

ories to be won before our object is achieved. This then is our work. We have to interest and educate the people. We must go to them in their homes and show them how their emancipation from monopoly is wrapped up in the taxation of land values. The magnitude of the task cannot be overestimated, but there is no reason why it should not be accomplished. Cobden succeeded in a similar campaign for the repeal of the Corn laws, and with persistent effort we can succeed in establishing freedom and justice; equal opportunities for all, privilege for none.

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NATIONALIZATION OF MEDICAL MANAGEMENT.

Several Congressional measures for the establishment of a national health Department—five bills, as we are informed—were pending in Congress at its adjournment. The controversy over them, which has become bitter to the point of vituperation on both sides, is likely to grow in bitterness; and in the interval between the Congressional sessions they should be considered by the people with as much freedom from partisan bias as possible.

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On the one hand, it is charged that these measures are intended to establish a medical trust.

On the other, it is retorted that the opposition is inspired and paid for by persons interested in unwholesome proprietary medicines.

The sponsor for the measures is a "Committee of One Hundred on National Health," under the leadership of Irving Fisher, professor of political economy at Yale. According to the opposition, that committee is the "alter ego" of "The American Medical Association," the exclusive and powerful union of the allopathic school, which has for years been lobbying for a national health Department.

The organization opposing the measures is the newly formed "National League for Medical Freedom," of which B. O. Flower, editor of the *Twentieth Century Magazine*, is president. It is accused by the other organization of being a mask for patent medicine manufacturers and enemies of pure food laws.

In both organizations are persons who not unlikely deserve the denunciations of the other side. It is only fair, however, to notice the fact in passing, that the opposing organization, in response to insinuations that the source of its income is illegitimate, has offered to disclose the source of its income to "one or two representatives of the Committee of One Hundred, say Rev. Lyman Abbott, Joseph H. Choate, Walter H.

Page, Melville E. Stone, Henry Phipps or Edward K. Bok." Until that offer is accepted (or shown to be disingenuous, if it be so), no further insinuations or accusations against the opposing organization can be treated with respect by fair minded men. But while both organizations may have in their membership persons whose motives, records and expressions might warrant vituperative attacks, this is far from true of the membership of either as a whole. The intent of most of the individuals of both organizations is in our belief, above reasonable suspicion; and this judgment is emphatic as to Prof. Fisher, the leading advocate of one of the pending bills, and Mr. Flower, the leading adversary of them all.

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The pending bill which the "Committee of One Hundred" supports, is known as "the Owen bill." It was introduced in the Senate by Senator Owen of Oklahoma, as to whose good faith we heartily repeat our estimate regarding Mr. Flower and Prof. Fisher.

But the merit of the bill is not to be determined by the good faith of its proponents. No dangerous legislation is more dangerous than that which is proposed for a good purpose in good faith, but ignorantly or recklessly with reference to its inherent powers of evil development.

The so-called "Comstock laws" of Congress, for instance, were proposed merely for the suppression of salacious literature, an object so beneficent that few wished to oppose them and most of those who wished to, dared not. Yet they lodged in a Federal bureau a new power, which, partly by supplemental legislation and partly by bureaucratic development, has reached a point high up in the scale of despotic government. One Department can now absolutely deprive any man of legitimate postal rights for life, upon a charge of petty fraud and without a judicial trial (vol. xii, p. 700). Another Department can prevent the return from a trip abroad of any American citizen, whether native born or naturalized, upon a mere charge, without judicial trial, that he is a foreigner and comes within an immigrant exclusion law (vol. viii, p. 98, vol. xiii, p. 388). The Comstock laws were not intended to develop any such revolutionary and despotic results; but in less than forty years they have done it.

Would it not be wise then to reflect upon the despotic possibilities of the Owen bill, rather than sanction it upon no better basis than that in some respects it is desirable and that its proponents' intentions are good?

This bill establishes a Department of Public Health under a Secretary of Public Health. With powers carefully defined, that part of the bill would be unobjectionable. If the defined powers were strictly appropriate to national administration and not otherwise capable of the best execution, it would be desirable.

The bill consolidates all existing health bureaus (except army and navy) into the new Department. To this there can be no reasonable objection, provided the act of consolidation does no more than to consolidate.

The remainder of the bill is so general in its terms that no one can tell in advance what the department's jurisdiction might not be.

If the courts were construing Federal laws as they used to, the very vagueness of the bill might be a guaranty of safety; for vague clauses would be strictly construed against the Department. No power would be recognized by the courts unless clearly expressed or a necessary implication. But inasmuch as the courts now construe Federal laws liberally in favor of grants of power, it is impossible to foresee the dangers that may lurk in those vague and general terms.

If the Owen bill specifically restricted the powers of the proposed Department to the preservation of the public health, if it were clear that the bill grants no further powers than Prof. Fisher thinks it does when he says that "a Department of Health has really nothing to do with the medical art," but "is really for the purpose of preventing diseases by preventing the pollution of streams, by preventing the adulteration of foods, by preventing the importation of bubonic plague and yellow fever, by investigating health conditions and disseminating information"—if these and kindred purposes were so specified in the bill that the new department could not spill over into a national bureaucratic regulator of medical practice, the bill would deserve the most cordial support of everybody. National sanitation has become a necessity. But Prof. Fisher's present understanding of the purpose of the Owen bill will be no factor in its interpretation by the Department or by the courts if it becomes a law.

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It is interesting, though not reassuring, to know that Prof. Fisher thinks the opponents of the Owen bill "seem to have overlooked the fact that the Federal government has no power to regulate the practice of medicine, or to restrict medical freedom, even if this were intended, which it is not." But some at least of the op-

ponents of the bill have not overlooked Prof. Fisher's confidence in that respect. One of them is Edmund Vance Cooke, whose open letter on this point to Prof. Fisher is well worth quoting as a thoughtful, fair minded, courteous and readable contribution to this controversy:

I am sincerely interested in the conservation of the public health, and just as sincerely interested in medical freedom, as are you, but I own I am not yet able to look upon the establishment of a bureau of health or a National Department of Health, without suspicion.

Part of this suspicion is based upon the arbitrary and sometimes outrageous acts of municipal and State boards of health already constituted, and to the unjust and sometimes malicious prosecutions under some of our medical laws in various States. I hardly need to call your attention to instances of these, though I can do so if you desire.

Without questioning your fairness of intent, or that of the Committee of One Hundred, many of whom I respect and admire, as every man must, for their various works and accomplishments, I would ask what reason there is for supposing that a national bureau would be any less biased than a State bureau, especially if under the control of medical men, as it naturally would be?

Please note that I am not a Christian Scientist, nor any similar cultist, have patronized members of various schools of medicine, have no commercial interest in any direction either for or against, and number warm friends among the physicians. I feel therefore that I am not speaking from prejudices, unless it be a prejudice in favor of human freedom, along with human health, when I say that, in my opinion, physicians as a rule are not qualified to be trusted with the absoluteness of executive power appertaining to a Departmental head.

Some of them are, of course, but more are not; not from any lack of personal probity, but because of temperament and training. The autocracy of the sick room becomes temperamental. When you, as a professor of economics, make a statement in favor of free trade, there is a protectionist bureau handy to contradict you (if it be possible); when I write a poor article there is a conscientious editor handy to waste-basket it; when a lawyer cites poor law, there is an opposing attorney ready to take advantage of it. But when a physician says thus-and-so to a patient, who is there to say him nay?

Generations of this have generated an autocratic form of thought, both personal and professional. The average physician is impatient of the smallest contradiction or opposition by a layman, and physicians as a class are extremely sensitive to the demands of "professional courtesy" and the esprit de corps of their calling. Their professional "class consciousness" is out of all proportion. The rest of us would be the same if similarly trained, so this is not urged against the physician personally or professionally, but departmentally, statistically, scientifically.

The second part of the suspicion I have mentioned comes from some internal evidence in the documents you submit. You state that the Federal government could not, if it would, regulate the practice of

medicine. Doubtless you refer to Amendment X to the Constitution. But if anything could abrogate this Article, a Department would be the very thing to accomplish it.

For example, Amendment V to the Constitution states that no man shall be deprived of life, liberty or property without due process of law. But the circular of the Public Health Defense League which you send, shows how this Article is abrogated, and gloats over the accomplishment. It points out how forty-three persons were led into a "clever trap," and how fifty-two were barred from use of the mails, the specific order being "to treat as fictitious all mail addressed to the parties listed," this being done as far as one can see from the reading, "without due process of law,"—that is to say, without a trial either before a court or a jury, and in some of the cases evidently without a hearing even by the post-office inspector.

Of course it will be urged that those men were "frauds," "criminals," "violators of laws and morals," or even "unspeakable fiends," as the circular phrases some of them. But while this may make a defense of their rights a little repugnant and ungrateful in the eyes of thoughtless people, it is none the less our earnest duty (yours, mine and that of all the rest of us) to defend those rights.

How do we know they were frauds and criminals? From the pamphlet submitted, we have nothing but the word of those called upon or hired to prosecute or entrap them and the decision of a minor Departmental official.

Now, please note (again according to the circular) that these people were deprived of all use of the mail, not only for the prosecution of these allegedly fraudulent businesses, but for all purposes. That practically bars them from every legitimate business, does it not? It bars them from receiving mail from every source—a man from his wife, a mother from her child, etc. If this be not the same in these cases (there is nothing to show that it is not), it has been true in other cases.

Now, as society is at present constituted, if this is not depriving the victims of liberty and "property," even the right to make a living legitimately, what is? And it is done "without process of law," accomplished through a Department of our government (and a necessary Department), and made a matter for congratulation on the part of a society whose purpose is to defend the public health.

There is an illustration for you of how little the Constitution matters between friends, when administered Departmentally. I am sure that you must agree that this is a more serious matter than the alleged violations of law which it is said it remedied. I am sure that you will see that once we agree to and submit to such arbitrary Departmental ideas of justice, it will be just as logical for a Department of Health to forbid the mailing of anything which it conceives to be "fraudulent," or even for a department of political economy to interdict the literature of the New England Free Trade League.

It would be impertinent in me to point out to as learned a man as you that infringements upon human liberties uniformly begin upon the most defenseless classes, and that if we would keep our own rights, we must defend the rights of the weakest, or even the most vicious.

I have every desire to further the "regulation of misbranding foods and drugs," to guard against "the pollution of streams," to further sanitation, and in other ways to promote the public health, but let us be very sure what we are doing before establishing what may become a Departmental autocracy.

Very truly yours,

EDMUND VANCE COOKE.

30 Mayfield Rd., Cleveland, June 18, 1910.

P. S.—I trust it is plain from the foregoing that the objection is not to the punishment of frauds, but to the punishment of alleged frauds "without due process of law."

Frauds, impostors, charlatans, criminals ought to be punished, but punished for definite offenses, definitely tried. Even "quacks" should be punished (if we can determine what a quack is), and "regulars" as well, for definite offenses.

Apropos of quacks, in the court cases cited in some pamphlet of the Public Health Defense League, there are two advertisements which upon their face are entirely unobjectionable, one of an osteopath, one of a hydropath. The record merely says that they were fined under Section 163, but the definite offense is not given. Section 163 is capable of so broad an interpretation that one is justified in asking, were they fined for definite offenses, or merely because they were "quacks"? If because they were "quacks", what is a "quack"?

In another part of your literature, you refer to the opposition of "a Denver quack." Do you, or do you not, refer to Dr. J. H. Tilden of that city? If you do, why is he called a "quack"?

These questions are not unimportant, as they determine to a large extent your attitude of mind, and, in so far as you represent the Committee of One Hundred, the Committee's attitude, and, by inference, the probable attitude of a "Department of Health."

E. V. C.

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With the history of the aggressions of Washington bureaucracy, including the refusal of the courts to protect individual rights which the Departments override—with this history before us, we are not so keen as some of our good friends would have us be, to urge the passage of the Owen bill, without better assurances than any of its friends have yet given, that it would not result in establishing a national bureaucratic censorship of private medical practice. Nor are we quite sure that it might not cap a climax of medical despotism by establishing under bureaucratic coercion the hellish desexualization proposals which some sociologists, some penologists, some surgeons and some other "scientific" degenerates are urging.

A national sanitary Department? Yes. But a Department empowered to perform any function "not inconsistent with law," as the Owen bill provides, No.

A Department "to supervise all matters within the control of the Federal government relating to the public health and to diseases of animal life," which the Owen bill also provides, No.

A Department to establish not only chemical and biological, but "other standards necessary to the efficient administration of said Department," as the Owen bill further provides, No.

Why object to those clauses? Because no one can discern their boundaries. What functions of such a Department might not be held to be consistent with law? What "diseases of animal life" might not be considered both human and Federal? What "standards" are necessary to the efficient administration of the Department?

If those general words are not designed to authorize Federal control over the medical art, they are dangerously loose. If they might authorize Federal control over the medical art, they are contrary to Prof. Fisher's statement of the intent of the bill. Fair dealing with the public demands that limiting provisos be inserted in the bill so as to keep its operation clearly within the scope which Prof. Fisher indicates when he says the bill is for the purpose of "preventing diseases by preventing the pollution of streams, by preventing the adulteration of foods, by preventing the importation of bubonic plague and yellow fever, by investigating health conditions and disseminating information."

It would be a gross fraud if intentional, and an outrage any way, if on pretense of effecting only those purposes, ulterior powers were conferred upon a national medical bureau. Stamping out unorthodox schools of medicine, outlawing new schools as they may appear, enforcing vaccination crusades, promoting illicit sexual relations by enforcing medical rules in restraint of conventional marriage relations, and desexualizing by bureaucratic decree—all within the possibilities under the Owen bill if it becomes a law—are not to be tolerated without specific and unmistakable legislation, if at all.

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No measure for creating a national Department of health should be enacted without safety provisos definitely limiting the powers of the proposed Department. The crucial question is not one of intention on the part of promoters, nor of motive on the part of opponents, nor yet of the sources of funds used by either. The crucial question relates directly to the despotic Departmental powers which such a law, without safety provisos, might confer.

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It is the quiet years that are sometimes the most dangerous. Time gives a sanction to wrongs that at first seem intolerable. There is a kind of statute of limitations in regard to national mistakes and crimes.
—David G. Haskins, Jr.

EDITORIAL CORRESPONDENCE

GOVERNOR FOLK AND THE PRESIDENCY.

Excelsior Springs, Mo., June 30.

Many democratic Democrats are inclined to look with favor upon the avowed candidacy of ex-Governor Joseph W. Folk, of Missouri, for President. They are satisfied, to a greater or less extent, with his record, and with the declarations of political faith which he has from time to time put forth. In a party situation characterized by a paucity of available candidates, he has appealed to many as the best solution of the Democratic problem.

A few weeks spent in Missouri is calculated, however, to dishearten the Folk advocate. There is no apparent possibility that he will have behind him a State delegation sincerely favorable to his nomination. There is every prospect, indeed, that, while the party machine is ostentatiously committed to his support, it will give him a State delegation that will plunge the knife into him at the earliest and most available opportunity.

One bitter anti-Folk Democrat in Kansas City admitted to me that such was the intention.

"We are for Folk for President," he said, "because we know he can't be nominated. We'll give him a delegation that will be for him until he has a chance to win. Then we'll roll him. Meantime, by setting him to chasing the Presidential nomination, we've eliminated him from the Senatorial contest."

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To an outsider it looks as though Mr. Folk had permitted his enemies to beguile him into the Presidential race and out of the Senatorial contest. Widespread disgust with the Taft administration is almost certain to sweep Missouri back into the Democratic column this fall, and William Warner, the present standpat-Republican Senator, will doubtless be succeeded by a Democrat. With Folk eliminated, the field is left to ex-Governor David R. Francis, of St. Louis, and ex-Mayor James T. Reed of Kansas City, either of whom is satisfactory to the privileged interests.

However progressive the rank and file of Missouri Democrats may be—and they have been accounted ultra-progressive—the undeniable truth is that their party machinery is in the hands of bourbons, reactionaries and mercenaries. The machine was strong enough in 1908, in a direct primary and with a reasonably full vote, to defeat Folk for the Senate and return the odorous "Gum-Shoe Bill" Stone, whose very presence in the Senate is a reproach to the Democratic party. And this machine counts upon its ability to control Missouri's delegation to the next national convention.

The machine has bowed to the popular will by ostensibly indorsing Mr. Folk for President; but, under cover of that concession to public sentiment and State pride, it will seek to select a delegation subject to its orders and which at heart will be disloyal to the candidate. The selection of such a delegation ought not to be a difficult task for the