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# TOBACCO MARKETING QUOTAS

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## HEARING

BEFORE THE

### SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING AND STABILIZATION OF PRICES

OF THE

## COMMITTEE ON AGRICULTURE AND FORESTRY UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

### H.R. 6485 and S. 1533

BILLS TO AMEND THE TOBACCO MARKETING QUOTA PROVISIONS OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938

APRIL 13, 1973

Printed for the use of the Committee on Agriculture and Forestry



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

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TOBACCO MARKETING QUOTAS

HEARING

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MARKETING AND STABILIZATION OF PRICES

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## TOBACCO MARKETING QUOTAS

FRIDAY, APRIL 13, 1973

U.S. SENATE,  
SUBCOMMITTEE ON AGRICULTURAL PRODUCTION,  
MARKETING AND STABILIZATION OF PRICES,  
OF THE COMMITTEE ON AGRICULTURE AND FORESTRY,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 324, Russell Senate Office Building, Hon. Walter D. Huddleston, (chairman of the subcommittee) presiding.

Present: Senators Huddleston and Helms.

### STATEMENT OF HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator HUDDLESTON. Our hearing this morning is on S. 1533. S. 1533 provides that any nonquota tobacco grown in an area where it has not been traditionally produced and where growers traditionally produce a type of tobacco under quota, shall be subject to the quotas for the kind of tobacco traditionally produced in that area. If quotas are in effect for more than one type of tobacco, the nonquota tobacco would be subject to the quota for the tobacco with the highest price support. This means that Maryland tobacco grown in areas which are traditionally burley-producing areas will be subject to burley quotas.

For years, burley growers were plagued by overproduction. Acreage allotments which were in effect until 1971 only meant that improved techniques, closely planted rows and other efficient farming methods led to increased production. High yields continued, increasing surpluses and depressing prices. Finally, in 1971, legislation was enacted providing for a poundage quota system, which has proved quite successful. Overproduction has been stemmed and the selling price of burley stabilized. Furthermore, the poundage quota system has been approved overwhelming by thousands of burley growers participating in marketing referendum. It is these growers—growers who have worked for a feasible means of limiting production and protecting existing producers—growers who have voluntarily agreed to restrict their crops—who are threatened by Maryland tobacco.

Maryland tobacco is not grown under quota. A grower may raise—and market—as much as he wishes. Maryland tobacco grown in the limestone soil of Kentucky and certain other burley areas assumes many of the characteristics of burley, making it difficult to identify and grade. There were, as we all well know, several widely publicized cases this year where tobacco was incorrectly graded by Government

inspectors, who are supposed to be experts in identifying and grading the various types of tobacco.

Should this situation continue—or expand—the entire burley poundage quota system for which many growers worked so hard—and indeed the entire burley market—could be disrupted. Farmers might produce burley in excess of their quotas and try to market it as Maryland. Maryland tobacco produced in burley areas might be marketed as burley. Maryland tobacco produced in burley areas, having assumed burley characteristics, might be marketed, at a lower price, as a substitute for burley and flue-cured tobacco for use in cigarettes and other tobacco products.

This situation is of extreme importance to the many burley growers in Kentucky and to the economy of the entire State. Approximately 40 percent of the cash receipts from all agricultural products in the State result from sales of burley tobacco. In 1972 there were more than 137,000 farms in the State which produced over 434 million pounds of burley.

Major disruptions in this system would be a disaster for burley growers and for the State's economic health.

As a result, the subcommittee is today holding a hearing on legislation which would, in effect, subject Maryland tobacco grown in the burley-producing areas of Kentucky, Indiana, Missouri, North Carolina, Ohio, Tennessee, Virginia, and West Virginia to the burley quota system. Hopefully, this would eliminate the threats which incorrect grading and a potential increase in the production of burley and Maryland tobacco in the burley belt pose to the burley growers and the existing control and marketing system.

[H.R. 6485 and S. 1533 follow:]

[H.R. 6485, 93d Cong., 1st sess.]

A BILL To amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Agricultural Adjustment Act of 1938 is amended by inserting after section 319 the following new section:

"SEC. 320. Notwithstanding any other provision of law, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where it has not been traditionally produced and where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under this Act shall be subject to the quota for the kind of tobacco traditionally produced in the area. If marketing quotas are in effect for more than one kind of tobacco in an area, any nonquota tobacco not traditionally produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949."

[S. 1533, 93d Cong., 1st sess.]

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effect for more than one kind of tobacco in an area, any nonquota tobacco not traditionally produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949."

Senator HUDDLESTON. I would like to submit for the record a statement from Congressman William A. Natcher of the Second District of Kentucky relating to this problem.

[The statement referred to follows:]

STATEMENT OF HON. WILLIAM H. NATCHER, REPRESENTATIVE IN CONGRESS FROM THE SECOND DISTRICT OF KENTUCKY

Mr. Chairman, I want you and the members of your Committee to know that I appreciate this opportunity to appear in behalf of our tobacco legislation.

Along with several of my colleagues I have introduced a bill, H.R. 6799, which amends the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938. This bill provides that a new section is inserted after section 319 stating that notwithstanding any other provisions of law, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where it has not been traditionally produced and where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under this Act shall be subject to the quotas for the kind of tobacco traditionally produced in the area, and further if marketing quotas are in effect for more than one kind of tobacco in an area any nonquota tobacco not traditionally produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949.

As you well know, Mr. Chairman, burley tobacco has been produced under production controls and price supports since 1940. Our burley program has been highly successful in meeting the program objectives of balance between supply and use and stability in prices and incomes. We have been successful with this program due to the fact that burley producers have been willing to modify the control and price aspects of the program as conditions changed and problems emerged from time to time.

The widespread production of Maryland tobacco in the burley belt in 1973 is a real threat to the continued successful operation of the burley program and it is for this reason, Mr. Chairman, that I introduced my bill.

Maryland tobacco is used mainly for cigarette production in domestic utilization and exports have traditionally accounted for approximately one-third of the total use. In the last referendum held among Maryland tobacco producers in 1971, growers rejected quotas for the 1971, 1972, and 1973 crops, and as a consequence of this action no production controls or price supports are in effect at this time for this crop. The 1973 Maryland crop will be the eighth consecutive year without production control and price supports for this crop. The production of Maryland type tobacco in Kentucky will ultimately place the identification of the two types in such a position that it will be difficult, if not impossible, to separate the two kinds of tobacco.

Some people believe that by producing Maryland tobacco under this system that was used last year in Kentucky it may replace burley tobacco in cigarette production. Mr. Chairman, the production of Maryland tobacco in excess of traditional market outlets for this type of tobacco and the substitution of Maryland leaf for burley could result in decreased burley quotas and a tremendous buildup in government stocks which ultimately will pose a threat to the price support program for burley tobacco.

Our burley tobacco producers have worked over a long period of years to develop a just and retain what they view as a highly successful burley tobacco production control and price support program. The method used in the production and sale of Maryland tobacco in Kentucky at this time is such that it can and will seriously damage our burley tobacco program. Mr. Chairman, the legislation that I have introduced along with my other colleagues from Kentucky should be approved and enacted into law.

Again I want to thank you and the members of your committee for permitting me to appear in behalf of this legislation and I respectfully request that same be reported out for enactment by the Congress.

Senator Huddleston. Our first witness this morning will be the distinguished Senator from Kentucky, the Honorable Marlow Cook.

**STATEMENT OF HON. MARLOW W. COOK, A U.S. SENATOR FROM  
THE STATE OF KENTUCKY**

Senator Cook. Mr. Chairman and members of the committee, I want to thank you for the opportunity you have afforded me this morning to testify in support of S. 1533. I realize that you have a large number of witnesses to hear from on this proposal, therefore, I will endeavor to keep my remarks brief and to the point.

On April 11, in conjunction with the chairman of this distinguished subcommittee, and Senators Baker and Brock, I introduced the legislation under consideration today. As I pointed out in my introductory remarks on April 11, for many years the growth and sale of burley tobacco has been a vital force in the economy of the eight-State Burley Belt which the chairman set out—Kentucky, Indiana, Missouri, North Carolina, Ohio, Tennessee, Virginia, and West Virginia. Last year in the Burley Belt, 621,583,920 pounds of burley tobacco were raised with a cash value of \$492,543,098. The approximately 137,000 burley tobacco farms in my Commonwealth of Kentucky, produced some 434,210,506 pounds of burley tobacco valued at \$344,980,247.

The tobacco growers in the Burley Belt have labored for well over 30 years to arrive at a fair and equitable burley program which is beneficial to all concerned. Burley tobacco has been grown under production controls and price supports since 1940. For many years, the acreage allotment program was effective in maintaining burley tobacco supplies in line with demand, with favorable prices to growers and with minimum costs to the Government for price supports. In recent years, however, substantial increases in per acre yields created a surplus of burley tobacco which resulted in excessive amounts accumulating under Government loans.

As a result of this oversupply the burley tobacco farmers on May 4, 1971, voted overwhelmingly in favor of moving from the acreage allotment system of controls to a system of poundage controls. By using poundage rather than acreage as the criterion for establishing controls, the previous problem of overproduction has been obviated. Under the poundage system, each tobacco grower is able to aim for high quality tobacco without losing his share of the market to other farmers who might strive for high yields per acre at the expense of quality.

I make brief reference to the history of production controls and the prosperity of the burley program as a result of these controls merely to point out the years of painstaking effort and cooperation that has been necessary for the development of a realistic and economically viable burley tobacco program. Once again, however, the burley program is being threatened. This time the problem is not one which relates to the growing of burley per se but instead, the growing of a nonquota tobacco—specifically, Maryland tobacco—in burley areas.

Over 800,000 pounds of Maryland tobacco were produced last year in the Burley Belt and unless immediate action is taken, it appears that much more will be grown there in the coming year. If the Maryland tobacco grown in burley areas retained the basic characteristics

of the traditional Maryland tobacco, as grown and sold in the State of Maryland, the burley farmer would not feel threatened. However, the Maryland tobacco grown in the predominately limestone soil of the traditional burley States takes on the characteristics of burley tobacco to the extent that the two tobaccos are almost impossible to distinguish.

This similarity lends itself to a number of problems: (1) Because of the difficulty of distinguishing these two strains of tobacco for classification purposes at market time, there is a distinct possibility that a grower could produce burley tobacco in excess of his poundage quota and then sell the excess burley as Maryland tobacco since there are no production controls on the latter. (2) The production of Maryland tobacco in excess of traditional market outlets and the widespread substitution of Maryland for burley could result in decreased burley quotas or a build-up in Government stocks which could pose a threat to the price support program for burley tobacco.

However, Mr. Chairman, as you know, S. 1533 would alleviate these problems since it provides that any non-quota tobacco (Maryland tobacco in this instance) grown in an area where it has not been traditionally produced and where producers who are engaged in the production of a kind of tobacco traditionally produced in the area (burley tobacco in this instance) has approved marketing quotas, the non-quota tobacco shall be subject to the quota for the tobacco traditionally produced in that area. In short, the Maryland tobacco grown in a traditionally burley area will be considered burley for the purposes of the poundage quota.

The proposal also provides that if marketing quotas are in effect for more than one kind of tobacco in an area, the production of any non-quota tobacco in that area would be subject to the quota of the kind of tobacco having the highest price support under the existing law.

Mr. Chairman, since a number of buyers have contracted to purchase Maryland tobacco grown in the Burley Belt at prices considerably lower than the burley price support level and at a rate far below the average price paid for traditional Maryland tobacco, it appears that a large volume of Maryland type tobacco will be produced in the Burley Belt during the 1973 crop year unless action is taken immediately.

Therefore, I urge the subcommittee to approve and report out S. 1533 as expeditiously as possible. Such action is mandatory if the integrity of the burley production control and price support system is to be maintained.

Senator HUDDLESTON. Thank you very much, Senator Cook, for your presentation. It will be helpful to us and will shed a great deal of light on the subject we are considering today.

Senator HELMS, do you have any questions?

Senator HELMS. Senator Cook and I talked about it last night and I am still pondering this.

Senator COOK. I might say one of the best examples I can give you in regard to the disparity in prices is that most of the Maryland tobacco that is presently under contract is somewhere in the vicinity of 60 cents.

In the Maryland tobacco market it averaged 87 cents a pound on the first day, just a few days ago, with a top of 92 cents a pound.

So you can see the magnitude of this threat with a contract price outside of Maryland in the vicinity of 60 cents a pound.

Thank you, Senator, I would ask to be excused.

Senator HUDDLESTON. Our next witness is the Honorable Kenneth E. Frick, Administrator, Agricultural Stabilization and Conservation Service, U. S. Department of Agriculture.

**STATEMENT OF HON. KENNETH E. FRICK, ADMINISTRATOR,  
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE,  
U. S. DEPARTMENT OF AGRICULTURE**

Mr. FRICK. Mr. Chairman and members of the committee, I am Kenneth E. Frick, Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture. I have with me Mr. Claude Coffman, Deputy General Counsel, William L. Lanier, Director, Tobacco Division and Joe Todd, Deputy Director.

We are pleased to present the Department's views on S. 1533, a bill "To amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938."

The bill provides that any kind of tobacco for which marketing quotas are not in effect that is produced in an area where it has not been traditionally produced and where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under this act shall be subject to the quota for the kind of tobacco traditionally produced in the area. The bill provides further that if marketing quotas are in effect for more than one kind of tobacco in an area, any nonquota tobacco not traditionally produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949.

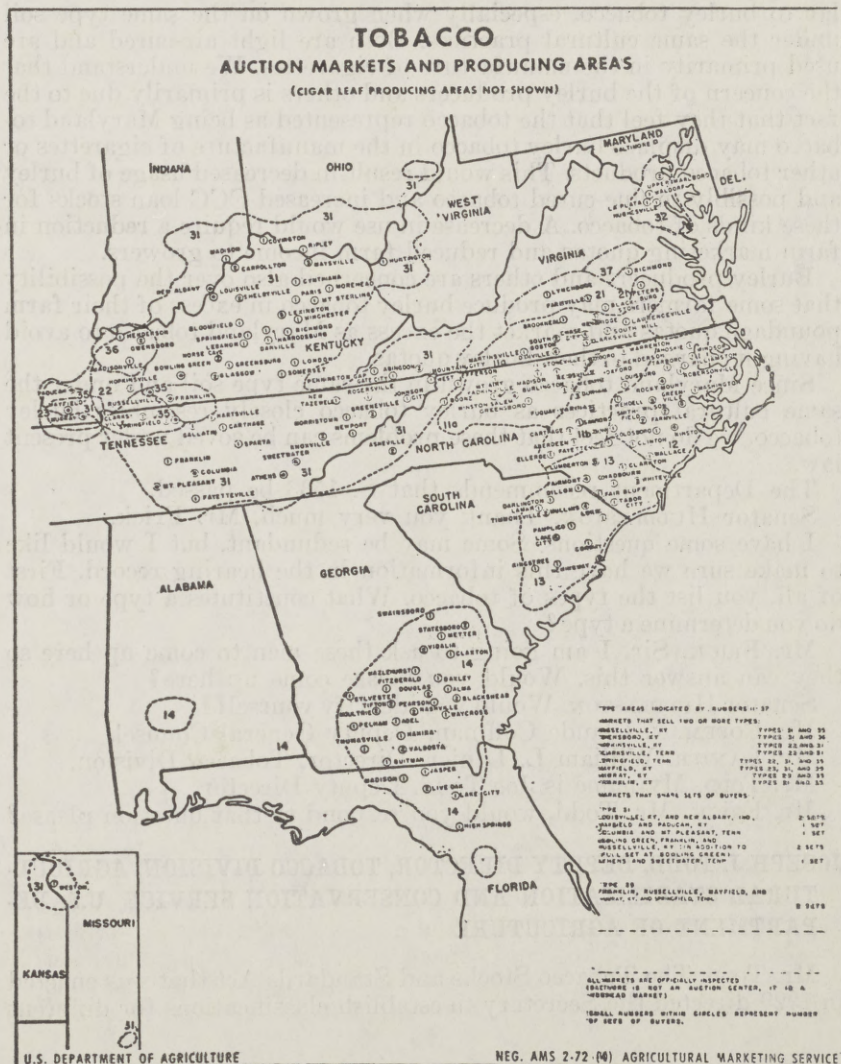
The Agricultural Adjustment Act of 1938, as amended, defines "Tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department:

- Flue-cured tobacco, comprising types 11, 12, 13, and 14;
- Fire-cured tobacco, comprising types 21, 22, 23, and 24;
- Dark air-cured tobacco, comprising types 35 and 36;
- Virginia sun-cured tobacco, comprising type 37;
- Burley tobacco, comprising type 31;
- Maryland tobacco, comprising type 32;
- Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;
- Cigar-filler tobacco, comprising type 41.

The act provides for the proclamation of marketing quotas and the holding of produced referendums, at 3 year intervals, for each of these 8 kinds of tobacco. In the most recent referendums, producers of six kinds of tobacco—flue-cured, fire-cured, dark-cured, Virginia sun-cured, burley, and cigar-filler and cigar-binder tobacco—approved marketing quotas. Maryland tobacco producers approved marketing quotas for the 1960-65 crops, but disapproved quotas for the 1966-73 crops. Cigar-filler (type 41) tobacco producers have never approved quotas.

The map attached shows the auction markets and the producing areas of the several kinds of tobacco. (The producing areas of the cigar-filler and cigar-binder types are not shown on this map as there are no auction markets in these areas). As indicated on the map, Maryland (type 32) tobacco is grown principally in southern Maryland, and the only recognized auction markets for Maryland tobacco are located there. Burley (type 31) tobacco is grown principally in Kentucky, Tennessee, western North Carolina, southwestern Virginia, West Virginia, Ohio, Indiana, and Missouri. Auction markets for the sale of burley tobacco are located in these eight States.

In 1972, approximately 850,000 pounds of tobacco reportedly produced from Maryland tobacco seed were produced in the burley areas



of Kentucky, Tennessee and Virginia. Reports indicate that buyers have contracted to purchase a substantially larger production in 1973, at substantially lower prices than those prevailing on the auction markets for either burley or Maryland tobacco. Burley tobacco auction prices averaged about 80 cents per pound during the past 2 years. Flue-cured tobacco prices averaged 85 cents per pound last year. Maryland tobacco averaged about 82 cents last year and the auction market opened Tuesday at about 87 cents per pound. Thus, there is at least a 20 cents per pound differential between prices of Maryland tobacco produced and sold in southern Maryland and the tobacco produced from Maryland seed in the flue-cured and burley areas.

The production and marketing of tobacco represented as being Maryland tobacco in the burley areas has caused much concern among burley producers, warehousemen and others. Maryland tobacco is similar to burley tobacco, especially when grown on the same type soil under the same cultural practices. Both are light air-cured and are used primarily in the manufacture of cigarettes. We understand that the concern of the burley producers and others is primarily due to the fact that they feel that the tobacco represented as being Maryland tobacco may displace burley tobacco in the manufacture of cigarettes or other tobacco products. This would result in decreased usage of burley and possibly in flue-cured tobacco and increased CCC loan stocks for these kinds of tobacco. A decrease in use would require a reduction in farm marketing quotas and reduced farm income to growers.

Burley producers and others are concerned also over the possibility that some farmers may produce burley tobacco in excess of their farm poundage quotas and market the excess as Maryland tobacco to avoid having it charged to their burley quotas.

Since Maryland tobacco grown in the same type soil and under the same cultural practices as burley tobacco closely resembles burley tobacco, we do not feel that these problems can be solved under present law.

The Department recommends that S. 1533 be passed.

Senator HUDDLESTON. Thank you very much, Mr. Frick.

I have some questions. Some may be redundant, but I would like to make sure we have this information in the hearing record. First of all, you list the types of tobacco. What constitutes a type or how do you determine a type?

Mr. FRICK. Sir, I am going to ask these men to come up here so they can answer this. Would you please come up here?

Senator HUDDLESTON. Would you identify yourself?

Mr. COFFMAN. Claude Coffman, Deputy General Counsel.

Mr. LANIER. William L. Lanier, Director, Tobacco Division.

Mr. TODD. My name is Joe Todd, Deputy Director.

Mr. FRICK. Mr. Todd, would you respond to that question please?

**JOSEPH J. TODD, DEPUTY DIRECTOR, TOBACCO DIVISION, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. TODD. The Tobacco Stocks and Standards Act that was enacted in 1929 directed the Secretary to establish classifications for different

kinds of tobacco, different classes of tobacco, different types of tobacco. That was done under this service and regulatory announcement No. 118, which is the regulations issued pursuant to that law. Those types and classes are defined in that publication and they are incorporated by reference into the Triple A Act.

Senator HUDDLESTON. So types that are close together numerically may also be close together by quality characteristics, for example, 31 and 32?

Mr. TODD. Yes, they are both light air-cured tobacco, but type 35 is dark air-cured and that is why I was hesitating there. Types 31 and 32 are both light air-cured tobacco and quite similar.

Senator HUDDLESTON. The announced quota for burley for 1963 is 560.5 million pounds; is that correct?

**WILLIAM LANIER, DIRECTOR, TOBACCO DIVISION, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. LANIER. Yes, we have a carryover of 24 million pounds so add the 24 million and that would give us 585 million, or 590 million effective quotas.

Senator HUDDLESTON. Do you have the figures for the 1972 production of burley?

Mr. FRICK. Do you have that?

Mr. TODD. The last estimate of the Department was 88 million pounds.

Senator HUDDLESTON. The carryover that you refer to, is that the supply of burley stored under CCC loan?

Mr. TODD. Well, there are two types of carryover. No. 1 is carryover in the inventories for aging. We have that carryover stocks.

There is also, as you recall under the poundage quota program, there is also a ruling if any farm doesn't market its poundage quota one year, the difference is added to that farm's quota for the following year.

Senator HUDDLESTON. So some of the carryover is yet to be produced?

Mr. TODD. Yes.

Senator HUDDLESTON. How much do we have stored under the CCC loan program? Do you have an estimate?

Mr. TODD. Around 250 million pounds of burley.

Senator HUDDLESTON. What is the anticipated 1973 production of Maryland tobacco?

Mr. TODD. We estimate that the 1972 crop is 26 million pounds. Just in southern Maryland and preliminary estimates from the farmers indicate they are going to plant about the same acreage in 1973 as in 1972—possibly a little bit more.

Senator HUDDLESTON. In Maryland?

Mr. TODD. Yes, sir.

Senator HUDDLESTON. Do you have any estimate of how much Maryland will be planted in other States?

Mr. TODD. We have reports that a number of contracts have been signed between some of the buyers and the farmers to grow specified acreages, but we don't have any report on that.

Senator HUDDLESTON. As you know, some seed has been distributed.

Mr. FRICK. Yes.

Senator HUDDLESTON. Is there any carryover of Maryland tobacco?

Mr. TODD. We do not have any Maryland tobacco under Government loan—under CCC loan because we haven't had any program. Where farmers disapprove marketing quotas, we can't make any price support available under present laws—so we haven't any price support available since 1963 I believe—

Mr. FRICK. In 1972, as he said, there were 26 million pounds that were produced with stocks of 54 million pounds, which adds up to a supply of 80 million pounds.

Senator HUDDLESTON. Thank you. I understand that Maryland tobacco averaged about 82 cents a pound last year and this year it opened at about 87 cents.

Mr. FRICK. Yes, I understand the 3 days averaged at 87 cents.

Senator HUDDLESTON. Normally the average at the end of the season would be somewhat less than 87 cents.

Mr. FRICK. I presume so.

Senator HUDDLESTON. Burley is about 80 cents over the last 2 years? It averaged 80 cents?

Mr. FRICK. Yes.

Senator HUDDLESTON. Do you have a figure on how many burley producing farms there are?

Mr. TODD. We have 280-odd thousand farms with burley quotas.

Senator HUDDLESTON. That is the number of quotas?

Mr. TODD. Yes sir.

They do not all produce tobacco because we have some transfers, some of them lease to another farm in the same county and so on.

Senator HUDDLESTON. What is the average size of the poundage quota?

Mr. TODD. A little better than 1,000 pounds per farm.

Senator HUDDLESTON. Which is about a half acre?

Mr. TODD. Just about—oh, no, about three-quarters of an acre.

Senator HUDDLESTON. We do better than that in Kentucky.

Mr. TODD. Yes.

Senator HUDDLESTON. How many Maryland tobacco producing farms are there? Do you have those figures? You may not but—

Mr. TODD. We do not have those figures for Maryland.

Senator HUDDLESTON. Do you have any idea how many farms normally produce more than one type of tobacco?

Mr. TODD. May I correct what I said before? Last year—and we don't have the final figures for this year—but 288,600 burley farms was the figure and the poundage was 531 million pounds; 531 million pounds allotted on 288,600 farms.

Senator HUDDLESTON. Do you have a figure on how much burley was exported in 1972?

Mr. TODD. About 55 million pounds on a farm-weight basis.

Senator HUDDLESTON. What about Maryland tobacco? Do you have any export figures.

Mr. FRICK. The last export figures were for the 1971 crop year of 7,998,000 pounds.

Senator HUDDLESTON. Of Maryland?

Mr. FRICK. Yes, sir.

Mr. TODD. That was unusually low because of the dock strike and other things.

Senator HUDDLESTON. So 1972 is going to be a little higher for both Maryland and burley?

Mr. FRICK. We would presume Maryland would be higher.

Mr. TODD. Burley exports were 54.7 million pounds during the last marketing year on a farm-weight basis.

Senator HUDDLESTON. Do you have any indication that the foreign market is going to decrease or increase?

Mr. FRICK. Mr. Chairman, we have reason to think that there is opportunity in foreign markets at this point in time. Again we have always the threat of new competition.

Senator HUDDLESTON. New competition?

Mr. FRICK. We always have the problem of as prices continue to rise, the problem as to how you can be able to compete with that new competition, but apparently our quality is still attracting new buyers into the United States with some increased need.

Senator HUDDLESTON. I believe we have set the support levels for burley at the upcoming year at 79 cents, is that correct?

Mr. LANIER. Yes; 4 cents above last year.

Mr. TODD. Four cents above last year and I believe it is 78.9 cents. For 1973 burley support level, the figure is 78.9 cents a pound.

Senator HUDDLESTON. This legislation is directed primarily to burley producing areas. Has the Department made any review of other production in other States, that is, has it made any determination of what the effect of the legislation would be on other areas?

Mr. FRICK. We would see it at this time as having minimal effect on other areas. It could develop on a broader scale.

Senator HUDDLESTON. You mean, principally, the application is to burley areas? That is the most important thing?

Mr. FRICK. In the immediate future, yes, sir.

Senator HUDDLESTON. What do you think about the problem of being able to grade between burley and Maryland; between Maryland grown in the Kentucky area and burley?

Mr. FRICK. Well, that certainly is a problem and I think what happened this year indicates that it is difficult to tell the difference and without some change, we will have to sharpen ourselves to being able to tell the difference.

I understand our people can tell the difference in most instances. There are leaves from parts of the plant that I understand they cannot. So there is a problem in that gray area.

Senator HUDDLESTON. Somewhere around 40 percent of the Maryland produced in Kentucky was rated as burley?

Mr. TODD. On the sale in Lexington I believe it was 38 percent.

Mr. FRICK. For this one sale.

Senator HUDDLESTON. Just the sale in Lexington?

Mr. LANIER. However, all of that might not have been Maryland seed. There is a possibility that some burley growers had sold their 110 percent and had some left over, and attempted to market it as Maryland-type tobacco.

Senator HUDDLESTON. I see. Is this a possibility that might also exist in the future?

Mr. FRICK. Of course again, Mr. Chairman, it is a matter of being able to distinguish and I don't believe that the graders were confronted with this problem particularly before as they are confronted with it now. I understand they can work at a disadvantage with this, but still run into this problem you are suggesting and—

Senator HUDDLESTON. There was some suggestion in the House yesterday that this bill would prevent some farmers from raising an additional cash crop. Does the Department have any comment on that?

Mr. FRICK. We certainly do not wish to deprive any farmer the opportunity of raising an additional cash crop, but in the case where the farmers have chosen to have rather tight quotas, I am sure that this to some degree works contrary to the quota or the poundage program the burley people did vote in a couple of years ago. The tobaccos are so clearly alike when they are grown under the same cultural and climatic conditions that we do feel it works contrary to the present poundage quotas in the burley areas.

Senator HUDDLESTON. Are all burley poundage quotas being utilized?

Mr. TODD. It depends, Mr. Chairman. A farmer has a poundage quota, under this law if he is short 1 year, the difference is added to his quota next year and by the same extent he can borrow 10 percent and have it deducted. Traditionally we grow about 90 percent of the quotas.

Senator HUDDLESTON. Are there any quotas that are not being utilized to any great extent?

Mr. TODD. Very, very, little. I think a safety factor is involved there. I think most farmers would rather be under rather than over.

Mr. FRICK. I think his question is are there any quotas that farmers are not growing at all?

Mr. TODD. Very few, very few. You can lease it out.

Senator HUDDLESTON. But some tobacco is being produced either over or under the quotas on practically every farm?

Mr. TODD. Just about.

Senator HUDDLESTON. Senator Helms?

Senator HELMS. The Maryland growers did not vote for a quota system?

Mr. FRICK. That is correct.

Senator HELMS. What we are talking about in this bill are two things: One, the effect of price on the Maryland tobacco, right?

Mr. FRICK. Yes.

Senator HELMS. That is the first point. The other is the unlawful commingling of burley and Maryland tobacco, is that what it amounts to?

Mr. FRICK. Yes sir.

Senator HELMS. Are we importing any tobacco of the general type of Maryland and burley?

Mr. FRICK. We are of burley I understand, yes.

Senator HELMS. How much?

Mr. FRICK. I know it did increase last year.

Mr. TODD. A relatively small proportion sir, though. I am afraid I don't have the actual figures with me—

Senator HELMS. How about supplying that for the record?

Mr. FRICK. Well, my memory is it was something like 3 million and it went up to 5 million pounds.

Mr. TODD. We import large quantities of tobacco. As a matter of fact, United States is the third largest importer and we are the largest

exporter. Most of our cigarette tobacco imports are from Turkey, Greece and Yugoslavia; the so-called oriental tobaccos which are used for blending purposes. We do import a little burley and that is increasing and causing some folks concern.

Senator HELMS. No more questions at this point.

Senator HUDDLESTON. Do you have any suggestions as to what increased production of Maryland tobacco in other States might do to the Maryland tobacco sales in Maryland? I understand the only sales of Maryland tobacco are in the State of Maryland?

Mr. FRICK. Yes, sir.

Senator HUDDLESTON. Would expanded production of Maryland have a depressing effect on the price of Maryland tobacco?

Mr. FRICK. We think at some point this would happen.

Senator HUDDLESTON. The Maryland farmers themselves could come up on the short end if this continues?

Mr. FRICK. Yes sir.

Senator HUDDLESTON. I would like to ask, Mr. Frick, if you would insert into the record those tables that you have so that we can have the precise figures. I know I have asked some questions here, the answers to which you wouldn't be expected to have in your mind. So if you would submit those for the record, we would like to have them.

Mr. FRICK. We will.

[The information follows:]

BURLEY TOBACCO: ACREAGE, YIELD, PRODUCTION, CARRYOVER, SUPPLY, AND DISAPPEARANCE, 1962-72

Marketing year	Acreage harvested (1,000 acres)	Yield per acre (pounds)	Production	Carryover Oct. 1	Total supply	Disappearance		
						Total	Exports	Domestic
						Millions of pounds and farm sales weight		
1962 to 1963	339	1,993	675	1,137	1,812	584	53	531
1963 to 1964	338	2,231	755	1,228	1,983	571	57	514
1964 to 1965	307	2,022	620	1,412	2,032	616	56	560
1965 to 1966	277	2,116	586	1,416	2,002	607	57	550
1966 to 1967	241	2,437	587	1,395	1,982	600	56	544
1967 to 1968	238	2,274	541	1,382	1,923	599	53	546
1968 to 1969	238	2,372	563	1,324	1,887	571	55	516
1969 to 1970	238	2,488	591	1,316	1,907	564	58	506
1970 to 1971	216	2,590	561	1,343	1,904	558	54	504
1971 to 1972	214	2,213	473	1,346	1,819	571	55	516
1972 to 1973	231	2,547	588	1,248	1,836	1,580	152	1,528
1973 to 1974				1,256		1,590	150	1,540

<sup>1</sup> Estimated.

Source: U.S. Department of Agriculture, Tobacco Division, ASCS, Jan. 16, 1973.

MARYLAND TOBACCO: ACREAGE, YIELD, PRODUCTION, STOCKS SUPPLY, AND DISAPPEARANCE, 1962-72

Year beginning Oct. 1	Acreage harvested (1,000 acres)	Yield per acre (pounds)	Production	Stocks Oct. 1	Carry- over Jan. 1	Total supply	Disappearance, year beginning Oct. 1		
							Total	Exports	Other
							Millions of pounds and farm sales weight		
1962	41.0	990	40.6	76.2	67.3	107.9	30.7	11.2	19.5
1963	34.5	1,000	34.5	86.0	76.6	111.1	31.0	12.5	18.5
1964	39.0	1,085	42.3	89.6	82.0	124.3	32.9	9.6	23.3
1965	33.5	1,150	38.5	98.9	90.1	128.6	37.7	11.0	26.7
1966	35.0	1,030	36.0	99.7	89.7	125.7	40.2	16.5	23.7
1967	31.5	1,030	32.4	95.6	86.3	118.7	36.0	15.7	20.3
1968	29.0	1,100	31.9	92.0	81.5	113.4	48.6	10.4	38.2
1969	26.5	1,060	28.1	75.2	66.7	94.8	41.4	12.2	29.2
1970	27.0	1,090	29.4	62.0	50.1	79.5	39.5	11.9	27.6
1971	27.0	1,040	28.1	51.8	46.0	74.1	25.5	8.0	17.5
1972	26.0	1,000	26.0	54.5	47.0	73.0			

<sup>1</sup> Estimated.

Source: U.S. Department of Agriculture, Tobacco Division, ASCS Feb. 1, 1973.

TOBACCO: FLUE-CURED, BURLEY AND MARYLAND, MARKET AVERAGES AND PERCENT DOMESTIC TOBACCO IN U.S. CIGARETTES—1963-72

Year	Market average (cents per pound)			Distribution in U.S. cigarettes (percent)		
	Flue-cured	Burley	Maryland	Flue-cured	Burley	Maryland
1963	58.0	59.2	43.2	60.9	37.8	1.3
1964	58.5	60.3	62.0	60.7	38.0	1.3
1965	64.6	67.0	65.5	59.0	39.6	1.4
1966	66.9	66.9	48.6	57.6	40.8	1.6
1967	64.2	71.8	62.4	56.8	41.6	1.6
1968	66.6	73.7	69.8	56.6	41.8	1.6
1969	72.4	69.6	75.1	56.2	41.0	2.8
1970	72.0	72.2	78.6	56.3	41.2	2.5
1971	77.2	80.9	81.9	56.7	41.0	2.3
1972	85.3	79.2	187.4			

<sup>1</sup> First 2 days' sale average.

Senator HELMS. I would like also to have a statistical table inserted as future reference of our imports-exports statistics.

Mr. FRICK. We would be happy to do that.

[The information follows:]

U.S. EXPORTS OF UNMANUFACTURED TOBACCO, FARM-WEIGHT BASIS

[In thousands of pounds]

Kind	1970	1971	1972
Flue-cured	477,371	437,462	564,865
Burley	50,779	44,699	68,540
Fire-cured	28,171	26,076	30,095
Maryland	12,289	9,382	11,453
Dark air-cured	2,574	2,552	2,642
Cigar filler and binder	826	438	460
Cigar wrapper	1,758	2,841	3,378
Perique	211	148	280
Total	573,979	523,598	681,713

U.S. IMPORTS FOR CONSUMPTION OF UNMANUFACTURED TOBACCO DECLARED WEIGHT

Oriental cigarette leaf	141,795	163,924	157,304
Scrap cigarette leaf	62,176	72,060	61,069
Flue-cured and burley	7,757	4,381	6,733
Cigar leaf	6,495	7,372	11,747
Stems	391	792	3,657
Total	218,614	248,529	240,510

Source: USDA, Tobacco Division, ASCS, March 1973.

Mr. TODD. I have part of the answer to Senator Helm's question.

On January 1 of this year manufacturers and dealers in the United States reported that they were carrying in their inventories at that time about 25 million pounds on a farm-weight basis of imported Flue-cured tobacco and about 13 million pounds of imported burley tobacco and that was an increase over the year before. They had 9.8 million pounds of imported Flue-cured tobacco and 5.1 million pounds of burley the year before so they almost tripled from January 1, 1972, to January 1, 1973.

Senator HUDDLESTON. Thank you very much, gentlemen. We appreciate your testimony.

Next witness is Mr. John N. Berry, president, Burley Tobacco Growers Cooperative Association, Lexington, Ky.

**STATEMENT OF JOHN M. BERRY, PRESIDENT, BURLEY TOBACCO  
GROWERS COOPERATIVE ASSOCIATION, LEXINGTON, KY.**

Mr. BERRY. Thank you, Mr. Chairman.

Senator HUDDLESTON. I might say for the record, that Mr. Berry is eminently qualified to testify on tobacco and burley tobacco in particular. He is one of our outstanding citizens in Kentucky, an outstanding farmer and an expert on burley tobacco.

Mr. BERRY. Mr. Chairman and gentlemen, I am John M. Berry of New Castle, Ky. I am president of Burley Tobacco Growers Cooperative Association of 620 South Broadway, Lexington, Ky.

This association under contract with Commodity Credit Corporation has operated the price support program for burley tobacco farmers residing in the States of Kentucky, West Virginia, Ohio, Indiana, and Missouri.

Use of the tobacco production control and price support programs for more than 30 years has demonstrated convincingly that plans can be practically devised by legislation to insure American farmers fair minimum prices for their products. These programs for tobacco farmers limit supply and insure reasonable prices without a resulting scarcity.

Perfection of the production control program was more than 30 years in the making. Not until the Congress gave us poundage control in the spring of 1971 was the program really efficient. From the standpoint of its workability and soundness its continuity is highly desirable and justified.

Production control and price support together are a counterpart to an 8-hour day, a 40-hour week, and a guaranteed hourly minimum wage. Burley tobacco growers are entitled to no less. They hope for the continuation of as much.

The unlimited production of Maryland tobacco which simulates burley constitutes a threat to the programs of production control and price support which provide a fair wage, or income, to the producers of burley. But no attempt can or should be made to forbid the production of Maryland tobacco. However, not being under quotas, its careful identification and safe separation from burley is imperative if the programs-production control and price supports for burley and their proven benefits to farmers are to be preserved without injury.

This organization for which I speak celebrated its 50th anniversary last year. The occasion of its beginning was surplus burley tobacco and consequent severely depressed prices.

Control of burley tobacco by poundage quotas insures a manageable adequate supply and protects farmers from price-depressing surpluses. Without quotas for Maryland tobacco and without its careful identification and separation burley tobacco in excess of quotas, due to some physical similarities of the two types, can find its way as surplus into the channels of trade under the label of Maryland tobacco.

Under the production control and price support programs burley tobacco production has come to be an industry that provides employment and a livelihood for about 400,000 farm families of more than 1 million people on 285,700 farms in the eight States of Kentucky, Tennessee, North Carolina, Virginia, West Virginia, Ohio, Indiana, and Missouri for a total gross annual income of \$410 million. By com-

parison on all points the Maryland tobacco industry is negligible. In 1972, according to the U.S. Department of Agriculture ("Tobacco Situation of March, 1973"), "About a million pounds of type 32 (Maryland tobacco) were produced and sold in the burley area. About half of this tobacco was grown under contract for 55 cents a pound. The other half sold at auction sales averaging 64 cents per pound."

While "The survey of farmers' intentions to plant type 32 tobacco was limited to Maryland and did not cover the burley area," reports from market points in that area indicate that the production of this type will be increased several times over in 1973, making the problem of identification and separation of utmost concern to burley farmers and this association. Opportunity to commingle excess burley with Maryland will be correspondingly increased and production control of burley effectively nullified.

This association's inventory of 212 million pounds consists of receipts from the 1964 through the 1972 crops, upon the security of which Commodity Credit Corporation has loaned \$172 million. It is the purpose of this association to market this inventory at prices that will enable it to repay the loan, with interest, in full. That purpose will be defeated, however, if the supply of burley tobacco (presently excessive by more than 230 million pounds), including that marketed under the Maryland label, becomes any larger.

Surely the Congress has the right to expect this association to fulfill its promise to repay the loans on the tobacco it holds. Its ability to do so depends upon prices at which they will sell; and those prices will be dictated by surpluses accruing by the addition of excess-quota to quota burley.

Legislation should be enacted to safeguard both the growers' and Commodity Credit Corporation's interests in the two programs.

Senator HUDDLESTON. Thank you very much.

Does your association have any indication at this time on the extent of the proposed plantings this year of Maryland tobacco in Kentucky?

Mr. BERRY. No more than I indicated in the statement that the reports we are receiving from market points in Kentucky indicate that the production will be substantially increased. The distribution of Maryland seed is much more extensive, we understand, than last year.

Senator HUDDLESTON. And the indications are that there would be more produced than last year?

Mr. BERRY. Yes, sir.

Senator HUDDLESTON. Can you indicate the situation that existed on the Lexington market when the Maryland crop was offered for sale there?

Mr. BERRY. I did not attend that offering.

Senator HUDDLESTON. I see.

Senator Helms, do you have any questions?

Senator HELMS. Only a casual one, Senator. How did you monitor the distribution of Maryland seed?

Mr. BERRY. Simply by vocal reports, oral reports, that came in. We made no systematic monitoring of what had taken place and, indeed, I daresay we would have difficulty in doing that.

Senator HELMS. So it is an educated guess?

Mr. BERRY. Yes, sir.

Senator HELMS. Now do your farmers agree with this legislation? These are the ones that are going to commingle the tobacco, so isn't this something of a contradiction?

Mr. BERRY. No, I think that the vast majority of the membership of our organization and indeed of the burley farmers—and we claim to have all of them as members of our association—the vast majority of them favor this legislation because they recognize the problem and the hazard to the production control and the price support programs which account for their primary tobacco income.

Senator HELMS. And the same in Flue-cured tobacco?

Mr. BERRY. Yes, sir.

Senator HELMS. But you do have some farmers who you feel will grow this Maryland tobacco or otherwise substitute the burley under the guise of being Maryland tobacco?

Mr. BERRY. That is our apprehension, that the production of Maryland tobacco will open the door to the disposition of excess burley tobacco and that the supply of burley actually will be increased and make more difficult effective production control.

Senator HELMS. Fine, a very nice presentation, sir.

Senator HUDDLESTON. Mr. Berry, one question. How long can a burley crop be stored?

Mr. BERRY. Indefinitely.

Senator HUDDLESTON. With no damage?

Mr. BERRY. It does not deteriorate by reason of age.

Senator HUDDLESTON. Does it improve like another one of our products?

Mr. BERRY. Well, sir, yes it does. Kentucky has the distinction of several products that improve with age and particularly tobacco.

Senator HUDDLESTON. One other question. You represent burley growers, are these burley growers pretty well satisfied with the poundage system that is now in effect?

Mr. BERRY. It is very popular and it is now an efficient program. It might be interesting for you to know that of the 31 crops of burley tobacco that have been produced up until 2 years ago, only 3 of them were within the quota proclaimed and the rest were in excess of the quota and some by as much as 160 million pounds. So we did not have an effective production control until 2 years ago when you gave us poundage control.

Senator HUDDLESTON. I thank you very much, Mr. Berry. That was a very fine presentation.

The next witness is Mr. Louis Ison, president, Kentucky Farm Bureau Federation, Harrodsburg, Ky.

**STATEMENT OF LOUIS F. ISON, PRESIDENT, KENTUCKY FARM BUREAU FEDERATION, LOUISVILLE, KY.**

Mr. ISON. Mr. Chairman, my name is Louis Ison. I am president of the Kentucky Farm Bureau Federation and a burley tobacco grower in Mercer County, Ky.

On behalf of Kentucky Farm Bureau's members who grow tobacco, I want to express appreciation for this opportunity to appear before you and tell you of our interest and concern regarding the future of the tobacco industry.

At the outset, I would like to make it abundantly clear that Kentucky Farm Bureau supports the bill S. 1533, which you have under consideration today. We are convinced that the production of Maryland tobacco in the burley belt constitutes a serious threat to the future of burley tobacco. Passage of the proposed legislation would in effect limit the amount of Maryland tobacco which would be grown in Kentucky and other tobacco producing areas.

As we see it, the production of Maryland tobacco in the burley producing areas poses a twofold problem:

(1) Maryland tobacco, when produced in Kentucky under the same conditions and by the same cultural practices as burley, takes on the general characteristics of burley and may possibly therefore be used as a substitute for burley. To the extent this should occur, the burley industry would be damaged.

(2) Because of these similar characteristics between burley tobacco and Maryland tobacco which is grown in the burley producing areas, and the difficulty graders have of distinguishing these two crops from one another, it is conceivable that excess burley may find its way into the market through the representation that it is Maryland tobacco. It has been indicated that this might occur from the results of the offerings which have been made on two or three markets this selling season.

Our members believe that the occurrence of either or both of the two situations I have mentioned would be a critical blow to the present burley tobacco program which is operating so successfully. Our members expressed their concern about this situation at our State convention last November when they passed the following resolution:

We are concerned and alarmed over the production of Maryland tobacco in the burley belt and the possibility that this tobacco under the present program might be used in competition with burley tobacco. We urge the farm bureau, in cooperation with the burley leadership and the Department of Agriculture, to use every means at its disposal to assure that this does not happen. We further urge that necessary changes in regulations and/or laws be made before the 1973 growing season.

In addition, our State board of directors on March 27, 1973, voted unanimously to aggressively support action by Congress to deal with the problem laid out.

In conclusion, let me say that we earnestly request your favorable consideration of the legislation before you today and urge that you act on it quickly so that it can apply to the 1973 burley tobacco crop.

Senator Helms, I might address this remark to you. There seems to be some concern, which was expressed at the congressional hearings as to how it might affect flue-cured growers. I want to make it absolutely clear that we in the burley area are not asking for any special favors or any special dispensation. Our main concern is the preservation of a sound tobacco program, which in effect has undergirded and been the foundation of our industry for many, many years. Incidentally, just one night this week I was going through and destroying some old records and I came across an old sales bill in the early 1930's when some tobacco that I had sold, sold for 4 cents a pound with the top basket being 22 cents. Well I just don't want to return to that type of situation by putting our tobacco program under this pressure.

We can't separate one type of tobacco from the other so I want to ask your support for this bill.

Senator HUDDLESTON. You represent an organization that is comprised of all types of farmers; big farmers, little farmers, big tobacco growers, little tobacco growers, some that don't grow any tobacco at all. Is it your judgment that the resolutions you indicated there would reflect an overwhelming majority of your members of all types?

Mr. ISON. Yes, sir.

Senator HUDDLESTON. Have you had any indication from North Carolina farmers or from the North Carolina Farm Bureau as to how they feel on this particular bill?

Mr. ISON. I have been in close contact with my counterpart over there in North Carolina and the North Carolina Farm Bureau supports this legislation.

Senator HUDDLESTON. Your organization has been concerned with this matter for some time, as the original resolution there indicates, have you studied other possible alternatives or other ways that this problem might be resolved?

Mr. ISON. Well, we have studied the idea that it might be handled through regulation and apparently it cannot. And in my judgment the most effective manner in dealing with the problem is legislation.

Senator HUDDLESTON. Can you explain to us how it came about that we grew Maryland tobacco in Kentucky last year? Am I correct in that most of it was grown under contract at a set price?

Mr. ISON. According to the information that we have and that I have I would substantiate what you just said, Senator Huddleston, that this tobacco was grown under a contractual agreement. The amount received was about 60 cents a pound for the majority of that tobacco that was grown and one of the tobacco specialists at the University of Kentucky indicated to our tobacco committee just a few weeks ago that there would be somewhere in the neighborhood of 300 pounds of seed available for distribution this year.

Further it is my understanding that this seed upon signing of the contract with the grower is made available to the grower without cost to him.

Senator HUDDLESTON. That is 300 pounds in Kentucky?

Mr. ISON. I don't know sir.

Senator HUDDLESTON. How many acres could be grown with the 300 pounds?

Mr. ISON. It would almost take an adding machine because an ounce of seed contains about 12 teaspoons and a teaspoon will plant a bed 50 feet long by 9 feet wide and so you can gather that that would be an astronomical figure.

Senator HUDDLESTON. A lot of plants, many many acres in other words?

Mr. ISON. Many acres.

Senator HUDDLESTON. More acres than anybody ever thought about producing, I suppose.

Mr. ISON. I would say one reason I would assume that Kentucky and the burley producing area was or is a ripe area for this exercise is because of their air-cured barns that are already present in the area and so that would not involve excess costs there. I think the vast ma-

majority of our growers are much more interested in saving the burley program and the tobacco program that we have rather than planting this—

Senator HUDDLESTON. But you find the burley program pretty satisfactory?

Mr. ISON. Yes sir.

Senator HUDDLESTON. Is it true in Kentucky the yield per acre of Maryland tobacco is greater than it is in Maryland?

Mr. ISON. It is my understanding, yes.

Senator HUDDLESTON. And yet the yield for Maryland per acre is less than the yield for burley per acre?

Mr. ISON. Yes sir.

Senator HUDDLESTON. What indication do you have in your county where your farm—on the basis of plant beds that may now be underway—on the amount of Maryland tobacco that may be grown?

Mr. ISON. I don't know. It is widespread in my own county.

Senator HUDDLESTON. Senator Helms?

Senator HELMS. I am just wondering, sir, I appreciate your testimony but what is the average allotment of burley growers in Kentucky would you say?

Mr. ISON. About seven-tenths to an acre; transplated to an acre, about seven-tenths to an acre.

Senator HELMS. I am just wondering if this legislation is going to do what you want it to do really. Would it not be economically profitable for a man with a half an acre, let's say, to just say I won't grow any burley at all and he could go into Maryland tobacco?

Mr. ISON. No, sir.

Senator HELMS. I am interested in the Maryland tobacco growers, I mean, aren't we opening up a good avenue to move into the burley field with this?

Mr. ISON. You mean substitute Maryland tobacco for Burley? Well, that is a speculation that Maryland tobacco will be substituted for burley.

Senator HELMS. I guess what I am trying to say, you know more about this than I do, but I would be a little bit apprehensive about the eventual effect of this legislation. It might get some of your burley people out of the burley business and get them into the Maryland business. Is that a reasonable conjecture?

Mr. ISON. I don't quite think it is because I don't think it would be to that extent.

Senator HUDDLESTON. Would it be likely that if you went into growing Maryland which is now uncontrolled and had unlimited production, that you would have to come right back and put controls on Maryland in order to protect the market.

Senator HELMS. Would you do that without a vote though?

Senator HUDDLESTON. Presumably not.

Mr. ISON. The Maryland growers I believe would have opportunity to vote in 1974.

Senator HUDDLESTON. Senator Helms, are you through?

Senator HELMS. I am through.

Senator HUDDLESTON. You mentioned the similarities of the two types of tobacco: Maryland and burley. Is this similarity evident in the early growing stages of the tobacco?

Mr. ISON. Senator, I want to make this clear. I have not grown any Maryland tobacco so, therefore, I would not be able to be a competent witness to comment on that.

Senator HUDDLESTON. Any other questions?

Senator HELMS. No, thank you.

Senator HUDDLESTON. Thank you very much, Mr. Ison, for a fine presentation.

Senator HELMS. You have a good senator there.

Senator HUDDLESTON. I would like at this point to submit for the record a statement by the Honorable John B. Breckinridge, a Member of Congress from the Sixth District of Kentucky relating to this subject.

[The statement of Representative Breckinridge follows:]

STATEMENT OF HON. JOHN B. BRECKINRIDGE, REPRESENTATIVE IN CONGRESS FROM  
THE SIXTH DISTRICT OF KENTUCKY

Mr. Chairman and Members of the Committee: Thank you for this opportunity to present testimony on behalf of S. 1533, a bill to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938.

This bill is identical to H.R. 6485, which I introduced, with co-sponsors, on April 3. I am pleased to note that the Senate sponsorship of S. 1533 includes both Senators from Kentucky, and both of the Senators from Tennessee.

Mr. Chairman, the need for this legislation arises because of the spread of production of Maryland-type tobacco into areas which traditionally have produced burley tobacco. The Maryland, as you know, is not under controls. I am advised that there is a considerable market for Maryland tobacco, in Europe, and this legislation will in no way, and is in no way intended to, inhibit production to meet that demand.

The problem arises when Maryland tobacco is grown in an area such as Kentucky's Bluegrass. There it takes on many of the characteristics of burley, and presumably would continue to so evolve over future generations of seed reproduction.

Earlier this year this problem evidenced itself on three markets, in parts of Tennessee and Virginia close to Kentucky: in Abingdon, Greeneville and Carthage graders from the U.S. Department of Agriculture inspected tobacco which was purportedly Maryland-type and ordered that it be classified as burley. Subsequently officials from Washington overruled the original order, and changed the grading to "off-type."

I submit, Mr. Chairman, that not only do we have the prospect of significant production of Maryland tobacco in the burley belt underselling controlled burley; there also exists the possibility that excess burley poundage might be marketed under the pretext that it is Maryland-type.

So this legislation protects our burley program, or the control program for any other tobacco, from being undermined by Maryland production in the same area. It in no way restricts the production of Maryland tobacco in other areas.

I urge the committee to give prompt approval to this legislation so that it may be brought to an early vote, thereby guiding our tobacco growers on any change in policy or law early in this 1973 season.

Senator HUDDLESTON. Our next witness will be Mr. Phil B. Wells, president, Burley Auction Warehouse Association, Glasgow, Ky.

STATEMENT OF PHIL B. WELLS, PRESIDENT, BURLEY AUCTION  
WAREHOUSE ASSOCIATION, GLASGOW, KY.

Mr. WELLS. Thank you.

I am Phil Wells, Glasgow, Ky., president of the Burley Auction Warehouse Association. We are a trade association of the owners and operators of over 90 percent of the warehouses that sell burley tobacco in the Burley Belt, which includes the States of Kentucky,

Tennessee, Virginia, West Virginia, Ohio, Indiana, North Carolina, and Missouri.

We represent thousands of people whose income is created by our particular part of the tobacco industry.

Last year, for the first time in tobacco history, a substantial amount of Maryland-type tobacco was grown in many of the burley tobacco producing areas I have named.

As I understand it, true Maryland tobacco, because of its burning qualities, is a desirable ingredient that cigarette manufacturers use as a small percentage of their blends.

I also understand that when the Maryland-type tobacco seed is grown in the traditional burley tobacco areas, and cultivated with the traditional burley tobacco methods, the leaf product of the Maryland-type tobacco takes on many characteristics of burley tobacco.

Because this is a fact, it naturally follows that skilled and experienced tobacco graders, when confronted with such Maryland-type tobacco and true burley tobacco, are generally and honestly unable to distinguish between the two.

This creates a situation in which Maryland tobacco, grown in a burley quota area could have true burley commingled with it in the same basket. This could definitely provide an outlet for excess burley tobacco and lead to the destruction of our entire production-control program.

All the segments of the burley tobacco industry worked together in support of the burley poundage control program which this committee approved and which was passed by Congress. Subsequently, it received overwhelming approval of burley tobacco growers by referendum. This new program has been highly successful. It has accomplished the following goals:

- (1) Produced a high quality product;
- (2) Reduced surplus CCC stocks; and
- (3) Given much better production control, with less cost to the U.S.

Department of Agriculture.

To allow another type of nonquota tobacco (that takes on both the chemical and physical characteristics of burley) to be grown in burley quota areas would defeat the purpose of our present program and would eventually destroy it.

Because we sincerely believe that the present burley poundage control program has proven to be in the best economic interest of all burley tobacco growers, we respectfully recommend that it be protected by approval of S. 1533.

Senator HUDDLESTON. Thank you, Mr. Wells.

Your organization has studied this problem in some detail. Did you come up with any other ideas as a feasible solution?

Mr. WELLS. Senator, we studied the regulation aspect and it didn't seem that it could be done without the regulations, I mean, legislation was our only answer.

Senator HUDDLESTON. Now that graders are aware of the similarities between Burley and Maryland, would they, by studying up, be able to distinguish better between the two leaves in the future? Do you think this is probable?

Mr. WELLS. It is possible, yes sir. Of course especially in the red grades of both types is where it seems to be hard to distinguish more than the other grades of it.

Senator HUDDLESTON. Did you attend the sale of the Maryland tobacco in Lexington?

Mr. WELLS. Yes, sir, I did.

Mr. HUDDLESTON. What was the situation there as you saw it?

Mr. WELLS. Well, of course I am not an expert on grading tobacco, but I could see a lot of similiarity in the two types of tobacco especially in the red grades.

Senator HUDDLESTON. Some farmers that had grown the Maryland tobacco found out they were not going to be able to sell it, did that happen there?

Mr. WELLS. Yes sir.

Senator HUDDLESTON. It followed there was some disappointment on the part of some of the growers?

Mr. WELLS. That is true.

Senator HUDDLESTON. The situation of course would exist in the future if part of the Maryland tobacco were graded as Burley?

Mr. WELLS. Yes sir, that is what we are concerned about; it would be a channel for the excess Burley and the comingling there.

Senator HUDDLESTON. A person could spend time and effort putting in a crop and getting it to the marketplace only to have it graded as Burley and not be able to sell it?

Mr. WELLS. That is true.

Senator HUDDLESTON. Do you have a question, Senator Helms?

Senator HELMS. I thank you for your testimony, Mr. Wells. At the risk of being repetitious again, let me pose the same question. You are absolutely certain in your own mind this wouldn't be an infirmity to your program?

Mr. WELLS. Senator, I don't think so. The way I see it and the way my organization sees it, this would be the best route.

Senator HELMS. I am thinking again of that Burley farmer, who has a half an acre and he looks over the situation and says shucks I can plant 4 or 5 acres of Maryland tobacco and come out better. You don't think there is any risk of that happening?

Mr. WELLS. The way I see it in my area down in south central Kentucky most all of your Maryland tobacco is under contract at 60 cents a pound. That is the 1973 contract. I have seen numerous contracts.

I don't believe you will find many of the farmers growing Maryland in preference to the Burley because they are getting 80 cents a pound for Burley. Last year it averaged 80 cents. They would be sacrificing 20 cents a pound there.

Senator HELMS. Your fear isn't that these farmers without this legislation would fudge a little bit about growing Maryland.

Mr. WELLS. I would hate to think that, but I think some might.

Senator HELMS. I might pose this to the Chairman as well as to our own good selves. Have any studies been made of this by attorneys as to its constitutionality?

Senator HUDDLESTON. It is my understanding that there has been an opinion at least, if not official, that it is constitutional. There may be some question about it and I don't want to be in the position of saying absolutely.

Mr. WELLS. I am not aware of that.

Senator HELMS. You don't know whether any study has been made? Of course you won't know until the courts act as to whether it is con-

stitutional or not. We can all declare whether it is or it isn't, but we won't know for sure.

Mr. WELLS. Not to my knowledge.

Senator HELMS. Thank you.

Senator HUDDLESTON. The next witness is William Balden, president, Council for Burley Tobacco, Lexington, Ky.

**STATEMENT OF WILLIAM H. BALDEN, PRESIDENT, COUNCIL FOR BURLEY TOBACCO, DANVILLE, KY.**

Mr. BALDEN. I am William Balden of Danville, Ky., a farmer and president of the Council for Burley Tobacco, an association of organizations, agencies and individual farmers concerned with Burley tobacco production as a basic farm industry and a vital economic generator.

We appreciate the opportunity to appear to present our views on the proposed legislation concerning nonquota tobacco.

The Council for Burley Tobacco affirms its full support of the provisions of the legislation proposed in the Senate as the only positive solution to the perplexing problems which have been created by the spreading production of nonquota Maryland, type 32, tobacco into the traditional burley-producing areas.

The basic but complex problem arises from the similarity of the Maryland type to Burley, type 31, when the Maryland type is produced in Burley country. Maryland tobacco produced under the production conditions and environment of traditional burley country is so closely related to burley that it becomes indistinguishable.

An inability to separate the two types could wreck the Burley production control and price support programs, which, for many years, have provided the Burley grower with his only bargaining power and has sustained a highly valuable and widespread economy.

Unless the difficulties which have been created can be resolved, it is foreseeable that the Burley production control program could be lost and with it the vital price support structure. These are sound, practical programs of demonstrated wisdom and workability which should not be put in jeopardy.

We feel it is critical that provisions be enacted for the strict separation and identification of nonquota tobacco.

It is apparent that the problems cannot be resolved without the legislation proposed, and we would stress the need for expediency to prevent further problems in view of the preparations for the current production year.

Respectfully submitted for the Council for Burley Tobacco.

Senator HUDDLESTON. Thank you very much. Let me pose a question here which is rather long and general. We have talked about three concerns over the existing situation; one, that farmers might produce Burley in excess of their quotas and try to market it as Maryland tobacco; or Maryland produced in Burley areas might be marketed as Burley tobacco; or Maryland produced in Burley areas might be marketed as a substitute for Burley tobacco.

Do you have any judgment on which of the situations would be the most serious threat to the burley industry?

Mr. BALDEN. I think the greatest threat as burley farmers is the fact of the possibility of Maryland tobacco being substituted for burley and commingled with the supposedly Maryland-type tobacco.

It is impossible—well, I won't say it is absolutely impossible, but you cannot produce the same type of tobacco that they produce in Maryland because of our soil and climatic conditions and as cultural practices and environments.

Senator HUDDLESTON. You don't know of any case where farmers have substituted growing Maryland tobacco for their burley?

Mr. BALDEN. I have heard of instances where farmers have leased out their burley poundage quota to other farmers for say 27½ cents or 30 cents a pound and then substituted in its place the growth of Maryland tobacco.

Senator HUDDLESTON. Is Maryland tobacco any easier to grow in Kentucky than burley?

Mr. BALDEN. I am told it is possibly a little easier to grow and it costs a few cents less on the pound to produce.

Senator HUDDLESTON. The yield is less per acre though? You would have to commit more ground?

Mr. BALDEN. Well in Kentucky I am told the people have gotten as high as 2,500 to 3,000 pounds per acre.

Senator HUDDLESTON. On Maryland?

Mr. BALDEN. On Maryland.

Senator HUDDLESTON. That is about as good as they can do on burley?

Mr. BALDEN. Yes; that is what we are concerned about. Well after all, the two types are so closely related to begin with, we are concerned.

Senator HUDDLESTON. Under the same conditions it grows essentially the same way?

Mr. BALDEN. That is right. Of course any farmer in the State of Kentucky I think who desires to have additional income, as you mentioned, Senator Helms, has the opportunity to lease additional burley production. Just 3 weeks ago I had one man offer me 15,000 pounds and another man offered me 7,000 pounds so there is additional income available for Kentucky farmers if they desire to get out and look for it.

Senator HUDDLESTON. What is the composition of your council? Does that represent the farmers themselves?

Mr. BALDEN. Well, we have farmers who are represented throughout the entire State and then it is an organization of—well, do you want me to name each one?

Senator HUDDLESTON. No; I just wanted to get an idea.

Mr. BALDEN. It is an organization of all of the tobacco interests throughout the State of Kentucky and some of them even extend on into the burley belt.

Senator HUDDLESTON. Is it your judgment that this position reflects the overwhelming majority of your organization?

Mr. BALDEN. Yes; we have met on this subject.

Senator HUDDLESTON. And have discussed it?

Mr. BALDEN. Yes.

Senator HUDDLESTON. Discussed possible alternatives?

Mr. BALDEN. Yes, sir.

Senator HUDDLESTON. Any questions, Senator?

Senator HELMS. I just want to get as many opinions as I can, Senator. I would like to pose the same question to you as to the previous witnesses.

You don't have any fear that there is going to be a shift to Maryland tobacco by say—and I will use the illustration of one farmer, of a burley farmer who has a half an acre—there is no fear that he will say, "I believe I will plant four or five acres in Maryland?" You don't have any concern about that?

Mr. BALDEN. Well, the demand for Maryland is about 40 million pounds and for Kentucky burley it is about 325 million pounds. So if every burley farmer—and there are 130,000 of us in Kentucky—started growing Maryland tobacco, we wouldn't be able to sell it inside of a year. There wouldn't be any demand for it unless it took on the burley characteristics. If it took on the burley characteristics and the companies could use this as a complete substitute for burley or flue-cured or whatever they want, then I wouldn't want to say.

The cigarette now is composed of 49 percent flue-cured, 35 percent burley, 2 percent Maryland, and 14 percent of other types such as Oriental and other such types. So if this type of tobacco grown in Kentucky or Tennessee or in North Carolina or wherever it might be grown takes on the characteristics of burley or flue-cured, it could be used as a substitute and we would lose on burley production and flue-cured production.

Senator HELMS. But until that time—well, at that time you yourself could shift to Maryland, couldn't you? If it got to be a crucial thing, what I am talking about is the demise of the burley growing—and I don't want to see that happen and I know you don't either but I just want to be sure that everybody has thought this thing through—couldn't you shift?

Mr. BALDEN. Well, I think—

Senator HELMS. And sometimes when you handcuff something, you may be doing the right thing, but many times you are doing the wrong thing.

Mr. BALDEN. That is true, but I think those of us as burley farmers who have really considered the ultimate effect that this could have on our present program don't want to jeopardize our position.

Senator HELMS. I understand. That was a very good statement, sir.

Senator HUDDLESTON. Thank you very much, Mr. Balden.

Mr. BALDEN. I have the statement of Robert Woods that I would like to enter for the record also, he is president of the Burley Farmers Advisory Council.

Senator HUDDLESTON. Fine, we will insert that in the record in its entirety.

[The statement follows:]

STATEMENT OF ROBERT D. WOODS, PRESIDENT, BURLEY FARMERS ADVISORY COUNCIL, LEXINGTON, KY.

I am Robert D. Woods of Lexington, Kentucky, a farmer and President of the Burley Farmers Advisory Council, which represents growers in 33 major burley-producing counties in Kentucky.

We appreciate the opportunity to enter a statement in the record in support of the Senate Bill 1533, a measure which will resolve the innumerable and complex problems which have been created for us by the spread of uncontrolled and unsupported Maryland Type 32 tobacco from its traditional area of production into burley areas.

When it is produced in the soils and environment of burley country, Maryland Type 32 tobacco develops such a close kinship to true burley type 31, that it becomes indistinguishable and thus unfairly competitive, endangering the very premises of the burley production control and price support program enacted by the Congress.

Because of the almost identical characterization of the two types, an avenue is provided, under the existing situation, for the disappearance of excess burley under the poundage control program, thus weakening, if not negating, the intent of the Congress. We are greatly disturbed over this danger to the integrity of the production control and price support program.

It is also quite evident that any tobacco with the characteristics of burley may be substituted for burley. The widespread production of the Maryland type in burley areas could create heavy surpluses of burley under price supports, generating pressures that could bring about a collapse of the valuable burley program.

Without price supports and production controls, the base of the strong economy which is vital to us would disappear with widespread and difficult, if not tragic, consequence.

The difficulties we now face apparently cannot be handled adequately enough by regulations by the Department of Agriculture, and the legislation embodied in the Senate Bill is most necessary. We respectfully urge its enactment, noting the need for expediency in view of the seasonal preparations for tobacco production.

Senator HUDDLESTON. The next witness is Mr. Y. D. Hance, secretary, Maryland Department of Agriculture, Annapolis, Md.

I have been doing a lot of talking about your State, so I am glad to have you.

#### STATEMENT OF Y. D. HANCE, SECRETARY, MARYLAND DEPARTMENT OF AGRICULTURE, ANNAPOLIS, MD.

Mr. HANCE. Mr. Chairman and members of the committee, I am Y. D. Hance, secretary of agriculture for the State of Maryland, and I appreciate the opportunity of appearing before you gentlemen in support of S. 1533.

Mr. Chairman, I was a Maryland tobacco producer before taking this assignment and hope to continue my farm operation while serving in this capacity.

We learned this past fall of the large production—over 1 million pounds—of so-called Maryland-type tobacco that had been produced in other Southern tobacco-producing States. I say so-called Maryland tobacco because the USDA did not grade it as type 32, Maryland tobacco, but rather as “off type.”

The Maryland tobacco farmer is very concerned because we are now in an excellent position as far as the supply and demand situation. In the fifties or sixties we were plagued with an oversupply and our market prices reflected this unfavorable situation. There were many factors that influenced this change, but the leadership in southern Maryland also worked hard to achieve the present healthy sales atmosphere. We do not want to find ourselves in the same predicament again. Maryland has never been able to obtain more than approximately 1,500 pounds to the acre without affecting quality, yet we learn that our type of tobacco produced in other States yielded from 2,500 to 3,000 pounds to the acre.

We in Maryland depend on export trade and receive our highest bids from these buyers so quality must be maintained. We also learned that during the sale of Maryland type tobacco at the southern sales, there was other tobacco mixed in with Maryland tobacco. This gave

the producers there, who are under poundage controls, an opportunity to dispose of excess poundage from the controlled tobacco acreage. I also wonder if this might not create problems for that program.

As you gentlemen can see, this situation, if it continues, can place Maryland back in an oversupply situation as well as jeopardizing other programs in the Southern States. Further, there may be an effort to bring some of this tobacco into Maryland for sale and this would complicate an orderly market system.

The Maryland tobacco farmer, in cooperation with the State experimental station, is producing a quality of tobacco that is used in cigarettes for its burning quality and I am told that tests indicate Maryland type 32 tobacco is very low in tar and nicotine. We have worked for many years to develop the quality and kind of tobacco we are now producing and would hate to see our goals jeopardized by new producers, on different soils attempting to accomplish what has taken us quite a few years to develop.

I respectfully urge your favorable consideration of the proposed legislation. Thank you.

I would like to say, gentlemen, we want to see the producer, the farmer, make as much income as he can from any diversified program that he can use. Our greatest concern is that we will get into this oversupply situation and it will not only jeopardize the new farmers coming into the production of Maryland tobacco, but more so, will jeopardize Maryland farmers who have depended upon type 32 Maryland tobacco for many years, for their income.

Senator HUDDLESTON. Is it your opinion that Maryland growers can continue to meet the demand both domestically and in foreign markets for Maryland tobacco?

Mr. HANCE. The leadership in southern Maryland—as you realize, being close to Washington—call our area an industrial area. Our labor prices are high. We told the manufacturers that if they will pay us a fair price for Maryland tobacco, we can produce Maryland tobacco.

In my experience when we have found ourselves with over 32 million pounds to sell, we are in trouble.

Senator HUDDLESTON. In supply?

Mr. HANCE. Yes, the manufacturers naturally are in the business to make money just as agriculture. They would like to have as much production of Maryland tobacco as possible. This would then give them an opportunity to select the best quality of Maryland tobacco and I can remember sales as low as 2 cents for Maryland tobacco, for inferior quality, about 30-some years ago and we don't want to find ourselves in this position.

Senator HUDDLESTON. You mentioned that some of the Maryland grown in other States is being graded as off-type. For the record would you explain what that means?

Mr. HANCE. This has given us a great deal of concern in Maryland. We hear Maryland tobacco, that when tobacco was brought for sale I understand—and I didn't witness it myself—that they used a type 31 sales ticket and on this they indicated off-type. So nowhere in the official records that I know of is it indicated as type 32 Maryland tobacco. This is why I made that comment.

Senator HUDDLESTON. Do you have any laws in the State of Maryland about selling tobacco grown out of State on your market?

Mr. HANCE. No, it can be sold. It has been done once in the past. Senator HUDDLESTON. Was it last year?

Mr. HANCE. No sir, it has been quite a few years ago.

Senator HUDDLESTON. Do you know whether there is any this year?

Mr. HANCE. I haven't heard any reports of it being here this year. There was suggestion there might be some sold. This is reported—and this is a hearsay type information—but it is reported that there is as much as 10,800 pounds of Maryland type tobacco in Virginia, which of course could be sold—

Senator HUDDLESTON. Do you have any information on how much Maryland seed may have been sold in Kentucky?

Mr. HANCE. No, sir, the report that came to us—and the figures have been given to you—were 300 pounds of seed there, which would plant the whole State of Kentucky.

Senator HUDDLESTON. That is a lot of tobacco, Maryland or otherwise?

Mr. HANCE. Yes, sir, an ounce of seed—well in Maryland—an ounce of seed will plant at least an acre and three-fourths.

Senator HUDDLESTON. Incidentally, I am personally curious on how you manage to get the growers to hold the tobacco for so long for the market?

Mr. HANCE. Well, financially it is difficult, but we air cure it and in air curing it we need at least 3 or 4 months in order to process the tobacco, grade it, and prepare it for market.

Senator HUDDLESTON. So it is a matter of necessity?

Mr. HANCE. Yes.

Senator HUDDLESTON. Maryland tobacco has been in and out of the quota system in past history. Could you give me some explanation of that?

Mr. HANCE. Yes, I guess I should put it this way. The tobacco farmers in southern Maryland wouldn't appreciate this, but perhaps we weren't well enough educated in programs so that we became dissatisfied in the program and they did vote the program in for a period and then they voted it out. They were in trouble back in the 1950's and this is when we requested a program.

The acreage began to drop and the farmers felt they would rather try to make it on their own and this is what they have done.

Senator HUDDLESTON. You indicated in your testimony that you think that it is working.

Mr. HANCE. Yes, sir; I do think so.

Senator HUDDLESTON. And the growing of Maryland in Kentucky or other States would be a serious threat?

Mr. HANCE. Yes.

Senator HUDDLESTON. Senator Helms, do you have any questions?

Senator HELMS. I think no. I won't repeat those questions. I wanted to be reassured as best I can by you who have the brains and expertise in this business that you are not doing the exact opposite of what you wanted to do, that is, protect and preserve the burley growers.

I can see, you know, if you are not in a business, you can be an expert at it and I have never grown any burley at all or Maryland tobacco so therefore I am an expert, but I can see with the testimony here and with the similarity of the two different tobaccos that maybe this thing

could jump across the Mississippi. I understand that some is being grown in Florida?

Mr. HANCE. That is correct.

Senator HELMS. And all of the rest of of it, and so I just don't want you to make a mistake and advocate legislation which I would be perfectly willing to support if I could make up my own mind that this is the right thing to do.

I know you have thought it through, but has your Attorney General given his view of the constitutionality of this?

Mr. HANCE. No, sir; I only got this legislation about 2 days ago.

Senator HELMS. Right.

Mr. HANCE. So we haven't had the opportunity to review it although our Attorney General has looked at it but I haven't had any official comment from him.

Senator HELMS. I appreciate your testimony and I am sorry I had to step out of the room and couldn't hear some of it.

Mr. HANCE. That is all right.

Senator HUDDLESTON. Thank you.

Our next witness is Mr. Frank B. Snodgrass, vice president and managing director, Burley & Dark Leaf Tobacco Export Association, Inc.

#### STATEMENT OF FRANK B. SNODGRASS, VICE PRESIDENT AND MANAGING DIRECTOR, BURLEY AND DARK LEAF TOBACCO EXPORT ASSOCIATION

Mr. SNODGRASS. Thank you, sir.

Mr. Chairman and members of the committee, for the record I am Frank B. Snodgrass, vice president and managing director of the Burley & Dark Leaf Tobacco Export Association, Inc., 1100 17th Street NW., Washington, D.C. The association I represent is a Federated Trade Association composed of the following member organizations representing growers, warehousemen and exporters of tobacco from the eight-State Burley and Dark producing area:

Association of Dark Leaf Tobacco Dealers & Exporters, Mayfield, Ky.

Burley Auction Warehouse Association, Mount Sterling, Ky.

Burley Leaf Tobacco Dealers Association, Carrollton, Ky.

Burley Stabilization Corp., Knoxville, Tenn.

Burley Tobacco Growers Cooperative Association, Lexington, Ky.

Eastern Dark Fired Tobacco Growers Association, Springfield, Tenn.

Stemming District Tobacco Association, Henderson, Ky.

Western Dark Fired Tobacco Growers Association, Murray, Ky.

I appreciate this opportunity of appearing before your committee to give the views of our organization concerning the legislation under consideration.

Historically the tobacco grower leadership has been in general agreement prior to requesting the introduction of any tobacco legislation and has spoken with one voice of approval or disapproval on most matters under consideration before this committee. I feel that such is the case today, since there appears to be no widespread organized opposition to the approval of S. 1533.

With the endorsement of the tobacco grower leadership and with the approval of this committee, the Congress enacted the acreage-poundage program for tobacco which is being used in the Flue-cured production controls. A similar measure to provide a more effective production adjustment program for burley tobacco by establishing farm marketing quotas in pounds rather than in acres was enacted in 1971. These laws were necessary due to the fact that increased yields per acre made it difficult to control production through acreage allotments alone. Yields per acre for burley tobacco increased from an average of 1,316 pounds in the 5-year period 1949-53 to 2,590 pounds per acre in 1970.

The poundage law provided for a referendum of burley tobacco growers to determine whether they favored or opposed the establishment of marketing quotas on a poundage basis. It is necessary for two-thirds or more of the farmers voting in the referendum to approve same, if marketing quotas and price supports are to be in effect. Burley farmers voting in a referendum held May 4, 1971, favored the establishment of marketing quotas on a poundage basis by 96.6 percent. Therefore, poundage quotas have been in effect for the 1971, 1972, and 1973 crops of burley tobacco.

It was our opinion that the enactment of the aforementioned laws would eliminate all production and marketing problems for burley and Flue-cured tobacco. However, last year in the burley area approximately 800,000 pounds of tobacco was allegedly produced from Maryland type tobacco seed. Maryland tobacco is not grown under production controls and the production of this nonquota tobacco in the traditional burley area is jeopardizing the burley program. The burley grower leadership feel that farmers may produce burley tobacco in excess of their farm poundage quotas and attempt to market their excess production as Maryland tobacco. It is also contended that some tobacco that is represented as being Maryland tobacco is being purchased to displace both burley and Flue-cured as a neutral filler in the blend of cigarettes and other tobacco products. It has been observed that Maryland type tobacco produced in the burley belt develops burley-like characteristics and is in direct competition with burley production, therefore, posing a serious threat to the burley production control and price support program.

I might deviate from my prepared statement here and also interject that research has been conducted at the Oxford, N.C., Research Center and they found that tobacco produced from Maryland-type seed also produced the characteristics of Flue-cured tobacco; and on the same tobacco produced from Flue-cured seed in Maryland, developed the characteristics of the Maryland type.

So this is posing a threat. However, since in the Kentucky and Tennessee burley producing areas we have small acreage family farms primarily in contrast to what you have with the Flue-cured, they first moved into that area, but I have been assured in the Wilson area, in the Rocky Mount area, and in the Georgia area, as well as southern Georgia to Florida area, that a large concentration of Maryland leaf will be produced this year.

Now, continuing on with my statement, we have been informed that certain buyers have contracted to purchase this year at prices considerably lower than the burley price support level and at a rate far below the average price paid on the auction market for Maryland leaf,

a substantially larger volume of Maryland-type tobacco to be produced in Kentucky, Tennessee, Virginia, and North Carolina during the 1973 crop year. This accounts for the urgent need to enact legislation to restrict the production of nonquota tobacco in the traditional areas producing tobacco under quotas, in order to preserve the integrity of the production control program for tobacco.

The farmers voted in a referendum both in Flue-cured and in burley overwhelmingly each time for production controls so that they will be eligible for price supports. I think they have the obligation to the Government and to themselves to maintain the integrity of that program and once they produce other tobacco that could be substituted for it, it will pose a problem for the maintaining of strict production controls in order to get price supports.

Attempts to remedy this situation by regulation have not been successful, and since the planting season is approaching, it is imperative that favorable action be taken on the proposed legislation contained in S. 1533.

Briefly, this bill would provide that in an area where producers are engaged in the production of a kind of tobacco traditionally produced under quotas, any nonquota tobacco produced in that area would be subject to the same regulations that apply to the kind of tobacco that has been traditionally produced. Furthermore, if marketing quotas are in effect for more than one kind of tobacco in an area, the production of any nonquota tobacco in that area would be subject to the quota of the kind of tobacco having the highest price support under existing law.

Regulations of the U.S. Department of Agriculture require that Federal tobacco graders inspect all nonquota tobacco prior to removal of said tobacco from the area of production. At a recent inspection held in Lexington, Ky., approximately 38 to 40 percent of the tobacco represented as Maryland type was graded as burley and was therefore subject to burley production controls.

It is anticipated that the 1973 production of Maryland type tobacco in the traditional burley and Flue-cured growing areas may exceed 2 million pounds. I have had estimates as high as 22 million pounds but this is a very conservative estimate of 2 million pounds.

It is reported that a sizable quantity of Maryland seed has been distributed to growers in those areas and contracts have been made for purchasing the leaf for 55-60 cents per pound. This is in contrast to the average price support level of 78.9 cents per pound established for the 1973 burley crop and the average price of 87.45 cents per pound paid for Maryland tobacco sold at auction in Maryland on April 10, 1973. It would appear that those contracting for the purchase of Maryland type leaf production in the burley and Flue-cured areas are taking advantage of the producers, if this tobacco is to be used as Maryland leaf. The same would be true, if it were to be used as substitute for burley and Flue-cured leaf and this could conceivably contribute to the necessity for a reduction in the quotas established for producers of burley and Flue-cured production.

On behalf of our membership, I respectfully urge this committee to favorably report S. 1533. Further, I recommend that after this legislation is voted out of the full committee, it be considered only under a rule that would not permit amendments from the floor.

I thank you for the privilege of appearing before your committee. Senator HUDDLESTON. Thank you. I think we can reiterate here—you believe the procedure contained in the pending bill is the correct solution, after considering the number of alternatives?

Mr. SNODGRASS. It appears to be the only one, sir.

Senator HUDDLESTON. Do you have any suggestion on what the export demand might be for burley and for Maryland tobacco?

Mr. SNODGRASS. Well, traditionally we have exported about 50 million burley and about 12 to 15 million Maryland. It appears it has hit a steady level and that is about where it will continue.

Senator HUDDLESTON. Let me pose a situation. Supposing that no legislation is passed and the Maryland tobacco seed is permitted to be used, suppose tobacco is grown in a number of States unrestricted, historically can you draw the conclusion that this would in turn depress the price of Maryland tobacco by creating surpluses?

Mr. SNODGRASS. Oh, yes, that is conceivable. I think that were it not for the fact that the export buyers, which is traditionally the Swiss market, that are paying the top price for Maryland tobacco this year, if they were depending on the domestic manufacturer it would be already depressed. But by getting the \$92 tops they have for tobacco primarily going to Switzerland, it has held the market up.

Senator HUDDLESTON. So the prospects for any economic gain could be very short lived if this is allowed to go uncorrected?

Mr. SNODGRASS. That is correct. I would hate very badly to see our growers, particularly in the Flue-cured areas, construct air-cured barns and make this investment with the idea of a long term gain because I think it is a short-lived thing.

Senator HUDDLESTON. I know you are not a manufacturer, but do you see the possibility of a complete replacement of burley tobacco in the cigarette blends, for instance, by Flue-cured or Maryland tobacco?

Mr. SNODGRASS. No; I do not have any fear of that.

Senator HUDDLESTON. It would burn up pretty fast, wouldn't it?

Mr. SNODGRASS. Oh, yes, if it were typical Maryland it would. I have had the opportunity to smoke a straight Maryland cigarette, which is very popular in Switzerland. The American consumer would not be very conducive to smoking that.

Senator HUDDLESTON. It is probably true that it is only the burley tobacco characteristics of Maryland that make it possible to substitute it.

Mr. SNODGRASS. Yes; and I might add to that I think if nothing were done on this legislation this year, you would find the Flue-cured grower next year beating a path here to ask for the same type of legislation as the burley farmer.

Senator HELMS. Senator, let me interrupt, we have 5 minutes here until a vote.

Senator HUDDLESTON. I am going to recess for approximately 10 minutes. I think we can get over to the floor and cast our votes and be back by then.

[Recess.]

Senator HUDDLESTON. Senator Helms, if you want to ask Mr. Snodgrass any questions, you can.

Senator HELMS. No; that is all right. I would like to put, without objection, a letter from Joe Williams, president of the Tobacco Growers Association into the record. Do you have one also?

Senator HUDDLESTON. You mean the one regretting that he cannot be here and concurring in Mr. Snodgrass' testimony?

Senator HELMS. Right. You can either put yours or mine in.

Senator HUDDLESTON. That will be inserted in the record.

[The above-mentioned letter of Mr. Williams follows:]

TOBACCO ASSOCIATES, INC.,  
Washington, D.C., April 12, 1973.

HON. JESSE A. HELMS,  
Member, Agricultural Production, Marketing, and Stabilization of Prices Subcommittee of the Senate Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR HELMS: I sincerely regret that due to a conflict which cannot be canceled that I will be unable to appear personally before your sub-committee on April 13, 1973 in support of S. 1533.

I have read carefully the enclosed statement which will be offered by Mr. Frank B. Snodgrass, President and Managing Director, Burley and Dark Leaf Tobacco Export Association, Inc.

Our organization fully concurs in this statement and we respectfully urge that the committee give S. 1533 your full support.

Respectfully,

JOSEPH R. WILLIAMS,  
President.

Senator HUDDLESTON. I would like also to put in the record at this time a statement from Mr. Charles Frazier, director of the Washington staff of the National Farmers Organization, a statement in support of S. 1533.

[The statement follows:]

STATEMENT OF CHARLES L. FRAZIER, DIRECTOR, WASHINGTON STAFF, NATIONAL FARMERS ORGANIZATION

Mr. Chairman. The following remarks are submitted for the record of hearings on S. 1533, a bill to amend the Agricultural Adjustment Act of 1938 by restricting widespread production of any kind of tobacco in areas where it has not been traditionally grown.

The National Farmers Organization supports S. 1533. Our members who produce tobacco in the Burley and flue-cured areas have long supported the principle embodied in the marketing quota/price support concept. Considering all of the farm programs over a number of years, it has been most effective in stabilizing prices.

Since this program has wide acceptance among both growers and businessmen interested in the tobacco industry, it is a sound move to prevent the unfair competition that will result from widespread production of Maryland type 32 tobacco. This type is at least similar to burley tobacco when produced and handled in the same manner and under the same conditions.

Perhaps it is worth noting for the record, that Maryland growers have traditionally resisted the use of marketing quotas and price supports that would protect the price on their crop. Although they may change their position if the production of type 32 tobacco becomes widespread and results in overproduction and lower prices, it will then be quite late to correct the growing inequity. Since they have not chosen to control their production, it is only reasonable to protect the markets of other growers who have restricted their production. This is particularly true for burley producers because their prices would be most susceptible to adverse influence as a result of overproduction of the Maryland type tobacco in the burley belt.

Attached is a copy of the statement made by Mr. George G. Stiles, State NFO President, of Howardstown, Kentucky, before the House Agriculture Committee this week. Mr. Stiles cannot be in Washington today but asked that his statement be brought to your attention. It would be appreciated if this, also, may be made a part of the record.

[The statement of Mr. Stiles follows:]

STATEMENT OF GEORGE G. STILES, KENTUCKY STATE PRESIDENT, NATIONAL FARMERS ORGANIZATION, HOWARDSTOWN, KY.

Mr. Chairman, Members of the Committee :

My name is George Stiles: I am president of the National Farmers Organization in Kentucky (NFO). I appear today on behalf of the membership in Kentucky to urge you to pass H.R. 6185 immediately, before tobacco farmers make their final plans for the 1973 crop.

The Maryland Type 32 tobacco when grown in Kentucky environment seems to take on the characteristics of Burley Type 31, and it becomes almost impossible to distinguish between the two. In fact, according to a Tobacco Manufacturing Executive, they are now using a considerable amount of Maryland type to replace Burley in their processing.

Farmers are now producing this Maryland tobacco in Kentucky for \$60.00 per hundred or less which puts Burley in a very perilous situation, since Burley is under quota and supported at a price well above \$60.00. One can readily see that this non quota tobacco can soon ruin our present program.

The Maryland tobacco market has just opened at an average price of approximately \$87.00. Think what will happen to their market if we continue increased production of that type tobacco at \$60.00 per hundred.

Since Maryland type tobacco grown in Kentucky is so similar to Burley it can be intermingled, switched around and juggled so easily; in my estimation, our present program will be destroyed.

Farmers in many counties indicate that they are going to raise large acreage of Maryland tobacco this year. Some large Burley producers say that they are going to lease out their Burley quota and then put in large acreage of Maryland on their own farms.

Senator HUDDLESTON. Our next witness is Mr. James E. Cozart, Cozart Tobacco Warehouses, Abingdon, Va.

STATEMENT OF JAMES E. COZART, COZART WAREHOUSES,  
ABINGDON, VA.

Mr. COZART. Thank you. I appreciate the opportunity to be able to present my views here.

I am opposed to bill H.R. 6485 for these reasons: last year we had a sale in Abingdon, Va. This was a sale for Maryland tobacco that was grown in our area, southwest Virginia and Tennessee. We had about 325 growers scattered over an area of 10 counties of Virginia and 7 in Tennessee and 2 counties over in North Carolina. We had a very good sale. The farmers were well pleased and the newspapers carried an article that told about jubilant faces and what well-pleased farmers were there.

Well, my wife called up the warehouse and said there has been a terrible mistake made and the bookkeeper said well, what was it, and she said in the newspaper article they said it was a brilliant idea of Jim Cozart's.

Anyway, this year we have about 800 producers in this region who will be producing Maryland tobacco and who have already prepared their beds. We gave out the seed free.

Now there are two different methods that have been approached in handling this tobacco. In Abingdon there are two firms, two warehouses contracting with these growers; Cozart Warehouse and Banner Star Warehouse, which have conducted an auction sale.

What has been overlooked today, even though it was mentioned several times today that there is a difference in price of tobacco, but one of the differences is how we sell tobacco. We sold Maryland to-

bacco in the untied form in a burlap sheet. It costs 10 cents a pound to strip and tie tobacco. But what we did, we eliminated one of the processes for it. So it is much easier to handle now. Farmers can load it onto their trucks and it doesn't take the whole neighborhood to lift up 700 pounds of tobacco.

In our area the farmers bring it packed in baskets over to the warehouse. In central Kentucky they pack it inside the warehouse. The other method, it is tied at the farm by the hands. The manufacturer buys it and he breaks the bale and grinds it up and crushes it. Well, that is the system that is out of date, it is something that is unnecessary, it is something that takes labor to do, it is something that the average farmer will say they don't mind stripping it, but whoever gets the job of tying it, well, it is a bad job and it usually falls on the wife. So we eliminated that process.

Now, we had a sale. We had six buying organizations—well, I said in my statement we have six buying organizations but actually we have seven—and we had a gentleman who came down from New York who represented some of the Swiss interests and he bought a small amount of it. But these buyers were well pleased with it and we made an effort to present our product in a way in which the manufacturer could use to his advantage.

Without having to break it up, we did grade it out in different grades—now in Kentucky as I understand, it was stripped all together in one grade and sold at different grades together—but anyway, on the day of the sale we gave out a lot of seed, and if you had been there that day, you would have thought we really struck a gold mine. Everybody was real happy and people were grabbing seed. In fact, they were lined up. I had about 40 people lined up at the office getting seed. I thought we really were going to get a lot of these producing tobacco. As time went along, I ran out of seed two or three times. Each time I would get some more in but there would be less and less people after them. Finally toward the end of the planting season I only had about two or three a day after seed.

Then it started to dawn on me the reason why; there is just so much labor available and so much barn room available.

Also, we are not producing all of the burley allotments. A while ago Senator Helms asked what burley allotments were being produced and what percentage. Now the official from the Department of Agriculture at the House hearing yesterday came out with the figure of 90 percent of burley allotments that were being produced. Now with your poundage system you can carry this forward and the man does not lose it, but what I am saying is they are—the people that have tobacco allotments—they are looking for people to plant it for them. Five years ago it was just the reverse and 15 years ago every allotment was produced. Every man that could possibly rent one, would produce it.

A lot of these gentlemen here today still are thinking in terms of back in the thirties when tobacco was bringing 4 cents and 20 cents and 15 cents. Today things have changed. These farmers can go into industry and get a job at \$2 an hour and \$2.50 an hour. Any man that can strike at a snake and have enough gumption to do any work at all can go and get a job in industry and they will pay them and pay them well. So he is not going to produce tobacco unless he does

get prices like that and the tobacco companies are smart enough to know that they have to pay prices that will encourage them.

There is absolutely no danger of overproduction of either the Maryland tobacco or the burley tobacco and for that matter with the Flue-cured too. They have allotments that have rented in some areas for 25 and 28 cents. Over in the old belt they are renting for a nickel or 8 cents. Some of them are practically giving their allotments away just to get them to plant it.

And as far as that goes—I guess it is a fact that a man shouldn't try to read notes and talk at the same time—but anyway, there is absolutely no threat to the burley tobacco because of the decline in the production in Maryland tobacco over the last several years.

If these people do want to pick up extra income—and these are people with small allotments primarily; and in our area the largest allotment produced of Maryland last year was 2 acres—they can plant Maryland tobacco, which will give him an additional income in January which is the time of the year when there is very little farm income.

So there is no threat to burley tobacco because there has been a decline in production of Maryland tobacco over the last several years due to this urbanization of the five counties in southern Maryland which produces tobacco: Prince Georges, Calvert, Anne Arundel, St. Marys, and Charles Counties. These five counties are being taken from us. Every year these subdivisions reach out and chop up the land and the production is dropping. It used to be they raised 40 million and 45 million pounds of tobacco. This year they are expecting a crop of 26 million pounds.

Now, you have been talking about the differences in tobacco. Maryland tobacco is a neutral tobacco. It does not have the flavor that burley or Flue-cured has. When we had our sale in Abington, you could walk in the warehouse and the only odor that you could detect was the odor of burlap sheets in which the tobacco was bound up. Normally when you walk into a burley warehouse the odor just hits you right in the face and the same way in the flue-cured tobacco warehouse.

So even though there may be similarities in appearance, it is quite different. Now this morning I noticed, for example, I had on two socks of a little bit different shade and one of them I noticed was different; one foot was warmer than the other. Well, I had on one Orlon and one wool sock and they were both brown and they are both similar, but they are also different. This Maryland tobacco may look similar displayed out on a warehouse floor in Kentucky but, gentlemen, if they want to identify it, if they are really being honest about the thing, Maryland tobacco can easily be identified. When it grows it is the color like this chair. I mean, it is a dark green and it stays green. It doesn't change in color. It lightens slightly but it never does get the pumpkin yellow like the burley. The burley tobacco is a color like—well, I don't see anything that is similar but it is sort of like ham, like the color of that desk over there. Any child, anybody except somebody who was color blind could walk into a field and you wouldn't even have to walk into the field, you could just look at it from 500 yards away and tell the difference.

As far as identification on the floor, for years I have had a customer that has sold tobacco to me who raised four different types of tobacco

and he was very particular and kept each type segregated completely. He would bring his Maryland tobacco in and sell it on a burley market and you could just spot that crop of tobacco halfway across the warehouse. A lot of times a lot of our local burley farmers would come in there and say what kind of tobacco is this and this is fire-cured, isn't it? And I would say, "No, this is Maryland tobacco." So the identification of the tobacco can easily be determined.

On the sales floor in Kentucky I carried some to Lexington. At the end of our season we have some that we carried out there. I was there that day. I heard testimony today that the burley growers of Kentucky are not interested in this Maryland tobacco and don't want it at all. Well, when I walked on the warehouse floor and it became known what I had—we had a fellow who was familiar with tobacco—well they swung around and buzzed around me like bees around honey and they wanted to know how to grow it and the method of producing it and everything because it is a profitable crop.

These gentlemen emphasized the difference in price that is true. But you have less plants per acre and instead of using 9,000 plant stocks per acre, you use around 6,000 plant stocks per acre. There is less to handle.

You don't have to tie it up either. You can just throw it on a burlap sheet. So when you have to lift the baskets and take them to the market it doesn't take the whole neighborhood to lift up 700 pounds. One man can tow it on his pickup truck and sell it at the market.

It is a crop I have heard a lot of farmers say they liked raising it better than burley.

Senator HUDDLESTON. Mr. Cozart, your time has expired, but we will proceed with some questions. I am sure you will get in any other points you care to make during the question period.

I am curious to know the type of operation you have.

Mr. COZART. We operate some warehouses in Abingdon and some over in Weber City, Va.

Senator HUDDLESTON. What type of tobacco is grown in Virginia?

Mr. COZART. Primarily burley in southwestern Virginia and eastern Tennessee.

Senator HUDDLESTON. And you haven't had any problem there distinguishing between the two?

Mr. COZART. No, sir; none whatsoever. There was one crop maybe, but that crop was tied up. That was classified as burley and the man's neighbor—and I found this out later on—his neighbor said this crop was Maryland but this was classified as burley by the graders when his neighbor had actually set plants from this bed and it was classified as Maryland.

There was one problem we did have there. There was one pile that was classified as burley in the Banner Star warehouse and one other in the Cozart warehouse and—

Senator HUDDLESTON. Mr. Cozart, you mentioned the free distribution of seed for Maryland tobacco?

Mr. COZART. Yes sir, I gave out the seed free to encourage production.

Senator HUDDLESTON. So the growers would bring the crop back through your warehouse?

Mr. COZART. Yes, sir, we have a contract where they agreed to sell it with us and we agreed to give them the seed.

Senator HUDDLESTON. About how much seed did you distribute in Virginia?

Mr. COZART. Well we have 325 patches grown last year and that was in southwestern Virginia and eastern Tennessee.

Senator HUDDLESTON. Do you have the same this year or more?

Mr. COZART. We have 800 patches this year.

Senator HUDDLESTON. Did you distribute any of your seed in Kentucky?

Mr. COZART. Two men have gotten some seed out there and, incidentally, talking about the production of it, this man came by and he had been looking for seed and the Maryland people have put in restriction on giving out the seed. He made a trip to Maryland and came back by way of Abingdon. I was pretty short at that time and I gave him enough for 4 acres and he said he was going to plant 20 acres of it. That looked like the biggest I have seen around that part of the country so I called him up a week or two later when I got some seed in and I said that I have the seed in now for those 20 acres but he said, "Well I believe about 4 acres with the amount of labor I got is all I can handle." He said he may not even get that out.

So a lot of these figures and a lot of these estimations and a lot of these fears are unfounded. Quite often a man makes plans for a big production and sometimes he even goes through with it 1 year, but usually when a man overproduces like that, about 1 year usually cures him.

Senator HUDDLESTON. You don't see any problem with overproduction then?

Mr. COZART. Absolutely not.

Senator HUDDLESTON. You are suggesting even without the burley quota system there would be no overproduction of burley?

Mr. COZART. Today, no. Five years ago it would be a different picture or 10 years or 15 years. They are just not getting it produced. The allotments in some of the counties are renting for 10 cents a pound. So if a man wants to grow tobacco, he can make some money now if he will get out himself and grow it, but he has to do it himself because he can't hire any other labor to do it. There is none available.

Senator HUDDLESTON. How long do you think it would take if there were no production restrictions on burley to glut the market?

Mr. COZART. It won't happen today.

Senator HUDDLESTON. You don't think so. Why?

Mr. COZART. I don't think so. A man may grow it 1 year but if he didn't get a sufficient price, he would get into something else. There are too many factories begging for people to come in and work.

Senator HUDDLESTON. You are talking about an individual though and I am talking about many many farmers who have nothing to do but grow crops.

With production yields on burley tobacco, you could sure turn out a tremendous amount of it in a year's time if there were no restrictions.

What about this neutrality of the Maryland tobacco in your area? Does this not lend to the possibility that there might be substitutes for burley in the cigarette blends?

Mr. COZART. Well here is the market that we are aiming for. Your Maryland production is dropping down and this is going to be used in the American cigarette, I mean, either they are going to import that tobacco or we have to produce it ourselves so why not let people in our area who have a familiarity with the production into that group, that have the technology to do it, that have the knowledge and the equipment and the barns, why not let them plant it? Why restrict it in our area so that a man must go to Texas or California?

Senator HUDDLESTON. Is Maryland tobacco graded by Federal graders?

Mr. COZART. Yes, sir. I might add it looks like it sort of puts the grading service on the spot. I have no quarrel with the grading service nor do I with the allotment system. I mean, I am not out here fighting controls or anything like that on the burley tobacco, but as far as getting it identified, you can go to the farm and identify it. I mean, what we have done here, we have made a problem where there is no problem.

Senator HUDDLESTON. I understood you to say a minute ago—and I think you probably want to correct it for the record—that 90 percent of the burley allotments were not being grown. I think you meant to say—

Mr. COZART. I was quoting a quotation from the Agriculture Department and the accuracy of that statement I don't have knowledge of.

Senator HELMS. Mr. Cozart, you said 90 percent are not being grown and I think you meant to say 10 percent are not being grown.

Mr. COZART. Yes, that was the figure that was used yesterday.

Senator HUDDLESTON. I am not certain of the validity of that figure.

Mr. COZART. I don't know the accuracy of that. I am just quoting what the Agriculture Department used over at the Congressional hearing the other day.

Senator HUDDLESTON. The manufacturers over at your market, are they the same manufacturers that come to buy burley?

Mr. COZART. Austin Tobacco Co. was the same, we have Piedmont Tobacco from Winston-Salem and we had—

Senator HUDDLESTON. I guess what I am really asking is: Was the Maryland tobacco in your State grown under a contract prior to the raising of the crop?

Mr. COZART. Yes, sir.

Senator HUDDLESTON. What figure did it bring?

Mr. COZART. 65 was our figure. Our competitor in Abingdon, the Banner Star Warehouse, gave 63. The reason for that was the fact they drew tobaccos out of the area, from areas with heavier type soils. Of course, I also would like to claim the fact that I am a better warehouseman but—that is not the reason.

Senator HUDDLESTON. Would you agree that a substantial increase in the production of Maryland tobacco or any particular type of tobacco would tend to depress the prices of that type?

Mr. COZART. Yes, if you did, but a lot of these plantings are not being carried forward. Last year I mailed 100 packs full of seed to eastern North Carolina and I came to find out they didn't grow a pound of it. So a lot of these plans, a lot of these figures, and a lot of these things that you heard today are just not so.

Senator HUDDLESTON. Senator Helms, do you have any questions?

Senator HELMS. Do you have relatives in North Carolina? There are a lot of Cozarts in the tobacco business there.

Mr. COZART. Yes, sir, in Wilson.

Senator HELMS. They are very good folks. Did you hear my questions to previous witnesses about could this come back as an injury to the burley producers by getting them out of burley and into Maryland?

Mr. COZART. Well, now this bill would put us out of production, period, of any Maryland tobacco other than in areas that had not been growing tobacco, the way I interpret it.

Senator HELMS. Is that the intent of this bill?

Senator HUDDLESTON. Substantially, yes.

Mr. COZART. It doesn't make sense to me to say to gentlemen from tobacco-growing areas that now we want to restrict our growers from planting a plant that could bring some extra income in.

I admit you may have some identification problems, but they can be resolved and resolved very easily and it seems that most of the difficulties came about because of one market, Lexington, which is the heart of the burley area.

Senator HUDDLESTON. The problem, if I might say so, is the similarity of the crops. In Kentucky, they do take on similar characteristics, and the problem of circumventing the present controls on the production of burley tobacco arises. If you eliminate the controls, you are also going to eliminate the price support and this, in the judgment of the tobacco growers and those who have testified before this committee so far, would not be in the best interest of the farmers in Kentucky. Anyway, we are here to get all of the views we can and to learn about the conditions that exist not only in Kentucky but also in all of the other States that produce tobacco.

Mr. COZART. Well, one thing that concerns me in the testimony was the fact that the gentlemen all said it might be commingled or it might be scrambled in and this sort of thing between the one type of tobacco and the other. Now we held our sale after the burley's was over—

Senator HUDDLESTON. After what?

Mr. COZART. After the burley season was over with. After it had been completed.

Senator HUDDLESTON. When did you have your Maryland sale in Virginia?

Mr. COZART. We had ours in January, the 15th.

Senator HUDDLESTON. Of this year?

Mr. COZART. Yes.

Senator HUDDLESTON. How are you able to process so much faster in Virginia than you are in Maryland?

Mr. COZART. Smaller allotments.

Senator HUDDLESTON. The warehouse makes its money through a percentage fee in the tobacco they sell?

Mr. COZART. Yes, sir.

Senator HUDDLESTON. How does this square with the idea that they were raising it under contract to start with?

Mr. COZART. Well, with the auction route instead of the contract route, I thought I could get more money for my growers that way and I think you have more satisfactions there because if I was the one that was bringing it in and being the arbitrator of the value of

this tobacco also, if a farmer brought it in and had some tobacco priced for more than I thought it was worth, and I had to cut his price, well I am not that good a diplomat.

Senator HUDDLESTON. The only benefit you can get from supplying the seed is that he is going to sell through your market?

Mr. COZART. Right. There was another warehouse that also worked in conjunction with mine. We went up and got the seed. And all through this we made our records available to the ASCS people. We have cooperated 100 percent in anything that they wanted, anything they wanted we tried to give. We tried to make their job as easy as possible. We are not a group of people trying to upset the existing ASCS groups. They have their jobs to do and we have ours. We try to make it as easy as possible.

One thing that sort of disturbed me from testimony today is the fact that in the fire-cured tobacco areas in Tennessee and Kentucky, as I understand it, they have the tobacco right on the same floor at the same time. Is that true? I mean right in the same warehouse. They produce not only the burley but the fire-cured in those areas; they produce your fire-cured and your Green River tobacco and your— one sucker type.

Senator HUDDLESTON. But do they sell it at the same time?

Mr. COZART. Yes. You don't hear anything there about one type being substituted for another. I am sure they have solved that problem. They seemed to have worked it out.

So why all this problem with the Maryland tobacco? They seemed to have solved their problem.

Senator HUDDLESTON. I think the point is that when they do sell them together, they are all under quota. That is essentially what the bill would do with Maryland tobacco, put it under quota too.

Mr. COZART. But it wouldn't be putting a product under quota that the growers wanted put under quota.

Senator HUDDLESTON. That is part of the question that we will have to resolve.

Mr. COZART. It looks like the constitutionality of the thing would be in doubt to me. Here you are saying you can't grow this product but you can grow it in other areas.

Senator HUDDLESTON. Well we are not precluding it from being grown in Maryland.

Mr. COZART. But you are saying if your home happens to be by geographic accident in Kentucky or southwest Virginia, then you can't produce a crop.

Senator HUDDLESTON. Senator Helms, do you have any further questions?

Senator HELMS. I was wondering if Mr. Cozart would like to have his full statement in the record. You didn't get to several of your points, Mr. Cozart.

Mr. COZART. Yes, Senator, I would like to have that in the record if I could please.

Senator HUDDLESTON. All right. That will be placed in the record. [The prepared statement of Mr. Cozart follows:]

Mr. COZART. I am opposed to bill H.R. 6485 for these reasons: Last year approximately 325 growers over an area of 10 counties in Virginia, seven counties in east Tennessee and two counties in North Caro-

lina grew Maryland type tobacco under contract to Cozart warehouse and Banner Star warehouse in Abingdon. A small sale was also held in Greenville, Tenn. of 20,000 lbs. Other points of production were at Hartsville, Tenn. and Springfield, Ky., Lexington, Ky. and Moorehead, Ky. The majority of the growers in the Abingdon area were people that own their own small farms and produced one-half acre of tobacco. Two acres was the largest amount produced by an grower in our area. Perhaps 15 percent of the total produced and sold in Abingdon of 205,000 pounds was raised by tenant farmers. This sale was held in January after the regular burley sale was over with and provided an extra income to the burley growers of this area, at a time of year when there is no income on the farm.

Six buying organizations attended the sale. We had a brisk, smooth sale and growers seemed to be well pleased with the prices received for their tobacco.

Many seeds were given out on the day of the sale, however, in the days that followed the demand for seed slacked off greatly. Most of my seed which was left from last year supplied the demands for this year. Three times I ran out of seed, and realized as the demand began to slacken for the seed that if a \$10 bill was given away with each free package of seed that the production of this tobacco would not be greatly increased. I was in hopes of a great deal more being produced than is being produced.

Two factors are responsible for this (1) the lack of labor (2) the lack of barn room, and due to the high cost of construction it is not feasible to build more barn room for Maryland tobacco, therefore, the production of this tobacco in our area I feel will increase to perhaps 600,000 pounds, with perhaps a target of 2 to 3 million is the limit of the production in the southwest Virginia area. If more could be produced so much for the better. Approximately 800 producers in this region will be producing Maryland tobacco this year.

To alleviate the fears of anyone fearing that by producing Maryland tobacco they would be contributing to overproduction in the United States, I have only to point out that in every county in which burley tobacco is produced, in which I am familiar, the present allotments are not being produced. This trend has sharply increased in the last few years. Fifteen years ago every allotment was planted that could possibly be rented, therefore, any fears of over production are groundless and out-of-date.

With scarcity of labor on the farm and the availability of jobs in industry, and the fact that burley tobacco will bring higher prices than Maryland grown outside the State of Maryland would cause the farmer to produce burley instead of Maryland tobacco. As I see it, this is absolutely no threat to burley tobacco. With the decline in production of Maryland tobacco over the last several years due to urbanization of the five counties in southern Maryland which produce this tobacco, Prince Georges, Calvert, Anne Arundel, St. Marys and Charles Counties, there is an unsatisfied demand for Maryland tobacco. This tobacco is used in a blended American cigarette and is needed to produce a cigarette which will burn. This tobacco does not have the "casing" ability that burley has and will not absorb flavor used in the American cigarette that burley will. It is a neutral, mild type of to-

bacco and has very low nicotine. Outside the State of Maryland it grows best on thin sandy soils as found along the river bottoms and streams and on some of the thinnest soils in southwest Virginia and east Tennessee, and similar areas of Kentucky.

Its principal producers are people who are willing to work and don't want handouts from their Government. It is a family produced crop and will certainly help the small farmer to be able to continue farming. With the cuts in acreage over the last several years, and the impossibility of sustaining a family on a small acreage of burley, the small farmer has been driven from the farm. This Maryland tobacco produced in our area will give him an additional income in January which is the time of the year when there is very little farm income.

Although a small percentage of the amount produced in our area has entered the export trade with our monetary difficulties, it looks like it is to our Government's interest to encourage anything that will help the balance of payments abroad. With the production of Maryland tobacco dropping from the normal production of 40 to 45 million down to 25 to 27 million with prediction in the future of even less produced, this type of tobacco would be imported from abroad to fulfill the requirement of a blended American cigarette. An American blended cigarette is a blend of approximately 60-65 Flue-cured, 30-35 burley and a small 2 percent or less of Maryland.

One large domestic tobacco manufacturing company has already dropped the use of Maryland tobacco in its blend because there was not sufficient volume of it produced.

This bill is unfair, unjust, and unrealistic in prohibiting the production of a type of tobacco that is not controlled. The logic of this bill is like saying that if oranges were controlled in a given area then any apples produced in that area would be considered oranges.

If there is any doubt to the identity of this tobacco for its selling purpose it can be identified in the field, by any child that is not color blind can distinguished this from types of tobacco without any question whatever.

This bill would put a straight jacket on any economic development of any new types of tobacco and would lock the present producer into a rigid and inflexible mold in which the tobacco companies would have to seek other sources such as the purchase of Maryland tobacco abroad to fulfill their needs.

We must maintain an open mind to the new developments in industry and we must be flexible enough to accommodate advancements as they are needed. This bill HR-6485 is not in the interest of the burley growers, the burley dealers or the burley manufacturers nor is it in the interest of the general public.

Forty years ago America produced 90 percent of the world's burley production today we produce 55 percent of the world production. Twenty years ago we were producing 75 percent of the world production. After World War II when many American GI's were all over the world there was the greatest demand for American tobacco in our history, but we were not flexible enough to fulfill those needs and other foreign countries stepped in and produced tobacco which was wanted by the manufacturers. We must not let Maryland tobacco production

move abroad when there are farmers here in this country that know how to produce Maryland tobacco both in the State of Maryland and out of Maryland.

Controls are not needed for Maryland tobacco, however, this bill is not a control bill, it is an outright prohibition of Maryland production other than in the State of Maryland. In effect you would be saying you can grow a product in one State but not in another State.

Senator HUDDLESTON. The bill of course doesn't eliminate the production; it just makes it produced under a quota.

Mr. COZART. But in effect it really does eliminate it. Let's say it sort of goes around it and says it doesn't prohibit you from doing it, but it makes it so that you use up your other quotas.

Senator HUDDLESTON. Senator Helms?

Senator HELMS. As I understand it, Maryland tobacco is being grown in other States than tobacco States right now, is that correct? That it is being grown on a specialty basis?

Mr. COZART. I understand some of it is grown in Pennsylvania around Lancaster, you know, where they are growing the cigar type—the Dutch country. Some of it is being grown in north Florida where previously they had been growing a cigar wrapper type and with a marginized leaf there was less demand for the wrapper type and they have these barns available around Quinsey and Madison, Fla., and also in Georgia, and that area.

Senator HELMS. And these people have no difficulty in marketing that tobacco, do they?

Mr. COZART. I don't know what has taken place in the market end of it. In fact, I have learned of this only recently.

Senator HELMS. Well I am also wondering about the constitutionality of this thing. This bothers me, Mr. Chairman. I would like to get some advice from our people down at the State level about that.

Mr. COZART. Another point in our area we have about 800 producers. They have made plans to grow this tobacco. They have made trades with their tenants. They have sown some beds and made preparations. Some of them haven't planted as much burley as they would have by being able to plant some Maryland tobacco, now this has taken the pressure off your tonnage of burley produced.

Senator HELMS. Well thank you.

Senator HUDDLESTON. Thank you.

Mr. COZART. I appreciate the last minute being able to add a few words.

Senator HUDDLESTON. I might add that the record will remain open until the 25th of this month for any additional statements that might be submitted. We appreciate the fact that all of our witnesses have come today and have spent the day giving us the benefit of their views on this matter. Thank you very much.

Senator HELMS. Likewise I haven't heard from my constituents down in North Carolina either so I will probably have some additions to the record.

Senator HUDDLESTON. Thank you.

[Whereupon at 12:30 p.m. the subcommittee recessed to reconvene subject to the call of the Chair.]

[Additional statements filed for the record are as follows:]

GESS, MATTINGLY, SAUNIER & ATCHISON,  
Lexington, Ky., April 13, 1973.

Re H.R. 6485 and H.R. 6799.

HON. FRANK A. STUBBLEFIELD,  
Congressman, First District, Kentucky, Chairman, House of Representatives  
Agriculture Subcommittee, House of Representatives Office Building, Wash-  
ington, D.C.

DEAR MR. STUBBLEFIELD: As requested and authorized yesterday during the hearing before the House of Representatives Agriculture Subcommittee pertaining to the referenced Bills, there is enclosed herewith for appropriate consideration and the Committee's files, the following Affidavits and Ex-Parte Depositions of Central Kentucky tobacco farmers, buyers, dealers, company representatives, et al., together with supporting documents and material therein referred to, and comments-summary statements of the writer respecting the same, as hereinbelow set forth:

(1) Affidavit of *Anderson Holderman*, Washington County, Kentucky, dated February 16, 1973. 15 piles of Maryland, Type 32, Tobacco weighing 1,438 pounds, certified and graded "NOG-OT," Maryland type tobacco at United Tobacco Warehouse, Lexington, Kentucky, on February 12, 1973.

"... none of the tobacco of the affiant ... was 'excess burley' or any kind of burley; that it was Maryland Tobacco without any burley or any other kind of tobacco mixed in with it."

(2) Affidavit of *Arthur B. McRay*, Washington County, Kentucky, dated February 23, 1973. Eight piles of Maryland, Type 32, Tobacco, "tied in hands," weighing a total of 4,322 pounds. USDA Inspectors on February 12, 1973, certified seven piles of the McRay Maryland, Type 32, Tobacco as being "typical Burley tobacco" and designated the grade thereof as being "B5GR." The eighth pile was certified and graded "NOG"—Off-Type Burley Tobacco.

"None of my tobacco was burley or any other type of tobacco than Maryland and it had and continues to have the color and other characteristics of Maryland Tobacco. I have been growing and selling burley tobacco for a long time and I know what burley tobacco looks and smells like."

(3) Joint Affidavit of *Bob Walker and Thomas Goode*, Washington County, Kentucky, dated February 26, 1973. Seven piles of Maryland, Type 32, Tobacco weighing 290 pounds. Each of the seven piles of tobacco was certified and graded on February 12, 1973, by USDA Inspectors as being Type 31, Burley, "NOG," a classification for "Off-Type" tobacco.

The Inspectors in this and many instances failed to comply with the instructions of Homer F. Taylor, Chief, Standards and Testing Branch, AMS, U.S. Department of Agriculture, Washington, as set forth in Notice TB-420, dated May 5, 1972, relating to "Special Factor Grades," addressed to All Division Inspection Personnel, in that no numeral or letter was added to the designation "NOG." A copy of Notice TB-420 is attached as "Exhibit C" to the Affidavit of *Walker and Goode* and a casual reading thereof will confirm the foregoing conclusion.

The Walker-Goode tobacco was produced from plants obtained from a tobacco bed on the farm of Hugh Donat Hall, ASC Farm Serial No. 21-229-01925-03, Washington County, Kentucky. On January 11, 1973, 11,140 pounds of Maryland, Type 32, Tobacco produced in 1972 on the Hugh Donat Hall farm from plants from the aforementioned bed were certified and graded by USDA Inspectors in the Washington County Co-Op Warehouse, Springfield, Kentucky, as being "NOG-OT," Maryland type tobacco and thereupon sold, as such, to Springfield Redrying Company, Springfield, Kentucky.

(4) Affidavit of *Charles Shepherd*, Marion County, Kentucky, dated February 26, 1973. Ten piles of Maryland, Type 32, Tobacco weighing 490 pounds. Eight of the ten piles of tobacco were certified and graded by USDA Inspectors on February 12, 1973, in Lexington, Kentucky, as being "NOG-OT," Maryland type tobacco. The remaining two piles were designated and graded "NOG," the equivalent of "no grade" or "Off-Type Burley."

All of the Shepherd tobacco was produced from plants pulled from a plant bed on the farm of Buck Hill, St. Rose Road, Marion County, Kentucky, sown with Certified Type 32, Maryland, Tobacco seed. The Maryland Tobacco produced in 1972 on the farm of Buck Hill from plants pulled from the same and identical plant bed was delivered to the Washington County Co-Op Warehouse, Springfield Kentucky, in January, 1973, and each pile thereof was certified and graded

by USDA Inspectors as "NOG-OT," Maryland tobacco and then sold as such on January 11, 1973.

"I have been growing and selling burley tobacco for a number of years and I state without any fear of contradiction that none of the ten piles of tobacco was burley tobacco. It should have been Maryland tobacco as it was grown from plants in a bed that was sown with Certified Maryland seed."

(5) Affidavit of *Ray Porter*, Marion County, Kentucky. 28 piles of Maryland, Type 32, Tobacco weighing 1,890 pounds. Each pile of this tobacco was certified and graded "NOG-OT," Maryland Tobacco by USDA Inspectors on February 12, 1973.

Mr. Porter's Farm No. 21-155-04350-03 did not have a Burley Tobacco Allotment or Quota in 1972.

(6) Affidavit of *R. S. Coyle*, Washington County, Kentucky, dated March 1, 1973. 15 piles of Maryland, Type 32, Tobacco weighing 1,438 pounds. Each of the 15 piles was certified and graded "NOG-OT," Maryland Tobacco by USDA Inspectors on February 12, 1973.

(7) Affidavit of *Truman Coyle*, Washington County, Kentucky, dated March 1, 1973. 11 piles of Maryland, Type 32, Tobacco weighing 960 pounds. Five of the 11 piles were certified and graded by USDA Inspectors on February 12, 1973, as being "NOG-OT," Maryland, Tobacco. The remaining six piles were designated by the Inspectors as being "NOG" and, as such, subject to Burley Tobacco Quotas, according to Homer V. Yonts, Executive Director, Kentucky State ASC Committee.

Leaves of the tobacco composing each of the 11 piles were stripped from the same stalks of tobacco produced in 1972 on the farm of Truman Coyle, with the plants therefor being the result of the sowing of Certified Type 32 Maryland Tobacco seeds.

Nine crops of Maryland tobacco produced in Marion and Washington Counties, Kentucky, in 1972, including the crops of the seven above-named farmers, were delivered in January, 1973, to Duncan Tobacco Warehouse, Springfield, Kentucky, for certifying and grading by USDA Inspectors to be followed by the sale thereof to Oldham & Moore Co., Leaf Tobacco Dealers, pursuant to contract.

The eighth and ninth crops of the subject tobacco were produced by *Paul Gardner*, Loretto, Marion County, Kentucky, and *John C. Glascock*, Lebanon, Marion County, Kentucky. Mr. Gardner's crop consisted of seven piles of Maryland, Type 32, Tobacco, "tied in hands" and weighing 2,926 pounds. USDA Inspectors both on February 12 and March 21, 1973, certified the Gardner crop as Burley Tobacco and assigned various and sundry grades thereto. However, on March 23, 1973, the Gardner crop was again certified and graded, in its entirety, as being "NOG-OT," Maryland, Type 32, Tobacco. See affidavit of Hargus Sexton, President, United Tobacco Warehouse, Inc., Lexington, Kentucky, dated March 29, 1973, herewith (page 20).

The *Glascock* crop consisted of 41 piles of Maryland, Type 32, Tobacco, weighing 2,818 pounds. USDA Inspectors on February 12, 1973, certified and graded 40 of the 41 piles "NOG-OT," Maryland, Type 32, Tobacco. The 41st pile, weighing 30 pounds, was designated "NOG," Off-Type Burley and continues to be so graded. Every leaf of the *Glascock* tobacco was stripped from the same stalks.

(8) Affidavit of *Bob Walker*, Supervisor, Springfield Redrying Company, Springfield, Kentucky. On January 11, 1973, 11 crops of Maryland, Type 32, Tobacco, produced in 1972 in Marion and Washington Counties, Kentucky, were certified and graded by USDA Inspectors in the Washington County Co-Op Warehouse, Springfield, Kentucky, with each pile being designated "NOG-OT," Maryland Tobacco and was then purchased as Maryland, Type 32, Tobacco by Springfield Redrying Company.

(9) Letter of *James I. Miller, Jr.*, President, Springfield Redrying Company, dated February 19, 1973, reporting (a) the grading by Mr. Miller and the Head of the Leaf Purchasing Department of Springfield Redrying Company of approximately 33,000 pounds of Maryland Tobacco in the Washington County Co-Op Warehouse, Springfield, Kentucky, on January 11, 1973, in three Maryland Tobacco grades and (b) the assignment of like Maryland grades to the tobacco at the Duncan Tobacco Warehouse, Springfield, Kentucky, including the nine crops of Maryland, Type 32, Tobacco aforementioned which were thereafter hauled to the United Tobacco Warehouse, Lexington, and certified and graded on February 12, March 21 and 23, 1973, by USDA Inspectors as Burley, Flue-Cured and Maryland Tobacco. Mr. Miller's letter is attached as "Exhibit C" to the Affidavit of *Bob Walker* herewith.

(10) Affidavit of *James William Burton, Jr.*, Fayette County, Kentucky. In 1971 Mr. Barton and his brother produced on their father's farm approximately 4,800 pounds of Maryland, Type 32, Tobacco which was certified and graded in February, 1972, by L. R. Whiteker, USDA Inspector, as Maryland, Type 32, Tobacco. In 1972 Mr. Barton and his brother produced 8,822 pounds of Maryland, Type 32, Tobacco, of which 5,100 pounds were certified and graded at the United Tobacco Warehouse, Lexington, by USDA Inspectors, on February 12, 1973. 4,028 pounds thereof were designated "NOG-OT," Maryland, Type 32, Tobacco. The remaining 1,072 pounds were designated "NOG," Off-Type Burley Tobacco.

"This tobacco was all grown on and stripped from the same stalks, in the same field and housed in the same barns, yet it was classified as being both Burley and Maryland Tobacco, in the proportions aforesaid. Although I have been growing, harvesting, housing, stripping and marketing tobacco in Fayette County, Kentucky, for more than 15 years and believe that I am reasonably well qualified to distinguish between . . . Burley and Maryland tobaccos, I could detect no difference between any of the piles of our tobacco on February 12, 1973. . . ."

On March 21, 1973, the 1,072 pounds of tobacco, consisting of 13 piles, certified and graded on February 12, 1973, as being "NOG," were recertified and regraded by USDA Inspectors, as follows:

First seven piles, identified as Basket Nos. 6, 20, 23, 25, 26, 27 and 38, were designated "NOG-OT," Maryland, Type 32, Tobacco. The remaining six piles, identified as Basket Nos. 39, 44, 47; 57, 59 and 60 were certified and graded by USDA Inspector, L. R. Whiteker, as reported below: Basket No. 39, 64 pounds, "NOG"; Basket No. 44; 78 pounds, "NOG-OT"; Basket No. 47, 100 pounds, "NOG"; Basket No. 57, 88 pounds, "NOG-OT"; Basket No. 59, 76 pounds, "NOG"; and Basket No. 60, 68 pounds, "NOG-OT".

The balance of the 1972 Maryland, Type 32, Tobacco of the Bartons, consisting of 64 piles, weighing 3,822 pounds, was certified and graded by USDA Inspectors during the morning of March 21, 1973. Of the 64 piles, 34 were given "NOG"'s, Burley Tobacco grades and 30 piles "NOG-OT"'s, Maryland Tobacco grades.

On the afternoon of March 21, 1973, the 34 piles of "NOG" tobacco aforesaid were reinspected, recertified and regraded "NOG-OT," Maryland Tobacco, of the aggregate weight of 776 pounds. The remaining 21 piles of "NOG" tobacco continue to be so designated, although the leaves of tobacco in these piles were stripped from the same stalks as those of the other piles of the Bartons' 1972 tobacco crop.

Central Kentucky tobacco farmers, dealers, buyers, warehousemen and other knowledgeable persons in the tobacco industry maintain and insist that Burley, Type 31, Tobacco and Maryland, Type 32, Tobacco are *readily and conclusively distinguishable, by vision, odor and taste.*

While it is the opinion of all persons herein named and others that USDA Tobacco Inspectors and Supervisors are well qualified and have the ability to accurately and properly certify and grade both Burley, Type 31, Tobacco and Maryland, Type 32, Tobacco; irrespective of where grown, inspected, certified, graded or marketed, yet, independent judgment was not employed nor available for employment by the Inspectors and Supervisors when certifying and grading Maryland, Type 32, Tobacco in Lexington, Kentucky, in February and March, 1973, for the reasons hereinafter stated and believed to be true.

For your convenience, that of the other members of the House of Representatives Agriculture Subcommittee, those composing the membership of the Senate Agriculture Subcommittee and other interested members of Congress, I quote below, brief, but yet pertinent portions of the Affidavits and Depositions of the following affiants and deponents:

(a) Deposition of *Walker Kelly*, Scott County, Kentucky:

"Q. 54. Do you content that Type 32 tobacco does or does not resemble Type 31 tobacco? A. No, it's all together different.

Q. 56: Mr. Kelly, what are the big differences that you can see between your Type 32 tobacco and Type 31? A. Well the Type 32 hasn't got any smell to it like your Type 31 has and if you strike a match to it, the Maryland will burn where Type 31 won't burn. Some of them tried to chew the Maryland but there's no taste in it."

(b) Affidavit of *Robert D. Oldham*, Partner, Oldham & Moore Co., Leaf Tobacco Dealers:

"In my opinion every lot and pile of tobacco, weighing a total of 16,572 pounds, on the floor of the United Tobacco Warehouse, Lexington, Kentucky, on Monday,

February 12, 1973, had all of the characteristics of Maryland, Type 32, tobacco. It was odorless, the leaf was pointed, the veins extending from the center stem were at roughly 45° and the color greenish cast and cherry red, these being typical characteristics and colors of Maryland, Type 32, tobacco."

(c) In the transcription of the audio tape of a February 17, 1973, telecast, WLEX-TV, Channel 18, Lexington, the following statement of Zed Layson, Chief, Tobacco Inspection Division, USDA, Lexington is included:

"Maryland Tobacco—first we consider Maryland tobacco as being a very light tobacco—very light in weight and it takes up a lot of space and not many pounds and when we judge the tobacco and try to classify it, the first thing we think is the weight. We take a sample of Maryland tobacco, if it's heavy, we do not think too much about it being Maryland, because Maryland is thin, it's either a cherry red or a brown in color, it burns rather freely, it's extremely dry. I think it dries quicker than any tobacco, I'm sure that we have anything to do with. In fact, when you're working with it you actually cut your hands because it's so dry and that is the reason the tobacco in Maryland does burn more readily, because it's so dry and stiff."

(d) Affidavit of *Harry K. Settles*, Washington County, Kentucky, dated February 22, 1973.

"I feel that I am reasonably well experienced (25 years) and qualified in the tobacco business and (that) I can readily recognize the distinguishing characteristics of Burley and Maryland tobaccos. They are very different, regardless of where they are grown, graded and marketed."

(e) Affidavit of *Clifford Coyle*, Representative of Oldham & Moore Co., dated February 12, 1973.

"I was in Duncan's Tobacco Warehouse, Springfield, Kentucky, from time to time in January, 1973, and saw loads of tobacco delivered to the warehouse by farmers with whom I had made contracts on behalf of Oldham & Moore Co. I have been a farmer all my adult life and have worked with tobacco both on the farm and on warehouse floors consistently for the past 20 years or more, and I believe that I know reasonably well the distinctive characteristics of Burley and Maryland tobaccos.

"I examined, handled and inspected the crops of Maryland tobacco on the floor of Duncan's Tobacco Warehouse last month and there is no doubt in my mind whatsoever but that this tobacco was Maryland tobacco. Also, last month I was on the Carthage, Tennessee, tobacco market where I saw tobacco that was for all practical purposes identical to that on the floor of Duncan's Tobacco Warehouse in January, 1973, except that the tobacco on the Carthage, Tennessee, market was all tied in hands. This tobacco in Carthage, Tennessee, was examined, graded and certified to be Type 32, Maryland, tobacco, with the designated grade being "NOG-OT"—offtype Maryland."

(f) Deposition of *Larry Duncan*, Fayette County, Kentucky.

"Q. 46. Was your tobacco certified as being Maryland? A. Not one pile of it. It was all classified as Burley by the graders.

"Q. 47. Was it classified as 'Burley' or was it given the grade 'NOG'? A. 'NOG.'

"Q. 48. Could you tell any difference in your tobacco, graded 'NOG' and the tobacco of other farmers which was graded 'NOG-OT'? A. No.

"Q. 49. Were you present in the warehouse when Mr. Zed Layson, a Supervisor, was asked the question, 'What does "NOG" mean? Does it mean that the tobacco is Burley'? A. Yes, I was there. That was the day after the classification and I asked him this question personally, myself, and he said, 'The Grading Service is not saying that this tobacco is Burley.'

"Q. 50. Was Mr. Layson asked to look at your tobacco at that time? A. Yes.

"Q. 51. Did he do so and, if he did, what did he say? A. He advised me—I had some ground leaves in it that were, I would say, fired up. He advised me that if I would take all of them out, then, in his opinion, there would be no doubt but that my tobacco would be—the rest of it would be, Type 32 tobacco.

"Q. 55. Well, I'll ask you, while reminding you that you're under oath, was there any Burley tobacco mixed or co-mingled into your Type 32 tobacco? A. None whatsoever! I have plenty of witnesses that will state the same as I do. I also had plenty of people to come out and see my Maryland when it was hanging in the barn, curing, and they definitely thought and stated that it was Maryland, Type 32, tobacco.

"Q. 56. But, upon certification, the Grading Department decided, by using the symbol 'NOG', that none of it was Maryland tobacco, correct? A. Correct, I'm sorry to say.

"Q. 59. Mr. Duncan, did you inspect Mr. Jim Barton's Type 32 tobacco that was here on the floor? A. Yes, I did. He unloaded the same day I unloaded the last load I had.

"Q. 60. Did you observe that after Mr. Barton's tobacco was inspected, a large number of the baskets or piles were graded 'NOG-OT' and then, all at once, the inspectors began to grade or certify practically every other basket or pile as 'NOG' and 'NOG-OT'? A. Yes, I did.

"Q. 61. Did you examine that tobacco? A. Yes, I did and in my opinion there's no human on this earth that could tell one pile from the other.

"Q. 67. Have you ever heard of this 'checker-board' style of grading before, where one pile would be Maryland, 'OT' and the next pile graded Burley, or 'NOG' or flue-cured, 'NOG-1'? A. No. Usually in Burley, if you have 10 baskets of a certain grade, the graders will look at all 10 and then put just one grade on it. I have never seen this checker-board grading before and I don't think it's ever been done before in the State of Kentucky—not since I've been in the tobacco business.

"Q. 73. After growing this crop of Maryland or Kentucky Type 32 tobacco, are there distinct differences between Type 32 and Type 31 tobaccos? A. Yes. There is no doubt in my mind about the differences. Not only can you tell the Maryland tobacco from the stalk and the leaf, you can also tell it from the seed itself, after it is thrashed and cleaned.

"Q. 74. Is the rib structure of the Maryland leaf different and also the fiber? A. Yes, and also the texture.

"Q. 75. The odor? A. No odor—practically no odor at all in the Maryland type, compared to the Type 31, which burns your nostrils if you smell of it for awhile.

"Q. 76. Did you, on February 12, 1973, see any grader smell any of the Maryland tobacco? A. No, not a one and I was here, in the warehouse, for at least 6 or 7 hours that day.

"Q. 77. Did you see any grader strike a match to the Maryland tobacco in an effort to see if it had burning qualities? A. None whatsoever.

"Q. 78. Mr. Duncan, in your years of experience, have you ever heard before that you could grow more than one type of tobacco on the same stalk? A. I've never heard of it and I think it's practically impossible. It is impossible.

"Q. 79. Then you're saying that when the graders inspected a farmer's crop of Maryland tobacco and graded it 'NOG' and then 'NOG-OT', then a Burley grade and then a flue-cured grade, each basket or pile being of the same crop or load of tobacco, that this would not be a proper grading process? A. I would say it would be not only improper but impossible, but they did it anyway."

(g) Affidavit of *Larry Duncan*, Fayette County, Kentucky, dated March 29, 1973.

On February 13, 1973, "I . . . asked him (Mr. Layson) to come over and look at my tobacco which he and another man did. . . . These men examined and inspected my tobacco and I asked them why the tobacco had not been certified as Maryland, Type 32. Mr. Layson reached over and picked some light colored, ground leaves out of one of my piles of Maryland Tobacco and said 'If you will get these out, then there is no doubt in my mind but that the tobacco will be certified as Maryland Tobacco if it is reinspected.'"

On March 21, 1973, the Duncan tobacco that had been certified and graded "NOG" Burley on February 12, 1973, was re-examined, reinspected, recertified and regraded, as follows:

Basket Nos.	Designation	Pounds
14 to 18	NOG	288
19	NOG-OT	64
20 to 29	NOG	610
30	NOG-OT	36
31 to 47	NOG	844
48	NOG-OT	34
49 to 97	NOG	2,546

(h) Affidavit of Carl Barnes, Representative of Oldham & Moore Co., Leaf Tobacco Dealers.

"I have been in the tobacco business, and virtually every phase and segment thereof, for the past 42 years, of which 18 years were spent in Maryland,

as both a buyer and dealer in Maryland, Type 32, Tobacco. I have also been a buyer and dealer in Burley, Type 31, Tobacco, for 32 years. By reason of these experiences in both Maryland, Type 32, and Burley, Type 31, Tobaccos, I have no difficulty or problem in immediately distinguishing between the two types."

(i) Affidavit of Ralph Duncan, Co-Owner of Duncan Tobacco Warehouse, Springfield, Kentucky.

"On February 12, 1973, at the United Tobacco Warehouse, I also observed the grading and auctioning of Type 31, Burley tobacco at the same time the Maryland Type 32 was being graded.

I believe anyone that has had any tobacco experience either as producer, warehouseman, grader, buyer, etc., could have distinguished the differences on February 12, 1973, between the Type 31, Burley that was graded and auctioned and the Type 32, Maryland, that was being certified at the same time in a different area of the warehouse.

The Type 32 has a distinct cherry red color with some having a greenish tinge. The leaves come to a point instead of rounding off like Type 31 and it has no aroma. It also has a freely burning quality which Type 31 does not have. Other distinguishing characteristics are the weight and thinness of the leaf and there is a distinct difference in the veins of the leaf—running at about 45° to the outer edge of the leaf in Type 32, whereas Type 31 will be 60 to 90°."

(j) Deposition of G. F. Vaughan, Jr., President, G. F. Vaughan Tobacco Company, Lexington, Kentucky.

"Q. 4. When, Mr. Vaughan, did you see this tobacco? That is, did you see it on Monday, February 12, 1973, when the tobacco was being inspected, graded and certified by graders of the U.S. Department of Agriculture or prior or subsequent thereto? A. Yes, I saw it that day and several other times.

"Q. 5. In your opinion, based upon your years of experience in the tobacco business, what was the type of tobacco that you viewed on this occasion? A. Type 32.

"Q. 6. Were you advised as to where this tobacco was grown? A. Yes, Kentucky.

"Q. 7. Would this tobacco, in your opinion, be suitable and acceptable to a dealer, exporter, or manufacturer of tobacco products as Type 32 tobacco? A. Yes, sir.

"Q. 12. Did you, on behalf of your company or that of a customer or customers, have any interest in purchasing all or any portion of the subject tobacco? A. Yes, all of it. I talked with Mr. Oldham a number of times about the possibilities of handling it, processing it and purchasing it.

"Q. 13. Does that interest continue to exist? A. Yes, it does.

"Q. 14. In your opinion, can Type 32 tobacco be satisfactorily grown in Central Kentucky with the resulting product being acceptable in the trade? A. Yes."

(k) Affidavit of *Thomas David Woods, II*, Professional Photographer, Lexington, Kentucky.

The results of the certification and grading of six piles of Maryland, Type 32, Tobacco of the James William Barton, Jr., crop and five piles of Maryland, Type 32, Tobacco of the Robert Heddleston crop, by USDA Inspectors on February 12, 1973, in a row of tobacco on the floor of the United Tobacco Warehouse, Lexington, are set forth at page two of Mr. Wood's Affidavit. These results can only be classified as "checker-board" grading. Colored photographs of the 11 contiguous piles of Barton and Heddleston's Type 32, Tobacco are attached to Mr. Woods' affidavit and an examination thereof will clearly and conclusively reveal that there are no visible differences in the tobacco composing the respective piles.

(1) Deposition of *Harold D. Mullen*, Tobacco Farmer and Former Supervisor, Scott County ASCS Committee, Georgetown, Scott County, Kentucky.

"Q. 48. Mr. Mullen, did you go over and observe any of the grading of the Type 32 tobacco? A. I did.

"Q. 49. What did you see? A. I saw a lot of instances where a pile or so in a crop would be graded 'NOG' and the next pile graded 'NOG-OT.'

"Q. 50. Did you see any difference in these piles of tobacco? A. I could not see any difference.

"Q. 51. Mr. Mullen, did you for a number of years work for the Burley Association? A. Yes.

"Q. 52. Know about how long? A. Burley Association, 7 or 8 years.

"Q. 53. What was your job with the Burley Association? A. To inspect the tobacco that had been knocked off to the pool, to see if it was marketable and sound tobacco, not wet, muddy, dirty.

"Q. 54. Or mixed? Would you say that it was one of your duties to see that each basket of the tobacco was of the same type and grade? A. All had to be of the same type and grade and a uniform basket of tobacco as far as I could distinguish.

"Q. 55. Well, then, Mr. Mullen, you would say that you have a pretty good eye for spotting or determining whether baskets or piles of tobacco are of the same type and grade, basket by basket or pile by pile in a row or elsewhere? A. I think so.

"Q. 56. And I again ask you, could you tell any difference in the Maryland tobacco when the graders were checker-boarding this tobacco, could you tell any difference in one pile from the next pile? That is, when one pile would be graded 'NOG-OT' and the next pile in the row was graded 'NOG'? A. I couldn't tell any difference myself.

"Q. 57. Does the Maryland tobacco have a different appearance than Type 31 tobacco? A. Yes, it does.

"Q. 58. Have you ever smelled any Maryland tobacco? A. Yes, tried to.

"Q. 59. Does it have an odor? A. It doesn't have any odor or smell as far as I can determine. On the other hand you can smell Burley and it is a strong smell most of the time.

"Q. 60. Mr. Mullen, have you ever struck a match to a leaf of Maryland type tobacco to see if it would burn? A. Yes.

"Q. 61. Did you test this Type 32 tobacco out here on this floor for its burning qualities? A. Yes, and it has wonderful burning qualities. In fact, I have seen a lot of people just pick it up and strike a match to it to tell whether it was Maryland or Burley.

"Q. 62. Mr. Mullen, I ask you, whether or not on February the 12th, while the Government graders were inspecting the Maryland tobacco, did you at any time see any of them pick up any of the Maryland tobacco and smell it? A. No.

"Q. 63. Did you see any of the graders strike a match to see if it would burn? A. No, I didn't see them do that.

"Q. 64. Well, what, in your opinion, were the graders trying to do? A. To my knowledge, I don't know what they were trying to do because they'd take one man's crop of tobacco here and one pile of it would grade 'NOG' and the next pile would be graded 'NOG-OT.' Maybe the next pile, just right down the line, 'NOG,' 'NOG-OT.' I have no idea what they were trying to do.

"Q. 72. In other words, you're saying there is enough difference in the two types of tobacco that it could be easily determined? A. Now this is the first year I have seen Maryland tobacco grown and I think that anybody, with only a little experience, could tell the difference almost if he was blind. He could smell and tell the difference between the two types of tobacco. The Maryland tobacco has a cherry red color and it's a lot thinner than our Burley tobacco."

(m) Deposition of *Charles M. Cutshaw*, Scott County, Kentucky.

"Q. 57. Mr. Cutshaw, after your tobacco was prepared for sale, could you tell any real difference between your Maryland Type 32 and your Type 31 Burley tobacco? A. Oh, yes, I could see several differences in the two types. There is a difference in the length of the leaf; the thickness of the leaf. I have taken a match and lit a leaf of Maryland tobacco. It won't actually flame all the way, because, I think, that the moisture in the leaf keeps it from burning fast but it does continue to burn slowly at first and then right on and eventually at a rapid pace. I've done the same thing on Burley that I raised this year and tried it in several barns and the Burley wouldn't burn. It'll go out. It'll smoke just a little bit and then go out and then, as it burns, the Burley, Type 31, has quite an aroma. The Maryland, Type 32, Tobacco does not have smell. The Maryland tobacco, of course, as I say, as it grows in the field, it has a darker green color, a longer leaf—a leaf that turns its tips toward the ground, while the Burley tobacco grows with the leaves in an up-right position. When the Type 32 blooms out, the flower runs up a little taller than it does on Burley. Type 32 Maryland doesn't have as many suckers as Type 31 Burley tobacco has.

"Q. 58. Did you notice any of the graders on the eventful Morning of Monday, February 12th, 1973 smell your tobacco to see whether it had any odor or not? A. No, sir.

"Q. 59. Did you see any grader strike a match to see whether it would burn freely or not? A. No, sir.

"Q. 60. Are the 6 baskets that were graded either flue-cured or 'NOG' still on the warehouse floor? A. Yes, sir."

Of the 100 piles or sheets of Cutshaw's Type 32, Maryland Tobacco, 98 were graded "NOG-OT," Maryland Tobacco. The remaining two piles were graded "NOG-1," Fine-cured Tobacco (Q. 39 p. 6). Mr. Cutshaw was asked:

"Q. 44. Did the two piles of your tobacco look different to you than the other 98 piles? A. Yes, sir, quite different.

"Q. 45. Please explain. A. These two piles of tobacco were composed of leaves that—well, when we were harvesting, I had two little boys that were staying at my house, one was my nephew from Cincinnati, and they picked up these green leaves out of the field and put them in piles. Late that evening, we loaded the piles of leaves on the flat of the truck and brought them to Lexington and laid them out on the floor of New Independent Tobacco Warehouse. They laid there until up in the Fall, before time to start receiving tobacco and one rainy day we went to the warehouse and swept them up and put them in some sort of homemade plastic sheets and took them back to the farm, where they laid until when we were stripping the Maryland tobacco and we just emptied the plastic sheets onto the burlap sheets and kept them to themselves and, of course, they had a yellowish appearance but they were definitely leaves that had come off of the Type 32 Maryland tobacco that was grown on my farm but, they did have a different appearance."

Shortly following the grading of 98 of the 100 piles of Cutshaw's tobacco as being "NOG-OT" Maryland Tobacco on February 12, 1973, "... a Supervisor came back along and marked 4 of the "NOG-OT's" as being "NOG's." The deponent was then asked:

"Q. 46. Mr. Cutshaw, could you tell any difference between any of the 98 piles of tobacco? A. No, sir, not at all. It was all stripped in one grade just by getting a hold of the stalk and pulling it through our hands and letting the leaves fall on top of the burlap sheets. We made no distinction between the big tobacco, the little tobacco, the first setting, the first cutting or the last cutting. Even when we lined it on the floor, we didn't try to line any that we thought was a little better quality than some of the other. There wasn't much difference, it was all primarily one grade.

"Q. 47. After the supervisor of the U.S. Department of Agriculture changed the grade on the 4 piles that originally had 'NOG-OT' on them, did you re-examine these piles to determine, for your own satisfaction, that there was a difference between them and the other 94 piles? A. Yes, sir, I certainly did. The morning after they were graded or certified, I went down the row and checked each pile and, of course, run upon these 4 piles that had been changed from 'NOG-OT' to 'NOG' and I stopped and looked at them and I couldn't see any difference at all between these 4 piles and the other sheets that were graded 'NOG-OT.' I even went down and made a pull on the piles myself and it was just the same tobacco that was graded 'NOG-OT'; that is, piles on each side of the 4 piles in the row. It was the very same identical tobacco but the 'NOG-OT' grade had been scratched out and only 'NOG' remained on the 4 tickets."

(n) Deposition of James Dwyer, Fayette County, Kentucky.

"Q. 45. Mr. Dwyer, were you born and raised on a farm in Scott County and have you been acquainted with Burley tobacco all your life? A. Yes, sir.

"Q. 46. From your background of growing and handling Burley tobacco, in the past, would you be willing to testify that there is or is not differences in Type 31 and 32 tobaccos—any noticeable difference? A. Yes, sir, I can by reason of my experience of the past years, state that there is very different characteristics of Type 32 and Type 31.

"Q. 47. Both while growing and after being stripped? A. Yes, sir. Very much so. A noticeable difference during the growing period and the weight, feel and a quality difference during the preparation of the two tobaccos for market.

"Q. 48. Mr. Dwyer, when you're stripping Burley tobacco, or after you've stripper it, does it have an odor? A. Yes, it does.

"Q. 49. Did you find when stripping the Maryland Type 32 tobacco that it was practically odorless? A. Correct. Very much so.

"Q. 50. Have you at any time struck a match to a leaf of your Maryland Type 32 tobacco to see if it would burn freely? A. Yes, sir, several times. From the time that the first plant in the field had a dry leaf on it until it was delivered to the United Tobacco Warehouse, I tried to burn several of the leaves and they all burned rapidly.

"Q. 51. If this Type 32 tobacco is in demand, is there any doubt in your mind that when grown according to instructions, low fertilization, topped at an early

stage when 80% in bloom and housed within 10 to 15 days thereafter, that there could be any reason why the Kentucky farmer can't raise Type 32 tobacco of quality that the companies desire? A. No, sir. I don't know of any reason why any farmer can't raise Type 32 tobacco. It's just another crop that the Kentucky farmer can realize a cash income from, such as corn or cattle.

"Q. 53. Do you believe that Type 32 tobacco can be grown profitably in Kentucky? A. Yes, sir, I do.

"Q. 54. Do you think that the Kentucky farmer should be allowed to grow Type 32 tobacco freely? A. Yes, sir, I think that he should be allowed to grow Type 32 tobacco without all the harassment and confusion that has been experienced in 1972-73, especially since Type 32 is a non-quota type of tobacco."

Neither the referenced legislation nor S. 1533, as recently introduced in the Senate, are appropriate, needed or required at this time, even in Lexington, Kentucky, the "hot bed" of the agitation and harassment by word of mouth, newspaper articles, broadcasts, telecasts, etc., designed, promulgated and circulated in a manner calculated to preclude, if at all possible, the production and marketing of any type of tobacco in Central Kentucky other than Burley, Type 31. The marked effects of the "propaganda" upon the USDA Inspectors, Supervisors and Chief Zed Layson were quite apparent and undeniable during the performance of the certifying and grading services in this city earlier in the year.

Enclosed are photocopies of articles appearing primarily in Lexington and Louisville, Kentucky, newspapers, published and circulated between February 1, 1973, and date. A casual reading of the articles will immediately reveal the highly prejudicial and baseless statements of local lobbyists, repetitiously referred to as "leaders in the Burley industry." These so-called "leaders" are, generally speaking, perpetual, salaried office-holders with virtually unlimited expense accounts for fulfillment of their respective organizations' lobbying practices. These men do not represent Kentucky tobacco farmers but only their closely knitted cliques. If they did, then presumably they would come forward and recommend that experiments be conducted in Kentucky for the purpose of determining whether or not an acceptable and typical type of Maryland tobacco could be produced in this state at a profit—as an additional "cash crop" by the men that till the soil and pay dues to organizations such as the Kentucky Farm Bureau Federation and remit taxes, directly or indirectly, to the Burley Tobacco Growers Co-Operative Association (C.C.C.) portions of which are employed by their lobbyists to defray expenses incurred in seeking legislation to preclude their (farmers') obtaining a badly needed cash crop.

The logical and sensible approach to a satisfactory solution of the "controversy" involving the production and marketing of non-quota Maryland tobacco in quota tobacco areas has been adopted in the State of North Carolina, as reported by Dr. Kenneth R. Keller, Head of Tobacco Research at North Carolina State University, and reported at page 21 of the February, 1973, issue of the Southern Tobacco Journal, a photocopy of which is attached.

To the contrary, in Central Kentucky, and this area only, the production and marketing of Maryland tobacco has been prejudiced and condemned by our vocal "leaders," who express "fear of peril to the Burley Quota Program," that "excess burley *can be* bootlegged as Maryland Tobacco," that "fear that Maryland-type leaf grown in Kentucky will assume Burley characteristics, and therefore become a cheaper substitute for the real type," that "excess Burley *may be* cropping up to be sold as Maryland," that "Maryland tobacco grown in the Burley Belt, *could* become a low-price competitor to Burley," that "Maryland tobacco, because of its low price, *could* displace both Burley and Flue-Cured in the cigarette blend," that "Maryland-type tobacco, which sells at \$.60 a pound, *could* cause Burley prices to 'drift off to nothing,'" that "Maryland-type leaf grown in Kentucky provides 'the opportunity for fraud,'" that "big tobacco companies some day *may* set up giant farms in Kentucky to grow Maryland-type tobacco, effectively killing the Burley industry. . . ." "If Maryland-type is what they (manufacturers) want, they can produce it in Maryland," etc., etc.

It will be noted that practically every statement condemning the production and marketing of Maryland tobacco in Central Kentucky is speculative—what "could be" or "might be" the net effect thereof. The references to the growing of Maryland tobacco in the Blue Grass as being "an avenue for the commission of fraud" is, perhaps, a possibility but highly improbable. What "our leaders, lobbyists and sponsors" of "preventative legislation" fail to take into account is

the well-known fact that the man who tills the soil is inherently honest. He does not now nor has he ever needed the protective shroud of self-appointed guardians.

As illustrative of the *influence of the spoken and published words of the "leaders" upon the USDA Inspectors, Supervisors and Chief Zed Layson*, we quote from several of the enclosures herewith:

(o) Affidavit of *James William Barton, Jr.*, dated March 26, 1973, page 6.

"Both on Monday morning, February 12, 1973, and Wednesday morning, March 21, 1973, . . . I heard Marion Rouch (USDA Supervisor) say, in substance, 'If this tobacco was being graded in Maryland rather than in Kentucky, it would be graded Maryland.' Also, on Wednesday morning, March 21, 1973, Mr. Rouch and Mr. Dryden (Paul Dryden, USDA Supervisor) when inspecting our tobacco (both loads) commented that if we had 'stripped it cleaner and thrown away the culls and put it into three grades, the tobacco would have been graded Maryland.' Also, Mr. Dryden said on this occasion 'We are following orders from above on the grading of this tobacco and we are not necessarily expressing our own opinions.'"

(p) Affidavit of *Walker Kelly*, dated March 31, 1973, pages 2 and 3.

"On Wednesday morning, March 21, 1973, when the graders came to my load of tobacco, Targus Sexton of the United Tobacco Warehouse told these men (Marion Rouch and Zed Layson) that this was the crop of tobacco that Mr. Marion Rouch had asked me on February 12 to untie, shake and pile loose on sheets and that if I would do so that the tobacco would then be certified as Maryland tobacco. This didn't do any good as these graders wrote 'NOG' on every ticket of my 48 piles of tobacco." (page 2)

Also on Wednesday afternoon, March 21, 1973, "Mr. Sexton then asked Mr. Rouch to go over and look at my crop, but Mr. Rouch refused, saying to Mr. Sexton in my presence, 'I know that it is Type 32 tobacco, but if I change those grades I will receive my last check in two weeks.'"

(g) Affidavit of *Robert D. Oldham*, dated February 20, 1973, page 5.

A grader unknown to Mr. Oldham said: "If this tobacco was being graded in Maryland, then I would give it a Maryland grade."

(r) Affidavit of *Larry Duncan*, dated March 29, 1973, page 4.

" . . . on February 13, 1973, I overheard Mr. Marion Rouch make the statement, 'If this tobacco (pointing to a basket of obviously Type 32, Maryland, Tobacco) was being inspected in Maryland, it would have to be classified Maryland.'"

(s) Affidavit of *Carl Barnes*, dated March 29, 1973, pages 2, 3, 4, 5, 6, 7, 8 and 9.

"In the latter part of January, 1973, while I was in the Manchester Street Warehouse, Lexington, during an auction of Burley Tobacco, that had been inspected and graded by Mr. Roy Greene and others, I overheard Mr. Greene say to Tom Mitchell, a representative of the Burley Tobacco Growers (Co-Operative) Association that 'The growing of Maryland tobacco in Kentucky will destroy our Burley program.'" (pages 2 and 3)

"Mr. (Thomas) Cammack (USDA Supervisor) paid particular attention to the little crop of Robert Heddeleston, consisting of 18 piles, and after pulling several of the tied hands of Mr. Heddeleston's tobacco said to me 'If this tobacco was in Maryland I would have to grade it Maryland.'" (page 3)

On Monday morning, February 12, 1973, "when walking between two rows of tobacco on the floor of the United Tobacco Warehouse, I spoke to J. R. Greene. When I started to ask him a question, he interrupted me and said 'Let's not talk about it now. I am under great pressure.'" (Page 4)

"Near the end of the inspecting and grading of the Maryland Tobacco on February 12, 1973 . . . Mr. Rouch, when making a sweeping gesture with his hand, said 'If all this tobacco was on a warehouse floor in Maryland it would be graded Maryland, Type 32.'" (page 5)

At page 6 of Mr. Barnes' Affidavit he refers to a letter, dated March 6, 1973, from the undersigned to Jack Thomason, Director, Tobacco Division, USDA, Washington, wherein it is reported:

On March 1, 1973, "We were informed by Mr. Layson that the reinspection of the (Type 32) tobacco remaining on the warehouse floor could not and would not be undertaken on March 12, 1973, or prior to March 21, 1973, in that Mr. Marion Rouch, Supervisor, of the graders who examined, inspected, certified and graded the (Type 32) tobacco on February 12, 1973, was in the State of Washington and could not return to Kentucky until on or about March 20, 1973."

"Mr. Layson further informed us that the *same graders* that inspected, graded and certified the tobacco on February 12, 1973, *would constitute the team, under*

*Mr. Rouch's supervision, to perform the reinspection, etc., on March 21, 1973;* that he would require that the original tickets that were on the baskets and piles of tobacco on February 12, 1973, be continued thereon, face up, during the reinspecting, regrading, etc., of the tobacco on March 21, 1973." (Emphasis that of the writer)

"Inquiries were made of Mr. Layson and his assistant as to whether or not these graders and Mr. Rouch could conceivably avoid being influenced by and totally disregard the grades and the certifications assigned on February 12, 1973, when performing the reinspection, regrading and recertifying of the tobacco, on March 21, 1973. Mr. Layson's reply was simply that *this procedure was required by the regulations.*"

"Mr. Layson and his assistant were further asked to express their personal opinions as to *whether or not the graders and Supervisor Rouch would be willing to admit that the certifications and grades assigned to the tobacco on February 12, 1973, were erroneous*, if they, in fact, were, but so far as I can recall, this question was not answered and none of the aforementioned have any recollection of Mr. Layson's reply."

Notwithstanding Mr. Layson's admonitions of March 1, 1973, a "new team" of USDA Inspectors and Supervisors performed that reinspection, recertification and regrading on March 21, 1973, but several members of the "old or original team" of February 12, 1973, were present and actively participated, especially Mr. Layson, who gave advice and instructions "right and left" to "his inspectors and supervisors," all as is set forth in detail in the Affidavits of Carl Barnes, Hargus Sexton, et al.

Continuing with the quotations from the Affidavit of *Carl Barnes*:

"This tobacco (Paul Gardner's crop) is a better quality Maryland than that over there.' The tobacco to which Mr. Layson pointed as being 'over there' had been graded 'NOG-OT,' Maryland, on January 11, 1973, in the Washington County Co-Op Warehouse, Springfield, Kentucky, and then hauled from Springfield, by Springfield Redryers, Inc., to United Tobacco Warehouse, Lexington." (page 7)

"... on March 21, 1973, Mr. Lewis Whiteker (USDA Supervisor) publicly stated as he walked into the office of the United Tobacco Warehouse, 'I have just done the worst day's work I have ever done in my life.'" (page 7)

"... on the morning of March 21, 1973, Mr. William B. Gess, in the presence of the graders and supervisors, as well as that of a lot of other people, stated to Mr. Layson that he had been informed that the team of graders and supervisors assigned to perform the reinspection and recertification had been instructed how to perform their (these) services. Mr. Gess then asked Mr. Layson 'Is this true, or will the graders and supervisors be permitted to exercise their independent judgment when performing their duties?' ... Mr. Layson quickly replied 'We are not here to certify the seed that was used or how the tobacco was grown, but only to certify this tobacco as we see it. The graders certainly will be permitted to use their own judgment in grading and certifying this tobacco.' ... yet, I saw Mr. Layson actively participating in the inspection, the grading and certifying of the tobacco, particularly during the morning session on March 21, 1973."

(t) Affidavit of *Hargus Sexton*, dated March 29, 1973.

"... on or about February 1, 1973, Mr. (Roe) Greene (USDA Supervisor) then went to the crop of Robert Heddleston, Vanceburg, Lewis County, Kentucky, and pulled several hands of the tobacco on maybe four or five of the piles and said to Mr. (Jack) Thomason in my presence "This is ideal Maryland tobacco.'" (page 2)

"On February 12, 1973, Mr. Heddleston's crop was graded 'NOG-OT,' Maryland Tobacco as to five piles and 'B3R' etc., as to the remaining 13 piles."

"On February 12, 1973, the grading and certifying of the Maryland Tobacco was proceeding satisfactorily with the designations given being 'NOG-OT,' but at about 10:30 A.M., Mr. Layson stopped the grading and went into a 'huddle' with the graders. Immediately thereafter designations changed from 'NOG-OT' to either 'NOT' or various Burley grades and a few Flue-Cured grades." (page 6)

"Mr. (Marion) Rouch (USDA Supervisor) very courteously told me and a group of farmers around us that 'NOG' does not mean the tobacco is Burley. He further said 'Some of this tobacco does have Burley characteristics, but if it was on a warehouse floor in Maryland it would be graded Maryland, Type 32.'" (page 6)

"On Tuesday morning, February 13, 1973, Thomas Cammack (USDA Inspector) was grading Burley tobacco on the floor of the United Tobacco Warehouse.

During a lull I asked him if his conscience didn't bother him by reason of the way that he graded the Maryland Tobacco on Monday." He said 'I'd rather not talk about that. I was only following instructions. I'll tell you this, Homer Taylor and Jack Thomason will get busted before this thing is over.'" (page 9)

The writer on March 3, 1973, and on several occasions thereafter sought aid and assistance from the U.S. Secretary of Agriculture and other personnel of the USDA, Washington, as evidenced by communications dated March 3, 12, 16, etc., copies of which are attached as exhibits to Mr. Sexton's Affidavit. The results were nil. We then turned to the Inspector General, Office of Inspector General, USDA, Washington, and there is attached hereto photocopies of the writer's letters of March 27, 1973, to Mr. Nathaniel Kossack, Inspector General, and of April 9, 1973, to Mr. Henry Ebling, Local Representative of the Office of Inspector General. The results of the requested investigation have not, as of this writing, been made known to the undersigned, but we understand that they will be forthcoming.

In that the documents and material submitted with this letter are bulky and voluminous, only one set is being forwarded, but I am mailing duplicates of this communication to each member of your subcommittee and those constituting the membership of the Senate Agriculture Subcommittee as well as several non-members of either committee, including Hon. John B. Breckinridge and Hon. Marlow W. Cook, with the request and suggestion that they, or more appropriately, their Legislative Assistants, review and familiarize themselves with the contents of the file documents herewith.

The opportunity afforded Mr. Barton, Mr. Miller and I to appear before you and other members of the House Agriculture Subcommittee late last Thursday afternoon, April 12, was appreciated. Of necessity, my presentation was brief, but the undivided attention given to our remarks in opposition to H.R. 6485 and H.R. 6799 was pleasing and gratifying, even though Mr. Cozart of Abingdon, Virginia, and our "delegation" of three were outnumbered and "out of step" in the procession of salaried Kentucky and Washington lobbyists to the witness stand.

We wholeheartedly concur in the comments of last Thursday as made by Representatives *Fuqua, Jones, Mathis, Mizell* and *Wampler* to the effect that this legislation should, if enacted, be applicable only in Kentucky and we add, "in Central Kentucky exclusively." There is no "controversy" or existing "problem" that has arisen in Florida, Georgia, South Carolina, North Carolina or Virginia by virtue of the production and marketing of non-quota Maryland, Type 32, Tobacco in any of these states, to our knowledge. Also, we agree that the proposed legislation is quite late in being presented; if it is to be applicable this year, as Rep. Breckinridge suggests, Maryland Tobacco has been transplanted in the South and so will it be in Kentucky within a few weeks.

The statements of *Kenneth E. Frick*, Administrator, ASCS, U.S. Department of Agriculture, Washington, that ". . . we do not feel that these problems can be solved under present law" and "There is no avenue to get to the problem, administratively," are, respectfully, but yet very definitely, refuted, and we are reasonably certain that if General Counsel of the Department and Homer F. Taylor, Chief, Standards and Testing Branch, Tobacco Division, USDA, Washington, were called upon to give their independent opinions, under protective immunity, they too would advise that the problems in Central Kentucky could be readily solved under existing law, provided that Chief Zed Layson and his underlings, complied with the instructions of their superiors and followed the well-established standards for certifying and grading tobacco.

As to the applicability of the "present law" I cite the Opinion of the United States Court of Appeals, Fifth Circuit, in the case of *Orville Freeman, Secretary of Agriculture of the United States of America, appellant, v. Darius and Brown, et. al., appellees*, 342 F. 2d 205 (1965), a photocopy of which is attached, and suggest that the words and numerals "Type 32, Maryland, Tobacco" be substituted for "Type 14, Flue-Cured, Tobacco," when reading the Opinion and applying its principles and conclusions to the "problem" herein referred to.

Incidentally, and in conclusion, the "problem" is not a new one in Central Kentucky, as will be noted with possible interest when reading Senate Bil No. 121, introduced in the Kentucky Senate, Frankfort, Kentucky, on February 7, 1950. Some of our "leaders" of today are serving in the same capacities, or substantially so, as they served 23 years ago. Senate Bill No. 121 was not enacted.

Sincerely yours,

WILLIAM B. GESS.



