daty is imper-tively enjoined upon the congress by the or stitution to make full and careful provide against all such contingencies. Nor is a per-missible, in my opinion, for congress to await the invitation nor be deterred by the p test of the state so affected when satisfied conditions exist therein obstructive of that om. merce between the severel states which the constitution says must be protected by the national authority without reference to the

in the United States may become the subject of commerce among the states. Mr. Coke. That is exactly what I stated,

If the senator will permit me.

Mr. Vest. Then we are unfortunate in not anderstanding each other. As I understand the decisions of the suprame court and the plain language of the constitution itself, everything throughout the country which is the subject of commerce in the states or out of the states may be the subject of interstate commerce, "or commerce among the states." quoting the language of the constitution, But that is very different from what has al-ready become the subject of commerce among the states. The supreme court of the United States has decided that diseased meat, poisonous substances, deleterious to health or life, can not be the subject of commerce the states. It is impossible that they should be the legitimate subject of commeranywhere, either among the states or with foreign nations. But that is a subject of commorce among the states which is in healthy condition or a legitimate su healthy condition or a legitimate subject of commerce and has passed into the hands of a common carrier or is in process of transpor-tation from one state or territory to another. Therefore, if we adopt the amendment pro-

posed now by the senator in charge of the bill and interpolate the words "the subject of interstate commerce," then the pending bill would simply be narrowed and restricted to articles which have gone into the posses sion of a common carrier or are in process of transmission from one state to another

Mr. Paddock-Will the senator permit me to ask him a question? Mr. Vest-Certainly. Mr. Paddock-I should like to ask the

conator if he thinks the act would be nar-rowed down beyond what it is already nar-rowed down by the provisions of section 10, if the bill shall pass to the amendment to

which he is addressing his remarks? Mr. Vest-Of course not, and 1 understand that section 10 of the bill simply attempts in general terms to restrict the operation of the bill to the subjects of interstate com-

Mr. Paddock-That amendment was simply in the direction of definiteness to satisfy some of our friends who are hypercritical in

some of our friends who are hypercritical in respect to matters of this kind. Mr. Vest-Waiving the term "hypercriti-cal," Mr. President, permit me to say that as I understand the sepator from Nebraska now, he does not propose that this measure shall effect any except articles which are the subject of commerce among the states. Mr. Sherman-Or which may become the

subject. Mr. Paddock-As to that I shall state

Mr. Paddock-As to that 1 shall state further when I come to make some romarks. I do go a good way beyond that. Mr. Vest.-If you mean a.ything further than that, it is unconstitutional unless you find the power to pass an inspection law by congress in the "general welfare" clause in the constitution. I was peculiarly unfortun-tie if that is the construction intended by tha senator from Neoraska in being reported this morning as favoring any such bill. I do not belong to the school, to use the expres-sion a to the party which from the beginning of the government, has believed that under the "general welfare" clause of the consti-tution congress could do anything. I have never believed for an instant that that was a separate and independent grant of power in never believed for an instant that that was a separate and independent grant of power in the constitution. Without going into that much debated and discussed field, I simply content myself with saying now that if that is the meaning of the senator from Nebraska, and he puts this power of national inspection upon the "general welfare" clause of the upon the "general weifare" clause of the constitution, I cannot go with him in any such construction

I assume that he gets this power under the interstate-commerce clause, for in his amend-mend he interpolates the words "subjects of commerce among the states;" and if that be so, then the irresistable conclusion is that nothing except an article the sub-ject of interstate commerco can be touched for inspaction. I said pect of interstate commerce can be touched for inspection. I said vesterday that if, under that construction, any United States inspector coming from the Department of Agriouiture should go into any retail or wholesale establishment in any state and demand the right to inspect any package, he would immediately be met with the unanswerable statement "by what au-thority do you come inside of a state with a untional power in order to make me exhibit

national power in order to make me exhibit my goods to you as an officer of the United States government?" Every senator will see how utterly impo-tent is this legislation if confined to the regu-lation of the subjects of interstate commerce or commerce among the states. If it be-and

quiry. The first clause of the act for the inspec

the constitution.

does not come under the commerce clause of

But, again, the senator says, in the bill: That an article of food or drug which does not contain any added poisonous ingredient shall not be deemed to be adulterated. He says that does not qualify this provis-ion, but the whole of the bill. Is it possible that the senator from Neoraska means that a poisonous article which is made mean that a te during the eleomargarine debate by the chairmen of the respective committees on agriculture in the two bodies, that there was that the senator from Neoraska means that a poisonous article which is made more poison-ous is exempt from the operation of this pro-posed act? Lat me read this so as to show that there is no injustice done: Provided, That an article of food or drug which does not contain any added poisonous ingredient shall not be deemed to be adulter-ated. no sort of pretense that the government needed the money to be raised by the tax

avowed that the purpose was to tax out of existence, through federal jurisdiction, an ar-ticle of food in order to give the market to a competing article. I have never ceased to re-gard that legislation as the most dangerous that could have been encoded by the concrease In other words, if it is all arsenic or strychnine, and there is no other poisonous drug added to it, it is an article of legitimate that could have been enacted by the congress of the United States, and here follows logic-ally now another bill in the same direction, and I take it that no honest advocate of this

Mr. Paddock. That is a very unfair criti bill will pretend te say that it is anything else except an attempt to exercise the police cism.

cism. Mr. Vest. I do not mean to be unfair. Mr. Paddock. That relates entirely to the definitions which follow and to which must be added in each case those things that are described thereafter in order to take them out of the list of exceptions. That is an exelse except an attempt to exercise the police power under the guise of the taxing or rav-enue power of the government. Here we are called upon to pass a bill which gives to the Department of Agricul-ture the right to go into a state and call upon any citizen to exhibit his property, not when it has, but because it may at some fu-ture time, become the subject of interstate commerce, and when the supreme court of the United States has already decided that until in the hands of the carrier or in tran-situ between the states and territories, it does not come under the commerce clause of Seption to the rule of adviceration. Mr. President, if the senator will allow me

Just a moment further. Mr. Vest-Of course. Mr. Paddock-The paragraph to which he refers is to be read in connection with the three clauses which follow:

Three clauses which follow: First, In the case of mixtures or compounds which may be now or from time to time nere-after known as articles of food under their own distinctive names, and not included in definition fourth of this soction. Second, in the case of articles labeled, branded or tagged so as to plainly indicate that they are mixtures, compounds, combina-tions or blends. Now, it must be either an imitation or there must be something added to it a ae constitution. Something has been said bere in regard to the cattle inspection bill that was passed. I agree with the senator from Connecticut [Mr. Platt] that it is very doubtful what the

supreme court will say in regard to that measure in its provisions as to products intended for export, although I have never been able to find any other language which would embrace the purpose of such legisla-tion and could stand the test of judicial in-

there must be something added to it, a poisonous ingredient. If there is that con-dition made by the addition of poisonous in-

Mr. Vest-Exactly, and there might be

very serious question as to the meaning of that word "poisonous." or as to the propriety of using the word in that connection. There may be an article placed in a food product which is not a poisen, and yet at the sam time is deleterious to health life and.

Mr. Paddock-It is the usual provision found in the statutes of England and in the almontary laws of Germany, and found in the statute of Massachusetts, which has prov en to be one of the most efficacious laws on this subject that has been framed anywhere. and which is duiversally recognized as a pro per law.

Mr. Vest-I am not discussing the laws of Massachusetts or the laws of England. 1 am taiking about a statute which it is proposed to place upon the statute books of the United States, and upon which I am called on to

vote. Now, I want to say in conclusion that know that all through the country, and represent a large agricultural state, there has been a vast amount of sentiment worked up in favor of some legislation for pure food, as it is termed, and I know that granges, alliances, conventions and newspapers have all demanded most imperative terms by petition and otherwise, that this or some similar bill shall be enacted.

Now, Mr. President, I believe that the con-stitution of the United States intended that inspection and quarantine laws should be in the hands of the states. My reading of the history of the commerce clause of the constitution convinces me beyond question that the meaning of that clause was that the evils existing under the old articles of con federation, which permitted any state to discriminate in its legislation against the products of another state attempted to be brought within its limits, should be done away with, and that the constitution meant in the commerce clause, when it used the word "regulate" that the manner of conduct ing the commerce of the country among the states should be under the jurisdiction of congress, and I have no sort of doubt that the guarantine power and the inspection power was intended to be left with the states, because it was a local matter to a large extent and one which the people of the states through their legislative authorities were most competent to determine.

As I said a few minutes ago, here is one of that brood of bills growing out of the feeling of paternalism which has taken possession of this country from one end to the other. Instead of going to their state authorities the people of the United States are being taught now to come to congress for every thing from 1,000,000 acres of land down to thing from 1,000,000 acres of land down to a paper of pins. The states are slowly-no, not slowly, but rapidly-having their consti-tutional powers taken away from them and the power vested in the congress to do things which were intended by the framers of the constitution to be left to the states exclusively. Therefore we find in every state of this union a growing sentiment that state authority amounts to nothing and that the splendid centralized government at Washington is able to do anything; that when we invoke the constitution we are told when we invoke the constitution we are told that "you belong to a past era: you are not a passenger on the car of progress; you are not itying in the blazing sunlight of a new civilization."

I am proud to say, Mr. President, that I believe in the constitution as construed by the supreme court of the United States, and would extra prite with while life that to give I would rather quit public life than to give my vote for a bill like this, that I believe is a prostitution of the commercial clause in the constitution in order to exercise the police powers of the states.

For this reason, sir, I shall most cheerfully

cast my vote against this measure. Mr. Paddock-I am very glud the senator from Missouri now believes in the constitu-tion and will stand by it. Mr. President, I had not intended, as I said

Mr. President, That not this discussion — Mr. Palmor—I have no doubt the senator from Nebraska intends addressing the senate

from Neoraska intends addressing the senate at length on this bill. Mr. Paddock-Mr. President, 1 shall not be able to do so unless I am permitted to go abcad pretty soon, because at 8 o'clock we have a special order. Mr. Palmer-I desire to sike the senator's

permission before he proceeds to make a mo-tion to strike out a part of the bill, if it will suit him, in order that he may have that point before him while addressing the sen-

iniversal inspection embracing overv article of food and drug that is manufactured and sold to the consuming public at retail as well as at wholesale, which is wholly incorrect

All that is contemplated by this bill is the analysis of acticles of food or drugs, being subjects of interstate commerce, which may acounter suspicion from time to time as acuiterated and misbranded articles on some such theory or plan as that upon which the hunting out of the manufacturers and sellers of counterfeit money is conducted, and I re peat now, what I said the other day in the hurried answer made by me to some of these extravagant assumptions and charges of my honorable friends on the other side, that, taking the expense of the administration of the Massachusetts law as a basis for the cost of the administration of this proposed act, the estimate of the Department of Agriculture, to which I have referred, is within Our friends are greatly disturbed because

the exact number to be employed and the salaries to be paid to each are not definitely fixed in the bill, although the maximum amount in the appropriation, beyond which nothing could be expended, was then in the bill: but the whole subject of the appropria tion is now relegated to the two houses of congress to be provided for through their regular appropriation committees. We all know that this means no more than \$1(9),000 in any possible contingency, and we all know that beyond the limit of expenditures thus to be fixed in the appropriation bill it will be impossible to go in the expense of administra tion. Manifestly it would not be wise nor in the interest of economy to definitely name the number to be annually employed nor their actual compensation, because the service from its very nature would necessarily be variable and uncertain as to the number and the period of the employment of the person used in the field during the year.

In some morths a large amount of work in the way of inspection and analyses might be required, while in some other months of the year little would be necessary. It has been usual to give some discretion in the adminis-tration of all laws of this character to the chief executive officer charged with the responsibility of their administration. This measure, therefore, on a comparatively new and a most important line of investigation, is not faulty in the respect mentioned and is not entitled to the fierce criticisms indulged n by the senators to whom I have referred in the alleged interest and under the protense of economy. Mr. President, may it not be true that our

friends are really more troubled about cotton seed oil than about the constitution? Mr. President, I beg to repeat what I have before said, that, considering this very interest

alone, they are making a serious mistake. It is a significant fact that the reputable packers and manufacturers of compound lard, in which cotton seed oil is used in part are themselves in favor of the passage of this bill for the protection of the very inter est which the senators from Tenness Texas desire to protect through its defeat. They believe it is better for this very article itself that there shall be an bonest, open-handed manufacture and sale of it to the consuming public. The suspicion now at-taching to it, the ban under which it rests, can only be removed by some such legislation as this.

The producers of hogs desire and are seek ing only this result. They and their representatives here make no assault upon cotton-seed oil nor upon the compound lard of which it is a constituent part. They only ask that it shall be branded and sold for exactly what it is, and not dishonestly sold for what it is not, i. a. "pure leaf lard." The charge of those senators as to a combination or con-spiracy on the part of the hog-producers and their particular representatives here for the purpose of securing legislation discriminat-ing against cotton-seed oil in favor of the edible fat of swine, is without the least foundation in fact. oundation in fact. The best witnesses in proof of this state-

ment are the intelligent dealers and com-pound lard manufacturers, who are enor ously interested in maintaining its commer cial reputation as an edible fat for the uses indicated. I make this statement with the confidence of an intimate, an absolute knowledge, gained from personal inquiries exten sively made by myself for the sole purpose o ascertaining the exact views of the people to whom I have referred. And now, Mr. President, speaking gener-ally, having in mind this charge of the sena-

The first clause of the act for the inspec-tion of ments for exportation roads as fol-lows: That the secret ary of spriculture may That the secret ary of spriculture may

the passage of this measure. And I am com pelled to frankly say that this is not the kind of argument that is calculated to satify the country that the senators who make it are themselves moved by other than political or selfish motives.

Mr. President, the division of chemistry which, under the secretary of agriculture, is to have the administration of the proposed law, is us nearly nonpartisan in its work a such an institution can be under our system It is purely a scientific force whose work is largely on the lines of practical science. enlargement of the scope of its authority and work as proposed by this measure cannot change its character in this respect and these assaults, in anticipation of the imposi-tion of the added duties contemplated by the bill, are unjustifiable and injurious to particular interests of the people, which it is the duty of that division to conserve. course the directing head is the secretary of agriculture, and whother a republican or a democrat, no secretary of agriculture would be capable of prostituting a great scientific division of his department to the low pur-

suits of corrupt and corrupting politics de scribed by the senator. The efforts of the friends of this proposi tion have been wholly in the direction of nonpartisan legislation and nonpartisan adminis tration in response to a universal nonparti san demand, and I do not believe its enemies will succeed in their attempt to bring this great undertaking down to the level of ward

and precinct politics. Again, Mr. President, my friend from Again, Mr. President, my friend free fencesso assumes that proprietary medi-cines will be in no way subject to the opera-tions of this proposed law. There is nothing in the act warranting this conclusion. The he de act warranting this conduction. The presumption is that proprietary medicines having each a special trade-mark designa-tion will always be what they are and have been uniformly branded; but this bill re-quires that they shall be exactly what they are designated and represented to be. In other words that there shall be nothing in or about any of them which are subjects of in terstate commerce that shall in any respo whatever "tend to deceive the purchaser." There is no inhibition upon the necessary analysis to determine this fact. There is, however, and very properly, an inhibition against the disclosure of their formulas. This is an exception in the case of these par

ticular articles, the propriety and justice of which is so apparent as to require no cor ment. In his general criticism on section 10 which reads as follows:

That this act shall not be construed to in-terfore with commerce wholly internal in any state. nor with the exercise of their police powers by the several states-

my friend says that "while it is designed to guard each state from the operation of this proposed national law, it will place a cordon of inspection around every state." He furthen states in the same connection that "this proposed law of congress has no power to prevent the manufacture of adulterated articles in the states, but is confined exclusively to hindering the movement of such a ticles across the borders of states." H says: "The introduction, not the manufac-ture, is forbidden." He says again: "There is no prevention, no stoppage of adulteration says: attempted, only the movement or introduc-tion of adulterated articles."

But in another paragraph of his speech his criticisms upon sections 7 and 8 of the bill, he complains that "the bill invades the state and seizes her manufacturers and deal ers who had no part in introducing or ship bis who has no part in including of ship ping the articles into another state," and, in the same connection he further complains that "that of course enables the agents of the general government * = * to go and lay violent hands in a way to make him a lay violent hands in a way to make him a criminal, even if he be a manufacturer in the very heart of old Virginia." To be precise, the senator says in one paragraph of his speech that the manufacturer cannot be mo-lested, and in another that he can be made a criminal under the provisions of the bill. This would appear to be the reduction and ab-surdum of argument. Section 10, without any qualification what-ever, confines every provision of the act of

ever, confines every provision of the act, of whatever nature, to articles which are diswhatever batters, to articles which are the inctively, necessarily, and absolutely sub-jects of interstate commerce. The pro-visions of sections 7 and 8, which the secator criticises, are still further directly qualified by the declaration in each section that the articles to be dealt with must be such arti-cles as come 'under the provisions of this