ARBITRATION REPORT

As required in Section 8 (k) of the Arbitration rules, your secretary reports regarding Case No. 1413, George K. Crutchfield, Jr., Lynwood, Virginia, Plaintiff and the Scroggins Grain Company, Minneapolis, Minnesota, Defendant. This case concerns the sale of one carload of yellow corn by defendant to plaintiff. The corn was contained in a car identified as NYC 99862 containing 112,030 pounds of corn. The Minnesota State Grain Inspection Department inspected the car and graded the corn as No. 2 yellow corn. When the car was unloaded at Lynwood, after 11 days in transit, it was found that the corn in the bottom of the car was caked solid, and discolored with a distinct sour odor. Although Mr. Crutchfield endeavored to dispose of the spoiled corn, 416 bushels, for livestock feed, farmers refused to use it because of its possible effect on cattle and hogs. The plaintiff sought to recover from the defendant the value of the worthless corn.

A part of this case acknowledged by the committee yet not considered as having a direct bearing in reaching a decision concerns the grading and sampling of the corn at Minneapolis. This car of corn was originally graded by the inspector at Minneapolis as No. 2 yellow corn and applied and shipped on that basis. Sometime subsequent to the original application it was determined that the inspector had apparently marked up the grade erroneously and the grade should have been No. 3 yellow. The grading factors on the car were 13.7% moisture and 5% total damage which were within the limits for No. 2 yellow corn. However, the test weight was 52 pounds which is 1 pound less than can be carried in the No. 2 yellow grade. Therefore, the correct grade of the corn should have been No. 3 yellow corn based on test weight solely; the other factors being equal to No. 2 yellow. This error in grading was satisfactorily settled by payment to the plaintiff which was accepted without question. There seems to be no doubt that the car was so heavily loaded as to prevent the sampler of the corn at Minneapolis from obtaining a fair and representative sample by use of the standard 6 foot probe, therefore, it is open to question as to whether the sampler could have located the damaged corn when inspected at Minneapolis. In which case it appears that the inspector erred in not noting such fact on the inspection certificate.

The crux of this case revolves around the terms of the contract covering the sale of the corn. The contract provided for the sale of 3 cars of No. 2 yellow corn at $2.20 per bushel F.O.B. Minneapolis basis. Two of the cars shipped were accepted by buyer without comment but the third car contained the spoiled corn. It is interesting to note at this point that the plaintiff accepted the terms of the contract thus failing to obtain any guarantee as to condition of the corn upon arrival. Therefore, the plaintiff in buying the corn on Mineapolis grades assumed all risk of change in grade and condition thereafter.

The committee considering this case was composed of Mr. Hugh D. Hale, Chairman, The Hale Grain Company, Royal, Iowa, Mr. Gunnard Johnson, Wolcott & Lincoln, Inc., Kansas City, Missouri, and Mr. E. C. Kessler, Ames Burns Company, Jamestown, New York, and the amount involved was $1,008.78. A majority and minority opinion was rendered by the committee, the majority finding in favor of the defendant. Both opinions will be reviewed. Under the majority opinion it was agreed there was no question about the terms of the contract which did not specify that the grade of the corn was to be guaranteed at destination. If the plaintiff desired protection he should have taken advantage of Rule 38 of the Trade Rules governing transactions in grain. It is the usual practice when grades are guaranteed to interior points that the notation "to arrive cool and sweet" is inserted in the contract. The facts show definitely that the plaintiff did nothing to prove that he did not accept Minneapolis weights and grades as final. Further, it does not follow that the defendant should be held liable for the errors of the Minnesota State Grain Inspection Department.

The minority opinion was based on three premises (1) the plaintiff purchased No. 2 yellow corn, the defendant without permission shipped No. 3 yellow corn, thereby voiding contract; consequently, adjustment should be made basis condition of corn as it arrived at Lynwood, (2) it was proved conclusively to the satisfaction of the minority that a certain quantity of the corn was worthless and (3) it is admitted by all concerned, included official samplers at Minneapolis, that sampling was improperly made.