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The New German Exchange Act

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THE NEW GERMAN EXCHANGE ACT.

THE increase of speculation in the year 1890, and the numerous bankruptcies that followed, gave rise to the New German Exchange Act. And in February, 1892, when the Commission of Inquiry into Exchanges was summoned, the main problem was still, How to restrict gambling on 'Change; how, in particular, to render it difficult for private persons, *i.e.*, the non-commercial public standing outside Exchange dealings as such, from taking part therein. Speculation in bonds was at the time unquestionably very widely diffused among all classes, and no less widespread were the heavy losses that followed during the depression of 1891. But it was also maintained that the general public had been largely speculating in goods; and that persons of private means, officials, clerks, and even servants, were dealing in "futures" on 'Change in coffee, sugar, grain, &c., and that this had not only brought great injury to them, but had tended to the giddy fluctuation in prices. On the Hamburg coffee market, no doubt, a considerable number of such "outsiders" had taken part in these transactions, but I think that in other respects the statements on the subject are somewhat exaggerated, and that comparatively few people speculated in goods with which they had, as a rule, nothing to do.

Dealing in futures is regarded as the peculiar province for gambling on 'Change, and rightly so when the speculation is in goods. A great capitalist who is able to store large quantities of goods, or to place them on the market at the right moment, may, of course, make cash speculations on a grand scale, because he is able to influence prices. But futures afford persons of comparatively small means the chance of making great gains by gambling, because in this case their obligations can be met not only by the actual delivery or withdrawal of the goods that were bought or sold, but also by the loser paying the difference. The great gambling transactions in the Stock Exchange occur also as a

rule in the form of futures among private persons. In Germany a milder kind of speculation is more general, based on cash transactions with credit allowed by the banker through whom the business is transacted. For instance, a man will deposit 20,000 marks with his banker, by whose assistance he buys, for cash, shares or bonds to the value of 40,000 marks. These are lodged with the banker as security. The purchaser can then quietly wait until the Exchange value of his securities rises, and when this is sufficiently high can sell out at a profit. Of course, in the meantime he must pay interest to his banker for the amount advanced; on the other hand, he will receive Exchange interest (*Börsenzinsen*), or any real interest or dividends on the deposited bills that may fall due during the interim. When the terms of such transactions are those of monthly settlements, they come very near to actual futures. They scarcely lend themselves to speculation in "bears," but private speculators who flock into the field only when times are good, reckon almost exclusively on a rising market, and hence find many convenient opportunities for speculation apart from futures. Until lately, the investor had no guarantee that the banker actually bought and took charge of the securities that were ordered.

Indeed, it was the general opinion that the banker was only bound, should the purchaser demand it, to furnish him at any time with the exact number of the securities, or to sell them for him. The depositor had no proprietary rights over the securities unless he received a list of the numbers of the several securities which had been purchased. Then only was he entitled to more than a demand on his banker. At the time of the passing of the New Stock Exchange Act, the Act of July 5th, 1896, relating to the safe keeping of bonds, was also passed, occasioned by the numerous embezzlements of deposited securities. By it those buyers who were speculating in bankers' credit are included under better protection. It *obliged* the agent to give in a list of items; nor may the buyers, if they are not themselves bankers or bill-brokers, omit to demand it, unless an explicit written explanation accompanies every separate commission. The same applies to all bonds left as security with a banker.

Thus, in any case, extensive Stock Exchange speculations in bonds may also be carried on by cash transactions, and experience has already confirmed the expectation that a limitation of dealing in fixtures would involve an increase in other forms of speculation. The Enquiry Commission has not proposed any considerable limitation of time bargains in bonds; but only the

exclusion of such stocks as did not represent a capital of, at least, 20 million marks. The Bill, as drafted by the Bundesrath, added the provision that every one who took part in such transactions should be entered on an Exchange Register, and the Act forbade all dealings in futures on the Exchange in mining or industrial shares. These measures are bearing very little effect either for good or evil. The Stock Exchange easily accommodated itself to them. The Exchange values of industrial and mining shares, owing to the favourable course of business, have scarcely ever risen so high as during the last few weeks, and there has been a very brisk speculation in this scrip on the part of private persons. The fluctuations and the ultimate fall in prices will, it is true, be probably more violent than would have been the case had there also been time bargains, as in the case of speculative sales dealers protect themselves by purchase when prices are falling, and so prevent a further fall.

Hence, if it were the aim of the Exchange Act of June 22nd, 1896, to limit speculation on the Stock Exchange, and especially to exclude from it, as far as possible, the non-commercial public, there is very little practical result to show. But that aim, which at first was so prominent, has been gradually dropping out of sight, and the tendency of the Act has become more and more distinctly agrarian. It is true that in the proposals laid before the Reichstag, which were occasioned by the creation of the Enquiry Commission, there was a demand for regulations against the abuse of time-bargains as a means of gambling, both on 'Change and elsewhere, with special reference to staple food-stuffs. But, from the wording of these proposals it is evident that they only referred to an artificial raising of the prices of necessaries through the operation of the Exchanges. But during the last two years of the deliberations of the Enquiry Commission, it became more evident that the whole interest of the agrarian party was concentrated on the effort to limit, or, where possible, to prevent all futures, in case of trading in grain, or other agricultural products. These efforts were not entirely successful, either in the proposals of the Commission, or in the Bill as drafted by the Bundesrath; in the Act itself however the end was gained, its most important clause prohibiting time bargains in buying or selling grain or mill goods.

It is these time bargains in grain which are at the root of the hostility with which the agricultural interest regard the Exchange. They are persuaded that the Exchange speculates for a fall in the price of grain with a more or less malignant motive, and that

time bargains offer the best opportunity for attaining this end. It is in vain they are assured that the whole tendency of the Exchange is to raise rather than to lower prices; that this has been repeatedly proved with regard to other commodities, *e.g.*, sugar and spirits; and that during the last four months of the preceding year, so soon as the condition of the world's market allowed, it effectually supported a rise. When the Russian crop failed in 1891 and all export of grain from Russia was forbidden, the Exchange was charged with unduly forcing prices up; why then should it afterwards develop an inexplicable and malevolent preference for low prices?

Of course it is easy to explain how this opinion of the agrarian party arose. Because the price level, which is determined by the natural conditions of the markets of the world, finds expression on the Exchange, the latter is held responsible for these conditions. Germany must import yearly about one-fourth of her wheat, and one-ninth to one-tenth of her rye; and this is done mainly through transactions on 'Change, and especially by dealings in futures. When foreign crops are heavy, the importation of grain into Germany will always bring prices down to a level with those of the markets of the world, altogether apart from the duty, and it will be so even when a deficient home crop would seem to justify a rise. And then Exchange is held responsible for this depression; though it was really caused by the importation that must have taken place without the co-operation of the Exchange and of time bargains. When the price of wheat is higher in Berlin than in America *plus* duty and *plus* cost of transport, there must in any case be an importation which will check any further rise. If this is done without the aid of dealings in futures, the firms which have large capital at command will control the market all the more, and by buying and selling stock will influence prices in their own interest all the more. By this means they will probably make larger profits; but whether this control, exercised by a maximum of ready capital, will also benefit the landed interest is exceedingly doubtful.

On the whole it is clearly recognised that futures have a levelling effect on prices, and keep fluctuations within narrower limits. This is very evident on the Stock Exchange. Shares that are not objects of time bargains often undergo serious alteration in Exchange value on account of a relatively slight supply or demand, and, in the case of a panic, incur not infrequently an incredibly severe fall; while, on the other hand, shares which are objects of time bargains are subject to less sudden fluctuations. And (as

already stated) even under unfavourable circumstances, any excessively severe depreciation is prevented by dealers in speculative sales requiring to cover their liabilities. In the Produce Exchange the general effect of time-bargains is the same, though here there may be some peculiarities of form. They make the market wider. Every lot of goods offered for delivery easily finds a purchaser, who must then provide for their disposal, either taking them himself, or finding another purchaser before the term for delivery expires. The goods may thus pass through several hands; but if they are actually delivered, a purchaser is forthcoming, who actually takes them, either definitely or for contango settlement for the last seller. So also any one may at any time buy for future delivery, and at a fixed price, even large quantities of goods without his inquiry influencing the price nearly so much as would have been the case had there been no organised dealings in futures. There are many speculators on the market who sell goods for delivery when they don't possess them, intending to make something out of the transaction by buying, if possible, of course at a lower price. But they undertake the obligation of finding another vendor; and, should the original purchaser positively demand it, the goods will be punctually delivered, and at the time agreed upon. Of course, if *every* buyer and *every* seller taking part in a series of transactions intends from the outset to free himself before the expiration of the time by a transaction of an opposite nature, the deal is closed without any actual delivery of goods, and all claims and obligations are settled by a payment of differences. But the extent of the market remains steady. None of the speculators knows whether the other party will really deliver or be "called up"; and every one must at least have the means at command to enable him provisionally to undertake the responsibility, either of payment, as of delivery, until such time as he could find an opportunity of turning it over to some one else. It is clear that dealings in futures make it possible for those who will not themselves speculate to *insure* themselves against future fluctuations in price. For instance, the corn merchant can sell to-day, at a certain price, for a future date wheat which is still stored in Chicago, and in the same manner the miller can even now cover his future need in wheat at a certain price; both can hereby lessen their business risk at pleasure.

But, say the opponents, millions of sacks of grain are sold on the Exchange which have no existence whatever, and this "paper wheat" exerts an artificial pressure on prices which is injurious to the interests of agriculture. In this objection the fact is

overlooked that the dealer in speculative sales is obliged, later on, to buy in precisely the same quantity, and thereby cause a corresponding rise. Such speculative transactions, however, on the Exchange are *continuous*; there are thus at the present time speculative sales that were negotiated at an *earlier* date, which must be covered by repurchase, and these are now counter-acting the effect of speculative sales just made. It is true that under certain circumstances the latter may considerably preponderate, but this is only to be expected, and the dealers in speculative sales can only count upon a profit when the actual condition of the world's market shows a downward tendency in prices. And this tendency will always be mitigated by the need of the speculator in "bears" to cover his liabilities. As speculation for the most part is accurate in its judgment of immediate contingencies, the prevalence of such sales at any given time is only a sign of the fact that in the markets of the world the ruling tendency is to a fall. If the actual relations of supply and demand worked in the opposite direction, speculative sales could only lead to the ruin of speculators attempting to swim against the stream.

Even a merely passing effect on the Exchange prices of a commodity is only felt when supplemented by large *actual* sales. It is the latter that do most to produce a fall, and speculative sales only intensify it. On the other hand they greatly increase the risk of the speculating capitalist doing business on a large scale. He, if he has been deceived in his judgment as to the situation in the world's market, will have to smart the more sorely for it. Speculators who are operating with large capital, or with great quantities of goods, may sometimes perhaps have worked against the interests of agriculturists; nevertheless, opposing interests always exist in business affairs, and the suppression of time bargains would make no alteration save to increase the power of large business capital.

Other objections to time bargains in grain have a more specific character. It is urged that they have systematically kept prices down during the time immediately following harvest—the time when most agriculturists are obliged to sell—and then a little later raise them as high as possible when agriculturists could no longer benefit by them. But this is surely in the natural order of things, and if there were only actual trade transactions it would be the same:—prices fall when a new harvest brings a full supply to the market, and rise towards the close of the agricultural year when the supply is limited. But

if the crops are less than normal there is an immediate tendency towards a rise in price, as was the case in September and October, 1896.

Complaint has also been made that the qualities of wheat and rye, accepted in time bargains, were very inferior, especially on the Berlin Exchange; yet the prices quoted for these low qualities were made the basis for settling bargains in the provinces, so that even the grain of better quality did not realise its proper price. It is a fact that before the year 1887 the qualities delivered at the Berlin Exchange were very inferior. However, Prince Bismarck, as Minister of Commerce, then made an order that the qualitative weight, *i.e.*, the weight which served as the standard mark of the quality of a certain measure of corn, was to be considerably raised for the various kinds delivered. An agricultural authority said indeed, very lately, that even this, the current weight, is not nearly high enough, because, for example, whereas a hectolitre of rye, of normal quality, would weigh 72-73 kils., the standard quality in Berlin is only 71·2 kils. The Government, however, has abandoned the further raising of the compulsory weight of rye to 72 kils., as had been proposed for 1898, because it appeared that a great part of the rye grown in the eastern provinces of Prussia in unfavourable years, such as 1889, does not come up to this weight.

Again, the agricultural party has asserted that the experts on Change frequently passed perfectly useless grain as fit for delivery, and thus caused a depression in prices. As the delivery quality is only determined by the qualitative weight and by being declared "good and sound," it may happen that grain can satisfy these conditions and yet be unsuitable for grinding. But, that the experts wittingly gave an undue preference to bad qualities is an utterly unfounded accusation.

And lastly, the charge is brought against the Exchange that prices, especially those of grain, were falsely quoted and did not correspond with those actually paid. The representatives of the Exchanges thus attacked have repudiated the accusation as slanderous, and no proof of it has been brought forward. On the other hand the accusers have condescended to explain that they only meant to say that *outside* the Exchange higher prices were frequently paid than were quoted on 'Change. Nevertheless, in agricultural circles there is still great want of confidence in the way in which prices are quoted on 'Change, and special stress is laid on the demand that representatives of their interests should be on

all Exchange directorates, in order that they might have a voice in the fixing of the official rates.

We have enlarged upon the tendencies which gave rise to the new Act in order to render it easier to form an opinion on each separate clause. No definition of the term "Exchange" is given in the Act, and probably the law will soon have to decide whether the Free Associations of Merchants, which have superseded the Produce Exchanges in Berlin and some other towns, are to be considered as Exchanges, and whether as such they are under the Act. If they are Exchanges, their establishment must, according to the first paragraph of the Act, be ratified by the Government of the country;—*i.e.*, not the Imperial Government, but that of the State specially concerned. Hitherto, in nearly all other Federated States, the ratification of the Government was not necessary in order to establish Exchanges, nor in most of them did any State supervision exist. The State Governments have also the power to abolish existing Exchanges, and they always have a right of supervision, not only over the Exchanges themselves, but also over such institutions as are closely connected with them, such as Information Bureaus, Clearing Houses, &c. But now by these provisions concerning the establishment and supervision of Exchanges, the essential features of the Prussian Legislature have been extended over the whole Empire. According to the new Act, direct supervision over the Exchanges can be given to Chambers of Commerce, or similar bodies. In addition to this a State Commissioner is to be appointed to represent the State Government, at least on all the larger Exchanges. But besides these rights vested in the Government of each State, the Imperial Government as represented by the Bundesrath receives certain powers over the Exchanges. And in order that the regulations of the Bundesrath may be properly carried out in these matters, a consulting Committee is to be appointed to help them, half the members of which are to be elected directly by the Bundesrath and half on the nomination of the Exchange authorities. For every Exchange a set of regulations is to be published, which must be accepted by the State Government. The latter can also insist on the incorporation of certain ordinances in the Exchange regulations, especially such ordinances as shall provide for an adequate representation of agriculture, milling and allied industries on the Directorates of the Produce Exchanges. The enforcement of these regulations has led to conflicts in Prussia, because the members of the Produce Exchanges in Berlin and other places did not wish to

accept the co-operation of their agricultural opponents on the Exchange directorates. The Exchange regulations must also arrange for the management of the Exchanges, must determine the branches of business which should come within its scope, the conditions of admission to its use, and the manner of quoting prices and values. The Act itself cites a series of classes of persons who are to be excluded from the use of the Exchange, and leaves it to the Exchange regulations to determine further grounds for exclusion. With regard to persons who are excluded on account of an ordinary bankruptcy, or who are in a state of insolvency, the regulations in this Act are more stringent than those of the earlier Berlin Exchange regulations, but it must be admitted that they are fully justified. The authority which Section 6 gives to the Bundesrath to prohibit certain branches of trade from making use of the Exchange facilities, or to make such use conditional, is important. There is no need here to enter more particularly into the provisions of the Act for maintaining order on the Exchange, as well as those relating to the courts of honour (*Ehrengerichte*) and equity, as they have no direct economic bearing. But the provisions for the official settlement of Exchange prices are important. This is undertaken by the Exchange Directorate both for cash and time bargains (*Zeitgeschäfte*), and the Exchange rules may decide whether this shall be done with the co-operation of representatives of other professions. This means practically whether the representatives of the agricultural interest shall co-operate with the directorate of the Produce Exchanges. Besides these no one may take part in the settlement of Exchange prices except the State Commissioner, the official brokers, and the Exchange Secretaries. The Exchange price is fixed by the actual trade conditions, under which transactions on 'Change are made. Hence, as a matter of course, only such bargains as are concluded on the Exchange itself are to be taken into account in the quotation of prices. But how is the price which corresponds to "actual trade conditions" known? According to the preamble of the Bill as drafted this is to be an average price. In determining this, special personal and other considerations which do not really touch the trade in question are to be rejected. It is, however, very difficult to say when such rejection is justifiable. In theory, no doubt, the most accurate method would be to take the average of all the prices that have been quoted during Exchange hours, regard being paid to the *amount of goods*. This however could only be carried out if none but officials or specially accredited

agents were empowered to act. But this is not the case, nor is it to be desired. The Act certainly introduces a new category of brokers, the so-called stock-jobbers (*Kursmakler*), who are appointed and sworn in by the States Governments. But they have no other rights beyond being consulted in the official settlement of Exchange prices, and it is only the transactions negotiated by them which have a *claim* to be considered in this settlement. On the other hand, the Exchange directorate *has a right* to take account of all sorts of transactions which have come about in other ways. Properly speaking this must always happen if the actual trade conditions are to receive adequate expression in the Exchange price. And besides, an Exchange price in the technical sense can only be fixed for securities and for goods of a well-defined type. Home-grown corn comes into the German markets of such markedly different qualities that a uniform quotation in cash transactions is not possible. On this account hitherto only two limiting prices, including a fairly wide range, had been decided upon on the Berlin Exchange, and these differ widely from each other. With respect to stock-jobbers it should be further noticed, that, contrary to the legal provisions hitherto in force regarding sworn trade brokers, stock brokers are now allowed to trade in their own name, at least up to a certain point, in those branches of business in which they have a voice in the official settlement of prices. They may also take over security for transactions negotiated by them, so far "as this is necessary to the execution of commissions entrusted to them." Large powers are given to the Bundesrath with regard to the settlement of prices on 'Change. It can empower particular Exchanges to settle prices by methods different from those prescribed in its general provisions, and it can order an official fixing of Exchange prices for certain goods either generally, or for certain Exchanges, when there is sufficient Exchange traffic in such goods. It can also create provisions in order to make one uniform method of quotation in the different Exchanges, specially with regard to the already established quantity units.

The Act further contains important regulations regarding the admission of bonds for Exchange business. In every Exchange a special Admission Committee is appointed, which verifies documents and references that are to be at hand before such bonds can be quoted on 'Change; it also seeks to give the public the fullest possible information about securities which are to be admitted; and such issues as may injure important general

interests, or which evidently lay the public under an undue disadvantage, are to be refused, without any reason for such refusal being expected. The Committee is further empowered to exclude securities that have been already admitted. The following objections may be made to this arrangement:—That securities which are admitted possess thenceforth in public opinion a kind of open guarantee that they are sound, and that purchasers would give themselves less trouble to arrive at a correct opinion as to their value. But by far the larger part of the public is not in a position to form such an opinion; and for this larger part it would, on the whole, be an advantage for as impartial a committee as possible to examine bills previous to admission, and to refuse issues to such as are evidently the outcome of conspiracy and fraud. This examination can, of course, be no guarantee of the absolute soundness of the securities that are admitted. One main basis of the examination is a prospectus which must be published and contain a great number of data quoted from the decree for carrying out the Exchange Act. If incorrect statements are made in the prospectus which materially affect the value of a security, the owner of the latter may recover for such loss as may accrue to him, from those who issued the prospectus, as well as from those under whose instructions it was issued, if they knew it to be incorrect, or could have known it without serious difficulty. The same rule also applies if the prospectus is incomplete through the omission of any important facts, whether the information is withheld from malice prepense, or from a culpable neglect to make sufficient inquiry. By this provision a serious responsibility is laid upon the issuing firms, the effect of which will probably be to render it difficult for half bankrupt States to raise loans, and for the shares of fraudulent companies to gain admission to the German Exchanges. Imperial loans and those of the federated German States are exempt from the restraints attaching to this prospectus; besides which the States Governments may also claim exemptions for debts guaranteed by them and for loans of public bodies.

The Act lays down certain conditions for the admission of securities to Exchange business. Notably, when a private undertaking has been turned into a joint stock company, its shares may not be admitted to the Trade Register until the expiration of one year after the registration of the company, and not until the publication of the first yearly report, accompanied by a profit and loss account. The Bundesrath also determines what must be the minimum capital of companies whose shares are to be

admitted, as well as the minimum value of the single items of the securities that are to be admitted. It can also make provisions regulating the scope of the Committee of Admission, and the requirements in order to admission. This is settled by the decree for carrying out the Act. It is especially stipulated that the sum total of the nominal value of the several shares seeking admission (hence, in the case of joint stock companies, of the capital) must amount to at least 1,000,000 marks for the Exchanges of Berlin, Frankfort and Hamburg, and to at least 500,000 marks for other Exchanges. But exceptions can be made for issues of merely local importance.

The following section of the Act concerns dealings in futures on 'Change, both in goods and in bonds. These are defined as transactions by which goods are procured, either by purchase or otherwise, for a definite date of delivery, or within a definite period for delivery if they are made in accordance with business provisions laid down by the Exchange Directorate for time bargains, and if there are regular quotations of such time bargains on the Exchange concerned. This definition thus implies that an Exchange system is already in practice. Time bargains are those which comply with the conditions laid down concerning them by the Exchange Directorate; but to this there must be added the requirement that a definite official price must be quoted. No time bargains, therefore, as understood in the Act, can be made with bonds that are not recognised on the Exchange. The conditions laid down by the Exchange authorities for all time bargains concern not only the time of delivery or the period allowed, but also the quantities which are to be taken as units in the transaction. For example, 25 shares; 50 tons of wheat; the quality of goods as decided by certain definite marks; the methods by which stocks should be liquidated and goods declared; the methods of enforcing its decrees; the subjection of parties to the Exchange Court of Equity. Prominence must be given to the details of these Exchange rules regarding time bargains, in order to distinguish them from other transactions relating to delivery, and to determine to what extent they have been prohibited. The Act gives full authority to the Bundesrath to make time bargains on the Exchange conditional, or to forbid them altogether with regard to certain goods or bonds. The Act expressly mentions two prohibitions of this kind. The one relates to time bargains in stocks or in shares in mines and manufacturing concerns, with the further proviso that any such dealings in connection with other industrial companies, such, *e.g.*, as banks and

railways, are only permitted when the capital of these companies amounts to at least 20,000,000 marks. This is to prevent dealings in futures in those shares which represent only a comparatively small capital, and the Exchange value of which can therefore easily be controlled by speculators with large capital. The second prohibition is, however, the most important. This concerns time bargains in grain and in mill products. It was not contained in the Bill as drafted by the Bundesrath, and was only added on the third reading in the Reichstag. The agricultural party regarded this as a great victory, but by this time they may well have learned to modify their opinion.

A further provision of the Act aims at limiting, as far as possible, all participation in time bargains on 'Change by those who are not *bona fide* business men. In order to engage with legal right in such transactions persons must enrol their names on an Exchange Register, which is to be publicly conducted by a competent tribunal. The Inquiry Commission had proposed this arrangement for transactions in goods only, but in accordance with a resolution of the Bundesrath the Act has extended it to transactions in stocks. The fee for registration and the yearly fee for maintenance are moderate and of no practical importance; reliance being placed rather on the moral effect of this register to deter persons from engaging in time bargains, in that it was expected that officials, officers and others who were not *bona fide* business men would be unwilling to have it publicly known that they were taking part in speculation. By such persons the Exchange Register would be regarded as a black list, whilst it was expected that it would not be so regarded by business men. But they have so regarded it, and have strongly protested against the innovation. It would have been better had the register been confined exclusively to those whose names did not appear in the Trade Register, in which case business men would not have been affected. Dealing in futures between two unregistered persons is not forbidden; but in such a case no debts can be recovered, nor can they be when only one is unregistered, unless such person has neither dwelling nor establishment in the country. But, on the other hand, dealing in futures between registered persons is not always legal, and may be open as hitherto to the charge of gambling. The Act only invalidates the objection that the transaction cannot be terminated by effectual delivery *as per contract*—a case of little practical moment. Hence the register has been of so little advantage to the subscribers in giving legal security in their transactions, that hitherto many banks and

bankers have not considered it necessary either to register themselves or to demand registration from their clients.

The last clause of the Act deals with brokerage on 'Change, and especially endeavours to prevent the procedure termed "cutting the price" (*Schneiden am Kurse*) on the part of the brokers, and "speculating over the head of the investor," reserving, however, the right of the broker to enter himself as a buyer and seller.

The Act prescribes that dealings in futures on the Exchange in bonds or goods which are either forbidden or not admitted shall not be allowed to take advantage of the Exchange arrangements, nor can they be negotiated by stock brokers. Moreover such transactions, so far as they are confined to Germany, may not be published in price lists or tables of rates, or be made known by any mechanical propagation. The same conditions apply to all bonds which have not been admitted to Exchange business. With regard to time bargains it is further decreed that a time bargain which is operated independently of Exchange organisation is not to be admitted on 'Change, even though the forms practised on 'Change in dealings in futures may have been complied with. From this we may infer that such dealings in futures are permitted outside the Exchange, even when, on the Exchange, they are expressly forbidden.

Among the penalties specified at the close of the Act there is only one that refers to transactions that are either forbidden or not admitted. Whoever publishes price lists, or quotations of prices, contrary to the provisions of the Act, or circulates them by any mechanical process of multiplication, is to be punished by a fine not exceeding 1,000 marks or with imprisonment not exceeding six months. According to this, no penalties attach to the proscribed time bargains in corn, if no price list has been published or circulated. Probably an unofficial statement in the press of prices not communicated by the dealers, but by reporters, would be included in the prohibition. On the other hand it is permitted to make regular reports in the press of the process in such delivery transactions as are made in free associations outside the Exchange, and not according to the conditions for dealings in futures on the Exchange. The remaining penalties concern fraudulent influencing of Exchange prices; intentionally false statements about bonds in the prospectus and public announcements; the granting and receiving of excessive remuneration for communications to the press, by which Exchange prices are to be influenced; the acceptance of emolument for suppressing such communications;

the frequent misleading of other persons to speculate on 'Change in transactions which do not belong to their legitimate trade, for the sake of gain, if effected through exploiting the inexperience or indiscretion of such persons; and, lastly, certain offences in brokerage.

What then is the effect of the Act so far as can be seen at present? As already mentioned, it has exerted no important influence of any kind on the Stock Exchange. We may suppose that the responsibility of the firms issuing prospectuses for the statements contained therein will make the introduction of unreliable scrip somewhat more difficult; the Exchange register will keep many "outsiders" from making time bargains; and the present disinclination on the part of business men to register will probably disappear. On the other hand, speculation in bonds will continue under the new Act to the same extent as heretofore. Up to January 1st there were time bargains in forty-nine kinds of scrip on the Berlin Exchange; these have now decreased to forty-one. Eight kinds of stock have been excluded from time bargaining because they related to industry or mines; but for these, as already mentioned, a sort of cash business, with bank credit and monthly settlements, has been introduced; and experience since January has shown that this is just as well adapted for speculation as time bargains.

The immediate effect of the Act upon the Produce Exchanges has been much more decisive. In Berlin and other Prussian towns the Produce Exchanges have been broken up, because the Government insisted that agricultural and milling interests should be represented on the directorate. A free association has been formed for business in grain, flour, petroleum, rape, oil, and spirits; and the question is not yet decided whether or no this is an Exchange within the meaning of the Act. If this association is judged solely according to its *economic* significance, it must be regarded as an Exchange. For, from the economic standpoint, the saying holds good, "*Börse ist was als Börse wirkt*" (Exchange is as Exchange does). But the arrangements and the usages in the new Exchange are not the same as in the old; it has no Exchange brokers, and it neither fixes nor publishes prices. Hence it is doubtful whether it falls within the Act. If it does the police can prevent it from meeting; but legal penalties could only be enforced for publishing or circulating price lists. Until now the prices agreed upon by the directorate of the Association have been privately communicated to the newspapers and unofficially published without objection. There is also now (May,

1897) going on a series of transactions for delivery of grain, which is in point of fact nothing else but a time bargain. Legally, however, it does not come under this category, because it is recognised that the conditions as to the quantities and qualities of the commodities to be delivered, as well as the interval for delivery, are not settled according to the usages of the Exchange. Each case is considered on its own merits, and even should there be defalcation by one party, the general regulations of the Commercial Code are accepted, and not the earlier forms accepted by the Produce Exchange. When the question is settled this kind of delivery business will also continue to take place on the official Exchange, despite the fact that time bargains in grain are forbidden. This will make the prohibition of little practical value. In the meantime, however, the agricultural party may also have recognised that time bargains are not, as they have commonly regarded them, a weapon directed against their interests; and they will realise that their abolition will only serve to increase the power of great capitalists to control the market and to manipulate the prices; and that even should such abolition result in a rise in prices, this would benefit not the producer, but only the dealer, inasmuch as his risk becomes the greater. But first of all it behoves agriculturists to rid themselves of the illusive importance which they now attach to the co-operation of their representatives in the fixing of prices. For if the representatives of the agricultural interest were to take part in drawing up the Exchange lists, they would find that the prices quoted correspond as exactly as possible to those actually paid, but that the prices paid are under the immediate influence of the "conjunctures" of the world's market against which no small artifices can avail anything. On the whole the prices of wheat in Berlin run parallel with those in London, except that the effect of the duty will make them sometimes a little more, sometimes a little less, according as the need for importation in the country is more or less urgent. The German agricultural party cannot yet grasp the idea that low prices in grain are caused by the actual economic conditions of production and consumption throughout the world; they prefer to believe in international conspiracies and evil machinations on the part of the home Exchanges for the purpose of keeping down prices. They reject the hypothesis of over-production, although they complain that when Germany has a good harvest the rye has to be used as fodder for cattle. But over-production in grain need not be world-wide to produce low prices. It is sufficient, if, under the

influence of competition in districts specially favourable for production, the aggregate world's demand can be covered at these prices. In consequence of this the less favoured producers may have scarcely sufficient profit, or they may even lose, but they do not allow themselves to be thrust aside without further effort; they continue the struggle year after year, and thus give rise to that economic strain upon land rents which is the real cause of agrarian complaints. These results of the economic facts of the world are seen upon 'Change, but the facts and their consequences would remain, were all Exchange business forbidden and all Exchanges closed.

W. LEXIS