The Attack on "Options and Futures", 1884-1894.

by

Margaret Mary Wilson
Bachelor of Arts, University of Kansas, 1923.

Submitted to the Department of History and the Faculty of the Graduate School of the University of Kansas in partial fulfillment of the requirements for the degree of Master of Arts.

Approved by:

James C. Malin
Instructor in charge

F. H. Hodder
Head or Chairman of Dept.

9-26-32.

CONTENTS

CHAPTER I

Speculation

"Speculation," according to the report of the Hughes Commission, "consists in forecasting changes of value and buying or selling in order to take advantage of them"[1]. In the broad sense, speculation has been carried on ever since men began to exchange commodities. In the Middle Ages, these speculative transactions were always for a rise in price. Therefore medieval regulation was intended to prevent any person from making a gain out of the necessities of others.[2] Statutes against forestalling, engrossing, and regrating were passed.[3]

Then, as now, men attempted to manipulate the market for their own gain. As early as the 17th C, the grain shipped to Paris from the Marne and Seine Valleys was unloaded fifteen or twenty miles from that city and secretly stored. The merchants then went into Paris and circulated stories about the scarcity of grain in these valleys. Naturally the price rose.[4]

As soon as speculation in stocks arose, the theory that speculation reduced prices was accepted and laws were passed to curb the "short sellers" and public gamblers. The first law of this type was enacted in England in 1697. Additional measures were passed in 1733 and 1867 but proved ineffective.[5]

This study deals primarily with speculation in agricultural produce which, in the modern sense, is concerned

with a special type of contract known as a "future". Speculative contracts of this type are agreements in which one party agrees to deliver a certain amount of any commodity to another at a stated price at some specified time in the future. Something like transactions of this type existed in Rome during the period of the Empire. Early in the 17th Century the products of a particular voyage of the whale fishers were sold long before the result of that voyage was known. As early as 1698 time dealings in grain were forbidden in Antwerp.[6] These early transactions arose out of the desire of the dealer to protect himself. Means of transportation were slow. Prices might change greatly between the time of the purchase and the time of the arrival of the produce. Therefore, the practice of selling the commodity "to arrive" arose. This method of making "forward contracts" has probably been in use in the United States from the time of the Revolutionary War on.[7]

Before the "future" in the modern sense could be developed, it was necessary to have the warrant and grading system. Warrants were used in England in 1733 in the business of the East India Company. These warrants were special receipts which represented a certain amount of a commodity deposited in some warehouse. They were often bought and sold a number of times in the same way that goods might be bought and sold. The warrant used represented a particular lot of the commodity actually stored.[8] These served as convenient receipts and also as security

on which capital might be borrowed. The next step was the development of the general warrant for a certain amount of a particular grade of the commodity. This practice of using general warrants developed independently in the United States in connection with the grain trade and in Scotland in connection with the iron industry.[9] This was due to the nature of the commodity, for in both cases it was more convenient and economical to store them in the bulk than to keep each lot separate. Therefore after these commodities had been graded, weighed, and stored, the owner received a general receipt calling for a specified amount of grain or iron of a certain grade.[10]

A third step in the development of the present "future" contract was taken when a new form of dealing arose in the grain trade in the western markets of the United States. The holders of warehouse receipts loaned these against cash. If anyone expected the price of wheat to fall, he could sell wheat and deliver it by means of these borrowed receipts. After the fall in price, he could easily buy receipts to replace those which he had sold, thus making a profit on the fluctuation of the market. These sales were limited by the number of receipts for borrowing. Likewise the number of receipts which could be borrowed limited the amount of short sales. With the removal of this restraint the modern futures contract appeared, in which the buyer agreed either to deliver or to receive a specified amount of a commodity at a stated time in the

future at a certain price. Therefore, "short selling" was limited only by the probable supply. This made it possible to speculate for a fall in price.

It is difficult to determine the exact date at which dealing in futures arose. Futures in some kinds of grain were sold in Berlin by 1832 and even earlier in France and Holland.[12] In the United States this type of trading arose in connection with the grain trade before the Civil War and developed naturally out of the "to arrive" shipments. Certain cities became centers for the marketing of the surplus grain produced by the virgin soil of the Middle West. It became customary to buy grain for delivery at some future time, in order to prevent the overcrowding of the market. The dealers in turn made contracts to be filled in the future. From this practice it was only a step to that of contracting to deliver the grain at a future date at a certain price with the expectation that it could be bought in the meantime at a lower price. In order that this sort of trading might be real speculation and not merely gambling, the dealers needed reliable information on which to base their judgments concerning the probable future supply and demand. The invention of the telephone and telegraph made it possible to keep in touch with conditions throughout the United States which could affect the price. Moreover the linking up of the various sections of the country by railroads not only facilitated communication but also made the delivery of the grain contracted

for more certain. The development of the organized produce exchange furnished the machinery by means of which this future trading could be carried on effectively. On the Chicago Board of Trade, organized in 1848, dealing in futures became a very important part of the business very soon after its organization.

That this system of trading had taken shape during the 50's in connection with the grain trade in the United States is proved by items which appeared in various papers during those years. As early as 1853 the Chicago Journal of May 13 carried the following: "'High price of corn is due to scarcity of boats on the canal, rendering parties on the Illinois River unable to send forward but little more than sufficient to supply contracts previously made for delivery at this point. In some cases even doubts are entertained of the ability of contracting parties to fill engagements against the time stipulated for, and some speculative feeling has been observable in consequence'".[13] References to sales for future delivery appeared frequently in 1854, stimulated by the Crimean War. Moreover, these references occurred in the New Orleans, New York, and St. Lohis papers as well as in the Chicago ones.[14] The system was evidently quite well developed by 1855, when items of the following kind appeared: "'May contracts (flour) were settled today at a loss of one dollar per bushel to the seller.' On the 11th of June the Telegram says, 'the bears are making the most strenuous efforts to break the market

(flour) while the bulls, of course, do all they can to sustain it'.....On the 10th of July, the New York Market Telegram reads: 'The greater portion of the sales of wheat are for September and October delivery.'"[15]

In 1856, although speculation in New York in grain and flour had almost ceased after the restoration of peace in Europe, dealings in futures in Chicago increased. The "bears" had appeared there also. The method of making a delivery had been developed by this time for the Democratic Press of the 1st of August, 1856, carried the following: "'A single lot of 15,000 bushels (corn) has within two days passed through fourteen hands, and in these transfers settled contracts for some 200,000 bushels'".[16]

During the American Civil War the business of dealing in futures increased enormously and was formally recognized by the new system of General Rules and By-Laws, adopted by the Chicago Board of Trade, 13 October, 1865.[17] This date marked the beginning of organized futures trading in grain in the United States.

Dealing in cotton futures developed during the same period and in much the same manner out of the "in transit" or "arrival" cotton market. As early as 1851, there was a market of this type at New York. At that time news carried by steamers could be transmitted much more rapidly than goods could be shipped. Moreover, New York was connected by means of the telegraph with Halifax, where steamers from England first touched, and also with New Orleans, the

chief cotton market in the United States. This made it possible for the New York market to reflect any news concerning the supply or demand. When the cotton was loaded in a southern port, it became the custom to send a "sample" to New York and offer it for sale there. The owner guaranteed that the bulk would correspond to the sample. If the offer was not taken up at New York, the owner shipped the cotton to Europe.[18]

Liverpool was slower to adopt this practice. In 1857 there was a prospect of shortsupplies of cotton from America which led to large sales of East India cotton while it was still at sea. When the cotton thus bought arrived, the panic was at its height and the purchasers were forced to sell it on a depressed market. As a result of these immense losses, interest in speculation in cotton decreased.[19] However, it was revived again in 1861, due largely to the outbreak of the Civil War in the United States. By this time more direct telegraphic contact with India had been established. Prior to this the purchase of cotton "to arrive" had been confined to that already shipped or about to be shipped. But now the high prices brought about the buying of cotton to be shipped "to arrive" as much as six months later. In 1864 due to rumors of peace in the United States, to the large arrivals of cotton bought at very high prices, and to the scarcity of credit, the reaction set in, and there was a return to the earlier method of trading.[20]

In 1866 the Atlantic cable was successfully laid. This affected the cotton market not only by increasing the buying and selling of cotton actually afloat or about to be shipped but also by bringing about the growth of trading in forward deliveries. From this time on trading for shipment for future delivery increased--but it was done not as a "speculative mania" but deliberately and "advisedly"--for now it was possible through the rapid conveyance of information to maintain the proper relation between "spot" or cash and "future" prices.[21]

The machinery for the carrying on of this trade was developing during the same period. The first step toward organization was made at Liverpool, where on 2 April, 1841, the Cotton Brokers' Association was organized. This Association included only "buying brokers" and had for its purpose the laying down of uniform rules under which the merchants should carry on business and the compiling of statistics of the available supplies of cotton for the information of its members.[22] In 1869 this Liverpool Association published rules and by-laws. Among the various forms of contracts were general contracts providing for shipment in one of the two normal months and containing the basis clause: "basis middling" or "basis middling, nothing below middling".[23] A larger and more inclusive body was formed in the period following the American Civil War and became known as the Liverpool Cotton Association in 1870. The Cotton Brokers' Association merged with this

in 1882.[24]

In the United States, cotton had been received from the country by commission merchants and factors, and offered for sale to spinners, to buyers for spinners, or to exporters. The cotton was stored in warehouses until it was sold. During the Civil War period the risks, already heavy, were greatly increased and efforts were made to reduce these as much as possible. A class of "brokers" arose because everyone concerned was interested in passing the risks on as quickly as possible. To meet this increasing complexity of the trade, the New York Cotton Exchange was established and received its charter 8 April, 1871. The New Orleans Cotton Exchange received its charter September 9th of the same year.[25]

In these organized Exchanges two types of business were carried on: First, there were "spot transactions" in which the goods sold were actually available at the time of sale. These also implied immediate or nearly immediate delivery. And second, there was dealing in "futures" in which contracts for the delivery of the goods at some future specified time were sold. Such contracts could be bought and sold many times, but must finally be settled either by delivery of the commodity or by offset.[26]

In connection with this dealing in futures, a second type of contract arose, commonly called an "option" or privilege. In this, was bought the right or privilege of buying from or selling to another a specified amount of a

certain grade of a commodity at a stated price. These contracts differed from futures in that there was no obligation to fulfill them. These privileges called "options" consisted of "puts" and "calls". A "put" gave the buyer the right to "put upon" someone a certain amount of a certain grade of a certain commodity at a specified price, while a "call" gave the buyer the right to call for such an amount. Therefore these privileges might result in the actual delivery of the goods sold, but there was no obligation to fulfill the contract.

The agitation for control of "futures" markets began very soon after dealing in "futures" and "privileges" became a part of the business of the organized Exchanges. This was partly due to the fact that the function of this new mode of transacting business was not understood by the public and was not approved of by a number of the more conservative members of the various Exchanges. Moreover a number of evils or abuses developed which led many to wonder whether the so-called benefits were sufficient to offset the evils.

The advantages claimed for dealing in futures were: First, that this method furnished a wide, liquid, continuous market. Second, that it made possible the securing of sufficient credit for buying farm products. Third, that dealing in futures, properly carried on, based the future price on estimates of probable supply and demand, and therefore served to stabilize the price, by not allowing it to

fall so low when large quantities of commodies were offered for sale, nor to rise so high later. Fourth, the advantage which was, and is, considered as possibly the most important was "hedging", which served as a sort of insurance against losses due to fluctuations in price. Under this system it was possible for a country elevator to buy wheat from the farmers. Before the dealer could ship his wheat, there might be a change in price. In order to protect himself from possible loss, the dealer sold his grain for future delivery, perhaps December "option". As soon as the wheat could be shipped, he sold it and bought a "futures" contract to offset the one which he had sold.[27] This desire to "hedge" and thus protect himself from loss was, no doubt, a powerful factor in the development of the whole "futures" system.

The evils or abuses seem to have appeared practically as soon as "future dealings" on the organized exchanges. The following explanation has been given: "When there are few buyers and sellers in a market, this narrow limit means wide fluctuations in price and opportunity for price manipulation. This is usually the case with newly organized exchanges. Only with years of growth and a large clientele of traders is any exchange strong enough to be beyond the combined power of a small clique of strong, daring, financially powerful men. If the exchange is large enough, however, the would be manipulator and cornerer is crushed in his attempt."[28]

Among the evils which developed early, one of the most disasterous was speculation by the unfit. Speculation as it was carried on, on the organized exchanges, called for a group of professional risk takers. Amateurs who lacked the information, ability, and brains, usually lost heavily when they attempted to speculate. Moreover, those who were financially unsound--who could not afford to take a loss--were usually ruined financially as a result of a "flier on the market". Nothing brought forth greater condemnation of the system by the public than speculation by those who held positions of trust, as bankers, cashiers, etc., who were tempted to use funds which did not belong to them.

A second type of practices consisted of manipulation of the market. One of the commonest methods of doing this was through the circulation of false reports. It was even possible to purchase financial columns in some newspapers for the insertion of false reports.[29] Another method was that of "wash sales" in which one operator, who wished to make false prices on the floor, employed one broker to sell to another at prearranged prices. This practice was very soon forbidden by the exchanges. But another class of orders called "matched orders" was used. These were much more difficult to detect because they were real transations. In these one operator sent a number of orders simultaneously to several brokers, some to buy and others to sell. These orders were executed on the floor of the

exchange and were legal and binding, but the result of such orders was to cause an appearance of activity which was unreal.[30] Another abuse, widely condemned, was the "corner". This occurred when the short sellers were not able to get enough of a commodity to meet the sales which they had contracted. Corners in spot wheat or cotton were almost impossible to engineer, but speculative corners did occur with great frequency. This happened when the "futures" maturing in a certain month were bought by a group who suddenly threatened to require delivery. If this group controlled the supply of the commodity deliverable on the contracts, the corner was successful and the price could be greatly advanced.[31]

Bucketshops, though not actually connected with the exchanges, have resulted from the facilities for speculation. A bucketshop could be established with very little equipment--the most essential part being a means of communication with an organized exchange from which quotations would be obtained and a blackboard on which these quotations could be written. Here the customers simply bet with the proprietor on the price of some commodity. These were not real transactions but merely dealings in profits and losses. Dealings on the exchanges were, and are, always actual transactions and every one of them exercised its influence on price, while bucketshop deals did not affect price to the slightest degree. However, since bucketshops flourished best when prices were falling, several such

dealers often united and employed a broker on a legitimate exchange "to sell a large amount short so as to depress the market and wipe out the small margins they keep on deposit from their customers".[32]

CHAPTER II

The Origin of the Movement for the Control of Speculation

The peculiar nature of speculation made it only natural that "futures" traders would very soon be called upon to defend their system. According to the report of the Hughes Commission, "It (speculation) may be wholly legitimate, pure gambling, or something partaking of the qualities of both.....The difficulty in the solution of the problem lies in the practical impossibility of distinguishing what is virtually gambling from legitimate speculation."[1] This new class of professional risk-takers or speculators has been roughly divided into two groups, the "constructive" and the "destructive". The first group has been defined as those "who trade on the basis of rational appraisement of present and prospective conditions affecting supply and demand, without at the same time trading in a manner or with aids designed to augment or artificially hasten the market results expected"; and the second, as "those who trade largely on the basis of mob psychology and faith in their ability through trading to bring about temporary market conditions of which they may take advantage to make profits".[2] This second group, whose practices were vigorously attacked by the constructive group, was partly responsible for the attack made by the public on "future" trading.

The movement for the control of speculation came both

from within the Exchange and from the public. A struggle was carried on by the "constructive" members of the Chicago Board of Trade and other organized exchanges against corners, privileges, and the dealing in grain by warehousemen at the same time that the whole system of trading was being attacked by the public. In addition, the Chicago Board of of Trade took the lead in a long struggle against bucket-shops.

The attack on "speculative corners" was begun in 1868 when the Chicago Board of Trade passed a resolution declaring that "the practice of 'corners'—of making contracts for the purchase of a commodity, and then taking measures to render it impossible for the seller to fill his contract, for the purpose of extorting money from him,—has been too long tolerated by this and other commercial bodies in the country to the injury and discredit of legitimate commerce" and that any member engaging in such transactions should be expelled.[3] This resolution was the result of "the Year of Corners", for in that year there was almost a corner each month, three on wheat, two on corn, one on oats, one attempted on rye, and the year threatened to go out with a tremendous one on pork products.[4] This resolution expressed the attitude of the majority of the members at that particular time, but in the period which followed--one in which there was general laxity in business morals,--those members in control were unable to prevent corners. A second attempt to abolish this evil was made

in 1872, when a rule was adopted which provided that in cases of default the committee should fix the price by reference to value in other markets. In spite of such rules, corners continued to occur and the feeling against them waned so that this last rule was revised in 1879 on the ground that it was unfair to the buyer of the property.[5]

In the early '80's the millionaires or "giants" began to "operate in the pit", and as a result an unprecedented number of corners occurred. In 1881 there was a corner in wheat in January, in pork in February, in wheat in March, in rye in April, big dealings in corn, wheat, and oats in July, a corner in wheat in August, in corn in October, and one in barley at the close of the year. The influence of these "giants" was so strong that while the Board did consider having the membership give them authority to declare grain stored in boats and outside warehouses "regular", no action was taken. Moreover in the next year, although there were seven corners, the sentiment against them had weakened so that the rule revised in 1879 was repealed.[6]

The "giants" again became active from 1887-1892, and during these years occurred the deals which crystallized public sentiment against this practice. In August, 1887, Dresbach and Rosenfeld, representing a "bull" clique in San Francisco, attempted to corner wheat there. As a result of their failure, the price of wheat fell from $2.07 to $1.24 per bushel. Though no serious disaster occurred

in connection with this, many brokers and their clients lost heavily.[7] This rather spectacular attempt followed, in this same year, one of the most disgraceful of all such attempts, known as the Harper deal or the Kershaw failure. Mr. Harper, a banker in Cincinnati, who was backing the group attempting to corner the market, used money taken illegally from his bank. As a result of the failure of the corner, the bank closed and Mr. Harper was given a sentence of ten years in the penitentiary. This unsuccessful "corner" carried in its wake not only the usual losses but also the financial ruin of a number of innocent persons. It was in connection with this deal that the Directors of the Chicago Board of Trade adopted an expedient now often used to break corners. In 1881 they had merely discussed making additional storage regular, while at this time they twice declared additional buildings "regular" and even considered the declaring of grain on the track "regular".[8]

During the next year Mr. B. P. Hutchinson dominated the Chicago market in wheat for the greatest part of the time. Due to this manipulation of the market, speculation became a sort of craze. Stories of the unusual luck of inexperienced speculators were circulated freely, such as the one about the bootblack who made $5,000 with $25. Mr. Hutchinson continued his operations into the next year but was not nearly so successful.[9]

In 1891, Mr. Pardridge took the "bear" side of the

market and held this place on into 1892, "pinning his faith on eighty cent wheat". His judgment concerning the available supply proved right and he made enormous profits from the deal.[10] Corners such as the famous Leiter Deal of 1898 and the Patten Corner of 1909 have occurred, but they have become less frequent. The Chicago Board of Trade has adopted from time to time various measures to prevent them among which were the condemnation of the practice of selling out the Chicago grain on other markets, the requiring of delivery at a "fair price, the increasing of the number of grades deliverable on contract, the delivery on the track, and the declaring of additional warehouses "regular".[77]

The second of these troublesome problems which caused dissention within the Board of Trade as well as condemnation by the public was the buying and selling of "privileges", commonly called "options". These were of two types: a "put", which was a contract giving the buyer the right to "put upon" another a certain amount of the commodity at a stated price; and a "call", which was a contract of the same type except that the buyer had the right to "call for" the commodity. These transactions were not recognized in the first rules adopted by the Chicago Board in 1865 in which trading in "futures" was officially established. But when the rules were published in 1869, the prohibition of this type of trading was not included. This practice was among the first to be prohibited by law in Illinois. The Chicago Board also soon passed a reso-

lution prohibiting this buying and selling on the Exchange floor, but neither the law nor the rules of the Exchange were enforced.[12] The difficulty in prohibiting these transactions arose from the peculiar nature of these deals. According to the report of the Hughes Commission, "In law, speculation becomes gambling when the trading which is involved does not lead and is not intended to lead, to the actual passing from hand to hand of the property that is dealt in".[13] The person who bought a "put" or "call" in most cases did not make a delivery but in others he did. Therefore, it was difficult to prove that the intent was not to deliver, thus making it a gambling transaction. The Chicago Board made another attempt to prohibit the practice by adopting an additional resolution against it in 1887 and even suspended a member for fifteen days for the violation of this rule. When it was found that certain members were evading this rule by resorting to the Open Board of Trade which at that time permitted this type of trading, the regular Board went as far as to suspend seven members for dealing in "puts" and "calls" on the Open Board. In addition to these measures, a rule was adopted which declared irregular any trades made after the adjournment of the regular board.[14] That a large portion of the members of the Board engaged in this type of trading in spite of the rules against it, was clearly shown by the result of the attempt in 1888 to punish their members for such dealings. If all the members guilty were sus-

pended, it was found that the result would disrupt the Board of Trade. Therefore the guilty members were reprimanded and secret committees appointed to report such violations in the future. The penalty was to be expulsion.[15] Though nominally forbidden, trades in "puts and calls" were made in the corridors of the Exchange Building in 1890.

In 1892, when the "Hatch Bill" was before Congress, the Directors again made an effort to stop trading in "Puts and Calls". Though no direct action was taken against this practice, the Board did pass a resolution declaring that the settling room should be used for that purpose only and that the corridors should be kept clear. This was a direct blow at such trading because these places had been used for this purpose.[16] The Open Board cooperated and for a short time this type of trading was almost stopped, but by the next year it had been revived and had grown enormously.[17]

One of the first acts of President W. T. Baker, who undertook a program of reform in 1895, was to have a rule posted forbidding "privilege" trading. Opposition to this rule soon developed and when a vote was taken it was defeated by about one hundred votes. As a result Mr. Baker resigned his place as President but was prevailed upon to reconsider his action. The directors did adopt a rule providing "that all deals in the Exchange room, arising from transactions in privileges or, in other words,

'putting' or 'calling' property, would be deemed dishonorable conduct".[18] There was so much opposition to this rule that while the Directors refused to repeal it, they did not enforce it, and privilege trading was again resumed.

This practice has been opposed and defended by various members of the Board from time to time. Since "puts" and "calls" were illegal under state law, a system of indemnities, known as "ups" and downs" was developed. This system was declared legal and defended on the ground that it gave a form of insurance on trades for the following day.[19]

A third struggle which divided the Board of Trade during this period was that which centered around the dealing in grain by the warehousemen. An earlier conflict had arisen over the question of warehouse receipts. As the railroads built lines into the various grain producing states, they also built grain elevators, as well as passenger and freight depots. Private terminal elevators were built by a few larger dealers, who soon either leased or bought these "line" elevators from the railroads. These "line" systems were favored by the railroads so that they had a monopoly of the business on the road.[20] Complaints concerning the unfairness in the grading and the carelessness in the inspection of grain, as well as the issuing of fraudulent warehouse receipts, were made to the Chicago Board of Trade. As a result, a committee to investigate

the situation was appointed as early as 1861. On the recommendation of this committee, rules to prevent such practices were adopted and the warehousemen agreed to observe them.[21] The State of Illinois came to their assistance by passing a law placing terminal warehouses under public regulation. The inspection of grain and the registration of warehouse receipts was taken over by the State, and rates for the storing of grain in public warehouses were fixed.[22] Aided by the railroads, the warehousemen resisted this legislation for a time. "It is stated that in 1872 five firms consisting of eight men, owned all the public warehouses in Chicago, and each man owned stock in all the warehouses." Moreover at this time a bankruptcy case was brought up in which it was shown that there were storage tickets in "circulation" for which no grain was in store.[23] These abuses could be, and were, checked to some extent by State legislation.

But when about 1885 the warehousemen began dealing in grain, a real conflict between the two groups within the Board arose over the question. Opposition to this practice increased until it was strong enough in 1894 to result in the passing of an amendment to the Rules, providing that elevators to be "regular" must agree not to engage in the buying, selling, receiving, shipping, cleaning or mixing of grain. The elevator men held out so strongly against the measure that a compromise, largely in their favor, was adopted.[24] The reasons for opposition

to the dealing in grain by the warehousemen were given by President Baker in his inaugural address in 1895 in which he said that prices had been depressed by this alliance between the elevators and the railroads because much more grain had been brought to Chicago than was naturally tributary and had been held there as long as storage could be collected on it. He also branded the dealing in property by the custodians of that property as immoral, especially when it subjected them to the temptation of reserving the best of a grade for themselves. A third charge, made by him, was that certain individuals had such advantages that they could outbid or undersell their competitors.[25] The cause of those opposing this dealing by warehousemen was strengthened in 1897 by the decision, given by Judge Tuley in the case, Central Elevator Company vs. the People of the State of Illinois, in which it was decided that a public warehouse owner was a custodian of the grain and could not deal in the grain stored in the warehouse.

After the problem of the relationship of common carriers to country elevators and terminal elevators had been brought to the attention of the Interstate Commerce Commission by a member of the Board, hearings were held in which the situation was aired. These were followed by a year of bitterness between the two groups on the Board, which caused many to "quit the Board". However in 1907, after the election of Mr. Hiram Sager, "a harmony candidate", as president of the Board an agreement was reached between

the elevator interests and the Board, in which the latter won by getting enough "regular" storage to meet the needs of the cash dealers.[26]

The fourth of these conflicts was that carried on by the exchanges under the leadership of the Chicago Board of Trade against the bucketshops. The whole problem arose out of the market quotation service, for without quotations from the organized exchanges the bucketshops could not operate. Cash and speculative markets began to exchange market quotations before 1860.[27] The invention of the ticker a little before 1880 caused the system to develop very rapidly. In an opinion given by the Illinois Supreme Court the growth of this system was described in the following manner:

> "'For many years prior to August 1883, the board of trade permitted the Western Union Telegraph Company by its agents and servants in that behalf, to occupy and use its exchange hall, and there collect and transmit, without any restrictions whatever, reports of the dealings, fluctuations, and changes of the market on the board. This information was sent by telegraph throughout the country, and delivered without discrimination to all persons who desired and would pay for the same.....The Western Union Telegraph Company had then, and still has, a lease upon and control of the Gold and Stock Telegraph Company, which latter corporation, in turn, had and still has a monopoly of the telegraphic instruments known as 'tickers'. Telegraphic circuits were established by the Western Union Telegraphic Company in Chicago, and in other principal cities, and, by means of Morse instruments and these tickers, market information passed to every office and place of business connected by wire with one of these circuits, and was automatically registered so that every merchant or dealer provided with these instrumentalities, wherever his place of business might be, was instantaneously,

> and from minute to minute and from hour to hour, during the business sessions of the board of trade, informed of all fluctuations and changes in the market prices of grain and other products, as they occurred.'"[28]

Bucketshops, which appeared in Chicago as early as 1878, became popular because of a rule passed by the Chicago Board of Trade which prohibited its members from handling business for non-members for less than full commissions.[29] The penalty for cutting commission rates was repealed in 1885, but the evil had gained a firm hold by this time.[30] The Exchanges were very much interested in the suppression of these "fake exchanges" because of the loss of country orders for futures. After the passage of the Illinois law in 1887, which provided for punishing gambling in market quotations, a department of market records and reports was established. President Wright of the Chicago Board of Trade persuaded the Western Union Telegraph Company to remove all its wires from the bucketshops, but the Postal Telegraph and the Baltimore and Ohio Companies refused to agree to this. The instruments which belonged to these last two companies were actually thrown out of the Exchange building. As a result, these companies came to terms and after having taken their wires out of the bucketshops, were reinstated by the exchange. Bucketshops in St. Louis, Kansas City, and Cincinnati were also deprived of quotations.[31]

Up to this time the Board had been quite successful in the fight, but in 1889 a court decision made by the

Illinois Supreme Court revived the whole controversy. In the decision it was held that as long as the Chicago Board of Trade continued the business of collecting and furnishing to the public the market quotations, it must do so without unjust discrimination as to persons, and must furnish market quotations upon the same terms to all who desired them for lawful purposes.[32] This decision made the situation extremely difficult for the Board because there were "technical difficulties found in proving to the court that the practices condemned were clearly distinguishable from forms of speculative trading carried on by certain members of the exchanges".[33] After this decision the Board decided that all quotations should be withdrawn, except those to members. This plan proved a failure and the bucketshop business flourished again.

A more drastic step was taken in 1890, when the Board resolved to stop all quotations. But in spite of all their efforts, in which they even went so far as to soap the windows of the Exchange Building in order to prevent signaling, bucketshops continued to get quotations. The Board acknowledged itself beaten in 1892 by removing the restriction[34] and continuous open quotations were again sent out.

The fight was resumed again in 1895 when a convention of the representatives of the leading grain exchanges met and considered the advocation of a national anti-bucketshop law. By this time the business had grown so profitable to the Telegraph Companies that they refused to cooperate with

the Board of Trade in the restricting of quotations. Therefore, in 1900, the Cleveland Telegraphy Company, which was controlled by the Board of Trade, was given the exclusive right of collecting quotations on the floor of the Exchange. This brought the Postal and Western Union Companies to time, and in 1901, they signed agreements by which they were to pay the Board $30,000 annually for the quotations, and were to furnish them only to those applicants who had been approved by the Board. The struggle was ended in 1905 when the United States Supreme Court in the Christie case handed down a decision in which the quotations were recognized as the property of the Board of Trade and were therefore under its control.[35]

The attempts on the part of the exchanges, especially of the Chicago Board of Trade, to control the activities of this new class of speculators were paralleled by attempts to control them by means of both state and federal legislation.

In the United States the earliest state legislation which dealt with the subject of "short-selling" was a law passed by New York in 1812 under which all contracts for the sale of stocks or bonds were void unless the seller was the actual owner or the agent of the owner. This act was repealed in 1858. Massachusetts and Pennsylvania each had acts of a similar nature, the Pennsylvania act being repealed in 1862.[36] The first act directed against dealing in futures in agricultural products was a clause attached

to the warehouse act, passed by Illinois in 1867. This clause declared all contracts for the sale of grain for future delivery void and gambling contracts unless the seller was the owner or the agent of the owner. At the next session of the legislature this clause was repealed.[37] In 1874, just after the "panic of '73" and the efforts of the Chicago Board of Trade to put an end to speculative corners and to dealing in "privileges", a law was passed by the Illinois legislature which declared that "'Whoever contracts to have or give to himself or another the option to sell or buy, at a future time, any grain or other commodity, stock of any railroad or other company, or gold, or forestalls the market by spreading false rumors to influence the price of the commodities therein, or corners the market, or attempts to do so in relation to any such commodities, shall be fined not less than $10, nor more than $1,000, or confined in the county jail not exceeding one year, or both, and all contracts made in violation of this section shall be considered gambling contracts and shall be void.'"[38] The meaning of the term "option" was not defined by the law. There was some confusion on this account because the term had been used rather loosely to refer to both "futures" and "privileges". In that same year the federal district court in Illinois declared that "privileges" had all the characteristics of wagers and were "as manifestly a bet on the future price of the grain in question as any that could be made upon the speed of a

horse or the turn of a card."[39]

The second attack on "privileges" and "futures" was made by the state legislatures in the early '80's. During thistime there was a period of unprecedented speculation in agricultural products. The "giants" were active on the Chicago Board of Trade, while the year 1881 had witnessed almost a corner a month.[40] The southern states were aroused to action by the reckless speculation in cotton "futures" which occurred in 1881-82. According to the estimates published, the cotton crop would fall far short of the demand. As a result the South began to buy "future contracts by the thousand".[41] Early in 1882 the market broke and speculation was widely denounced. The Commercial and Financial Chronicle for February 18, 1882 carried the following comment: "...at least we agree with the writers in thinking that speculation is assuming marvelous proportions and doing great harm to the masses of individuals if not to communities. To an extent this growth is natural, and perhaps the evil, because so recent, is in its worst phase now." As to the extent of these transactions the Chronicle estimated that eighty five millions of bales would no more than cover the total sales of cotton "futures" during the season of 1881-82 and if the bales were valued at $50 each, they would represent 4,250 millions of dollars. The Chronicle summed up the effect on the South in the following paragraph:

> "Are not such figures as these wonderfully suggestive of severe losses and painful experience?

> If the losses were confined to the professional speculator wholly or mainly, less harm would be done, but they include all classes.....A broker said not long since, that he had on the average a new crop of customers every three years, as it took about that time to exhaust the old ones. This is a prominent reason why the south does not accumulate wealth faster. It always speculates on the cotton crop, and almost universally on what is called the bull side."[42]

Largely as a result of this experience several southern states tried to remedy the evil by legislation. In Georgia "futures" were prohibited by statute. Mississippi in 1882 passed a law providing for the punishment of any person dealing in contracts commonly called "futures". Arkansas, Tennessee, and South Carolina passed laws in 1883. Arkansas also forbade dealings in "futures", while the other two states made it a misdemeanor to deal in "futures" if there was no intention of making actual delivery.[43]

Ohio, in 1882, passed a law almost identical with the Illinois statute but added a clause providing that the statute was to apply only to such contracts in which the intent was not to deliver the commodity sold, but to settle by differences. By 1884 the "bucketshop" evil began to be attacked by state laws. In that year Iowa prohibited them, and Ohio in 1885. Texas also made it a "misdemeanor to deal in futures or to keep a produce exchange or "bucket-shop", for such dealings where no actual delivery is intended", while Iowa in 1886 and Michigan in 1887 made sales of commodities without intention of delivery a misdemeanor.[44]

This first wave of state legislation showed the division of opinion concerning this new form of organized speculation--"dealing in futures", which was entirely prohibited by Arkansas, Georgia, and Mississippi and permitted in the six other states whenever it was the intention to fulfill the contract.

This activity on the part of the states was reflected in Congress by the introduction of a bill and two resolutions dealing with the subject. Prior to this, Congress had made only one attempt to regulate speculation. In 1864 an anti-gold act had been passed, which forbade all contracts for the sale or purchase of gold coin or bullion for future delivery, that is, on a day subsequent to the day of the contract. It also prohibited contracts for the sale of gold which was not actually in the possession of the seller at the time of the making of the contract. It was expected that this act would abolish the premium on gold, but gold rose instead, and the act was repealed two weeks later.[45]

On 18 February, 1884, Mr. Seaborn Reese of Georgia introduced a bill into the House of Representatives which provided for the prohibiting of the mailing of letters, circulars, registered letters, and money orders relating to future contracts, and prescribing a penalty therefor.[46] No action was taken on the measure but one of the three constitutional provisions under which it was attempted to pass legislation controlling "futures" was suggested.

This first measure asking for federal control, introduced by a Southernor and a Democrat, was also a recognition of the fact that the regulation of the markets was outside of the power of the states.

The Resolution introduced on 27 February, 1884, by Representative Le Fevre of Ohio, asked the Judiciary Committee to prepare a measure prohibiting the purchase or sale of "articles of prime necessity among the people unless an actual transfer of such property or a warehouse receipt therefor accompanies each transaction".[47] The preambles of these resolutions denounced speculation and gambling in American farm produce on the ground that it depressed prices for the producer and increased them to the consumer. The second resolution, introduced by Representative Hatch of Missouri, asked that the Commissioner of Agriculture report to the House the facts concerning the effect of speculation upon price, and also concerning the use of home or foreign capital "to detain any such property at certain points" in order to convey a wrong impression regarding the amount on hand or its actual value before another crop was produced.[48]

CHAPTER III

Growth of the Movement---1884-1890

Condemnation of speculation by the public, especially by the agricultural and laboring classes, increased enormously during the period between 1884 and 1890 and became one of the elements of discontent which was to lead to the "Populist Revolt" of the 90's. Speculation, in the broader sense of the term, was thoroughly discredited at this time both by the collapse in the western land "boom" and by the one in the range cattle industry. In the period immediately preceding this vast changes had occurred. Railroads had been built so that practically every part of the United States was connected, directly or indirectly. The construction of these had been pushed rapidly after the recovery from the "panic" of 1873. People had eagerly sought new lands in the West, lured there by the accounts of the opportunities and beauties of this new section.[1] The increase in population, together with the high prices of both wheat and corn in the early '80's led to the rapid rise in the price of the land in this region.[2] As a result there was wild speculation in western lands, especially in those of Kansas, Nebraska, and Dakota. This land boom reached its peak in 1887, when the bubble broke quickly in Kansas, the deflation being a little more gradual in the other states.[3] The farmers of this section who did not give up entirely, found their land greatly decreased in value, the tax rate very high, their property heavily mortgaged[4] and

in the face of this a steadily declining market price for their products.

At practically the same time the West also saw the collapse of the range cattle industry. Between 1881 and 1885 there had been a period of unlimited speculation here also. By 1884 it had become a minor "South Sea Bubble" for large sums of money had been borrowed at a high rate of interest, and the ranges had been overstocked. The situation was made more difficult in the winter of 1885-6, which was an unusually severe one in the South, when the ranchmen were forced to remove their cattle from the Cheyenne-Arapaho reservation by President Cleveland's proclamation, and throw them onto the already overstocked ranges of the neighboring states. During the extremely severe winter of 1886-7, there were enormous losses of cattle and most of the ranchmen faced bankruptcy. To make matters worse, the price fell because of the large numbers of cattle thrown on the market and the small demand for feeders due to the draught.[5]

Dealing in "futures" had been quite thoroughly discredited in the South in 1881-1882,[6] when many suffered financial loss. In the period which followed, the cotton producers already in the grip of the crop-lien system suffered from the decline in the price of cotton, which had fallen from twenty-five cents a pound in 1868 to seven cents in the '90's.[7] Moreover in the period from 1883-90 the average of agricultural prices was lower than that of general prices.[8]

The farmer, seeking an explanation for this decline in price, directed his attack against the eastern capitalists against whom he had a number of grievances. It was to these that he had to pay interest. Moreover, the "money power" had control of the railroads, which the farmers hated because of the high freight rates that they had to pay in marketing their grain, and especially because of the alliance between the elevator systems and the railroads.[9] In the grain producing states the line elevator systems had developed, an arrangement by which a group of elevators along a line were under one management. Often the line had large storage elevators at the grain centers, or primary markets. These syndicates, formed during the 80's, were backed by a large amount of capital and were able to drive out the competition of independent or Farmers' Cooperative Elevators. Moreover, each syndicate operated along one line of railway, and the managers or heaviest investors in the syndicates were stockholders or directors in the railway company.[10] Thus they were able to secure privileges and favors from the railroads, such as the prompt supply of cars, the refusal of the railroads to grant sites to competing firms, and rebates.[11] These elevators, having a monopoly on the grain trade, which they were able to maintain by such unfair business methods as cutting prices to drive out competitors, gained additional profits by methods of grading, weighing, and mixing the grain. Against these abuses the states could and did pass laws. In Minnesota

laws directed against these abuses were passed in the middle 80's under the leadership of the Farmers' Alliance.[12]

But beyond the control of the states were the abuses existing in the terminal markets, especially the Chicago Market, which had become the chief grain center. During this period a change had occurred in the method of dealing used by the elevator and warehousemen. "By the end of 1890 nearly every railroad terminating in Chicago had a favored elevator system under its protection. Not only did these syndicates thus gain a monopoly, but in the late 80's the warehousemen became speculators, and as such were able to accumulate and store vast quantities of grain in Chicago which resulted in such a congestion of grain as to depress prices to the lowest point in history."[13] The feeling was rapidly growing that this speculative market controlled by the "money power" determined the price of grain not only at Chicago, but also in Liverpool.[14]

It was felt, in addition, that the markets were manipulated so as to force the producer to sell his grain or produce at a low price, only to see enormous profits made from it after it left his hands. Spectacular "corners" occurred and usually in the months just before the marketing of the new crop.[15] The corner which occurred in 1887 made a "deep impression on the farmers of Kansas and Nebraska. They knew that the wheat which they were hauling to the elevator and selling for 52 cents per bushel was being sold at an enormous profit after it left their hands."[16]

This feeling on the part of the farmer of being cheated out of what rightfully belonged to him, as a result of his labor became a strong force in the "Revolt" which was brewing as well as in the attack on speculation.

Neither was the feeling against speculation confined to the farmers alone. Many condemned it as gambling and therefore as a moral as well as an economic evil. In many cases no distinction was made between the organized Exchanges and the bucket-shops, the practice of both being condemned as gambling. The fight carried on against these "bucketshops" by the Chicago Board of Trade[17] gave publicity to this abuse. In addition these "bucketshops" had been established in the smaller places as well as the larger ones, so that the evil was brought closer to the rural communities. The feeling that speculation as carried on by the Chicago Board of Trade was immoral was strengthened by the scandal connected with the "Harper deal" in 1887.[18]

To the farmer, who believed that the low price which he was receiving for his produce, was to a large extent due to the middlemen, especially the "speculators" who determined the price at the terminal markets and to the monopoly of the local markets made possible by the alliance between the "line" elevator systems and the railroads, there were two lines of action, business cooperation and political action.

Before action of either type could be effectively

taken, there must be organization among the farmers. To meet this need, the farmers organizations already in existance were used or new ones formed. Chief among these was the "Grange", or Patrons of Husbandry, which, organized in 1867, had grown slowly at first, then very rapidly, reaching its peak in 1875, when it was engaged in "curbing the railroads" and in cooperative enterprises.[19] Although it declined rapidly prior to 1880, it did not disappear. Through the '80's, this organization, whose chief purpose was the social and economic advancement of the farmer through education, grew gradually stronger and stronger, especially in the East. It had done much to create and increase the growing class consciousness of the farmers which emphasized the importance of the farmer and contrasted the "growing wealth of some people and the relatively greater poverty of others".[20]

The Grange became a factor in the demand for reform which finally resulted in the "Populist Revolt" of the '90's, and as a part of this, in the agitation for the control of speculation. At the Twentieth Session of the National Grange, which met at Philadelphia 10-18 November, 1886, there were thirty states represented, nine from the South, two from the far West, ten from the East, and nine from the Midwest. It was at this session that "Put" Darden of Mississippi made his famous address in which "after considerable discussion of the ability of the people to govern themselves, he made his militant declaration to

call the 'embattled farmers' to action: 'We have been trying resolutions and petitions long enough and to little effect. Let us try the remedy which has been suggested at nearly every session of the National Grange, let us with our ballots send men to the legislatures, state and national, who will equalize and reduce taxation, restrain corporations from oppressing the people, keep our public domain for actual settlers, prevent gamblers from pricing our productions, and extend the same protection to the farmer and the manufacturer. For this great work the Grange was organized, and it was not born to die, nor will it fail in the accomplishment of its purpose.'"[21] Among the resolutions adopted at this meeting was one denouncing "speculation in futures". Proof of the interest of the Grange in this cause is found in the fact that resolutions of this nature continued to be adopted by the sessions which were held in 1887 and 1888.[22] Moreover, the Grange made the first appeal, during this period, to Congress for aid in meeting the situation, when Mr. Shelby M. Cullom of Illinois presented a resolution, adopted by the Illinois State Grange at its annual meeting, held at Springfield, Illinois, in December 1887, in which that "species of gambling upon the crops and industries of the country called dealing in futures and "options" was denounced and a demand made that this dealing be prohibited by law.[23] The Illinois State Grange again appealed to Congress in February of 1888 when resolutions were introduced into both houses demanding federal legislation.[24]

In the same year that "Put" Darden was calling upon the farmers to organize, the National Farmers' Congress, meeting at St. Paul, Minnesota, in August, was sounding a somewhat similar call. Among the resolutions adopted was one urging that the legislatures of the different states pass laws necessary to prevent "dealing in futures" in agricultural products and to provide that no contract shall be enforced in any court of law for future sale and delivery of agricultural productions unless it was the 'bona-fide' intention of the seller to deliver, and the purchaser to receive the article.[25]

The growing demand for reform by legislation, which had resulted in the passage of a number of state laws prohibiting or limiting "dealing in futures"[26] had become strong enough in 1888 to result in the introduction of two measures into the House of Representatives. The first of these, introduced on 23 January by Representative Benjamin Enloe of Tennessee, "to punish dealing in 'futures' in agricultural products" was referred to the Committee on Agriculture.[27] The second, "to prohibit fictitious and gambling transactions on the price of articles produced by American farm industry" was introduced by Mr. Hatch of Missouri on February 13, at the request of its author and was referred to the Committee on Judiciary but transferred to that on agriculture so that the two measures might be considered together.[28]

Mr. Glass from the Committee on Agriculture submitted

a report in which it was recommended that the bills lie on the table. In framing this report the members of the committee stated admirably the attitude of many people toward speculation. They found that "the practice of dealing in futures or the fictitious buying and selling of the farm products so extensively carried on by boards of trade and other public exchanges, entail upon the farmers of our country, annually, the loss of many hundreds of thousands of dollars". Speculators were denounced as "non-producers" who merely sold again and again the products of agriculture without any regard for the law of supply and demand, the cost of production, or the interest of either the American producer or consumer. The money power of the world, through boards of trade, controlled prices through the wicked devices of the speculators and gamblers, making the "honest farmers" powerless to regulate prices according to the law of supply and demand. Finally these transactions were declared "destructive to public morals".

In this report was stated an objection to such legislation which was to be argued hotly in the debates on the Hatch bill. The committee reported that they could find no power granted to Congress by the Constitution, authorizing the enactment of such legislation, necessary and desirable though it might be. They held that such contracts were merely gambling contracts and therefore involved the question of morals, which were matters of state jurisdiction. The commerce power could not be used because such dealings were

not a part of interstate commerce nor of commerce at all, since "no commodity or other thing of value changes hands, but the difference in the price of the thing fictitiously sold and bought on the day of contract and the day of delivery is adjusted between the parties".[29]

In 1888 and '89 the agitation for the control of speculation was strangthened by the activity of a new national farm organization, the Alliance, of which there were two branches, commonly known as the "Northern" and "Southern". The National Farmers' Alliance or northern branch, organized in 1880 was not secret, its purpose being to unite the farmers for protection against class legislation. Minnesota and Nebraska were its chief strongholds.[30] The Northern Alliance was especially active in the reform of the market in Minnesota, where it gained control of the state legislature and practically dominated the state policies from that time until the middle 90's.[31] The Southern Alliance, or National Farmers' Alliance and Industrial Union, as it came to be called, was organized in Texas as early as 1875 and was revived in 1880 after a period of inactivity. This Texas organization very soon made cooperation an important phase of its work. Trade agreements with dealers, joint stock stores, and Alliance cotton yards were established and also a State Exchange. Political action was also demanded by this organization, for at the state meeting in 1886 a program of demands was drawn up among which was one for "laws to prevent the dealing

in'futures' in all agricultural products". Provision was also made for a committee of three to press these demands upon Congress and the State Legislature.[32] The Texas Alliance almost split over this action because some of the members feared that the organization would become a new political party. But under the leadership of Mr. C. W. Macune this danger was averted and a fusion with the Louisiana Farmers' Union was arranged, under the name of the "National Farmers' Alliance and Cooperative Union". This organization joined with the "Wheel", which was very similar in purpose and which, after being organized in Arkansas, had spread to other states and had become a national body in 1887. They adopted the name, "National Farmers' Alliance and Industrial Union".[33] A resolution demanding that Congress pass laws to prohibit the dealing in futures was made a part of the platform of demands, adopted at St. Louis in December, 1889, and again at Ocala, Florida, in December of 1890.[34]

In Kansas, which was to be a center of Populism in the early '90's, both branches of the Alliance appeared. The Grange, already established, was also active and began in 1888 to appeal to the farmers of the state to organize. But the newer and more militant organization made a stronger appeal so that the Alliance spread rapidly.

A force, which contributed greatly to the volume of discontent and therefore to the rapid growth and spread of the Alliance in Kansas, was the growing belief that the

"money power" was concentrated in the hands of eastern capitalists, who not only formed monopolies thereby depressing the prices of agricultural products to the producer, and increasing the prices to the consumer, but also gambled in these products on the organized exchanges thereby further depressing the price.

The farmer found proof of the existence of such monopolies in the appearance of the "trust", against which he fought, in many instances, under the leadership of the Alliance. In the South there was the cotton-bagging trust; in the grain producing states, the binder-twine trust; in the meat producing areas, the packers' trust or Beef trust. There were also, the sugar trust, the whiskey trust, the barbed-wire trust, the oil trust, and many others.

Condemnation of the capitalists, speculators, and monopolies went hand in hand. An account of the action taken by the National Conference of Cattle Raisers and Butchers which met at St. Louis, 20-24 November, 1888, was published in a letter written to the Kansas Farmer from the Office of the Beef Producers and Butchers Protective Association of the United States. This conference after an exhaustive study decided that the deplorable condition of the cattle industry was due to the Chicago beef monopoly, composed of the "Big Four", Morris, Armour, Swift, and Hammond. The letter also stated that "'Every monopoly which aims to corner the food products of the country is a direct blow at the welfare of the farmers. The excessive

price paid by the consumer goes into the pocket of the speculator and stays there. Every few months the dispatches announce that some speculator has grown rich on a deal in wheat. As the speculators do not produce anything, these enormous fortunes are made by manipulating the necessities of the laboring men whom the laws of the country should protect against the cupidity of knaves.'"[35]

This feeling was again expressed by Senator Gillet of Kansas, who was chairman of a meeting which was held at St. Louis in March, 1889, for the purpose of suggesting some line of action beneficial to the meat producing states and at which delegates were present, representing Kansas, Colorado, Texas, Missouri, Nebraska, Iowa, Minnesota, Indiana, and Illinois.

> "'The rapid construction of long lines of railroads has caused the products to quickly find the great business centers which, it seems, have most naturally grown up as the result of such railroad construction. Keen business intelligence has not been slow to grasp the situation and take advantage of it; the products of the country are made the playthings of the bulls and bears on 'Change' Competitive markets and legitimate business rivalry, by the drifting of products to a common center, has been destroyed in part, and a centralization of capital at such points has placed it in the power of the few to dictate to the many the price of their labor and toil, which, in many instances, is much less than a fair remuneration for the labor and time spent in its production.'"[36]

W. A. Peffer, an Alliance leader and ardent Populist in Kansas, who was elected to the United States Senate, also expressed this view very forcefully:

> "Money dictates our financial policy; money controls the business of the country; money is

> despoiling the people.....These men of Wall Street, posing as missionaries conquering deserts and building republics, men piously assuming universal dominion, religiously dictating the financial policies of nations, moving in an atmosphere of radiant morals, self-appointed philosophers teaching honor and honesty to the ignorant world, these men of fabulous fortunes, built upon the ruin of their fellows, are in fact the most audacious gamblers in Christendom. The poor fool who with a few dollars opens a faro bank or sets up a monte table in a country town is by common consent an outlaw.....No man is so little esteemed, no man so thoroughly loathed and despised as this fellow, the common gambler..... Wall Street dealers are responsible for bringing the farmer where he is. They hold the bonds of nearly every State, county, city, and township in the Union; every railroad owes them more than it is worth. Corners in grain and other products of toil are the legitimate fruits of Wall Street methods. Every trust and combine, made to rot the people, had its origin in the example of Wall Street dealers. Touch any spring along the keyboard of commercial gambling and a Wall Street sign appears."[37]

From all of this, it seems clear, that one of the strongest factors in the discontent among the farmers was the feeling against the capitalists or "money-power", which, they believed, controlled the railroads, formed great monopolies or trusts, and through the boards of trade gambled in the products of the soil, the result being that the farmer was cheated out of the reward for his toil.

As agitation against "gambling in futures" increased there arose a growing conviction that legislation to be effective must be national. Several states had had laws either prohibiting or limiting such dealings, but Wall Street and the Chicago Board of Trade were beyond the reach of the legislatures of the agricultural states.

An editorial in the Kansas Farmer of December 4, 1889,

the official Alliance paper for Kansas, outlined the three great matters to which the new congress must give its attention as: First, either the money locked up in the Treasury and bank vaults must be freed or more must be put in circulation. Second, trade must be freed from control by corporations and monopolies, such as the beef combine, the oil combine, the coal combine, the sugar combine and the salt combine. It must also be freed from the "grain gamblers, the stock gamblers, money gamblers, gamblers in real estate, in bonds, in mortgages, aye, indeed, it is not putting it too strongly to say, gamblers in the sweat and blood of the poor". And third, foreign trade must be as nearly free as is consistent with reasonable protection of our own interests against unfair foreign competition.[38]

The demand for legislation by Congress was made in Kansas, not only by the Alliance but also by other organizations as well. The action of the Brown County Institute, held at Hiawatha, 30 January, 1890, is typical. The Committee on Resolutions submitted the following report which was adopted: "Whereas, the farmers have suffered seriously in the last few years by the manipulation of the grain market by the gamblers on the Chicago and other Boards of Trade, and whereas, when the price is advanced for a given month it is always in the last few days, so that the farmers cannot get their grain to market, thus compelling the farmer to bear all the ill effects of the manipulations without reaping any of the benefits"; it was resolved to petition

the National Representative and Senators to "make it a penal offense for any one to buy or sell any grain or other farm products unless he is the 'bona fide' owner of the article or commodity in which he is dealing".[39]

That this activity in favor of federal control of "speculation" in agricultural products was typical of the agitation carried on in other states chiefly by the Alliances, is proved by the flood of petitions with which Congress was deluged. In December of 1889 about twenty-two petitions from six states were presented in Congress demanding legislation of this sort. During January the demand strengthened, sixty-three petitions being sent in from twelve grain producing states.

On January 20, 1890, Representative Benjamen Butterworth of Ohio introduced into the House a bill defining "options" and "futures" and imposing special taxes on dealers therein. The bill was referred to the Committee on Agriculture, which reported it back with an amendment and it was placed on the House Calendar by mistake. On April 22, the "Butterworth Bill" (H.R. 5353) was changed to the Committee of the Whole House on the State of the Union.[40]

By this measure an "option" was defined as a contract in which the right or privilege was acquired to deliver to another at a future time or period certain articles referred to in the act, namely: wheat, corn, oats, rye, barley, cotton, and some other farm products including pork, lard, and other hog products. A "future" was defined as a con-

tract whereby a party agreed to sell and deliver at a future time any of the articles named above if such person were not the owner nor the agent of the actual owner of the products at the time of making the contract. On dealers in "options" and "futures" as defined, the act imposed an annual tax of $1,000 and a further tax of five cents per pound for every pound of cotton, or of pork, lard, or hog products, and of twenty cents a bushel for each bushel of the other articles mentioned. Dealers, upon payment of the $1,000 and the delivery of a bond with two or more sureties in the penal sum of $5,000, were to receive a certificate or license from the collector of internal revenue. Every contract of the type defined by the bill, must be in writing and signed in duplicate by the parties making it. Dealers were required to make a complete report of all such contracts each week, and at the same time to pay the additional tax of five cents per pound or twenty cents per bushel. The penalties provided were: (1) a fine of $1,000 to $5,000 for each and every offense, for dealing without a license; (2) a fine of similar amount or imprisonment for not less than 30 days or more than 6 months, or both fine and imprisonment for making false returns. The act also expressly provided that compliance with its provisions would not except any person from obedience to a state law, nor did it authorize such contracts in states in which they were forbidden.

The amendment made by the Committee of Agriculture provided that the act should not apply to any contracts of this

type made with the United States, or any State, county, or municipality or the agents thereof. Neither was it to apply to contracts made by farmers for the future sale of any of the products which were at the time of themaking of the contract in actual course of production.[41]

In the House Report accompanying this measure, the Committee declared that dealing in "puts" and "calls" and "futures" depressed the price. The argument advanced was that the sellers of futures have the advantage over the buyers, because before the buyer would agree to gamble, the article to be gambled in must have been reduced to a point where he believed it would go no lower. Therefore the balancing influence of the "bulls" and "bears" was lost because the bulls did not take the upper side of the market. The report also declared the measure to be constitutional, revenue being of about equal importance with the regulation and restriction of gambling in farm products as the purpose of the bill.[42]

The Fifty-first Congress, into which this measure was introduced, was busy with the Sherman Anti-Trust Bill, which became a law in July, 1890, with the Silver Purchase Bill and the McKinley Tariff Measure, both of which were passed in October of the same year,[43] as well as with the "Force Bill".

In spite of the fact that the Butterworth Bill was not debated by the House, it attracted much attention from the public. The demand for the enactment of this measure was

led by the Alliance. Out of about 523 petitions sent to the First Session of the Fifty-first Congress favoring the measure 213 were sent by the Alliance, 12 by the Grange, 2 by the Farmers' Mutual Benefit Association, 2 by the Farmers' Union, 1 by the Wheel and the remaining by citizens of various sections of the country. These petitions favoring the measure came chiefly from the agricultural states of the Middle West and South, Iowa and Nebraska leading in numbers. The Alliance petitions were for the most part in favor of the "Butterworth Bill".[44]

An odd feature of this agitation was that the flour millers joined the farmers in the support of the measure. Charles A. Pillsbury of Minneapolis, Minnesota, one of the most influential men in the milling industry at that time, attacked the system of "short selling" in a letter written to the editor of Bradstreet's Journal, dated April 5, 1890. In his opinion the low price of wheat was due more to the system of selling grain short than to all the other causes combined, because in such dealings millions of bushels of wheat which did not exist were sold, thus preventing the operation of the natural laws of supply and demand. Neither did he admit that there was an oversupply.[45] The measure was also endorsed by the convention of the flour millers, which met at Minneapolis in June, 1890.[46]

The introduction of such a measure aroused the opposition of the organized exchanges who sent petitions to Congress denouncing it. This attack led the Exchanges to

defend their practices. They denied that dealing in "futures" depressed the price. The causes for the low price of wheat were summarized by Harry T. Kneeland, chairman of the Grain Committee of the New York Produce Exchange as:

1. The price at home was determined by the price for which the surplus could be sold abroad, and this depended on the broad basis of supply and demand.

2. The competition of foreign wheat, due in the case of India to the low price of silver, which enabled her to compete at low prices with the supply from the United States which was marketed on a gold basis, and in the case of some other countries to their depreciated paper currency.

3. The opening up of new lands.

4. The speed of modern transit and communication.

5. The "waiting policy" adopted by foreign buyers since the "Keane Deal", which forced the United States dealers to hold their surplus until the foreigners wanted it.

6. "Bucketshops", the most serious cause of all.[47]

Even though the friends of the "Butterworth Bill" did not succeed in getting the measure brought up for debate in Congress, the agitation for such a measure continued. Into the second session of the Fifty-first Congress, which met from December, 1890 to March of 1891, some 372 petitions favoring the measure were introduced. These petitions came for the most part from Iowa, Illinois, Kansas, Minnesota, Ohio, and Nebraska,[48] but no action was taken until the new Congress met.

CHAPTER IV

The Washburn-Hatch Bill in Congress, 1891-93

Even though the friends of anti-option legislation had failed to secure any debate or a vote on the "Butterworth Bill" in Congress, the agitation in its favor had aroused such a demand for this type of legislation that it was almost inevitable that a real attempt would be made to secure the enactment of an anti-option law by the new Congress, which met in December of 1891.

The situation in the House of Representatives was especially favorable. In the elections of 1890, the Democrats had scored a sweeping victory, so that in the House there were 235 Democrats, 88 Republicans, and 9 Farmers' Alliancemen or Populists.[1] The presence of these nine Alliancemen or Populists, five from Kansas, two from Nebraska, one from Georgia, and one from Minnesota,[2] gave evidence of the strength of the "revolt of the farmers". Moreover many of the Democratic members had been elected by the support of the Alliances, which in 1889 and 1890 were uniformly demanding a law prohibiting the dealing in futures in all agricultural products. The Secretary of the Toledo (Ohio) Board of Trade declared that the average member of Congress felt that some legislation of this sort must be passed because the "'leaders of the Farmers' Alliance through out the country have busied themselves for years in propagating the sentiment that the work of the Exchange was all against the farmers' interest, that the

members were a band of gamblers if not thieves, that the trading in agricultural products, in its effects, had a positive and inevitable tendency to depress values.... On Farmers' Alliance platforms, in which the feature we have named is one of the planks, several members of Congress have been elected, and it is not to be wondered at that, while there has been heretofore no effort to refute the position of the Alliances, Congress should have concluded that their position must be correct.'"[4] Nor was Congress allowed to forget that this feeling existed, for over 3,500 petitions, demanding such legislation, were sent to the first session of the 52nd Congress. In December of 1891 three petitions were sent to Congress by the Minnesota Legislature, "praying for the passage of what is known as the Butterworth bill, preventing the sale of options".[5] The Alliance, as an organization, was not as active as it had been in favor of the Butterworth bill, for only 107 petitions were sent by the various Alliances, the largest part of these coming from Nebraska and Iowa.

The leadership in the agitation was taken by the Grange. This organization sent some 3,060 petitions, all except 36 of which were for "legislation to prevent gambling in farm products" and were a part of the Grange program which included: (1) Encouragement of the silk industry, (2) enactment of legislation to prevent gambling in farm products, (3) a bill defining lard and proposing a tax thereon, (4) a bill to prevent adulteration of food

and drugs, and (5) free delivery of mail in rural districts. These Grange petitions were sent from 32 states, and every section of the country, especially the East, was well represented. The states sending the largest number of petitions were, Pennsylvania, Ohio, Michigan, Maine, Illinois, and New York.[6] Further proof of the activity and interest of the Grange is found in the resolution, adopted at the 26th Annual Meeting of the National Grange, 16-25 November, 1892, which favored the prevention of gambling in "futures".[7] Moreover, the Honorable Joseph H. Brigham, Master of the National Grange at that time, testified before the Industrial Commission in 1899 that he believed national legislation necessary, but that the difficulty came in the framing of a law so that it would not interfere with legitimate business and yet would stop gambling. He said: "'The fellows who had that fight understand that. Our organization made a great fight at that time. We were backing it up, making a great fight with the others'". Later, when asked whether his organization had ever seriously taken up the fight on grain gambling, he replied: "'Not since the Hatch bill'".[8]

In addition to the petitions sent in by the Alliances and the Grange, the measure was also endorsed by the Ohio Miller's Association, the Farm Implement and Vehicle Assembly at St. Louis, The W. C. T. U., and several Farmer's Institutes. Farmers and citizens from 34 states sent some 376 petitions into this Congress.

With the exception of the Grange petitions, the trend in all those sent to Congress was the same. In January, February, and March they demanded the passage of the "Butterworth bill" or of a similar measure; in April they asked for an anti-option bill, while in May and the months which followed, a large part of them were in favor of the Washburn-Hatch Bill.[9]

The friends of anti-option legislation did not delay the introduction of bills providing for prohibiting dealings in "options and futures". In January and February of 1892, eight bills were introduced, five into the House and three into the Senate. On January 7, Representatives Brosius of Pennsylvania,[10] a Republican, and Wise of Virginia,[11] a Democrat, each introduced a measure into the House "defining options and futures and imposing taxes upon dealers there-in, and for other purposes", while on January 11, Representative Hatch of Missouri, a Democrat, also introduced a measure having a similar title.[12] Two additional bills were brought in, the first[13] on January 15 by Representative Alexander of North Carolina, also a Democrat, and the second[14] Mr. Hatch introduced on February 15, by request.

All of these measures were referred to the Committee on Agriculture. April 4, Mr. Hatch, Chairman of this Committee, reported as a substitute for his own bill (H. R. 2699), a bill, defining "options and futures", imposing special taxes on dealers there-in, and requiring such

dealers and persons, engaged in selling certain products, to obtain license. This bill, after being read a first and second time was referred to the Committee of the Whole House on the State of the Union, while the other bills on the same subject were ordered to lie on the table.[15]

On June 6, Mr. Hatch moved to suspend the rules and pass the bill defining "options and futures". He explained this action by saying that the Committee on Agriculture, after having spent weeks and weeks of earnest and conscientious work in the preparation of the bill, "were forced by the action of the opponents of it to resort to one of two propositions in order to bring it before the House; of these two propositions they preferred a motion to suspend the rules rather than to ask the Committee on Rules to bring in what is known as an iron clad or cloture rule to force a vote on it".[16]

The bill as introduced consisted of fifteen sections, the chief provisions of which were:

Section 1, defined "options" as "any contract or agreement whereby a party thereto, or any party for whom or in whose behalf such contract or agreement is made, acquires the right or privilege, but is not thereby obligated to deliver to another or others, at a future time or within a designated period, any of the articles mentioned in section 3."

Section 2, defined "futures" as any "contract or agreement whereby a party contracts or agrees to sell and

deliver to another or others, at a future time or within a designated period, any of the articles mentioned in section 3 of the act, when at the time of making such contract or agreement the party so contracting or agreeing to sell and make such delivery, or the party for whom he acts as agent, broker, or employee in making such contract or agreement, is not the owner of the article or articles".....

Provisions of this act were not to apply (1) to any contract for the future delivery of any of the "said" articles, made for the United States, or any State, Territory, county, or municipality, nor (2) to any contract made by a farmer or planter for the future delivery of these articles, which at the time of the making of the contract belonged to the farmer or planter, and which had been grown or produced, or were in the course of growth or production on land occupied or owned by him. Neither was it (3) to apply to any contract made with a farmer to deliver to him at a future time any of the articles mentioned, which were required as food, forage, or seed.

Section 3, named the articles to which the provisions of the act were to apply as: "raw or unmanufactured cotton, hops, wheat, corn, oats, rye, barley, grass seeds, flax seed, pork, lard, bacon, and other edible products of swine".

Section 4, provided for the licensing and taxing of dealers in "options" and "futures", the fee being $1,000. A tax of five cents per pound and twenty cents per bushel

was to be paid to the collector of internal revenue on each pound or bushel of such products dealt in by these dealers.

Section 5, required every dealer in these contracts to apply to the Collector of Internal Revenue for a license, and also to execute a bond in the sum of $40,000 to insure the payment of the taxes levied by the act.

Section 6, required collectors of internal revenues to keep in their office books, open to the public, containing a registered copy of every application for a license and a record of his action in regard to it.

Section 7, required every "options" and "futures" contract to be in writing and signed in duplicate by the parties thereto.

Section 8, provided that dealers in "options" and "futures" contracts must keep a complete record of all such contracts.

Section 9, required the licensed dealers to make a report on Tuesday of every week to the collector of internal revenue of all such contracts entered into and at the same time to pay the tax provided for in the act plus the sum of $2 as a registry fee for each and every such "options" and "futures" contract. In addition, the collector of internal revenue was required to make a report to the commissioner of internal revenue.

Section 10, provided the penalties for the violation of the act. For failure to comply with the provisions of the act, besides being liable for the amount of the tax or

taxes prescribed, the offender was to be fined from $1,000 to $20,000 or to be imprisoned not less than six months nor more than ten years, or to be subject to both fine and imprisonment.

Section 11. The provisions of the act were not to exempt any person from any penalty provided for by state law, nor was the act to be construed as authorization for the making of such contracts in any state in which they were forbidden by State law.

Section 12, provided for the licensing of all persons entering into contracts for future delivery of these articles, who were the owners of the article or articles. Such persons were to apply in writing to the collector of internal revenue for the district and to pay a license fee of $2, whereupon they were to receive a certificate valid for one year. Such licensed dealers were to keep books, in which a record of all such contracts was to be kept. These books were subject at all times to inspection by the collector or deputy collector of internal revenue. These licensees were also required to make weekly reports of all such contracts or agreements or transfers or assignments. Any such licensee who failed to keep the book or refused to submit the book to the inspection of the collector, or refused to make the report was to be fined not less than $100 or more than $5,000 for each and every failure or refusal.

Section 13, made it the duty of the collector if the

violation of the act was reported to him or if he had reasonable cause to think that the report had not been correctly made, to have the party file an affidavit containing proof and to exhibit the warehouse or elevator receipt or bill of lading. Failure or refusal to comply was to constitute "prima facie" evidence that the contract made was a "futures" contract and made the party liable to the penalties prescribed by the act.

Section 14, extended the revenue laws.

Section 15, authorized the Commissioner of Internal Revenue to prescribe such rules and regulations as might be necessary to carry the provisions of the act into effect. These rules were to go into effect, after having been approved by the Secretary of Treasury.[17]

The objects of the "Hatch" bill as outlined in the House report which accompanied it were: (1) To obtain revenue; (2) To relieve the producer of the destructive competition of illimitable quantities of fiat or fictitious products sold under this system of dealing; (3) To restore to the law of supply and demand that free action, destroyed by the practice of 'short selling' which had become the method of determining the price of those agricultural products which could be graded; (4) By the restoration of the functions of the law of supply and demand, to restore, partially at least, prosperity to the farmers who constituted 40% of the population; and (5) To restore prosperity to the other classes as a result of

the increased power of the farmer to buy their products.[18]

The bill, having at last been brought up, passed the House with no real debate on it, the five minute rule having been invoked. Mr. Hatch controlled the time in favor of the measure and Mr. Cummings of New York that in opposition. The time allotted to each speaker was so short that he could only state his reasons for supporting or opposing the bill. The chief arguments presented in favor of the measure were:

1. It would increase the price of these products by allowing the law of supply and demand to function freely.

2. It was demanded by the agricultural classes.

3. The measure was constitutional.

The argument against the measure was much stronger but had no effect. The chief arguments presented were:

1. Section 13 was objected to as a violation of the 5th Amendment to the Constitution of the United States, because by it a person was held "prima facie" guilty of a crime and violation of the law unless he showed the collector certain documents, which would exonerate him.

2. The measure was declared unconstitutional because, under the taxing power, it invaded the rights reserved by the states, one of which was to regulate contracts between their own citizens.

3. It was attacked on the ground that it violated the principles of the Democratic party.

4. The measure manifested the spirit of centrali-

zation and paternalism in its most malignant form.

5. The bill was declared dangerous because it struck at legitimate business as well as at gambling.

6. The charge was made that the men who were trying to pass the measure were simply the cat's paw of a syndicate of millowners, for the effect of the bill, if passed, would be to reduce the prices of these commodities.[19]

At the close of this brief debate a vote was taken which resulted in 167 yeas to 46 nays with 116 not voting. Since two-thirds had voted in favor, the rules were declared suspended and the measure passed.

Even before the anti-option bills were introduced into the House, Mr. Washburn of Minneapolis, a Senator from Minnesota, introduced into the Senate on December 14, 1891, a bill defining "options" and "futures" and imposing special taxes on dealers therein. This measure was referred to the Committee on Judiciary.[20] The introduction of this bill brought comment almost immediately in Bradstreet's Journal under date of January 2, in which the St. Paul Pioneer Press was quoted as having expressed the opinion that if Senator Washburn could prevent his bill being smothered in the Committee it would stand a fair chance of passing, because the feeling against speculation in food products had grown so strong that most members of Congress would "hesitate to give unpardonable offense to the farmers by voting against its suppression".[21]

On January 5, a second Bill was introduced, this one

by Senator Peffer of Kansas, one of the two Populist Senators in Congress. This was a bill to protect interstate commerce; to prevent dealing in options and futures; to prohibit the formation of "trusts", "combines", "corners", and all other combinations that affect prices; and to punish conspiracies against freedom of trade among the people, and the several states. This bill was referred to the Committee on Agriculture.[22]

A third bill was introduced into the Senate by Senator Washburn on January 20, 1892, and was referred to the Committee on Judiciary.[23] A Minneapolis paper, the Market Record said that this new bill was introduced as a substitute for his other one, by means of which he designed to regulate trading in futures of farm products.[24]

No report was made by the Committees on these bills, probably partly because Mr. Washburn's bills were revenue bills technically, and therefore it was unconstitutional for such measures to originate in the Senate. At any rate no action was taken by the Senate until the "Hatch" bill was sent from the House, June 9. At the suggestion of Mr. Paddock, Chairman of the Committee on Agriculture, this measure was ordered to lie on the table and be printed.[25] June 16, Mr. Washburn moved that the bill be referred to the Committee on Judiciary, since that committee had already spent some time in consideration of his measure which was essentially the same. He promised that there would be no delay in reporting the measure back to the Senate.[26] July 7, the bill was reported back by the

Judiciary Committee without recommendation, because they were unable to agree upon the House bill or any other. Since they believed that dealing in agricultural products by persons not having the ownership or the right to the ownership of such products constituted a great evil and injury which ought to be remedied if there was any power under the Constitution to remedy it, they did not wish to delay the bill any longer. A minority report, expressing the views of Senators George of Mississippi, Coke of Texas, and Pugh of Alabama, was also brought in, in which it was asserted that Congress did not have the power under the Constitution to prohibit such dealings under the taxing clause. Therefore, they favored the enactment of the bill up to and including section 3, all after which was to be struck out and the amendment proposed in the committee to be inserted.[27]

If the measure had been rushed through the House without adequate debate, any such lack was made up for in the Senate, where it was debated from July 11 to 30. Mr. Washburn on the 30th tried to get a time fixed for a vote on the bill but failed. He did obtain the unanimous consent of the Senate that the bill go over as unfinished business, to be taken up on the first day of the next session.[28] The measure came up again in December and occupied a large part of the attention of the Senate until January 31, 1893, when it came to a vote.

This measure, passed by the House under the leadership

of William H. Hatch of Missouri, a Democrat, was championed in the Senate by William D. Washburn, the flour magnate of Minneapolis, Minnesota, and a Republican. His connection with this industry gave rise to the charge that he was working in the interest of the millers. The Nation, on February 25, under "Comment of the Week" declared that the Anti-option bill (then before the committees) had already depressed the price of wheat because it tended to restrict trading to a "hand to mouth" operation, withdrawing capital from the grain market and giving "to the buyers for immediate use (for example, the Minneapolis Millers) a command over the market.....No doubt the Minneapolis millers who are so hot for this bill are working in the interests of the farmer as they understand these interests. No doubt the prosperity of the farmer depends on the prosperity of the miller, just as the general prosperity depends on the protected manufacturer." The Alliance lecturers were blamed for having fooled the farmers and others into believing that short sellers had been responsible for depressing the price. Senator Washburn was attacked because it was asserted that he was under no such delusion. He was declared to be interested in legislation of this sort because he knew that if the buyers for future delivery could be driven out, the "honest miller" would be the only cash customer, and would, therefore, have the "whiphand of the market".[29]

July 11, Senator Washburn opened the debate on the bill

in a lengthy speech in which he presented the chief arguments of those who favored the measure as it came from the House. He contended that the price of wheat, not only in this country, but for the entire world, was made by the Chicago and New York Boards of Trade; and the price of cotton on the Exchanges of New York and New Orleans, which through this system of "dealing in futures" or "short selling" "juggle with values and practically eliminate from the commercial world the law of supply and demand."[30] He denounced the practice of short selling and denied the advantages claimed for it. In answer to the assertion that "short selling" made a broader and more stable market for the products of the farm, he cited the recent corner in corn, which had caused contract grade to advance, inside of thirty days, from forty cents to one dollar a bushel, and then to drop back to fifty cents, bringing loss to bankers and dealers. He refuted the argument that "short selling" raised the price of the commodities dealt in, by declaring that, in reality, it lowered it because every bushel taken out of the hands of the producers and not yet gone into the hands of the consumer pressed upon the market already overloaded with offers of fictitious products, thus intimidating the investors and narrowing the market. In addition "short selling" confined speculation in actual grain to those who desired to secure a storage charge which the outsider could not afford to pay, thereby benefiting the warehousemen and owners of public elevators.

Neither did he admit, as those in favor of "short selling" argued, that the "short seller" contended against the "long buyer", the one offsetting the other, because prices were often determined by offers to sell, where there was no sale, as well as by "wash sales". Dealings in "futures" were declared to be mere wagers, since no delivery was contemplated, and were, therefore, gambling contracts. Such dealings resulted in embezzlements, bank wreckings, and other crimes of the sort.

Mr. Hansbrough of North Dakota emphasized the widespread demand for this measure from the producers, especially those of the Northwestern States, and also that from the commission merchants who wished to transact business in a "legitimate way".

The cause of the friends of the bill was weakened because they disagreed on the question of the constitutional authority for the act. The bill, as it came from the House, made use of the power to tax, and was defended by Mr. Washburn and others as being constitutional. The "George substitute", which, as has been shown, had been proposed in the minority report made by the Judiciary Committee of the Senate, was offered as an amendment to the "Hatch" bill on July 19, and made use of the commerce clause.[31]

This "George substitute" declared "options" and "futures" obstructions to and restraints upon commerce among the States and with foreign nations, illegal, and

void. Any party, either buyer or seller, to an "options" or "futures" contract was, on conviction in either the proper district or circuit court of the United States to be punished by a fine and imprisonment, each distinct contract constituting a separate offense. Any merchants, or exchange, boards, or other associations through which such contracts were "made, encouraged, settled, regulated, or adjusted" were declared combinations to obstruct commerce among the States and with foreign nations. Proceedings against any such board, association, or exchange for the violation of this provision were to be started by the proper district attorney of the United States or the Attorney General, whenever there were reasonable grounds for believing that the act had been violated. Provision was made by which proceedings might also be instituted by private persons. Persons in the United States, who by "letter, or telegram, or other communication sent from the United States to any foreign country, entered into or encouraged the making of an "options" or "futures" contract in a foreign country, were liable to the punishment provided for in the act. Likewise, any such contracts made outside the jurisdiction of the United States could not be enforced in any court of the United States.

On July 25, Mr. George spoke in favor of the substitute. He attacked the whole system of "dealing in futures" as carried on in connection with the cotton trade, arguing that the dealings on the Cotton Exchange were not

real deliveries but only sham ones, that these "futures " contracts were null and void being mere wagers as to the price of cotton on a future day, and that the profits, derived from these deals by speculators, were paid out of the crop. He stated that the purpose of the amendment was to abolish this dealing and asserted that Congress did have authority to do this directly by means of the commerce clause. The question involved, he argued, was that of the extent of Congress' power to remove obstruction to or restraints on interstate and foreign commerce. The argument advanced was that this trade in cotton could only be carried on in New Orleans and New York, and in these places only by members, who could buy and sell for outsiders. Therefore, it was a monopoly in restraint of trade. He cited cases to show that Congress' power to remove obstructions of a physical character had been admitted, and contended that contractual restraints or obstructions to commerce were as much within the jurisdiction of Congress to remove as physical ones.

Senator Coke of Texas attacked the "Washburn-Hatch" bill, arguing that it would be constitutional solely on the ground that its purpose was to raise revenue and that this obviously was not its purpose. Moreover, even if the purpose of the measure were to collect revenue, it would not be constitutional because the tax was not uniform, certain classes being exempt under the provisions of the bill. For this reason he declared that he could not support the bill but would vote for the George substitute. Several

Southern senators took the same stand, so that the bill had not only to meet the attack of those who favored "option trading" but also that of the enemies of option dealing who denied the constitutionality of the bill under the power to tax.

In addition, there was some division in opinion among the friends of the bill over the cause of the existing depression. Mr. Hansbrough of North Dakota argued that dealing in futures was the chief cause, while Mr. Hunton of Virginia held that the tariff and demonetization of silver were greater ones.

The opponents of the measure hoped to defeat it by delay or at least to amend it so that the most objectionable features would be struck out. The chief arguments advanced against the bill were that it was class legislation and therefore opposed to the principles of the Democratic Party; that "short selling" was not an evil but a benefit, and that the result of the passage of the act would be to drive all trading in futures out of this country into foreign ones. It was charged that the bill was a sham for though it was supposed to be in the interests of the farmers it was, in reality, promoted by the milling interests and pork packers. Moreover, it was argued, that such legislation was unnecessary because the type of dealings attacked--that is the purely gambling transactions were prohibited in most cases by state laws. It was contended that the decline in price was not due to "speculation" but to other causes among

which were the tariff, demonetization of silver, and overproduction.

In addition, the bill itself was attacked. "Options" were defined as gambling contracts in section one, and later licensed. Section 12, which provided for the licensing of dealers for future delivery who were the owners of the commodity was also attacked as having no logical connection with the rest of the bill and as a hindrance to legitimate business. This section was struck out, on the motion of Mr. Washburn, on July 28.[32] Objection was also made to giving legislative power to the Collector of Internal Revenue.

The largest part of the argument turned over the question of the constitutionality of the bill. It was declared to be unconstitutional because it was a violation of the states' right of police power, it was an unwarranted use of the taxing power, it interfered with the liberty of contract, and it forced a person to give evidence against himself. The George substitute, was also declared unconstitutional because the power to regulate, under the commerce clause of the Constitution, extended only to the means and implements of such commerce.

During the course of the debate, thirty-four amendments were made to the bill.[33] These were for the most part changes made for the purpose of clarifying the meaning of the sections amended. The chief changes made were the striking out of the words "grass seeds", "flax seed", and

"other edible products of swine", and the addition of "flour" to the list of articles in section three; the striking out of section twelve which provided for the licensing of all dealers in "futures" who were the owners of the commodities dealt in; and the addition of a section which provided that the act go into effect 1 July, 1893.

January 31, 1893 the "George substitute" was defeated by a vote of 19 to 51, and the anti-option bill or "Washburn-Hatch bill" as amended passed the Senate by a vote of 40 to 29, 19 not voting. An analysis of the vote showed that the measure was supported by 27 Republicans and 13 Democrats, and opposed by 20 Democrats and 9 Republicans. The most of this opposition came from the Eastern and Southern states. However, of the eleven Southern senators who voted against the "Hatch" bill, seven had voted for the "George substitute" and had declared themselves in favor of anti-option legislation, but opposed to the "Washburn-Hatch bill" because it was unconstitutional.

After having passed the Senate, the bill was sent on February 2 to the House, together with a request for a conference. February 3, it was referred to the Committee on Agriculture which reported it back favorably on the next day, with the recommendation "that the House do not concur in the Senate amendments, and agree to the conference asked by the Senate."[34]

On March 1, Mr. Hatch moved "to suspend the rules and discharge the Committee of the Whole House from the further

consideration of the Senate amendments to the bill (H. R. 7845), known as the anti-option bill, and concur in the same."[35] The motion was lost by a vote of 124-172, 33 not voting,[36] since this was not a two-thirds majority.

Evidence that interest is the bill had not died is found in the Resolutions sent to the Senate by the legislatures of Missouri and Kansas, announced by Senators Vest and Peffer on the day on which the vote on the measure was to be cast in the Senate. That the legislators of the States of Iowa, Minnesota, Wisconsin, Ohio, Georgia, South Carolina, and one house in Arkansas, had also passed resolutions asking Congress to pass laws to suppress dealings in futures was given by Senator George in his speech of January 21, 1893, as evidence of the widespread popular demand for this legislation.

That the agitation was to be continued is shown by an appeal, found in the section of the Kansas Farmer devoted to economic questions and the interests of the Alliance, Grange, and kindred organizations, under the heading: "Keep up the Fight Against Grain Gambling".

"Defeat of the Hatch-Washburn anti-option bill by delay, procured by the lavish use of money and other world influences, should not prevent the friends of that measure from persistently urging the enactment until producers are protected from spoliation by that kind of gambling." Editorials from papers from various sections of the country were also quoted to show how widespread the demand for such legislation was.[37]

CHAPTER V

The Decline of the Movement

The last attempt to pass anti-option legislation in Congress during the 90's was made in the second session of the 53rd Congress. The election of 1892 had given the Democratic party the control not only of both houses of Congress but a Democratic President as well. The Populists were represented in the Senate by three and in the House by eight members, representing Colorado, Kansas, Minnesota, Nebraska, and Nevada.[1] Before the Democrats had an opportunity to undertake their program, the emergency of the panic of 1893 had to be dealt with. President Cleveland called a special session of Congress which met from August to November and repealed the Silver Purchase Act. When Congress met in regular session in December of 1893, the House, having been organized in August with Crisp as Speaker, attacked the tariff problem, passing the Wilson tariff bill in February. With this measure out of the way, another attempt to pass a National "anti-option" law was made.

Notice that Mr. Hatch would introduce a new anti-option bill was given in what was claimed to be an interview with Mr. Hatch which was printed in the Washington Post of Saturday, February 3. He was quoted as saying that he was glad that the Washburn-Hatch bill of the last Congress had failed to pass, because if it had, it would have been made the scapegoat of hard times. In addition, he said that he

had had a chance to "detect the unsatisfactory details in the old bill" and to correct them.[2] On February 7, Mr. Hatch introduced a bill "regulating the sale of certain agricultural products and defining "options" and "futures" and imposing taxes thereon," which was referred to the Committee on Ways and Means.[3] February 26, he made a motion that the bill be transferred from the Committee on Ways and Means to that on Agriculture, which carried by a vote of 169 to 58.[4]

A substitute for the "Hatch" bill was reported to the House from the Committee on Agriculture on May 8, read twice, referred to the Committee of the Whole House on the State of the Union and, with the accompanying report, ordered to be printed.[5]

According to the House report which accompanied this bill the objects of the legislation were:

1. To obtain revenue. It was declared that at this time additional revenue was desirable and imperative. This measure would provide a constant revenue to the Government without an additional corps of revenue officers and at a minimum cost for its collection.

2. To relieve the producer of the destructive competition to which he was then subjected by the offering, upon the exchanges, of illimitable quantities of fiat or fictitious products by those who did not intend to or could not terminate the contract by actually delivering the the articles which they pretended to offer and sell.

3. To restore to the law of supply and demand that free action which had been destroyed by the practice of "short selling". This practice was declared to be the one mode of determining the price of those agricultural products which could be graded.

4. To cause market quotations to be determined once more by the offerings of real products by the owners or by those who had acquired from such owners the right to the future possession of the articles offered, or could terminate their contracts by actual delivery, and thereby limit to the amount actually existent the offerings of these farm products.

5. To prevent the overloading of domestic markets and the breaking down of prices of farm products by "short sales" made by foreign merchants, for the purpose of insuring them against possible losses on purchases of Indian, Egyptian, South American, Australian, and Russian produce.

6. To partially restore prosperity to the farmers, who constituted more than 40% of the population and whose declining prosperity was due to quite an extent to the practice of "short selling".

7. To restore to the producer an honest market and the higher prices which would come as a result of the unhampered operation of the law of supply and demand. The prosperity of the farmers would in turn bring prosperity to other classes.[6]

The bill as reported from the Committee on Agricul-

ture contained so many new features that its provisions must be examined in some detail in order to understand how radically it differed from the Washburn-Hatch bill of the preceding Congress. "Options" and "futures" were redefined. The definition of "options" included both "puts" and "calls", while in the preceding bill only the "put" or privilege of selling and delivering at a future time was included. "Futures" were defined as contracts in which one party contracted to sell and deliver to another at a future time, or within a designated month or other period, any raw or unmanufactured cotton, hops, wheat, corn, oats, rye, barley, pork, lard, bacon, and any salted or pickled meat. Thus by this measure the right of non-owners to sell for future delivery was recognized, while this right had been restricted to owners or their agents by the earlier bill. In discussing this redefinition, Bradstreet's Journal took occasion to remark that there were "some glimmerings to indicate that the economic education of Mr. Hatch and his committee was at least making progress."[8]

All "options" and "futures" contracts were required to be in writing and signed in duplicate by the parties thereto. "Options" contracts must state the time of the delivering or receiving of the commodity, while "futures" contracts must give the time for the fulfillment of the contract, the quantity of the commodity, and a statement as to whether the seller was or was not the owner.

The measure distinguished between those contracts

which were terminated by actual delivery of the articles and those terminated in other ways. The person contracting to sell and deliver was required, when the contract terminated by actual delivery, to execute a bill of sale in which was to be specified the number of pounds or bushels delivered, the name and place of business of the custodian, and the serial numbers and dates of acceptances, certificates, receipts, freight or way bills representing the quantity of each article sold and delivered. But if such contracts were terminated in any of the other various ways, such as cancellation, clearance, settlement, acquittance, contango, backwardation, privilege, ringing out, or other arrangement, this agreement must be written and signed in duplicate by the parties.

In accordance with the declaration that the purpose of this measure was to raise revenue, the bill imposed numerous taxes on these transactions. All dealers in "options and futures" were required to pay a license fee of $12. The original and duplicate of every "options" contract and of every "futures" contract was to have affixed thereto internal revenue adhesive stamps representing one cent for every 10,000 pounds or fractional part of that amount, or for every 1,000 bushels or fractional part. In addition, to each and every written or printed instrument and the duplicate thereof, evidencing the transfer or assignment of any contract, whether by endorsement upon the contract or by separate written instrument, a similar tax was imposed. Every bill of sale executed at the termination of

of such contracts was to have internal revenue adhesive stamps of two cent denomination attached.

Every "options" contract which expired by limitation without an absolute sale and actual delivery of the article or articles was to be taxed at the rate of one cent for every pound, three cents for every bushel of wheat, and two cents a bushel for other products measured in that way. Thus the idea in this measure was to raise revenue by taxing all such contracts and dealers, but to prohibit through taxation the making of those contracts in which actual delivery was not intended.

The bill also provided for the bonding of "options" and "futures" dealers, the keeping of a record of these contracts by such dealers, the making of monthly reports to the Collector of Internal Revenue and close supervision of such dealings by the government.[9]

The measure was debated in the House from June 18 to 22. Those who favored the bill argued that the decline in price was not due to overproduction but to the sale of fictitious products; that the legislation was demanded by every Grange, every Alliance, and every agricultural newspaper in the United States; that the objections to the former bill had been met because this measure recognized legitimate speculation; and that the measure was constitutional because the power of Congress to tax was unlimited. While those who opposed the bill argued that it was paternalistic and involved too much federal inter-

ference; that it would obstruct legitimate speculation and encourage "corners"; that the penalty on the "ringing out" of contracts, which served the same purpose as the clearing house did for banks, was absurd; that intervention by the government to stop the fall in prices was futile, and that it was impossible to stop gambling in these products by legislation because "goodness" could not be enacted into men.[10]

An amendment adding flour to the list of articles to which the bill was to apply was adopted by a vote of 93 to 33. This was done because it was charged that the measure, as drawn, favored the milling interests. Mr. Aldrich of Illinois, formerly a member of the Chicago Board of Trade, offered an amendment to strike out section two of the bill, which would have made it apply to "options" only. He argued that the advantages of "future dealings" outweighed the disadvantages and that speculative gambling was for the most part confined to trading in "privileges" commonly called "options". The attempts to amend this section of the measure failed, and the bill passed the House by a vote of 150 to 89.

Anti-option legislation did not fare so well in the Senate. Two bills on that subject were introduced early in the session, one by Senator Peffer on December 4, the second by Senator George on January 31. These were reported to the Committee on Agriculture. Both of these favored the use of the commerce clause, the George bill

being the so-called "George substitute" of the last Congress. The Hatch bill, having passed the House, went to the Senate on June 26, where it was delayed over the question of which committee it should be referred to until July 16. It was then referred on motion of Mr. Washburn to the Committee on Agriculture from which it was reported back with amendments on August 2,[12] but was not debated. On August 3, Senator Davis from Minnesota introduced a bill "defining options and futures and imposing special taxes on dealers there-in", which was tabled.[13]

The outstanding feature of the Hatch bill of 1894 was the recognition of the right of the non-owner to sell for future delivery, but this law limited the right by providing that every "options or futures" contract was to be terminated by an actual delivery. In the report which accompanied the bill, it was urged that the produce and grain Boards of Trade in the United States all recognized in their rules the right of the buyer to demand and the obligation of the seller to deliver whatever he had agreed to sell for future delivery.[14] But the measure, by providing a tax which its opponents declared would be prohibitive, still struck at the system of "dealing in Futures" or short selling as it had been developed by the organized exchanges because it failed to recognize as legitimate a number of the practices which the exchanges considered acceptable as far as the termination of contracts was concerned. Chief among these being the termination of such contracts by cancellation, by clearance,

and "by ringing out".

This whole question of "short selling" or "dealing in futures" in agricultural products arose naturally, as has been shown, as a result of the changed conditions of marketing, due chiefly to the improved means of transportation and communication. As a result of this system, a special class of speculators appeared. Before this time there had been speculation in these products but it had been carried on by the traders, importers, exporters, and in some instances by manufactures such as the flour millers. Evils arose in connection with the practices of this new group of speculators. The public, recognizing the evils but not the benefits of the new system, attacked it first by state laws, which either prohibited dealing in futures entirely or permitted such dealings if the intention was to fulfill the contract.

The change in the ideas concerning "dealing in futures" was reflected in the bills and resolutions introduced into Congress. In 1884, the value of "dealing in futures" was denied entirely by the Le Fevre resolution which demanded a national law prohibiting the purchase and sale of agricultural products unless there was an actual transfer of property or of a warehouse receipt. The speculator was denounced as a non-producer. By 1890-92, in the Butterworth and Washburn-Hatch bills, sale for future delivery was permitted if the seller was the owner of the goods so sold or the agent of the owner. By 1894

a distinction was made between legitimate speculation and speculative gambling. Sales for future delivery by non-owners were permitted but the test to be applied was that of actual delivery. The committee in the report which accompanied the bill, instead of denouncing speculators and speculation as had formerly been done, declared that they regarded legitimate speculation as wholesome and proper and agreed that it should be encouraged, for "legitmate speculation is the very heart blood of commerce; speculative gambling a pyaemia which is impairing its vitality".[15]

The question of the constitutionality of such legislation was still a vital one in 1894. In the Reese bill of 1884 the power of Congress to establish post-offices and post roads was held to authorize such legislation by Congress. In the report on the two bills introduced in 1888 the Committee denied the power of Congress to enact an "anti-option law", arguing that the question of morals was involved, which made it a matter for state action. The "Butterworth" and "Washburn-Hatch" bills made use of the taxing power, the argument being that the right of Congress to tax was expressly given to Congress by the Constitution and that they were the judges as to the purposes for which it could be used, limited only by the restrictions definitely placed upon that power by the Constitution. In the "George substitute", proposed by the minority of the Judiciary Committee in the Senate,

the "commerce power" was used. In order to meet the argument that the measure of 1892 was a "sham" and a perversion of the taxing power, the Hatch bill was drawn so that all "futures sales" and dealers would be taxed, but that those sales not settled by actual delivery would be taxed out of existence.

This "Hatch bill" of 1894, while it showed some evidences of enlightenment in regard to the function of speculators was, in fact, based on the same theory that the former bills had been framed on. Thus the entire attack on "speculation" during this period was based on the belief that these dealings depressed the price of agricultural products, because the producer had to compete with the "illimitable quantities of fiat or fictitious products" which, when forced on the market, had the effect of an enormous additional supply. Therefore, the forces of supply and demand were not allowed to operate unhampered in setting the price.

The report which accompanied the "anti-option" bill of 1894 and the debates on the measure in the House showed the modification of the ideas of some of the friends of this legislation concerning the importance of this dealing in causing the decline in price of these products. In 1884 dealing in futures had been declared an evil because it reduced the price to the producer and increased it to the consumer. By 1888, it was declared that the money power of the world controlled prices through the

devices of speculators and gamblers, and that the chief cause of the decline in prices was the speculation in farm products. In the debate on the Washburn-Hatch bill in the Senate, a division of opinion was shown; some arguing that it was one of the chief causes, the tariff and silver being more important; others, that it was the chief cause. The report which accompanied the "Hatch" bill of 1894 declared that the decline in price was due to "quite an extent" to the practice of short selling and that prosperity would be partially restored as a result of the enactment of the law.

Several factors contributed to the failure of the "anti-option" movement at this time. First among these was the faultiness of the measures which were placed before Congress. That there was a wide spread demand for such legislation cannot be denied. But the bills introduced had for their purpose the stamping out of the whole system of "short selling" or dealing in "futures" instead of attacking the evils which had arisen in connection with it. Nor must the public or the framers of the bills be condemned for their attitude. There were abuses which were very apparent. The system was new, had developed in a comparatively short time, and its function had not been recognized. In addition, the very nature of speculation made it difficult to frame a law which would eliminate gambling and at the same time not interfere with legitimate business. The laws as framed were fought by the

organized exchanges. Had this legislation been directed against the evils which had arisen instead of against the whole system, it might possibly have had the support of the "constructive group" of speculators, who were, as has been shown, carrying on a fight against many of these abuses which had aroused public opinion against them.

A second factor was the diminishing of the demand on the part of the public. This feeling had grown partly as a result of the activities of the various farm organizations. While the Alliance continued to exist as an organization after the formation of the Populist party, the National organization lost strength for a time, and the original program of reform demanded by that organization in the St. Louis and Ocala platforms was largely lost in the demands of Populism which came to be centered around the silver question.

The Grange, on the other hand, did continue to take interest in the subject. This organization did send petitions into Congress in favor of the Hatch bill of 1894. Moreover at a meeting of the National Grange, held at Washington, D. C., a resolution, which was introduced into Congress by Senator Kyle on January 8, 1895, was adopted "favoring the passage of a bill prohibiting dealings in options and futures."[16] That this group was not more aggressive may be partly accounted for by the attitude of Joseph H. Brigham, who served as Master of the Grange until 1897, when he was appointed Assistant Sec-

retary of Agriculture. Mr. Brigham testified before the Industrial Commission that he favored a national law, but that the difficulty came in framing one which would prevent gambling and not interfere with legitimate business, also that "you cannot do anything in the matter effectively until you have in Congress somebody who is willing to take up the fight and carry it on in and out of season." That lack was due at this time to the failure of both Mr. Hatch and Mr. Washburn to be re-elected, so that their terms expired March 3, 1895. Mr. George of Mississippi also was removed from Congress by his death in 1897.

A third and quite powerful factor was the return of prosperity in 1895--even though it was followed by a period of depression in 1896. The Nation took occasion to remark that "Wheat, since the spring season began, had advanced 25 to 30 cents per bushel". It was generally agreed according to this paper that the speculators had the chief hand in the advance, and that, in fact, the recovery had been largely due to the reviving confidence in the stability of our currency. It also called attention to the fact that "not a breath has been heard during the last four months from the advocates of the 'anti-option' law. But nobody can have forgotten the urgent plea of these philanthropists a year or two ago. Speculation in grain and cotton 'futures' we were informed must be prohibited by law unless the farmer is to be absolutely ruined."[17]

Another factor which may have influenced the public

was the fact that the Chicago Board of Trade, under the leadership of Mr. Baker had undertaken in 1895 an aggressive campaign against the "evils", especially against the warehousemen and the "bucket shops", which was to meet with some success during the next few years.

Although interest in this type of legislation did not die out entirely, especially in the South, as is shown by the introduction into Congress of bills dealing with the subject during the rest of the 90's, the strength of this first wave of reform had spent itself. Probably the chief result of which was to educate the public to some extent on the nature of organized speculation, and to cause the Exchanges to defend and to a certain extent amend their practices.

NOTES

Chapter I.

1. Report of the Hughes Commission on Speculation in Securities and Commodities, cf. Van Antwerp, The Stock Exchange From Within, 416.

2. Cunningham, The Growth of English Industry and Commerce, I, 460.

3. Emery, Speculation on the Stock and Produce Exchanges of the United States, 192.

4. Usher, "The Technique of Medieval and Modern Produce Markets", Journal of Political Economy, XXIII, 365.

5. Emery, Speculation on the Stock and Produce Exchanges 194.

6. Ibid., 33.

7. Boyle, Speculation and the Chicago Board of Trade, 51.

8. Emery, Speculation on the Stock and Produce Exchanges 35.

9. Smith, Organized Produce Markets, 42.

10. Emery, Speculation on the Stock and Produce Exchanges 36-37.

11. Ibid., 39-40.

12. Ibid., 41(Footnote).

13. Taylor, History of the Board of Trade of the Cityof Chicago, I, 185.

14. Ibid., 192-193.

15. Ibid., I, 206.

16. Ibid., I, 217.

17. Ibid., I, 331.

18. Dumbell, "Origin of Cotton Futures", Economic Journal, I, 260.

19. Ibid., 260.

20. Ibid., 261.

21. Ibid., 262.

22. Marsh, "Cotton Exchanges", Annals of the American Academy of Political and Social Science, XXXVIII, 261.

23. Dumbell, "Origin of Cotton Futures", 264.

24. Marsh, "Cotton Exchanges", 261.

25. Ibid., 261-262.

26. Boyle, The Marketing of Agricultural Products, 198-199.

27. Ibid., 206-207.

28, Ibid., 202.

29. Emery, Speculation on the Stock and Produce Exchanges, 177.

30. Report of the Hughes Commission, cf. Van Antwerp, 423.

31. Smith, Organized Produce Markets, 113.

32. Ibid., 119.

Chapter II.

1. Report of the Hughes Commission, cf., Van Antwerp, The Stock Exchange From Within 116-117.
2. Senate document, No. 135, 69th Congress, 1st Session.
3. "Terminal Grain Markets and Exchanges", Report of Federal Trade Commission, II, 110.
4. Boyle, Speculation and the Chicago Board of Trade, 62.
5. Taylor, History of the Board of Trade, I, 459.
6. Boyle, Speculation and the Chicago Board of Trade, 65.
7. Bradstreet's A Journal of Trade, Finance, and Public Economy, XV, (August 6, 1887).
8. Taylor, History of the Board of Trade, II, 749 ff.
9. Ibid., II, 774.
10. Ibid., II, 842.
11. Boyle, Speculation and the Chicago Board of Trade, 74-77.
12. Taylor, History of the Board of Trade, 530.
13. Report of the Hughes Commission, cf. Van Antwerp, 416
14. Report of the Federal Trade Commission, II, 115-116.
15. Taylor, History of the Board of Trade, II, 771.
16. Report of the Federal Trade Commission, II, 115-116.
17. Taylor, History of the Board of Trade, II, 838.

18. Ibid., II,857.

19. Ibid., II,896.

20. Ibid., II, 1155.

21. Boyle, Speculation and the Chicago Board of Trade, 99.

22. Taylor, History of the Board of Trade, I, 292.

23. Boyle, Speculation and the Chicago Board of Trade, 103.

24. Ibid., 104.

25. Thirty-eighth Annual Report of Trade and Commerce of Chicago(1895) pp.LXXI ff.

26. Boyle, Speculation and the Chicago Board of Trade, 110-111.

27. Ibid., 109.

28. Report of the Federal Trade Commission, II,121.

29. Bradstreet's Journal, XV, 164.

30. Report of the Federal Trade Commission, II, 122.

31. Taylor, History of the Board of Trade, II,744.

32. Ibid., II, 786.

33. Report of the Federal Trade Commission, II, 124.

34. Taylor, History of the Board of Trade, II,835.

35. Boyle, Speculation and the Chicago Board of Trade, 94-95.

36. Emery, Speculation on the Stock and Produce Exchange 195,

37. Report of the Federal Trade Commission, II, 109-110.

38. Ibid., II, 113.

39. Ibid., II, 114.

40. See p.17.

41. Commercial and Financial Chronicle, XXXIV, 421.

42. Ibid., XXXIV, 188.

43. Emery, Speculation on the Stock and Produce Exchanges, 197 ff.

44. Ibid., 197 ff.

45. Emery, Speculation on the Stock and Produce Exchanges, 194.

46 Congressional Record, 48th Congress,1st Sess. 1191

47. Ibid., 1430.

48. Ibid., 1978.

Chapter III.

1. Miller, "The Background of Populism in Kansas", Mississippi Valley Historical Review, XI, 471.
2. Ibid., XI, 470.
3. Farmer, "Frontier Populism", Miss. Valley Hist. Review, X,416.
4. Miller, "The Background of Populism in Kansas", Miss. Valley Hist. Review, XI, 477-478.
5. Dale, The Range Cattle Industry, 104 ff.
6. See p. 30.
7. Arnett, "The Populist Movement in Georgia", Columbia University Studies in History, Economics, and Public Law, IV, 64-65.
8. Emerick, "An Analysis of Agricultural Discontent in the United States", Miss. Valley Hist. Review, XIII, 390 ff.
9. Farmer, "The Railroads And Frontier Populism", Miss. Valley Hist. Review, XIII, 390 ff.
10. Refsell, "The Farmers' Elevator Movement", Journal of Political Economy, XXII, 876.
11. Report of the Industrial Commission on Agriculture and Agricultural Labor, X, p.CCCXVII.
12. Larson, " Wheat Market and the Farmerin Minnesota," Columbia University Studies in History, Economics, and Public Law, CXXII, 172-176.
13. Report of the Industrial Commission, X, p. CCCXXX.

14. Larson, "Wheat Market and The Farmer in Minn." 203.

15. See p. 17.

16. Farmer, "Frontier Populism", 425.

17. See p. 18.

18. See p. 25.

19. Buck, The Agrarian Crusade, 44 ff.

20. Larson, "Wheat Market and the Farmer in Minn.,198.

21. Atkeson, Semi-Centennial History of the Patrons of Husbandry, 139.

22. Ibid., 140.

23. Congressional Record 50th Congress, 1st. Sess.

24. Ibid.

25. Appleton's Annual Cyclopaedia, 1886, 331.

26. See p. 31.

27. Congressional Record, 50th Congress, 1st. Sess. 636.

28. Ibid., 1150, 1308.

29. House document, No. 4141, 50th Cong. 2nd. Sess.

30. Haynes, Third Party Movements, 228-229.

31. Larson, "Wheat Market and the Farmer in Minn." 175.

32. Buck, The Agrarian Crusade, 111-124.

33. Haynes, Third Party Movements, 228-230.

34. Ibid., 233.

35. Letter from the Office of the Beef Producers and Butchers' Protective Association of the United States, publishedin the Kansas Farmer, Jan. 10, 1889.

36. Kansas Farmer, March, 21, 1889.

37. Peffer, The Farmers' Side, 122-123.

38. Editorial in the Kansas Farmer, Dec. 4, 1889.

39. Kansas Farmer, Feb. 12, 1890.

40. Congressional Record, 51st. Congress, 1st. Sess. p. 3699.

41. House report, No. 1321, 51st. Congress, 1st.Sess. Bradstreets Journal, XVIII(Jan. 25, 1890) 54.

42. House report, No.1321, 51st. Congress, 1st. Sess.

43. Paxson, Recent History of the United States,187-188.

44. Congressional Record, 51st. Congress,1st. Sess.

45. Bradstreet's Journal, XVIII(April 12,1890) 231.

46. Ibid., XVIII(June 28, 1890)406-407.

47. Ibid., XVIII(April 19, 1890) 246.

48. Congressional Record, 51st. Congress, 1st. Sess.

Chapter IV.

1. Rhodes, History of the United States from Hayes to Mc Kinley, 367.
2. Garlin, "The Alliance Wedge in Congress", The Arena, V (1892).
3. See p.52.
4. Bradstreet's Journal, XX(Feb. 27, 1892) 130, quoting from the Market Recordof Toledo, Ohio.
5. Congressional Record, 52nd. Congress, 1st. Sess. 66, 90, 131.
6. Ibid.
7. Atkeson, Semi-Centennial History of the Patrons of Husbandry, 170.
8. Report of the Industrial Commission, X, 25-26.
9. Congressional Record, 52nd. Congress, 1st. Sess.
10. H. R. 394, 52nd. Congress, 1st. Sess.
11. H. R. 479, 52nd. Congress, 1st. Sess.
12. H. R. 2699, 52nd. Congress, 1st. Sess.
13. H. R. 3870, 52nd. Congress, 1st. Sess.
14. H. R. 6012, 52nd. Congress, 1st. Sess.
15. Congressional Record, 52nd. Cong. ,1st.Sess.,2910.
16. Ibid., 5073.
17. Ibid., 5071-73.
18. House report, No. 969, 52nd. Cong., 1st. Sess.

19. Congressional Record, 52nd. Cong. 1st. Sess., 5075

20. S. 685.

21. Bradstreet's Journal, XX(Jan. 2, 1892) 3

22. Congressional Record, 52nd. Cong., 1st. Sess., 107

23. S. 1757.

24. Bradstreet's Journal, XX(Jan. 30, 1892) 68.

25. Congressional Record,52nd. Cong. 1st. Sess., 5172

26. Ibid., 5324.

27. Senate report, No. 893, Parts 1 and 2, 52nd. Cong., 1st. Sess.

28. Congressional Record, 52nd. Cong., 1st. Sess., 6961.

29. Nation, vol. 54(Feb.25,1892) 140-141.

30. Congressional Record, 52nd. Cong. 1st.,Sess. 5983ff

31. Ibid., 6402.

32. Ibid., 6889.

33. Congressional Record,52nd. Cong.,2nd. Sess., 2354.

34. House report, NO.2421, 52nd. Cong.,2nd. Sess.

35. Congressional Record, 52nd. Cong., 2nd. Sess.,2351.

36. Ibid., 2351-58.

37. Kansas Farmer, March 22,1893.

Chapter V.

1. Appleton's Annual Cyclopaedia, 1893, pp.222-224.
2. Congressional Record, 53rd. Cong. 2nd. Sess.
3. Ibid., 2015.
4. Ibid., 2422.
5. Ibid., 4490.
6. House report,No. 845, 53rd. Cong. 2nd. Sess.
7. Congressional Record, 53rd. Cong. 2nd. Sess.
8. Bradstreet's Journal, XXII(March 24,1894)177.
9. Congressional Record, 53rd. Cong. 2nd. Sess. 6478 ff
10. Ibid.,
11. Ibid., (S.1167)11; (S.1537) 1678, 1857.
12. Ibid., 6810, 7532, 8104.
13. Ibid., 8144, 8219.
14. House report No.845, 53rd.Cong. 2nd. Sess.
15. Ibid.
16. Congressional Record, 53rd, Cong. 3rd. Sess.,711
17. Nation, LX(June13,1895)453.

BIBLIOGRAPGY

Government Publications

Federal

Congressional Record, 1874---, Government Printing Office, Washington, 1874.

Report of the Federal Trade Commission on the Grain Trade, (7 vols.) Government Printing Office, Washington, 1920-26.

Report of the Industrial Commission (19 vols.) Government Printing Office, Washington, 1900-1902.

State

Report of the Governor's Committee on Speculation in Securities and Commodities, 1909. cf. Van Antwerp, W.C. The Stock Exchange From Within, Doubleday Page and Company, New York, 1913.

Newspapers

Bradstreet's A Journal of Trade, Finance, and Public Economy, Bradstreet Company, New York, vols. XIII-XXIII, 1886-1895.

Commercial and Financial Chronicle and Hunt's Merchant Magazine, William B. Davis Company, New York.

Kansas Farmer (Topeka).

Nation, (1865---) The Evening Post Publishing Company, New York.

Articles, Essays in periodicals, Annals, and Publications of Learned Societies.

Arnett, Alex Mathews, "The Populist Movement in Georgia", Columbia University Studies in History, Economics, and Public Law, CIV, Part I.

Dumbell, Stanley, "The Origin of Cotton Futures", Economic Journal Supplement, Economic History I, 260-267. Macmillan and Company, London, 1929.

Emerick, C.F., "An Analysis of Agricultural Discontent in the United States", Political Science Quarterly, XI, 601-639(Dec.1896); XII(March,1897) 93-127.

Emery, H.C., "Speculation on the Stock and Produce Exchanges of the United States", Columbia University Studies in History, Economics, and Public Law, VII, No.2, Columbia University, New York, 1896.

Farmer, Hallie, "The Economic Background of Frontier Populism", Mississippi Valley Historical Review, X, 406-427(March, 1924).

Farmer, Hallie, "The Railroads and Frontier Populism", Mississippi Valley Historical Review, XIII,(Dec.1926)387-397.

Garlin, Hamlin, "The Alliance Wedge in Congress", Arena, V(1892)

Larson, Henrietta M., "Wheat Market and the Farmer in Minnesota, 1858-1900", Columbia University Studies in History, Economics, and Public Law, CXXII.

Marsh, Arthur R., "Cotton Exchanges and Their Economic Function", Annals of the American Academy of Political and Social Science, XXXVIII, 571-598 (July- December, 1911).

Miller, Raymond Curtis, "The Background of Populism in Kansas", Mississippi Valley Historical Review, XI(March, 1925) 469-489.

Refsell, Oscar N., "The Farmers' Elevator Movement" Journal of Political Economy, XXII.

Usher, Abbott Payson, "The Technique of Medieval and Modern Produce Markets", Journal of Political Economy, XXIII,(April,1915) 365-388.

Histories

Atkeson, Thomas Clarke, Semi-Centennial History of the Patrons of Husbandry, Orange Judd Company, New York, 1916.

Buck, Solon J., The Agrarian Crusade, A Chronicle of the Farmer in Politics, (Chronicles of America Series, Allen Johnson, editor, vol. 45) Yale University Press, New Haven, 1921.

Cunningham, W., The Growth of English Industry and Commerce, (2 vols.) University Press, Cambridge, 1912.

Haynes, Fred E., Third Party Movements Since the Civil War, State Historical Society of Iowa, Iowa City, 1916.

Paxson, Frederick L., Recent History of the United States, 1865-1927, Houghton Mifflin Company, Boston, 1928.

Rhodes, James Ford, A History of the United States from Hayes to Mc Kinley, 1877-1896, The Macmillan Company, New York, 1919.

Taylor, Charles H., History of the Board of Trade of the City of Chicago, (3 vols.) Robert O. Law Company, Chicago, 1917.

Special Monographs

Dale, Edward Everett, The Range Cattle Industry, University of Oklahoma Press, Norman, 1930.

Peffer, W. A., The Farmers' Side, His Troubles and Their Remedy, D. Appleton and Co., New York, 1891.

Studies in Economics.

Boyle, James E., Speculation and the Chicago Board of Trade, The Macmillan Company, New York, 1920.

Boyle, James E., The Marketing of Agricultural Products, (1st. edition) Mc Graw Hill Book Company, New York, 1925.

Smith, John George, Organized Produce Markets, Longman's Green and Company, London, 1922.

Miscellaneous

Appleton's Annual Cyclopaedia.

Thirty-eighth Annual Report of the Trade and Commerce of Chicago, compiled for the Chicago Board of Trade, Chicago, 1895.