

T. 2
CATTLE DISEASE.

SPEECH

HON. JONAS H. McGOWAN,

OF MICHIGAN,

IN THE

HOUSE OF REPRESENTATIVES,

JUNE 14, 1879.



WASHINGTON.
1879.

CATTLE DISEASE.

SPEECH

HON. JONAS H. MCGOWAN,

OF MICHIGAN,

IN THE

HOUSE OF REPRESENTATIVES,

JUNE 11, 1870.

WASHINGTON:

1870.

S P E E C H

OF

HON. JONAS H. MCGOWAN.

The House having under consideration the bill (H. R. No. 1378) to prevent the exportation of diseased cattle and the spread of infectious or contagious diseases among domestic animals—

Mr. MCGOWAN said:

So much time has elapsed, Mr. Speaker, since the discussion of this bill was interrupted by other business, that I ask the attention of the House for a moment while I refer briefly to the several provisions of the bill before I enter upon my argument.

The first section of the bill provides that no railroad company or any other transportation company shall carry along its route or along interstate lines of travel any cattle having contagious or infectious diseases.

The second section prescribes the punishment for a violation of any of the provisions of the preceding section.

Section 3 provides simply how and where the violation of section 1 shall be prosecuted, and directs that the United States district attorneys shall take charge of the prosecutions for violations of the provisions of this act.

Section 4 provides that for the purpose of preventing violations of this act it shall be the duty of the Commissioner of Agriculture to select suitable localities on all lines of communication where he has information that the disease among cattle is prevailing, and to appoint inspectors to be known and designated as inspectors of live cattle, whose duty it shall be to inspect all cattle arriving at such points or passing through them, or from one State into another, from one State into a Territory, or from any State into the District of Columbia. The section also provides that the number of such inspectors shall be limited to three in any one State, and further provides that the Commissioner of Agriculture may appoint three skilled veterinary practitioners for special duty.

The fifth section provides that the Commissioner of Agriculture shall make all necessary rules and regulations to govern such inspections, to the end that the transportation from one State to another of live cattle afflicted with contagious or infectious diseases may be prevented.

The sixth section prescribes the salaries or per diem of these inspectors; the ordinary inspectors to be paid not exceeding \$4 per day, and the skilled veterinary surgeons to be paid not exceeding \$10 per day.

Sections 7, 8, and 9 of the bill make provisions for the prevention of the exportation of diseased cattle, and prescribes that it shall be the duty of the Secretary of the Treasury to establish regulations for that purpose. Of these three sections I shall have nothing to say.

Section 10 provides that when any infectious or contagious disease affecting domestic animals, especially the disease known as pleuropneumonia, shall be brought into or break out in the District of Columbia, it shall be the duty of the commissioners of said District to take measures to suppress the same promptly and to prevent the same from spreading; and makes provision as to how the commissioners shall proceed for the purpose of preventing the spread of the disease in the District.

Section 11 provides that nothing in this act shall be so construed as to supersede or impair any sanitary or quarantine law of any State. And section 12 provides that the act shall take effect from and after its passage.

Mr. Speaker, this bill proposes to furnish the machinery for an external and interstate quarantine. The object of this quarantine is to prevent the importation and spread of contagious and infectious diseases among cattle. The measure is aimed largely at the disease known as pleuro-pneumonia. I shall be pardoned for a brief reference to the history and treatment of this disorder, as introductory to any discussion of the bill. It is purely a contagious disease and does not have its origin in this country. Originating on the vast plains, or steppes, of Asia, it has spread over nearly the whole of Europe, including the British islands. It reached England in 1842, possibly as early as 1839. In 1858 it was introduced into Australia by a single cow shipped from England, and spread through the vast herds of that island until it has come to be impossible to stamp it out without killing all the cattle.

It is supposed to have reached this country first in 1843. A cow imported from Holland brought the disease to Brooklyn, and from that time, Dr. Law says, it has never been entirely absent from our soil. It has prevailed in at least eight of the States and in the District of Columbia. From Brooklyn it is supposed to have spread to New Jersey, Pennsylvania, Maryland, Delaware, Virginia, and Connecticut. Massachusetts was also afflicted with it in 1859 as an importation from Holland.

No disease among cattle has ever been so fatal or so difficult to control. After half a century of the most intelligent study and experience no specific has been found for its cure or prevention. Nothing better is offered than stamping it out by killing the diseased and infected animals. England, from 1842 to 1869, lost from this disease 5,549,780 head of cattle, worth \$400,000,000, and her losses since are estimated at \$100,000,000 more, making, in thirty-six years, a loss of \$500,000,000. This was the loss from deaths alone. Add to this the loss from the deteriorated health of those that sickened but did not die, the loss from caring for the sick, and the interruption of trade, and the sum swells into much vaster proportions. Australia, France, Russia, Norway, Sweden, Denmark, and Switzerland have each suffered untold losses by this terrible plague. But the experience of all these countries leads to but one conclusion. That conclusion is now corroborated by our own experience. The only remedy is to kill.

The European countries of Norway, Sweden, Denmark, Holstein, Oldenburgh, and Switzerland adopted this remedy, and to-day are comparatively free from the disorder. Australia allowed it to spread until to exterminate it by killing the diseased and the exposed was

nearly equivalent to killing all the cattle on that vast island continent. In that country and parts of Russia the cattle roam in great herds over immense unfenced plains. When the plague once got a foothold it spread so rapidly and so many places, as well as so many cattle became infected, that it was impossible to stamp it out, and in those countries to-day the pleuro-pneumonia has a permanent residence. In our own country the exterminating theory has been applied with success in Massachusetts and Connecticut, and at this hour is being successfully applied in New York.

A brief allusion to the experience of Massachusetts in dealing with the plague will be interesting and valuable in this connection. The old Commonwealth never does things by the halves and seldom bunglingly. In April, 1860, the Legislature, finding that the disease prevailed in some portions of the State, enacted that the governor should appoint three commissioners who should visit without delay the places where the disease was known or suspected to exist, and should have full power to cause all cattle belonging to the herds in which the disease had appeared to be *forthwith killed and buried*, and the premises where such cattle had been kept cleansed and purified. The cattle were appraised at a fair market value and paid for out of the treasury of the Commonwealth. Persons disregarding the orders or directions of the commissioners were to be fined not exceeding \$500. Ten thousand dollars were appropriated, and the commissioners went to work.

They did exactly what the law required of them. They ascertained the affected herds, estimated their market value, and then killed them. In less than two months the money appropriated had been expended, and the governor, at the request of the commissioners, called an extra session of the Legislature. Before a joint committee of the senate and house of this Legislature the commissioners appeared and demanded more money and enlarged powers. Upon this they were met by those disbelieving in the theory of extermination. The opposition was led by so able and distinguished a gentleman as the late Governor Andrews. Testimony was taken and arguments made before the committee. The learned and eloquent gentleman [Dr. LORING] who to-day so ably represents the sixth Massachusetts district upon this floor was a member of that commission, and made a speech before the committee which effectually silenced all objections. He there reviewed the history of the disease, stated the efforts that had been made to treat it and prevent its spread, and showed so conclusively that killing was the only effective remedy that all opposition went down before him. The Legislature gave the commissioners what they asked, and they proceeded with the work of extermination until they stamped out the disease, and since 1861 or 1862 there has not been a single case in the State.

Connecticut, I believe, has been equally successful in stamping out the disease among her herds.

I have given this brief history of pleuro-pneumonia and its treatment that we may more intelligently discuss the provisions of this bill, which now proposes to deal with it as a national question.

The supposed necessity for present legislation is embraced in statements that the disease is now prevailing in Virginia, Maryland, the District of Columbia, New York, New Jersey, Pennsylvania, and probably other places. It is very generally believed that it has never found a lodgment west of the Allegheny Mountains. Yet there was some evidence last winter tending to show that it had obtained a foothold in Ohio.

The present extent of the plague in the States is not well known. But from what I have said of the nature of the disease and the sad havoc it has produced in other countries, and to considerable extent in our own, it becomes apparent that the subject is a most important one to the whole country and should receive thoughtful consideration at the hands of Congress.

It is estimated that we have in this country forty millions of cattle. England in struggling with pleuro-pneumonia during a period of less than forty years, and with only six million head of cattle, lost \$500,000,000 by death alone. At the same rate our loss would have been more than \$3,000,000,000.

Many of the conditions which have made it so difficult to control the disease in Australia and Russia exist on our western prairies. The great herds and the wide extent of unfenced pasturage in many of our western States and Territories would make it impossible to eradicate it should it once get a hold there. This would strike down one of the great commercial interests of the country, effectually cut off our export trade in meat and live cattle, which during the last year amounted to many millions of dollars, endanger the supply of wholesome meat for food, greatly increase the expense of maintaining the Army, and financially ruin tens of thousands of good citizens.

It will be a black day for our country when pleuro-pneumonia goes west of the Alleghanies. Heretofore the constant tide of shipment has been from the West to the East. To this, no doubt, we owe our immunity from the plague in our great western herds. But the quality of the western cattle must be kept up and improved. Blooded stock is constantly sent there for that purpose. A single infected animal turned loose on the Illinois prairies would do mischief that years of time and millions of treasure could not undo. Admitting, then, as I do, the tremendous importance of the subject, I am brought, as we all are, at once to face the inquiry: What can Congress do in the premises? I answer frankly, something, but not all the subject demands.

I have no doubt but under the power which Congress has to regulate commerce with foreign nations and among the States we may do something to prevent the importation and spread of contagious diseases both among persons and animals. As to prohibiting the importation of disease, there is no doubt of the complete and ample powers of the General Government. But when contagious and epidemics have once found a lodgment in the States, the power to prevent their spread is not so clear. The exercise of national jurisdiction for such a purpose can only be along inter-state lines and upon inter-state commerce and travel. To that extent, no doubt, the jurisdiction is complete. The simple words of the Constitution, in section 8 of article 1, are:

The Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

The Supreme Court say, in *Gibbons vs. Ogden*, 9 Wheat., that "this power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution." The bill before us seeks its power wholly under this section. I believe the Congress has power to enforce what is sought by its provisions, and I am in full sympathy with its objects. But there are some things in the bill to which I object, and, if retained, I shall feel compelled to vote against the whole measure. I object to it first, because it puts too

great power and discretion into the hands of a single individual; second, because the inspectors are too few in number and to be selected only from the residents of the localities where they are to act; third, because section 11 of the bill subordinates the national authority to State and local dictation.

As to my first objection. For the first time in the history of the country it is proposed to use the power which Congress has over internal commerce for sanitary purposes. It is provided that the Commissioner of Agriculture shall select suitable localities on all lines of railroad, river, or canal interstate communication that he may have information the disease exists, and appoint inspectors to inspect all live cattle received at such localities for shipment, or passing through the same *in transitu* from one State to another, or from any State into the District of Columbia. And the Commissioner shall prescribe the duties of such inspectors, and make all needful rules and regulations to govern them, to the end that the transportation of cattle affected with contagious or infectious diseases may be prevented. Here is a tremendous power. An indiscreet use of it might ruin the cattle trade of the country. The Commissioner is to act upon information. What is his information to be? Simply that the disease exists? Who is to furnish this information? The bill is silent. Not the inspectors, for they are only to be appointed after the information has been received. But the information is to be that the disease exists. What disease? Any contagious or infectious disease. He may quarantine against the cowitch as well as the pleuro-pneumonia. In this country there are not many experts in pleuro-pneumonia. It is often mistaken for ordinary chest disorders, and a common lung fever, which is not contagious, is frequently thought to be this contagious disorder. The Commissioner of Agriculture, even should he be an expert, cannot make these examinations himself. He must then rely for the information necessary to put the machinery of the act in operation upon common rumor and such aid as he can get from the three special veterinary practitioners which he is allowed to appoint. The commercial interests of the country are jealous of any interference with trade. Even quarantine and health laws looking to the preservation of the lives of the people are a prolific source of trouble and complaint.

To illustrate the possible practical workings of the bill in this regard let us suppose that information reaches the Commissioner that pleuro-pneumonia has broken out among the cattle west of Chicago. He promptly, as his duty would be, sends his inspectors to Chicago with instructions to examine all the cattle coming in there for shipment east, and detain all those infected or diseased or so exposed as likely to come down at some future time with the disease. What do gentlemen suppose would be the instant result? Why, the whole shipping interest, which is a powerful one at Chicago, would be on the alert. The "information" would be sifted. Veterinarians would be called to examine matters. Shrewd, keen men who buy and sell cattle to make money, and not to give reputation to a Commissioner of Agriculture or to point a moral by patriotic self-denial, would contest the authority and the methods adopted at every step. And if it should prove in this first application of the new law that the information was not correct, that the cattle did not have pleuro-pneumonia at all, in fact had no contagious disease, that "a heifer exposed to a rain-storm had sickened from a cold and died of common pneumonia," then until the law should be amended and recast it would be a dead letter.

Again, the power that permits the General Government to follow

commerce from State to State and regulate its transportation, is nearly allied to certain powers expressly belonging to the States. The line is not always clearly drawn, and the Supreme Court have from time to time expressed their embarrassment in settling questions which border upon it. Here troublesome questions would arise. In short, this bill imposes some of the most difficult and delicate duties ever laid upon an officer by Congress. Without the slightest reference to the qualifications or want of qualifications of any official, it has struck me that they should not be imposed upon any one man. It is due to the official, and especially due to the objects sought by this proposed legislation. In a multitude of counsel there is safety. There should at least be a board of three, and so constituted that the law officers of the Government might be consulted. And at the proper time I shall offer an amendment looking to that end.

My second objection to the bill is that the inspectors provided for are too few in number, and are to be selected from the residents of the localities where they are to act. The absurdity of limiting the number appointed in any one State to three will be sufficiently apparent by a single illustration.

In the Chicago Tribune for the 16th instant I find the statement that, during the year ending January 1, 1879, there was brought into the city of Chicago 1,083,000 head of cattle. This would be an average of nearly three thousand head a day for every day in the year, Sundays included. Should all the inspectors allowed to a State be engaged in the inspection at this one point, working ten hours a day and giving ten minutes to each head of cattle, it would take them forty-nine years and sixty-five days to inspect the shipments of a single year. I seriously suggest that the later inspections in such case might have a flavor of spoiled meat.

Suppose for an instant that the disease should generally prevail throughout the State of New York. How could any three men inspect the cattle passing over the various interstate lines of travel and transportation running into and through that great State? To ask the question suggests the answer. It would be impossible. The attempt would result in a farce, and the certificates granted would not be worth the paper they were written upon.

Again, I believe it to be a serious mistake to make it obligatory that the inspectors should be chosen from the locality where they are to act. The position will be one of great responsibility, requiring nerve, and firmness, and unflinching integrity. The pressure to secure certificates of soundness will be very great. Temptations to fraud and wrong-doing will surround the inspector on all sides. Now, add to the necessary difficulties of such a position the inducements that would be urged upon a resident, the claims of friendship, the temptation to save the trade of his home city, his own business interests, and we have done much to make the law inefficient by weakening the instrument which is to execute it. Aside from these considerations, it may not always be possible to secure men having the necessary knowledge and experience to perform such duties, at the localities where they are to be performed.

Hence, when the proper section is reached, I shall propose an amendment leaving the number of inspectors and the place from whence chosen entirely at the discretion of the appointing power; also, changing their pay from four to six dollars per day.

My last serious objection to the bill is found in section 11, which reads as follows:

That nothing in this act shall be so construed as to supersede or impair any sanitary or quarantine law of any State.

Do my colleagues of the committee who framed and present this bill believe they have proposed to Congress a constitutional measure? Does the Constitution confer upon Congress the jurisdiction assumed in the bill? Can the General Government legally take charge of the commerce passing over interstate lines and make all needful rules to regulate the same? Certainly the honorable and learned gentleman having charge of this bill believes this or the measure would not be here for action. Then if Congress has jurisdiction over the subject why is it sought here to subordinate that power to State and local dictation? There can be but one answer. It is simply another symptom of the malady known as State rights. This disorder is becoming more prevalent and quite as dangerous among our brethren on the other side of the House as the pleuro-pneumonia among cattle. It crops out everywhere. It is both contagious and infectious. Many a bright democrat has been sent to this corral with a clean bill of political health, when lo! in a few short weeks he was down with the distemper.

A few years ago this miserable plague broke out into a brisk epidemic, and it became necessary to apply heroic remedies. It was thought for a while that, like Massachusetts with the cattle plague, the thing had been fairly stamped out. But this was a delusion. A few cases again appeared here and there about the country, but the doctors said they were sporadic. There was no danger. The thing was dead. It never could spread again. To flourish, it required the poisoned atmosphere of slavery, and that had been purified by the thunders of war. Here was our grand mistake. We should have extended the quarantine. But we did not, and again the plague is upon us. It creeps in everywhere; puts its mark upon the offspring of every committee in the House. We think it might have spared the Agricultural Committee, but it did not; here is our baby, and he has it too; has it bad, and must die unless purged of the disorder. Better treat him as the Massachusetts commission did the diseased cows—shoot him on the spot, slash his hide with sharp knives, and bury him deep in the earth.

The tendency of a large part of the legislation proposed by the majority in Congress is to limit and cripple the national power. The General Government is viewed in the light of an alien power, constantly threatening the liberties of the people.

When it is proposed to pass laws to sustain the Army and Navy, to maintain the arsenals, and guard the elections of members of Congress, why should the Representatives from any State put out their hands as though an enemy were to be held at bay? My own State of Michigan has had an existence for forty-two years, has now a population of nearly two millions, has been steadily prosperous, is settled with an intelligent and thoughtful people, has an able Legislature in session every two years, is surrounded with great lakes which are national highways, and is bordered on one side by a foreign state; yet my people have never complained of usurpations on the part of the General Government. We have lived under the same laws with South Carolina and Mississippi and have not felt ourselves abused.

There is no desire in Michigan that the national wings should be clipped. No fear that we shall be smothered by the great bird. Within the powers reserved to the States we have all the liberty of action and of legislation that we desire. And acting strictly within those powers we have built up the finest school system in the world, where the poorest child in the State may go from the lowest primary, step by step, through all the grades until he is graduated from a uni-

versity which is second to none on this continent. And this without money and without price. The State cares for her indigent and pauper children, making them her own wards, and at her own expense training them into useful citizens. It furnishes elegant homes and bountiful care for all the unfortunate ones, and safe and economical prisons for the criminals. We have done all this without ever dreaming that we were liable to be trampled upon by a military despotism having its head centre in Washington. I venture to say that no man in Michigan ever thought his liberties were menaced, or in the slightest degree endangered by the National Government. Is it possible that all this time we have been so stupid that we have been oppressed by a dangerous and aggressive power and did not know it? If this be true, we are surrounded by stupid neighbors. Ohio, Wisconsin, Minnesota, and Iowa have not thought to complain of the "iron heel." Let us ask a kind Providence to pass that kind of stupidity around. The great mass of the American people believe that the United States is a nation, clothed with full powers to enforce its laws, and they never will consent to subordinate those powers to the law of any State.

What does this section mean in this bill? Simply this, that any State may nullify the national law at its option. If the law interferes, or is supposed to interfere, with the cattle trade of Illinois, then Illinois enacts a law which contravenes this, and with impunity pours her diseased cattle across the continent. Attempting to act under one of the plain provisions of the Constitution, we stop, and, obsequiously bowing to State sovereignty, say "by your leave." For one, I am not quite ready for that yet; and if I must choose between plagues, I simply say I prefer the cattle plague.

Now, Mr. Speaker, I am in favor of some enactment by Congress to aid in suppressing and controlling contagious and infectious diseases among domestic animals, and especially this dangerous cattle plague. At the same time I am fully conscious that the real and effectual remedy rests with the States and municipalities. No national law can authorize the condemnation and slaughter of diseased animals. This power belongs to the States, and if they would have complete protection they must exercise it. For instance, had the State of Virginia, the first of last month, while her Legislature was in session, provided a small appropriation and a commission with the necessary powers there would not to-day be a single case of the disease within her borders. However, instead of doing that the Legislature sends here a petition asking that Congress will enact laws to "stamp out" the plague in that "sovereign State." What has come over the proud Old Dominion that she invites this invasion of her sacred soil? No wicked, republican, centralizing Legislature ever equaled that. It brings a sharp contrast between the "Mother of Presidents" and the "Old Bay State." The one took care of herself, as she usually does, made her own laws, and with her own officers "stamped out" the disease, and then paid the bills. The other, finding one of her great industries threatened, looks languidly across the Potomac, asks the General Government to take care of her, and then folds her hands and waits.

No, Mr. Speaker, Congress has no power to "stamp out" contagion, and what is proposed in this bill is probably the extent of its jurisdiction in the direction of protection. It can only aid in preventing its spread. Whether the vast interests in live stock in this country shall be injured, or eventually ruined, rests with the individual States. Should Virginia do nothing to stop the plague, and it should

come to prevail throughout that State, no interstate national quarantine would, or possibly could, protect the surrounding States.

In the hope that the several States will see their interests and responsibilities in this matter, I think it best that this bill, modified as I propose, should pass. It is not strictly a pleuro-pneumonia bill. It furnishes the machinery to guard against the spread of any contagious disorder. It will only be put in operation when the danger is imminent and will cost nothing at other times. By this means at least a portion of the \$16,000,000 to \$20,000,000 lost every year by contagious diseases may be saved.

I yield to the gentleman from Missouri [Mr. HATCH] who has charge of this bill.

