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Ellsworth, 1869-1875:
The Rise and Fall of a Kansas Cowtown

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The Kansas cattle-market community or "cowtown" of the 1870's and 1880's has long enjoyed a reputation larger than life. For 90 years the popular imagination both in this country and abroad has fed on the image of townfuls of taut, hard-drinking men hung with Colt's six-shooters. The cowtown homicide rate is now a legendary statistic, and the combat in the cowtown street a classic component of the tradition of a primitive, violent American past. Yet here and there an important cattle town has failed to receive individual attention either in folklore or popular history. Comparatively little, for example, has been written of Ellsworth. It remains known simply as one of the temporary centers suspended in the cattle-trade chronology between Abilene, first of the major Kansas cowtowns, and Caldwell, the last.

Possibly one of the reasons for this lack of attention is that early local historians declined to perpetuate the memory of Ellsworth as a great Texas cattle center. In fact, the first writers dismissed the cattle trade in the most derogatory terms. As an early Ellsworth county historian summarized for the Andreas-Cutler history of Kansas:

. . . the cattle trade commenced coming to Ellsworth, and with it came a new element into society, which, while making business somewhat lucrative,

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was rather detrimental to morality. . . . One season of such characters satisfied the people of Ellsworth that the evils of the cattle trade, or rather those that followed it, were more detrimental to the real interests of the place than it was benefitted by any advantages derived from it in point of increased trade, and when, in the following year the cattle men took their trade farther west, the citizens of Ellsworth were very much relieved, and felt greatly rejoiced. 2

Besides asserting that Ellsworth came to abhor the cattle trade, this writer implicitly denies that Ellsworth citizens were at all divided on the cattle-trade question—that is, that while many opposed the trade others favored it, giving rise to the kind of split of community opinion, for example, that plagued the cattle-trading years of nearby Abilene. 3 Recent writers have reinforced this picture of a somewhat bland, solely corporate response by Ellsworth to the trade. 4 But in reality the story of Ellsworth as a cowtown is a dramatic study in the dynamics of frontier economic and social antagonisms, as expressed in the bitter, complex politics of community conflict. 5

The earliest white inhabitants of Ellsworth county settled in the east-central and southeast portions of the county just prior to the Civil War. The war retarded additional immigration at that period, and in 1863 Indian raids caused the evacuation of existing settlers. At the war’s end, however, settlement resumed under the protection of Fort Ellsworth and then of Fort Harker, both located on the Smoky Hill river in the center of the county. 6

Along the Smoky Hill southeast of Fort Harker, several rural enterprisers of note settled in the rich bottomlands. In July of 1866 the Rev. Levi Sternberg arrived in Ellsworth county. Sternberg, who was to become one of the county’s most respected citizens, was

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5. Although Streeter, the only professional historian to deal specifically with Ellsworth, seems at first glance to have written a great deal about the community’s cattle-trade years, most of his work with the exception of the cited article deals with the Whitney-Pierce-Crawford killings of 1873 and their aftermath (see Footnote 96 below). A work of broader scope done under Streeter’s direction is John F. Choit, “Ellsworth, Kansas: The History of a Frontier Town, 1854-1885” (master’s thesis, Fort Hays Kansas State College, 1941); this does not focus primarily on the cattle-trade period, however.
6. The term “community” is here used as synonymous with the sociologists’ definition of “rural community,” i.e., a village and its rural service area.—Dwight Sanderson and Robert A. Polson, Rural Community Organization (New York, 1939), p. 8.
a native of upstate New York, now in his early 50's. A Lutheran minister and principal of a Lutheran college in Iowa, Sternberg was induced to emigrate to Ellsworth county by his eldest son, George, who as an officer stationed at Fort Harker was so impressed by the region that he filed on a quarter section of Smoky Hill bottomland south of the fort. Sternberg apparently had engaged in part-time farming along with his ministerial duties. He noted the agricultural possibilities of Ellsworth county, and took over his son's claim when the latter was transferred elsewhere. Sternberg's other sons soon joined him in the venture, filing adjoining claims, and the family got its start by dairying and gardening to supply the nearby fort. By 1869 Sternberg controlled a large acreage lying on both sides of the river, and his "Smoky Hill Dairy" was about to begin the production of butter on a large scale. By 1870 he estimated the value of his real estate at $7,500—the third largest evaluation in the county—with his son Theodore, a lawyer, claiming another $2,000 worth. Sternberg's local prestige no doubt culminated with his appointment as pastor of the First Presbyterian church of Ellsworth, but his state-wide reputation was as an agriculturist, and he served on one of the early boards of regents for Kansas State College.

Sternberg's neighbor, David B. Long, also came to Ellsworth county in 1866. A native of Ohio, Long grew up on a farm, attended Oberlin College, taught school, and just before the war went into part-time business as a cheese merchantiser. A noncommissioned officer during the war, he re-enlisted at its close. While waiting at Fort Harker with his family for transportation to a new assignment at Fort Wallace, Long was urged by George Sternberg to file on a section of bottomland. Before moving on, therefore, he entered a claim, and when his enlistment expired in the spring of 1868 he returned to Ellsworth county. In June of that year he began to manufacture cheese, soon developing a thriving business. By 1869 his "Springdale Cheese Factory" was turning out 500 pounds of cheese per week. In 1873 he completed a two-story stone cheese factory operated by water power, and a year later was filling orders from as far away as Hutchinson. By 1874 his 800-acre establishment was exclusively a livestock and dairy farm. His 100 acres under cultivation provided feed for his 40-head dairy herd and 200 head

tive, Leavenworth, June 5, 1869; Ellsworth Reporter, June 20, 1872, May 1, 1873; "U. S Census, 1870," Ellsworth county, [second section.] p. 5, archives division, Kansas State Historical Society, Topeka.
of beef cattle. Fencing protected 70 acres, and in winter Long carefully fed his livestock instead of turning it loose to forage as most did.\(^8\)

Adjoining Long’s and Sternberg’s claims was the farm of Jacob C. Howard, who arrived in approximately 1868. A native of Massachusetts now in his early 50’s, Howard came to Ellsworth county from Michigan. In 1869 he was reported buying dairy cattle and “fine horses and horned stock, and will soon have one of the best stock farms in the State.” Two years later the local newspaper termed him a “country gentleman” with “one of the best locations for a stock and dairy farm in the country—and a larger herd of short horns than we expected to find in the county.” By 1873 Howard owned a herd of 500 head, and was crossing thoroughbred Durham bulls and longhorned Texas heifers. Unlike Long, Howard let most of his stock run at large each winter.\(^9\)

The last of the large Ellsworth county establishments of the period was the Powers ranch on the Smoky Hill in the southeast corner of the county, laid out in 1869 by three related Leavenworth businessmen, D. W., J. W., and D. B. Powers. By 1873 their ranch, grown to 2,540 acres, was one of the largest in the county, with over $8,000 in improvements, including board and wire fencing of over 1,000 acres of pasture for blooded stock. Although probably most of the 600 acres of the establishment under cultivation was for raising forage, the owners in the winter did not feed the majority of their stock, Texas cattle, but turned them loose. The Powers brothers later established the first permanent bank in Ellsworth.\(^10\)

In the meantime, Ellsworth itself was born. In the fall of 1866 several businessmen of eastern Kansas conceived the idea of founding a town west of Salina at a point near Fort Harker where it was expected the tracks of the railroad would come to a halt for a time, making the spot a shipping point for goods between the States and New Mexico.\(^11\) In January, 1867, the townsite was platted just west of Fort Harker in roughly the center of the county on the north bank of the Smoky Hill. The tracks of the railroad

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8. Adolph Roenigk, ed., Pioneer History of Kansas ([Lincoln, Kansas,] 1933), pp. 63, 64, 67; A Biographical History of Central Kansas (2 vols., New York, 1902), v. 2, pp. 1261, 1262; Lyon, op. cit., p. 50; Times and Conservative, Leavenworth, June 3, 1869; Ellsworth Reporter, February 15, May 1, 15, June 12, 1873, February 5, June 4, 1874, June 3, 1875. W. B. Livingston in ibid., February 19, 1874, notes specifically that “I must say for Mr. Long, that he provides plenty of feed and tries to take care of his stock.” For Long’s philosophy on wintering see, also, “D. B. L.” in ibid., May 16, 1872.

9. Times and Conservative, Leavenworth, June 3, 1869; Ellsworth Reporter, December 14, 1871, March 27, April 24, May 1, 1873; “U. S. Census, 1870,” Ellsworth county, [second section], p. 4.

10. Andreas-Cutler, op. cit., p. 1380; Ellsworth Reporter, November 7, 1872, May 8, 1873, April 16, 30, 1874, June 3, 1875.

pushed through to Ellsworth early in May, and the town began to boom. Fort Harker became the supply point for more westerly military posts, and Ellsworth became a vital link in the Santa Fe trade.\textsuperscript{12}

Several who later became leaders in Ellsworth’s economic and political life were charter members of the town’s business community. Perry Hodgden, a native of Ohio, opened a dry goods store, took on a partner three years later, and afterwards opened a branch store outside the county. In addition to his store he held $4,000 worth of real estate in 1870, most of it evidently townsite holdings.\textsuperscript{13} Ira W. Phelps, a native of New York who already had spent some years in the West, opened as a grocery jobber with $2,000 worth of goods. In 1872 he was paying $1,500 per month railroad freight alone, and two years later could boast of sales averaging $100,000 per year.\textsuperscript{14}

Arthur Larkin, also locating in Ellsworth in 1867, was the son of a Dublin coal merchant. Immigrating at the age of 16, he served over ten years in the army but spent the war in Leavenworth as a restaurant proprietor and freighter. He subsequently established the first hotel in Ellsworth, and in 1868 opened a general merchandising business. From 1871 to 1873 he and Z. Jackson were partners in this venture, first at Fort Harker and then in Ellsworth proper. In 1870 he held $4,000 worth of real estate. With his extensive and various commercial enterprises and his real estate holdings, Larkin remained possibly the wealthiest member of the community throughout the 1870’s.\textsuperscript{15} The last figure of note locating in this period was Z. Jackson. Jackson arrived in Ellsworth county after many years on the frontier as a businessman, politician, and soldier. In 1867 he began to supply Fort Harker with fresh produce, and farmed a claim until 1871, in the latter year going into a business in partnership with Larkin. After breaking with Larkin he obtained appointment as postmaster and opened his own general merchandising store in Ellsworth. He probably never attained an economic position to match that of Hodgden, Phelps,


\textsuperscript{14} Andreas-Cutler, op. cit., p. 1280; “U. S. Census, 1870,” Ellsworth county, [first section], p. 89; Ellsworth Reporter, January 25, 1872, June 4, 1874.

\textsuperscript{15} Andreas-Cutler, op. cit., p. 1279; A Biographical History of Central Kansas, v. 2, pp. 791, 792; “U. S. Census, 1870,” Ellsworth county, [first section], p. 10; Ellsworth Reporter, February 29, April 11, May 9, December 26, 1872, May 15, June 12, 1873.
or Larkin; however, he remained an articulate opinion leader throughout the county.16

Following the initial rush of settlers to Ellsworth in 1867 the new town and its rural hinterlands suffered a series of sharp setbacks in the space of a few months. First the Smoky Hill flooded the new townsite with four feet of water, forcing the community to relocate on higher ground and requiring a special act of the legislature to legalize transfer of titles from the old site to the new. Next hostile Cheyennes raided into the county. When most of the county’s settlers were camped close about Fort Harker for protection from the Indians, Asiatic cholera broke out. Many died within and without the fort, and many of Ellsworth’s citizens fled the area.17

The railroad then prepared to build west, and in a desperate move to retain the value of their town Ellsworth promoters obtained a charter for the “Ellsworth & Pacific Railroad Company” in January, 1868, then petitioned congress and the army to abandon support of the proposed extension of the Kansas Pacific tracks to Denver in favor of a route from Ellsworth to Santa Fe. Even with the signature of Gov. Samuel J. Crawford on its articles of incorporation, the E. & P. R. R. never got rolling. The tracks moved west from Ellsworth in 1868, toward Denver, not toward Santa Fe, and with them went Ellsworth’s dreams of becoming a great railroad hub.18

A correspondent for the Lawrence Tribune, accompanying an excursion train over the newly laid track in June of that year, sent back a discouraging report:

One of the Agents of the [National] Land Company had already been sent up to Pond creek, or Fort Wallace, to lay out a town near that point. Thitherward the people of Hays and Ellsworth, also, are already looking, and many are making arrangements to move to that point, whenever the line of the road is definitely settled and the town laid out. It is their only hope. There will continue to be some little business at Ellsworth and Hays, as long as the forts remain there, but not enough to support over one fourth the present number of business houses. Business has been over done in these frontier towns, and a reaction, painful, but undoubtedly healthful, is taking place. At both places a few [wagon] trains are waiting for freight, and have been for several weeks. The contract for shipping a large number of pounds of Government freight has been let, but the freight does not arrive[.]

Ellsworth is the county seat of Ellsworth county, and although in a little

18. The Ellsworth & Pacific Railroad (Leavenworth, [1868]), passim.
better looking country than farther west, it is by no means a farming country. A little land has been cultivated along the creeks, but with indifferent success, there not being enough rain to produce good crops, and there being not enough water for irrigation.

The railroad company have an engine house here, with four stalls, and also have a blacksmith shop. The trade of the fort, together with a share of the New Mexican trade, constitute about all the business, which is by no means large. Persons wishing to invest in real estate can do so in Ellsworth just now at greatly reduced rates. Houses which cost twelve and fifteen hundred dollars are awaiting purchasers at less than half those sums.19

In Ellsworth county that year crops were miserably poor, and in the fall the Indians returned, forcing settlers to congregate for defense at Fort Harker and beg army rations. Many rural settlers took their cue from the desertion of Ellsworth by its newspaper and many of its merchants, and simply left the county.20

Not surprisingly, those who remained saw their salvation in the acquisition of the Texas cattle trade.

As early as 1867 a plan was afoot to establish a route from Indian territory to the vicinity of Ellsworth over which Texas cattle might be driven to the railroad; however, nothing came of this venture.21 In 1868, in the depths of the Ellsworth bust, the town's promoters and businessmen decided to make their influence felt where it would do the most good—at the next session of the state legislature. On March 2, 1869, therefore, a new legislative act was approved establishing a state highway from Fort Cobb, Indian territory, to Ellsworth for driving livestock. Texas herds brought in over this road were specifically exempted from the regulations and penalties of the 1867 "Spanish fever" statute.22 Ellsworth, it appeared, was soon to be in business as a cowtown.

The expected coming of the cattle trade spurred Ellsworth citizens to purge their town of lawlessness. On May 12, 1869, a mob lynched one Fitzpatrick, who was being held for murder. That night someone took a shot at Judge Westover, apparently in retaliation, and respectable tempers flared. "Having an assurance of the cattle trade," wrote Ira Phelps to the Junction City Weekly Union, "we are

20. Roenigh, op. cit., pp. 86, 87. In April, 1868, P. H. Hubbell established a newspaper named the Ellsworth Advocate, which lasted for only six months.—Kansas State Board of Agriculture, First Biennial Report... 1877-1878, p. 215.
22. Laws of the State of Kansas, 1869, pp. 217, 218. The act of 1867 allowed summer driving of Texas cattle only into the underpopulated southwest quarter of Kansas; anyone bringing longhorns from the free zone northeastward had to guarantee that owners of domestic stock lost nearby as a result of contracting Spanish fever, commonly carried by Texas cattle, would be reimbursed.—Ibid, 1867, pp. 263-267. This statute, of course, was universally ignored by drovers and buyers.
determined to have peace and order instead of rowdyism and bloodshed, if we have to fight it on this line all summer.” 23

Whether the cattle trade would contribute much to peace and order remained to be seen, but William Sigerson & Company of St. Louis began constructing a stockyard with a capacity for 5,000 head and provided banking facilities to handle the finances of the trade. Circulars and posters were dispatched to all corners of Texas, and on May 31 agents left for that state to guide herds up the new state road. Businessmen’s spirits soared. “It was supposed,” wrote a correspondent, “that when the railroad was extended west of the town, Ellsworth would die, but instead of that she prospered.” The town then contained several merchandising firms, four hotels, a drugstore, four taverns, a schoolhouse, and an Episcopal church.24

But the cattle-shipping season was a failure, perhaps due in part to Indian raids early in the season which may have kept most Texans from driving that far west.25 By September, in any event, when it should have been enjoying the height of its shipping activity, a passing correspondent described an Ellsworth once again in the doldrums:

It does not present a favorable appearance, but on the contrary it affords evidence of being in advance of the settlements of the country. Two or three years ago it had some importance as the temporary terminus of the railroad. When the road was built beyond it, it ceased to be of any consequence. Its old consequence will not be regained until the settlements have reached and passed it. . . 26

Perhaps a few herds were lured to Ellsworth; at least William “Apache Bill” Semans, county sheriff, was shot and killed that fall by a Texas cowboy while trying to quell a disturbance in an Ellsworth dancehall.27

Apparently not until the overflow season of 1871 did Ellsworth receive any substantial numbers of Texas cattle. It was 104 degrees in the shade on July 14, 1871, and citizens were angry because the new jail was located between the church and the schoolhouse. But on the uplands surrounding the town cattle to the extent of 30,000 head grazed, with more arriving every day.28 Things were looking up at last. By the end of the year 35,000 head had been shipped over the rails of the Kansas Pacific, in spite of low prices, and great

25. “I. F.” telegraphed from Ellsworth on June 4 that “The citizens here are ready for war to the knife.” Ibid, June 6, 1869. Such reports may have frightened off many drovers.
numbers were wintered in the county. Early in 1872 Dickinson and Saline counties legally rejected the cattle trade, and as the next major village to their west, Ellsworth prepared to receive the bulk of the trade and its swarms of free-spending transients.

The year 1872 promised great things to many Ellsworth merchants. Mayer Goldsoll, for example, a Russian immigrant who had operated a general outfitting store in Ellsworth since 1867, already had tapped some of the cattlemen’s trade in Abilene. Goldsoll boasted in the spring of 1872 the “largest stock in Western Kansas, of Fancy and Staple Groceries and Provisions, also Liquors, Cigars and Tobacco.” In addition Goldsoll advertised clothing, footwear, blankets, luggage, jewelry, gold and silver watches, clocks, chains, solid and plated silverware, pistols, cutlery, accordions and other musical instruments, and toys. The tastes of the transients were not inexpensive. In two years the newspaper could say of Goldsoll that “jewelry makes but a small part of his business, and yet it is nothing unusual for him to sell $1,000 worth after business hours.”

In the three summer months of 1873 Goldsoll had sales averaging $30,000 per month, and his take for the entire year totaled $150,000. By 1874 his “Old Reliable House” required five full-time employees, one for each department (jewelry, groceries, clothing and accounts) plus a general floorwalker. Goldsoll also maintained branch stores in Russell and Great Bend, Kan., and Denison, Tex., further to tap the cattle trade.

Not only merchants benefited from the trade. A visitor of 1873 noted that “the popular sign ‘Saloon,’ was over nearly every other door.” Although everyone in town was enjoying a heavy volume of sales, asserted another, “Whiskey selling seems to be the most profitable business.” The brothel district, located on an addition to the city a half-mile east of town, also did a brisk business, as did Ellsworth’s gamblers. It was easy to rationalize the presence of organized sin in the town, since it more than paid its way. As a Topeka correspondent observed in 1873:

The liquor saloons are licensed and gambling houses and houses of prostitution are virtually licensed. Prostitutes and gamblers are made to pay monthly fines. The city realizes three hundred dollars per month from prostitution fines alone. The entire municipal expenses of the city are paid from licenses and fines.

fines; the authorities consider that as long as mankind is depraved and Texas cattle herders exist there will be a demand and necessity for prostitutes, and that as long as prostitutes are bound to dwell at Ellsworth it is better for the respectable portion of society to hold the prostitutes under the restraints of law. All of the vicious vocations are made to contribute to the maintenance of law and order, and better order than is enforced at Ellsworth cannot be found in any town of its size anywhere.34

Toward the end of 1871 the eastern demand for Texas cattle slumped. As winter approached many Texas drovers sold out at low prices to resident farmers and stockmen, who then wintered the cattle. It was an ideal investment for someone desiring profit at little outlay, and it remained an Ellsworth county enterprise until 1875. The cattle were bought cheaply, then usually were marked and merely turned loose on the unsettled public domain to shift for themselves until spring, when they were rounded up and sold in town. More than 40,000 head were wintered in the county that season.35 No doubt many of these were simply abandoned by Texans who could find no sale for them.

Unfortunately it was a very severe winter. Snow and sleet buried the grass and streams froze over. Droves of longhorns invaded settlers’ claims to consume hay, strip fruit and forest trees, and drink from waterholes. On Ash creek, for example, a herd of 2,000 head began committing depredations in the middle of November, and settlers desiring damages had a hard time identifying the owners. In December two settlers, writing to the editor of the newly established Ellsworth Reporter, demanded that something be done to protect homesteaders.36 At the same time a number of local stock raisers and those with interests in wintered stock met to organize the “Stock Men’s Protective Association.” Many harassed settlers apparently were harming the hungry longhorns. The association’s purpose was to prosecute as a co-operative effort “all offenders against the property of the members of this association.” D. W. Powers was elected president of the group, and Arthur Larkin vice-president. By December 22 its membership stood at around 30, each of whom paid a $2 initiation fee and was taxed one penny per head owned.37 When spring arrived most of the wintered stock were dead from hunger, thirst, and exposure, and great quantities of cowhides, horns, hooves, and bones were shipped east from the county.38 With nothing left to protect, the stockmen’s association also died.

34. Kansas Daily Commonwealth, Topeka, July 1, 1873.
37. Ibid., December 21, 1871, January 11, 25, 1872.
38. Ibid., May 6, 1872.
The winter situation only aggravated many homesteaders’ aversion to Texas cattle. Grazing about Ellsworth the previous summer, herds trampled standing crops on settlers’ claims, most of which were unfenced because of the scarcity of wood and the expense of wire, and transmitted the dreaded Spanish fever to domestic stock. As early as February 29, an open letter from “Citizen” urged homesteaders to start organizing to protect themselves in the 1872 Texas cattle season. “Citizen” noted the previous summer’s “disaster to our native stock.” “Are we,” he asked, “going to be perfectly passive, or if we have any feeling at all, simply vent it in words, without action, and let the . . . Texas cattle men have it all their own way?” He proposed a homesteaders’ convention within two weeks “to adopt means to enforce drovers to observe the laws.”

Five days earlier the governor of Kansas signed into law the 1872 “herd law” act which forced drovers to herd their cattle in place of requiring settlers to fence their claims for protection from loose stock. The new law gave county commissioners the power to impose herd laws at will.

In each county of less than 30,000, as was Ellsworth, the statutes provided for three governing commissioners elected to two-year terms. On meeting days these received $3 per day, portal-to-portal. Upon any commissioner’s resignation, the remaining commissioners and the county clerk appointed a replacement. The most demanding qualification was that “No person holding any state, county, township or city office . . . shall be eligible to the office of county commissioner.”

The powers given these boards in February, 1872, meant in effect that two commissioners sympathetic to the interests of their county’s homesteaders—even though the latter should be a minority—was the only requirement for the passage of a county herd law, with its discouraging implications for resident livestock raisers and Texas cattlemen. Ellsworth county’s three commissioners in the spring of 1872 had been elected the previous fall and were scheduled to serve through December, 1873. The board consisted of J. C. Howard, a stock raiser who let his cattle range free each winter, Leo Hertzog, a young immigrant tavernkeeper whose trade flourished during the cattle season, and Z. Jackson. The latter’s

39. See also, “J. W. L.” in ibid., March 7, 1872.
42. For data on Hertzog see “U. S. Census, 1870,” Ellsworth county, [first section], p. 1; Ellsworth Reporter, December 14, 1871, May 21, 1874.
sympathies on the question were vague. On one hand, he was a partner with Arthur Larkin in a general merchandising business that gained by the presence of the cattle trade. On the other hand, Jackson retained his farm even after going into business with Larkin. Many homesteaders possibly identified him as one of themselves. But whatever Jackson's sympathies, the other two commissioners were definitely anti-protection, and a herd law was not forthcoming.

On March 9, as called for by "Citizen," a large, enthusiastic convention of settlers met on Thompson creek and formed the "Farmers Mutual Protection Society of Empire Township." The Rev. Levi Sternberg and D. B. Long were chosen officers, and a subscription of about $100 was raised. Sternberg gave the major address. He noted the incompatibility between farming and stock raising. One must go, he said, for the cattle interests required, as the newspaper paraphrased his words,

that farmers must leave their vocation, which is the life blood of every country or community, and the germ of civilization, and give this county into the hands of the herdsman, and make it a half civilized or barbarous [sic] country without schools or churches—and controlled by a few large stock men having many poor illiterate men dependent upon them for support.\textsuperscript{43}

A week later the group met again, with County Commissioners Howard and Jackson in attendance. The former gave the meeting an anti-urban flavor by commenting on unequal tax assessments and observing that "the farmers are generally termed 'country clodhoppers' by the Ellsworthites." In the spirit of compromise, however, Jackson declared that the Texas cattle trade would be acceptable in the county if not conflicting with the farming interests, but that "a balance sheet would show a greater loss to the community than gain." As for domestic stock raisers, he offered a resolution "that it is not the purpose of this society to oppose the Ellsworth Stock Association, but on the contrary to confer with them, and if possible so to harmonize the conflicting interests of both in such a manner as to be mutually beneficial." The motion carried and Jackson, Long, and one other were appointed to meet with the stockmen.\textsuperscript{44}

The members of both farmers' meetings shied away from any serious consideration of a county herd law, probably due much to the intervention of Howard and Jackson, assisted by such protec-

\textsuperscript{43} Ibid., March 14, 1872. The organization originally was named the "Ellsworth County Farmers Protective Society." At the second meeting its name was changed as given, but it continued to be termed the "Farmers Protective Society of Empire Township" (as in ibid., May 9, 1872).

\textsuperscript{44} Ibid., April 4, 1872. The outcome of the liaison activity is not given in the newspaper.
tionist "moderates" as D. B. Long. Settler support for organized political action waned as the planting season arrived. On May 10 the membership finally gave major consideration to a herd law, but that was apparently its last meeting until fall. The winter's agitation resulted in no herd law to disrupt stock-raising practices or discourage the urban trade in Texas cattle. Early in June the paper carried a letter by Theodore Sternberg, son of the man who had spoken so eloquently against cattle three months before. If the Texans were careful, cautioned the younger Sternberg, there could be no objection to their presence in Ellsworth county. Perry Hodgden, apparently speaking for the entire business community, curtly endorsed the note. "I concur in the above," he wrote. "It expresses my views to the letter." 46

Not until the end of August did the Ellsworth Reporter, committed as it was to a promotional policy, admit the presence of conflicting interests within the town. Although these conflicts appear at first to have little relation to the cattle trade, their significance appears in the development of broader rural-urban antagonisms which increasingly served as a basic ingredient of the cattle-trade controversy.

By 1872 two Illinois capitalists, Alfred Southwick and John Kuney, who were also the proprietors of Abilene, held the proprietorship of the Ellsworth townsite. Although these gentlemen were non-residents, many of the original businessmen of Ellsworth, such as Ira Phelps and Perry Hodgden, either were involved financially in the Ellsworth Town Company or had bought holdings from them. 47 For some time the town proprietors had reserved a block amid their holdings on which a permanent courthouse eventually would be erected. This block became informally known as the "courthouse square." Those holding properties adjacent to the square happily awaited the day when the new courthouse elevated surrounding land values. 48

On April 20, 1872, citizens voted bonds in the amount of $12,000 for constructing a permanent courthouse. In a rare burst of criticism the previous December the Reporter had urged the town proprietors to sell "to laboring men who desire to build homes" and "refuse to sell to those who only buy to hold for a rise." This criticism apparently reflected a broad public sentiment adverse to the town

45. Only the intended meeting is noted.—Ibid., May 9, 1872.
46. Ibid., June 6, 1872.
47. See advertisement for Ellsworth Town Company in ibid., December 14, 1871 #.
48. See A. Larkin in ibid., June 20, 1872.
company. After some confidential negotiations between the county commissioners and Arthur Larkin, the board on June 7 accepted Larkin’s donation of two lots adjacent to his own properties as a site for the courthouse.49

Repercussions followed. On June 10 a public protest meeting was staged, probably instigated by those with property interests adjacent to the now defunct “courthouse square” but attended by many, such as M. C. Davis, mayor and editor of the paper, who no doubt thought the old location more acceptable from a community-development viewpoint than the new downtown location. The meeting resulted in a petition signed by 50 persons protesting the commissioners’ decision, which was presented to the board the following morning. At second gathering of citizens Jackson and Hertzig were on hand. Jackson defended the board’s action, no doubt citing the board’s resolution that a downtown courthouse could be sold as a business site when the time came to build a larger courthouse.50

At the next meeting of the commissioners the board received five petitions carrying a total of 139 names which supported its decision. These names included those of M. Goldsoll, Jerome Beebe, George Relfe, Nick Lentz, Thomas Thomas, David Nagle, A. Schmidt, and other Ellsworth businessmen. D. B. Long, A. Essick, W. M. King, and other rural enterprisers also signed; in fact, the petitioners were perhaps 90 per cent rural residents. The board declared an intention to stick by its decision.51 In the newspaper spokesmen of each side labelled the other a selfish interest group.52 Since the board refused to reconsider, Ira Phelps, Perry Hodgden, Mayor Davis, and John L. Bell, another businessman, sued out a writ of injunction to keep the board from issuing bonds. The suit was dismissed, however, and the board retaliated with a suit to recover $1,500 damages for wrongful suit of the injunction. Apparently this action subsequently was dropped, but may well have motivated Mayor Davis’ resignation and return to Iowa soon after.53

Group conflict entered the political sphere on August 24 at the Ellsworth precinct Republican convention called to select eight

49. Andreas-Cutler, op. cit., p. 1275; Ellsworth Reporter, December 29, 1871.
50. Ibid., June 13, 20, 1872.
51. Ibid., June 20, 1872. In its minutes, printed in this issue, the board recognized petitions with a total of 139 names attached, for the same issue, however, Larkin submitted to the editor one petition with 160 names attached. Presumably the latter included all the signatures on the board’s petitions. A systematic check of the 160 names against the 1870 census revealed only 40 probable correlations; however, the structure of Larkin’s list indicates that only the first 15 to 18 were Ellsworth residents with the remaining 142 to 145 apparently rural residents.
52. A. Larkin and E. C. Minnick in ibid.
53. Ibid., June 27, August 1, 29, 1872.
delegates to the G. O. P. county convention. A nominations committee appointed by the chair returned with eight nominees, including Perry Hodgden. A group of insurgents led by County Commissioner Jackson and S. Atwood, a lawyer only lately resident in Ellsworth, proposed an alternate slate of nominees. This slate included Atwood and four other comparative newcomers to Ellsworth and four who had signed petitions supporting the courthouse decision, as well as Commissioner Hertzig. In the voting the insurgent slate defeated the slate of "regulars," as they termed themselves, by a slight margin in each case. A second meeting was held that night by the defeated group, which denounced the insurgents as "Greeleyites" and approved much the same slate of delegates as they formerly proposed. The new editor of the Reporter observed that both factions were for Grant, and ascribed the fuss to petty jealousies.54

The county convention four days later revealed the formation of a coalition between the insurgents and the rural wing of the local Republican party. The coalition resembled somewhat the rural-urban combination supporting the courthouse decision. D. B. Long, rural leader, was called to the chair, while an insurgent became secretary. The insurgent delegates from Ellsworth were accepted by the committee on credentials. Four pairs of delegates and alternates were selected to attend the state conventions in Topeka and Lawrence, each pair consisting of one insurgent and one rural member.55

The insurgents struck again on October 5 at Ellsworth precinct's G. O. P. meeting to select delegates to the second county convention. Judging from the votes cast, about 150 persons attended the meeting, which adjourned to a restaurant for more room. Again an insurgent slate of nominees, including Hertzig and three other August 24 insurgent nominees, opposed a "regular" slate which included Hodgden. The insurgents won again, this time by a two-to-one margin. "The election last Saturday," observed the Reporter, "was the most exciting we ever witnessed. . . . The spirits of the successful party were high and it took a good many 'straights' and a good deal of water with extract of hop in it, to cool off the enthusiasm of the victors." The paper deplored, however, the expression of "so much bitterness between parties."56

Three days later the insurgent-rural coalition dominated the

54. Ibid., August 29, 1872.
55. Ibid., September 5, 1872.
56. Ibid., October 10, 1872.
the county convention called to select a slate of Republican candidates for county office and to select delegates to the district senatorial convention. In both cases, selections were balanced between rural members and insurgents.57

On October 10 the district senatorial convention was held in Ellsworth. John H. Edwards, the strongest candidate, had two strikes against him in Ellsworth county. Edwards was until recently a resident of Ellsworth. One of the original promoters of the Ellsworth townsite, an early commissioner of the county, and the town’s first provisional mayor, he also had been an important Ellsworth businessman. In 1870 he became the district’s state representative, and now resided in Ellis county. He was vigorously supported by the older businessmen of Ellsworth, and hardly could be identified with the insurgents. On September 26 he spoke in Ellsworth, praising the Texas cattle trade as the county’s greatest asset.58 He thereby gained the opposition of the rural wing. In the convention the Ellsworth county delegation, led by D. B. Long, proposed the name of County Commissioner Jackson, both a ruralist of sorts and something of an insurgent, to oppose Edwards. But in the balloting Edwards gained the nomination.59

Election day a month later held a surprise. Senatorial candidate Edwards, anathema to both farmers and insurgents, lost overwhelmingly in Ellsworth county, carrying only one precinct. But not one member of the insurgent-rural Republican ticket gained office. The reason is clear. Urban voters failed to support rural members of the slate and the country dwellers refused to vote for the urban insurgent candidates. For example, ruralist Paul Curlett, Republican candidate for state representative, carried nearly every rural precinct but captured a mere seven votes in Ellsworth. On the other hand, insurgent Thomas Thomas, G. O. P. candidate for clerk of the district court, carried Ellsworth but lost every single rural precinct. Opposed by a badly split Republican vote, a slate of Greeley Republicans carried the day.60

The parties to this experiment in rural-urban co-operation had distrusted one another in the showdown. The fundamental, apparently unreconcilable rural-urban split was soon to achieve a profound expression in the politics of the cattle-trade controversy.

In August, 1872, at the height of Ellsworth’s second great cattle-

57. Ibid.
59. Ibid., October 17, 1872.
60. See election statistics in Ibid., November 14, 1872.
shipping season, the Ellsworth Reporter noted that “Some of our farmers have been run over by herds of Texas cattle.” Rural anger was building up, but the paper observed that Ellsworth county farmers were still “acting fairly” toward the cattlemen.\(^{61}\)

The old protection movement began rolling again the following month. Just two days after John H. Edwards’ speech praising the cattle trade, settlers held a convention in Ellsworth to organize a county-wide protective association. This time the movement was initiated by a newcomer to Ellsworth county, W. M. King. King, an Iowan, first appeared the previous February, when he bought 1,440 acres of rural real estate and talked about building a sawmill. By the end of March he was settled in the county as a livestock breeder and agitator for sundry community projects. He soon made himself obnoxious to many other stockmen. In May he ran a sarcastic notice in the paper which criticized domestic cattlemen as being worse than the Texans in letting their stock run free to commit depredations and then disclaiming ownership when they did.\(^{62}\)

A. Essick, a Presbyterian minister and like King a prosperous stock-raising farmer only recently come to the county, was another organizer of the group.\(^{63}\) A resolution was adopted that the group petition the county commissioners for a herd law. The flavor of the meeting was reflected in the motto concluding the secretary’s report: “Protection we want. Protection we must have!” \(^{64}\)

On October 12 the group, still an informal one, met again. The presentation of herd law petitions to the board of commissioners was postponed, and a third meeting was scheduled to consider forming a county agricultural association. This may have been a subtle attempt to redirect the group into less radical channels. The October 26 meeting apparently was postponed, or else broke up over the question of whether the group was to be a protective society or a neutral agricultural association.\(^{65}\) In December the paper noted that Essick now believed in wintering Texas cattle, evidently in the standard way of turning it loose to forage, and the next spring he was specifically branded as an anti-protectionist. In 1873 Essick continued to call for an agricultural association, and was joined by the anti-protection stock raiser Commissioner Howard,

\(^{61}\) Ibid., August 1, 1872.

\(^{62}\) Ibid., February 22, 29, March 26, April 18, May 2, 1872. For examples of King’s subsequent commercial ventures see Ibid., June 27, October 17, 1872.

\(^{63}\) Essick is not listed in the 1870 census.

\(^{64}\) Ellsworth Reporter, October 10, 1872.

\(^{65}\) Ibid., October 17, 1872. The outcome of the October 26 meeting is not noted in the paper.
as well as Levi Sternberg. The latter, who had spoken so harshly of cattlemen less than a year previously, now was state president of the “Stock Growers Association of Kansas” and a big cattlemen himself.66

While the herd law agitation apparently was being redirected by the most influential of the county’s stockmen, a rural-urban ideological tournament was fought in the columns of the newspaper. This clash was present in J. C. Howard’s observation about “country clod-hoppers” in the spring of 1872 and in the mutual rural-urban distrust leading to the downfall of the Republican coalition the next fall. In January, 1873, the newspaper carried a letter from a farmer with the pseudonym “Home Interests” who called upon the county to obtain a flour mill, a project more important than the second railroad for which many Ellsworth businessmen were agitating. The writer especially complained about money fleeing the county through Ellsworth merchants who imported flour for urban consumers. In the next issue a writer disguised as “Go to Work” defended Ellsworth merchants, asserting in addition that the county’s farmers, with few exceptions, were simply indolent complainers. “Home Interests” replied that “Go to Work” and his fellows were “dry goods loafers” who should get busy and do something about the shabby appearance of Ellsworth. His urban opponent replied immediately, abusing “Home Interests” and “his legions of thriftless, shiftless, do-nothing neighbors. . . .” “Home Interests” struck back in a long letter very critical of Ellsworth males, two-thirds of whom were described as loafing for a living or “just carrying on a little business as a cloak for their idleness.” In a March issue “Go to Work,” possibly at the editor’s insistence, tried to placate his rural opponent, but the other’s concluding argument in the same issue still pointed to the number of loafers on Ellsworth’s Main street.67

At the same time D. B. Long, rural leader, voiced objections of a different sort to Ellsworth’s railroad project. He argued that the county’s big landowning stockmen, like himself, would bear the tax burden for such public-subsidized projects. “This county,” he asserted in the Reporter, “is a stock county, and not an Agricultural county. When you cripple the stock interest, you cripple the true interest and wealth of the county. . . .” Commissioner Jackson, spokesman for the proposed railroad, replied to Long that

66. *Ibid.,* December 19, 1872, February 13, March 6, May 1, June 12, 1873.
a second railroad would bring more settlers into the county, providing a broader tax base. He agreed that stock raising was the primary interest of the area but claimed that a second railroad would favor this interest by bringing "cheap fencing here to stop the clamor in the mouths of a few for the herd law. . . ." In March, however, Commissioner Howard proclaimed himself implacably against the project, and declared that as chairman of the board of commissioners he would block all efforts to bring the railroad to a public vote. 68 Thus the urban project was killed by the county's big rural landowners.

Prior to 1873 most anti-cattle agitation came from southeast of Ellsworth, where rural settlement was thickest. The year 1872, however, saw considerable settlement in the northwest corner of the county around the town of Wilson, laid out in the fall of 1871. In the elections of November, 1872, Wilson was the only precinct giving a majority to Edwards, the pro-cattle candidate for the state senate, the reason perhaps being that the town's promoters had temporary aspirations of the community's becoming a great cattle-trading center. 69 By 1873, however, the Wilson area was clearly a seat of an anti-cattle movement that sought not just herd law protection but total exclusion of the trade from Ellsworth county.

The 1867 Spanish fever act of the Kansas legislature fixed quarantine boundaries that legally excluded Texas cattle from the more settled portions of the state. The basis was fear by resident livestock raisers of Spanish fever. In 1872 the legislature, acquiescing to the wishes of inhabitants, moved the line farther west to close more territory to the cattle trade. Successive legislatures, meeting in January and February of each year, threatened to shove the quarantine line—or "dead line," as it was termed—farther west. 70 Now, early in 1873, a combined meeting of residents of the Wilson area and homesteaders from nearby Russell county resolved to petition their representatives in the legislature "to so amend the act regulating the driving and grazing of Texas cattle in this State as to exclude from Ellsworth and Russell counties, through Texas herds or those liable to impart the Spanish fever." 71 Although nothing came of this action, the region remained a center of exclusionist agitation.

68. Ibid., January 23, 30, March 20, 1873.
71. Ellsworth Reporter, February 20, 1873.
In May, 1873, the newspaper predicted another great cattle season for Ellsworth, with prospects of 300,000 head proclaimed "a low estimate." A kind of slogan was tucked in among the news items—"Ellsworth county farmers will not fight the Texas Cattle." Variations on this theme seemed to promise that repetition would make it so.

The very next edition, however, brought a letter from a farmer who demanded a herd law and accused the county commissioners of deliberately favoring the big stockmen in not passing such a law. At the same time, a few of the domestic cattle raisers were joining the farmers to view Texas cattle with disfavor. Among these was D. B. Long, a stockman who did not fear a protection law because he herded and fed his own stock each winter. Not so stockmen like Commissioner Howard, who feared Spanish fever each summer but who turned his stock loose each winter. A writer to the Reporter suggested that the commissioners impose a herd law in the spring, then lift it again in the fall, but the act of 1872 made no provision for repeal after a herd law declaration. So Howard and his stock-raising constituents preferred no herd law at all.

At least one homesteader tried to do something that spring besides just protesting. Late in May he swore out a complaint on two Texas trail drivers who allowed their cattle to invade his claim. But without a herd law in force there were no grounds for prosecution. The case was dismissed at the request of County Attorney P. T. Pendleton.

In June a letter from J. W. Ingersoll bitterly attacked what he termed the county's anti-protection "rich men," those like the Rev. A. Essick who owned from 75 to 400 head. These stockmen, asserted Ingersoll, "care no more for the success of the poor man than for the life of a troublesome flea, . . . and it is just such men that make a herd law necessary." He observed that farmers should not have to trust the honor of cattlemen to reimburse damages committed by stock, but rather should have the protection of a herd law wherein the stockmen could trust the farmers to assess damages fairly. "The poor man," noted Ingersoll, "may not have as many dollars or cattle as the rich man, but on the average I am certain he has as much honor and is governed by as generous principles."

72. Ibid., May 8, 1873.
73. "Farmer" in Ibid., May 15, 1873.
74. Edward P. Faris in Ibid., July 3, 1873.
75. Kansas Daily Commonwealth, Topeka, June 4, 1873.
“The rights of the laboring men,” he concluded, “must be protected by our laws and respected by capital. . . .”

John S. Barnum, however, spoke the minds of those farmers like himself who had been converted from protectionism to an anti-protection view. His principal arguments were that a herd law would frighten away the trade in Texas cattle, leaving local farmers with greatly reduced numbers of consumers to supply. A herd law would also frighten away the big domestic stockmen who paid most of the taxes in the county. Anyway, claimed Barnum, Ellsworth county farmers would do better to become stock raisers themselves.

Many new arrivals to the county agreed with Barnum’s conclusion and dropped plans for homesteading in favor of stock raising. Winfield S. Faris and his brother William, for example, arrived in 1872 and took up claims on Clear creek. Soon, however, they became so involved in managing their small but growing herds, which they grazed on the public domain, that they allowed their claims to revert back to the government.

Although the newspaper supplies no details, two apparently conflicting farmers’ organizations were now operating, evidently representing this dichotomy of opinion regarding protection. One was the old “Farmers Protective Association of Empire Township,” in which D. B. Long was active, which met as late as May 31 “to arrange for better protection from the ravages of Texas cattle.” The other, the “Ellsworth Farmers’ Independent Association,” was active near Ellsworth and met June 14 and October 17 at the home of Thomas Thomas. This Republican insurgent of the previous year owned an 80-acre farm, but he was primarily a contractor. In 1873 Thomas was building the new Ellsworth schoolhouse, and it is unlikely he would have antagonized the city’s residents by frightening the cattle trade away with talk of a county herd law. The only other member of the group mentioned by the paper was W. E. Fosnot, a one-legged war veteran who came to Ellsworth county as a

76. Ellsworth Reporter, June 12, 1873. Ingersoll’s rural class consciousness perhaps makes his personal data of interest. In 1870 he gave his age as 28, his birthplace as New York, his occupation as farmer, his dependents as a wife and two children. He estimated the value of his real estate holdings at $200. He gave no estimate of his personal estate.—“U. S. Census, 1870,” Ellsworth county, [second section.] p. 4.
77. Ellsworth Reporter, June 26, 1873.
78. A Biographical History of Central Kansas, v. 1, p. 630; Ellsworth Messenger, September 15, 1873.
80. Ibid., June 12, October 9, 1873.
81. Ibid., December 14, 1871 #. (advertisement), August 7, September 18, 1873.
farmer about 1870 but who opened a watch-repair shop in Ellsworth in 1874.\textsuperscript{82} He also was an unlikely protectionist agitator.

As the cattle-buying season wore on, the Ellsworth \textit{Reporter} attempted to protect the Texas cattle trade by offering local farmers advice, much of it condescending. "Farming or Stock-Raising?" asked one editorial, and the answer was both. For best returns, said the paper, farmers should raise crops, feed them to livestock, then sell the animals. The \textit{Reporter} also urged settlers to raise truck produce for Ellsworth's consumer market. Another item observed that if the farmer used sound commercial practices "just as his careful brother merchants do, he would find a spirit of business working into all his habits, and progress and push would follow." In September the paper reprinted from the Milwaukee (Wis.) \textit{Commercial} a long article emphasizing the lucrative returns from stock raising with Texas longhorns.\textsuperscript{83}

The same month the board of county commissioners made preparations for the election of new members. Z. Jackson had resigned in June to become the Ellsworth postmaster and his chair was temporarily filled by William Armstrong, a big stockman.\textsuperscript{84} For the coming election the county was divided three ways by population to give one commissioner to the eastern half of the county, one to the west, and one to Ellsworth.\textsuperscript{85} Since 1872 the question of a herd law had rested on the makeup of the board of commissioners. On October 11, 1873, 33 farmers of the eastern district met to select a candidate for commissioner who was favorable to a herd law. D. B. Long tried to inject a note of compromise into the meeting by proposing that the group ask for a herd law only for the summer months, but only one other besides himself was in a mood to compromise. Henry V. Faris, one of the county's original settlers, was selected as candidate to run against the anti-protection incumbent, J. C. Howard. On the same day the protectionists of the western district selected "Captain" L. Knox as their candidate. Knox had no opponent in that region.

Within the Ellsworth district voters were faced with a more complex situation. Not only did Ellsworth businessmen need an anti-protectionist to shield the cattle trade, but most also desired someone who would continue to oppose the old landed businessmen like Hodgden. The latter person was evidently behind the

\textsuperscript{82} \textit{Ibid.}, October 9, 1873, November 19, 1874.

\textsuperscript{83} \textit{Ibid.}, August 14, 28, September 18, 1873.

\textsuperscript{84} \textit{Ibid.}, June 26, July 10, 1873. For a brief description of Armstrong see \textit{Ibid.}, December 11, 1873.

\textsuperscript{85} See description of districts in \textit{Ibid.}, October 2, 1873.
candidature of J. C. Veatch, a hotel proprietor who had been a vocal “regular” Republican the year before. Therefore, Leo Hertz- zig, although he had not intended to be a candidate, let it be known that “circumstances compel him to run for another term.”

The newspaper meanwhile observed that “There are many farmers who have no stock but who hope to have some, that oppose a herd law, and there are some farmers who own good sized herds who favor the law.” The editor himself opposed protection, and almost the entire front page of an October issue was taken up by an anti-protection article composed by Henry Inman, an influential Ellsworth citizen, which was a masterpiece of deductive reasoning from the premise that the act of 1872 was “obnoxious to the very principles of justice and of right.” Then a week before the crucial election the paper carried a letter from “Anti-Herd Law” reminiscent of the views of “Go to Work” the previous winter. The writer, a stockman, wasted no compliments on protectionists. As he saw it,

We have all the wealth and respectability of the county on our side, and what does their side consist of? A few sore heads who couldn’t get office on our side and have gone over so as to be first in position and honors, even if it is among vagabonds and paupers, and the majority are composed of poor worthless grubber[s] of the ground, who have a little truck patch, or a few acres of corn and no fence, or a mere pretense for a fence, so as to collect damages from their neighbors. All that is necessary for the cattle men to do, is to hire all their poor neighbors a few days before election, and keep them away from the hungry office seekers, who try to make them believe that the herd law will benefit them, in order to get their votes.

The election itself was quiet. Anti-protectionist J. C. Howard defeated the herd law candidate in the eastern district to retain his position on the board. Captain Knox, the western district’s herd law candidate, was unopposed. In Ellsworth, Hertzig retained his seat. With the board still two-to-one against protection, the 1873 campaign for an Ellsworth county herd law ended.

The year 1872 had seen a great cattle-buying season in Ellsworth. By the late summer of 1873 it was apparent that the current season

86. Ibid., October 16, 23, 30, 1873.
87. Ibid., October 9, 1873. See in the same issue the rather intelligent protection arguments of “H. A.”
88. Ibid., October 16, 1873. Inman, a former army officer who prior to retirement had been stationed at Fort Harker, later became a nationally-known writer of popular Western nonfiction. Probably his best-known works were The Old Santa Fe Trail (New York, 1897), illustrated by Frederic Remington, and The Great Salt Lake Trail (New York, 1896), written in collaboration with William F. Cody.—A Biographical History of Central Kansas, v. 1, pp. 506, 507.
89. Ellsworth Reporter, October 30, 1873.
90. Ibid., November 6, 13, 1873. Only preliminary election statistics were carried by the paper. Also losing in the elections was Perry Hodgden, candidate for state rep-
was far less successful. "There are a large number of cattle about Ellsworth, but as yet shipments are light," the Reporter admitted in September. "Drovers who can afford to, will hold their cattle until the market is better. Many cattle will probably be wintered here unless there should be a change in eastern prices for the better." 91

There were those who, remembering the economic doldrums of the pre-cowtown Ellsworth, already were becoming fearful for the town's future as a cattle market. In mid-September the newspaper gave the prophets of doom a talking-to:

There are some people that need to be assured daily of the good prospect ahead. Some of these people live in Ellsworth, and we must say to them again this week, that "all is well." Ellsworth is all right and will keep right. It is more favorably located for becoming an important town than any other station on the [rail]road for a distance of four hundred miles. All that is necessary is for our citizens to keep on working, and building up the city. It is certain that Ellsworth will retain the Texas cattle trade as long as this county possesses such superior advantages and the drovers are welcome to come and are well treated while here. Ellsworth has been the busiest town in the State this summer, and now that the hurrying season is drawing to a close it does not look well to "get sick" as Alexander is said to have been, once upon a time, because there was not another world to conquer: after our business men have had an immense trade for six months they can afford to be satisfied during the other six months if they make no more than the business men in other towns are making. 92

Unfortunately, the day this brave article went to press the 1873 financial crisis struck Wall street. By the following week its repercussions were felt by Ellsworth as panic-stricken drovers threw the cattle they had been holding all summer onto the market. A total of 117 carloads of livestock left town September 25, and the current loading rate at the stockyard was estimated at 800 cars per week. "Long trains" of cattle still were being loaded daily a month later, but by the middle of November most of the excitement was over. 93 The season ended dismally. Ellsworth was the main reception point for Texas cattle in 1872; in 1873 she received only about 30 per cent of the cattle driven into Kansas. Only 30,540 of these were shipped east. 94 About 25,000 therefore were wintered in Ellsworth county, Commissioner Howard alone wintering 1,700 head. 95 Again settlers prepared for a season of stock depredations.

91. Ibid., September 11, 1873.
92. Ibid., September 18, 1873.
93. Ibid., September 25, October 2, 16, 1873.
95. Ellsworth Reporter, December 11, 1873. March 5, 1874.
By mid-November only a handful of Texans remained in town. Citizens no doubt saw them leave with mixed feelings this year. An unusual increase in violence in July and August had culminated in the fatal shooting by a Texan of Chauncey B. Whitney, businessman and county sheriff. A few days later the police retaliated by shooting Cad Pierce, a Texan. In September a troublesome ex-policeman had to be shot, and two months later a Texan avenged Cad Pierce by gunning Ed Crawford, his killer. The publicity resulting from this activity gave Ellsworth state-wide notoriety. In addition, it diverted business to rival cowtowns. “The recent killings of Sheriff Whitney and Cad Pierce, at Ellsworth,” wrote a correspondent from Great Bend, “has caused a large influx of cattle herders, buyers and others from that point, and business is much stimulated thereby.” It was a trying summer all around.

By the middle of February, 1874, the Ellsworth Reporter already was claiming optimistically that Ellsworth would obtain the bulk of the cattle trade in the state the coming season. In the same month a farmer wrote to plead with the editor to cease inviting the Texans to return. He urged rural-urban co-operation in the matter. “Help us to build up the county,” he implored, “and we will not let the town go down by any means.”

The continuing separation of rural and urban interests was highlighted by the invasion of Ellsworth county by the Granger movement. On March 17, 1874, the county’s first Grange was organized, with Captain Knox, the new county commissioner, as its master. The founding of the chapter was possibly inspired by the presence in the county of Edward P. Faris, who had been a charter member of the national organization. With a certain uneasiness the Reporter claimed in June that Ellsworth county Grangers were happy, and mentioned pointedly that local farmers failed to get reduced rates for grain shipments only because of the small quantity raised.

No doubt it was not coincidence that six of Ellsworth’s businessmen—including Arthur Larkin and Perry Hodgden—buried their

96. Ibid., August 21, September 11, November 18, 1873. The September 4 issue of the Reporter was particularly critical of the Leavenworth Commercial, which had asserted that martial law was proclaimed in Ellsworth, that the Texans threatened to “burn and sack the town,” and that citizens and police threatened to “shoot on sight” all Texans. “People who behave themselves are [as] safe here as in Leavenworth,” replied the Reporter.

97. For the results of Floyd Benjamin Streeter’s exhaustive research on this period of violence see his “Tragedies of a Cow Town,” The Arena: A Kansas Quarterly, Hays, v. 11 (Fall, Summer, 1934), pp. 81-96, 145-162; Prairie Trails and Cow Towns (Boston, 1936), pp. 118-142; The Rain: The Heart of a Nation, pp. 139-148.

98. Ibid., August 27, 1873.


100. Ibid., February 12, 19, March 19, June 11, 1874.
differences and tried to promote a county agricultural society five days before a similar convention met to organize a county-wide Grange. But a drought that lasted from early June through July, which was followed by grasshoppers, claimed the Grangers’ attention. Accompanying these catastrophes were prairie fires, with a particularly severe fire near Wilson the night of July 25, aggravated by an intense windstorm, which devastated the area. Faced with natural crises, local Grangers were preoccupied with planning co-operative firebreaks rather than co-operative merchandising, and proposing railroad legislation only to the extent of requiring locomotives to be equipped with spark-traps. A Grange leader like E. P. Faris might complain individually about “the politicians of the county who have personal ambition or purposes to serve,” but no Grange-inspired radicalism seemed to threaten the status quo. By fall the county contained seven regional Granges and a county Grange, but the movement appeared solidly in control of prosperous stockmen like D. B. Long, John S. Barnum, and Levi Sternberg.

Yet the herd law question was bound to arise again, especially as 1874 saw a new influx of homesteaders. The eastern half of the county, noted the paper early in the year, was “settling up quite fast. . . .” In a letter of the same month D. B. Long pointed to the county’s southern tier of townships, into which wheat farmers from adjacent Rice county were overflowing. Although a stockman himself, Long noted that the county badly needed a flour mill to accommodate these immigrants. He observed matter-of-factly that Ellsworth had only one or two seasons left as a cowtown, and that urban businessmen might as well admit it. “It is high time our attention was turned to something,” he concluded, “that will be of permanent and lasting benefit to the county.”

In 1870 the population of Ellsworth county was 1,185. In 1873 the population stood at 2,868. In 1874 it was still only 3,273. The county did not experience an immigration boom till after 1875. By that year the majority of its lands still lay vacant (see map p. 187). Ellsworth county homesteaders only slowly gained enough numbers to translate their desires into effective political action.

101. Ibid., June 11, 18, July 30, 1874.
103. Ibid., October 59, December 10, 1874, January 7, 1875. For Grange leadership see the Grange directory in ibid., November 19, 1874 ff., and article on the Grange anniversary celebration in ibid., December 10, 1874.
104. Ibid., February 5, 1874.
105. Ibid., February 19, 1874.
The shaded areas represent remaining lands unsettled. From the *Fourth Annual Report (1875)* of the Kansas State Board of Agriculture.

The state legislature in the meantime forced upon Ellsworth county yet another variable in the cattle-trade question. On March 7 an act was approved which seemed tailor-made for local protectionists. In counties like Ellsworth, where the commissioners refused to exercise their power to impose herd laws, two-thirds of the legal voters now could require them to do so by petition.¹⁰⁷

Encouraged, but uncertain whether they could obtain enough signatures for a county herd law, a group of homesteaders began drumming up support for a “night herd law” in Empire township. Such a law, which required all stock in a given township to be herded or penned during the hours of darkness, needed only a petition from three-fifths of the electors of that township.¹⁰⁸ Probably the reason why such measures had not been attempted previously in Ellsworth county was that many officials considered the 1868

¹⁰⁷. *Laws of the State of Kansas, 1874*, pp. 293, 204.
act on which such action was based to be voided through the passage of the 1872 herd law act.\textsuperscript{109} Empire farmers, however, were desperate. The group presented its petition, only to have it declared five or six names short of the requisite number.\textsuperscript{110}

Undaunted, Empire farmers met again on April 25 to consider a county herd law under the new provisions. Near Wilson, at the opposite end of the county, homesteaders also spoke emphatically of a herd law. From that area came an effort to organize a county-wide protection movement.\textsuperscript{111}

Ellsworth businessmen ignored all rural agitation and went ahead with plans to make Ellsworth the leading cattle market of the 1874 season, raising money to employ an agent to descend the trail and divert herds from Wichita and other cowtown competitors. By the end of May 42,572 longhorns were in the county, with another 17,800 getting close. John Mueller already had sold 100 pairs of cowboy boots and Ira Phelps put on four employees in his grocery store.\textsuperscript{112}

West of Ellsworth a group of settlers led by wealthy W. M. King met and resolved to prosecute any drover bringing his herd across the Smoky Hill river in their vicinity.\textsuperscript{113} But the really bad news came in June when the Reporter’s editor talked at length with various Texans. These informed him that Ellsworth might expect only about 60,000 head that season, or just two-fifths the total driven. Thereafter the trade would peter out anyway as railroads pushed into Texas itself and the state was finally drained of surplus cattle.\textsuperscript{114} On top of this, cattle were selling at depression prices. Drover Sol West, for example, remained in Ellsworth all summer in an effort to make profitable sales, but returned to Texas in the fall with a net gain of just $1.50.\textsuperscript{115} Only 18,500 head were shipped east from Ellsworth, 12,000 less than the year before.\textsuperscript{116} The cattle season of 1874 was a depressing failure.

\textsuperscript{109} Apparently the act of 1868 in part providing for night herd laws was in practice repealed—although still on the books as late as 1879. \textit{Compiled Laws of Kansas}, 1879, p. 921. Footnote 1, states: "On examination of this chapter ["Stock"], it will be found that many of the provisions of the general statutes have been superseded by subsequent legislation, for which see §§ 52 et seq. [herd law act of 1872] this chapter. The law of 1868 is nowhere repealed specifically, and parts of it only by implication; hence, we print the whole, calling attention to this fact." Appearing opposite the first section of Article 1 (night herd law act of 1868), p. 921, is the following marginal gloss: "See §§ 52 et seq. this chapter; also see §§ 91 et seq. [herd law act of 1874] this chapter; whenever there is any conflict or where they cover the same ground, these sections supersede the provisions of this and following sections of the general statutes."

\textsuperscript{110} Ellsworth Reporter, March 19, 26, April 16, 1874.

\textsuperscript{111} \textit{Ibid.}, March 12, April 16, 1874; A. O. Gibbs in \textit{ibid.}, March 26, 1874.

\textsuperscript{112} \textit{Ibid.}, April 23, May 28, 1874.

\textsuperscript{113} \textit{Ibid.}, May 14, 1874.

\textsuperscript{114} \textit{Ibid.}, June 11, 1874.

\textsuperscript{115} J. Marvin Hunter, \textit{ed.}, \textit{The Trail Drivers of Texas }(2d ed. rev.; Nashville, 1925), pp. 128, 129.

\textsuperscript{116} Streeter, "Ellsworth as a Texas Cattle Market," \textit{loc. cit.}, p. 398.
Fall saw the anti-cattle movement regain momentum. Late in the summer Captain Knox, the protectionist county commissioner from the western district, resigned from office. His successor was to be picked in the November elections. The Rev. John Jellison of Wilson, a protectionist, was put forth by the homesteaders of that area. Jellison faced no opposition. “We all know what we want,” wrote a spokesman, “and let us be in earnest to get it. We want a herd law twelve months in the year; we want the dead line moved from where it now is far enough west so that we shall not be troubled with Texas cattle crossing our country.”

Elsewhere farmers’ sentiments were becoming more and more protectionist, if not exclusionist, as continuing poor prices for long-horns negated the profits in wintering. C. A. Atwood, formerly editor of the Ellsworth Reporter, was now candidate for state representative, and had to explain away his previous anti-protection stand. To accomplish this he declared himself for a herd law, but a better one than provided in the act of 1874. “Let the impracticable law of last winter be remodeled,” he wrote, “so that the two great interests, farming and stock-raising, may both prosper, and our county will increase in wealth and population.” Having neatly straddled the issue, Atwood was elected.

The new editor of the Reporter, Henry Inman, also tried to be accommodating. In October, 1873, Inman had composed anti-protection propaganda for the Reporter. Now, in December of 1874, he noted that the herd law movement “is assuming a shape in this county that promises protection to our much abused farmers, at last.” Even the Ellsworth business community, doubtless frightened by the growing exclusion sentiment in the county, were giving way on the herd law. As Inman exclaimed:

At last a majority of the people of Ellsworth county, including our leading merchants, have opened their eyes to the fact, that the basis of our wealth, and prosperity, lies in the proper advancement of our agricultural interests... In a word, a new era is to dawn upon Ellsworth county, we are to become revolutionized in a measure, and the grandest feature in the changes that are to take place, is that, town and country—farmer and merchant, are firmly supporting each other in this matter... The Bete Noir that has been the means of estranging the two classes in advancing the real interests of the county is the “Herd Law” question... With a judicious herd law there need be no conflict of interests... Let us have a herd law by all means!

On January 28, 1875, the protectionists publicly warned the

117. W. T. Levitt and A. A. Jellison in Ellsworth Reporter, October 29, 1874.
118. Ibid., October 29, November 9, 1874.
119. Ibid., December 3, 1874.
120. Ibid., December 10, 1874.
board of county commissioners they were petitioning for a herd law. The board received the petitions on March 10, but postponed consideration. On March 23 the board finally imposed a herd law to go into effect May 1.121 The protectionists had triumphed.

Conflict in Ellsworth county was far from over, however. Despite the crippling herd law Ellsworth's businessmen intended to promote the town as a Texas cattle market for yet another season. The Reporter protested that homesteaders should not bite the urban hands that signed their herd law petitions, but farmers in the Wilson area prepared to continue agitating for total exclusion of the trade. On February 15 the settlers of Wilson township met with counterparts from Russell county to resolve that their representatives in the legislature be "formally instructed" to press for removal of the quarantine line farther west. A week later they met again to form the "Farmer's Protective Union," "to enforce the laws, and protect ourselves against the encroachments of herds of stock of every kind."122

In the meantime Ellsworth prepared for the cattle drive. Perry Hodgden and T. J. Buckbee took over management of the stockyard, and the Reporter published the entire 1874 herd law act so that incoming drovers would be careful to comply with its every provision. By the middle of May herds were arriving in the county and J. C. Brown, especially hired as a guide, was attempting to steer them clear of the Wilson vicinity. Late in May the Reporter revealed that T. J. Buckbee owned the only land on the Arkansas river over which the herds could pass on their way to Ellsworth county, all other property owners along the stream refusing to let them cross.123

This observation was virtually a notice that the Ellsworth cattle trade was dying hard, but dying all the same. Thereafter the Reporter's optimism dwindled to a pathetic silence on the matter. Finally, in August, a rather obscurely placed editorial formally announced the end of Ellsworth as a cowtown:

FALL TRADE.

We predict an excellent trade in Ellsworth this fall, and the logic of the thing is, that all the money to be spent will remain among ourselves. We are happy in the fact that the days of the Texas trade is [sic] numbered among the things that were. Of all the hundreds of thousands of dollars that changed hands during the years of that erratic traffic, we fail to see where it has benefited one man in the county whose determination it was to make his home

121. Ibid., January 28, February 11, 18, 25, March 25, 1875.
122. Ibid., January 28, February 25, March 11, 1875.
123. Ibid., April 8, 15, 22, May 20, 27, 1875.
among us. We have a herd law, and we have proved the richness of our soil, and our wonderful pastoral possibilities beyond a peradventure, and all that remains for us to do is to encourage a healthful immigration, devote our energies to wool growing, graded stock, and small grain, and we shall soon find ourselves second to no county in the state in wealth and importance.\textsuperscript{124}

The four years' conflict in Ellsworth county had been essentially a clash between an alliance of urban businessmen and a portion of the rural settlers against the rest of the rural settlers. A serious division thus was apparent in the latter group, between those who primarily farmed and those who undertook stock raising. Many of the stock raisers were not much removed from homesteaders, but most seem to have been comparatively wealthy. Homesteaders wanted a county herd law to protect their unfenced crops from loose Texan and domestic cattle; the stockmen, large or small, opposed a herd law because it would seriously cripple their mode of operation. In the countryside, therefore, the herd law was the issue rather than the Texas cattle trade as such. The split in the rural settler group was finally reflected in a kind of class consciousness that identified "poor" farmers and "rich" stockmen, as best expressed in the letter of J. W. Ingersoll.

An outstanding feature of Ellsworth county conflict was the emergence of a mutual distrust and contempt between rural and urban residents. This seemed to burst out at the least provocation. Obviously aggravating this rural-urban split was the excessive "urban-ness" of Ellsworth, with its economy oriented toward a highly cosmopolitan cattle industry rather than local agriculture. To a ruralist, all the distasteful accouterments of urban society were present in Ellsworth—drunkenness, gambling, prostitution, excessive crime, and idleness. The failure of the rural-urban political coalition in the 1872 elections exposed the depths of this cleavage. The \textit{Reporter} in late 1874 saw the healing of this as the most valuable benefit of resolving the herd law question.

Other sources of conflict in Ellsworth county apparently had little or nothing to do with the existence of the Texas cattle trade. Two cliques of businessmen fought over the location of the courthouse, and even though one clique captured a good deal of rural support in this conflict it apparently was isolated from the cattle issue. A certain amount of anti-cattle agitation also had other origins perhaps. The opposition to Texas cattle in Wilson may really have been a challenge by that community of Ellsworth's dominance within the county. The brother and spokesman of John Jellison, exclusionist county commissioner from Wilson, for example,

\textsuperscript{124} \textit{Ibid.}, August 5, 1875.
was Acy A. Jellison, soon to be the leading businessman, largest landowner, and dominant civic leader of Wilson.\textsuperscript{125} In addition, many of the homesteaders of the Wilson area possibly turned to the exclusion movement in frustration after being hit peculiarly hard with drought, grasshoppers, and prairie fires.\textsuperscript{126}

Did leaders play significant parts in the movement to restrict the cattle trade? Although Arthur Larkin and other Ellsworth merchants might be termed leaders, no urban businessman apparently ever became a vocal anti-cattle agitator. D. B. Long, a big stockman who herded and fed his cattle each winter, might have proved an effective leader for the movement in Ellsworth county. But he remained only a critic of the status quo, never an agitator. His own economic interests were never threatened by either the existence of the cattle trade or the proposed herd laws, and his criticisms were based mainly on principles rather than on felt needs. W. M. King provided some leadership, but this wealthy newcomer probably was too indiscriminately contentious to be an effective organizer of the opposition. The Jellison brothers undoubtedly provided leadership in the Wilson area by 1874, but a county-wide leader never appeared.

In the final analysis, the anti-cattle homesteaders won without significant leadership for two reasons. First, the Kansas legislature finally provided an easy means for obtaining a herd law against the wishes of entrenched interests. Second, urban businessmen realized by late 1874 that the cattle trade was inevitably to leave Ellsworth. They grasped the necessity of winning back the rural settlers on whom their businesses would depend in the not-too-distant future. They also hoped to eke out at least one more cattle season by stifling the exclusion movement. They saw the herd law as a compromise measure giving the majority of rural elements satisfaction and yet keeping the cattle trade in the county.

But Ellsworth’s cattle trade died in the summer of 1875. It was already being attracted to more convenient points by that year, and was no doubt as discouraged by the settling up of the country south of Ellsworth county as by the latter’s new herd law. In any event, if the birth of Ellsworth’s cattle trade is a study in corporate community effort, its death was at least partially the result of vicious community conflict. In such terms can be described in short the rise and fall of Ellsworth as a cowtown.

\textsuperscript{125} Lyon, op. cit., p. 52; Ellsworth Times, June 14, 1879; Ellsworth Reporter, March 18, 1890; Wilson World, July 15, 1948.

\textsuperscript{126} The majority of the state aid received by Ellsworth county for the relief of its destitute following the agricultural disasters of 1874 went to settlers in the vicinity of Wilson.—Ellsworth Reporter, January 7, 1875.