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There has probably been at no former period in history the wide-spread interest in economic problems which has so strongly manifested itself in the first decade of the twentieth century. In spite of the disheartening amount of misinformation disseminated, the activities of self-seeking politicians, the sensational exaggerations of yellow journalism, and the distortions of "muck-raking" magazines, the people have today a clearer knowledge of business problems than they have ever had before. Under constant attack, capital has remained comparatively silent. The organs of public opinion have been left almost wholly to the attacking party. I believe this to be an unfortunate error of judgment. It is claimed that the people are interested wholly in the sensational, that the case is prejudged, and that a sane and sober presentation of the other side is useless. I do not believe this to be so. At times of crisis, such as the gold campaign of 1896, we trust in the great silent vote of our thinking citizens, and have never as yet been disappointed. Against the extravagances of journalism must be placed the significant fact that most public libraries have found it necessary to set aside a special public reading room for economics and sociology.

The agitation of the past ten years has, I thoroughly believe, an ethical base. It is not an agitation of the poor against the rich, but of the sober citizens, conservative as well as radical, against the evils of our economic system. It is natural, therefore,
that among our institutions, the one in which ethical questions are by many supposed to be the leading ones, should constitute a center of attack. "Wall Street" among the undiscriminating, the Stock Exchange among the clearer witted, is considered the crowning point of the system of exploitation. Few would wish, perhaps, with Swift, "that a law were enacted to hang up half a dozen bankers every year and thereby interpose at least some short delay to the further ruin of Ireland," but many among our soberest and most substantial citizens agree only with the second half of Professor Taussig's description of the New York Stock Exchange as "at once the greatest institution in the world for facilitating investment and the greatest of gambling hells." (1)

Four years ago public feeling on the question ran so high as to cause the appointment by Governor Hughes of a "Committee on Speculation in Securities and Commodities" which made a report on the Exchange June 7, 1909. The high standing of the members of the committee gave this report great weight. It was on the whole friendly in tone, making certain recommendations, however, looking toward reform. The agitation died down somewhat and there was a general feeling that the Exchange should be given time to reform itself. Unfortunately it apparently did not do so, except in minor details, and the Hocking Pool, the Rock Island incident, the California Petroleum and other listings and manipulations were popularly taken as the Exchange's answer to the public's forbearance. That this is not so, that a very large and influential

part of the membership of the Exchange feels the position in which the institution is placed, and is earnestly desirous of genuine reform, I know. The public, however, naturally looks for results and not good intentions, and its answer again to the Exchange was the Pujo Commission and renewed agitation at Albany.

An examination of the problem of the reform of the Exchange involves a study of the charges made and the reforms proposed. The former includes the economic function of an Exchange as such, and in examining the latter, sight should not be lost of reforms previously attempted here or elsewhere and their results.

The charges made against the Exchange (like the compulsory method of reform which we will examine later) fall readily into two classes, which we may call major and minor. The first is fundamental and consists in the belief that speculation is wrong ethically, and useless, or worse, economically; that practically all dealings on the Exchange are speculative; and that the complete abolition of the Exchange is a necessary step in the abolition of speculation itself. In view of the fact that if this argument were correct, there would be no further question of minor charges or remedies of any sort, we may well pause to consider the question of speculation and the function of the Stock Exchange before proceeding further.

Speculation has, as a rule, received rather inadequate treatment in English treatises on economics. Its great development in the past half century and its great influence on prices is gradually leading to its being
treated as an integral part of the economic system of to-day, and not an excrescence. Perhaps, for our purpose, the most satisfactory definition is that of Horace White: "Speculation is the act of taking advantage of fluctuations in the prices of property." (1)

Obviously there must be property, its price must fluctuate, and there must be buyers and sellers. Obviously, too, speculation will tend to increase, with the increase of any or all of these factors. That speculation should exist to some extent, it is not necessary that an organized market or even an organized money or banking system should exist. Some speculation would be possible even under the Locrian laws, which permitted the sale of goods only by their makers. (2)

Speculative transactions, even "corners," are not unknown to the Old Testament. Regular speculation is stated to have taken place in Rome, and speculative trading occurred in considerable volume in the Italian cities in the Fourteenth century. It is evident, however, that organized speculation on a great scale, such as is under discussion to-day, is essentially a modern phenomenon. It is due to the great increase and, mainly, the change in character of property in the modern world. Joint ventures have probably been undertaken by men working together in communities in all stages of society. Corporations also are not unknown to the ancient and mediaeval periods of history, but the transformation of an individual share

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in the venture or corporation into a negotiable instrument, which passes readily from one to another, and of an amount and value exactly equivalent to every other share in the same venture, is for all essential purposes wholly modern. It is evident that for speculation on an active organized basis easy negotiability and standardization are both essential. The shares and bonds of our modern corporations and governments afford these qualities in absolute perfection, and it is from the rise of the corporation that we may date modern speculation (1), subsequently developed by the great issues of government loans in Europe between 1750 and 1815. The increase of speculation has therefore come about naturally from the increase in opportunities afforded and from man's natural instinct to take advantage of them for his own benefit.

New problems, however, have arisen, with the progress of the industrial revolution. The introduction of machinery, making production possible upon an enormous and unprecedented scale, the extension and cheapening of rapid transportation forming of the whole world one consuming market, have changed the small producers, sellers, and buyers, with local markets, prices, and range of vision, into the great combinations of proprietors or stockholders of the modern giant corporation with its world-wide ramifications. Two centuries ago the individual who had saved money, could, speaking generally, make it productive, safely, but in two ways, the purchase of real estate or lending on mortgage. To-day a farmer in

(1) From the speculation in the shares of the Dutch East India Company in 1602.

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the country can arrange by telephone to lend $500 to the Japanese Government, become a partner with Mr. Morgan in the steel industry, lend his money to an electric railway in New Zealand, or acquire an interest in the diamond mines of South Africa. With this change from the individual to the collective investment of surplus funds upon the part of nearly every person who has such funds, has come a change in the point of view as to the individual's responsibility to the community at large for his business transactions and methods. We hear much of the growing solidarity of labor. There has also been a growing solidarity of capital. The question of speculation, therefore, is no longer an individual but a social one, just as speculation is no longer individual but organized.

We come, thus, to the legitimate question, Has speculation an economic use? I speak here of speculation, attempting later to distinguish between that and gambling. The answer of almost all economic authorities is emphatically that it has,—of almost all authorities, that is, who believe in the capitalistic and private property form of society. For those who believe that that system is necessarily one of exploitation, the Stock Exchanges and Bourses are logically centers of attack. We assume that no change in the fundamental organization of society is contemplated, however, by the general public at present.

Exchanges and organized speculation thereon have for their chief functions the giving of "mobility to capital" (1), the lessening of normal inherent business risks,

(1) Conant. Wall Street and the Country. 1904.
and also of the sudden shock of panic. The latter two may cause surprise among those not familiar with domestic and international finance, but let us examine them in order.

We have already seen the great change which has occurred in the scope of the investment field, speaking generally. Let us be a little more specific. It was estimated in 1905, making all allowances for duplication, market price and other factors, that securities formed 25 per cent. of the wealth of the United States, amounting approximately to the sum of $24,393,982,683 (2). This amount has, of course, been enormously increased since, although the percentage may not have been increased as rapidly. With the creation of this new investment field, new conditions have also been created for the investor. So long as he bought a bit of land in his neighborhood, or loaned money to a neighbor, prices, or conditions distant in space or time were of little import to him. He needed neither information nor advice. When, however, he placed his money in enterprises he was not familiar with, in distant parts of the world perhaps, under the management of men he would never meet, his difficulties greatly increased. The ease and variety of investment were incentives to save, but the new forms had their risks. These were overcome in part, however, by the creation of organized markets where he could buy and sell at public prices, where these prices recorded daily kept him in touch with public opinion, there reflected, as to the value of his property, and

where, if he decided to, he himself could sell with maximum ease. The presence of a broad market permits mistakes to be corrected with small loss compared to those made in securities which, as it is said, have no market. Moreover, the public interest thus centered about a market calls into the press a vast volume of information about the securities dealt in, which is conspicuously lacking in those not dealt in, in which "nobody is interested." The broader tendencies of the times toward improved conditions or otherwise, the gradual shift of capital from one field of enterprise to another is also manifested. That this service of the organized exchanges is somewhat interfered with by unscrupulous operators is, of course, admitted, but that does not alter the broad fact that corporate investment could not be carried on if every buyer had to find an individual seller of the same kind and amount of stock. Brokers are essential, and transactions are of such magnitude that organization of brokers and publicity of transactions are necessary and protective consequences.

All business has its inherent risks, and the simpler the business organization of a community the more risks fall upon an individual, and the greater the fluctuations in prices. Take a small community, shut off from the world in a mountain valley. The farmers, we will say, raise their own wheat, mill it, and sell the flour to the individual consumer. If there is a crop failure, there is almost no limit to the price of such wheat or flour as may have been held. Suppose, however, that there is a second valley, in which there has been a normal crop, and
that now the valleys are not isolated but communication exists. Wheat, in that case is merely very scarce, prices will be high, perhaps more than double normal, but no such condition will exist as upon the first supposition. Extend the example to include the world, and the effect upon the steadying of prices is evident provided the means are added of instant information as to conditions everywhere and the facilities for directing the flow of wheat to any section. These are provided by the organized markets.

We have, however, further supposed in the first case, that the farmer raises, mills and sells his wheat to the consumer. In times of scarcity the consumer is obviously at the mercy of the farmer, and the reverse is true in times of abundance. Suppose, however, that a new trading class comes into existence, with free capital, and buys the wheat when it is abundant, and sells when it is scarce. In this case the price movement, while still wide, will be less so than in the first, due to the presence of a greater supply. The group of speculators may still have the community at their mercy, but less so than if the farming group alone had wheat. When we extend these conditions, as we did the first to the world, we get another steadying influence in the great markets. Moreover, if the risk of great fluctuation to the public is less, it is also to the farmer. The great class of traders, or speculators, which has grown up in stocks and commodities is willing to use its capital and assume the risks which formerly were borne alternately by producer and consumer. Always ready to buy as prices break or sell if they
advance, they both steady the price and assume the risk. (1)

Considering the stock market more specifically, a broad, active market (which can never result from investment only) affords the banks an outlet for their surplus funds in loans on collateral which are notably safe and which form a steadying influence upon the mercantile interest rate. It is natural that bankers should attempt to employ their funds profitably to as great an extent as possible. Were there no such things as loans upon readily marketable collateral, the tendency would be to loan upon unmarketable paper and in other less liquid ways, and, then, when the strain came, there would not be, as at present, a "safety valve." As it is, Wall Street loans are called, money is received promptly, interest rates (for the broker, not the manufacturer or merchant) soar to perhaps 125 per cent., and the general financial machinery slows down gradually. Were it not for this, the crises would be more sudden and more completely felt by "legitimate business." Moreover, the presence of a great mass of securities which are readily saleable (which depends upon organized markets and speculation) is the great safeguard of individuals and communities at times of stress. Many a solvent firm has gone down because their assets, though good, were "slow." The internationalizing of securities has greatly tended to lessen shocks at any one center. A recent example was the crisis on the European Bourses upon the opening of the Balkan

war. Had all the securities of Berlin, Vienna, Paris, been local and with narrow markets, widespread ruin would have resulted. As it was, they were sold heavily to speculators in London, who assumed a large part of the burden and risk, and in turn sold 200,000 shares of stock in New York, transferring some of the risk to that center. The safety valve saved an explosion.

From this very brief and inadequate treatment of the question, it would seem as if both speculation and the Exchange had their uses.

We will proceed to consider some of their abuses. These are, generally speaking, that speculation readily passes into gambling, that a large percentage of the business conducted on the Exchanges is gambling pure and simple, that the true function of Exchange prices as indices of values and conditions is rendered futile by manipulation, that the Exchanges do not exercise sufficient care in listing securities, that the public is not sufficiently safeguarded as to the solvency of Exchange members, and that speculation absorbs money which should be used in more legitimate channels.

It must be admitted that speculation readily passes into gambling, that a large part of the transactions are of the latter character, and that their influence upon individuals and the community is almost wholly bad. Efforts have been made, although I think somewhat unsuccessfully, to distinguish between speculation and gambling by some quality other than intent. Thus Professor Emery defines “Gambling” as “a transaction in which one party pays over a sum of money from his own wealth
because of the occurrence of a chance event.” “Speculation” as “a transaction in which one acquires by purchase the right to a certain property (not specifically designated perhaps) and gains (or loses) for himself the difference between the value of the property at the time of the sale and the value at the time of the purchase.” (1) While the distinction is, as he states, a significant one, it is of little more use in preventing stock gambling than is the test and distinction of intent. Personally, I believe intent to be the true, though not a legally useful test, and that gambling is not changed by the very easy and simple clothing of it in the forms of legitimate trading. Unfortunately, there seems no way of legally distinguishing between legitimate speculation and gambling, unless we accept Prof. Emory’s definitions, which would leave what the public calls “stock gambling” just where it is. Take, for example, two men engaged in an apparently identical transaction. Each buys 100 shares of the same stock, with the same amount of margin. The first buys, because he has carefully studied the conditions of the industry in general and of the particular corporation in question. He knows that conditions are such as to result in largely increased earnings and that developments are taking place which will make the stock more valuable. Business judgment dictates its purchase and convenience paying for it only in part, though his resources are such that he could amply protect himself if necessary. The other purchaser has no knowledge of conditions but has had a “tip” that the stock is to advance.

(1) Col. Univ. Studies supra.
He has no resources beyond the margin which he puts up. In the rough and ready judgment of the public, which I believe is sound, he is gambling even though he has "incurred the duties and acquired the rights of a holder of property." Although any reasonable business man would consider one transaction legitimate and the other not, there is no legal difference between them. The difference is mental, and one of which neither the law nor the governors of the Stock Exchange could take cognizance. Public opinion alone would seem to be of any avail. A peculiar acknowledgment of this fact and attempt to make use of it will be noticed later.

When we come to the question of manipulation we enter upon more debatable ground. Manipulation may be defined as the making of fictitious transactions for the purpose of inducing real ones. It is a form of advertising, and nothing else. Active manipulation may occur at a practically stationary figure, to induce buying, or it may occur on a scale up to induce the same buying plus an additional profit, or it may occur on a scale down to induce selling. It is mainly for the purpose of calling public attention to the security. The purpose may be honest, the intent being merely to create an active market for a little known security until such time as a sufficient number of people have become interested, to continue the activity without manipulation. The value and necessity of active markets has already been touched upon above, and where the security is sound and the price fair no more just criticism can be brought against this than against the man who opens a new res-
restaurant and gives a free lunch to a certain number of persons the first day to make the place look popular. The object is much the same, and no one need buy or eat if he do not choose, nor is harmed if he does either. In cases, however, where manipulation is for the purpose of inducing the public to buy at fictitiously high or sell at fictitiously low prices to permit the manipulators to reap the illegitimate profit, accompanied as it frequently is by false information, or sometimes more effectively by no information, there is no defense to be offered. Here again, as in the case of stock gambling, we are met by an admitted evil. In manipulation on any sufficient scale to interest or harm the public, two elements are usually necessary, matched orders and borrowed money. The first is the concern of the Stock Exchange, the second largely that of the banks.

Matched orders may be divided into two classes, those given out by a non-member of the Exchange to two different members, each ignorant of the existence of the other order; or, secondly, those distributed by a member of the Exchange. In the first case, which is a frequent one, many of the big operators, not being members, the Exchange has no jurisdiction. In the latter case, of course, it has, and I believe can do much to purge itself of at least the worst forms of such manipulation. We are here discussing only the charges against the Exchange, and will speak of the remedy later.

This is the natural place in which to speak of short selling, although in itself it is not manipulative. So much has been written upon this particular method of trading that
it would seem unnecessary to discuss it at length. Its main function is to perform toward speculative movement of prices the same service which we have seen speculation itself perform toward the general movement of prices, viz., to limit their range. A great mass of securities bought for speculative purposes as prices break tends to hinder the decline, just as their resale on an advance tends to hinder the advance and so narrow the movement. This narrowing of the swing is still further effected by the sales made by the "shorts" when prices are high, with the important difference that their sales necessitate repurchase, forming a great safeguard for the market in times of panic, when investors may not have the money or fear to use it, and speculators may be unable or fear to borrow, for the purpose of purchasing. As the "short" purchases the stock merely for the purpose of returning his borrowed certificate, his purchase requires no cash to finance it, and he therefore is free to make purchases at times when the market may have no other support. It is needless to say that selling for future delivery is common in many lines of what is called legitimate trade, and that speculative selling of futures in grain and cotton performs a valuable economic service in permitting a manufacturer to hedge, transferring the risk from himself to the speculator, which, as we have seen, is one of the functions of speculation.

The charge that the Exchange does not exercise sufficient care in the listing of securities, has, I think, some foundation in fact. There have been some rather striking examples of late in which the capitalization
of “good will, etc.,” has reached staggering proportions. As most securities are brought out by large banking houses, the responsibility would seem to rest primarily upon them, but if the Exchange desires to maintain a place of respect in public estimation, a firmer stand must be taken in this matter. It is probable, however, that this will be less of a question within a few years. The time for the regulation of new securities is at their issue, not in the subsequent trading in them, and I believe that State or National supervision is sure to come, as it has already come in the case of railroad and public corporations.

The complaint that the public is not given sufficient assurance of the solvency of Exchange members has also, I believe, some foundation, although the New York Exchange compares most favorably in this respect with the London Exchange. The truth is, however, that owing to the fact that the only market of considerable magnitude in practically all of American railways and most of our leading industrials exists on the Exchange, a speculator or investor in them is bound to trade, directly or indirectly, with an Exchange member. In this respect a practical monopoly exists, almost as complete as the legal monopoly of the Agents de Change on the Paris Bourse. This development into a quasi-monopoly has come about naturally, and, it should be noted, on account of the superior service afforded by the Exchange. Nevertheless it exists, and as the right of an investor or speculator to deal in the securities listed is undoubted, the institution which has the monopoly of such dealings should see to it that in so far
as is possible, the public is protected against fraud or insolvency on the part of its members.

The complaint that speculative dealings upon the Exchange absorb money which should be available for commercial purposes has already been answered to some extent. Owing to the inelasticity of our currency system, money is certain to be more plentiful at some seasons of the year than at others. At times there is bound to be a great surplus, existing only for a few months, and which must therefore be kept liquid. Were there no employment for this except in the ordinary channels of trade, which are most liquid, we would have either a great idle fund, or, as stated above, an undue temporary stimulation of business, the locking up of funds soon to be needed, and yearly crises in trade (such as now frequently occur on the Exchange), with consequent wide swings of the commercial discount rate and dislocation of normal business. Again this is an example of the assuming of risks and the steadying of prices for legitimate business by speculative business.

We have thus glanced at the general question of speculation, the function of the Exchanges, and the evils connected with the system. We have now to consider possible methods of remedying or lessening these evils.

These methods may be compulsory, involving action by the State, or voluntary, involving action by the constituted authorities of the Exchange. State action may again be divided into major and minor. The first contemplates the incorporation of the Ex-
change and consequent complete change in its status, while the second contemplates the passage of laws covering minor points, such as the minimum amount of margin required. We will consider compulsory reform first.

Each generation of reformers is apt to think the evils attacked and remedies proposed are both peculiar to their time, but evils are as old as the race, and fortunately for mankind the spirit of reform is equally ancient. Governmental control of almost every variety in relation to Exchanges and speculation has already been tried and there is no reason to claim that the field is experimental. Institutions are naturally tinged with the characteristics of the race amongst which they develop. The delegation to private enterprise of every matter possible has been the unconscious habit of mind of the Anglo-Saxon, and hence we find the Exchanges in England and the United States free, private institutions, and any legislation attempted of the minor class. The tendency of the races on the Continent, on the other hand, has always been toward a paternal, bureaucratic centralized control over all possible matters and, as expected, we find all the Continental Bourses under direct governmental supervision, if not actually governmental institutions. This control may be municipal, as in Belgium, or imperial, as in Austria. In the latter country, for example, control is vested jointly in the Finance Minister and the Minister of Trade. All rules made or changed must be submitted to these functionaries, who also have power to remove members of the governing body, appoint their own representatives, whether members of the Exchange or not,
and to close the Exchange temporarily or permanently. In addition, a special commission is appointed for each Exchange to see that the requirements are carried out and report any breach. The government has access to all brokers' books, and the form of the books, even to the pagination of the journal, or "blotter," is provided for. (1)

In Paris the Bourse exists by government decree, and the "agents de changes" are "nominated" by decrees countersigned by the Minister of Finance or the Minister of Commerce and Industry. (2) An examination of the Bourses of such different places as Berlin, Madrid, Christiania and Constantinople, all reveal the same close relation to government.

The question of incorporation is, therefore, no new matter. Whether the method be applicable is all which has to be ascertained. In my opinion the answer is, that it is not. We have seen above the difficulty of distinguishing legally between speculation and gambling, between legitimate trading and manipulation. All the actions are clothed with the forms of legitimate trade. Control must be by discipline, based upon ethics and sound business principles, not upon general laws which affect all trading of the same form. This discipline can be exercised only by an autocratic power. In the paternal continental governments the autocratic power resides in the government. Under Anglo-Saxon institutions it does not. At present, however, as discipline is not


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hampered by being involved with a member's legal rights as a stockholder and the difficulties of proving violations of legal trading, this autocratic power can and does reside in the governing body of the Stock Exchange. That it may not have been sufficiently exercised may be true, but it is there and the control over members' actions is far more complete than it could ever be over members of an incorporated body.

Is it possible, it may be asked, to pass laws controlling manipulation and other abuses so that the above difficulty would not arise and the punishment of the offender could be sure upon legal grounds? In the above brief sketch of the subject I have endeavored to show the difficulty, if not impossibility, of doing so. "Hasty attempts to control speculation by simple enactments have invariably proved either futile or mischievous," (1) is the conclusion of one of the leading English economists. We are not left to theorize upon the subject, however, as statutory enactments have been frequent and varied. The earliest enactment in reference to any form of "broker" was passed by Parliament in 1285, complaining that the brokers do wear fine clothing and do eat costly meat and food. (2) It must be admitted that this has remained a dead letter. Later statutes have almost equally done so, or else been repealed. In 1733 was passed Sir John Barnard's Act, which forbade, among other things, all sales of stock by parties not owning the same, under penalty


of £500 fine for each transaction. This had no effect and was repealed in 1860. Leeman's Act, passed in 1867, which forbade all sales of bank stock without a specification of the certificate numbers in the contract, has remained a dead letter.

In New York an act was passed in 1812, declaring all contracts for the sale of stocks or bonds void unless the seller was at the time actual owner, assignee, or authorized by owner or assignee to sell. This was repealed in 1858. A similar Act was passed in Massachusetts in 1836 and so far as I have been able to ascertain still remains on the statute books, unobserved. In Pennsylvania, in 1841, short selling for delivery after five days was made a misdemeanor punishable by fine of from $100 to $1,000, and any money paid was recoverable. This was repealed in 1862. The most striking case of legislation due to popular feeling occurred at the time of the gold speculation in 1864, when Congress passed a law forbidding all contracts for the sale or purchase of gold bullion for delivery on any day subsequent to the day of the contract, all contracts for the sale of gold not actually in the possession of the seller at the time of contract, and all sales not made at the ordinary place of business of one of the contracting parties. Instead of eliminating the premium in gold, the immediate effect was to force gold from 198 to 250, and the statute was repealed in two weeks.

The most careful and systematic attempt to control speculation has, however, been made in Germany. In 1891 there were large failures and some scandals following the

(1) Columbia Studies supra.
active speculation of the preceding two years. Public feeling was deeply stirred, action was demanded by the Reichstag and a commission was appointed of 28 members, including bankers, merchants, manufacturers, state officials, landed proprietors, economists and jurists. A report was made, but the Reichstag went far beyond the recommendations in the law passed by it in 1896. The law was mainly based upon two ideas, first, that, as the bi-monthly settlement system (instead of daily, as here) was in force and, as most speculative transactions were "for the account," that time was an important element in speculation, and, secondly, that public opinion, as noted above, was one of the safeguards against excessive gambling. The law, therefore, forbade all Exchange dealings for future delivery in grain and flour, all dealings "for the account" in mining and industrial shares, and created a "register" in which was to be entered the name of every person who wished to engage in transactions for future delivery. Contracts between persons, either of whom was unregistered, were void. This law totally failed to produce the results contemplated, but produced disastrous ones, which were not. In 1907 the government reported that fluctuations had increased instead of diminished, that the greater need of funds for the cash basis emphasized the danger of collapse, that the possibility of misusing inside information had been enlarged, that the money market had been demoralized, that the business of the great banks had increased at the expense of the small, that business had been driven abroad, and the
power of the Berlin money market weakened. Less than 400 people had registered and even the conservative banks had to choose between giving up security dealings or dealing with persons who could declare their contracts void. For twelve years a large part of all business in grain and stocks had to be carried on without legal protection. (1) The law was repealed in 1908.

It is evident that, as Professor Marshall has stated, legislation has consistently failed to secure the desired reforms. Is there, then, no remedy for the admitted evils? I believe that a certain, even a very considerable, amount of those evils cannot be eliminated without incurring far greater ones. But I do believe that much can be done and that the remedy lies in a more effective use of the broad powers already possessed by the Exchange Governors for the general oversight of the business affairs and methods of its members. One use of such powers which would, I think, be most helpful, and which I believe to be practical, would be the examination (as in Vienna) of the books of the brokerage houses, either quarterly or at such frequent irregular intervals as the financial situation might seem to warrant. Such examinations would go far toward disclosing conditions upon which charges of manipulation, reckless trading, or other "acts detrimental to the welfare of the Exchange," and incidentally to that of the public, could be based. The public would be reassured as to the solvency of individual firms, and many failures, as well as the graver forms of manipulation could be prevented or con-

trolled. I realize the difficulties in connection with such examinations, but do not believe that they are prohibitory.

Another step which would be of distinct advantage to the public in the case of an insolvent member, would be the release of the prior claims now made and legally valid, to the proceeds of the Seat by the other members of the Exchange. In the case of the smaller houses the Seat, worth from $40,000 to $90,000, forms from one-fourth to one-half of the capital assets of the firm, and that so large a part of the assets of the insolvent should be taken from the public and transferred to the members of the Exchange seems unfair, particularly in view of the fact that the governing body has authority to investigate the firm's affairs prior to failure, which the public does not possess. On the Paris Bourse, although not legally bound to do so, the debts of a member to the public are paid by his fellow-members. On the New York Stock Exchange his fellow-members practically constitute themselves preferred creditors.

These, however, are matters of detail. There is no doubt that reform is needed, that the public demands it, and intends to see that it is brought about, either in Albany or Washington. The question is, will it be compulsory and wrong or voluntary and right? It is for the governing body of the Exchange to answer, and, believing in the great economic value and necessity of the Exchange and in the high personal character of its members, I trust that that body will take such action as will insure the right answer being given. Fortunately there are signs that many of
the members have awakened to a sense of the present situation and their grave responsibility toward the country. Those who have not should remember that inaction means legislation, and legislation means disturbance to business, the gravity of which cannot be forecasted. The Exchange is facing the issue.