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AMEND THE GRAIN STANDARDS ACT

GOVERNMENT
Storage

HEARINGS

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK AND GRAINS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

H.R. 2121 and H.R. 11162

NOVEMBER 6, 7, AND 9, 1967

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AMEND THE GRAIN STANDARDS ACT

MONDAY, NOVEMBER 6, 1967

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10 a.m., in room 1301, Longworth House Office Building, Hon. Graham Purcell (chairman) presiding.

Present: Representatives Purcell, Foley, Montgomery, Nichols, May, Dole, Mayne, Zwach, Kleppe, and Price.

Also present: Mrs. Christine S. Gallagher, clerk.

Mr. PURCELL. The subcommittee will please come to order.

Today we will have first a group of six witnesses who will sit at the table together. They represent the Grain and Feed Dealers National Association.

I believe that you gentlemen understand without my emphasizing it, but I would like to be sure we are all working under the same understanding, that there will be one major statement made by one of the group, and then supplementary short statements made by others. You may certainly file a longer statement than you want to make orally, but it would be very helpful to us because of the number of witnesses called for today if those of you representing the Grain and Feed Dealers National Association could cooperate with us to that extent.

At this time I will call Mr. Frank C. Miller, chairman of the national association's grain grades committee, and president of the Ohio Grain Co.; Mr. J. D. Urquhart; Mr. Milton Morrison; Mr. Paul C. Hughes; Mr. Sam E. Hunt, Jr.; and Mr. George S. Moyer.

If you gentlemen would take your places, I would appreciate it very much.

STATEMENT OF FRANK C. MILLER, CHAIRMAN, GRAIN GRADES COMMITTEE, GRAIN AND FEED DEALERS NATIONAL ASSOCIATION, AND PRESIDENT, THE OHIO GRAIN CO., MILFORD CENTER, OHIO, REPRESENTING GRAIN AND FEED DEALERS NATIONAL ASSOCIATION

Mr. MILLER. Mr. Chairman and members of the committee, I am Frank Miller, president of the Ohio Grain Co., Milford Center, Ohio. I am appearing on behalf of the Grain and Feed Dealers National Association, of which I am the chairman of the grain grades committee and a member of the board of directors and executive committee. With me are J. Douglas Urquhart, Paul Hughes, Sam Hunt, Milton Morrison, and George Moyer, who would like to make brief state-

ments at the conclusion of my testimony. Our group represents the various segments of the industry, country elevators, terminal elevators, exporters, and processors and various sections of the country. We would hope that on the conclusion of our testimony your committee will have a good picture of our industry and what this legislation means to us.

We appreciate the unusual opportunity you gave our industry to study the testimony of USDA's witnesses before we appeared to testify. I can assure you that the time was well spent. We had an industrywide meeting in Minneapolis with all segments of the industry and the various sections of the country represented. We had a free exchange of views on the various proposals in H.R. 11162, and the National Grain Grades Committee conducted a section-by-section analysis of your bill. These steps cannot help but result in good legislation.

The Grain & Feed Dealers National Association was established in 1896 and since 1906 has been active in the standardization of grain grades. We are a nationwide and industrywide association whose members handle the commodities of producers to turn them into food or feed.

Mr. Chairman, we appreciate this opportunity to appear before your committee to express our views on H.R. 11162 and H.R. 2121. Our national association played a prominent role in the enactment of the U.S. Grain Standards Act in 1916. Changes in the manner of doing business, technological advances in handling grain, sampling and testing, and the method of transporting the commodities have changed considerably since 1916 with no major changes in the law.

The National Grain Grades Committee during the past 3 years has been studying these changes with respect to the requirements of the act. They concluded that amendments to the act are necessary and their recommendation to our board of directors was approved as follows:

1. Option on the part of the buyer or seller to have grain inspected officially.
2. Privilege of submitted samples, guaranteed or official.
3. Right to use U.S. grade designation in trading. a. Require use of uniform U.S. grade where grades are used.

The National Country Elevator Committee also considered the present situation with respect to the requirements of the act and their recommendation to the board of directors was approved as follows:

It is the consensus of the Country Elevator Committee that samples, including submitted samples, be subject to official inspection on a voluntary basis.

The board of directors unanimously approved both motions, and my committee in Minneapolis reaffirmed our previous recommendation.

My purpose in appearing before your committee is to ask for amendments which would carry out the directive we have received from our board of directors.

Neither of the two bills now being considered will satisfy our membership. H.R. 11162 goes too far and H.R. 2121 does not go far enough. We will limit our comments to H.R. 11162; and with amendments which I will discuss, we are prepared to support its enactment so that the buyer and seller can determine if an inspection will be made; make provision for official inspection of submitted samples and retain the U.S. grades for use in interstate commerce.

I will first comment on four major provisions of the bill.

First. Section 6(a), page 8, Mr. Chairman, we would suggest a change to this section including its title. H.R. 11162 would require the use of official grade designations only for export grain sold by grade. We are firmly convinced that official grade designations should be mandatory for grain sold, offered for sale, or consigned for sale by grade in interstate commerce. However, no inspection should be required but should be available at the option of the buyer and seller. We fear that if other types of grades were allowed to be used we would see a deterioration in the orderly marketing of grain which could reach the chaotic state existing prior to 1916, which brought about the enactment of the U.S. Grain Standards Act.

Our amendment to section 6(a) would permit the use of proprietary brand names, or trademarks, but their use would be restricted so as to preclude confusion with the U.S. grades. This section would also permit the sale by any descriptive factor information.

Second. Section 8, pages 10 and 11, strike in its entirety. Section 8 provides that all inspection agencies operate under a cooperative agreement with the Secretary or go out of the inspection business. This is a drastic change from the present manner of doing business and the arguments for this proposal propounded by the Secretary have not convinced us that such a change is necessary, warranted, or desirable. The inspection services provided by the various inspection agencies have satisfied the requirements of the trade. We can see no useful purpose in disturbing the present arrangement.

Such a change could lead to the complete federalization of the inspection service. An agency would be at the mercy of the Secretary when the terms of the agreement were drafted since, if agreement to the Secretary's terms were not reached, the agency would be out of business and the Secretary could provide the service with Federal employees. Although this end result was disclaimed by the Department, we see a distinct risk involved and have seen no need to change a working system.

Third. Section 11, pages 14 and 15, strike in its entirety.

Section 11 is unduly harsh and results in the assessment of a double penalty, the effect of which could put a grain firm out of business. The offenses included in section 11 are misdemeanors and carry their own penalty for conviction. Furthermore, the fines have been increased from \$1,000 to \$3,000 with an escalation clause to \$5,000 for a second offense. After conviction, the Secretary may hold a hearing in the case of export grain marketing, or allow the person to present his views in the case of domestic grain marketing and then refuse to that person the right to have his grain officially inspected. If that person were a partner, officer, director, holder, or owner of 10 percent or more of the voting stock in a corporation or an employee in a managerial or executive capacity, the firm could be denied the right to have its grain officially inspected.

Couple this with the agency provisions of section 16 and you bring into the provisions of section 11 every employee of the firm.

In the case of an exporter, if he were denied the right of official inspections, which are required by section 5 for grain sold by grades, his operations would immediately cease. In the case of the domestic shipper, he could continue to do business but without the right to have his grain inspected, he would not continue in business long.

Additionally, the grain industry polices its own merchandising and we have one of the oldest arbitration services in the country which is compulsory between members. The decisions of our Arbitration Appeals Committee have never been overturned by the courts.

Mr. Chairman, I am sure that you will agree that section 11 is unduly harsh, is not needed, and should be stricken from H.R. 11162.

Fourth. Section 18(a), pages 22 and 23 strike in its entirety. Section 18(a) grants to the Secretary of Agriculture enormous powers which Congress conferred upon independent agencies with proper and inherent safeguards. To confer these powers to the Secretary without limitations and subject to the political whims of the moment is repugnant to our form of democratic government. The Secretary does not have these extensive powers in the present law. He does have the authority to administer oaths, examine witnesses and call for the production of records. These powers have been sufficient in the past to allow the Secretary to supervise the inspection agencies, and we see no need to grant him additional powers at this time.

Mr. Chairman, the above four changes are critical to our support of H.R. 11162. Other changes which are necessary to protect individuals, to clear up vague language or are technical in nature are listed separately; and in order to conserve the time of this committee, I will not read them. I ask that they be made part of the record. We consider each and every change important and request that the committee give them favorable consideration.

Title.—Page 1 line 1 of the title strike “a national” and insert “an official” *Reason* More properly describes the inspection system.

Sec. 2.—Page 2 line 13 strike “a national” and insert “an official”

Page 2 line 19 between “tag” and “that” insert “so” *Reason* Technical

Page 2 line 19 place period after “facilitated” and strike remainder of section, line 19 “and that” and all of lines 20 and 21. *Reason* Consistent with change in Section 4(a).

Sec. 3.—Page 2 Section 3 reorganize entire section. Line 23 strike (a). Redesignate subsections (1) through (14), (a) through (n) respectively, insert a new subsection “o” and redesignate subsections (15) through (19), (p) through (t) respectively.

Page 3 line 11 strike “;” and add “(the term ‘State’ shall be construed to mean any one of the States, territories or possessions);”

Page 3 lines 18 through 22 change to read: “(f) the term ‘grain’ means food grains, feed grains and oilseeds and shall include corn, wheat, rye, oats, barley, flaxseed, grain sorghums, soybeans, mixed grains and others as are included in standards established under Section 4 of this Act.”

Page 4 lines 24–25 and page 5 lines 1–2 change to read: “(1) the term ‘official inspection agency’ means the agency or person approved by the Secretary to employ official inspection personnel for the conduct of official inspection under this Act.”

Page 5 between lines 10 and 11 insert new subsection (o) to read: “(o) The term ‘submitted sample’ means a sample submitted by or for an interested person for official inspection;”

Page 6 line 5 through 8 strike in their entirety. *Reason* for consistency.

Sec. 4.—Page 6 line 10 insert between “Secretary” and “is” the following: “, when the usages of the trade may warrant,” *Reason* included in the present law and clearly sets forth the purpose of standards. Page 6 line 25 after “thereon” strike the period and add: “and upon request, an opportunity to present data, views, and arguments orally in an informal manner.” *Reason* so that standards and changes thereto may receive proper consideration.

Sec. 5.—Page 7 line 13 between “taken” and “as” insert: “at the most feasible point after final elevation” *Reason* to be consistent with current practices.

Sec. 6.—Page 8 line 3 strike “export” and insert “CERTAIN;” on line 9 and 10 strike “from the United States to any place outside thereof” and insert “in interstate or foreign commerce” Page 8 line 12 strike “shipping” and at the end of line 15 add: “Provided, however (etc.)”

Sec. 7.—Page 9 line 6, between “grain” and “within” insert: “whether by official sample, submitted sample or otherwise” *Reason* to emphasize that official inspections are to be made on submitted samples.

Page 9 line 15 strike the comma and add: “resulting from reinspections, appeal inspections or caused by clerical errors,” *Reason* to preclude the changing of official certificates because of a supervisory inspection after the grain has been sold or removed from the place of inspection.

Page 9 line 17 between “obtained” and “for” insert: “by or for employees of the Department of Agriculture.” *Reason* so that samples taken by inspection agency personnel will not be considered as property of the United States.

Page 10 line 6 strike “a cooperating” and insert “employees of an official.” *Reason* Technical.

Sec. 8.—Page 10 line 20 through page 11 line 20 strike in its entirety.

Sec. 9.—Page 11 line 22 strike “9” and insert “8.” *Reason* Technical.

Page 11 line 25 and page 12 line 1 strike “or operates independently under a cooperative agreement” and insert “by an official inspection agency” *Reason* Technical.

Page 12 lines 14 through 22 change to read as follows: “be suspended automatically when the licensee ceases to be employed by an official inspection agency or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act. Provided further, that such license shall be reinstated if the licensee is employed by an official inspection agency within one year of the suspension date and the license has not expired in the interim.” *Reason* Authority of the Secretary too broad. New language protects the individual licensee without any deterioration of the inspection system.

Page 13 line 3 between “persons” and “performing” insert “employed by an official inspection agency and persons”

Page 13 line 4 strike “cooperative agreements or.” *Reason* Technical.

Sec. 10.—Page 13 line 10 strike “10” and insert “9” *Reason* Technical.

Page 13 line 12 strike “had” and insert “been afforded an opportunity for a hearing or”

Page 13 line 13 between “views” and “the” insert “at the option of the licensee”

Page 14 line 1 between “licensee” and “an” insert “an opportunity for a hearing or.”

Sec. 11.—Page 14 line 6 through page 15 line 17 strike in its entirety.

Sec. 12.—Page 15 line 19 strike “12” and insert “10” *Reason* Technical

Sec. 13.—Page 16 line 14 strike “13” and insert “11” and strike “cooperating” and insert “official.” *Reason* Technical.

Page 16 line 24 strike “merchandising” and insert “submitting for inspection.” *Reason* to be consistent with the first part of the paragraph and to prevent the Secretary from going on a fishing expedition.

Page 17 lines 3 and 15 strike “cooperating” and insert “official” in both instances. *Reason* Technical.

Sec. 14.—Page 17 line 20 strike “14” and insert “12” *Reason* Technical.

Page 20 lines 3 and 4 strike “9” “12” and “13” and insert “8” “10” and “11” *Reason* Technical.

Page 20 lines 19, 20, and 21 strike “or a failure to make a reasonable effort to ascertain the pertinent facts” and “otherwise” and “of such” and insert for the last stricken “the pertinent” *Reason* Language too vague for seriousness of the offenses set forth.

Sec. 15.—Page 20 line 23 strike “15” and insert “13” *Reason* Technical.

Sec. 16.—Page 21 line 14, strike “16” and insert “14” *Reason* Technical.

Sec. 17.—Page 21 line 21 strike “17” and insert “15” *Reason* Technical.

Page 22 lines 6 through 11 strike from “Proceedings” to “Code” *Reason* Hearings should be held under the Administrative Procedures Act for the revoking of a license.

Page 22 line 12 strike “Enforcement Provisions” and insert “Jurisdiction”

Sec. 18.—Page 22 line 13 through page 23 line 8 strike in its entirety.

Page 23 line 9 strike “(b)” and insert “Sec. 16”

Sec. 19.—Page 23 line 16 strike “19” and insert “17” *Reason* Technical.

Sec. 20.—Page 24 line 9 strike “20” and insert “18” *Reason* Technical.

Sec. 21.—Page 24 line 15 strike “21” and insert “19” *Reason* Technical.

Mr. Chairman, at this point I would like to give you a copy of H.R. 11162 with the changes recommended. I would like to read into the record one addition which was omitted. On page 7 of my statement under section 6, insert in place of “(etc.)” the following:

that, with respect to interstate commerce, this section shall not prohibit the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation or by the use of one or more grade factor designations set forth in the official United States standards for grain or by other factor information.

Mr. Chairman, we firmly believe that the enactment of H.R. 11162, if amended as we have proposed, will have many beneficial effects on the marketing of grain. It will permit the official inspection of grain whether the sample is taken officially, by mechanical samplers or other methods. Where the sampling process is simplified, we believe that more grain will be marketed by grade and more official inspections will result. It will have a favorable effect on the supply of boxcars as the cars will not be required to sit on sidings awaiting a probe for an official inspection. It could give us better samples because the probe is of questionable value in sampling a car, particularly a 100-ton covered hopper car. It will legalize operations which do not comply with an outdated act and permit us to take advantage of innovations in the marketing of grain, particularly in the transportation area.

With the enactment of H.R. 11162, we look ahead to a bright future. We are hopeful that the methods of inspecting grain will be greatly improved. We appeared before the Agriculture Subcommittee of the Appropriations Committees of both Houses to ask for funds so that the Department can pursue research looking toward the automatic grading of grain. The 89th Congress granted \$400,000 for this project, and the 90th Congress has provided \$440,000. With sampling and inspection improved, grain marketing will be facilitated, which is the underlying purpose of your bill.

I would now like to touch briefly on my operations. We operate four country grain elevators located in west central Ohio, handling some 5 million bushels of corn, soybeans, and wheat annually.

The nearest official inspection points are located at Springfield and Columbus, Ohio, an average distance of about 35 miles from our elevators.

Official grades at origin on the grain we ship by rail are extremely important to us, particularly in the movement of nontransit corn and beans.

The Springfield Inspection Bureau has been serving our needs since the Columbus Inspection Bureau has refused to send samplers to our elevators because of the distance involved.

It has been taking from 1 to 2 days after our cars are loaded for the official samplers to arrive and draw samples, and usually it is the next day before we receive the grade determination and are able to bill and release the cars to the railroad. This not only delays our shipping schedules, but impairs car utilization, which is of extreme importance to our industry and to the railroads, in light of the chronic shortage of cars for grain loading.

If we are permitted the use of mechanical samplers and submitted samples for official inspection, we will be able to obtain grades much faster, and reduce the time that cars must wait on our siding after loading by at least 1 day, and many times 2 or 3 days, where a weekend intervenes.

We appreciate this opportunity to present our views; and, with your permission, I would like to introduce Mr. J. D. Urquhart.

Mr. PURCELL. I think we will wait until all of you have completed your statements before we address any questions to you, but I will recognize Mrs. May at this point.

Mrs. MAY. Mr. Chairman, I just wanted to take this opportunity to say that Mr. Urquhart lives in my district in Washington, and he is a past president of the Pacific Northwest Grain Dealers, which association represents some 250 firms in the States of Washington, Oregon, Idaho, and Montana. He is also a member of our Washington State Wheat Commission. He represents that commission on the Tri-State Grain Standards Committee.

I would like personally to welcome Mr. Urquhart and thank him and all the members of the group for their contribution and testimony this morning.

Mr. FOLEY. I would like to underline what the gentlelady from Washington has said. Unfortunately, I cannot say Mr. Urquhart is a constituent of mine because he is a constituent of Mrs. May's, but as long as I have known him I have admired him and have found his testimony helpful.

Mr. PURCELL. We have just two people from Washington here, so we will not have to have further introductions. We shall be very glad to hear from you at this time, Mr. Urquhart.

STATEMENT OF J. D. URQUHART, UNION ELEVATOR AND WAREHOUSE CO., LIND, WASH., REPRESENTING GRAIN AND FEED DEALERS NATIONAL ASSOCIATION

Mr. URQUHART. Thank you.

Mr. Chairman and members of the committee, I am J. D. Urquhart, manager of the Union Elevator and Warehouse Co., located at Lind, Wash. We are a country elevator system with 62 years of continuous operation in the handling, storing, and merchandising grain in the State of Washington. We market approximately 4 million bushels of grain annually in the domestic and export markets of the Pacific Northwest. We purchase directly from the producers, and our sales are made on a direct basis in these markets. We ship by rail, truck, and barge.

I am the first vice president and a member of the board of directors and executive committee of the Grain and Feed Dealers National Association, and I fully support the position of Mr. Frank Miller on H.R. 11162.

Mr. Chairman, I am also a member of the Washington State Wheat Commission, and represent the commission on the tri-State Grain Standards Committee, a regional wheatgrowers committee with representation from the State wheat associations and commissions of Washington, Oregon, and Idaho. The Tri-State Grain Standards Committee has taken a position favoring the legislation as written in H.R. 11162 which allows permissive inspection in interstate commerce; having the availability of official inspection; option to use submitted samples, guaranteed or official, and the privilege of using U.S. grade designations in trading when grades are used. I would, with your permission, Mr. Chairman, like to submit for the record the statement of the Tri-State Grain Standards Committee.

Mr. PURCELL. Without objection, that will be received.
(The statement follows:)

STATEMENT OF TRI-STATE GRAIN STANDARDS COMMITTEE

The Tri-State Grain Standards Committee is a regional wheat grower group with representation from the wheat associations and commissions of the states of Washington, Oregon, and Idaho. It also has representation from the interior grain trade of the region as well as the regional export association.

At a meeting held in Pendleton, Oregon, October 30, 1967, the following resolution was passed:

Because, the U.S. Grain Standards Act is the basis of the entire U.S. marketing system, and,

Because of changes occurring in marketing practices, government agricultural programs, communications, transportation and sampling equipment, methods, and procedures in the nation since the passage of this Act in 1916, the committee believes there should be a modernization of the original act.

Therefore, the committee favors the provisions in the legislation as written in H.R. 11162 which allows permissive inspection in interstate commerce;

Furthermore, the committee is in agreement that the following three options should be open to both seller and buyer:

1. Availability of official inspection
2. Option to use submitted samples, guaranteed or official
3. Privilege of using U.S. grade designations in trading based on use of official grades.

Mr. URQUHART. I am a member and past president of the Pacific Northwest Grain Dealers Association, composed of 250 grain and related firms in Oregon, Washington, Idaho, and Montana, which supports the position of the national association. Their position has been forwarded by letter to the chairman of this committee, and it is requested that it be made part of the record.

Having worked very closely with producers and producer groups, I wish to state that I can see no adverse effect on the producer with the enactment of H.R. 11162 if amended as suggested by Mr. Miller. We do see beneficial results with increased efficiency in marketing and transportation of grain accruing to growers.

Washington State and Oregon State have very fine and highly respected inspection services, ably administered, and have served the entire industry well for many years. I have no fear that enactment of this legislation, as amended, would have any adverse effect on the inspection service or State warehouse laws.

I wish to thank you, Mr. Chairman, and members of your committee, for this opportunity to appear before you today.

I would like to introduce our next witness, Mr. Paul Hughes.

**STATEMENT OF PAUL C. HUGHES, FARMERS SOYBEAN CORP.,
BLYTHEVILLE, ARK., REPRESENTING GRAIN & FEED DEALERS
NATIONAL ASSOCIATION**

Mr. HUGHES. Mr. Chairman and members of the committee, I am Paul C. Hughes. I am executive vice president and general Manager of Farmers Soybean Corp., Blytheville, Ark., a country grain firm with elevators at Blytheville and Barfield Landing, a landing on the Mississippi River about 11 miles east of Blytheville. Farmers Soybean Corp. was organized 16 years ago by about 60 farmers and businessmen located in and near Blytheville because of the need for improved soybean market facilities in our area.

I am also secretary of the Midsouth Soybean & Grain Shippers Association, an association of about 150 country transit grain shippers located primarily in the Mississippi Valley area of the States of Kentucky, Tennessee, Arkansas, Mississippi, Louisiana, and the bootheel of Missouri.

The Midsouth Soybean & Grain Shippers Association at its winter meeting in Jackson, Miss., February 27, 1967, went on record favoring the following:

- For permissive inspections;
- For three types of inspection certificates;
- One set of standards.

This stand is in complete accord with the position of the Grain & Feed Dealers National Association, as presented by Mr. Frank Miller chairman, Grain Grades Committee.

Mr. Chairman, I would like to comment on two changes that are proposed or would be possible under H.R. 11162 and to show how they would help our business and other grain elevators in our area business.

The first change is the one to allow permissive, not mandatory, inspections of grain shipped in interstate commerce from or to a point where official inspections are available. Under the present law it is the responsibility of the shipper, not the receiver, to have such grain inspected.

Memphis, Tenn., which, as you know, lies across the river from Arkansas and just north of the Mississippi State line, is the most important grain terminal in our area with several soybean processing plants, terminal elevators and feed mills. However, none of these Memphis buyers maintain official samplers at their places of business for the official sampling of grain so that it might be officially inspected for grain arriving at their plants by truck. Yet much of the grain that is shipped to Memphis goes there by truck. The reason these Memphis buyers do not have official samplers was very ably stated in Secretary of Agriculture Freeman's letter of transmittal, second paragraph, page 2:

To provide official inspection for trucklot grain would require stationing official inspection personnel on a 24-hour basis, particularly during the harvest season, or require that the trucks and the loading and receiving elevators wait for official inspection. Official inspection of trucklot grain has been found feasible in only a few of the larger terminal markets. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandising the grain and would apparently serve no useful purpose to the trade.

Time has proven that it is not economically feasible to provide the needed official samplers for such business. Also, it has proven that the lack of such samplers and official inspections has not hindered the flow of grain into Memphis or the satisfactory trading by all parties selling to Memphis. However, I and every shipper who trucks grain into Memphis across a State line is in technical violation of the law. Since market experience under the test of time has proven that mandatory inspections of truck grain going into this market is not needed or wanted by the trade, therefore, there is no reason for it be the law of the land. If mandatory inspections are not needed for truck grain, isn't it also reasonable to assume that there are times when mandatory inspections are not needed for rail and barge grain. It is also discriminatory against rail and barge grain to allow one form of transportation to move without official inspections.

Mr. Chairman, the other change that I understand would be permitted under H.R. 11162, which as an elevator operator I am very excited about, is the licensing or bonding of one of our elevator employees under regulations set forth by the Secretary of agriculture to pull samples on which an official inspection would be made and a certificate issued. This certificate, I understand, would be of a different

color or something to distinguish it from a certificate on which both an official sample and inspection had been made. This offers us real possibility in our business.

Our Barfield landing elevator is located about 80 miles north of Memphis and, under the present law, to get an official inspection of a barge of grain is quite expensive in time and money. We have to pay both time and mileage for an official sampler to come from Memphis and one is not always available just when we want him. However, if it was possible, as it will be under H.R. 11162 to get an official inspection at a reasonable price, we could often market our grain to better advantage as the buyers could be sure of what they were getting; and we would have some basis to guarantee our grain. There is no question in my mind that this would reflect a better price to our farmer customers.

In passing, without going into details, I believe that the grain trade would be better served by one set of Government grain standards and private grades as proposed under H.R. 11162.

In conclusion, I strongly favor H.R. 11162 with the amendments as proposed by the Grain and Feed Dealers National Association.

Mr. Chairman, with your permission, I would like to introduce Mr. Milton Morrison.

Mr. PURCELL. We shall be glad to hear from you at this time, Mr. Morrison.

**STATEMENT OF MILTON MORRISON, MORRISON GRAIN CO.,
BOARD OF TRADE BUILDING, POST OFFICE BOX 748, SALINA,
KANS., REPRESENTING GRAIN AND FEED DEALERS NATIONAL
ASSOCIATION**

Mr. MORRISON. Mr. Chairman and members of the committee: I am Milton Morrison, president of the Morrison Grain Co., Inc. at Salina, Kans. Our company operates a subterminal elevator at Salina and several country elevators in Kansas. We merchandise grain purchased from other country elevators that is not handled through our terminal elevator. Our total sales of grain the last fiscal year was approximately 7 million bushels. Grain handled is approximately 85-percent wheat, 10-percent grain sorghums, and 5-percent corn and other grains. About 90 percent of the wheat moves from country elevators by rail into inspection points such as Salina, Belleville, Topeka and Atchison, Kans. After being officially inspected for grade and protein, our grain merchandisers decide whether to order it into our elevator at Salina for storage, or offer it for sale to millers, exporters, or other elevator companies. After disposition is determined, the cars are diverted to destinations for unloading.

The value of the wheat is usually determined by the value of No. 1 Hard Winter Wheat basis delivered Kansas City or gulf ports with premiums for higher than ordinary protein and discounts for lower quality grain. If the wheat is not grade No. 1 discounts are applied for quality factors, such as test weight below 60 pounds or moisture content, damaged kernels, or total defects in excess of the limits permitted in No. 1 wheat.

Approximately 10 percent of the wheat we merchandise from Kansas origin moves from country elevators to Kansas City by truck. The movement out of Kansas City is mostly by barge to New Orleans for

export. These truck shipments are not stopped en route to Kansas City for inspection.

Although our company does not participate in the movement to a large extent, there is a substantial movement by truck of corn from country elevators in Nebraska and oats mostly from South Dakota into Kansas. I estimate that well over half of this grain is delivered to elevators, feed mills, and cattle feed yards at points where official inspection is not available. The usual procedure is to contract the corn as a certain grade (such as No. 2 Yellow) and settle on the basis of the receivers inspection. No price adjustment need to be made if the corn appears to be of contract quality or better. Moisture content and damage are the principal factors that affect the value to such receivers, and these factors are not difficult to determine. If the seller does not believe that a buyer is grading his grain properly he would be likely to ask the receiver to submit a representative sample to an official inspection office for grade. If satisfactory settlements are not obtained, the shipper would probably discontinue selling to that buyer.

A large part of the feed grain delivered by truck to points where licensed inspectors are available is also not inspected and grading is handled in the same manner. This is probably in violation of the present grain standards act. This regulation is not being enforced. Its enforcement would impose a hardship on trucking companies and many receivers of grain. To have grain officially sampled and inspected would involve not only the inspection fee but would delay the trucks unloading. The inspection departments usually operate from early in the morning until about the middle of the afternoon, 5 days per week. The volume of grain arriving at many elevators by truck is not large enough most of the year to justify the cost of keeping an official sampler at the elevators at all times that truck loads of grain are unloaded. Shippers and receivers of grain should not be required to incur the cost and perhaps delay required to obtain official inspections they do not find it economical to obtain.

I would like to emphasize Mr. Miller's statement that section 6 of the bill should be amended to require the use of the U.S. grades in domestic marketing where grain is sold by grade, whether or not the grain is officially inspected. It is important that only one uniform set of standards be used.

With operating costs rising steadily, everyone that intends to remain competitive in business is searching for ways to improve efficiency and productivity. Transportation is one of the largest costs of marketing grain. In order to remain competitive with trucks and barges, railroads have made many changes in the last 5 years in their equipment and operating methods. They are converting rapidly to 100-ton-capacity hopper cars. In some areas they have scaled freight rates down on higher minimum weight shipments and offered reduced rates on multiple car shipments. Along with reduced rates, they have in some instances eliminated the privilege of stopping cars en route for inspection except at an additional per car fee and reduced the free time allowed for loading and unloading cars. There is much room for improvement in freight car utilization. According to the AAR, the average serviceable freight car spends only about 11 percent of its time in road trains, loaded or empty. Fixed cost of freight car ownership is a substantial part of the cost of rail transportation. The provision in section 7 of the bill which permits grading of samples

submitted by shippers could be used to significantly speed the movement of grain cars. Shippers could obtain samples of grain as it is loaded with recently developed mechanical samplers or by probing the cars after loaded. Samples could be forwarded to inspection departments by mail, bus or other means of transportation so that grades could be obtained and disposition determined before the cars arrived at customary inspection points and in some instances before they left the point of origin. Cars could then be billed or diverted en route to final destination without the normal 1- or 2-day waiting period at the inspection points.

When carriers commence charging for services or offering reduced rates without the luxury of such service, grain merchants will quickly change their method of operation to avail themselves of the least costs means of transportation. Those who do not, cannot long compete in our highly competitive grain marketing system. Enactment of H.R. 11162 would permit sampling grain at country shipping points and obtaining grades without delaying freight car movement en route. In addition to better rail car utilization, faster car movement would reduce the risk of high moisture grain going out of condition in transit. Obtaining samples mechanically while grain is being loaded would eliminate the cost to inspection departments of hiring men to go out to railroad yards and obtain samples by probing cars of grain, therefore, should result in lower inspection fees.

The integrity of grain shippers' samples would police itself. If a shipper were foolish enough to submit inaccurate samples it would soon become known in the trade and buyers would no longer trade with him on the basis of his submitted samples. Buyers would no doubt inspect grain for quality and condition prior to unloading. If it appeared not to be of the grade represented by an unofficial grade certificate, I would expect them to have the grain officially inspected at destination, if such inspection were available, or agree with the shipper to submit a sample to an official inspection department and then work out a compromise settlement. The disadvantages, I believe, will be far outweighed by the advantages of faster freight car movement and lower transportation costs.

I appreciate this opportunity to appear before your subcommittee on this important legislation.

I would like, with your permission, to introduce Mr. Sam Hunt.

Mr. PURCELL. We will be glad to hear from you at this time, Mr. Hunt.

STATEMENT OF SAM E. HUNT, JR., CENTRAL SOYA CO., FORT WAYNE, IND., REPRESENTING GRAIN AND FEED DEALERS NATIONAL ASSOCIATION

Mr. HUNT. Mr. Chairman and members of the committee, my name is Sam E. Hunt, Jr. I am vice president, Grain for Central Soya Co., Inc., with headquarters in Fort Wayne, Ind., operating some 40 plants, most of which are either buyers or sellers of both grain and/or soybeans. Total volume handled will exceed 150 million bushels per year.

In view of Mr. Miller's very detailed and thorough statement, which I heartily endorse, my statement will be short and refer only to the matter of permissive versus mandatory inspection.

The nature of the grain business has changed materially since World War II and continues to change. Ways of doing business which were very satisfactory in the past are now outdated and should be changed.

One of the major requirements of the present Grain Standards Act provides that any grain sold by grade and moving in interstate commerce from or to a point having official inspection must be officially inspected. This concept is outmoded and should be changed to permit buyer and seller to mutually decide whether an official grade is necessary to satisfactorily effect a trade.

Let us consider the case of truck grain. For many years, we and others have bought truck grain on the basis of plant inspection even at points where official inspection is available. This has been a matter of convenience and has been a most satisfactory arrangement so far as the seller—the country elevator—is concerned. In fact, in most cases, he prefers this method of grading for the following reasons:

1. Grades are known to the truckdriver before the load is dumped.
2. Returns (payment) to the country elevator are expedited. This is very important especially during harvest time.
3. Inspection charges to the country shipper are eliminated—an important consideration when a substantial number of trucks are involved.

The proposed change to a permissive rather than a mandatory basis will have no effect on this segment of our business except to make this phase of operations conform to regulations in all respects; as the law is now written, the small percentage of interstate trucks which are bought on plant inspection where official inspection is available are not handled in accordance with today's law.

The major area of change to our company under the proposed amendment is in the area of rail grain. Most of our plants through which we merchandise grain are at points having official inspection; hence, rail grain sold from those locations is subject to official inspection because interstate movements are involved. With the widespread expansion and use of mileage or point-to-point rail rates, more and more business is being conducted on a nonofficial basis since it is moving from and to points at which official inspection is not available and, therefore, not subject to official inspection.

Under today's regulations, we are at a competitive disadvantage since our main competition for this business is the country elevator who is not required to get and pay for official inspection. Under the bill, H.R. 11162, all shippers will be in the same competitive position.

At this point, I might say that trading done on a nonofficial inspection basis has apparently been entirely satisfactory to the buyer as we detect no reluctance on his part to buy on a nonofficial inspection. As a matter of fact, we find it impossible to get a premium for official grades to offset additional costs.

The advantage of the proposed change is to make it possible for buyer and seller to have latitude to trade as they wish—if for some reason one or the other party requires an official inspection, it can in most instances be obtained; if not, trading can be done on the basis of shippers or receivers inspection as mutually agreed to by the interested principals.

Thank you for this opportunity to present this statement.

Now Mr. Chairman, with your permission I should like to call on Mr. George Moyer.

Mr. PURCELL. Mr. Moyer, we will be glad to hear from you, sir.

STATEMENT OF GEORGE S. MOYER, BUNGE CORP., NARBERTH, PA., REPRESENTING GRAIN AND FEED DEALERS NATIONAL ASSOCIATION

Mr. MOYER. Mr. Chairman and members of the committee, I am George S. Moyer, assistant vice president of Bunge Corp. Bunge Corp. is a large American company with a network of sales offices throughout the free world. Bunge's prime business is the export of American farm products, particularly grain, and the establishment of new markets abroad for American farm commodities.

As a member of the Grain Grades Committee of the Grain and Feed Dealers National Association, I am in complete accord with the content of the statement of our chairman, Mr. Frank Miller.

Export companies, farmers, and agricultural trade groups have a common goal in constantly expanding shipments of U.S. agricultural commodities to foreign markets, thus helping to relieve the problems of surplus agricultural products and helping to create a favorable balance of payments between our country and overseas nations.

The present U.S. Grain Standards Act, under which we have been operating since 1916, established the integrity of U.S. official grain inspection certificates throughout the world. During this period, exports of U.S. grains have expanded to gigantic proportions. H.R. 11162, with changes suggested by Mr. Miller, seeks to update the present act and may well assist us in maintaining the confidence of foreign buyers in our inspection system.

Section 5 of H.R. 11162 specifies that grain that is sold, offered for sale, or consigned for sale by grade shall be officially sampled as the grain is being loaded aboard, or while it is in the final carrier from which it is to be transported from the United States. Along with others in the export trade, I feel that the procedure in taking samples should be more clearly defined.

Mr. Grange stated in earlier testimony that the language is intended to mean that the sampling would be done during the course of loading the overseas vessels. Mr. Grange further stated that under the Department's proposal the sampling would be done at the most feasible point. I feel that it is imperative that the samples be taken at the most practical point after the last elevation of the grain.

The proposed amendment to section 6 of H.R. 11162, to the effect that when grain is sold by grade in interstate commerce official grain designations must be used, will be of considerable value to exporters in assembling cargo lots at seaport elevators for exportation.

Under section 7(b) of H.R. 11162, the Secretary is authorized, upon request of any interested persons, to cause official inspection with respect to any grain outside of the United States. It is our hope as exporters that the committee will consider that the inspection authorized by this section would be made only when practicable and only on the request of a U.S. national and that the committee include this in its report of the bill.

In conclusion, I strongly favor H.R. 11162 with the amendments proposed by the Grain and Feed Dealers National Association and thank the committee for this opportunity to appear.

Mr. PURCELL. We thank all of you very much.

Are there questions from members of the committee?

Mr. DOLE. I do not have any questions, as the testimony very well covers the bill.

As I said at the earlier hearings, this is a very technical proposal, and I am certain that all members of the committee appreciate the efforts you have made to provide us with a comprehensive review and a better understanding of the proposal before us.

I do have one or two questions with reference to the definition No. 12 on page 4. I am not certain who may have commented on that point, if anyone.

Mr. MILLER. Beginning on line 12?

Mr. DOLE. Page 4, line 24, of the bill, H.R. 11162.

My question is whether or not you recommend any specific changes insofar as that definition is concerned? You may have touched on it, Mr. Miller, in your testimony. It is an important point because it gets into the Cooperating Inspection Agency question.

Mr. MILLER. If I might, I will read the suggested language. Line 24:

The term "official inspection agency" means the agency or person approved by the Secretary to employ official inspection personnel for the conduct of official inspection under this Act.

Mr. DOLE. And that, in your opinion, would eliminate one concern that some of us have about the State inspection service?

Mr. MILLER. Yes.

Mr. DOLE. You also mentioned, one of you did, that you had copies of your suggested changes, or at least you were presenting a copy of the bill, as I understand, for the record; is that correct?

Mr. MILLER. That is correct.

Mr. DOLE. Would it be possible that copies of this bill with suggested changes be available for each member of the subcommittee?

Mr. MILLER. Yes.

Mr. DOLE. As I understand, there are many technical changes that may or may not be in dispute covered later in your statement.

Mr. MILLER. We are not prepared, other than the one copy, to hand them out at the moment, but they will be presented.

Mr. DOLE. Then on page 7, line 5 of the bill concerning standards and changing standards and it says on page 7 they should not become effective less than 1 calendar year after the promulgation thereof unless, in the judgment of the Secretary, the public health interest and safety requires they become effective sooner.

As I remember, in previous testimony there was some question raised if there should be some limitation there, 30 days or 15 days, or publication in the Federal Register. You have no comments on this specific provision and apparently therefore are not concerned about a standard being changed in the matter of 2 or 3 days which might affect market prices among other things.

Mr. MILLER. We are taking no position on that.

Mr. DOLE. The point is that you believe there are adequate safeguards in this section 4(b) and therefore not necessary to add any other limitations.

We have suggested one change in section 4(b).

Mr. DOLE. That is with reference to the informal hearings?

Mr. MILLER. Correct.

Mr. DOLE. Before standards are adopted?

Mr. MILLER. Yes, sir.

Mr. DOLE. The essence of the testimony given by all of you is that there are at least four basic changes in your studied opinion which should be made if this bill 11162 is to be effective, is that correct, as a summary?

Mr. MILLER. That is correct.

Mr. DOLE. And in addition, there are a number of technical changes you recommend. You made it clear in your testimony, and I am certain it will be made clear in the statements today and perhaps tomorrow, but going to section 8(a) on page 10 and 8(b) and 8(c), there are a number of us on both sides who have questions about this specific section.

In addition to suggesting it be stricken as you have in your statement, would you, for the record, indicate what some of your fears are and why the provisions in section 8 on pages 10 and 11 should be stricken.

Mr. MILLER. Yes. It is our feeling, as I mentioned in my testimony, if an inspection agency cannot agree to the Secretary's terms, the Secretary can put the agency out of business. And recognizing the need for some sort of supervision over the agencies operating, we still cannot go along with this total concept of accepting the cooperative agreement as drafted by the Secretary or else.

The system has operated for the trade, operating under the present relationship between inspection agencies and the Secretary, and we can see no justification for such a change.

Mr. DOLE. That was the general testimony earlier.

It has been my understanding, from State inspection agencies, that present arrangements have worked satisfactorily over the years. Some of us are curious to know why it should be changed and why the provision was added unless there were some areas where the inspection system had not been adequate.

As far as you know, there are no areas where the State has not performed well?

Mr. MILLER. I am certainly not knowledgeable in this area and have no knowledge that the system has not worked well.

Mr. DOLE. I have another question with reference to section 6. Mr. Morrison from Salina, Kans., mentioned on page 3 of his statement he would like to emphasize Mr. Miller's statement that section 6 of the bill be amended to require the use of U.S. grades in domestic marketing where grain is sold by grade whether or not the grain is officially inspected.

You conclude it is important we have one uniform set of standards. Would you elaborate on that for our benefit so we might fully understand selling grain by grades.

Mr. MORRISON. If inspection is not required, we want to avoid trading on something like Salina No. 2 yellow corn. The trade is familiar with the meaning of the specifications of our numerical grading system, and to permit the use of something other than the terms we are familiar with we believe would be confusing and would not serve to facilitate trading particularly.

Mr. DOLE. The amendment suggested in Mr. Miller's statement would permit you to carry on as you are now without change; is that correct?

Mr. MILLER. We would be able to use grade designation, we could use brand names or trade names as long as there was no confusion. But as Mr. Morrison has pointed out, we want to at all costs avoid any advertising or brand identification that could be confused with the U.S. grain standard. Everyone in the trade is knowledgeable, we know what the standards are. We do not want to leave the door open to any misleading identification. We do want to be able to trade on the basis of grade factor for information.

For instance, in No. 2 yellow corn, I believe the moisture level and the test weight are exempted under the grandfather clause in the present act, but for example, foreign material; we want to be able to trade using those factors, or any other, as descriptive terms without using the entire classification.

In other words, I want to be able to offer a car of yellow corn containing not more than 5 percent foreign material without that being confused with official grade terminology.

Mr. DOLE. Finally, if in the event these amendments should be incorporated, or some modification of them, it is my understanding your association does support the objectives of H.R. 11162?

Mr. MILLER. Yes.

Mr. DOLE. That is all I have.

Mr. PURCELL. Are there other questions?

Mr. Foley?

Mr. FOLEY. Mr. Miller, your statement bears a little more on section 11 than it does on section 8. You say you think there is some need for supervision. If you do not have supervision by the Secretary, who do you propose will supervise the agencies.

Let me back up and ask you this question: The integrity of the United States goes behind the grain inspection certificate, does it not?

Mr. MILLER. Yes.

Mr. FOLEY. It is a U.S. certificate?

Mr. MILLER. An official inspection certificate under the U.S. Grain Standards Act.

Mr. FOLEY. Does that not signify the credibility and word of the United States as to the grain quality? It is not the State of Kansas nor the State of Washington, for example, even though an agency thereof might be doing it for official grain standards.

The reporter will not be able to record your nod, sir; you will have to answer yes or no.

Mr. MILLER. I am in agreement with what you say.

Mr. FOLEY. My question is, If in fact the credibility of the United States is involved, why should not the Secretary have some supervision over the inspection when it is done by cooperating agencies?

Mr. MILLER. He does have supervision over licensing. He can award a license to an inspection agency, he can enter into a cooperative agreement with any State.

I believe California did enter into such an agreement in the recent past. But he presently has licensing authority, supervision authority.

Mr. FOLEY. What is your objection to section 8 then?

Mr. MILLER. Only that it is a life-or-death type of club.

In other words, the inspection agency or one wishing to provide an inspection service under section 8 will have to agree to the terms of the agreement the Secretary drafts or he is out of business.

Mr. FOLEY. Your objection is to the part that limits it to one cooperative agreement?

Mr. MILLER. One?

Mr. FOLEY. Subsection (c) says not more than one such cooperative agreement shall be entered into.

Mr. MILLER. In a given area.

Mr. FOLEY. Is that your concern?

Mr. MILLER. No. We support this. We do not want a proliferation of agencies serving one area. We do not want the conflict here at all.

Mr. FOLEY. You object to the part of the section that permits the Secretary to withdraw his cooperation from the State agency?

Mr. MILLER. In that instance, if I understand your question, yes; because we do not want dual inspection service.

Mr. FOLEY. I do not think you understand my question.

You say you do not have any objection to cooperative agreements, that the Secretary has entered into one with California.

Mr. MILLER. So long as it is voluntary.

Mr. FOLEY. You do not want to require a State to enter into such agreements?

Mr. MILLER. Correct. We do not want a mandatory cooperative agreement provision.

Mr. FOLEY. If the Secretary has control of licensing and that control has not been abused, why do you think the cooperative agreement would be abused by the Secretary?

Mr. MILLER. It seems to us that the licensing and the supervision as it exists is less mandatory; it does not provide the Secretary with the ultimate power that a cooperative agreement which must be signed by anyone wishing to perform the service does.

Mr. FOLEY. Is it not a violation of law if somebody inspects without a license?

Mr. MILLER. Certainly.

Mr. FOLEY. Is that not mandatory? I would think the requirement for licensing is absolutely mandatory under the present arrangement; is it not?

Mr. MILLER. Yes; and I am sure a license would be a requirement under a cooperative agreement. These are two separate things.

Mr. FOLEY. My concern is that we often hear witnesses suggest the Secretary is going to do something dastardly if some power is given to him. I do not think there is any record that the Secretary has abused licensing; is there?

Mr. MILLER. I am not knowledgeable in this area, sir.

Mr. FOLEY. At least it has not come to your attention. I am wondering why such a strong position is taken on the cooperative agreement if there is not any indication that there has been any difficulty as far as the Secretary is concerned. The opponents say there is no reason for it. We will have to ask the Department about this to determine what their particular suggestions are; but, from your standpoint, do you have any reason to believe that a cooperative agreement of this kind would be abused by the Secretary of Agriculture?

Mr. MILLER. No, sir. If I could, I suspect, at least in my mind, powers given—well, I can go back in memory to dealings with Com-

modity Credit Corporation, with the Department, and one can get an awfully lonely feeling. I remember back in the grain storage days when it was either sign a contract or else.

I am not making my point too clearly but we feel the system has worked, that the inspection agencies have been supervised properly so far as we know, and we see no need to take this step.

Mr. FOLEY. Would you agree with me, Mr. Miller, that the fact the Secretary permits State agencies to inspect for the United States is an adjustment of a kind to allow the State to do a Federal task? Is that not true?

Mr. MILLER. Yes.

Mr. FOLEY. This is not the case of the Federal Government interfering with a State function. It is rather the case of a State government acting as an agent to carry out a Federal function.

Mr. MILLER. The government or an individual or board of trade.

Mr. FOLEY. That is correct.

Is that not a stronger and better reason for Secretarial supervision than some proposal to extend the Federal Government into an area of primarily State control?

Mr. MILLER. Yes.

Mr. FOLEY. Thank you.

Mr. DOLE. Will the gentleman yield?

Mr. FOLEY. Yes.

Mr. DOLE. I think the point is the wording of section 8 gives the Secretary the sole power without any standards or any precedents or any criteria to follow; he suddenly terminates some agreement without any notice or anything else. This is the point objected to with reference to the life-or-death matter, because no standards are set forth.

In fact, the language is very clear on page 11, lines 3, 4, 5, 6, and 7. This is the area that concerns not only these gentlemen but others.

Mr. FOLEY. I might not object to tightening up the language. It just seems to me we get things backward when we give a State the opportunity to serve as an agency of the Federal Government, and then we suggest the supervision by the Secretary is outrageous.

Mr. DOLE. There is another area in section (c). In Kansas City, Mo., for example, we have both the Kansas and Missouri State Inspection Services. This is an area where there is some question about the necessity of more than one cooperative agreement.

So perhaps in Mr. Miller's area it is not a question as it is in some of these areas where you have had over the years satisfactory service, and not overlapping and duplicating service, performed by two different agencies.

Mr. FOLEY. I do not believe that necessarily eliminates the Kansas situation—as I understand the language. It would depend upon how the Secretary would construe it. But I would agree with the gentleman that if there is a reason for dual service in Kansas, it ought to be maintained and I do not see any reasonable purpose in not allowing it.

Mr. PURCELL. Mr. Kleppe?

Mr. KLEPPE. Mr. Miller, I think you and your compatriots here have given us a good example of real serious, studied thought on the part of this particular legislation. Is it not generally true that you believe the authority that the Secretary has over licensing is sufficient

for him to exercise the control that he needs, and that this operation of grain inspection, official grain inspection, can be done on a voluntary basis between buyer and seller without the necessity of an additional club being placed in the hands of the Secretary?

Whether Mr. Foley is correct or not, that he has or has not abused it, is it not generally true you believe it can be done on a voluntary basis?

Mr. MILLER. You put it extremely well, sir.

Mr. KLEPPE. I would like to refer to your testimony on page 10. The last paragraph you quoted here seems to me to be the basic thrust of this legislation, one to arrive at better utilization of the transportation facilities we have. I got one thought with regard to this paragraph. Do you not, for example, in your own instance get hooked with some demurrage because of delays in the inspection?

Mr. MILLER. Entirely too often.

Mr. KLEPPE. Entirely too often?

Mr. MILLER. Up to 3 days and the rates for demurrage are higher than they used to be, especially higher in the case of covered hopper cars. So it is a very significant factor to us.

Mr. KLEPPE. It seems that I have heard some things here in Washington quite recently that when the Agriculture Committee gets some legislation, they have a way of making it very complicated. I have a desire of trying to make things as simple as possible and maybe my questions will seem somewhat ignorant and simplified, but this is the way I like to approach matters of this kind because I think people can understand them better.

It seems to me, if I have analyzed your statements, the six of you, in a simple general sort of way, it is (1) that the 1916 act should be updated to some extent, (2) that if automatic samplers are efficient, and all of the indications I have had by writing all of the country elevators in my district are any of them who have ever used them, or know about them, do believe they are beneficial.

So this would perform a service that would speed things up and make it easier to trade both on the part of the buyer and the seller.

And (3) to make the inspection and the movement of grain on a voluntary basis instead of mandatory so it is not totally federalized. Is this not generally the thrust of your statement?

Mr. MILLER. Yes.

Mr. KLEPPE. And you believe that with the amendments that you have suggested, particularly the four, that this would bring us to a level somewhere between H.R. 2121, which did not go far enough, as you indicated, and H.R. 11162, which probably went too far and in this area we would have an updating of the bill that would make it easier for people handling grain to trade among themselves, and even for your representative here who does business in export it would suffice and function, so that at all times buyers and sellers could ask for an official inspection and make a trade accordingly?

Mr. MILLER. Yes, sir.

Mr. KLEPPE. I am not trying to put words in your mouth, but I am trying to understand it as well as I can. Is this generally true?

Mr. MILLER. You certainly have the essence of our observations.

Mr. KLEPPE. For example, you believe if a grower lives in the State of Iowa—let me say North Dakota because we raise more wheat, and has No. 2 wheat that weighs 57 pounds and a chicken

grower in Iowa wants to buy that wheat from him so that is an interstate transaction, do you believe they should have to have an official inspection certificate to make this sale, to make this deal?

Mr. MILLER. I do not.

Mr. KLEPPE. I share your views and I asked these questions previously in our hearings and I think they should be allowed to make this trade without any problem whatsoever so long as they are agreed upon it.

I just want to ask one more question on your statement that I do not understand. It is on page 4 at the top line.

You used the phrase "proprietary brand." What do you mean by that?

Mr. MILLER. Ohio Grain Co. racehorse oats is an example.

Mr. KLEPPE. I suspected that is what it was. Thank you.

Thank you, that is all, Mr. Chairman.

Mr. PURCELL. Mr. Price?

Mr. PRICE. I have several questions here that any member of the panel might answer.

For our information, could you tell me who will pay for the inspection of this grain?

Mr. MILLER. The person requiring the inspection.

Mr. PRICE. Will a farmer who brings a load of grain to an elevator be required to have that inspected as to quality, quantity, and so forth?

Mr. MILLER. Certainly not in our area.

Mr. PRICE. Someone made the statement a while ago that the person bringing the grain in would be required to pay, or one of the members of the panel were advocating they be the ones. I believe this gentleman here. That the person bringing the grain in be required to pay the fee; is that correct?

Mr. HUGHES. Under the present law, it is the responsibility of the shipper or the seller, not the buyer, to pay for the inspection fee. But this is in interstate commerce.

Certainly if a farmer sold to an elevator in Memphis from Arkansas across the river, under the present law he would be required to pay for this inspection fee. It is not customary among country elevator people to charge their farmers for an inspection fee unless he requests that they have an official inspection, and then at that time they usually charge him.

Under the changes in the Commodity Credit Wheat Act where you have to have official grades on that which is going into loans, in most cases farmers have been paying that.

Mr. PRICE. This, of course, would be of great benefit to the grain dealers as a service. I think you will agree if it were Government inspected and the standards were set, it would be of great benefit.

Mr. MILLER. If there was an interest in such inspection, yes, by either buyer or seller.

Mr. PRICE. Do you have any estimates as to what it would cost the Government to put these agencies in the field to bring this inspection about?

Mr. MILLER. If I understand your question correctly, the user of service pays the fee. In other words, if I call for inspection I pay the full cost of that inspection; the Federal Government does not enter into it at all.

Mr. PRICE. These men being Federal inspectors?

Mr. MILLER. They are federally licensed inspectors.

Mr. PRICE. Would the industry be saying here today that they are not capable of carrying out this function themselves and that they are willing to come under the control of one man; namely, the Secretary of Agriculture, to carry out this function?

Mr. MILLER. The function of inspection?

Mr. PRICE. Yes.

Mr. MILLER. First, we are not qualified. The trade as such is not qualified nor licensed to perform the service. By nature it must be an independent arm's-length service.

Mr. PRICE. Do you think the Association of Grain Dealers fully realize what they are stepping into here by letting the Secretary have all of these controls? In a few years they are going to be coming up here and wondering what happened.

Mr. MILLER. We are opposing those authorities that were requested by the Secretary in excess of what he now has, which we feel is sufficient to license and police the system. We are definitely opposed to granting further authority.

Mr. PRICE. It looks like in every section here the Secretary is further authorized, the Secretary may, the Secretary shall, and I realize he is going to if he is going to have the authority to do it. But it appears to me—

Mr. MILLER. I believe, sir, our amendments make our position very clear here, that we do definitely oppose this granting of additional broad authority to the Secretary.

Mr. PRICE. There is no way under which the association could carry out this function without this legislation?

Mr. MILLER. No, sir.

Mr. PRICE. The grain industry?

Mr. MILLER. No, sir.

Mr. PRICE. Thank you.

Mr. PURCELL. Thank you very much.

Let me say this, because other references have been made to it, that I am sure I speak for every member of this subcommittee when I say it is very obvious that you and the members of your association worked very hard to have your members understand the purpose of this bill. Your explanation here today has been very beneficial to the members of the subcommittee and I just want to congratulate you on your productive work and your cooperative attitude. I do not know what this subcommittee will do with your recommendations, but it has been very helpful to us to get your very concise and very understandable explanation of your suggested changes.

Mr. MILLER. Thank you, sir.

Mrs. MAY. Mr. Chairman, may I just associate myself with your remarks and express my gratitude, as a member of the subcommittee for the great amount of work you have obviously put in on the bill itself and the suggestions you have given to this committee for consideration. I thank all of you very much.

Mr. PURCELL. Thank you, gentlemen.

We will call Mr. Bailey and I believe he is accompanied by Mr. Higgins and Mr. Keller.

Let me say this, gentlemen:

There are three other witnesses after you. We always have a tendency to take more time with the first witness or group of witnesses. I know there are many of you and some who come after you who have schedules that are very tight, and it will be necessary that we let all of you go by noon, so we want to try to do that.

If you think I am lecturing you on speeding up, you are right, I am. We will try to act accordingly as far as our questions are concerned. We will be glad to hear from whomever is to lead off.

STATEMENT OF JOSEPH BAILEY, COMMITTEE ON GRADES, NORTH AMERICAN EXPORT GRAIN ASSOCIATION, ACCOMPANIED BY HARRY P. HIGGINS, JR., EXECUTIVE VICE PRESIDENT, NAEGA, AND ADAM A. KELLER, COMMITTEE ON GRADES, NAEGA, NEW YORK, N.Y.

Mr. BAILEY. Mr. Chairman, I am sorry to say the reading of our presentation will take 23 minutes, but I believe we have time to finish.

Mr. PURCELL. You have time to finish. I am worrying about those who come after you. But we hired out to hear you and we will hear you. I try to get people to just file their statement and cover it verbally, and almost every time their ad libs take longer than reading. So I will be quiet and you start reading.

Mr. BAILEY. Mr. Chairman and members of the Subcommittee on Livestock and Grains of the House Committee on Agriculture, my name is Mr. Joseph E. Bailey. I am an employee of an export grain firm, but am here today in the capacity of a member of the committee on grades of the North American Export Grain Association to present to you a statement with regard to H.R. 11162, which has been approved by the board of directors of that association.

I am accompanied by Harry P. Higgins, Jr., executive vice president of the North American Export Grain Association and Adam A. Keller, a member of the grain grades committee of the association.

The North American Export Grain Association appreciates the action of the House Subcommittee on Livestock and Grains in its postponement of the hearings for trade witnesses which were scheduled for September 14 and 15 and to have proceeded with hearings for USDA witnesses, and the other distinguished persons who testified, on September 12, 13, and 14.

The subcommittee is to be commended for this action and its fine work in the questioning of witnesses at those hearings and subsequent publication and distribution of a transcript of the testimony to interested parties. This we feel has resulted in some clarification on many sections of the bill and has enabled us to approach certain provisions of the bill in a much more enlightened and concise manner. Nevertheless, there is still much confusion in the proposed legislation with respect to the language in the bill granting too broad authority to the Secretary of Agriculture, posing a threat to the free marketing system in which we now operate, and the interpretation given to it by Agriculture officials of what is desired to be accomplished.

We agree that as changing merchandising techniques and transportation patterns arise the U.S. Grain Standards Act or the regulations thereunder need updating or amending, as has been done in the past

as the need required since the original act was enacted in 1916. In addition to these changes in the act there have been many changes in the standards promulgated in consultation with the trade. The North American Export Grain Association, as U.S. Department of Agriculture officials can testify, has always earnestly participated in many discussions with the U.S.D.A. regarding problems encountered. We must remember that the 1916 act under which we now operate has served its purpose well and can be said to be only in need of further updating to meet modern merchandising trends—not condemned for any failure to serve the buyer and seller in the past 51 years. The willingness of the grain buyers all over the world to accept an official loading grade certificate backed up by federally defined standards is a great testimony to the integrity of our inspection methods. It is therefore our opinion that it would have been better for the U.S.D.A., (who we believe to be the sole initiator of the proposed bill) to have proposed instead specific amendments to the old bill.

One of our concerns, as exporters, is for the dark shadow some of the wording of section 2 of the proposed bill casts on our historical integrity.

The general tone engendered in part of section 2 would seem to imply that present practices are not as honorable as our reputation and record have shown. We are concerned that this is an indirect invitation to buyers all over the world to question the integrity of official U.S. Grade certificates.

We further submit that the "declaration of policy," as presently worded, could result in the grading system being employed, in the final analysis, against producers and in favor of buyers. We also submit that the purpose of grain standards is to properly reflect the quality of grain produced and should not be used as an instrument to effect changes in quality or to influence the contractual relationship between seller and buyer. Of course, there is nothing to prevent the buyer and seller from negotiating specific quality requirements that go beyond the standards. As a matter of fact, this is done not infrequently and for large quantities.

If a preamble to the act is felt necessary, we recommend that it be changed to properly set forth the purposes of the act and remove the stigma it attaches to the entire U.S. grain trade and the loss of confidence of foreign buyers it could cause in the integrity of U.S. suppliers and the U.S. inspection system. We recommend substitution of the following words for lines 15 through 21 of the proposed bill, commencing with the words "and to prohibit", et cetera:

and to maintain the integrity of grain inspection certificates with the objective that grain may be marketed in an orderly manner and otherwise to satisfy the requirements of both buyer and seller for dependable and useful statements of grain quality, that trading in grain may be facilitated in the largest possible volume.

Having stated our position on the preamble, we would now wish to delve into, in detail, the various other provisions of the proposed new act.

SECTION 3, "DEFINITIONS"

Definitions 8 and 10 include the words "quantity" and "other criteria" among other factors to be determined and certified by official inspection personnel. Mr. Grange has testified that the Department

has no intention of getting into the weighing business and we note his explanation for including this word in definitions 8 and 10 (page 22 of the transcript). We also note his explanation of the term "other criteria." We have no quarrel with the Department's intentions behind these provisions, as with certain other provisions of the proposed act. We do, however, feel it unwise for the Congress to allow the inclusion of wording in legislation that could well, years hence, be construed differently. As with certain other provisions of this bill, which we will detail later, we recommend that the intent behind inclusion of these terms and the qualifying wording for these terms be synonymous, leaving no room for misconstruction.

Definition No. 16 reads:

(16) the term "interested person" means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise.

What is the intent of including "carrier" and "otherwise" under the definition of "interested person"? The term "interested person" is used in section 7(b) which relates to inspection "upon request of any interested person." What interest does a "carrier" have in requesting official inspection? Who is "otherwise"?

SECTION 4, "STANDARDS"

We have no objection to part a of this section except as it relates to section 2, as that section now reads, re the last three lines of 4(a) which read:

... and to amend or revoke such standards, whenever in his judgement such action is necessary or appropriate in order to accomplish any of the objectives stated in section 2 of this Act.

In part b of this section having to do with a 1-year waiting period before changes in the standards would become effective, exception is made for changes to become effective sooner when in the public health, interest, or safety. We firmly believe that the exception should apply only in cases where the public health or safety is involved. We believe that the phrase "in the public interest" is too vague. This would leave too much discretionary power in the hands of the Secretary. We would point out that quite frequently exporters sell abroad for shipment months later, basing themselves on standards current at the time of sale. They could be in serious jeopardy with buyers if standards were changed after the sale and before shipment of such commitments. We therefore recommend the omission of the word "interest" from line 4, page 7, of the proposed bill.

SECTION 5, "OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN EXPORT GRAIN"

Most references to section 2 (declaration of policy) of the bill carry prohibition or requirements when deemed necessary by the Secretary to achieve the objectives of that section. However, this section carries a proviso waiving the mandatory export inspection when in the judgment of the Secretary this requirement is not necessary to achieve any of the objectives of section 2 "* * * or it is impracticable to provide official inspection with regard to such shipments." The latter part of this proviso is apparently designed to circumvent the

mandatory inspection requirement for grain sold by grade when shipped from a location where inspection cannot be properly performed. However, what situations do the first part of this proviso cover? Presuming the intention to be for good reason, should it not be spelled out? Could the inspection requirement, as this proviso now reads, be waived for one exporter and not another at the same location?

This section also provides that the inspection shall take place "on the basis of official samples taken as the grain is being loaded aboard, or while it is in, the final carrier * * *." As mentioned during hearings on September 12, 13, and 14, 1967, many export elevators load grain to export vessels through "shipping bins," from which it goes via either direct loading spout or short conveyors into the hold of the vessel. It has, therefore, been correctly the practice to take official samples going into these shipping bins because it cannot be sampled as accurately elsewhere. The term "as the grain is being loaded aboard or while it is in the final carrier * * *" could be construed literally to preclude obtaining official inspections except by less accurate sampling methods. We therefore recommend that the language of this provision be amended to read substantially "as the grain is in the process of being loaded aboard the final carrier * * *."

SECTION 7, "OFFICIAL INSPECTION AUTHORITY AND FUNDING"

(b) We were advised by a Department official that the words "within or outside the United States" for having official inspection performed is to cover Canadian port inspections—such inspections currently being done under authority contained in the Agricultural Marketing Act of 1946, as amended—it being the wish of the Department to have Canadian port inspections of U.S. grain under the same authority as that provided for inspections within the United States. If this is the sole reason for it then we believe the act should clearly refer to Canadian port inspections of U.S. grain.

In this section we must again point and object to the ambiguous authority that would be granted the Secretary by the wording "when-ever in his judgment providing such service will effectuate any of the objectives stated in section 2 of this Act" insofar as that section now reads.

(c) The present act makes clear provision for the right of Federal appeal of independent inspection agency certifications of grades. The only allusion to appeal inspections, insofar as the right of a party to call same, is in this section and it states, "The regulations prescribed by the Secretary under this act *may* (italic ours) include provisions for reinspections and appeal inspections * * *." We note that Chairman Purcell questioned Mr. Grange on this (page 32 of part I of the transcript of the hearings) and suggested that the word "may" be changed to "shall." This suggestion was acceptable to the Department. While we are grateful for the suggestion of the chairman, we feel that, as in the present act, if the act is to be completely rewritten, the procedure for appeal should be spelled out. The right to cancel incorrect certificates is not clear, inasmuch as the word "incorrect" could be construed to mean differences of opinion concerning a grade or factor determination resulting in the recall of a certificate after shipment has been effected. We recommend that after the words "incorrect certificates" the phrase "resulting from reinspections or appeals or from clerical error" be inserted.

(e) Subsection (e) would provide for the charging and collection of fees to cover estimated costs of inspection, except when performed by a cooperating agency, including supervisory and administrative costs.

We believe that fees to be charged by the Secretary for inspection work should cover only Federal appeal inspections or, where necessary, primary Federal inspections, and not include supervisory and administrative costs which are incurred in the public interest and which should, therefore, be covered by annual appropriation. Inasmuch as cooperative "agreements" would be mandatory, as this bill presently provides, due to the provision in section 9(a) which states that a license will be issued only to an individual who "is employed or operates independently under a cooperative agreement," the provision in 7(e) for collection of fees is superfluous and misleading. However, our position on cooperative agreements is that they should be voluntary. (Our statement on this will follow in its proper order.) Therefore, should the bill be amended to provide that cooperative agreements be on a voluntary basis, we also recommend that the provision in section 7(e) covering assessment of fees for supervisory and administrative costs be stricken for the simple reason that such a provision would be discriminatory and would tend to influence the entering into of cooperative agreements.

SECTION 8, "COOPERATIVE AGREEMENTS"

(a) This section would authorize the Secretary to enter into "cooperative agreements" with State departments of agriculture, other authorized State or local governmental agency, commercial agencies or individuals providing adequate facilities and qualified personnel for inspection work.

As pointed out in our testimony on section 7(e), cooperative agreements would be mandatory as a result of provision in section 9(a). The only alternative for inspection agencies or individuals, if this provision is not changed, will be to close up shop.

Section 8(a) also provides for termination of "any such agreement whenever he (the Secretary) determines that the cooperating inspection agency has not complied with any requirement under this act or that such action is otherwise necessary to effectuate any of the objectives stated in section 2 of this act." Here again we have this broad discretionary power tied into section 2, and with no clear provision that hearings as to termination would be held. Termination of an agreement under this section (if agreements were to be mandatory), would mean that the inspection agency involved would go out of business and all its licensed employees would no longer be licensed.

We are opposed to the imposition of cooperative agreements primarily because the cancellation of an agreement could leave an export elevator without official inspection, and unable to load grain unless the U.S. Department of Agriculture supervisory inspectors stepped in immediately to provide primary inspections.

While noting and welcoming the comments of Mr. Grange concerning the fears of some as to the federalization of the inspection system, we are justifiably concerned that the making of "cooperative agreements" mandatory and the apparent ease with which inspection agencies could be put out of business for noncompliance with any requirement under the proposed act by the sole determination of the Secretary, coupled with the loose, ambiguous wording of many pro-

visions that could enable the Secretary to construe certain acts as noncompliance, could indeed lead to the federalization of the U.S. inspection system.

This association is vigorously opposed to Federal employees being primary inspectors except at locations not serviced by licensed inspectors of independent commercial or State agencies.

SECTION 9, "LICENSES AND AUTHORIZATIONS"

Following our recommendation as to section 8, references to cooperative agreements would have to be stricken from section 9(a) and 9(b).

SECTION 11, "REFUSAL OF OFFICIAL INSPECTION"

(a)(1) This section would provide the Secretary authority to refuse inspection of "grain offered for inspection, or owned, wholly or in part, by any person" * * * "for such period, or indefinitely, as he deems necessary to effectuate the purposes of the act" if he determines that the individual or firm has been convicted of any violation of section 14 of the U.S. Grain Standards Act, of section 10 of the Federal Trade Commission Act or the provisions of 18 U.S.C. 1001, "which involved any matter within the scope of" the U.S. Grain Standards Act.

While it may be reasonable to refuse inspection of grain to a person convicted of violations of the U.S. Grain Standards Act, we seriously question the propriety of imposing a penalty upon a person by refusal of inspection to a person or firm convicted for violations of any other statute, even though such other violation "involved any matter within the scope of" the U.S. Grain Standards Act. We are opposed to the incorporation by reference into the act of other statutes. (We will enlarge upon this latter statement in our comments under section 18, "Enforcement Provision".) As regards the incorporation of these statutes in section 11, if the Department does indeed need these, and can demonstrate such need, what would the objection be to spelling out these violations in section 14 of the Grain Standards Act? As to subsection (a)(2), this would grant the Secretary the power to refuse inspection if he determines "that providing official inspection with respect to such grain would be inimical to the integrity of the official inspection service." This part of section 11 is obviously very ambiguously worded and would, therefore, be subject to a multiplicity of things the Secretary could refuse inspection for.

We recommend that section 11 be deleted in its entirety, but if it be deemed proper to refuse inspection "as an administrative remedy" (to quote Mr. Grange), that the act stipulate that such refusal be imposed only for violations of section 14 of the act; that refusal be limited to the locations where the violation occurred and carry some maximum period of withdrawal of the inspection service.

SECTION 13, "RECORDS"

This section requires that exporters "shall maintain such complete records with respect to the shipment and merchandising of grain * * * as the Secretary may by regulation prescribe * * *" and "shall

permit * * * the Secretary to have access to, and to copy such records at all reasonable times."

We respectfully submit that the words "and merchandising" do not belong in this act, inasmuch as the act is designed to deal with the inspection of grain and not merchandising.

SECTION 14, "PROHIBITED ACTS"

As with all of the prohibited acts covered by this section, a violation would be construed to be knowingly committed "if it resulted from gross negligence or a failure to make a reasonable effort to ascertain the pertinent facts, or was otherwise committed with knowledge of such facts." We submit that offenses committed "knowingly," as defined in this section, could be accomplished through the action(s) of one person without the knowledge of his superiors, as, for example, to cover a mistake of his. This could well occur without ever arousing even the suspicion of the employer. How then can the employer be labeled "grossly negligent" or guilty by association if the violation occurred as a result of "failure to make a reasonable effort to ascertain the pertinent facts." Inasmuch as section 16 provides for responsibility on the part of the employer as well as to the person committing a violation, the employer could be penalized as provided in section 15 or be refused inspection as provided in section 11. It appears obvious to us that the word "knowingly" must be defined differently.

SECTION 18, "ENFORCEMENT PROVISIONS"

Subsection (a) would make "applicable to the jurisdiction, powers and duties of the Secretary" the provisions of sections 6, 8, 9, and 10 of the Federal Trade Commission Act and the provisions of paragraph 409(1) of the Communications Act of 1934.

As with section 11(a)(1), we deem it unwise to incorporate another statute, in whole or in part, by reference into the act. We note the testimony of Mr. Grange and Mrs. Prokop on this (pages 30 and 31 of the transcript). If the Department is primarily after the subpoena power and, as admitted, could simply have put provisions in the act itself for it and for certain offenses, we do not feel it would add substantially to the length of the bill to spell out just what the Department wants and for it to demonstrate its need for such provisions. Would not the sections of the Federal Trade Commission Act and the Communications Act referred to have to be made a part of the Grain Standards Act anyway, if this is the way the bill would be passed? In any event, it would appear to us that some of the authorities sought in incorporating the aforementioned sections of the Federal Trade Commission Act into the Grain Standards Act overlap some authorities already provided for in sections 13 and 17, and are redundant to part of paragraph 409(1) of the Communications Act. Would it not be much less confusing, clearer, and briefer, for the authorities and prohibitions sought in these acts to be tailored specifically to the other provisions of the Grain Standards Act? We also submit that incorporating of other statutes by reference into the Packers and Stockyards Act and attempting to do so in the meat inspection bill, does not mean that it is a wise thing to do with this proposed legislation. We recommend that each instance stand on its own merits. We note too,

that Mrs. Prokop has stated that the Department could do without sections 6 and 8 of the Federal Trade Commission Act. We maintain that the other sections could be reduced to very little language and inserted in proper places in the pending bill.

We wish to extend our thanks to the distinguished members of the Subcommittee on Livestock and Grains for having granted us the privilege of presenting our views.

Mr. PURCELL. Does anyone of your group have any additional statement to make?

Mr. BAILEY. We do not, sir.

Mr. PURCELL. Thank you very much, gentlemen.

Are there any questions?

Mrs. MAY. I would just like to commend you for an excellent statement, Mr. Bailey.

You, too, have done a service to this subcommittee in bringing your views before us for consideration.

Thank you very much for your work.

Mr. BAILEY. Thank you.

Mr. PURCELL. Thank you very much, gentlemen. We appreciate your thoughtfulness in the statement.

We will now call Mr. Marvin McLain, legislative director of the American Farm Bureau Federation.

STATEMENT OF MARVIN McLAIN, ASSISTANT LEGISLATIVE DIRECTOR, AMERICAN FARM BUREAU FEDERATION

Mr. McLAIN. Mr. Chairman, I appreciate the rush of time. Mr. Farrington has a commitment so I shall take about 5 minutes, if you will permit my complete statement to be put in the record and just emphasize two points.

Mr. PURCELL. That will certainly be allowed.

(The statement referred to follows:)

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION, PRESENTED BY MARVIN L. McLAIN, ASSISTANT LEGISLATIVE DIRECTOR

The American Farm Bureau has a membership of 1,703,908 family members in more than 2,770 counties throughout the continental United States, Hawaii, and Puerto Rico, the majority of whom produce and/or use grain in their farming operations. We are thus vitally interested in the U.S. Grain Standards Act and Inspection System and welcome the opportunity to express the organization's views on H.R. 11162, which proposes to revise the present system.

Farm Bureau members have long supported measures to provide a grading system and inspection service which would simplify grain quality identification, facilitate grain marketing and foster integrity throughout the grain business. Since a comprehensive proposal for revision of the present grain grading system, as set forth in H.R. 11162, was not contemplated when our membership addressed itself to policy development last fall, present Farm Bureau policies relating to this matter are stated in rather broad and general terms. These are as follows:

Quality Recognition

We support measures to improve grading and quality standards as an aid to merchandising an increasing volume of quality farm products both domestically and abroad.

Grades of Agricultural Commodities

We recommend a complete re-evaluation of present agricultural grade standards.

In order to supplement the above policies and provide greater assurance that we might accurately reflect the views of our membership relative to the specific

proposals offered we sent copies of the bill, Secretary Freeman's explanatory letter of June 20, 1967 conveying the bill to Speaker McCormack, and the Summary of Proposed Changes prepared by USDA personnel to State Farm Bureaus for study and suggestions.

The following comments and recommendations represent the consensus of the state reports. Fortunately, for purposes of determining and presenting our position there was little disagreement in the state reports.

In our opinion the system of grain grade determination, identity and inspection service provided under the U.S. Grain Standards of 1916 as amended has served the needs of farmers and other segments of the grain trade exceptionally well. Considering the great increase in the volume of grain moving off farms, technological progress in marketing facilities, procedures and techniques, and the phenomenal rise of the United States to the world's greatest grain exporting nation, there clearly is a need for re-evaluation of the basic law with a view to effecting whatever modernization is necessary. In doing this, however, we must be extremely cautious that we do not make changes which will complicate rather than simplify grain trading.

The efficiency of our grain marketing system long has been the marvel of the world. While the system can undoubtedly be further improved we must be absolutely sure that each proposed change or modification is thoroughly examined to establish with certainty that it will indeed encourage greater efficiency in grain trading.

We must also be sure that the added value of each change will be sufficient to at least offset any additional cost of the service which might be entailed by the change.

For these reasons we insist that the proposals offered in H.R. 11162 be considered as possible amendments to improve the Act of 1916 as amended and not as a substitute for that Act which has a proven successful performance record.

Now to the specifics of our recommendations regarding the proposals set forth in H.R. 11162. These are limited to those proposed changes on which our membership expressed definite thoughts.

Sec. 1—Title—proposes a short title for identification of the Act. This is, in our opinion, good insofar as the change of title is not interpreted to mean a complete repeal of the present Act.

Sec. 2—Policy—provides a much needed declaration of policy. While the absence of such a statement in the past has caused no problems that we are aware of, it is a safeguard for the future.

Sec. 3—Definitions—provides clear meanings of terms used in the Act which will enhance the understanding of farmers and trades people and facilitate administration of the Act. We recommend deletion of definition No. (12), lines 24 and 25 on page 4 and lines 1 and 2 on page 5, which defines "cooperative inspection agency", and renumbering of the following definitions for reasons developed in a subsequent part of this statement.

Sec. 4—Standards—is an improvement over the similar provision of the present Act. The provision of "one calendar year" after promulgation before a change in standards may become applicable will allow needed time to achieve understanding by farmers and for all concerned to make whatever arrangements may be needed to accommodate the change. It is also well, as a safeguard, to provide the Secretary of Agriculture with contingency authority to incorporate changes in less than a year after announcement if necessary in "... the public interest, or safety ...". However, one can visualize the possibilities of genuine complications in grain marketing if changes of real significance are made too hastily.

Since it is almost inconceivable that circumstances could suddenly develop which would necessitate an immediate change in standards or inspection service, we recommend that the period in line 5, page 7, be changed to a comma and the following language added as a needed protective proviso:

"but in no case may a change in standards become applicable in less than 30 days following the date of publication of such pending change in the Federal Register."

Sec. 5 & 6—Inspection Requirements for Export Grain—provides much needed clarification of conditions to be met by exporters. Such clarification should prove helpful.

Sec. 7—Official Inspection Authority and Funding—provides the Secretary certain new control and regulatory power all of which undoubtedly are well-intended but some of which are subject to serious question. The latter include the provisions in subparts "b," "c" and "d" relating to inspections and reinspections "outside" the United States.

Certainly the foreign buyer must have assurance that he will get delivery of the quality of grain contracted or that proper adjustment will be made by the person(s) responsible when contract specifications or conditions are not fulfilled.

Due to the fierceness of competition which characterizes international grain trading and the imperativeness of "repeat business" by individual firms, problems arising in the area of export contract fulfillment are mainly the result of changes in grade or condition that take place during the process of movement. Such changes may be due to heating because of unnecessary delay enroute or improper handling after the grain leave U.S. shores. Thus corrective measures should be designed to facilitate settlement of misunderstandings, complaints, or disagreements through negotiation between importer and exporter.

If official inspection and reinspection are authorized abroad with the degree of finality implied in subparts "b", "c" and "d", the result at best would be to make international grain trading more cumbersome and awkward. At the other extreme such provisions could lead to intolerable grain trading conditions.

Clearly, before entering into a sales contract the exporting company must incorporate into its handling margin an allowance to cover all costs and risks associated with making delivery. Should it become necessary to include an allowance for possible cancellation of contract after a shipment is enroute, due to factors over which the shipper has little or no control, the trading margin could become prohibitive.

In writing regulations of the nature proposed in Sec. 7, "b" & "c" it must be kept in mind that the U.S., while the largest, is only one of many nations prepared to supply grain. We must, therefore, be conscious of the need to maintain and strengthen the competitive position of this country in comparison with other supplier nations. We also must keep in mind that the "majors" among our export firms also handle grains of other supply nations and can, therefore, be forced by overly stringent regulations to ship U.S. origin grain only as a last resort.

Perhaps the present system of reinspection and appeals can be improved with changes to correct any weakness that experience has shown exist. But the vastly increased volume of U.S. grain exports over the last decade and the continuing healthy rate of growth currently clearly indicate that any such weaknesses cannot be seriously handicapping.

For these reasons we recommend deletion of the *new* regulations proposed in Sec. 7 (b), (c) relating to inspections, reinspections, and appeal inspections outside the United States. We have no objection to having "samples" taken for purposes of inspection become the property of the United States as proposed in Sec. 7(c).

Sec. 8, subparts "a" and "c"—Cooperative Agreements—proposes what is, in our opinion, an undesirable and unnecessary change in the procedures for appointing persons and/or firms to service the grain inspection program. Judging from the reports of interested State Farm Bureaus and our examination of the present system of inspector appointments, we believe the present system to be reasonably efficient and quite adequate to insure proper grading and identification. We, therefore, recommend continuation of the present system of appointments and licensing, and deletion of Sec. 8, subparts (a) and (c).

This change also will require deletion of the terminology "cooperative agency" or other language in the remaining sections which implies establishment of the type of cooperative agreement proposed in Sec. 8 (a).

We have no objection to financing the inspection service through a fee system as proposed in Sec. 8 (b) but recommend deletion of the word "cooperating" in lines 8 and 9 of page 11 as per the above. We would hope, however, that the administration of the fee collection system would be in such manner as to avoid excessive costs.

With the above stated exceptions, Farm Bureau is generally favorable to the proposals set forth in H.R. 11162 for amending the U.S. Grain Standards Act. We particularly support the idea of eliminating the inspection requirement for grain moving domestically. This change will foster efficiency where such inspections are now being made only for the purpose of fulfilling the requirement; it will legitimize trade practices in areas where grain currently is moving without inspection and will retain the privilege for official inspection by those wishing to do so.

We appreciate the opportunity to appear before this Committee and present the views of Farm Bureau members with respect to the U.S. Official Grain Standards Act and the proposals offered in H.R. 11162 to amend it.

Mr. McLAIN. On page 5, at the bottom of the page, section 8, subparts (a) and (c), shows an undesirable and unnecessary change to

the procedure for appointing persons and/or firms to service the grain inspection program. Judging from the reports of the interested State Farm Bureaus and our examination of the present system of inspector appointments, we believe the present system to be reasonably efficient and quite adequate to insure proper grading and identification. We therefore recommend the continuation of the present system of appointments and licensing and deletion of section 8, subparts (a) and (c).

Then on page 6, next to the last paragraph, we particularly support the proposals set forth in H.R. 11162 for amending the U.S. Grain Standards Act. We particularly support the idea of eliminating the inspection requirement for grain moving domestically. This change will foster efficiency where such inspections are now being made only for the purpose of fulfilling the requirement; it will legitimize trade practices in areas where grain currently is moving without inspection and will retain the privilege for official inspection by those wishing to do so.

We have reviewed this whole bill, Mr. Purcell, and there is much to commend in this bill, we feel. There are some other slight modifications we suggest. We hope you will look at these as we have explained them in our complete statement which we have filed to be made a part of this record.

With these two main points I have made I appreciate the opportunity to appear before your committee.

MR. PURCELL. Thank you very much, Mr. McLain. Are there questions?

Mrs. MAY. Just one question of Mr. McLain.

I understand in your last statement, when you referred to the wording of your statement on page 6, that you do think that properly amended this bill could result in good to the producers?

MR. McLAIN. Yes, Madam.

Mrs. MAY. Helping ease traffic tie-up in grain marketing?

MR. McLAIN. It is long past due, and we appreciate the interest this committee has shown in doing something about it.

Mrs. MAY. Thank you.

MR. PURCELL. Thank you very much.

We will call Mr. Carl Farrington at this time, the Millers' National Federation.

STATEMENT OF CARL FARRINGTON, MILLERS' NATIONAL FEDERATION, NATIONAL PRESS BUILDING, WASHINGTON, D.C.

MR. FARRINGTON. Thank you, Mr. Chairman.

I have a brief statement but I shall try to brief it even more.

I am appearing here today in behalf of the Millers' Federation. We are pleased that you have introduced this bill and we agree that the present bill is outmoded in some respects. We support the basic intent of this bill which, as we understand it, is to make the inspection of grain shipped in U.S. commerce permissive; that is, to be undertaken only at the request of an interested party in a transaction.

We believe the keystone of the act is the provision for a uniform understanding and application of descriptive terminology for grain to facilitate trade from the farm to domestic and foreign users.

The present standards are doing that efficiently.

As so often has been said of them, they should serve as a common denominator in grain in the sense that U.S. No. 1 Hard Winter wheat is essentially the same product anywhere at any time. In the absence of the universal use of uniform grades, we fear that there could develop a widespread use of many quality descriptions for grain which would be confusing and cause disorder in the grain-marketing system.

H.R. 11162, as introduced, would require the use of official grades for export only. We believe it is extremely important, however, that identical official grade designations and terminology be applied to both export and domestic grain.

To this end, the Grain & Feed Dealers have recommended a change in section 6. We support that amendment in general though we expect it is too broad. We certainly want one set of grain standards. Our objective through such amendment is to require that essentially all grain moving in interstate commerce or into foreign commerce be described only in accordance with U.S. grade designations.

If the act were amended as we suggest and as they suggest, most grain transactions would be conducted on the basis of the official U.S. grain grade standards but would permit the interested persons involved in the transaction to agree on how the grade is determined; that is, by official U.S. inspection or otherwise.

H.R. 11162 is silent on one other point we would like to comment on. This relates to the possibility of having various samples and identifying those samples, whether it is an officially supervised sample or whether it is a guaranteed sample or whether it is another type of sample.

This point has been well covered in the previous testimony. We support the position of the Grain & Feed Dealers on this point and we believe from the Department's testimony that they are agreeable. We would hope that your legislative language does incorporate this form of identification of samples, and we believe with such legislative intent stated that this act would take care of H.R. 2121 which would become unnecessary and which in its present state is inadequate.

There is one point in section 4(a): We would like to recommend deletion of the language "and that will best reflect the value or usability of grain." We do not believe these are proper standards to use in setting the U.S. official grain standards because they are strictly objective and there is nothing physical to tie it to. Therefore, we think those words should be deleted.

We also suggest that the word "shall" be submitted for "may" in section 7(c) and that is generally agreeable to the Department, we understand, and has been recommended by other agencies.

Paragraphs (a) and (e) of section 7 and sections 8 and 9 provide the Secretary of Agriculture with broad authority over all grain inspection agencies, both State and private, through the use of cooperative agreements prescribed by the Secretary, or as an alternative providing grain inspection services by employees of the U.S. Department of Agriculture.

We believe that the basic structure of the present inspection service should be maintained with original inspections in the United States always being provided by licensed inspectors and that it is not necessary for employees of the Federal Government to become involved in original inspections in the United States

We would also urge that if there are to be cooperative agreements they should be made available on a nondiscriminatory basis to qualify State or private agencies or private contractors covering all areas in the United States where original inspections are to be made and should prescribe only the most essential conditions.

The provisions of sections 9, 11, and 18 have been dealt with very adequately by the Grain & Feed Dealers and by the export group. In general, we agree that there is some unnecessary incorporation by reference and unnecessarily broad range of authority there. We generally support their positions.

We thank you, Mr. Chairman, for this opportunity.

Mr. PURCELL. Thank you very much, Mr. Farrington, for your statement, and we particularly appreciate your cooperating with us in being so brief.

Thank you very much.

(Mr. Farrington's complete statement follows:)

STATEMENT OF CARL FARRINGTON, MILLERS' NATIONAL FEDERATION

My name is Carl Farrington. I am a Vice President of Archer Daniels Midland Co., Minneapolis, Minnesota operating flour mills in Minneapolis, Minnesota and Kansas City, Missouri. I am appearing here today in behalf of the Millers' National Federation. Members of the Federation produce 85 to 90 percent of all U.S. wheat flour and significant amounts of other grain products.

Mr. Chairman, we are gratified that you have introduced H.R. 11162 to modernize the U.S. Grain Standards Act. We agree with the Administration that the Act has become outmoded in some respects and we support the basic intent of the Bill.

This, as we understand it, is to make the inspection of grain shipped in interstate commerce permissive; that is, to be undertaken only at the request of an interested party in a transaction. With certain reservations which I shall state later, we believe the proposed Act will protect the legitimate interests of the grain trade, food processors who purchase and convert grain into food products, and the consumers who purchase those products.

We believe that the keystone of the Act is the provision of a uniform understanding and application of descriptive terminology for grain to facilitate trade from the farm to domestic and foreign users. The present standards are doing that efficiently. As so often has been said of them, they should serve as a common denominator in grain trading in the sense that U.S. #1 Hard Winter Wheat is essentially the same product anywhere and at any time. In the absence of the universal use of uniform grades, we fear that there could develop a widespread use of many quality descriptions for grain which would be confusing and cause disorder in the grain marketing system. Such a development might seriously impair the orderly marketing of cash wheat and the operation of the grain futures markets.

H.R. 11162, as introduced, would require the use of official grades for export only. We believe it is extremely important, however, that identical official grade designations and terminology be applied to both export and domestic grain.

To this end, we understand the Grain and Feed Dealers National Association is suggesting to this subcommittee amendatory language in section 6 of the bill. We wish to add our endorsement to the principles embodied in that amendment, but we may not be completely in agreement on all of the wording of that amendment.

Our objective through such amendment is to require that essentially all grain moving in interstate commerce or into foreign commerce be described only in accordance with U.S. grade designations. Within narrow limits, it would permit the use of other descriptions which will not cause confusion in the marketing of grain.

H.R. 11162, if amended as suggested, would therefore require that most grain transactions be conducted on the basis of the official U.S. grain grade standards but would permit the interested persons involved in the transaction to agree on how the grade is determined; that is, by official U.S. inspection or otherwise.

The Millers' National Federation, therefore, endorses section 7 of H.R. 11162 and section 6, if amended as suggested.

H.R. 11162 is silent on one further point we would like to comment on.

The official grade assigned to a lot of grain by a licensed inspector is based on a sample of that grain drawn by an official sampler or any other person authorized to do so by buyer or seller. The sample is intended to be truly representative of the kind, class, quality, and condition of the lot of grain from which it was taken. It follows, then, that if a sample is not representative, the official grade assigned to it will be incorrect. For this reason, it is extremely important that all parties to a transaction be aware of the kind and source of the graded sample. For example, it should be understood whether the sample was drawn by or under the supervision of a Federally licensed sampler; whether it was drawn by an employee of the seller and guaranteed by the seller to be representative; or whether it was a sample submitted by the shipper or receiver but not guaranteed to be representative.

The Department's witness has indicated that the Department will develop a system to assist in the identification of samples for official inspection. We understand the official inspection certificate will indicate the desired information about samples.

To the best of our knowledge, there is nothing, in H.R. 11162 which would direct or authorize the Department to establish such a system. In view of its essentiality to a meaningful official inspection procedure, we would hope that some statement of Congressional intent could be expressed on sample identification. Such a statement of intent would, we believe, accomplish the purposes and make unnecessary the enactment of H.R. 2121 which we consider inadequate as separate legislation.

Mr. Chairman, we would like to conclude with a few additional observations on other provisions of H.R. 11162.

Section 4(a) authorizes the Secretary to establish grain standards that on the basis of crop quality data, will measure the kind, class, quality, condition, or other characteristics of grain "and that will best reflect the value or usability of grain." Determinations of kind, class, quality, and condition are objective determinations which can and should be made under the U.S. Grain Standards on the basis of available crop quality data. The value and usability of grain, on the other hand, are subjective determinations which can be made with any validity only by the seller and the buyer of grain. The value and usability of a given lot of grain may vary from day to day and, at the same time, from place to place based on unpredictable factors unrelated to quality. On the other hand, the basic physical measurement of grain quality will remain constant. We recommend that the above quoted words ("and that will best reflect the value or usability of grain") be deleted from Section 4(a).

Section 7(c) authorizes, but does not direct, the Secretary to provide for re-inspections, appeal inspections, and cancellation of false or incorrect certificates. These services are such an essential part of the official inspection procedure that we believe their availability should be assured without question and we recommend that the word "shall" be substituted for the word "may" in the second line of Section 7(c).

Paragraphs (a) and (c) of Section 7 and Sections 8 and 9 provide the Secretary of Agriculture with broad authority over all grain inspection agencies, both state and private, through the use of cooperative agreements prescribed by the Secretary, or as an alternative providing grain inspection services by employees of the U.S. Department of Agriculture. Heretofore, original official grain inspections in the United States have been made by persons licensed by the Secretary of Agriculture but not employed by USDA. Department of Agriculture employees have provided the essential appeal and supervisory services but all original inspections have been made by licensees. We believe the basic structure of the grain inspection service in the United States should be continued. This would mean that all original inspections would be made by qualified persons licensed by, but not employed by, the Federal government. USDA would provide necessary appeal services and adequate supervision of licensed inspectors to assure uniform interpretation and application of the grain standards promulgated by the Secretary of Agriculture. Cooperative agreements, if required, should be made available on a non-discriminatory basis to qualified state or private agencies or private contractors covering all areas in the United States where original inspections are to be provided and should prescribe only the most essential conditions.

There are other sections of the Bill, particularly 9, 11, and 18, which contain unnecessarily broad delegations of authority, or incorporate parts of other acts by reference, or present the opportunity for unduly harsh penalties, to which we are inclined to take exception. We know, however, that other trade representatives

will discuss these provisions in detail and in the interest of saving time, we will forego a discussion of these sections.

Thank you, Mr. Chariman and members of the Committee, for providing us this opportunity to present these views on behalf of the Millers' National Federation.

MILLERS' NATIONAL FEDERATION,
Washington, D.C., November 8, 1967.

HON. GRAHAM PURCELL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PURCELL: In my testimony on H.R. 11162 on Monday, I expressed qualified support of an amendment to section 6 proposed by the Grain and Feed Dealers' National Association.

As the ultimate purchasers of almost all wheat processed for food in the United States, millers feel strongly that essentially all wheat moving in interstate commerce should be described only in accordance with U.S. grade and quality factor designations. One section of the proviso in the proposed Grain and Feed Dealers' National Association amendment could, however, make this objective unattainable. The section would permit the description of grain in interstate commerce "by the use of one or more grade factor designations set forth in the Official Grain Standards of the United States".

This means that a lot of wheat could be sold *in part* on the basis of official grade factor designations and *in part* on any other quality descriptions. The well-established and understood nomenclature of the U.S. Grain Standards could be intermingled with unofficial and possibly unknown terminology on the same lot of grain. This would be confusing at best.

We urge, therefore, that the amendment provide that grain be described only fully in accord with the Official Grain Standards (with supplemental descriptions permitted) or entirely on the basis of brand name, trademark, or quality factor information other than that provided in the U.S. Grain Standards.

Accordingly, we respectfully recommend adoption of the attached amendment.

Sincerely yours,

CARL C. FARRINGTON.

"REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

"SEC. 6. (a) Whenever standards are effective under section 4 of this Act for any grain, no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate and foreign commerce describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided, however,* That with respect to interstate commerce, this section shall not prohibit the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation or by the use of quality descriptions other than those defined in the Official Grain Standards of the United States.

Mr. PURCELL. Mr. Hendrickson, we had said to you we might not call you today.

Inasmuch as we have proceeded very well in the last few minutes if you could let us have your statement at this time it will not throw us off schedule tomorrow.

STATEMENT OF ROY F. HENDRICKSON, EXECUTIVE SECRETARY,
NATIONAL FEDERATION OF GRAIN COOPERATIVES

Mr. HENDRICKSON. Mr. Chairman, I can do what is necessary to put my statement in the record within about 3 minutes.

In the first place, I have a statement outlining our point of view. Of the various suggestions for changes in the bill that I have heard this morning, I have heard none in contradiction with my position

and there are no important changes proposed with which I would disagree. We have a few additional to suggest.

I was particularly impressed by many of the suggestions and changes outlined by Mr. Bailey.

I simply would like to add that this grain inspection is an extremely important and useful service. Official grain inspection is very useful to cooperatives as well as to others. We want to see nothing done that will cheapen the standing of the official certificates. I do not believe that there is anything here contemplated that would do that but I urge the committee to make doubly sure.

I have felt right along that amendment of the old act would be a more suitable method than writing an entirely new bill because there is a good deal of untried language in the new bill, and far more delegation of authority by Congress than is needed.

We feel that permissive inspection is a move in the right direction and deserves a trial; we support the use of automatic samplers and other new techniques which have been developed or may be developed as very desirable to improve sampling at low cost. We do not want to see any return to the situation of 1915 when we had tremendous confusion with respect to grades and standards. This confusion was of disadvantage not only to those trading in grain but to producers themselves who were terribly hurt.

We feel these standards are extremely important to producers. In many instances official grades, as well as on a submitted sample or permissive basis, are used for the purpose of the settling on sales by producers as well as at other levels of marketing.

That is all I feel I need to say in introducing my statement in the record, Mr. Chairman.

Thank you very much.

Mr. PURCELL. We certainly will incorporate your statement in the record and we appreciate your statement here this morning.

(The statement follows:)

STATEMENT OF ROY F. HENDRICKSON, EXECUTIVE SECRETARY, NATIONAL
FEDERATION OF GRAIN COOPERATIVES

Mr. Chairman:

I am Roy F. Hendrickson, Executive Secretary, National Federation of Grain Cooperatives. I appreciate this opportunity to appear here in connection with two bills—H.R. 2121 and H.R. 11162—both relating to grain inspection.

This Federation consists of 27 regional or federated grain cooperative associations engaged in both domestic and export grain marketing. (A list of members is attached, marked "Exhibit A.") These organizations are owned by some 2,700 grain cooperative marketing associations located in all of the principal grain and oilseed producing areas of the nation, and these local associations are, in turn, owned by producers.

Cooperatives are, and plan to continue to be, very substantial users of official grain inspection services. They desire a reliable, dependable, and economical official inspection service. We feel that the U.S. Grain Standards Act of 1916 has served farmers and the grain marketing industry extremely well. We do not want to see a return to the chaotic situation which existed prior to 1916.

A study of the phraseology in use in the grain marketing industry in this country in 1906 disclosed 338 grades or grade titles. Of these, 133 were for wheat, 63 for corn, 77 for oats, 53 for barley, 10 for rye, and 1 each for "no grade" and "no established grade."

Producers have an important stake in grain grades and standards. A good system of grades and standards that is stable, clear, and well-administered contributes greatly to efficiency in marketing, to lower margins, and thus helps to bring a better ultimate net return to producers.

Today producers are increasingly knowledgeable with respect to grades and standards. Under price supports producers have learned more and more about the details of grades and standards, especially as related to values stated in loan and purchase agreement premium and discount schedules which the U.S. Department of Agriculture revises from time to time to reflect market changes.

When the Grain Standards Act of 1916 was enacted, the percentage of corn sold off farms was relatively small, about 17 percent. Even in the '30s when the Commodity Credit Corporation loan program began, estimates in the case of corn off-farm sales ran as low as 15 to 22 percent.

Today, with the steady growth of specialization in agriculture, off-farm sales of corn are estimated to run as high as 45 to 50 percent in some years. Increasing quantities of corn go to processors. Export sales have increased greatly over the last 15 years. But the largest quantities of corn and other feed grains are shipped into domestic markets at varying distances from the area of production to serve as feed for broilers and other poultry, for feedlots and use by other farmers.

The Act of 1916 created for the Government a role often well described as "referee" of the marketplace. By having one set of grades and standards, by licensing inspectors, and by providing a system of appeals, trade and commerce in grain was facilitated. This provided a well-accepted system for settling sales contracts. This will be needed in the future when grain production will continue to expand.

When CCC came into the picture as an important and often very large owner of grain, it desired—as did members of the grain marketing industry who performed functions for the account of CCC—that settlements on warehouse receipts, and on the purchases and sales, be made on the basis of official inspections. The right of appeal was available to both parties in most cases.

The first bill before you—H.R. 2121—proposes to provide official sanction or recognition for mechanical samplers.

We believe that authority should be given to the Department of Agriculture to utilize these to the extent practical. I think the Department should be directed to consult with the grain marketing industry which will be affected, before it acts finally. It should be empowered to issue rules and regulations enabling it to meld into the grain inspection system the use of automatic samplers in an appropriate and responsible manner. The details of such a change need not be spelled out in law.

There are a number of other changes in existing law we consider to be well justified. We believe it would be best to amend the existing Act, updating it, rather than proceeding as H.R. 11162 does in repealing the old Act and substituting entirely new language.

The new language is almost devoid of restraint in the delegation of power to the Secretary of Agriculture. No need for all of the authority provided has been shown.

Major changes needed to update the Grain Standards Act of 1916 appear to include these, all of which can be achieved by amending the present Act:

1. The large shift-over from rail to truck and barge transportation and the increasing movement of grain which by-passes terminal and sub-terminal gateways have produced changes where it is no longer practical to require mandatory inspection at some points and not to require it at other points. A trial of permissive inspection is well justified. Let buyers and sellers decide if they want official inspection or not.

It is not clear that the requirements for official inspection services will be reduced by changing from mandatory to permissive inspection. Most substantial buyers of grain with whom I have discussed this, including cooperatives which have very large feed manufacturing activities, strongly prefer official inspection, if available, either at origin, at destination, or en route. This underlines the need for having a good system available to facilitate trade and commerce.

The use of non-transit or point-to-point rates in some areas, especially for corn in the East, has produced a number of situations where the current law is violated. In some instances, official inspection is not available at origin, at destination, or en route. In such cases, what are sometimes called "affidavit" grades are often used. Where official inspection services are not available under the 1916 Act, such affidavit grades used in reference to numerical grades and grade factors are not in violation of the present law. The technical violations of law involve situations where official inspection en route is somewhere available but only at high cost or at great inconvenience or delay.

While sellers are not requested normally to execute a formal affidavit in the absence of official inspection, they are asked to supply, in many cases, what has been called a "Shipper's Certificate of Weight and Quality."

Here is an example of one of these which has proved to be useful and which would, in the absence of mandatory inspection, be employed with variations when official inspection is not called for under the sales contract:

SHIPPER'S CERTIFICATE OF WEIGHT AND QUALITY

Date _____

This is to certify that I have personally supervised the weighing of the contents of car _____ and find the net pounds of corn to be _____.

I inspected this car before and after loading and consider it in suitable condition and properly loaded and sealed as noted hereon when delivered to the railroad. The above car has been probed in the approved manner of two probes each end of car and one in center and inspected, and the quality is hereby certified to be as follows:

- % Test Weight or Higher.
- % Moisture or Lower.
- % Damage or Lower.
- % Foreign Material or Lower.
- % Other Factors.

I also agree that a one-quart portion of the combined representative sample will be retained in a moisture-proof container for a period of ten days.

Signed _____
Location _____

If the seller misrepresents the grain in such a certificate provided pursuant to the sales contract, the buyer has no right of appeal so far as the Grain Standards Act is concerned. But the buyer has a far more powerful right—the right to buy no more from that seller. Or he may buy only on some discount basis that reflects out-turn experience.

I quote this example of a shipper's certificate here for this reason: Note that it supplies details which are important to buyers as well as to sellers. You will note that there is no numerical grade number. The numerical grade is frequently a broad, rather general or catch-all description. Most buyers have their chief interest in specific grading factors. If both parties to the contract are satisfied with this, there is no problem and no need for the services of a referee.

2. There has been considerable discussion of "submitted samples." It is said that upwards of 500,000 submitted samples are inspected annually, with official inspection certificates issued clearly showing they are based on submitted samples. As in the case of mechanical samplers, the law can hardly be expected to spell out rules and technical details in this area.

We believe USDA should be authorized to license samplers and to initiate inspection services related to submitted samples; provided that current high standards relating to an official inspection certificate are not cheapened as now provided for use in both interstate and foreign commerce.

There is room for experimentation with two special classes of certificates often discussed, one clearly identified as based on submitted samples and another a "guaranteed sample."

3. USDA should be authorized to issue rules and regulations enabling buyers and sellers of grain to refer to numerical grades and grade factors in sales contracts in transactions in both interstate and foreign commerce whether the contract specifies the use of official inspection or not. The use of grades and standards other than those issued by USDA should be discouraged.

Specific suggestions for changes with respect to H.R. 11162, section by section, with reasons include these:

Section 2, the "Declaration of Policy" or Preamble: On page 60 of the Hearings, September 12 to 14, 1967, Mr. George Grange, the Department's witness, said in reply to points raised by Mr. Dole: "It [Declaration of Policy] is just intended as a preamble to a bill. You very well know it does not carry any statutory obligation in and of itself. It sort of sets the groundwork."

In view of that statement, Section 2 can well be eliminated. It is not needed. Note its reference in line 20 to "processors and consumers" being able to obtain grain having the grade or other characteristics which they desire. Their ability to obtain the grain they desire will be determined by the steps they take in the marketplace.

Section 3(a)(6): I suggest that the sentence be ended with a period after the word "Secretary" on line 19, with the rest of the sentence deleted.

Section 3(a)(8): In line 5 there is reference to "other criteria approved by the Secretary under this Act," which is objectionable because it appears to place

no limit or restraint on the Secretary. This is not essential to meet the Department's needs for authority to provide a first-class grain inspection service.

Section 3(a)(12): Reference is made to "cooperating inspection agency." We object to references to "cooperative agreements" with inspection agencies as referred to in this bill because they would be one-sided and not cooperative in any real sense. Section 3(a)(12) should be re-phrased when a decision has been reached by your Subcommittee on the future status of official inspection agencies. We are opposed to reducing their roles to mere echoes of the Department's will, reserving no choices for themselves, even as to the fees they post for services.

Section 4 is far less satisfactory than Section 2 of the old Act. In the latter, the Secretary was authorized to establish standards as, in his judgment, "the usages of trade may warrant and permit," and he was authorized to alter or modify such standards "whenever the necessities of the trade may require."

That language has been adequate. It has by no means inhibited the Department to take account of research or change. Indeed, most of the worst problems have arisen in connection with an interpretation of a grade or factor rather than a change of grade, interpretations which can come with little or no notice.

Section 4(a) opens the way to proceeding in line 17 to provide standards reflecting "the value or usability of the grain." What does this mean? Values may change often; grades should not.

The marketplace will establish values and also reflect actual acceptability of such values and usability of grains. We are concerned here with the possibility that Section 4(a) might be regarded as authority for departures which market needs, practices, or experience would not justify.

We recall the sudden substitution of sedimentation test readings for protein test readings, undertaken by USDA in the CCC loan schedules of premiums and discounts in 1961-62. That experiment did not work out well in practice. When the decision was made, the fact was ignored that research had not included the vital factor of sedimentation stability of wheat while in storage beyond a period of six months.

The best of motives lay back of introduction of the sedimentation test, but it was not subjected to the practical reactions of the grain marketing industry. There proved to be only minor interest in trading on a sedimentation basis.

In establishing grades and standards we believe that the 1916 law, as modified later by the Administrative Procedures Act, has provided a very adequate and acceptable method.

Section 4(b): This question arises: Was this subsection written to avoid or eliminate the need of complying with the Administrative Procedures Act? It states that interested persons are to be given an opportunity "to submit data, views and arguments." Will these be consigned to File Thirteen? We believe there should be assurance of public hearings, some evidence that at least someone is listening.

So far as the effective date for any grades and standards is concerned, I have observed that the most satisfactory date for putting changes into effect is at the beginning of a new marketing year. I do not believe it is necessary to write that into law.

With respect to *Sections 5 and 6*, we concur in the views expressed by spokesmen or the North American Grain Export Association.

Section 7(c) and 7(e) and other provisions which will ease the burden of providing adequate flexibility in funds for supervision of the inspection system are long overdue. The function of referee and supervision of the inspection system by USDA should be freed from needless concern in having to bridge over fiscal year funding.

We are aware that some of the early drafts of this proposed legislation contemplated that fees for inspection services, including appeals and even supervision by the federal employees assigned, would be assessed so as to eliminate any need for appropriated funds. We believe this would be a backward step, and we request that Subsection 7(e) be rechecked to insure that inspection agencies are not assessed fees for services which have been provided by the use of appropriated funds.

When USDA seeks to extract from inspection fees collected by licensed inspectors funds for supervisory and administrative costs, as is reported to have been true in a number of instances, an undesirable and even intolerable situation is created. The federal officials are put in the role of ogre. This is not a desirable role, involving the relationship of a federal service with inspection agencies and personnel it licenses whether operated by states, by non-profit agencies, individuals, or otherwise.

Section 8 provides for so-called "cooperative agreements" for the conduct of inspection work. These would be "agreements" written by representatives of

the Federal Government who would insist upon uniformity. The result would be a "take it or leave it" situation, possibly both arbitrary and unreasonable.

The present system provided for under the Grain Standards Act of 1916 is far better, far more satisfactory.

On page 11, starting on line 3, the bill states: "The Secretary may terminate any such agreement whenever he determines that the cooperating inspection agency has not complied with any requirement under this Act or that such action is otherwise necessary to effectuate any of the objectives stated in section 2 of this Act."

This is tremendous power of life or death over an inspection agency which could be exercised without standards or a frame of reference written into the law and with no provision for appeal. It would open the way to arbitrary action or at least the fear that arbitrary action might be taken at any time closing down an essential service, terminating employees of an inspection service, reducing or eliminating inspection services on which firms or institutions depend to carry on their business.

This does not represent any desirable improvement, updating, or advancement over the provision contained in the Act of 1916. It is a backward step. Subsection 8(b) would reduce reputable inspection agencies to a role where their independence even with respect to rates of fees would be subject to determination by Mr. Grange and his team.

Section 9(b): I believe the automatic termination every third year of licenses held by inspectors, plus Section 8, will have two effects: (a) It will greatly increase the uncertainty of tenure and thus reduce the attractiveness of inspection work as a career. (b) This will inevitably result in a demand for higher rates of compensation because of the employment risks. This, in short order, will increase the costs of official inspection services. In my view, these higher costs will come out of the prices paid to farmers.

Civil servants who supervise the licensed inspection service, who act on appeals, are not subjected to this same nerve-racking tenure risk. They are, to be sure, checked as to their performance. But so are licensed inspectors, or the supervisory service is not performing the duties that have been assigned to it by Congress and the Secretary of Agriculture since 1916.

Also in Subsection "b," it is stated: "Renewal of any license may be refused in accordance with section 10 or whenever the Secretary determines for reasons not involving any alleged incompetency or fault of the licensee that renewal of the license would not effectuate the purposes of this Act."

This provision in and of itself would create a very nervous state of affairs so far as the tenure of inspectors is concerned. Renewal of a license would be denied for almost any reason or no reason. A type of reason with which I happen to be familiar as a former Director of Personnel and also as a former Director of Marketing of the U.S. Department of Agriculture arises from personality clashes as between federal supervisory personnel and licensed personnel.

Some supervisory personnel are occasionally not only tactless; they can be arbitrary, spiteful, and sometimes inclined to let authority go to their heads. Luckily, such small-time would-be czars have been rare, but Subsection 9(b) certainly would not discourage them.

The people who have made careers in the licensed inspection services, who have performed well and honorably over many years, deserve more protection and considerate treatment from hostile acts on the part of petty officials with a propensity for throwing their weight around, than is here proposed.

Section 10: We believe that licensed personnel when a license is revoked or suspended should be entitled to a hearing. That is a fair and open way to conduct public business. To provide only an opportunity to present "views" is to open the way to depriving a person of his means of livelihood on what, on investigation and after a hearing, may prove to be false or wholly inadequate evidence. There is not even a requirement that the views be heard or read.

Section 11: In this case the power that would be vested in the Secretary to deny inspection services is extreme. We urge deletion of this section.

Section 13: We believe that the 1916 Act covers very adequately in the fourth paragraph of Section 7 what is provided for in Section 13 of H.R. 11162 relating to records.

Sections 14, 15, 16, 17, and 18, respectively: Deals with prohibited acts, prescribes penalties, specifies responsibility for the acts of others, provides general authority for the Secretary, and lists enforcement provisions. These cover about six pages in the bill. These would greatly expand on the relatively brief Sections 9 and 10 of the 1916 Act relating to prohibited acts.

These new sections have not been explained or justified as necessary by USDA even in a very general way. They appear excessive. They may serve to discourage the use of official inspection services. Certainly they will discourage initiative by state governments in this field such as we have seen in many states.

We urge the Subcommittee to review these sections with extra care. You should note well a major change in philosophy which the new bill indicates is now emerging in USDA—an important change in its attitude towards the industry it regulates.

The 1916 Act, which has been a success, was rooted in a philosophy based on a desire on the part of the Federal Government to facilitate trade and commerce in grain.

The voluntary cooperation of the grain marketing industry was sought and obtained.

There was rarely mention or resort to the use of police power.

In contrast, Sections 14 through 18 ignore voluntary cooperation or its desirability. The role of so-called cooperating agencies, including states, would be reduced to a whisper.

Is this really needed or desirable? Is this the new direction which you and Congress wish to take?

Mr. Grange and his associates have shown no need for this change in philosophy. They have offered no proof of non-cooperation on the part of the grain marketing industry which requires new and enlarged resort to police power.

We see incorporated in this bill a request for a great deal of authority relating to commerce in grain that reaches well beyond the requirements of an inspection service. This is done in the name of the Secretary of Agriculture.

Now this is not a personal criticism of the Secretary, present or future. But we know that in due course he will delegate most of the authority to others who will re-delegate it.

The administration of the new act will finally be largely centered in Mr. Grange and his subordinates.

They are able people. But do they need all this new authority, this new resort to police power? They should be asked to justify the need for these important departures from the spirit of the 1916 Act. They have not done so, and we see no need for such radical changes.

EXHIBIT A

MEMBERSHIP, NATIONAL FEDERATION OF GRAIN COOPERATIVES

Western Division Grain Service, Agway, Inc.—Canandaigua, New York.
 Arkansas Grain Corporation—Stuttgart, Arkansas.
 Arkansas Rice Growers Cooperative Association—Stuttgart, Arkansas.
 Cotton Producers Association—Atlanta, Georgia.
 Equity Export Corporation—Deer Park, Texas.
 Equity Union Grain Company—Lincoln, Nebraska.
 Grain Division, Farm Bureau Cooperative Association, Inc.—Columbus, Ohio.
 Farmers Cooperative Commission Company—Hutchinson, Kansas.
 Farmers Grain Cooperative—Ogden, Utah.
 Farmers Grain Dealers Association of Iowa—Des Moines, Iowa.
 Farmers Union Cooperative Marketing Association—Kansas City, Missouri.
 Farmers Union Grain Terminal Association—St. Paul, Minnesota.
 Illinois Grain Corporation—Chicago, Illinois.
 Indiana Grain Cooperative—Division of Indiana Farm Bureau Cooperative Assn., Inc.—Indianapolis, Indiana.
 Inland Empire Pea Growers Association—Spokane, Washington.
 Michigan Elevator Exchange—Division of Farm Bureau Services, Inc.—Lansing, Michigan.
 Mid-States Terminals, Inc.—Toledo, Ohio.
 MFA Grain Division—Columbia, Missouri.
 North Pacific Grain Growers, Inc.—Portland, Oregon.
 Ohio Farmers Grain Corporation—Fostoria, Ohio.
 Producers' Export Company—New York, New York.
 Producers Grain Corporation—Amarillo, Texas.
 St. Louis Grain Corporation—St. Louis, Missouri.
 South Carolina Farm Bureau Marketing Association—North Charleston, S.C.
 Southern States Grain Marketing Cooperative, Inc.—Baltimore, Maryland.
 Union Equity Co-operative Exchange—Enid, Oklahoma.
 Westcentral Cooperative Grain Company—Omaha, Nebraska.

Mr. PURCELL. Any questions?

Mr. DOLE. As I understand it, Mr. Hendrickson, you subscribe to the amendments suggested by Mr. Bailey and also by the National Association of Grain & Feed Dealers?

Mr. HENDRICKSON. Yes; for the most part. I have incorporated a few more so there is a good supply.

Mr. DOLE. I understand if these amendments are adopted you could support the bill. Is that correct?

Mr. HENDRICKSON. Very definitely; yes.

Mr. DOLE. That is at least some modification of an earlier position.

Mr. HENDRICKSON. I think only to a limited extent. We were very uncertain with respect to some provisions earlier. I think the earlier hearings were extremely helpful in this regard and cleared up a good many points as a matter of legislative history. The testimony of Mr. Grange cleared up a lot of points.

For instance, we were concerned with regard to a drift toward federalization of this service. I don't believe that is now the case.

Mr. DOLE. I think this is encouraging to us because we all respect your past experience and your knowledge in this area.

Thank you very much.

Mr. HENDRICKSON. Thank you very much, sir.

Mr. PURCELL. Thank you, sir.

The committee will adjourn until 10 o'clock in the morning.

(Whereupon the committee adjourned to meet again at 10 a.m., November 7, 1967.)

AMEND THE GRAIN STANDARDS ACT

TUESDAY, NOVEMBER 7, 1967

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 10:15 a.m., in room 1301 Longworth House Office Building, Hon. Graham Purcell (chairman), presiding.

Present: Representatives Purcell, Poage, Foley, Montgomery, Nichols, Belcher, May, Mayne, Zwach, and Kleppe.

Also present: Mrs. Christine S. Gallagher, clerk.

Mr. PURCELL. The committee will come to order.

Our first witness is Mr. Dale Stanton, director of the Grain Warehouse Division of the Missouri State Department of Agriculture.

You may proceed, Mr. Stanton.

STATEMENT OF DALE STANTON, DIRECTOR, GRAIN WAREHOUSE DIVISION, MISSOURI STATE DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY FRANK ERICKSON, DIRECTOR OF PUBLIC INFORMATION

Mr. STANTON. Mr. Chairman and members of the committee:

I am Dale Stanton, director of the Grain Warehouse Division of the Missouri Department of Agriculture. With me today is Mr. Frank Erickson, the director of public information for our department. We are here in behalf of the Missouri Department of Agriculture for the purpose of opposing H.R. 11162 and H.R. 2121 in their present forms.

Missouri is not as large a producer of farm grains as other States, but due to its central location and the fact that it is blessed with two large navigable rivers—the Missouri and the Mississippi—and a highly efficient rail and highway system, Missouri does play an extremely important role in the transporting, merchandising, warehousing, and marketing of farm grains.

The 178 employees of the Missouri Department of Agriculture's Grain Warehouse Division performed official sampling, inspection, and weighing of approximately 367 million bushels of grain this past year.

Prior to the enactment of the United States Grain Standards Act, the State of Missouri and its grain industry recognized the need for standard grades in grain commerce which resulted in the creation of the Board of Railroad Commissioners of Missouri in 1875. With the establishment of this board, considerable strength was given to

organized grain markets within our State through the use of standard State inspection and grades.

However, other States and other grain interests had their own grain standards which, as you can imagine, caused much confusion in the buying and selling of grain that began to move across our State borders and across our great country. The need for uniform standards was very great and the enactment of the United States Grain Standards Act in 1916 was a necessity.

From that date, to the present time, grain inspected and graded by competent grain inspectors, who are federally licensed, have given strength to our existing U.S. grades for grain which are recognized and accepted worldwide by grain buyers and sellers. This was the objective of the grain trade—and Congress—when the Grain Standards Act became law in 1916.

It is my opinion that the confidence in our grain standards system which has been developed over a period of 50 years can only continue to exist with the requirement that trained, competent, federally licensed grain inspectors continue to inspect and grade all grain sold under official U.S. grades.

We will keep our statements brief and will refer only to the section and subsections that we oppose in their present form.

Section 2 of H.R. 11162 sets forth the declaration of policy which places emphasis on the processor and consumer and does not mention the producer, merchandiser, or warehouseman. These also play a large role in our agricultural industry.

Section 3. The definitions stated in paragraphs 8 and 9 refer to the quantity of grain when describing official inspections. This division can see no need of the word "quantity" being used within this act.

Also the words "other criteria" are mentioned throughout this proposed legislation. We feel this opens the door to unlimited power for the Secretary when establishing regulations.

The term "official inspection and official inspection personnel" include employees of the U.S. Department of Agriculture and employees of other authorized inspection agencies.

This would allow, for the first time within the United States, the initial inspection of grain for grade by employees of the U.S. Department of Agriculture. We are opposed to this. Now existing inspection agencies are well qualified and capable of performing official inspection services with their employees being licensed by the Federal Government.

This division realizes the importance of Federal supervision and appeal services now provided by the USDA Consumer and Marketing Service. This Federal service should be continued and kept separate from the initial inspection of grain. To do otherwise would weaken the quality of our existing grades.

Paragraph 12 of H.R. 11162 referring to the term "cooperating inspection agencies." I will comment on this paragraph later in my statement.

Section 4, subsection A, would give the Secretary power to make changes in the standards based on basic crop-quality data. For example, whenever poor crop conditions produced a low quality of grain in one section of the country, the Secretary would have the power to make changes in the standards to fit this low-quality grain. At the same time grain growing in other sections of the country and grain in

storage from previous years of high quality would be at a great marketing disadvantage.

Section 7, subsection C, states that the Secretary may prescribe regulations to include provisions for the cancellation of false or incorrect grading certificates. When a certificate is issued by a qualified Federally licensed inspector, employed by an authorized agency, the inspector issuing said certificate should remain in control and should be the only person authorized to cancel it.

This is very important, for once a certificate is issued and the grain disposed of it would be very damaging if this certificate could be canceled by any employee of the U.S. Department of Agriculture. This would create doubt within the grain trade as to when an official grade would remain final.

This subsection provides that samples obtained for official inspection purposes shall become the property of the United States if the Secretary so desires. This would completely remove the control of authorized inspection agencies over samples used in its inspection work. To this we are opposed. Our division maintains these samples for a certain length of time for the purpose of allowing the buyer or seller to request a reinspection.

Section 8, subsection A, would authorize the Secretary to enter cooperative agreements to conduct inspection work as set forth in this proposed act and that the Secretary may arbitrarily terminate any such agreement whenever he determines that the cooperative inspection agency has not complied with the requirements under this proposed act. This seems to be an act of cooperation on the part of the inspection agencies only, placing them directly under the Secretary and his Department. The Missouri Grain Warehouse Division is well qualified to provide the inspection services that our State demands without being under the direct control of a Federal agency which would only add to the cost of our operations. This we, and the Missouri grain industry, cannot afford.

Section 8, subsection B, states that the established total cost incurred by an inspection agency may be financed by fees charged. That such fees should be reasonable and equal as nearly as practical to such total cost of providing these services. That these fees should be used only for the purpose of performing and administering the official inspection service. It is our feeling that the Secretary should not have the power to dictate to inspection agencies how to finance its operation or how to dispose of the proceeds from these services.

Section 8, subsection C, would be very hard to interpret in its present form for it states that not more than one cooperative agreement for carrying out the provisions of this act shall be in effect at one time for any one city, town, or other area. I am thinking of Kansas City, Mo., where the Missouri State and Kansas State inspection agencies perform their authorized inspection service.

Section 9 would place entirely too much authority with the Secretary in determining the qualifications of the employees of authorized inspection agencies. This would cause much difficulty when an agency is recruiting new employees in as much as they would need to be approved by the U.S. Department of Agriculture before they could perform any of the duties required of an inspection agency.

Section 10, which we oppose, would allow the Secretary to refuse to renew, suspend, or revoke any license issued under this act without first giving the licensee a proper hearing.

Section 26.44 of the present act provides protection for the licensee through a legal hearing. This should be continued.

Section 12 sets forth certain conflict-of-interest provisions covering employees of approved inspection agencies stating that no employee of these agencies shall work for, or have a financial interest in, any grain elevator or warehouse so serviced by the agency for which he is employed. We agree with this.

This act provides, however, that the Secretary may license employees of any grain elevator or warehouse to perform official sampling functions. This would be a conflict of interest on the part of the employee of the elevator or warehouse. We are opposed to this.

Section 13 does not clearly set forth the length of time that official grain samples must be retained. Approximately 2 quarts of grain represents each sample being used for inspection purposes. In an office where a large volume of inspections is performed daily, it would be impractical to keep these samples for any great length of time due to the space required for their storage.

Section 14 through 19 dealing with violations, penalties, enforcement, and general authority do not offer any improvements over the present act, and would only create additional powers for the Secretary.

House Resolution 2121, if enacted, would amend section 4 of the Grain Standards Act. It is our feeling that further study should be made of this type of official sampling. I do not believe that this resolution would provide the proper protection in the trading of grain by grade based upon this type of sample. Also, with changes being considered at this time pertaining to the entire act, no amendment should be made to any one section.

Possibly, some changes should be made to the existing U.S. Grain Standards Act in order to cope with the modern production, transportation, merchandising, and marketing of today's grain. However, this act has served this country's grain industry well for over 50 years and in our opinion does not need to be completely rewritten as proposed in H.R. 11162.

Furthermore, we feel that any proposed changes to this act should continue to recognize the right of an individual State to provide, and be responsible for, practical and economical inspection services needed within its own borders. Not only do we feel this is not possible under H.R. 11162 as presented, but that instead it increases Federal control at the expense of the individual State.

We have enjoyed a very good working relationship with Federal people in Missouri and greatly appreciate their efforts in this complex business of grain regulation. The Missouri Department of Agriculture is ready at any time to work with the USDA and the grain industry to properly amend this act.

Mr. Chairman, I thank you and members of this committee for allowing us to appear here today.

Mr. PURCELL. Thank you, Mr. Stanton.

Are there any questions of this witness?

Mr. KLEPPE. Mr. Chairman, a couple of very brief questions.

First of all, Mr. Stanton, do I read the tone of your statement that you really do not think that the present Grain Standards Act has to be amended?

Mr. STANTON. No, sir; I believe it should have some amendments so that the violation that is carried on today in some areas should be corrected.

Mr. KLEPPE. Question No. 2. Do I read the tone of your statement to indicate that you think H.R. 11162 probably goes too far?

Mr. STANTON. Yes, sir; completely too far.

Mr. KLEPPE. Point No. 3. You very clearly, I believe, spell out that you do not believe in the mandatory approach but rather, the voluntary approach.

Mr. STANTON. No, sir. I believe that any grain sold by U.S. grade and moving in interstate or foreign commerce should be inspected.

Mr. KLEPPE. On a mandatory basis it has to be inspected?

Mr. STANTON. Yes, sir.

Mr. KLEPPE. Then you do not think that a brother who raises wheat in North Dakota should be able to sell to his brother in Iowa on a voluntary basis between themselves, that they have to have an official inspection before that transfer can be made; is that right?

Mr. STANTON. Yes. I have 10 members in my family, sir, and I have some brothers and if you have a brother that is in the grain business today dealing in a large volume of grain and his margin of profit is down and he has a tank of grain that goes bad and he is hurting financially, and you have a few dollars in the bank and he knows it, he is going to stick that grain to you. I know brothers pretty well.

Mr. KLEPPE. Do you believe it has to be inspected, that they should not have a right to make this transfer?

Mr. STANTON. I believe there should be provision put in the present act whereby there will not be any hardship created on the moving of grain across our country that has not been inspected, but if it is going to be sold by grade and go across State borders, I feel to carry out the confidence we have in our grades today and keep it going in the future it is going to have to be inspected.

Mr. KLEPPE. You do not think it is good enough for the brother in North Dakota to say; I have some No. 2 wheat to sell to you that is right for your purposes, and they make the trade without inspection?

Mr. STANTON. I believe if he says wheat that is equivalent to No. 2 but he should not quote it as being No. 2 wheat or put anything in writing as to it being No. 2.

Mr. KLEPPE. That is all, Mr. Chairman.

Mr. PURCELL. Mr. Zwach?

Mr. ZWACH. I am referring now to page 2 of your testimony where you say section 2 of H.R. 11162 sets forth the declaration of policy which places emphasis on the processor and consumer and does not mention the producer, merchandiser, and warehouseman.

Would you enlarge on that, especially with regard to the producer? I represent producers of grain.

Mr. STANTON. Yes, sir.

Mr. ZWACH. I am concerned that they have a square deal. What worries me about all of this legislation, there is nothing here anywhere that seems to affect the producer.

What is your thinking with regard to the term "producer" here?

Mr. STANTON. I am a producer myself. I own and operate a farm, live on a farm; it seems to me this H.R. 11162 is built completely around the protection for the processor and the consumer. In early

testimony we had in September here, it was pointed out the consumer does not necessarily mean the housewife or on our table at home; it means the grain mills, any processing plants that might be processing this grain into the end result. But I feel that the farmer, especially in Missouri or any other place, has no control over Mother Nature. The Good Lord is going to give him the weather he so desires and that farmer needs some protection that these standards are built around his grain upon an every day, every year result. Also, by being in inspection work for quite a few years, I know this country elevator man that is going to have to take this grain as the farmer brings it to him is going to have to be protected because it is not ideal conditions.

I also know the railroads which handle this grain in various methods, this grain can be damaged in transportation so that has to be taken into consideration. Then when it arrives at the market area to the man that merchandises it, it may be in good condition and it may not be in good condition tomorrow before it is delivered. That also has to be taken into consideration.

Then you have the man in the storage warehouse and he has it in there many times up to 10, 12, 15 years, and he has to be concerned.

I do not think H.R. 11162 takes into consideration that vast area of people that are in there that have to protect this grain from the time it leaves the farm until it arrives on a table or aboard a ship to go overseas.

Mr. ZWACH. In your testimony I did not sense any presentation that would extend this protection to the producer. Let's just take the producer.

What is your thinking? Have you anything concrete that you have in mind where a producer could be further protected in his end of this business?

Mr. STANTON. Further protected than he is today?

Mr. ZWACH. Yes.

Mr. STANTON. It is my feeling that the Grain Standards Act today protects the producer as well as it protects the processor and consumer, not any better and not any worse. To come up with something that will be better than today's act, I do not think you could as far as what you are going to do for the producer.

We have had these standards changed to tighten them up and sometimes it has hurt the producer. I would not say it always hurt the producer.

Mr. ZWACH. You think this law that is proposed does not protect the producer as well as the present law?

Mr. STANTON. No, sir; and it would give the Secretary power to change the proposed standards if he so desired, so it could hurt the producer and do a great deal of damage if he so desired. I would not say the Secretary would, but he could under this new proposed H.R. 11162.

Mr. ZWACH. Mr. Chairman, I just want to point up what I think is a serious lack in this type of legislation, and that is apparently no concern for the producer.

That is all.

Mr. PURCELL. Are there any other questions?

Mr. Stanton, not to belabor the point, but is there anything in this act as proposed, that changes the position of the producer from what he now finds himself in?

Mr. STANTON. It could, Mr. Chairman, under the proposed sections whereby the Secretary would have the right to change the standards

based on basic crop quality today. That, I think, is very important because it looks to me like this is an almost direct copy of the Canadian system of grading grains, and the Canadian system of merchandising is federalized, and we are not that way in the United States, we are free enterprise.

Mr. PURCELL. Let's just stick to the producer. I do not want to know about Canada right now.

Mr. STANTON. Yes, sir.

Mr. PURCELL. What is here in this proposal that makes it different from the present Grain Standards Act as far as the producer is concerned?

Mr. STANTON. Mr. Chairman, it would be, as I say, where the Secretary would have the power to change these standards.

Mr. PURCELL. You are talking about where you say that he could change the standards if they had a poor crop in a large area?

Mr. STANTON. Yes, sir.

Mr. PURCELL. I think I agree with your interpretation of it, but to stick to the deterioration or the improvement of the producer; would not this be designed to help the producer of a vast amount of grain?

Mr. STANTON. Mr. Chairman, it could be designed to help the producer, but it also could be designed to hurt the producer. It would depend a lot upon where the balance of power existed at the time, whoever might be Secretary, or what might be behind this move. We realize we have a great area here, but also that this entire act refers back to section 2, and section 2 is built around the processor and the consumer as it is worded today.

Mr. PURCELL. Of course I do not think you have to say the word "producer" in an act to benefit him.

Is there any question in your mind but what this act would free up the use of boxcars rather considerably?

Mr. STANTON. Mr. Chairman, I believe it would have some effect on the shortage of boxcars we are facing today, but I am also quite sure that the shortage of boxcars we are facing is not directly caused by grain inspection or the present act.

Mr. PURCELL. I am told that a boxcar spends 11 percent of its time on the road and the rest of the time waiting to be inspected, to be loaded, or to have something else done to it. So if you can do anything to put that car on the road more than 11 percent of the time, even if a part of it is to speed up the inspection, would not that benefit the farmer?

Mr. STANTON. Mr. Chairman, if I can elaborate just a second, I have been in the grain inspection field for quite a number of years in Missouri, and all of my testimony is based on what I know and the knowledge I have in Missouri.

Let's go back 5 years ago. Most of your local railroads throughout the country would run daily into the country area, pick up the carloads of that grain that were loaded at the country elevators. Today that train will go out once a week and bring in that grain on Friday, Saturday, and Sunday.

In Missouri we will have a thousand cars of grain on any given Monday—I do not say every Monday—and on Tuesday, Wednesday, and Thursday we will have less than a hundred cars each day. But we can go to that railroad the following Monday, a week later, and the cars we inspected 1 week prior will still be sitting there. The railroads cannot bring in the trains in such a large group on the weekend

and expect the grain industry to handle them. It is impossible. If trains run daily, he realizes it is always an economical cost factor, but it is taking from the cost of the railroad and placing it on the cost of the farmer, if you want to say that, because he is going to pay for it in the end. But the grain industry cannot build facilities to handle all the grain we have.

They are going to have to handle it not 2 days each week, but 5 or 7. That is my feeling.

Mr. PURCELL. You still have not said anything, at least to indicate to me, that this act would hurt the producer because I do not think he has any more control over the way the railroad is going to run the railroad than you have.

Mr. STANTON. No, sir, Mr. Chairman. In my own opinion I am not saying this act will hurt the producer, but it could hurt the producer.

The present act, which is over 50 years old, has been amended, I believe, three or four times in 50 years. Each time it has not been amended whereby it has been damaging to the producer any more than it would be to anyone else. But under this proposed H.R. 11162, under this vast power that the Secretary will receive, it could be that a Secretary would be in the seat of the Secretary of Agriculture sometime and he could pass regulations and be within his legal right that would definitely hurt the producer, because the producer is not organized like the other facets of the grain industry. Your farmer organizations do not even agree, so the farmer is the least organized man there is. So he does not have a lot of voice.

Mr. PURCELL. You do not have to certify that to us. We know how uncooperative the farm organizations are with each other and how disorganized the farmers are.

Any other questions?

Mr. MAYNE. Mr. Stanton, you are saying that it would be much more efficient for the inspectors and more convenient for them if the railroads would do a better job of scheduling the bringing in of these cars at a time of the week when you would be better equipped to handle them. Is that right?

Mr. STANTON. Not necessarily the inspectors. The grain industry as a whole, whether or not you are a merchandiser or warehouseman, this grain has a certain time limit. The car arrives in the market area and it has 2 or 3 days. We get the grain inspected the first day. The second day is for the man to unload the car.

If he is geared up to handle 100 cars on an average and has to handle 1,000 on a given day it is impossible.

Mr. MAYNE. Then you don't get it inspected the first day if there is a large number of cars?

Mr. STANTON. We do in Missouri; Yes, sir, always.

Mr. MAYNE. No matter how many cars there are you always get them inspected the first day they are in the yard?

Mr. STANTON. With a small exception—unless the car is lost or cannot be found due to the railroad not having the ability to find the car, we will inspect this grain the day it arrives in the area. This is the first day.

Mr. MAYNE. I don't know specifically whether the railroads' testimony would be that there are delays in inspection in the State of Missouri. You certainly should have direct knowledge on that.

Already we have had testimony, however, that there are very sub-

stantial delays in inspection after the railroad has delivered the cars in other States. If that is true it is a different problem in those States than in Missouri. Is that right?

Mr. STANTON. Yes, sir. That is not true in Missouri. I would say you could take 100 cars in any given year, not over 100 cars would be left on the track over 1 day and not be inspected. We work until we get up.

Mr. PURCELL. Thank you very much, Mr. Stanton.

We will call William J. Welsh, director, State Grain Inspection Department, State Capitol Building, Topeka, Kans., accompanied by Nicholas P. Fabac, deputy director, State Grain Inspection Department.

STATEMENT OF WILLIAM J. WELSH, DIRECTOR, KANSAS STATE GRAIN INSPECTION DEPARTMENT, ACCOMPANIED BY NICHOLAS P. FABAC, ASSISTANT DIRECTOR

Mr. WELSH. I am William J. Welsh, director of the Kansas State Grain Inspection Department, assisted by Nicholas P. Fabac, assistant director.

I am appearing in behalf of the citizens of the State of Kansas in opposition to H.R. 2121 and H.R. 11162.

We realize that the grain producers of Kansas have a large stake in the export market and appreciate the efforts of the Department of Agriculture to assist the wheat marketing industry and the wheat producers in their market development and expansion.

Governor Docking of Kansas and his administration are desirous of working, whenever possible, with all Federal agencies; but as H.R. 2121 and H.R. 11162 are now written, he feels that these acts could be detrimental to the best interest of Kansas. In connection with this statement, I would like to incorporate into this testimony a letter from Robert Docking, Governor of Kansas, addressed to this committee. The letter is as follows:

STATE OF KANSAS,
Topeka, Kans., November 2, 1967.

LIVESTOCK AND GRAIN SUBCOMMITTEE OF THE HOUSE COMMITTEE ON AGRICULTURE,
House of Representatives,
Washington, D.C.

DEAR GRAIN SUBCOMMITTEE MEMBERS: Thank you for your most gracious consent in allowing the State of Kansas, through William J. Welsh, Director of the Kansas Grain Inspection Department, to make known its position with reference to H.R. 11162.

I assure you the State of Kansas wishes most strongly to cooperate closely with the various federal departments and agencies in providing better service to the citizens of our State and Nation. We want to take every opportunity to strengthen "The Federal System", and to make it more productive and efficient. I think the past actions of my administration have exemplified our commitment. This responsibility, therefore, requires me to take a position when it appears that the federal government is attempting to enter into an activity and function which we, in Kansas, have been performing in an efficient and expeditious manner. We feel that some aspects of the bill under your consideration poses a potential threat to the functioning of our Grain Inspection Department. Mr. Welsh will bring out in his testimony our specific objections.

Again, may I express my sincere appreciation in providing us this opportunity for a hearing.

With every good wish.

Yours sincerely,

ROBERT DOCKING, Governor of Kansas.

Mr. WELSH. The following facts may emphasize why we, in Kansas, are concerned about any legislation pertaining to grain:

1. Kansas is the No. 1 State in the Nation in the production of wheat.

2. Kansas is the No. 2 State in the production of grain sorghums.

3. Kansas is the No. 1 State in the number of hundredweights of flour milled.

4. Kansas is the No. 2 State in licensed grain storage capacity.

5. Kansas is producing more and more corn and soybeans each year.

6. Kansas has four active boards of trade.

7. Kansas has a State grain inspection department established by statute in 1897. The structure of this department is considered model throughout the Nation.

In regard to H.R. 2121, the people in the grain trade in our State feel, at the present time, that a sample obtained by a mechanical sampler is as true a sample as can be obtained; but they are opposed to this proposed legislation because there is not the proper provision made for the protection of the sample.

I wish to confine my testimony principally to section 8 of H.R. 11162.

We are opposed to cooperative agreements. We feel that cooperative agreements could be the "toe in the door" approach by the USDA toward federalizing the entire inspection service. There is also the possibility that after a cooperative agreement arrangement has been set up that the USDA would attempt to incorporate a users' fee provision for their cooperative agreements as is the case in most of their cooperative agreements on other commodities.

There is criticism voiced throughout the country against the Federal Government encroaching on activities belonging to the various States. The answer most generally heard is that the States have failed to fulfill their obligations. This certainly is not true of the State of Kansas as regards grain inspection. As I have outlined previously in this testimony, Kansas has had a grain inspection department created by statute since 1897. We have been conducting a statewide inspection service under this statute for 70 years and under USDA supervision for 50 years. No cooperative agreements have been deemed necessary. Our personnel are all under civil service. The director is appointed by the Governor for a 2-year term. Our grain inspectors are examined, licensed and supervised by personnel of USDA.

The extra recordkeeping required under cooperative agreements would certainly increase the cost of operation of our Kansas Grain Inspection Department. These added costs will be passed back to the producer, reflecting a lower net price for his grain.

The Kansas State Grain Inspection Department has, at the present time, 11 inspection points in the State as well as five protein laboratories. We employ about 250 people and have an inventory, statewide, of almost \$350,000. The last sentence of section 8(a) provides:

The Secretary may terminate any such agreement whenever he determines that the cooperative agency has not complied with any requirement under this act or that such action is otherwise necessary to effectuate any of the objectives stated in section 2 of this act.

We feel that the power given here is much too broad. In the State of Kansas, we have too much at stake in the way of inventory and in the jobs of over 200 dedicated people.

We have conducted a survey throughout the State and without exception found that all concerned were in favor of a strong State inspection department without cooperative agreements.

We feel that in the best interest of the entire grain business that H.R. 2121 and H.R. 11162 should be "killed" in this subcommittee.

In visiting with various people in the USDA, I received the impression that the "meat" of H.R. 11162 as far as the Department is concerned is the question of mandatory versus permissive inspections. This statement being true, then why not amend the present Grain Standards Act to permit permissive inspections with the right of appeal and forget H.R. 11162?

In the event that H.R. 11162 should be approved, we would recommend that section 8(a) be amended by inserting the statement:

Provided, that in any State which has, or which may hereafter have, a State grain inspection department established by the laws of such State, the Secretary of Agriculture shall issue licenses to the persons duly authorized and employed to inspect and grade under the laws of such State.

Mr. PURCELL. Thank you, Mr. Welsh.

Any questions?

Mr. ZWACH. One question, Mr. Chairman.

You are in the grain inspection division of the State of Kansas?

Mr. WELSH. We have a separate department, grain inspection department.

Mr. ZWACH. How quickly and how do you expedite inspections of cars at the railroad yards? How many days do they stay there without inspection?

Mr. WELSH. I can say the same thing Mr. Stanton told you before. We complete our day's work, and I don't know of any day that we have failed to inspect all the cars that were set out for inspection.

Mr. ZWACH. You would state for the record, then, that the cars that come in and are there on Monday, are inspected on Monday, and turned back to the railroads. Those that are there on Tuesday morning are inspected on Tuesday, and so on through the week?

Mr. WELSH. We can certainly say that, sir.

Mr. ZWACH. So that you are not causing a long delay and pileup of railroad cars?

Mr. WELSH. No, sir. As a statewide agency and department we have at our disposal a good many men. If there is congestion or a great amount of grain in a certain area we can move people from one part of the State to another, and we do.

Mr. ZWACH. That is all, Mr. Chairman.

Mr. PURCELL. Thank you, Mr. Welsh.

We will call Mr. Joseph B. Gregg, chairman of the legislative committee, the Board of Trade, Kansas City, Mo.

STATEMENT OF JOSEPH B. GREGG, CHAIRMAN, LEGISLATIVE COMMITTEE, THE BOARD OF TRADE, KANSAS CITY, MO.

Mr. GREGG. Mr. Chairman and members of the committee, my name is Joseph B. Gregg, and I am here representing the Kansas City Board of Trade with reference to H.R. 11162. Much has been made of the fact that the Grain Standards Act has not been changed since 1916. We recognize that the modern era requires change sometimes for the sake of change, but we want to caution the committee about the implications of this bill. We would suggest at least that

what is basic today in many ways was basic in 1916. The basic values of the grain trade, the producer, the consumer, the world of free commerce, have been served well by the present law. Indeed, the Department of Agriculture and the grain industry should be complimented on building and preserving the integrity of the grading system in the United States which is very effective and has largely contributed to a prosperous and efficient industry. We recognize, and we hope the committee appreciates, that only in the United States do we have free trading in commodities. An honest, straightforward, dependable grading system has allowed the markets to grow and has given foreign buyers a great respect for our standards. We urge everyone concerned to go slowly in changing a system that has been so successful. One of the things we must remember with reference to grain standards is that it has always been thought the standards should be good enough, yet simple enough, to give the producer a guide to the quality of his grain, and one that can be applied at the very lowest level; namely, the country elevator, which is for all practical purposes the marketing place for the producer.

On October 17 of this year a group from the Department of Agriculture headed by Mr. Howard Woodworth, Chief of the Grain Inspection Branch, met with members of the Kansas City Board of Trade to discuss H.R. 11162. They pointed out at that time that one of the Department's primary interests in this bill was to permit fast, efficient marketing of commodities. In our discussion it developed that one of the main things desired by the Department in this new act was the elimination of mandatory inspections as now required in the present act. They pointed out, and we think they are right, that enforcing mandatory inspections is probably impossible, particularly on trucked grain now being received at so many points scattered throughout the United States. After giving due consideration to all of the facts, the Kansas City Board of Trade would like to go on record as being in favor of permissive grading, provided that the right of appeal of grades is always in existence.

There are other sections of this new act that we think need to be rewritten or eliminated, and I will attempt to go through these sections item by item and explain why we take this position.

Section 2.—Declaration of policy.—We feel this is one of the most important sections of the entire act, and we do not consider it a preamble to the act because any action taken by the Secretary must be consistent with the provisions of section 2. As written, the Congress of the United States would be commanding the Department to make changes in standards that the processor or consumer may desire. To say this is discriminatory is obvious. We ask you to remember that the processor seldom buys by grade alone. In wheat, for example, he looks for such things as protein, mixing time, ash, absorption, etc., and in his fine laboratories he has the technical wherewithal to get this information. The producer, on the other hand, can only harvest what God has given him. He today has the advantage of machinery that lets him bring in his crop in a few days. He brings it to a country elevator who has neither the time nor the bin room to segregate by factors that constantly change in the business of processing. You will find today that processors will determine what wheat they desire and from which areas they wish to procure the type of wheat that will fit into their processing. This is not done on the basis of grade alone but

upon testing samples of grain from all over the wheat-producing areas of the country. One mill might desire wheat from a certain area, the next mill might find that this wheat would not fit their picture at all, even though the grades might be the same. Simplicity means speed at the country elevator level, and speed is the one technological advantage the industry can give to the producer who is most anxious to get his crop harvested before adverse weather hurts him. How can a grade system that constantly changes maintain the acceptance and uniformity of today? We ask the committee, Can the industry as a whole be served if the grading system loses applicability and dependability? We ask the committee to give primary consideration to the interests of the producer and at least to remember this obviously discriminatory mandate. Therefore, we ask that this section be rewritten eliminating the last phrase, and I quote "and that processors and consumers may be able to obtain grain having the grade or other characteristics which they desire."

Section 3(a)(10).—This section is the definition of official inspection, and we suggest the elimination of the words, and I quote "or other criteria approved by the Secretary under this act." This wording is ambiguous and we do not feel that the act should permit the induction of other factors unknown at this time. If such is developed at a later period which is not now known, this can be handled in the normal manner of hearings and a great deal of discussion between the trade, producers, and the Department.

Section 4(a).—In this section the Secretary is authorized to amend or revoke standards under this act—

To establish on the basis of crop quality data, standards that will accurately measure the kind, class, quality, condition, or other characteristics of grain and that will best reflect the value or usability of the grain.

It would appear from this section that grades could vary from year to year. If such were to occur, serious problems could develop with respect to the futures contracts in commodity markets and cash contracts for deferred delivery which are made as much as 8 to 10 months in advance. As pointed out earlier, this section apparently is for the benefit of the processor, but the producer and the country elevator will not be able to make such technical tests or develop such information. Here again we forget about the one man who should be considered—the producer. We in the trade are perfectly capable of adjusting to almost any situation, but if grading of grain becomes too technical the country elevator and producer will be unable to make the standards meaningful, and this we feel is an absolute necessity. We urge the committee to eliminate the phrases "crop quality data" and "that will best reflect the value or usability of the grain."

Section 4(b).—This refers to the changing of standards. In order to change standards it would be necessary for the Secretary to publish notice of proposed changes and, we assume, to hold hearings as required under the old act. However, it says, and I quote "unless in the judgment of the Secretary, the public health, interest, or safety requires that they become effective sooner." If this means that we could change standards in the middle of a crop year, then we must object to this section due to contractual obligations arising out of the futures market for deliveries to be made months in advance. I might point out that we think one of the reasons for this section was caused by an instance of striped corn and mottled soybeans in

southeast Missouri. Both of these were changed by an administrative ruling, and, in our opinion, were not a change in standards but a change by interpretation. This procedure could continue provided it is determined after serious discussions between the trade, the Department, and the producer that a change should be made.

Section 7(c).—This calls for cancellation of false or incorrect certificates. We are willing to forego the pedantic argument of "false or incorrect in whose eyes." But we want to remind the committee that the Department is responsible for the licensing and, together with independent, State and board of trade agencies, for the competence of inspectors. The entire grain trade—the producers, the elevator, the merchandisers, the exporter, the processor—has a right to demand and expect and receive competence. None of us want false or incorrect grades. The integrity of a free and productive market will not permit false or incorrect grades. Yet commerce requires that competent officials make grade determinations that stick. This provision read literally means that grade certificates could be changed by deeming the original certificate incorrect. Under present law, and, more important, under present trade practice, interested parties have the right of appeal. We certainly want to maintain that right. But somehow, some place, a grade must be final so that the wheels of industry do not stop. We want grades to be right, but we need a basis for contract settlement, and we insist that the basis for appeals be contractual. We do not deny, in fact, we applaud, the Department's demand for competence. We ask the committee to support the Department in its demand for competence by insisting that the Department accept responsibility for the grade determinations of its licensed inspectors.

Section 8(b).—This section refers to the establishment of the fees charged by the cooperative agency or the inspection department performing the service. In the Kansas City area we have two inspection departments: one from the State of Missouri and one from the State of Kansas, and the fees charged by these departments are always established in consultation with the industry. We feel that the determination of the amount of these fees should still be left in the hands of the cooperative agency and the industry.

Section 8(c).—This section states: "Not more than one cooperative agreement for carrying out the provisions of section 7 of this act shall be effective at one time for any one city, town or other area covered by any cooperative agreement." According to the wording of this section, it would appear that one of the two State departments in the Kansas City area would have to be eliminated. The Department people said that this would not occur, but the fact remains that this section states that there will only be one inspection department, and this to us would be absolutely unacceptable to both the State of Missouri and the State of Kansas. In times past we know that there have been people connected with the Department of Agriculture who have felt that all inspections should be done by the Federal Government. Apparently these people were without sufficient authority to have this occur, but the fact remains that there have been and probably will be in the future people who have this feeling, which to us is unacceptable. As far as our Kansas City market is concerned, we have two excellently run inspection departments and think that the system we now have should be acceptable to everyone with no need for section 8(c) unless situations such as Kansas City are clarified.

Section 11.—This section offers unusual and, we think, most severe punishment to individuals and companies for violation of provisions of this bill and by reference to other laws: the Federal Trade Commission Act of September 26, 1914, a law older than the Grain Standards Act which has been labeled obsolete by the Department; and the provisions of section 1001 of title 18, United States Code. The punishment provided is the removal of the right to do business by denying the right to obtain official grades. This punishment could apply to a firm doing business nationwide for an offense committed on a local level without the sanction of the firm's management. We do not propose to let violations go unpunished, but it is reasonable to ask if denial of a right to do business in any way upholds the integrity of the U.S. grading system. We will support the law as it is finally enacted, but we implore the committee to instruct the Department within the administration of the law to exercise compassion and understanding. In our opinion, the Department should be willing to amend the section by limiting the refusal of official inspection service to the station or town and personnel responsible for the violation and to provide for reinstatement of inspection privileges when the particular fault is corrected. We would repeat—we are against violations of the law and want fraudulent practices punished—but the grain industry and the Department of Agriculture have the joint responsibility to correct and cure unhealthy behavior—not to murder the patient.

Section 18.—We feel that the enforcement provisions should be enumerated in this section and should not incorporate by reference other enforcement provisions of other administrative bodies of the Government.

In closing, I would like to stress upon this committee the necessity of informing the Department that standards should not be changed unless it is determined that a great need exists to permit the fast and efficient marketing of grain. In our opinion, we have seen changes in grain standards which serve no purpose but to penalize the producer. They only intended to create a more technical and mechanical grade which is not applicable at the producer's marketing place. I certainly do not need to tell this committee who know best of all that the plight of the producer today is serious and he needs help in many directions, so I implore you to instruct the Department that the producer should be uppermost in their minds when they give consideration to changing standards.

I thank you very much for the privilege to appear, and if the Kansas City Board of Trade can be of any assistance to this committee or the Department of Agriculture in helping to clarify or rewrite this new act, we are available upon your request.

Mr. PURCELL. Thank you very much, Mr. Gregg.

I think that your statement has been very comprehensive and furnishes us some very good guides to go by in conference with the committee.

Are there questions of the witness?

Mr. ZWACH. Mr. Gregg, you feel that section 2 in its present form is unacceptable?

Mr. GREGG. Yes, sir.

Mr. ZWACH. And you think that the producer should not be cut out of the section?

Mr. GREGG. I see no reason to just include the consumer and the processor, sir. I think if you eliminate those two words then you could be covered in the field, including the producer.

As it is written now, we feel that he is being left out.

Mr. ZWACH. That is all, Mr. Chairman.

Mr. PURCELL. Thank you very much, Mr. Gregg.

We will call Mr. Alex C. Cocke, consultant, New Orleans Board of Trade, New Orleans, La.

STATEMENT OF ALEX C. COCKE, CONSULTANT, NEW ORLEANS BOARD OF TRADE, NEW ORLEANS, LA.; ACCOMPANIED BY WILLIAM F. BROOKS, GENERAL COUNSEL OF THE NATIONAL GRAINS TRADE COUNCIL

Mr. COCKE. Thank you, Mr. Chairman. I am accompanied by Mr. William F. Brooks, general counsel of the National Grains Trade Council.

Mr. Chairman and members of the Livestock and Grains Subcommittee, my name is Alex C. Cocke and I am, indeed, appreciative of being able to appear before you regarding H.R. 11162 in behalf of the New Orleans Board of Trade, Ltd., which organization I was president of for the years 1953 and 1954; am presently a member of the board of directors, a life member and consultant to the board. Was with the U.S. Shipping Board from 1917 to 1929, except for a period during 1918-1919. I retired from Lykes Bros. Steamship Co., Inc., in December 1965, on account of the mandatory policy of the company, being at that time vice president in charge of traffic. Since that time, I have been a maritime and business consultant. Am a practitioner before the Federal Maritime Commission, and one of three members of the Advisory Committee on Ocean Transportation to the Under Secretary of the Navy.

I will give you a brief history of the board of trade and some of its activities.

It is a nonprofit membership organization—approximately 350 members representing many different lines of business activity—and it performs the following functions:

- Promotes the interest of commerce and trade and uses its best efforts to increase the facilities and the amount of business of the New Orleans area;

- Maintains and develops services designed to expedite the movement of goods through the port of New Orleans;

- Protects and maintains the freight rate structure essential to the welfare of New Orleans and the midcontinent areas;

- The principal service and activity of the board of trade is its grain inspection agency. It has served numerous grain merchants both in export and domestic trade;

- Has also served the U.S. Food Administration and Grain Corporation during World War I; the Grain Stabilization Corporation during the latter 1920's and early 1930's; the Commodity Credit Corporation since its inception until the present time.

The board of trade's predecessor was the Produce Exchange of New Orleans, which organization began the inspection of grain in 1881 and was succeeded by the New Orleans Board of Trade, Ltd., in 1889.

The board of trade presently employs 14 licensed inspectors and 27 samplers in addition to clerical personnel and managerial employees. It maintains on-the-job training programs to the extent that only one of our present inspectors was brought in from an outside agency in the last 20 years.

The board of trade has serviced the Public Grain Elevator, operated by the Board of Commissioners of the Port of New Orleans from 1916 to July 1964, when it was leased by private interests who continue to operate it as the Public Grain Elevator of New Orleans, Inc. This elevator has storage space of 7,587,000 bushels and can load three vessels at one time. Has three new marine legs with unloading capacity of 90,000 bushels per hour; one of the world's largest driers, two automatic car dumps, and two hopper car pits. The Continental Grain Elevator with storage capacity of 4,248,000 bushels was completed in March of 1960 when vessels began loading; however, grain was received for storage in the fall of 1959 and was serviced by the board of trade. This is a very modern elevator and is highly automated. Continental has two marine legs, an automatic car dump, a hopper pit, and loads one vessel at a time.

There is attached to this statement a listing of the volume of grain inspected by the board of trade from 1946 through 1966. You will note that the amount handled in 1946 was 30,019,456 bushels as compared with 254,005,532 bushels in 1964 and 250,642,448 bushels in 1966.

This volume places the New Orleans Board of Trade in the position of the leading single export inspection agency in the United States. Inspection certificates of the New Orleans Board of Trade are accepted throughout the world as final certificate verifying the grades upon which exporters' sales are made. It is not our purpose in this testimony to discuss at length those sections of H.R. 11162 which are of vital interest to grain merchandisers and particularly grain exporters, although sections of the proposed legislation which we will not discuss are objectionable in whole or in part to the grain merchant and grain elevator members of our organization.

We will dwell only on portions of the proposed act which will directly effect the New Orleans Board of Trade, as an official inspection agency. It will be noted from our historical background, previously outlined, that we may rightfully claim that we are the largest single export inspection agency in the United States and during our many years, we can point to a record of superior performance in the services furnished U.S. grain merchants and exporters as well as foreign buyers throughout the world.

The verbiage and phrasing of H.R. 11162 will without doubt place a shadow of suspicion in the minds of foreign buyers, who may well become concerned, and cast doubt on the integrity of organizations such as ours, and in fact upon the whole system of marketing of U.S. grain moving into export channels.

We point to the text and terminology in section 2 "Declaration of Policy". The entire text of this section leads one to believe that there is no present national inspection system for the grading of grain; that our system of marketing and trading in grain are disorderly and difficult to contend with; and that processors and consumers are presently unable to purchase the type or grade of grain they require to meet their needs. We particularly and strenuously object to a portion of section 2 reading "and to prohibit certain deceptive or misleading acts or

practices with respect to grain". This last terminology may be construed to indicate that "deceptive and misleading acts" are common practice today under the present federally controlled and licensed U.S. grain grading system.

We also request clarification of paragraph (8) of section 3, the definition of "official inspection" wherein it states "of the kind, class, quality, condition, or quantity of." Might we not infer from this that all inspection agencies will also assume the duties of weighing and the proposed legislation as worded include weighing as well as sampling and grading of grain. If this is the intent, we must strenuously oppose the inclusion of "quantity of."

We refer to section 3 "Definitions" where such verbiage is listed as "false," "incorrect," "misleading," "deceptive loading, handling or sampling." Again we must object to the use of these words and phrases on the basis that they imply that our present system of grain grading is not as honest as our record and reputation has indicated.

We quote from section 5: "Official inspection requirements for certain export grain"—"official samples taken as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States." This terminology would prohibit the shipment of grain in bags from the United States, since it is impossible to inspect bagged grain while it is being loaded into a vessel, or after it has been loaded into a vessel.

Section 7(b): "To cause official inspection to be made with respect to any grain within or outside the United States." Are we to infer from this, that U.S. seaboard inspection will no longer be considered final, and that the foreign buyer will have an alternative of calling for a second inspection at port of destination. If this is so, we are absolutely opposed to this section of the bill.

Section 7(b): "Standards provided for in section 4 of this act, or under other criteria approved by the Secretary for determining, et cetera." We take exception to the terminology "under other criteria" which also appears under definitions Nos. 8 and 10. We request that this term be clearly defined; presently it would appear that the Secretary may exercise a degree of authority relative to the changing of official standards which would impose a serious hardship upon the grain trade and the inspection agencies serving them.

Section 7(c): "The regulations prescribed by the Secretary under this act may include provisions for reinspection and appeal inspection." The word "may" should be clarified. Will the proposed act provide for the calling of Federal appeal or will the grain trade be denied this statutory right?

Section 7(e): Provides for the funding of the U.S. Department of Agriculture with respect to "official inspection services for which fees are collected, including supervisory and administrative costs." We object to the Department collecting any fees except those for Federal appeal inspection or primary Federal inspections. Supervisory and administrative costs are in the interest of the public and as such should be funded through congressional appropriation.

Section 8: "Cooperative Agreements." What constitutes a cooperative agreement? It would appear in this section that Congress will be asked to enact into law something which is not even clearly defined in the proposed legislation.

In connection with section 8 we refer to section 9 "Licenses and Authorization" paragraph (a) "the secretary is authorized to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent and is employed by or operates independently under a cooperative agreement. By combining section 8 with that portion of section 9 outlined above, we form the opinion that there is nothing cooperative about this agreement, but that it is in fact mandatory, and that the only voluntary choice that an existing inspection agency has, is to sign such an agreement or go out of business.

It is the opinion of the New Orleans Board of Trade, Ltd., that the entire proposed act (by giving the Secretary of Agriculture unlimited power of interpretation, by its reference to penalties under the Federal Trade Commission Act, by its ambiguous wording, by its use of misleading verbiage which might cast a shadow of doubt on the integrity and honesty of grain merchandising and inspection as a whole, and by the apparent ease with which an inspection agency might be forced to discontinue its operations) would lead to ultimate federalization of the entire U.S. inspection and grain grading system. Therefore, the New Orleans Board of Trade, Ltd., requests that this committee does not place this proposed legislation before Congress for enactment.

We also request that a further study be made of the present U.S. Grain Standards Act of 1916, that it not be repealed nor revoked, since it has served world trade so well for 51 years, and that steps be taken to modernize it, in some limited areas, wherever it might be required, by amendment to the act of 1916.

EXPORTS OF GRAIN THROUGH THE PORT OF NEW ORLEANS FROM 1946 TO 1966

Year	Bushels	Tons (2,000 pounds)	Year	Bushels	Tons (2,000 pounds)
1946 -----	30, 019, 456	900, 583	1957 -----	92, 859, 569	2, 785, 787
1947 -----	45, 703, 033	1, 371, 090	1958 -----	117, 312, 133	3, 519, 363
1948 -----	53, 721, 138	1, 611, 634	1959 -----	119, 103, 850	3, 573, 115
1949 -----	50, 414, 717	1, 512, 441	1960 -----	162, 977, 760	4, 889, 332
1950 -----	56, 079, 379	1, 682, 381	1961 -----	201, 844, 101	6, 055, 323
1951 -----	78, 209, 750	2, 346, 292	1962 -----	191, 569, 185	5, 747, 075
1952 -----	76, 696, 138	2, 300, 884	1963 -----	223, 452, 503	6, 703, 575
1953 -----	80, 569, 391	2, 417, 081	1964 -----	254, 005, 532	7, 620, 165
1954 -----	66, 480, 086	1, 994, 402	1965 -----	245, 618, 769	7, 368, 563
1955 -----	86, 151, 313	2, 584, 539	1966 -----	250, 642, 448	7, 519, 273
1956 -----	82, 806, 589	2, 484, 197			

Mr. COCKE. I might add, Mr. Chairman and members of the committee, that our cooperation with the regional office of the Department of Agriculture has been excellent, and also they have cooperated with us.

There have been difficulties from time to time but I think they have been straightened out very well.

I might tell you that a year or so ago they tried out an experiment in Louisiana, about 40 miles below New Orleans, of a portable elevator. They had no inspection service down there and we volunteered to send out inspectors down there at the request of the Department of Agriculture.

They were very pleased with our service.

The supplemental statement speaks for itself.

On one of the pages this statement indicates that we thoroughly inspect a ship before it loads. Sometimes there are several inspections

when that ship is not clean and not passed by our people. That does not cost the grain people anything.

Other services are shown in this statement.

Thank you very much for your consideration.

Mr. PURCELL. Thank you very much.

(Supplemental statement follows:)

METHOD OF SAMPLING, GRADING, WEIGHING, ETC., OF GRAIN BY THE NEW ORLEANS BOARD OF TRADE, LTD., AT THE CONTINENTAL GRAIN ELEVATOR, WESTWEGO, LA., AND THE PUBLIC GRAIN ELEVATORS OF NEW ORLEANS, INC.

When grain arrives in the Port of New Orleans by rail, Board of Trade samplers go to the cars to draw samples. A seal is broken, the car is opened and a sampler enters the car and takes a sample.

The sample is placed in a canvas bag and properly identified. The car is closed and sealed with a numbered Board of Trade seal and a record of the car number and seal applied is maintained.

The sample is then brought to one of our inspection laboratories and graded by an inspector who is licensed by the U.S.D.A. An original certificate is issued to the owner of the grain and a copy goes to the U.S.D.A. along with notifying the elevator of the grade in order that the grain may be binned with like grain of the same grade.

All sampling and grading methods and equipment used are approved by the U.S.D.A.

The procedure for barges and trucks is similar, one exception being that barges and trucks are not usually sealed.

All grain coming into the Elevators is weighed under the supervision of the Board of Trade and certificates are issued thereon. Supervision of weighing includes notations to the effect if the container holding the grain was in apparent good condition. It also includes, among other things, a visual inspection of the carrier to be sure that all of the grain in the carrier is unloaded.

Prior to the loading of a vessel or any other container for grain, it is the responsibility of the grain inspector to examine the container to see if it is fit to carry grain. If not, the inspector will not grade grain destined for said container.

In order to help prevent delays in loading at the Elevator berth, the normal procedure is for a sampler to inspect a vessel for fitness to receive grain prior to berthing at the Elevator.

If the vessel is fit, a certificate is issued to that effect. If the vessel is not fit, a certificate is issued stating why it is not, i.e., weevily, dirty, obnoxious odor or whatever the reason. After the vessel has been treated for one or more of the above, we again examine it and issue another certificate. This continues until the vessel passes our inspection.

Samples of grain loaded for export are presently being taken by the Board of Trade by an automatic sampling device plus a pan sample as a double check. These samples are taken from a conveyor belt and given to a licensed inspector to grade. This information is available to the Elevator to enable them to know if they are loading the proper grade of grain to the vessel.

A log is maintained during the loading of the vessel which shows the names of the samplers, the inspector and/or inspectors working the particular vessel, factors in the sub-lots of the cargo, weather conditions and other pertinent information.

At the conclusion of the loading, the inspector makes a visual inspection of the vessel to ascertain if grain is left on deck or on the wharf. He also makes a composite sample of the grain loaded aboard the vessel, grades it and authorizes the issuance of the necessary certificates.

LICENSING OF INSPECTORS

In order to get a license to grade grain, the applicant must take a written test on the regulations as promulgated by the U.S.D.A. In addition, he must physically inspect and grade samples of the grain for which he is trying to get a license. An applicant may get a license to grade one or more types of grain. Usually there is an interval of several months from the time that the applicant first gets a license to grade one kind of grain until he gets a license authorizing him to grade all grains. Prior to taking a test for a license, the applicant must have the approval of his chief inspector.

An inspector's license must be posted at the place that he is grading grain. If he leaves the employ of an established agency, he must surrender his license to the

U.S.D.A. until such time as he becomes employed by another recognized inspection agency. If an inspector surrenders his license for more than one year, he may be required to pass all of his examination again in order to renew his license.

PERSONNEL INVOLVED

One inspector in charge of each elevator.
 One assistant Chief Weighmaster at each elevator.
 Eleven fully licensed inspectors.
 One partially licensed inspector.
 Above nonunion.
 Nine weighmasters, union.
 Twenty-six samplers, union.

This excludes office and clerical personnel as several people do some work in connection with the grain department. Ship inspectors for weevil are actually samplers and we use one of the above samplers on a full time basis for this and others as needed.

We do hold membership in the National Association of Chief Grain Inspectors Association.

APPEALS

If the owner of grain does not agree with the grade we give him on a truck, railcar or barge, he may request and appeal grade from the U.S.D.A. who will sample and grade the grain in the same manner that we do. The appeal grade supercedes our grade.

On export cargo, it is necessary for the owner of the grain to request an appeal prior to receiving our grade as it would not be possible for anyone to accurately sample grain in bulk in a vessel.

Mr. PURCELL. Are there any questions of this witness?

Mr. KLEPPE. Mr. Cocke, it seems to me you are pretty well satisfied with the present Grain Standards Act which is on the books.

Mr. COCKE. Yes, sir.

Mr. KLEPPE. That you work very well within the framework of it and really do not believe that any changes are necessary.

Mr. COCKE. We do not.

Mr. KLEPPE. Let me continue my question.

You certainly are not opposed to our trying to update that old act along the lines of adding benefits to producers, which I believe we can do—not necessarily the wording in the present bill but with some amendments we can make. We can make this a stronger producers' bill and still retain the rights of the processor and the warehouseman and everybody up and down the line. You have no objection to that?

Mr. COCKE. No, sir. We think that the changes in grading procedure can be worked out between the grain industry and the Department of Agriculture. We think that if they got together and had an opportunity to get together these things could be straightened out.

I had the privilege of reading this morning the statement of the North American Transport Grain Association. I think they are approaching it in the right way.

Also I read the statement that will be placed in the record by Mr. Brooks, of the National Grain Trade Council. I think that is a very good statement and it shows a desire to cooperate and to see that necessary amendments are made.

Mr. KLEPPE. You believe that the permissive situation here would be better than the mandatory provisions which previously had been discussed?

Mr. COCKE. Yes, I do.

Mr. KLEPPE. Thank you.

Mr. PURCELL. Any other questions?

If not, thank you very much.

We shall be very glad to receive the statement filed by Mr. Brooks. We appreciate his interest in this.

Mr. BROOKS. I will be here tomorrow, sir.

Mr. PURCELL. At this time we shall call Mr. John Finsness, North Dakota Public Service Commission, Fargo, N. Dak.

STATEMENT OF JOHN I. FINSNESS, REPRESENTING NORTH DAKOTA PUBLIC SERVICE COMMISSION, FARGO, N. DAK.

Mr. FINSNESS. Mr. Chairman, my name is John I. Finsness, of Fargo, N. Dak.

The present U.S. Grain Standards Act requires official inspection of grain wherever grain is sold, offered for sale, or consigned for sale by grade and is shipped or delivered for shipment in interstate or foreign commerce from or to a place where a licensed grain inspector is located.

The mandatory official inspection in these situations requires that samples of carlots of grain be taken, by probe or other means, by official inspectors or their representatives. To accomplish this it has been necessary to stop cars en route at designated inspection points or at terminal markets. In some instances country elevators arrange to have official inspector representatives travel to the elevator to withdraw samples of carlots of grain for grading at the nearest inspection laboratory.

The necessity for official sampling and grading adds costs to the marketing of grain which are borne by the producer, creates delays in the marketing of grain, tends to restrict the markets available to country shippers, imposes additional costs in the transportation of grain and delays prompt transportation and unloading of vitally needed railroad equipment.

The Public Service Commission of the State of North Dakota is of the opinion that official sampling and inspection of grain now required by the Grain Standards Act should not be mandatory but should be retained for utilization by the trade on a voluntary basis. The Commission is of the further opinion that grain could then be sold on the basis of a grade determined from a sample drawn and submitted by the shipper. This procedure will reduce the cost of marketing grain, expedite sale, broaden available markets, allow more efficient utilization of the railroad car supply, reduce transportation costs, allow the use of more efficient sampling procedures and retain in the shipper full control of the grain before shipment.

In North Dakota a great deal of grain is shipped "unsold to be sold." The grain is committed for sale by shipment to an interior or terminal market inspection point for the necessary official sampling and grading prior to sale. This grain is committed for sale and cannot be economically returned to the shipper should the market prove unfavorable for one reason or another. However, if grain could be sold on a grade from a shipper submitted sample—with the car remaining on track at the country elevator—it would be possible for the shipper to hold the car awaiting a favorable sale or unload back into the elevator. The same situation would apply if the grain graded out substantially different from what the shipper thought it would grade.

In the final analysis samples of grain submitted by shippers for grading will have to be accurate representations of the grain offered for sale. The mechanics of the marketplace and the self interest of the parties will police these procedures.

To the extent that H.R. 11162 will allow voluntary rather than mandatory official sampling and grading, the Public Service Commission of the State of North Dakota is in support of the bill.

Mr. PURCELL. Thank you very much, Mr. Finsness.

Mr. KLEPPE. May I just say, Mr. Finsness, I am delighted that the Public Service Commission sent you down here to testify on this bill, because you and I know especially that grain standards and how grain is inspected and handled in North Dakota is a pretty vital thing out in our country. We also know that this phrase you used, "unsold to be sold," is a very interesting one for us because we have had so much experience with it out there. If we can make some improvements in this regard, I think you have briefed very well in your statement some of the advantages that can come to producers and small country elevators, of which we have many in North Dakota.

I want again to express my appreciation for your very brief and to-the-point statement on this bill.

Mr. FINSNESS. I would like to add one thing, Mr. Kleppe, and that is if your brother did take you once, he would not take you the second time. Thank you.

Mr. PURCELL. At this time I want to recognize our colleague, Mr. O'Konski. I believe he will present the next group of witnesses.

We are glad to have you here this morning, and we appreciate very much your taking your time to come over to our committee and show the real dedication you have and your interest in the area you represent.

Mr. O'KONSKI. Thank you, Mr. Chairman, for giving these people the opportunity to come over here and present their case. I want to thank every member of the committee for their effort to try to arrive at a solution to this situation.

The next witnesses are constituents of mine: Lloyd Freer, president of the Wisconsin State Employees Association, accompanied by Howard Christensen, chief inspector, Grain and Warehouse Commission, of Superior, Wis., and then, in case they have to plead the fifth amendment, they have their attorney with them, Arthur Cirilli, who is also State senator.

Mr. PURCELL. We are glad to have you gentlemen, and shall be glad to hear from you at this time.

STATEMENT OF LLOYD W. FREER, PRESIDENT, WISCONSIN STATE EMPLOYEES ASSOCIATION, ACCOMPANIED BY HOWARD C. CHRISTENSEN, CHIEF INSPECTOR, GRAIN AND WAREHOUSE COMMISSION, AND STATE SENATOR ARTHUR CIRILLI, SUPERIOR, WIS.

Mr. FREER. We of Wisconsin wish to thank the chairman of the Livestock and Grain Subcommittee and other members of this august group, for the privilege of being able to express our views in opposition to H.R. 11162 and H.R. 2121. The Wisconsin Grain & Warehouse Commission has been in existence since 1905 and during this time its grades and weights have become known and respected throughout the world.

In January of 1899 a committee of farmers from North Dakota came to Superior, Wis., in an effort to obtain impartial supervision of the grading and weighing of grain. They felt that having raised the

grain and being the owners, they should have something to say about the grade given the grain. A bill was introduced into the Wisconsin Legislature but because of the opposition from the grain firms in Milwaukee, Chicago, Minneapolis, and Duluth it took several years before the bill was enacted. In 1905 the Wisconsin Grain & Warehouse Commission was established and has been in operation ever since.

At the outset we would like to state we will keep our presentation as brief as possible. We will endeavor to specifically point out those provisions in the bills now before this committee, in which we are in opposition.

Taking H.R. 11162 into consideration first, we will comment on the sections of this amendatory act, which we are concerned with, in the numerical order in which they appear in the bill.

Sec. 2 (lines 14 and 15).—This section does not provide for inspection of all grain shipped from the United States, but states "Certain Grain" and also is lacking in a provision for inspection of interstate and domestic grain.

Section 3. (a) (1) (lines 1 and 2).—We refer to this definition because we want it clearly understood, any remark we make should not in any way be interpreted as a reflection upon the honorable Orville Freeman, Secretary of Agriculture, thus it is the "Secretary" as defined in this bill and not the present occupant thereof we are concerned with.

(a) (8).—We feel section 3 throughout, embraces the "Secretary" with too much authority and in this portion it is so broad as to use the terminology "or other criteria approved by the Secretary."

Section 5.—We strenuously oppose this entire section. We in Superior have seen the shipping of grain in American ships practically swept from the Great Lakes because American ships cannot compete with the shipping rates offered by Canadian companies. This section puts the stamp of approval, or perhaps we should say makes possible, the practice of issuing U.S. grades on American grain in foreign ports and allows the U.S. Department of Agriculture to perform the initial inspection in a foreign port. We feel if a U.S. grade is required it should be given by American citizens within the boundaries of the United States. We further interpret it to be a mandatory requirement that all grain exported must be inspected in the United States or any other place while it is in the final carrier in which it is to be transported from the United States, however, contained in this same section is a proviso granting the "Secretary" the authority to waive any requirement of this section. Here again we find the "Secretary" being clothed with excessive power.

Sec. 8(a).—In this section, we of Wisconsin, object to being blanketed with lesser agencies. There is no guarantee the "Secretary" would select the State organization in spite of the existing laws of the State. We also favor the language in H.R. 16918 introduced in the 89th Congress of 1966, which reads in part: "The Secretary is authorized to enter into cooperative agreements for the conduct of inspection work under section 7 of this act in any State with any State department of agriculture or other authorized State agency * * *."

Sec. 8(c).—Because of the broad authority given the Secretary in this bill, we are concerned about or other area. In the grain trade it is often referred to as the Duluth-Superior area and we would certainly

object to the Minnesota Inspection Department being selected as the cooperating agency in this area and I am certain Minnesota would object just as strenuously if we were to be selected as the cooperating agency in the area.

Sec. 9(a).—Subsection (a) states: "To authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in official inspection"; the right to perform all functions involved in official inspection certainly includes the right to give the initial grades. Although Mr. Grange definitely points out the Department of Agriculture has no desire to take over State functions, this section certainly leaves the door wide open for the Department of Agriculture to do so in the future if they so desire.

Sec. 9(b).—This section provides for triennial licensing of grain inspectors. This practice is unnecessary, impractical and would develop insecurity among licensees that would seriously effect the efficiency of the inspection service. This would also serve as a "big club" in the hands of the "Secretary" because it also gives the "Secretary" the authority to refuse the renewal of a license whenever the "Secretary" determines for reasons not involving any alleged incompetency or fault.

Sec. 12(c).—We feel that this is perhaps the most flagrant section of this bill. In the present Grain Standard Act, it infers an employee of a grain elevator or warehouse should not be trusted to as much as carry a sample and yet in this bill these same people may be licensed by the "Secretary" to perform the entire function. This is certainly a conflict of interest.

Sec. 19.—This section is an infringement on States rights and would cause the elimination of State services which have been an integral part of the grain industry. The Wisconsin Grain & Warehouse Commission was in operation long before the Federal Government saw the necessity of entering the grain business. It is argued because of the changes made in the grain trade, we must keep abreast of the times, however grain is bought and sold on grade, just as it was 50 years ago. The one difference is because of the State supervision the person selling the grain is getting what is rightfully his and the person buying the grain knows he is getting what he ordered. We contend the hearts of men have not changed and the need for State supervision is just as great now as it was 60 years ago. The many "bootleg practices" committed in the past, are a thing of the past because of the excellent State supervision we have had down through the years. We have a right to stop a truck that is passing through our State because it is going too fast, has too heavy a load, or has too long a rig and it would seem the State should have the same right to check on what that truck is unloading within its boundaries and has every right to know what it is hauling out. We contend any commodity sold with a U.S. grade should be inspected by a certified inspector to insure that it is that grade.

Bill H.R. 2121.—We would like to say after many years of experience, we feel a submitted sample is worth no more than the sample itself.

In conclusion, we would like to thank the honorable chairman and this committee for the opportunity to come here and express our views.

With that, I would like to relinquish the time to our State senator, Arthur Cirilli.

Mr. CIRILLI. Mr. Chairman, my only concern, of course, is the fact that we in Wisconsin feel this agency should continue in the capacity in which it has served these past 62 years. At the present time, under the new bill we have no assurance that this agency is going to be selected by the Secretary to continue its performance.

It is interesting to note—and I say this unhesitatingly—that this Commission has developed a reputation internationally. Their grades are accepted as a matter of course. Everybody is treated fairly and squarely, and nobody complains—the producer, the purchaser, or the consumer.

I just want to add, as an attorney and a legislator, I cannot see how you can justify the inspection and grading of foreign grain and not say that it is also reasonable and compulsory to inspect ours.

I would like to say, in conclusion of my presentation, that we feel in Wisconsin that an agency that has done the type of job we have done in Wisconsin should be continued. We feel we have some vested rights. We feel we have employees who have been certified by the Department of Agriculture. We have the chief inspector here, who sees that everybody is licensed and does the job. These are civil service employees.

In our area alone, Superior, it would affect approximately 110 families.

I thank you, Mr. Chairman.

Mr. PURCELL. Let me ask you one question. I am not sure I heard the first part of your statement. Are you saying that you feel that mandatory inspection should be maintained?

Mr. CIRILLI. Mr. Chairman, as I say, I am not a grainman, but I cannot see how you can say that you must justify inspection going overseas and not justify inspection going to our own system. That is what I cannot quite understand.

Mr. PURCELL. Then answer my question, please, sir. Are you saying that you want compulsory inspection maintained as it is being done now?

Mr. CIRILLI. Yes; that is correct.

Mr. PURCELL. You do not feel that the standards for grain or the grading of grain has reached the point that if I, in Texas, want to order No. 2 corn, or whatever it is, from you in Wisconsin, and you and I know well enough what we are talking about, that I should not be allowed to order it, knowing that you know what it is and you know that I know what it is, and not have it inspected unless I, the buyer, particularly ask for it? You do not feel we have reached that point in integrity or dependability?

Mr. CIRILLI. I have to say yes to that, Mr. Chairman. I do not see how you in Texas are going to know what we are loading in Superior. I just cannot see that. Do you follow me there?

Mr. PURCELL. Yes; I follow you. I do not agree with you, but I follow you.

All right, I think there is no point in belaboring that.

Mr. KLEPPE. May I ask Mr. Freer a question?

On the last page of your testimony, talking about H.R. 2121, you say:

We would like to say after many years of experience, we feel a submitted sample is worth no more than the sample itself.

I am not so sure I understand what you mean there. Do you mean if you have a quart of wheat as a sample of a carload of wheat, it is worth no more than just the fact that it is a quart of wheat? What do you mean by this?

Mr. FREER. Sir, if that sample has supervision from the time it was taken from the car until the time it was inspected, the sample is worth something.

Mr. KLEPPE. Then, there is some qualification to your statement. This is what I wanted to get.

Mr. FREER. If they just sent in a sample, you would not know where it came from.

Mr. KLEPPE. Surely.

If I may pursue just a little what the chairman has said, you are trying to justify the continuation of your organization in Wisconsin.

Mr. FREER. That is right.

Mr. KLEPPE. I have detected no disagreement in the approach that you have used here, but when you indicate or when Mr. Cirilli indicates that you are perpetuating this organization and we must have mandatory inspection, I wonder if this is not a little bit confusing from what is indicated in your statement.

Mr. FREER. Sir, we must have the original grade when it comes into the Port of Superior. It may be from North Dakota or Minnesota.

Mr. KLEPPE. You get this from a country elevator, from a shipper?

Mr. FREER. Yes. We do not take the second grade unless the shipper is not satisfied with the grade that the elevator gives him.

Mr. KLEPPE. Then they request it.

Mr. FREER. They request it, and then we come in.

Mr. KLEPPE. That could be on a permissive basis.

Mr. FREER. Yes, sir.

Mr. KLEPPE. It does not have to be on a mandatory basis.

Mr. FREER. Actually, as far as grain coming in, it is more or less on a permissive basis if we feel grain should have official inspection. If someone wants to sell No. 2 corn, for example, as a feed corn, we certainly would have no objection to that; but if they want to sell it with a U.S. grade No. 2 yellow corn, we feel it should have an inspection.

Mr. KLEPPE. Can grain not have an official grade to it on a permissive basis as well as on a mandatory basis, provided the inspectors have been licensed by the Department of Agriculture?

Mr. FREER. Yes; any grain that has been officially inspected definitely should have an official grade.

Mr. KLEPPE. Thank you very much.

Mr. PURCELL. Are there any other questions?

Thank you very much, gentlemen.

Mr. FREER. Thank you.

Mr. KLEPPE. Mr. Chairman, may I ask unanimous consent to insert in the record a statement by Mr. Joe L. Garrett, general manager of the Grain Sampling Division of the International-Stanley Corp.

Mr. PURCELL. Without objection, that will be permitted.
(The statement follows:)

STATEMENT OF JOE L. GARRETT, GENERAL MANAGER, GRAIN SAMPLING DIVISION,
INTERNATIONAL-STANLEY CORP., OMAHA, NEBR.

Mr. Chairman, and Members of the Committee, I am Joe L. Garrett of International-Stanley Corporation, an Omaha, Nebraska railroad supply company.

My company has served the railroad industry and the grain trade nationally for the past 20 years.

I am appearing today in support of H.R. 2121 and the portions of H.R. 11162 that pertain to the official certification of submitted samples.

Approximately 18 months ago, my company engaged in a joint research program with several railroads and grain companies located in North Dakota, South Dakota and Montana. The purpose of this program was to determine the feasibility of sampling grain cars at country elevators, primarily by utilization of mechanical spout sampling devices.

The principle of mechanical sampling is very simple. A section of the existing loading spout is removed and the mechanical sampler is installed. At predetermined time intervals, a small, hollow arm moves across the entire grain stream obtaining a representative sample of the grain as it is being loaded into the car. One small sample is secured from each 50 to 200 bushels.

There were three major reasons for starting this joint research program:

1. In order to compete with other modes of transportation, most American railroads have published tariffs with lower freight rates for multiple car shipments. These lower rates normally do not permit any frills, such as stopping a car en route for the purpose of obtaining a sample which is required on Interstate shipments by Section 4 of the 1916 Grain Standards Act.

2. During the past five years, American railroads and some private companies have purchased in excess of 10,000 jumbo covered hopper cars annually. At the present rate of acquisition, within the next five years the jumbo covered hopper fleet will be sufficient to transport all of the grain shipped by rail each year.

It is *impossible* to secure a representative sample from the depths of these giants by manual probe sampling. Inclement weather creates additional problems. Most sampling yards do not provide shelter over these cars for manual probe sampling during rainy weather. Permitting snow or rain to fall in the top hatches as they are opened for probe sampling would bias the sample. (See attached drawing.)

The logical solution to this problem is to sample mechanically at origin elevator as the car is being loaded.

3. During the past ten years, our Nation has faced chronic boxcar shortages annually during the grain harvest. This has plagued not only the grain shippers, but all industries that are dependent on the railroads for equipment to transport their merchandise. Although the railroads might be guilty of not purchasing sufficient rail cars to fill their requirements, the major cause of this chronic shortage is poor utilization of their existing equipment, much of which could be corrected by modernizing the Act.

Millions of car days are wasted each year on grain cars being held in sampling yards for "official" sampling as required by Section 4 of the 1916 Grain Standards Act.

The authors of the United States Grain Standards Act of 1916 did not envision, nor provide for these modern approaches in the transportation of grain.

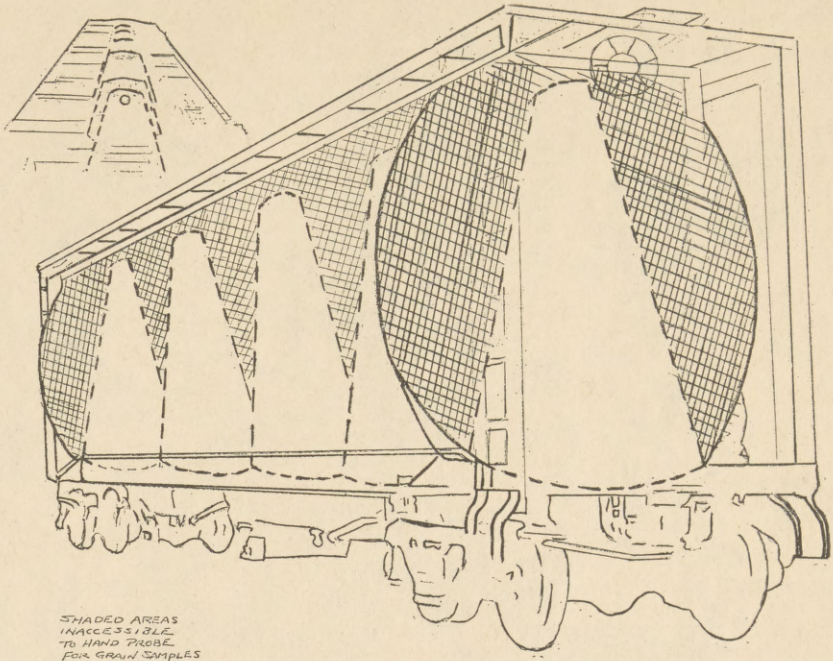
It is difficult to comply with the 1916 Act and the rules and regulations provided in Section 8 of the Act at country elevators. The existing regulations require that an employee of the U.S.D.A. licensed agency man the mechanical sampling device at all times while a car is being loaded. It is impracticable and costly to station an employee at every country elevator, some located 200 or 300 miles from the U.S.D.A. licensed laboratory.

The only logical solution is to amend the 1916 Act such as H.R. 2121 proposes, or to rewrite the Act, as suggested in H.R. 11162, to permit "official" certification of samples submitted by or on behalf of the elevator.

If this change is not made in the 1916 Act it will prevent many country elevators from participating in modern transportation and sampling techniques which will result in the continued waste in the utilization of railroad equipment.

In the interest of brevity I have only sketchily highlighted the subject matter. The urgency of modernizing the Act is, I believe, acknowledged by all. I will be happy to answer any questions to the best of my ability.

Mr. Chairman, and Members of the Committee, thank you for permitting me to make this statement.



Mr. PURCELL. We will recess tentatively. Maybe we will meet at 9:30 Thursday morning. Perhaps, we will meet at 10. But we shall meet. We will be that dependable, gentlemen. We appreciate your cooperation very much.

Mrs. MAY. I think it only fair to the chairman of the subcommittee, who has been kind enough to take the responsibility, to say, representing the minority, that word reached me yesterday and I did not inform Mr. Purcell of this conflict until late yesterday. It is not Mr. Purcell's fault at all that we could not keep the agenda as announced. I thank you very much for being nice about it, Mr. Purcell. I do think I should take the responsibility.

(Off the record.)

Mr. PURCELL. The committee will adjourn until 9:30 or 10 o'clock Thursday morning.

(Whereupon, at 12 noon, the subcommittee adjourned.)

AMEND THE GRAIN STANDARDS ACT

THURSDAY, NOVEMBER 9, 1967

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 10 a.m., in room 1301, Longworth House Office Building, Hon. Graham Purcell (chairman of the subcommittee) presiding.

Present: Representatives Purcell, Stubblefield, Foley, Montgomery, Brasco, Dole, Mayne, and Zwach.

Also present: Christine S. Gallagher, clerk; Hyde H. Murray, assistant counsel; and L. T. Easley, staff consultant.

Mr. PURCELL. The subcommittee will come to order.

We will proceed with our witnesses for today. We have the Association of American Railroads, who will testify as a group.

Mr. DANIELSON. Yes, sir; if we may.

Mr. PURCELL. That will be all right.

You may proceed, Mr. Danielson.

STATEMENT OF JOHN C. DANIELSON, ASSISTANT GENERAL COUNSEL, CHICAGO & NORTH WESTERN RAILWAY CO., CHICAGO, ILL., ON BEHALF OF BEN W. HEINEMAN, CHAIRMAN OF THE BOARD, CHICAGO & NORTH WESTERN RAILWAY CO.

Mr. DANIELSON. Mr. Chairman and members of the subcommittee, my name is John C. Danielson. I am assistant general counsel of the Chicago & North Western Railway Co. We were to be represented originally by Mr. Ben W. Heineman, chairman of our board of directors and a director of the Association of American Railroads, but because of requirements that necessitated a brief adjournment in the subcommittee hearings, it was not possible to clear Mr. Heineman's calendar, and he has requested me to express his very sincere regrets to the subcommittee and has asked if I would read his statement to the subcommittee, and with your leave I would like to do that.

Mr. PURCELL. You certainly may do so. We appreciate your cooperation.

Mr. DANIELSON. Mr. Heineman first wants to thank you for your courtesy in permitting me to bring to your attention the views of America's railroads on the proposals presented here by Secretary Freeman to amend the U.S. Grain Standards Act.

Let me explain clearly at the outset that we take no position in favor of, or opposed to, much of the substance of H.R. 11162. We are concerned only with the provisions of this bill which will make available to the shipping public throughout the United States a more

effective railroad transportation network resulting from the bill's provisions permitting more efficient use of the basic boxcars, as well as the increasing covered hopper fleet.

While North Western is a large western railroad, with operations oriented heavily to the grain, forest products, and agricultural economy which typifies this territory, I speak for railroads throughout the country urging a basic reappraisal of the restrictive 1916 law which uniquely hobbles our operations and imposes a double exaction upon grain producers throughout the country who depend upon the railroads for vital service.

In the area of grain inspection, the interest of the railroads and that of our customers coincides, I feel, for we are both concerned with providing country shippers with fast, dependable transportation at the lowest possible cost. Railroads, you recognize, are the only transport agency regulated by the ICC in handling bulk agricultural commodities. This is a competitive disadvantage to us. This competitive disadvantage, we find, is increased by regulations under the Grain Standards Act which are not applied equally against our competitors, unfairly penalizing producers and users of rail service.

This has been brought out by some of the cooperative groups and the farm groups who have testified before the committee who have pointed out how a rail-using elevator is at a serious competitive disadvantage in competing against an elevator which ships by truck not requiring the payment of any of the merchandising fees associated with the mandatory inspection enforced when rail service is used.

Now, we would first like to bring out:

1. Much less than half of all interstate grain shipments is inspected under the present Grain Standards Act.

We think this is important for the subcommittee to understand, because the majority of the interstate grain now is moving free of the inspection requirements of the 1916 statute.

A 1965 study by the U.S. Department of Agriculture (which is given by a footnote here as "Changes in Transportation Used by Country Grain Elevators in the North Central Region (MRR 724, July, 1965)") revealed that trucks alone in 1963 took 48.3 percent of all corn, 42.8 percent of all soybeans, and 44.9 percent of grain sorghums away from country elevators in the grain-producing heartland of our country—the north-central region serving Congressman Zwach's district and Congressman Mayne's district—the States in the north-central region. This tonnage is interstate and intrastate, of course.

By 1965, an Iowa State University report (the title of which is given in a footnote here, "Transportation of Grain and Mixed Feeds From Iowa (SR 70, February 1967)" revealed that from that State railroads handled only 57 percent of the corn, 44 percent of the soybeans, and only 34 percent of the mixed feeds moved out of the State, Iowa; so that of interstate grain it is very optimistic to assert, as have some witnesses here, that railroads handle one-half of the tonnage. This decline has occurred almost entirely in the 20 years since World War II, and while I can point with no particular pride to these data, they emphasize a fact which must be clearly understood at the outset. It is this: Transportation is an intensely competitive industry. I have read the record here on how impossible is enforcement of the inspection requirements in the 1916 statute against

our unregulated competitors, and I stress this basic fact of transport competition because it is the cornerstone of my conclusion, that by applying this obsolete law to but one contender for this commerce, Congress, albeit unknowingly, is placing an unwarranted burden on a basic industry, the American railroads.

Mr. Heineman states that while it has been more years than he, Mr. Heineman, cares to recollect since he practiced law, he felt he could only agree with Chairman Purcell's remarks (on September 14) here that "if you cannot enforce a law, change it to one you can enforce." As the only form of transportation against which effective enforcement of the inspection requirement has been found feasible, Mr. Heineman states that he feels that the railroads have an important stake in this legislation.

Now, we would contend and we shall show you, Mr. Chairman, that discriminatory enforcement of the 1916 act works a threefold penalty against our customers, the country shippers of grain who depend on rail service.

Mr. Finsness brought out in previous testimony before the subcommittee the fact, and we find it to be our experience ourselves, that it is the farmer himself who ultimately pays for the inspection: first, in the inspection charges, second, in freight rates increased sufficiently to cover the added expense to railroads setting cars aside at a central point and holding them for in-car inspection of the grain, and, third, by shortages of cars when inspection services bog down at harvest.

Prior testimony—by Mr. Grange of the U.S. Department of Agriculture on September 12—brings out the interesting fact that inspection costs our customers on the order of \$11 million extra annually to ship grain and that the Congress itself, through departmental appropriations, underwrites approximately \$700,000 annually of the expense of this endeavor. Well, may the committee inquire, we feel, whether the public receives full value for these dollars. If, as most producers who ship by truck find, it is desirable to dispense with expensive inspection services, Federal law should give them the opportunity to forgo this unwanted and unnecessary burden when they ship by rail also.

The railroads, by bills which they pay initially and charge back against country shippers under rules common to the major grain markets, are aware that the burden of this mandatory inspection service is borne ultimately by the producer, as a reduction in the sale price for his grain. Our own rebilling for inspection services is itself paid most often by the country elevator operator, but this man, in turn, reduces dividends to members of his cooperative or makes a deduction in the purchase price paid to the farmer in this amount. This elevator operator is an experienced grain buyer and blender, so that he knows very well the grade that he bought from the producer and the grain that he then, after blending, loaded in a car. We have even had elevator operators complain to us about the needless expense of inspection—which they must buy, but do not want—where they ship to their cooperative's terminal elevator at a market, or to the merchandising outlet which services their line of elevators, for the sale which is said to trigger the inspection requirement is so artificial as to be almost illusory in such circumstances, as this record already shows.

Let me interpolate on the question which has arisen here in the past of a sale from a brother in North Dakota to his brother in Texas or in South Carolina. We find that, while the brothers themselves may find trucks or rail service a very satisfactory transportation system, we are in the middle between the brothers, because where in rail service they might desire to dispense with inspection under the mandatory requirements of the 1916 act, we, the railroads, are required to place those cars for inspection. We have had shippers using our service come to us and say "We do not desire this service, and we would like for you to stop holding those cars out for inspection." We are powerless, Mr. Chairman and gentlemen of the subcommittee, under the present statute, where we go to a point where inspection is available, to prevent placing those cars for inspection regardless of the wishes of our shipper.

Still, the shipping documents are often similar to a sale transaction, and the State inspection regulations require grain cars generally to be set out at railroad yards for inspection no matter how technical the transaction. These local laws find a footing for levying on interstate grain only by virtue of the 1916 law's mandatory inspection requirement—in present section 71 of 7 United States Code—for the local inspector, whether a State employee or hired by a private firm, is said to perform the mandatory work as an inspector licensed under this chapter.

As an example of how rail rates must be kept artificially high to cover the costs of present inspection, consider a typical car of corn originated on the North Western in western Iowa. It will move east on our main line to Ames, Iowa, where it will be diverted south about 50 miles on a secondary line to be inspected at Des Moines. When the road train arrives the car is classified into a "cut" of cars which will be placed on the inspection track once there is room. Then follows the sampling described on pages 41 and 42 of the committee's record, after which the car may be classified into the next train to Ames, whereupon it resumes its journey eastward to St. Louis or Chicago, which are among the largest grain markets we serve.

Such a movement, which could have been made directly in a day by train, or by truck, takes upward of a week and adds immensely to the expense involved in handling grain only by rail. Small wonder, then, that the trucks take over half of the tonnage out of Iowa, since no such delays or expenses are involved in truck transportation.

Let me emphasize this point in a somewhat different perspective. In the 10 years since Mr. Heineman became chief executive of the North Western he has directed broad rate reductions in grain rates more than once in each of those years, in an effort to recapture this tonnage being siphoned away by unregulated truck and barge services. At this point these rail grain rates are fast approaching the out-of-pocket cost of service, so that without relief from the archaic requirements of this 1916 act, we face being priced out of the vital market these railroads were built to serve. The Congress could never have intended to so hobble our industry, we feel, but the experience of the law's administrators is confirmed by us—as brought out by Mr. Grange and the industry itself—these constraints are the unavoidable end result of the 1916 act. Compliance with such a law has been very expensive, indeed, not only to this industry, but to the vast public whom we are pleased to serve.

By no means any less important is the effect of these archaic sampling practices on the utilization of the railroad equipment. And when we say "archaic," we feel that this 5-foot brass probe inserted at five different points in a car is the same blunt instrument which was used in the horse-and-wagon days before the railroads were even constructed out into the vast prairie States. Most members of this committee will remember the recent recurrence of violence in Pennsylvania connected with the steel haulers' dispute, and you may remember also that an important issue there was whether a mill should, under the Teamsters' contract, be permitted to detain a truck for up to 2 hours before it was loaded. I make the simple point here that utilization is important to the owner of transport equipment—a point perhaps known to many Member of Congress as the car shortage, to borrow a phrase from the ICC. And the Commission, in a statement which we have seen here this morning, comments at great length on the effect this legislation would have in alleviating very substantially the rail freight car shortage.

Without commenting on the pending ICC investigation myself, I note that many advocates of both H.R. 11162 and H.R. 2121 had adverted to the "car consequences" of both bills as one of their principal public benefits, and, of course, I must agree that major benefits of this nature appear attainable under H.R. 11162. To the extent that H.R. 2121 would permit mechanical sampling at origin elevators before the grain is loaded into railcars similar such benefits would occur, but only H.R. 11162 gives the grain producer and merchant the option to choose for himself whether or not to have an inspection at all when he ships by rail, an option which he now has, but exercises rarely, when he ships by truck.

Mr. Baumgartner will point out that much of a grain car's working life is spent awaiting inspections, and the wait for inspection is, of course, greatest during the harvest, when a car can be, and on occasion is, tied up as much as 3 weeks to gain access to an inspection track in a grain-saturated terminal, a period when, no matter how much overtime the limited inspection force will work, substantial delays of over a week are quite common. Mr. Baumgartner's study, of course, reveals delays exceeding 4 days per car for inspection even during the slack season measured in a test of over 10,000 cars during April of this year.

Thus, the 1916 law, by tying up grain cars longest just when they are needed the worst, hurts railroads and their country shippers just when they are most vulnerable, and the nationwide ICC car distribution orders—issued to relieve this seasonal emergency by bringing into the grain country cars from the South and from both seacoasts—deprive shippers of cotton and of plywood of the equipment needed to meet their own needs.

In short, all users of rail transportation suffer from the strictures of this 1916 statute. By making grain inspection permissive, so that the buyer or seller of this commodity can decide for himself whether or not to purchase this inspection service, the proposed bill takes a great step forward.

On behalf of America's railroads, therefore, I earnestly urge enactment of H.R. 11162's provisions authorizing submitted samples and permissive sampling.

I would be very happy to respond to any questions.

Mr. PURCELL. Thank you very much, Mr. Danielson. I think we will proceed with the other gentlemen before we ask questions.

So, we will be glad to hear from Mr. Cassell now.

**STATEMENT OF MARTIN L. CASSELL, GENERAL SOLICITOR OF
THE CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO.**

Mr. CASSELL. Mr. Chairman and members of the subcommittee, my name is Martin Cassell, and I am in the Law Department of the Chicago, Rock Island & Pacific Railroad Co. The Rock Island, like the North Western and the Santa Fe, the three railroads which are presenting witnesses before you today, is a granger railroad. Grain earns more revenue for the Rock Island than any other commodity. It is the second most important wheat carrier in the Southwest—the Santa Fe having the largest volume—and I am informed that as to the North Western, corn earns more revenue than any other single commodity. I am giving this detail as to the importance of grain to these railroads merely as an example of the importance of grain to all railroads in the West.

The other side of the coin and, of course, of importance to this committee, is the fact that these railroads supply a very important service to the agricultural community, be it producer, handler, or processor. I am sure that the members of this committee are only too aware of the importance to the Nation's agricultural economy of the railroad car supply. It is our purpose here to explain how certain provisions of H.R. 11162 and H.R. 2121, by permitting shippers and receivers of grain to dispense with in-car inspections or inspections they find unnecessary for their purposes, will contribute importantly to making available a much larger supply of grain cars, especially during the critical harvest season. This would also, we feel, reduce the amount of complaints received by many congressional delegations during the period of peak demand for, despite the use of trucks for many grain movements, at many points the availability of rail cars determines the ability of a shipper to move his crop.

At the outset of my testimony, I would like to emphasize, as did Mr. Danielson, for himself and Mr. Heineman, that the railroads' appearance here is for a very limited purpose. There are many parts of H.R. 11162 which do not relate to transportation in any way, and we are in no way injecting ourselves into these sections of the bill and their effect on the grain industry. Specifically, the railroads are interested in that portion of H.R. 11162 which relates to permissive sampling and the use of submitted samples. We are interested in permissive sampling in that, as has been testified by other witnesses before your committee, this should reduce substantially the amount of sampling that would take place. It would be reduced to only those instances in which the buyer or the seller had an immediate interest in obtaining a sample. We are interested in the provisions for mechanical sampling and a submitted sample in that if all sampling were done through submitted samples, whether this sample were obtained by a mechanical sampler or otherwise, it could be done other than at a time while the grain is in transit in railroad equipment. Mechanical sampling, which would be taken in either the inbound or outrun loading equipment, would be entirely outside the railroad car and would in no way delay its movement. Mr. Baum-

gartner, who is an operating man, will tell you in detail how the physical operation of sampling grain in railroad cars consumes a very large portion of the useful time of our car fleet in a way which the bill before you would render entirely unnecessary.

There is one section of H.R. 11162 which carries the substance in which we are interested, namely, section 7(d). This is found on page 9 of the printed bill. In lines 3 and 4, there is the language which establishes permissive sampling. Lines 4 and 5, which provide for regulations to be drawn up to implement the act, contain the authority for the prescribing of regulations which would govern the taking and use of submitted samples, samples which might be obtained by mechanical sampling, sometimes referred to as "automatic sampling."

Right here I wish to emphasize again that the railroads have no interest in how these regulations are set up to guarantee the integrity of the sample or other matters to which we understand the grain trade is directing its attention. We are only concerned that Congress enact legislation which would authorize permissive sampling and that such sampling as does take place could be done entirely outside the railroad car.

Mr. Baumgartner will give you the figures on the amount of cars that this would make available for the benefit of the shipping public, not only for the handling of grain, for I need not tell you that when there is a car shortage in this country, the car shortage falls on all alike, whether it be the lumber shipper in the Pacific Northwest, or the man who wishes to move manufactured commodities in Ohio—the entire shipping public would benefit from the additional utility of the rail equipment.

At this point I think it is appropriate to refer to the report prepared by Commissioner Bush of the Interstate Commerce Commission, accompanying the Commission's communication to this committee, which covers this same area and demonstrates that the Interstate Commerce Commission is well aware of the public benefits that would accrue from enactment of this legislation, specifically through those portions of the legislation which would make possible permissive sampling and set up the machinery for effecting inspection through submitted samples. If I can, I would like to quote from page 2 of Commissioner Bush's statement to the committee wherein he said:

I believe that the greatest single move that could be made to improve car utilization would be to revise our grain sampling procedures and practices.

I think that the Congress is also aware of the fact that the Commission has had before it two separate investigations in just this year concerning car shortages and the methods by which they might be relieved. While I did not take part in these investigations, I have read the orders of the Commission in these matters.

In *Ex Parte 241*, in a report and order issued on June 18, 1964 (printed at 323 I.C.C. 48), at page 60 the Commission found that a chronic freight car shortage existed and undertook a further investigation to determine what relief or solution might be available to alleviate this shortage in the public interest.

In a later report "Incentive Per Diem Charges, 332 I.C.C. 11, October 25, 1967," the Commission found that sporadic shortages did occur, but that:

A number of encouraging developments have taken place recently which should contribute to improved services. Among these we note the increased cooperation

between railroads and shippers leading to the construction of storage facilities and traffic movements which aid in the reduction of relatively short-term excess demand for cars in the movement of grain. Proposed changes in laws relating to inspection of grain and the development of more rapid inspection techniques also signal improvements in freight car utilization.

It is, of course, these bills now before you to which the Commission is making reference, and its conclusion that they promise significant improvements in freight car utilization buttresses the original memorandum by Commissioner Bush, to which I have drawn your attention previously.

There is one further matter I would like to call to this committee's attention. One of the benefits of Federal legislation is uniformity. One of the benefits provided by legislation now before this committee in H.R. 11162 is the uniformity of regulation that would prevail throughout the States. It is our hope that the legislation now before your committee will be adopted which will provide, as does paragraph 19, for uniform regulation governing interstate grain movements, leaving the States entirely free, of course, to regulate grain shipments within their borders.

As a sidelight, I would like to call your attention to a circumstance concerning sampling that has become more critical as our covered hopper car fleet increases. The covered hopper cars have a material advantage for the shipper, not only in freight-carrying capacity but the fact that they may be loaded and unloaded more quickly and economically. There is actually a financial benefit to the shipper through the use of these cars. However, I have been told by country elevator operators that they have found that they are sometimes penalized in using covered hoppers at locations where samples are taken with a hand probe. They explain that they receive a discount at the market when the car is sampled by a probe, a discount occasioned by the fact that there is a separation between the sound grain and the chaff and foreign matter in the process of loading of such cars, and that as the probe is pushed through the central hatches of the covered hopper's roof, it picks up a disproportionate amount of the chaff and foreign matter; whereas, where you take a random sample of the entire car—by a mechanical sampler—a fair test of the quality of the entire car is obtained. I merely give this as an additional advantage obtained by the shipper through the use of mechanical sampling and submitted samples, advantages we believe attainable under both H.R. 11162 and H.R. 2121.

This is explained by the fact that a covered hopper car is loaded through a central hatch. The grain goes down and forms a cone, and by the force of gravity the sound and heavier grain goes to the outside of the car and the lighter material remains in the center of the car at the hatch openings; then, when the probe is pushed down through these hatches they get an unusual amount of chaff, so that they do not get as good a grade as the entire car is actually entitled to. And I have talked to a number of men out in northwestern Iowa who were very concerned about that factor, who have told me that they were very concerned about using the covered hopper cars, despite the real advantages of the hopper cars, due to the penalty that they receive on the price of their grain, because of the bad samples. One man has put in a mechanical sampler at his own expense, just to check this, and he found that it did do what he hoped it would do, that it would assure him of the quality of grain that he thought he had in the

car but did not show up on the probe sampler. And since the covered hopper car is increasingly in use, is demanded by the shipping public—and of course that is advantageous to us as well—this is becoming an increasingly important matter.

Just this last week, in a conversation at the Chicago Board of Trade, I was told that this is a problem for the market, too, and that samples are taken by a pelican as the grain flows out of the hopper car in order that there may be a check on the grain taken earlier by analysis of the probed sample. The mechanical sampler, these same sources advise, gives an entirely adequate sample by one measurement, so that our customers may dispense with these repetitive inspections.

We look to H.R. 11162 to make possible the use of this new technology, through increased use of submitted samples, and thus to decrease substantially the delays attributable to practices built up under the 1916 act.

Let me thank the committee for this opportunity to present the views of the railroad industry on this important legislation.

Mr. PURCELL. Thank you very much, Mr. Cassell.

We will be glad to hear from you now, Mr. Baumgartner.

STATEMENT OF D. A. BAUMGARTNER, GENERAL SUPERINTENDENT OF TRANSPORTATION, ATCHISON, TOPEKA & SANTA FE RAILWAY CO., CHICAGO, ILL.

Mr. BAUMGARTNER. Mr. Chairman and members of the subcommittee, my name is D. A. Baumgartner. I am general superintendent of transportation of the Atchison, Topeka & Santa Fe Railway Co., headquartered in Chicago, Ill. Grain is of course the largest revenue producer for Santa Fe and for most western railroads. Grain requires a larger portion of the car fleet and causes a more serious car supply problem than any other commodity.

Because of the importance of grain to American railroads, I want to explain why we feel that H.R. 11162 would improve our service to agricultural communities throughout the United States. American agriculture, of course, is typified by seasonality, and in the grains, especially, one crop is harvested right after the other. The seasonal surge of wheat, corn, soybeans, and milo places a maximum strain on the railroads' car-carrying capacity very dependably in the summer and fall of almost every year, from the harvest of Winter wheat in Texas in May until the corn, milo, and soybeans come in, in October and November.

This problem is national in scope, because while boxcars and covered-hopper cars from all over the country are needed in the granger States to transport grain, lumber shippers in the West and shippers in the Eastern and Southern States lack cars to move their own commodities. Because of the effect H.R. 11162 will have upon car utilization, by reducing the delays attendant upon repeated grain inspections, we feel that farmers throughout the country—our customers—will benefit by—

(1) making available a car supply thousands of cars greater than that presently available for use; and

(2) being relieved of many unnecessary merchandising expenses—borne by the farmer in reduced net prices for his grain.

SAMPLING AND INSPECTION SERVICES PERFORMED FOR THE BENEFIT OF
GRAIN TRADE BY THE RAILROADS

The service performed by the railroads in gathering grain from country elevators and bringing it to market has been moulded by the necessity of permitting grain to be inspected or sampled on its way to market, pursuant to requirements of Federal law, which is unique in transportation. Federal law since 1916 has required inspection by a federally licensed inspector to establish the official grade on all grain sold by grade and moving in interstate commerce. While the Federal law should be satisfied by inspection of grain at its country origin prior to loading it into cars, or at destination after the cars have been unloaded, presently the samples on which inspection is made are drawn from the grain while it is loaded in railroad box or covered-hopper cars.

Inspection privileges and the switching incident thereto are peculiar to the transportation of grain by rail. Carloads of grain arriving at an inspection point are switched to special designated tracks where samples of grains are taken from the cars. After such sample has been graded the cars are switched from the inspection track and handled in accordance with billing instructions. While on the inspection track the cars may be handled once or several times, in order to switch out other loads for which billing has been furnished. This problem is aggravated at the time of harvest. A check by the western railroads of carloads of grain sampled at over 80 different points in 1966 and 1967 revealed that grain cars receive up to three or four inspections each, and average over one and one-half inspections per car throughout the year.

(a) *Inspection at terminal markets*

Sampling and inspection at terminals.—When a carload of grain reaches a terminal market it is placed on an inspection track to be sampled and the sample analyzed before being sold or put into storage. From the standpoint of transportation service, this means additional detention time and additional switching to and on the inspection tracks and switching of cars to the respective delivery points when disposition has been made. This extra service in connection with the handling of grain takes place in the handling of no other commodities.

A grain car handled for inspection receives two extra switches at the minimum. Since the car is ordinarily not disposed of in 1 day it usually receives extra switching so that cars for which disposition orders have been received can be separated and moved off of the inspection tracks. Harvest congestion usually causes further delays in ordering cars which really strains the physical capacity of our inspection tracks and the limited force of inspectors at major terminals, so that we will often hold cars requiring inspection at stations sometimes 100 miles or more back of these terminals until the destination inspection tracks have been cleared to receive more grain. These delays, of course, occur just when the country shipper needs cars most desperately.

(b) *Inspection at interior points back of the markets*

In addition, inspection at interior points back of the primary markets has been provided for shippers by the railroads. By ordering the grain stopped at an interior point in the Northwest for free inspection and diversion, shippers are able to get a grade and sample of the

grain into Minneapolis, Duluth, and Sioux City and sell in whichever market they can get the best price. In order to accommodate the shippers in this manner and facilitate the marketing of such grain in the Northwest, a great number of interior inspection points have been established. These include Grand Forks, Jamestown, and Minot, all in North Dakota; Aberdeen, S. Dak.; and Havre, Great Falls, and Shelby, Mont. In Minnesota, these sampling points include St. Cloud, Willmar, Glenwood, Staples, and Thief River Falls. Here samples are drawn from the cars and sent to Minneapolis and Duluth for inspection by the Duluth or Minneapolis grain exchanges in connection with the marketing of the grain. Those points were established by the carriers in an effort to keep their terminals at Minneapolis and Duluth-Superior open. The sampling points relieve the Minneapolis terminal in particular of the necessity of performing great amounts of sampling, and since the samples usually arrive at Minneapolis or Duluth somewhat ahead or at the same time as the cars containing the grain, disposition of the cars at the terminals is speeded up. If it were not for these sampling points, the Minneapolis terminals would be hopelessly plugged with cars being held for Minnesota sampling and inspection, and terminal operations at Duluth-Superior would be seriously impeded.

These operations were described recently by the ICC in "Inspection of Grain at Aberdeen, S. Dak.," 303 I.C.C. 507, and "Inspection of Grain at Jamestown, N. Dak.," 301 I.C.C. 433. It is interesting that only this year the Minnesota Legislature abolished the requirement that all such cars destined to Minneapolis and Duluth be inspected there as well, so long as the car had a prior Federal inspection at one of the out-of-State inspection points. The delays caused by these additional inspections—desired by neither the shipper nor the receiver—were a source of tremendous car shortages, especially during harvest.

(c) *A brief description of the inspection process*

The first step in the handling of grain cars arriving at an inspection point consists of separating the cars billed for inspection at a point from other grain cars and placing these cars on inspection tracks. The sampling and inspection is performed while the cars are on the inspection tracks, and the cars will not leave that track until a disposition order, based upon the inspection, has been received by the carrier.

To start the inspection process, the railroads list all arriving cars to be inspected for the grain samplers and prepare and mail manifests on all such cars to the consignees. The sampler then probes each car and sends a sack of the grain sample to an inspection laboratory. Inspection laboratories make a charge for each car being inspected, which charges range from \$2 to \$10 per car, varying around the country somewhat. For instance, at Minneapolis the charges are:

	Boxcar carload or bulkhead	Covered hopper
Wheat, with protein analysis.....	\$6. 00	\$8. 50
Wheat, without protein analysis.....	4. 50	7. 00
Flax and barley.....	4. 50	7. 00
Corn and oats.....	4. 10	6. 60
Soybean and rye.....	3. 75	6. 25
All other grain, buckwheat, sorghum, sunflower seed and safflower seed.....	3. 30	5. 80

At Kansas City and Hutchinson, Kans., the charges for a simple inspection of all grains are:

Boxcar, \$2.50; open hopper, \$4; covered hopper, \$6.

In some markets these charges are paid in the first instance by the rail carrier on a monthly basis and in turn collected by the railroad from the shipper along with the freight charges. Thus, the carrier in effect keeps the books and performs a collection service for the inspectors. More often this charge is paid directly by the shipper to the inspection agency, although I understand that it is deducted from the purchase price received by the farmer, and ultimately borne by him.

These manifests serve as notices of arrival of the cars at the inspection points for inspection purposes. If the grain bulletin is received by 9 a.m., usually, the inspector will take a sample and forward it for analysis. To have such a bulletin by then, the inspection is often restricted to cars which have arrived by 6:30 p.m., the prior night—usually excluding weekends and holidays. Cars bulletined by 9 a.m. are held free of demurrage until 24 hours following the next 7 a.m.—again, customarily excluding Saturdays, Sundays, and recognized holidays—for disposition orders, so that most often the practice is to stop all sampling and manifesting of cars late in the morning of each day so that the inspection sample can be graded, and the manifest and grade will be received by the consignee—usually a grain firm or processor—at the primary market the following morning. It takes a minimum of 2 days of car detention time to complete the inspection and secure disposition from the consignee and to move the car out. Detention time usually is higher due to the fact that cars arriving at the inspection point after midmorning will not be sampled and manifested until the next morning, with disposition orders being received the following day. During harvest congestion longer delays occur.

SAMPLING MECHANICALLY, AND MAKING INSPECTION OPTIONAL FOR THE BUYER AND SELLER OF GRAIN, AND ELIMINATING INSPECTIONS WHICH THEY DO NOT WISH, H.R. 11162 WOULD MAKE AVAILABLE THOUSANDS OF ADDITIONAL GRAIN CARS FOR TRANSPORTATION

To determine the time consumed by inspection and sampling of grain cars, a number of the grain-carrying railroads in April of 1967 traced the movements of over 10,000 cars handling grain in the West and Southwest. The process of setting cars out at hold points, awaiting first the sample and then the results of analyzing this hand sample, and then obtaining an order to dispose of the grain after its owner received the inspection report, consumed approximately 3 days for these cars each time they were sampled. Data collected by these same railroads revealed that cars of grain are sampled in this way on an average of 1.6 times per car or that more cars were sampled twice than once, on the average.

In 1965, U.S. railroads originated 1,441,490 carloads of grain. As indicated in the foregoing, there is an average detention of 4.5 days for inspection for each carload shipment of grain. If, upon enactment of H.R. 11162, the sampling of cars could be done mechanically at origin and destination, or entirely omitted under permissive sampling, the improved utilization could, in effect, increase the national boxcar and covered hopper ownership by as much as 17,772 cars based upon 1965 grain loadings—1,441,490 grain loads times 4.5 days per load,

divided by 365 days per annum—which would be of considerable help in meeting peak harvest demands for equipment.

The ICC's study—in ICC docket *Ex Parte 241*—of the peak car shortage in October of 1964 revealed a daily average car shortage of 8,463 boxcars (Kline exhibit 217). Thus the saving of freight cars by reduced inspection delays could very well ameliorate the shortages of cars at times of peak harvest demand or other periods of heavy grain loading to the benefit of a very large segment of our agricultural economy. For this reason, America's railroads strongly support enactment of H.R. 11162.

Thank you, Mr. Chairman and members of the committee, for this opportunity to express the railroads' view of this proposal.

Mr. PURCELL. Thank you very much, Mr. Baumgartner.

I would like to ask one or two questions.

I think that I will start with you, Mr. Baumgartner.

Does the Sante Fe go into the State of Missouri?

Mr. BAUMGARTNER. Yes, we do.

Mr. PURCELL. Do you know whether or not your figures indicate any less delays because of the inspection or more delays or how does Missouri compare with the average figures you have used this morning?

Mr. BAUMGARTNER. Mr. Chairman, even though we do serve the State of Missouri, our large facility is on the Kansas side of the Missouri River. All of the inspection work that we do is in Kansas. The area we serve in Missouri, we do originate some corn, some soybeans, but we do have—let me see—

Mr. PURCELL. Mr. Cassell indicates that he has some information on that.

Mr. CASSELL. I have, Mr. Chairman. Many of the midwestern cities which have been cited were consolidated into the composite figure that Mr. Baumgartner spoke about. I have the figures for the Rock Island. We investigated this in April, from April 1 through April 16 or rather from April 16 to April 30 of this year, and we checked 1,449 cars with a total number of detention days of 6,244, which averages out 4.3 per car.

We have only one Missouri station identified here, St. Joseph, Mo., and there the average is 3.5.

I can give you our other stations in Kansas, Oklahoma, and Texas, and other places if you would like. That is the only one that shows for Missouri.

Mr. DANIELSON. We might comment, Mr. Chairman, that the Gulf, Mobile & Ohio Railroad made a similar study at its location in East St. Louis, Ill., which is in the St. Louis terminal area, and on 264 cars sampled, 812 days were taken (from the time that the car was switched out of the road train to be placed on the inspection track until the time that orders were received from the brokers who then owned the car, disposing of it, releasing it for further movement) or an average of 3.07 days at that location.

We have such information for about 90 different terminals throughout the whole of the Western States in this fashion.

Mr. PURCELL. The other day we had a witness that I remember who testified, from Missouri, saying that the inspection as carried out there—and I realize that there are some delays in the placing of the cars on the track, to get them on the inspection track that you refer to, as a part of the inspection, but I am sure the inspector will

say: "It does not take me very long to inspect after the car is placed." That was the testimony.

Now, my only other question is: Do you contemplate, that if the provisions of this bill that you are interested in were to become law—what percentage of this delay, the total delay, would be eliminated by the voluntary sampling?

Mr. CASSELL. I think that we can say with some degree of certainty as to some things, but I do not think that we can say with any degree of certainty as to what the percentage would be. We cannot say that. If everything was done by mechanical sampling or some form of sampling so that there would be no need for the cars to be put out, then it would be entirely removed. If it is done in some instances by sampling on the track, at least it would be materially reduced, as the grain trade has testified, by permissive sampling. Some people do not want it. And, as Mr. Danielson has said, all of the Chicago lines have been in the middle recently, because one house has complained, did not want the car set out, but they had been told that they had to set it out.

I think that we can give you the maximum amount, but I think it would be unfair to say that we can give you an exact amount, but it should be very substantial.

Mr. DANIELSON. May I supplement that?

Mr. PURCELL. Yes.

Mr. DANIELSON. You must realize, gentlemen, that in the handling of a railroad car we all know a country elevator operator is allowed 2 days in which to load it, free of any charge, and he could accomplish the sampling then with a mechanical sampler at his elevator, so that he would know he was putting into the car a certain grade, whether that was the grade that he wanted for his customer. He could unload it, blend it off if it was not, and put it back in. This is, in fact, done at some houses which we serve.

Again, at the terminal at the destination, the shipper is again permitted 2 free days in which to unload the car. Once disposition is received, it is then taken to his house, and in that location he has 2 days without any charge in order to accomplish the unloading.

He then could also take a mechanical sample or probe sample, but, in fact, the 4.5 days we have measured is not where sampling is taken at the beginning or at the end, but in the middle, and so much of this could well be eliminated. How much is dependent upon what our shippers tell us today. We continue to hold ourselves open to provide any service they wish.

Mr. PURCELL. Are there any further questions?

Mr. MAYNE. Were all three of you gentlemen present on Tuesday?

Mr. CASSELL. Two of us were.

Mr. MAYNE. Let me ask you, Mr. Danielson, did you hear the testimony of Mr. Stanton, director of the Grain Warehouse Division of the Missouri Department of Agriculture?

I think it was his testimony that the chairman just alluded to.

As I recall that testimony—and I wish that you would correct me if you have a different recollection of it—he testified that once the grain car was delivered to the inspection track anywhere in the State of Missouri, it was inspected that same day. Is that not what he testified to?

Mr. DANIELSON. Yes, he did, and so did Mr. Welsh, of the Kansas State Grain Inspection Bureau.

Mr. MAYNE. Let us take Missouri first.

Mr. DANIELSON. Surely. I believe that both were to the same effect, and I think in looking at a smaller part of the inspection process than what Mr. Baumgartner has described was involved, they were doing that.

Mr. MAYNE. Who delivers this car to the inspection track?

Mr. DANIELSON. Pardon me, I did not hear you?

Mr. MAYNE. Who delivers the cars to the inspection track?

Mr. DANIELSON. We do, the railroads.

Mr. MAYNE. It is your responsibility to get it on the inspection track and then when you get the order to take it off, it becomes your responsibility again?

Mr. DANIELSON. Yes, sir.

Mr. MAYNE. While it is on the inspection track, you cannot do anything with it until the inspector inspects it, can you?

Mr. DANIELSON. That is correct.

Mr. MAYNE. Well, what is the explanation for this seemingly great conflict in your testimony this morning and Mr. Stanton's testimony? I believe you testified that cars had to wait for as long as 3 weeks?

Mr. DANIELSON. Yes, indeed.

Mr. MAYNE. For inspection?

Mr. DANIELSON. Yes.

Mr. MAYNE. Are you talking about a different State than Missouri?

Mr. DANIELSON. Yes, sir. In fact, the information that we have here shows that this study was taken in April when there was no harvest or substantial movement at Glenwood and Thief River Falls—I tabbed some of these. Cars were held 9 days, at Thief River Falls, for simply inspection.

Mr. PURCELL. Where is that?

Mr. DANIELSON. It is up in Mr. Zwach's area, up in Minnesota.

Mr. MAYNE. Where does it take 3 weeks, according to your records?

Mr. DANIELSON. In this study—and we were not talking particularly—at harvest times, it takes sometimes as much as 3 weeks.

Mr. MAYNE. Where?

Mr. BAUMGARTNER. Usually, when that happens it would not necessarily be right at the inspection point. There are times when we have had, for example, over 2,000 cars that we had to hold out of the point of inspection because of the congestion at the inspection point itself. The 3 weeks would include, for example, this necessary detention back of the inspection point. That is an exception, but it has happened.

Mr. MAYNE. Do you think that part of this 3 weeks' period was the time involved in getting the car to the inspection point and getting it away from the inspection point?

Mr. BAUMGARTNER. Because of the accumulation, the congestion at the inspection point, we have to hold the cars out. We cannot move them into there; so, we have to hold them out of the inspection point until there is room for them.

Mr. MAYNE. I take it that your answer to my question is "Yes"?

Mr. BAUMGARTNER. I presume that is right.

Mr. MAYNE. And it was not accurate to say that cars had to wait for as long as 3 weeks before inspection, Mr. Danielson—at least, it is not correct to infer that they waited 3 weeks at the inspection point waiting for inspection, is it?

Mr. DANIELSON. No, sir, but let me point out to you what the gentlemen were describing—and we do not criticize them. We say that on balance they do an entirely satisfactory job, and we hope that they feel that we, on balance, too, perform an entirely satisfactory job. There is no one trying to say that any one part of the procedure is hopelessly bogged down. What we are saying to you—and I think that you must understand—is that the grain inspector's job does not begin until early in the morning. He receives a manifest saying that this car is available now for him to inspect between now and 9 a.m., in the morning. In order to prepare that manifest, to type it up for him, that car has to arrive in the yard prior to 6:30 the previous evening so that the car he may inspect in this 1 day would have had to have been placed there, under the customary procedure in which we deal with these inspectors, the day previous, and once he is done with his inspection, he sends it on to a laboratory, to the Omaha Grain Exchange or to the Houston Port Laboratory, and at that place the sample from the car has to be analyzed and a report of it sent back to the person who has the billing on the car, saying that it is now in Houston and that the lab says now that it is No. 1 wheat.

Mr. MAYNE. Mr. Stanton said in the State of Missouri it was never more than 1 day.

Mr. DANIELSON. He is not giving you the threefold process that I have just described. He is describing just one portion of it, and he says that there may be odds and ends of times, I think he said perhaps as much as 100 cars in a year that it takes longer than that, but for his function, to take a railroad list, to send an inspector out to stick his probe into the car, put some grain into a sack and deliver it to the inspection laboratory, that may be so, that it is no more than a day being required.

Mr. MAYNE. Certainly, this subcommittee would be entitled to believe from his testimony that he was trying to give us the impression that whatever inspection is required of his department in the State of Missouri does not consume more than 1 day's time.

Mr. DANIELSON. We do not dispute that fact, sir.

Mr. MAYNE. Does it not follow from that, that the railroads would be free to handle this car in any way they saw fit except for the period of 1 day when it would be tied up for inspection? Is that not the fair thrust of his testimony?

Mr. DANIELSON. No, sir.

Mr. MAYNE. Why not?

Mr. DANIELSON. In order to be prepared to deal with him, the procedure that has been built up is that a day is involved, and anything that has not happened until after 9 o'clock has to be happening the next day, or he cannot be ready to deal with that car. We cannot tell him, on a car arriving at 10 o'clock in the morning today, "This is a Thursday car, Mr. Chief Grain Inspector; please send an inspector out there with a brass probe to fill a canvas bag and have it analyzed." He is entitled to have that car presented to him tomorrow, on Friday, and then on Friday, with the list of cars, he will tell his man: "Go out there. This is a Friday car. Take a sample of it, and send it over to the laboratory to have it analyzed." This is the way that we must deal, in order to permit him to make this 1-day performance.

Do I make myself clear, sir?

Mr. MAYNE. Not if you are intending to make the point that somebody other than the railroad is responsible for the movement of that car, except for the 24-hour period which is the length of time he says he ties it up for you.

Mr. CASSELL. May I try my hand at this?

Mr. MAYNE. I wish that you would.

Mr. CASSELL. In St. Joe, Mo., as an example, I gave the figure of 3.5. I think that the examiner, the inspector rather, probably takes his samples between either 6 a.m. or 7 a.m. and 9 a.m. He is probably all through for the day by 9 o'clock in the morning. He has to be through at an early hour in order to get the samples back to the laboratory to be run through their machinery to obtain the specifications that they put on this grain. So that is why he has to be through at an early hour. But in order for him to do his inspecting between 6 a.m. and 7 a.m. and 9 a.m., as Mr. Danielson has said, the car has to be placed on the inspection track the night before. We cannot put it there at 7 a.m. If you have inspection tracks with 100 or 200 cars on them, you physically cannot handle them there. Just put them there, for the moment that this inspector wants to have them for him to do his job, and after he has finished his job, as he said, normally, in practically 100 percent of the time he will be through by 9 a.m., and then the car has to stay until the laboratory has finished. And after the laboratory has finished then the fellow who is the owner of that grain has to say what happens to that car, and then we have to send a switch engine in and get the car out.

Now, if everything happens with the greatest dispatch, if the sample is taken, it will take approximately 3 days to get the job done, but if you eliminate the need for the sampling, or the shipper saying "I do not want this car sampled," you would save 3 days.

This is about as expeditious as you can handle it.

And if you do it by a submitted sample, so that the sample is taken outside of the car, then there is no need to put it on the inspection track either, and you would save a minimum of 3 days by eliminating this whole machinery, even if everything is done as expeditiously as it is possible to do it, without anybody being at fault.

The mere fact that it is done takes this time.

Mr. MAYNE. You think that the inspector completes his work usually by 9 o'clock in the morning, and then he sends his sample to the laboratory?

Mr. CASSELL. Yes, sir.

Mr. MAYNE. When the laboratory has completed its function, what does it do? Who does it notify?

Mr. CASSELL. It notifies the owner of the grain.

Mr. MAYNE. And you feel that is usually done that same day?

Mr. CASSELL. I would think, as a rule—it does get that far the same day, does it not?

Mr. BAUMGARTNER. If it gets it accomplished by 9 a.m. in the morning, yes, sir.

Mr. MAYNE. So that, on the same day, so far as the inspection process is concerned, it is complete.

Mr. CASSELL. Usually.

Mr. MAYNE. The owner is notified, and then it is between the owner and the railroad as to when it moves, is it not?

Mr. CASSELL. Then, he has to give us the notice as to the disposition to be made of that car.

Mr. MAYNE. But it ceases to be the inspection part?

Mr. CASSELL. That is correct.

Mr. MAYNE. Or any phase of the inspection process that is causing the delay?

Mr. CASSELL. I would admit the first; not the second. It is a part of the inspection process.

Mr. MAYNE. Well, it would seem to me if the inspection process is completed—it is, is it not, when the laboratory notifies the owner that it is completed and the car is free to go?

Mr. CASSELL. The whole cycle of having the car put out for sampling, which is the initial act, and then the grading, the inspection of that sample—the whole cycle takes, under the best circumstances, I think, as we have described, approximately 3 days.

Mr. MAYNE. Would you not agree with me that the inspection itself is completed when the laboratory notifies the owner?

Mr. CASSELL. I would agree to that. Somebody has the slip of paper saying what the grade is when that happens.

Mr. MAYNE. At that point, any further delay is not the responsibility of the inspector; is it?

Mr. CASSELL. Not of the inspector but of the cycle of inspection.

Mr. MAYNE. If the owner does not notify the railroad, then it is the owner's fault; is it not?

Mr. CASSELL. Even if he does it as quickly as he can, there is still the delay that could be avoided.

Mr. MAYNE. We are not talking about the delay that occurs after the laboratory has notified the owner. Apparently, the delay occurs after that notification.

Mr. CASSELL. It is, whether you call it a delay or whether you call it the necessary time that it takes. If you are a dealer in grain and you got your notice at 3 o'clock this afternoon and you, in turn, gave the railroad notice of what you wanted to do with it, the mechanics in the office will take—what? About an hour, 2 hours, and then to give it to the owner will take a half hour or so, and then we do not have instantaneous movement of the car from the tracks.

What we are saying here is that even under the best of circumstances this consumes time that can be avoided by the bill you have under consideration. It is unnecessary time.

Mr. DANIELSON. May we comment on this point?

Let us take a car from Hawarden, Iowa, up in your neck of the woods, sir. We described in Mr. Heineman's testimony how it comes down on its way to Clinton, and dropped off at Ames to go down into Des Moines for inspection. This process takes about 3 days, once it is in Des Moines. If that country elevator operator at the beginning had a mechanical sampler he could accomplish the work there in the free time that is given him, the 2 days that have never been counted in any of this study, and he could avoid any need for sampling the car at Des Moines, Iowa, taking it 50 miles down, waiting 3 days for the quickest possible sampling, and 50 miles back up to the main line, and he could have that car into Clinton in a day or 2 days, but, instead, it takes him 5 days, and that is what we are talking about, sir, as being the technological advance that is possible under this bill that is before you.

Does that make it any clearer?

Mr. MAYNE. Well, in the present state of the record it seems clear to me that Mr. Stanton's testimony stands up pretty well. He says that the inspection just takes a day. It seems to me that the other delays inherent in this are the delays which take place while the car is either under the responsibility of the railroad or during the interval after the laboratory notifies the owner and he has the responsibility of notifying the railroad. Conceivably this could be laxness on the part of the shipper himself, of the owner himself, which would cause these delays of 3 days or 3 weeks which you gentlemen have put into the record, but, unless you can show some specific case in Missouri that a car has been on the inspection track longer than a day, I am going to discount your testimony on that.

Mr. CASSELL. We do not quarrel with that. In fact, Missouri does as I told you, at St. Joe. Our figures were an average of 3.5, which is less than the average of our system. The system average was 4.3, but the 3.5 can be avoided.

Mr. DOLE. Will you yield?

Mr. MAYNE. Yes; I will yield.

Mr. DOLE. I am sorry to be late but I have read your statements and have heard the exchange. The point, as I see it, is that the delay cannot be attached to anyone. I have some familiarity with this as my father was in the grain business. I know how he would wring his hands at the delay between his elevator in Russell, Kans., and in Kansas City. Apparently, it is no one's fault. The problem is trying to resolve this to speed up the cars during harvesttime and not to dump the wheat, for example, on Main Street.

Mr. MAYNE. Mr. Danielson, I am sure that you are familiar with the record of the previous hearing which took place in September. Calling your attention to page 29 of the transcript of those hearings, I asked Mr. Grange about the requirement, as I understood it, that existed at some points that Federal inspection had to be performed even when the shipper and the consignee were one and the same company, and as I recall his answer, he said this was not being required by the Grain Standards Act and that to his knowledge that was not taking place.

Could you shed any light on that?

It seems to me that if it is being required, that would be a wasteful and an unnecessary thing.

Mr. DANIELSON. I think that, in all fairness to Mr. Grange, that, again, we must pay particular attention to what he was saying and what he was not saying. I think that his answer to you was, sir, that it should not be required.

On page 51 of that same transcript, I think that he said that the practices which have been built up around the statute, to him an administrator in Washington passing out guidelines, general guidelines, he would have difficulty to say explicitly, and he did not want to tell you that it was never done, but I think that he reiterated that it should not be done.

We have described a situation that we have with a shipper in Minneapolis. I do not think that we want to discuss any particular firm's name, because what they tell us in confidence I do not know that we should put on the record for everyone, but if it is important to you, we can. This shipper is a substantial shipper of barley. It goes into malt. And this company has a wholly owned subsidiary in Chicago.

In some instances it bills and sends the barley from this company—let us call it company C—to its company C at Chicago, and in other instances the bill of lading reads from company C to company S, its wholly owned subsidiary in Chicago. In both instances, it knows what is loaded into the car and it knows what it is going to unload out of the car, that it is exactly of the same quality and exactly the same quantity or the railroad is going to pay for what is lost on the way.

Mr. MAYNE. Does the subsidiary company have a different name than the parent company?

Mr. DANIELSON. In some instances, sir, it goes from company C to company C, from the parent to its own company at that location, and in other instances it goes from company C to company S. That is its subsidiary. So that different names do appear, but in neither case does company C or company S want an inspection.

Mr. MAYNE. I can see with different company names it might not be the inspector's responsibility to note that one is a subsidiary. But he should not have to inquire into that. Certainly, if shipment is made from and to the same company, inspection would be a useless requirement.

Do you think that the act should be amended to make explicit that no inspection should be required where it is to and from the same company?

Mr. DANIELSON. I think, sir, that the act which tells you, Mr. Mayne, that a shipment from you to your brother, that you are required to have an inspection in order to use interstate railroad service is very presumptuous.

Mr. MAYNE. I do not agree that shipments to a brother should be exempt, nor should shipments to a subsidiary of a separate company. The brother is a separate entity just as much as a subsidiary is. But when shipment is to and from one and the same person, corporate or otherwise, I would favor corrective legislation to eliminate inspection and unnecessary delay in that kind of a situation.

Mr. DANIELSON. May I respond in this way, sir?

I do not think that the inspector should have any question at all whether it is the same company or subsidiary company. I think that the man who pays for the inspection service is entitled to tell the inspector, regardless to whom he is selling it or from whom he is buying it, "I know what I have got, and I do not need you to tell me, sir. I do not want to pay \$10 a car for you to come out there and poke around in it." I think that is what H.R. 11162 gives a man who uses our service, just like the man who uses barges downstream can now do, like the man who trucks from Minneapolis, from Chicago, can do today. So that a railroad shipper has the same choice, to say, whether he wants it or does not want it, just like the man who ships cherries, peaches, rice, or any other commodity by rail, that is what we hope would be obtained by this bill, sir.

Mr. MAYNE. Thank you.

That is all, Mr. Chairman. That concludes my questions.

Mr. PURCELL. Mr. Zwach?

Mr. ZWACH. Congressman Mayne asked a number of the questions that I had in mind. I have been impressed by your presentation. I am somewhat concerned that you, perhaps, blame the loss of grain transportation to this act.

Mr. DANIELSON. No, sir.

Mr. ZWACH. Do you know how long ago that you did almost 100 percent of the grain hauler's business?

Mr. DANIELSON. I suppose that as late as 1936, that might have been true, Mr. Zwach.

Mr. ZWACH. I think that even in 1945 or 1950, you still had 85 to 90, to 95 percent, didn't you?

Mr. DANIELSON. We would not quarrel with you.

Mr. ZWACH. At that time, you had the same inspection.

I represent the origin point of the great grain shippers of the United States, the Minnesota area. I am sorry that Mr. Heineman is not here today. Since the advent of Mr. Heineman, we have seen a deterioration of rail service. I do business with a little elevator. We used to have a train there everyday. All of our grain went by rail. I think that now we have a train once a week. We still produce as much grain. What has really happened is that our railroad station has been shut down; our chamber of commerce and other people in our community feel that instead of trying to expand and grow, what is happening is that everything has been drying up, so that the rail service has had a tremendous deterioration. I feel that a lot of our people think that the railroads are going in the wrong direction, instead of giving service to the people, instead of trying to drum up business and good relations, they have closed all of their stations down. "This had to be a business decision; I could not make it." This is the feeling.

Do you not think that the loss of a lot of good business has been due to the lessening of service?

Mr. DANIELSON. The honest way to answer you, sir, is that it takes somewhere between five and 10 cars between the engine and the caboose to pay the wages of those men on the train, that is, the men who run that train. Perhaps, in 1950 it was only five cars that was required to pay those wages. I would submit that by now it is close to 10 cars, without venturing to say what the precise number is, and until there are men in these towns who find it commercially advantageous to give us those 10 cars every day to pay those wages, we cannot run that train every day of the week, sir. It is inexorable economics.

I say to you that anytime it costs that country elevator \$10 more a car to use the rail service than to use truck service, he will not do it.

Mr. ZWACH. I want to ship by rail. The elevator operators want to ship by rail. The directors of our cooperative take that same position.

All over my district, in a lot of the areas, they only have one-train-a-week service. We have many good elevator points that often take in many cars a day which have only one-train-a-week service.

Now, to get a bill of lading, to have somebody come in from some other point to take care of this has been quite a problem.

So, I suppose a part of our problem is a great laxity of service. There are economics involved.

Certainly, our State inspectors are licensed inspectors and are available at all times, and certainly cars do not lay over there that many days just for inspection.

Does that include a car of grain that is billed to Wilmar and maybe sets a week awaiting transportation? Is that all included?

Mr. DANIELSON. No, sir.

Mr. ZWACH. In this time element?

Mr. DANIELSON. We have instructed these operating officials to report to us if the road train arrives in Glenwood and would then go

out of Glenwood with this same car in tomorrow's road train, or Thursday's road train, that is zero days. When that car is taken to the inspection track and is required to wait, required to wait for a sample inspection and laboratory analysis and a shipper's order, requiring it to wait for a simple inspection, a shipper's release, then on a movement to the road train, count only for the difference between the days that the car would have moved in the fast-as-possible-normal service and the days that were involved because this car was not moved in that service but instead was set out for inspection and disposition. And this is what is involved.

Mr. ZWACH. More important, because some of this is sort on the side—more important under the new law, an individual who still wants inspection at Glenwood or St. Cloud could still have it?

Mr. DANIELSON. No buts about it; he always has that privilege.

Mr. ZWACH. I think this is the most important part that anyone who still desires it has it available.

Mr. DANIELSON. He may choose. We should not have to tell him that he must put it there. No State has the power and no Federal law tells him that he may not choose; he may choose, himself.

Mr. ZWACH. I certainly think that the Congress ought to be interested in treating all shippers equal and on a fair and uniform-type basis. I think this is just absolutely fundamental and necessary.

I just wish that today I could have had the president of a mighty fine railroad that serves so much of my great area to speak here personally.

That is all, Mr. Chairman. Thank you.

Mr. PURCELL. Thank you, Mr. Zwach.

I am trying to draw a parallel between what it seems to me has been required by this 60-year-old law and with many more on the books in areas where technology has advanced rapidly. It seems to me that we may use the airlines for an example. Now, I am not trying to rub it in on your people, but would there be any basic difference about the laws that we now have, say, compared with a law that said that you could not go from one State to another without stating that you had a health certificate, that you had to have a health book in your pocket to show that you had every vaccination that some doctor had dreamed up. In other words, to say that in every interstate movement of people by air that when we had to land at some point, we would have to hold our book out as an inspector walked down the aisle and saw that we had our vaccinations up to date. Even though those inspections each might not take more than 5 minutes between landings, it would certainly consume a considerable amount of time to have to come from 30,000 feet up down to the ground and spend some time on the ground getting a release to go back into the air from the air controller, and then go to the next station and do the same thing again. We would have an inspector who was holding onto his job, because he had either a private license to inspect my vaccination or some State had hired him to inspect it, and it might not take more than 5 minutes per stop, but it would take a few hours in total, and you would spend more time landing and taking off than you would flying.

Is there anything basically different about the delay in my getting to my destination than it is with the delay in the grain getting to its destination? If it is possible to have mechanical inspection at one end or the other end of the line and for you to choose, if you want to, to

have your grain in your car pulled out and inspected, is this a legitimate comparison?

Mr. DANIELSON. The only thing that you lack for complete analogy is the Federal man enforcing these vaccination certificates saying, "I will not send my inspector to the Greyhound bus depot in Chicago or to the North Western station there, but I will inspect them only at Allegheny County Airport," and then you have a complete analogy, sir, as to the process with which we are faced.

Mr. PURCELL. I made a speech, too; I appreciate that.

Are there any other questions? Or any other speeches?

All right, gentlemen. We thank you very much, gentlemen.

We will now call Mr. Brooks as our next witness.

Mr. DANIELSON. I thank you.

Mr. CASSELL. I thank you.

Mr. BAUMGARTEN. I thank you.

Mr. PURCELL. Mr. William F. Brooks, president and general counsel for the National Grain Trade Council.

Let me say, again, that we appreciate very much your cooperating with us. We do appreciate your constant cooperation with us.

STATEMENT OF WILLIAM F. BROOKS, PRESIDENT AND GENERAL COUNSEL, NATIONAL GRAIN TRADE COUNCIL

Mr. Brooks. Mr. Chairman and members, I am very glad to cooperate.

The National Grain Trade Council appreciates this opportunity to present the council's views to amend the U.S. Grain Standards Act, H.R. 11162 and H.R. 2121, and legislative proposals to amend that act which have, during this session, been submitted to Congress by the Department of Agriculture for congressional action.

I am William F. Brooks, president and general counsel for the National Grain Trade Council.

During these hearings a number of council members will present or submit views on the pending proposals to this subcommittee. This fact is indicative of the widespread interest, within all sectors of the grain marketing industry, in the U.S. Grain Standards Act itself, its administration and pending proposals to amend that act. During these hearings you have received very informative and helpful views from representatives of the Grain & Seed Dealers National Association and the North American Export Grain Association. Their views warrant your studied consideration as you deliberate these legislative proposals.

The National Grain Trade Council believes that when legislation is proposed by the executive branch, there falls to the executive branch an obligation to justify the enactment of its proposals. This is something more than merely going forward before a subcommittee such as this, with a description of the legislative proposal and the submission of broad, generalized views in an attempt to justify enactment. We believe that on the Executive falls the burden of proving, by some preponderance of evidence, that need exists for change or for amendment. We believe that in this respect the Department of Agriculture has failed to meet this criteria.

The U.S. Grain Standards Act was approved in August 1916. Its passage through Congress that year came after an extended considera-

tion by appropriate congressional committees over a 13-year period, commencing in 1903. We believe that the act, as adopted, combined the mature consideration of all parties interested in the inspection and grading of grain. We believe also that the provisions of the act have stood the test of time and that the passage of time alone since 1916 does not warrant a complete overhaul and repeal at this time.

In 1956 and in 1958, the National Grain Trade Council endorsed in principle two pending legislative proposals, which were thereafter adopted, to amend the act. The 1956 amendment was concerned with deceptive loading and grading; the 1958 amendment, with granting authority to the Secretary to charge for travel and overtime of Government employees and for the disposition of charges for these services. During the past several years the council has studied additional suggested and submitted legislation to amend the act.

On the basis of these studies, and on the basis of an extended study of H.R. 11162, the council believes that to bring the present act in tune with the current usages, needs, and necessities of the trade—all segments of the trade—the producer here and the consumer abroad—and with the present and foreseeable future needs of the trade and the Government, six, possibly seven amendments to the present act will best accomplish these results. To adopt some or all of these specific amendments will be consistent with the usages, needs, and necessities of the trade and the Government, and will avoid creating a new frame of reference, other than the present U.S. Grain Standards Act, within which regulations will be promulgated and grain standards revised, and under which the grain marketing industry will operate.

We note from the testimony of the Department's representatives, that although the Department believes that the Grain Standards Act should be completely revised, Department spokesmen stoutly maintain that the Department has no intention to change the regulatory scheme of the present act or to change the procedures by which standards are developed.

Specifically, they would retain a statutory right of appeal although the legislative proposal submitted by the Department would make the appeals procedure discretionary with the Secretary of Agriculture. Specifically, the bill would continue the present national grain inspection—nationwide—system. Specifically, the Department is not proposing any essential change in the development of grain or grade standards or the method of promulgating the content of those standards. Specifically, those standards will continue to be realistic and useful in merchandising grain. Specifically, they are not proposing any change of significance in the grade standard development, promulgation, or issuance. Specifically, under the present bill, the appeal or reinspection procedures as they are now being carried out would not be affected. Specifically, all inspection work would be undisturbed by the proposal and again, specifically, the Department has no intention to make any change in the development and promulgation of grain standards. Specifically, the Department believes that the standards should facilitate the marketing of the commodity involved, reflecting the interests of all interested parties, beginning with the producer and continuing through to the ultimate consumer. And in that conclusion and assurance, the council believes that the Department in fact is endorsing the present statutory requirement that standards should be amended only as the "necessities of the trade require"—the necessities of grain producers, handlers, warehousemen, exporters, and processors.

On these specifics, enumerated above, see pages 15, 20, 27, 32, 34, 46, 49, 53, 60, and 61 of part I of the report of hearings of this subcommittee on bills to amend the Grain Standards Act.

I would like to read from Mr. Granger's testimony in order that we can put in focus the provisions of the act as to inspection:

The present Act requires that grain which (1) is sold, offered for sale, or consigned for sale by grade prior to shipment, and (2) is shipped or delivered for shipment in interstate commerce from or to a place where a licensed grain inspector is located, shall be inspected.

It is not meant to cover house shipments between one firm and another. This does not cover intrastate shipment.

The regulatory scheme of the present act provides that initial grades shall be determined by non-Federal employees whose inspecting and grading activities are to be supervised by employees of the U.S. Government. These non-Federal employees of State governments or boards of trade thereafter issue grade certificates signed by them as Federal licensees and containing information to the effect that the certificate is issued under the sponsorship of a State agency or board of trade, such as the State of Washington or the State of Missouri or the Fort Worth Grain Exchange or the New Orleans Board of Trade. Under this regulatory scheme, the Federal Government and its employees act as supervisors and referees and umpires. This scheme, we know, was adopted only after Congress had considered a number of alternatives. This scheme, we believe, has worked well in practice and should in no way be disturbed.

We are certain that no case has been made to change this scheme even to the extent of interposing the threat of U.S. Government intervention by granting to the Secretary authority to make initial inspection and initial grading by U.S. Government employees in domestic commerce of grain, should he decide to revoke a "cooperative agreement" or at his discretion.

This regulatory scheme provides a direct line of control from the Government to licensed grain inspectors. Through this the Department of Agriculture makes certain that fees are reasonable, uniform, and nondiscriminatory. Through this the Department of Agriculture sets down requirements for equipment and the conditions under which grain will be sampled, inspected, and graded. The council opposes any suggestion, through a cooperative agreement or otherwise, which would authorize or permit the Secretary to grant permission to a State government or to a board of trade and, by hypothesis, to deny permission to these agencies to operate an inspection department.

One amendment which might be adopted to the present act would be to authorize the Secretary, or the Department, to make initial inspection available through employees of the Department at Canadian points where U.S.-produced grain is stored and from which this grain is moved to foreign destinations. This service is now made available under the Agricultural Marketing Act. According to the Department's testimony, the Department wishes to continue making this service available under the U.S. Grain Standards Act.

Six additional amendments to the present act may be warranted in view of the usages, needs, and necessities of the trade or the Government. These would—

(1) Require that all persons who are to be federally licensed inspectors should qualify under testing and examination procedures established by the Secretary of Agriculture.

(2) Provide that appeals fees not refunded should be available to USDA without fiscal year limitation, rather than be deposited in the Treasury as miscellaneous receipts of the Government.

(3) Provide that when samples are obtained by USDA for appeals purposes, the proceeds of the sales of these samples, if they are sold, should be available to USDA without fiscal year limitations, rather than be deposited in the Treasury as miscellaneous receipts of the Government.

(4) Permit the movement of grain in interstate commerce without an official inspection if the parties to a transaction agree that no official inspection is required and require official inspection of grain sold by grade in foreign commerce when that grain is shipped from a location where inspection is available.

(5) Permit the issuance of an official grade certificate under some circumstances when the grade is based on a submitted sample and allow the use of an official certificate in such cases where the certificate clearly indicate the circumstances under which the submitted sample was obtained.

(6) Require that when grade designations or terminology are used in either interstate or foreign commerce, the designations and terminology be those of the official U.S. Grain Standards.

Section 7 of the present act provides for the automatic licensing by the Secretary of Agriculture of persons authorized and employed to inspect and grade grain under the law of any State. As to State employees, no particular showing of competency is required. All other licensees obtain their licenses only after the Secretary of Agriculture is satisfied by satisfactory evidence that these people are competent to inspect and grade grain and to certificate the grade thereof for shipment or for delivery in interstate and foreign commerce.

The first amendment suggested above would make uniform the licensing requirements under the present act.

Section 6 of the present act provides that in the case of an appeal, appeals fees which are not refunded (those fees are not refunded if the initial grade, as determined by a supervised non-Federal employee holds up) shall be deposited and covered into the Treasury as miscellaneous receipts.

In 1958, when Congress considered amendments to the U.S. Grain Standards Act to authorize the Secretary to charge for travel and overtime, this committee accepted a National Grain Trade Council recommendation that payments received for these services should be retained by the Department of Agriculture rather than covered into the Treasury as miscellaneous receipts. We had hoped that at that time an additional amendment to the act would provide that appeals fees not refunded be similarly handled, and we so recommended. The Department then, however, was not receptive to this suggestion and our recommendation was not adopted.

In April of this year, the Department, by executive communication, sent to Congress proposed legislation relating to a number of inspection acts, including the U.S. Grain Standards Act. By request Senator Ellender introduced this proposal where it is now pending before the Senate Committee on Agriculture and Forestry as S. 1480.

Section 4 of S. 1480 (this proposal contained in a letter to the Speaker of the House has not been introduced on the House side) strikes out the fourth sentence of section 6 of the act. By striking out

that sentence the objectives of our amendment 2 above would be accomplished.

The same legislative proposal—now, presumably, on the Speaker's desk—would provide for the disposition of samples in a broader fashion than the National Grain Trade Council would recommend. Our recommendation is that title to samples which might be sold by the Department of Agriculture would be obtained by the Government only when possession of these samples goes to the Government as a result of the appeals process.

The amendment No. 5 is an attempt to dignify the sort of official grading document which might be obtained on the basis of a submitted sample.

The objectives of the amendment No. 6 are self-evident from its language.

The National Grain Trade Council believes—

(1) That standards should be changed only on the basis of necessities of the trade, as is now provided in the act, and as may be developed in hearings provided by the Administrative Procedures Act, rather than on the basis of the Secretary's judgment formed after the Secretary determines what "accurately measures the kind, class, quality, conditions, or other characteristics of grain and that best reflect the value or usability of grain."

(2) That standards should be uniform whether used in export or domestic trade and should not be varied for any reason, end use or otherwise, as would appear to be possible under the proposal granting the Secretary discretionary authority, on request, to cause official inspection under standards or "other criteria approved by the Secretary for determining the kind, class, quality, condition, or quantity of, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 2 of the pending bills.

In substance, the council believes that the grain marketing industry requires uniform standards, uniformly applied, which will not have superimposed on them criteria or other factors depending on the Secretary's judgment and discretion.

The council opposes the requirement that licensed inspectors operate only under "cooperative agreements" and to the grant of authority to the Secretary to enter into these agreements, coupled as this grant is with—

(1) An attempt to obtain for the inspecting agency as compensation by ways of fees for its sampling, inspecting, and grading services only enough to cover the cost of these services; and

(2) A provision that USDA employees be licensed by the Secretary to perform initial inspection.

The council opposes the pending proposal's grant to the Secretary of authority to deny official inspection for all the reasons specified and would object to some of the recordkeeping requirements of the pending proposal's broad attempt to hold principals responsible for the "knowledge, act, omission, or failure" of an employee or agent.

The council opposes the grant to the Secretary of the broad investigative and visitatorial authorities possessed by the Federal Trade Commission and should not be enacted. The council is convinced that the one satisfactory procedure by which the U.S. Grain Standards Act will continue to be responsive to the requirements of the Govern-

ment and the necessities of grain producers, handlers, warehousemen, exporters, and processors, is to amend the present statute in the limited way we have recommended.

Mr. Chairman, the record of these hearings, thanks to your foresight and patience and the foresight and patience of the subcommittee members, is an excellent basis on which to make a thorough study of the current and immediately foreseeable requirements of those who will rely on the provisions of the U.S. Grain Standards Act, regulations promulgated under it, and its administration. The act and operations under it are regularly reviewed by the council and council members. To you and the subcommittee we offer our services if, in the future, you or any members of the subcommittee believe we can be helpful to you in your deliberations in a most technical field.

Mr. PURCELL. Thank you, Mr. Brooks.

Are there any questions of Mr. Brooks?

Mr. MAYNE. Mr. Brooks, is it true that under the act as presently administered, most grain moving by truck is not inspected?

Mr. BROOKS. Well, it is true that much of it is not inspected. I cannot say whether most of it—but I am of the opinion, individually, that most of the grain moving by truck does not need to be inspected.

Mr. MAYNE. Surely, you are sufficiently familiar with the situation to be able to tell us whether most of the grain, that is, the majority of the grain, being moved by truck, is or is not inspected, are you not?

Mr. BROOKS. I know that some truck grain is inspected. I know that a large amount of truck grain does not, under the act, have to be inspected. Now, let me give you an example. In the first place, it must have been sold or consigned for sale or offered for sale by grades before it begins to move in interstate commerce, according to Mr. Grange. Not much grain is trucked under these circumstances. A farmer brings grain into an elevator and there is no sale until it gets to the elevator, whether he crosses State lines or not—some elevator operators will make a sale of grain by grade to a terminal, and this should be inspected if it crosses State lines. On the other hand, there is a large volume, or some volume of grain, which will move from a country elevator let us say in Michigan, with no set market determined at the time it leaves the elevator, with directions to the driver "Call us in an hour or keep your radio on, and you determine whether you go to Toledo, whether you go to Terre Haute, or whether you go to some other place."

Mr. MAYNE. Now, Mr. Brooks, the thing that I am asking about is something on which we have had considerable testimony with which I am sure that you are familiar—testimony that most grain that moves by truck is not inspected. I am sure that question does not come as any surprise to you. I am sure that you have given it a good deal of thought. It is difficult for me to accept a statement from you that you do not have an opinion as to whether this is true or not. I do not believe you really mean to say that. I think you must have an opinion and must be thoroughly informed on this subject. I would like your informed judgment as to whether or not most grain moving now by truck is inspected under the act.

Mr. BROOKS. Rather, if I could, I would rather say that part of the grain moving by truck does not have to be inspected under the act.

Mr. MAYNE. Therefore, it is not inspected?

Mr. BROOKS. That is right.

Mr. MAYNE. Does that not seem to be unfair to the railroads?

Mr. BROOKS. Do you mean, do I think it has contributed to the loss of grain traffic?

Mr. MAYNE. I just asked if you think it is unfair to require inspection of grain when it moves by the railroad and not when it moves by a competing common carrier, the trucking industry?

Mr. BROOKS. Well, if this was hurting the railroads, I would tend to say that it was quite unfair. But may I add, that listening to the railroad representatives this morning who were present, the instances that they gave that involved inspection, involved two States whose constitution or whose statutes required that the grain moving in those places for storage must be inspected—this is a requirement not brought about by the U.S. Grain Standards Act. And if I can add, I think that the situation that the gentlemen from the North Western described has since been cleared by the State of Illinois with the determination that their law no longer requires that the shipments coming in from Minnesota which he described have to go to the inspection track and are there inspected by the State of Illinois employees before they are moved into a processing plant. This I believe to be the case.

Mr. MAYNE. I think it is a fair statement of the position of the railroad witnesses, as it appears in this record, that they think it is unfair for them to be required to have inspection when grain moving by truck does not require inspection. Can you shed any light on that, so that it would be helpful to the committee, as to what your organization thinks of that? I would be grateful for it.

Mr. BROOKS. I think it is safe to say that many people, many of the organizations that make up our membership, and these are organized grain exchanges, many of which do not have inspection departments, have some concern that the railroads will, in one way or another, eliminate the requirements of inspection to the extent that it is mandatory, gradually eliminate the "hold" for inspection tracks and possibly do away with or cut down the 2-day free time so that the end result here may put the railroads in a better position to charge for some of the services that they now do. I have heard no expression of sympathy for the railroads in the grain industry.

Mr. MAYNE. Thank you.

That is all, Mr. Chairman.

Mr. PURCELL. Mr. Zwach?

Mr. ZWACH. Just one question, Mr. Chairman.

Can you just tell us quickly what makes up the National Grain Trade Council?

Mr. BROOKS. Yes, sir. It is composed of organized grain exchanges, cash grain markets, and future markets, and a number of national associations. I will be glad to submit a list for the record.

Mr. ZWACH. I would like to have that.

Mr. BROOKS. Some of them have appeared here and have testified. I will furnish a list for the record.

(The list referred to follows:)

NATIONAL GRAIN TRADE COUNCIL

EXECUTIVE COMMITTEE

Chairman A. Henry Becker representing	Vice-Chairman Robert M. Scoular rep-
New York Produce Exchange, North	resenting Omaha Grain Exchange
American Export Grain Association	

PRESIDENT

William F. Brooks

Robert L. Searles representing Minne-	James R. Lepine representing Mer-
apolis Grain Exchange	chants Exchange of St. Louis
Dale Johnston representing Enid Board	Carl C. Farrington representing Termi-
of Trade	nal Elevator Grain Merchants Associ-
Gerald E. Tucker representing Portland	ation
Grain Exchange	

MEMBERS

Amarillo Grain Exchange	Milwaukee Grain Exchange
Baltimore Chamber of Commerce	Minneapolis Grain Exchange
Barley and Malt Institute	New Orleans Board of Trade, Ltd.
Denver Grain Exchange	New York Produce Exchange
Des Moines Grain Exchange	North American Export Grain Asso.
Duluth Board of Trade	Northern California Grain Exchange
Enid Board of Trade	Omaha Grain Exchange
Fort Worth Grain Exchange	Peoria Board of Trade
Grain & Feed Dealers National Asso.	Commercial Exchange of Philadelphia
Hastings Grain Exchange	Portland Grain Exchange
Indianapolis Board of Trade, Inc.	Seattle Grain Exchange
Lincoln Grain Exchange	Sioux City Grain Exchange
Los Angeles Grain Exchange	Terminal Elevator Grain Merchants
Lubbock Grain Exchange	Association
Memphis Board of Trade	Toledo Board of Trade
Merchants Exchange of St. Louis	

Mr. ZWACH. I believe, Mr. Brooks, that in response to Mr. Mayne, you inferred that the States also have State laws with regard to grain coming in, whether by truck or by rail, requiring it to be inspected.

Mr. BROOKS. Yes, sir.

Mr. ZWACH. Was this implied in your answer?

Mr. BROOKS. Yes, sir. In the case of Minnesota and, I believe, that the secretary of agriculture from the State of Washington stated that there was a requirement there. The fellow from the State of Illinois said that there was a requirement there. In addition to this, may I add, there are some grain exchanges that have a similar rule that if the grain is to be sold there it has to be inspected there.

There is one other thing I might add, Mr. Zwach. The fees that I mentioned must be reasonable, and so forth. The fees charged by the State of Minnesota, I believe, currently, their effective schedule has recently been increased, because the market in Minneapolis has eliminated or has chosen to become what is known as a class 2 market which has meant a loss of revenue to the State Warehousemen Commission to be recouped, so that some of them have attempted to increase their fees. In that respect, the inspection fees of the States and the boards of trade are substantially below the fees charged by the Federal Government for inspection. These are the ones that are \$10. These are the ones that the railroad people had in mind as being in the \$10 area. I know of no grain exchange inspection fees that come anywhere near that.

Mr. ZWACH. Thank you. That is all, Mr. Chairman.

Mr. PURCELL. Are there any further questions?

If not, we thank you very much, Mr. Brooks.

Mr. BROOKS. Thank you, sir.

Mr. Purcell. Without objection, I would like to insert into the record a letter from the Interstate Commerce Commission, dated November 8, 1957.

(The letter referred to, plus additional correspondence submitted to the subcommittee, follows:)

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., November 8, 1967.

Hon. GRAHAM B. PURCELL,
Chairman, Subcommittee on Livestock and Grains,
House of Representatives, Washington, D.C.

DEAR CHAIRMAN PURCELL: This responds to your request for the comments of the Commission on H.R. 11162, a bill, "To provide for United States standards and a national inspection system for grain and for other purposes." This matter has been referred to our Committee on Legislation and, on its behalf, I am authorized to submit the following comments.

It is our understanding that the general effect of this legislation would be to change the present provisions of the United States Grain Standards Act so as to make the official inspection of most grain by the Department of Agriculture permissive rather than mandatory. Mandatory official inspection would be retained only on certain grain exported from the United States.

While we have no specific comments to offer on the specific provisions of this bill, we believe that enactment of legislation of this type would contribute materially to improving the efficient utilization of railroad freight cars. For some time, the Commission has been investigating various aspects of the railroad freight car problem in an effort, among other things, to determine what steps should be taken to obtain improved service and more efficient use of the carriers' equipment. Our field investigations over the years have indicated considerable car delays in the holding of grain for inspection. We have also found that grain inspection facilities are nowhere near adequate to meet peak receipts resulting in many cars being held short of terminals awaiting placement on inspection tracks.

In its report in *Ex Parte 252, Incentive Per Diem Charges*, 332 I.C.C. 11, decided October 3, 1967, the Commission, in discussing developments in the area of better equipment utilization stated that, "Proposed changes in laws relating to the inspection of grain and the development of more rapid inspection techniques also signal improvements in freight car utilization," 332 I.C.C. at pp. 18-19.

For the information of the Subcommittee, we have enclosed for inclusion in the record a copy of some remarks prepared by former Chairman Bush which discuss the beneficial effects of this legislation on the railroad freight car problem in greater detail.

Since enactment of this bill would give wide latitude to the Secretary of Agriculture to develop and promulgate new methods for the inspection of grain, it could substantially reduce the number of car days lost by cars of grain held for inspection under present procedures. In turn, this would result in improved freight car utilization and make many more cars available to the shipping public. For these reasons, we favor the enactment of H.R. 11162.

Sincerely yours,

WILLIAM H. TUCKER, *Chairman*,
PAUL J. TIERNEY,
LAURENCE K. WALRATH,
Committee on Legislation.

SOME OBSERVATIONS REGARDING THE RAIL CAR "SHORTAGE"

(By John W. Bush, Commissioner, Interstate Commerce Commission)

The term "rail car shortage", more often heard as "boxcar shortage" is not really a correct terminology. However, no one has yet come up with an acceptable correction or improvement.

There is a shortage, but better *utilization* coupled with normal car building and replacement could eliminate a very large percentage of the shortage. I also believe car service orders helped last year.

Already, computerized tracing and recording of car movements is going a long way toward better utilization of cars. And there is still much more improvement to be expected in this area. I have often heard the statement that rail cars are only moving on line about 10 percent of the time.

Here are only a few of the *utilization* factors and problems. These practices, and others, can be brought sharply into focus by computerized tracing and recording of car movements.

(1) Old practices of over-ordering by shippers (like padding a budget to offset anticipated cuts) contribute to lost car days.

(2) Circuitous routing, to give the shipper's sales department extra days in which to actually find a sale for the carload (as in the lumber industry) is sometimes another contributor to the overall shortage of boxcars.

(3) Shippers sometimes use boxcars as warehouse or storage space for a few days when demurrage is cheaper than early unloading.

(4) Carriers/are naturally reluctant to release an empty car if they think they might send it out full within a few days.

GRAIN INSPECTION

I believe that the *greatest single move* that could be made to improve car utilization would be to revise our grain sampling procedures and practices.

At the present time it is the practice to set out cars for grain inspection. The inspecting is done with a long probe manipulated by a United States grain inspector. The grade obtained or sample is used in the buying and selling of grains for either domestic or export commitments. The grading is done pursuant to regulations and specifications set up by the USDA under the Grain Standards Act. There is also State inspection of grain.

A number of western grain railroads recently undertook to obtain some relief when it was called to their attention that there was a possibility of changing the Illinois regulations and also the possibility of eliminating the reinspection of grain in Minnesota. A check on the North Western indicated that cars were being held for inspection four to five days, on an average, in the non-rush season, and that in the height of the heavy movement, when grain inspection tracks become plugged, the cars might lose as much as fifteen to twenty days. It is to be noted that this is on a single inspection and a car may be inspected as much as *three or four times*. Several other northern railways obtained similar results.

The Rock Island has just completed a study over the southern part of its system, which shows an average loss of approximately four days on its grain shipments due to inspection. Checks were made for this at Kansas City, Amarillo, Fort Worth, and Belleville, Kansas. There is always a loss of one day and sometimes it runs as high as twelve days, although the average was slightly higher than four, as indicated.

If we were to take all of the cars in grain service and extend this loss of car days against the cars of the entire fleet it can readily be seen that the elimination of inspection on hold tracks would materially increase car utilization. The need is obvious, therefore, for new laws and regulations covering inspection. The U.S. Grain Standards Act was passed in 1916.

The new machine-sampling devices appear not only to give a much superior sample, but also to point the way to a new sampling system which would do away with the necessity for sampling grain in the car.

The grain industry has given a great deal of attention to the new method of sampling, as has the USDA. After all, a probed sample merely gives a cupful of grain out of various parts of the car which really isn't a representative sample of the entire car. The new machine-sampling takes a sample, at set intervals, in either the in-run spout or the out-run belt when the grain is loaded or unloaded. By shifting to machine-sampling, on the in-run spout, the grain railroads would be entirely relieved of in-car sampling and would immediately obtain a *minimum* of four additional car days per shipment on their entire fleet in use. In this regard the western roads loaded 1,759,907 cars of grain and grain products in 1965.

It has been interesting to note that in addition to *carriers'* support of the new method of sampling, in order to relieve themselves of the burden of supplying a storage bin in transit while the sampling takes place, the *shippers* also have a very real interest. Recently 33 relatively small elevator operators met in north western Iowa. These men were quite anxious to see spout sampling become accepted, as it would materially increase the grade and, consequently, the sale price of their grain when moved in a covered hopper. They had found by experience that corn, which they were certain would grade three or better (the lower the number the better the grade), was showing up when samples by probe as no better than six FM. To check this, they had installed a mechanical sampler at origin and made belt run checks at destination. This had shown grain going into the covered hopper, via the mechanical sampler, as three or better, whereas it graded around six when an official sample was taken by the probe method. They explained that this disparity was due to the fact that when grain is loaded through the center hatches of a covered hopper, it forms a cone underneath the spout, with the heavier whole grain going to the outside of the cone and the light material, broken

grain, etc., staying in the center of the cone. Consequently, when the probe is pushed down through the same center hatches it gets an unfair sample, whereas the random sample of the machine-sampling device in the spout, or out-run belt, was giving a true sample of the entire car. Accordingly, these shippers were anxious to see a change in the laws and regulations which would permit submitted samples obtained by mechanical sampling. These shippers have a very real financial stake in obtaining the newly proposed type of sampling, and the railroads want it to relieve them of the burdensome sampling on hold tracks through the old, and present, probing method.

In March of this year the Grain and Feed Dealers National Association held its national convention. This Association is probably more representative of the grain trade, with the exception of millers, than any other single grain organization. The Association has gone on record as favoring mechanical sampling and a submitted sample.

Two bills were submitted last session which bear on this subject. They are resubmitted this year as S. 272 and H.R. 11162. S. 272 is very short and makes submitted samples permissive. H.R. 11162 is much longer, covering not only submitted samples, but many other areas as well. I am informed that the grain trade feels that S. 272 does not go far enough and that the house bill goes too far. However, it now seems to be generally expected that the USDA will come out with a revised bill which will eliminate the objections that the grain trade had to last year's house bill and will supply the deficiencies of S. 272 in their eyes. Accordingly, I hope that a bill may shortly be available which would have the effect of relieving the railroads of the burdensome sampling, as now conducted, and that can receive the support of the grain trade and USDA as well, although for entirely different reasons. This does not mean, of course, that the grain trade is not as desirous as we all are of improving car utilization, for I need not add that the grain trade has been one of the vociferous segments of the shipping community in complaining about car shortages. Of course, anything that makes a significant contribution to the effective car fleet cannot help but redound to the benefit of all shippers. The shift in the method of sampling grain appears to be one of the most immediate methods of obtaining a significant improvement in car utilization and, in effect, an increase of cars available for loading.

One company, International Stanley Corporation, in cooperation with several railroads traced the movement of almost 10,000 cars through eight grain inspection terminals and found that the *average* delay on grain cars stopped or held for official inspection varies from a low of 1.7 days in one terminal to over 10 days in several other terminals. Their report says: "Based on approximately 2,000,000 carloads of grain originating each year, this represents a *waste* of over 10,000,000 car days, or the equivalent of adding 27,000 boxcars to the railroads car fleet per year. This amount of cars would handle between 400,000 and 500,000 carloads of grain in a year's time."

Additional studies to document the loss of car days through sampling are being made and will certainly be presented at the hearings on the new bills.

Here, I am informed, is a summary of how several different factors pertaining to grain inspection can contribute so very materially to the grain car shortage.

1. To begin with, a grain shipper is entitled to two free days and one diversion at the first point of inspection, e.g., Lincoln, Nebraska.

2. Then if the billing was to Omaha they would have an additional two free days of inspection time. (Shipper can call for—and get—*reinspection at several points* if he wishes. The purpose may be the hope of getting a higher grading—or just to use the boxcar for warehousing hoping for an upturn in the market.)

3. Free time starts at 7:00 a.m. Therefore, if the car arrives at 8:00 a.m. there are 23 additional hours before 7:00 a.m. the next day at which time free time, as stated above, starts.

4. Suppose, then, the car arrives at 8:00 a.m. on Friday. That would mean the balance of Friday would not count. Then Saturday and Sunday (weekend days) also would not count. Therefore, the two days free time would start at 7:00 a.m. Monday. After 7:00 a.m. Wednesday (the end of the two days free time) the paperwork and switching or "shipout" of the car would actually take place. Therefore, for this one inspection a car which arrived at 8:00 a.m. Friday might not move until the following Wednesday or conceivably Thursday morning, just counting free time.

It must also be realized that at harvest time there not only is a shortage of cars but there is a very great shortage of inspectors and trackage. If a terminal receives an influx of 1,000 or 1,500 cars, which they probably could not handle on their terminal tracks, they would have to "stack" cars at "countryhold" points some miles away from the terminal itself.

If the harvest begins in Texas in May, the most critical time really begins about the first of June for the harvest moves from Texas up through Oklahoma, Kansas, and into the Dakotas, normally by the middle of July. Wheat, corn, barley, and durum all must be harvested and inspected. Milo (Grain Sorghum used for cattle feed) must be harvested and shipped but not inspected.

It is my understanding that corn and malting barley, from the time standpoint, are the most critical of the grains to be inspected. This, I understand, is due to greater spoilage potential.

STATEMENT OF THE OMAHA MARKET

It is the position of the Omaha market that we are totally in opposition to the entire bill. It is our position that we have a very satisfactory and workable system of inspecting grain that has served the Nation quite adequately since the adoption of the Federal Grain Standards Act in 1916. There has been no evidence of any serious breakdown in this present system of which we are aware. There seems to be a great demand for either this bill or the Curtis bill to permit use of spout or mechanical sampling. We are not opposed to spout sampling. We do think there are some problems to spout sampling that will have to be resolved such as the cost involved. The present law is adequate to permit this type of sampling. We feel there is great merit in further pursuing mechanical sampling, but that it should be used where it can be adequately controlled.

We take direct issue with some of the generalized statements made by Secretary Freeman in his letter of transmittal to the Speaker of the House of Representatives. Many of his statements are so general in nature, that any number of interpretations could be made.

Quoting from a paragraph of this letter of transmittal, Secretary Freeman states: "Since the act was passed in 1916, grain merchandising practices have changed greatly. Domestic traders are more knowledgeable and specification buying is more common. As a result, reference to official grades and official inspections are not desired in many of today's commercial transactions in domestic commerce. There is, therefore, no logical justification for continuing the requirement that grain sold by grade in domestic commerce be sold by an official grade and be officially inspected. The needs of the trade should determine when official grain grades and inspection are used in such commerce."

We think it a bit strange that the Secretary of the Department of Agriculture is so much aware of such a situation and the grain industry itself does not recognize this same need for change. Granted there is a certain amount of specification buying in the industry today, but it is our belief that this is desired *in addition to* and not *in lieu of* official grades.

Quoting again from this same letter of transmittal: "Since the act was passed, grain transportation methods have also changed greatly. A large percentage of grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. Official inspection of much of the trucklot grain and most of the grain moving under the special point-to-point rates is apparently not desired and is not obtained by the trade, even though official inspection of much of such grain is technically required by the act."

We feel this statement is much too general to carry any weight or importance. What comprises a large percentage of grain moving in interstate commerce by truck? Is it 1 percent—Is it 3 percent—or 5 percent—or just what is involved? Concerning trades made on "point-to-point" rates, most parties to such trades would like to have official inspections but railroad tariffs make it difficult, if not impossible. In looking back over the receipts of the grain at the Omaha market, we find the total receipts in 1917, the year after adoption of the present Grain Standards Act, total receipts were 66,462,000 bushels. The receipts in 1965 totaled 81,161,750 bushels, and we have seen several other years recently where receipts reached approximately 100 million bushels. This does not substantiate Secretary Freeman's position that a large percentage of grain is moving by truck without inspections. Even though there is some grain moving in this manner, it is our position that it would be a great mistake to literally destroy an efficient inspection service that covers something probably in excess of 90 percent of the grain shipped in order to accommodate some 5 to 10 percent of the grain being referred to by Secretary Freeman. This reminds of the analogy of "burning down the barn to kill one rat".

We feel entirely too much authority is vested in the Secretary in this bill. Practically every section of the bill begins—"The Secretary is authorized . . .". Under our present act, the role of the Secretary has been that of a referee for the

industry and adequate machinery exists for necessary changes to be made. Under this proposed act, we find the Secretary injecting himself into the picture in the role of a judge or czar instead of a referee and it will be his decision to incorporate any necessary changes. We feel that this authority should more properly be in the hands of the legislative bodies, rather than in a single individual.

Again, quoting from the letter of transmittal: "The bill would provide for issuance of rules and regulations to effectuate the purposes of the act, it is contemplated that inspection procedures and inspection equipment would be prescribed by the Secretary to achieve uniform inspection results."

We feel this bill would have far-reaching implications and effects on our market system. We visualize the better quality grain moving from point to point, probably without inspections. The off-grades and grain of questionable qualities would tend to move to the terminal markets, thus gradually lowering general price levels which would result in a reduction in income to the producer.

Concerning permissive inspections, we can envision some real difficulties in the establishing of discounts on both the purchase and sale of grain. Granted—we could always ask for an inspection, but this would become a competitive factor and if an inspection was called for, the cost would have to be assessed to an interested party. Without official grades, we envision perpetual wrangling within the trade and it seems to us we would be reverting the entire trade into the confusion that existed prior to the adoption of the Grain Standards Act of 1916. We think permissive inspection would tend to destroy the high integrity that has been built into the grain industry. I am sure we all have customers who probably wouldn't know the difference between two yellow corn and four yellow corn carrying damage that we know as technical germ damage. I think we would continually find ourselves being underquoted and would be forced to resort to some shady practices in order to remain competitive.

We feel the permissive inspection feature would destroy our present inspection departments. Markets such as Omaha, who operate an inspection department, have spent many, many years developing an efficient, economical operation. The efficiency of this operation is verified in a comparison with our costs of \$2.50 as compared to the current cost of a Federal appeal grade of \$9.00. We think the destruction of these inspection departments will ultimately have an undesirable effect on our entire marketing system. It seems a bit inconsistent within different departments of the U.S.D.A. for one section to decide official grades should be permissive during the same year we find another department of U.S.D.A. incorporating mandatory official grades for loan grain into the uniform grain storage contract. This marketing system has been built through the years from dedication and integrity to be the most efficient, effective marketing system known to any industry anywhere. This should be preserved for the benefit of our country's producers and consumers.

We are opposed to being forced into signing a cooperative agreement with the U.S.D.A. Since we do feel we are running an efficient shop in our inspection department, we do not like the idea of being told that we would have to contribute an unannounced portion of the inspection fee to pay "administration and supervision". This is particularly undesirable since this fee would be decided in Washington and we would have nothing to say about it.

We recognize that a great variation exists concerning the efficiencies of country elevator operations. A few of the more efficient operators could conceivably build up a reputation where the grain industry would be agreeable to handling grain for this shipper without grades. We think some of the less efficient operators, or operators with facilities that were not quite so modern, would immediately find themselves handicapped. This would be another factor that could contribute to the elimination of some country elevators, many of which are serving a real needed service to the producers in their respective areas. Under the present cost structure, we are receiving absolutely no objections from any of our shippers concerning the cost of inspections, which are passed back to them.

We cannot envision any case where we, as terminal merchandisers, would ever be able to sell grain to a buyer without official grades.

We have tried to keep our objections and opinions concerning this bill on a general level and refrained from getting into specific items which could be listed point by point. An example of those specific objections would be the authority the Secretary would have for refusing to renew a license for reasons other than alleged incompetency or fault of the licensee. Neither do we like the provision whereby each license is automatically terminated each year and must be renewed. Many such objections could be listed in these proposed changes.

In summary, we again state our position of considering the entire bill unacceptable.

JULY 6, 1967.

HON. THOMAS L. ASHLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ASHLEY: House of Representatives Bill H.R. 2121 is under consideration before the House Agriculture committee. This Bill by-passes all regulations of the U.S. Grain Standards Act and could be harmful to a uniform inspection system for grain.

Mechanical sampling of grain and improved inspection procedures should be promoted. They should also progress on a regulated, uniform pattern to improve the inspection service to the Grain Trade by licensed inspectors. H.R. 2121, in bypassing regulations of the Act permits too much chance of misuse.

Many members of the National Association of Chief Grain Inspectors including myself believe this Bill should be defeated as it is written.

Sincerely yours,

VIRGIL A. McNAMEE,
Chief Grain Inspector.

TOLEDO BOARD OF TRADE,
Toledo, Ohio, August 25, 1967.

HON. THOMAS L. ASHLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ASHLEY: The United States Grain Standards Act has served a very useful purpose since 1916, and the need of such an Act still exists. Due to changes in modes of transportation and in the marketing of grain, we believe that the present United States Grain Standards Act should be modernized by making certain amendments. A few amendments to the present Act could aid modern grain merchandising, continue the use of uniform standards and inspections in interstate and foreign commerce.

The complete rewriting of the United States Grain Standards Act as stated in the Bill H.R. 11162, is actually a repeal of the present Act, which is opposed by many chief Grain Inspectors throughout the United States including myself.

This Bill H.R. 11162 would give unprecedented powers to the Secretary of Agriculture, over the grain industry, over inspection departments operated by State Departments of Agriculture, Boards of Trade and Chambers of Commerce.

We are opposed to "Cooperative Agreements" for grain inspection departments because they would cause federal management of private enterprise, including setting of fees, cost of operation and control of production. Also, the Secretary of Agriculture would have the authority to cancel the agreement without a hearing.

We are opposed to initial inspections of grain being performed by federal employees, because this change of procedure would permit federal employees to be used in competition to, or to replace licensed grain inspectors.

We are opposed to licenses being terminated triennially, because the prospect of examinations being required each three years is unnecessary and could keep good men away from this business.

We are opposed to the lack of requirements for domestic inspections because they are as important as inspections of foreign shipments, and should have the benefit of uniform standards and grades for quality and cleanliness.

We believe that the United States Grain Standards Act can be up-dated without the major operation that is scheduled in H.R. 11162. Therefore we request that H.R. 11162 be defeated in the Agriculture Committee.

Sincerely yours,

VIRGIL A. McNAMEE,
Chief Grain Inspector.

FORT WORTH GRAIN EXCHANGE,
Fort Worth, Tex., September 13, 1967.

Mr. W. R. POAGE,
Chairman, House Agriculture Committee,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN POAGE: We will not be present at the public hearing beginning September 12 on H.R. 11162, however, would like to express our views and opposition on several provisions of this Bill and request that this letter be included in the records of the hearings.

Before expressing our position I would like to take just a few minutes to acquaint you with our Association and its important functions in the Agriculture picture of our Nation.

The Fort Worth Grain Exchange was brought into existence as a private, non-profit corporation under the Laws of the State of Texas on July 1, 1907, as the Fort Worth Grain and Cotton Exchange. The first full year of operation by our Exchange was 1908 and our records show 6,948 inspections for that year. Currently we are inspecting between 40,000 and 60,000 carloads of Grain annually.

The objects of this association are: to promote uniformity in the customs and usages of merchants; to inculcate principles of justice and equality in business; to facilitate the speedy adjustment of business disputes; to insure confidence in the business method and integrity of the members of this organization; to collect and disseminate valuable commercial economic information; to organize and maintain a grain inspection department, and a department for weighing carloads and truckloads of grain, seeds and hay, etc. and to promote the general welfare of the grain and milling interest in Fort Worth.

This Exchange operates and maintains a grain inspection department, laboratory for protein and sedimentation test, weighing department and traffic department, all being under the direct supervision of the Secretary who also serves in the capacity of General Manager. The Secretary's office secures daily, information concerning prices of different grains at the different markets and other related information, disseminating it to the grain industry: newspapers and radio stations to be sent to farmers and other interested persons in the agriculture areas.

Our Grain Inspection department employs 5 full time Federally licensed Grain Inspectors, as authorized under the United States Grain Standards Act.

Our Grain Samplers must be physically fit, able to read and write and go through a supervised break-in-period before they are permitted to secure samples independently. All of our samplers have either attended or completed their High School education and some are studying to become Federally licensed Grain Inspectors. Most of our Inspectors started their career as a sampler with our Exchange.

From the above information one can readily see that our employees are competent and are of valuable service in the sampling and inspecting of Grains. The inspection of Grains is kept under close supervision with only authorized personnel being allowed in that department.

The Inspection fee for a boxcar of grain at Fort Worth is only \$2.00 which is without a doubt very reasonable—the same charge being made to members and non-members. This fee has remained unchanged since December 1960 and at the same time we have increased the hourly rates of our employees and have instituted a retirement program.

The Board of Directors of this Exchange, several years ago unanimously approved the following resolution.

"Member firms shall be prohibited from giving to employees of the Grain Exchange any gifts or gratuities. In the event this provision is found to be violated, both the member firm and the employee will be subject to disciplinary action."

Our Exchange carries workmen's compensation on all employees, contributes to Employee-Family Group Medical Hospitalization Program and effective February 1, 1961 established the "Retirement Program" in which our employees participate on a voluntary basis.

Now in regard to the H.R. 11162, I would like to make the following remarks:

1. In general we are unalterably opposed to the broad discretionary powers granted to the Secretary of Agriculture by this Bill.

2. We are opposed to initial inspection by USDA Grain Supervision employees or other employees on the payroll of the government.

Under the provisions of Sec. 7 (c), on page 9 line 13 of H.R. 11162, it is proposed that the Secretary of Agriculture *may* include provisions for reinspections and appeal inspections, etc.

Sec. 6 of the United States Grain Standards Act *specifically provides* for reinspections and appeal inspections.

Initial inspections by USDA personnel would automatically nullify the Grain Trades right of appeal as the first decision would undoubtedly be final judgment. The Grain Trade *must retain this right for appeal* after first having opportunity for initial inspections by Exchanges such as ours.

3. We are unalterably opposed to the "Cooperative Agreements" contained in Sec. 8 of the Bill. We have operated since 1907 without such an Agreement and have not heard any valid argument in support of one. The inspection of Grain is positive and our present laws have proven themselves through these years. We have always been cooperative with the USDA Grain Supervision office. We

would like to go on record as being willing to co-sponsor a quarterly or semi-annual meeting of licensed inspectors in Texas and have the Federal Supervisor present at such meetings.

4. Paragraph (b) of Section 8 of the Bill, page 11, is completely without reason. Through the years it cannot be anticipated how many inspections will be performed, therefore, one cannot establish fees just to meet the volume of business as it fluctuates. Our Exchange, while it is a private corporation, it is a non-profit corporation. As previously mentioned we also supervise weighing of cars and maintain a laboratory, both of them help support the inspection department. The end result of the provisions of H.R. 11162 would be substantially to *increase* the cost of inspections.

5. There is some question as to the provisions of Sec. 7(c) regarding "the Secretary may provide by regulation that samples obtained for purposes of official inspection shall become the property to the United States."

The owner of the grain being sampled by the Exchange is the rightful owner and after said sample has served its purpose it is made available for return to them by the Exchange. Now as to the sample secured by the USDA Grain Supervision on appeal inspections we would have no objection of it becoming the property of the United States and proceeds derived from the sale be deposited into a fund which shall be available for expenses of the Department of Agriculture incident to providing official inspection *supervision* services.

We feel that USDA Supervision of grain inspection is one of national concern and in the interest of the public, therefore, its operation should continue to be financed by congressional appropriations.

We feel that it should be emphasized that this Exchange maintains proper supervision over its employees, insuring that the basic Statutes and regulations under it are complied with. We believe, that under our present operation we have attained, under private enterprise, all of the objectives that could be hoped for under the proposed Cooperative Agreement. We respectfully urge that H.R. 11162 not be released from committee in its present form.

Yours very truly,

C. G. MATHEWS, *Secretary.*

STATE OF WASHINGTON,
DEPARTMENT OF AGRICULTURE,
Olympia, September 22, 1967.

HON. GRAHAM PURCELL,
*Rayburn Building,
Washington, D.C.*

DEAR CONGRESSMAN PURCELL: During my testimony on Thursday, September 14,¹ before the Subcommittee on Livestock and Grains, you posed two questions that I was unable to answer at that time. You asked the total production of grain in Washington during the 1966 crop year.

The total produced was 3,300,000 tons (approximately 115,000,000 bushels). Our grain inspection service inspected 3,400,000 tons that were exported. A considerable amount of Washington grain is exported through Oregon ports. Oregon's total export was 2,800,000 tons. The total amount exported through Washington ports and Oregon ports exceeds the production of the two states. A significant amount of export grain came from other wheat producing states through our terminals. We estimate that about 20% of Washington's production is used for domestic purposes, the remaining going into export.

Your second question asked why it would be necessary for the State of Washington to amend the provision of our law which states, "It shall be unlawful for any warehouseman to receive in any terminal warehouse any grain that has not been weighed, inspected, and/or graded by an employee of the Department under the supervision of a duly authorized inspector of the Department, or to deliver out of any terminal warehouse any grain that has not been weighed, inspected, and/or graded in such manner".

Section 19 of H.R. 11162 provides that "No state or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce . . ."

As presented in my testimony before your committee, I questioned the probable conflict between Section 19 of H.R. 11162 and the requirements of our warehouse law. This conflict is contingent upon the interpretation of the USDA, who will have the responsibility of enforcing H.R. 11162, if enacted.

¹ See p. 81, "Amend the Grain Standards Act" Serial R, part 1.

The present laws in both Washington and Oregon are compatible with the existing U.S. Grain Standards Act. Grain coming into these states, received at terminal warehouses from other states, must be, or have been, officially inspected.

Sincerely,

DONALD W. MOOS, *Director.*

TRANSPORTATION ASSOCIATION OF AMERICA,
Washington, D.C., September 29, 1967.

HON. GRAHAM PURCELL,
*Chairman, Livestock and Grains Subcommittee,
House Agriculture Committee, Washington, D.C.*

DEAR CHAIRMAN PURCELL: On behalf of the Board of Directors of the Transportation Association of America, I should like to present its views on two bills, H.R. 11162 and H.R. 2121, that are being actively considered by your Subcommittee and which deal, at least in part, with inspection of grains moving in interstate commerce. We understand that hearings were held on these bills earlier this month, but may be resumed at a later date.

For your information, TAA is a national transport policy organization made up of users, investors, and carriers of all modes who work together to develop national policies that will help provide the strongest possible transport system under private enterprise principles. While its 115-member Board of Directors (see current roster attached) takes official TAA policy action, it is done only after hearing the individual views of eight permanent advisory committees, or panels, made up of over 250 leading executives in the shipper, investor, air, highway, freight forwarder, pipeline, railroad, and water carrier fields. After being advised that all eight panels either supported or did not oppose the following policy proposal, the TAA Board formally adopted it at its last meeting in May of this year:

"TAA should encourage the modification of requirements as to grain sampling, inspection, and grading in order to bring about more efficient use of transportation equipment."

Since one of the major reasons for support of the above broad policy is to help ease Federal inspection requirements of grain shipped by grade in interstate commerce, TAA favors the provisions in H.R. 11162 that would place the inspection of grain in domestic commerce on a permissive or voluntary basis. We likewise favor enactment of H.R. 2121, because the use of mechanical inspections should expedite the movement, and thus increase the utilization, of railroad freight cars. Since, according to the Interstate Commerce Commission, rail grain cars are held up an average of about five days for official inspections, the potential transportation benefits from the elimination of unnecessary grain inspections are obvious.

Favorable consideration by your Subcommittee of legislation along these lines is thus urged. If the hearings on these two bills are still open, we request that this letter be made a part of the official record.

Sincerely,

HAROLD HAMMOND.

TEXAS GRAIN & FEED ASSOCIATION,
Fort Worth, Tex., October 31, 1967.

HON. GRAHAM PURCELL,
*House Office Building,
Washington, D.C.*

DEAR CONGRESSMAN PURCELL: The Bill which you introduced to amend the Grain Standard Act, H.R. 11162, was discussed at the last meeting of our Board of Directors. They voted to support permissive grades and one grade standards for export and domestic. They also discussed the following sections of your Bill:

Section 8, Cooperative Agreements. The arrangement with private exchanges in Texas has proven to be very satisfactory. Costs for inspections have been kept at a minimum and are reasonable. Samples remain the property of the owner if requested. Fears were expressed by our board members that too much federal control could increase cost of inspections and might close down some of the private exchanges in Texas. We do not want to see any change that could eliminate the private or state inspection as being the primary or first inspection and the right for a federal appeal.

Section 9, Licenses and Authorization. State inspectors should pass the same test as is required of private inspectors. A re-exam for inspectors every three years could prove to be beneficial. in that an inspector's eye sight can change in this period of time. Every effort should be made to take any chance of politics entering the decision of appointing inspectors.

Section 18, Enforcement Provisions. This section gives the secretary very extensive powers without providing for safeguards. References are made to other statutes in the section and these should be included within the Bill.

We are not reluctant to change, and your Bill could be a step forward, but we question the fact that the present act has only been amended three times, as was brought out in your hearings, which might indicate that we have a pretty good act. Directors lean toward the position that changes could be incorporated into the present act.

Please place our name on your mailing list for copies of further hearing proceedings. We appreciate consideration on making changes needed in the present act.

Yours very truly,

HAROLD F. PRIDDY,
President.

TOLEDO BOARD OF TRADE,
Toledo, Ohio, November 3, 1967.

HON. GRAHAM PURCELL,
*Chairman, Livestock and Grains Subcommittee, House Committee on Agriculture,
Longworth House Office Building, Washington, D.C.*

DEAR CONGRESSMAN PURCELL: We are writing to you with reference to H.R. 11162 to amend the U.S. Grain Standards Act which is scheduled for hearings before the Livestock and Grains Subcommittee November 6-9, 1967.

We wish to advise that we have studied and analyzed the views of the Grain and Feed Dealers National Association with reference to this bill and we wish to go on record as supporting their position at the hearing.

Very truly yours,

J. D. ANDERSON, *President.*

Mr. PURCELL. The subcommittee will be in recess.

I will have to announce to the members when we will have another meeting. I think that this concludes the list of witnesses.

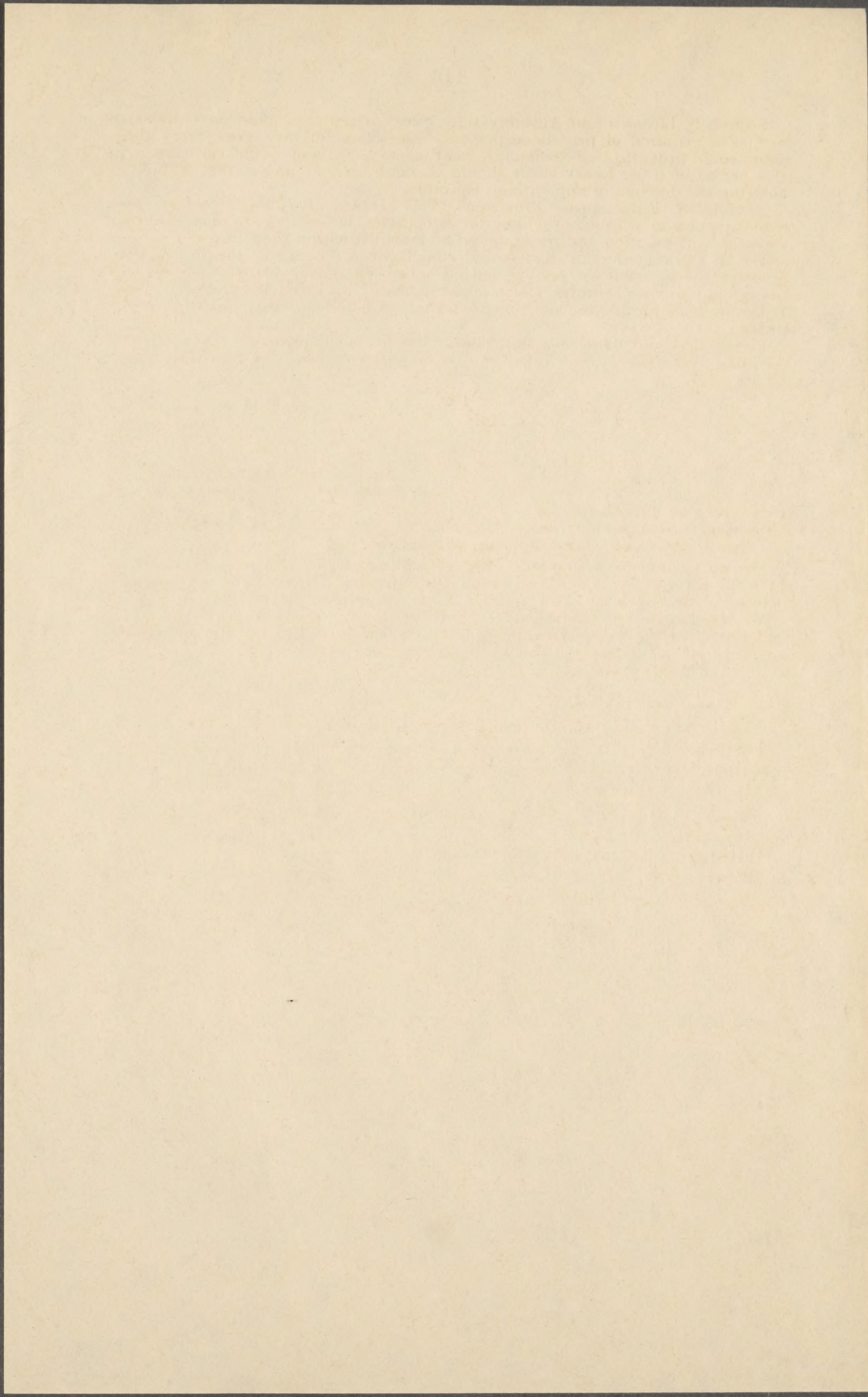
Mrs. GALLAGHER (the clerk). Yes, sir; it does.

Mr. PURCELL. We will have a meeting of the subcommittee when I can arrange the time.

With that, we will stand in recess.

(Whereupon, at 12 meridan, the subcommittee recessed subject to the call of the Chair.)





THE UNIVERSITY OF CHICAGO