Commodity Futures Trading Commission
CEA CASES

NAME: CARGILL, INCORPORATED V. THE BOARD OF TRADE OF THE CITY OF CHICAGO

DOCKET NUMBER: 6

DATE: AUGUST 16, 1940

DOCUMENT TYPE: DECISION AND ORDER

UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE, THE

SECRETARY OF COMMERCE, AND THE ATTORNEY

GENERAL, SITTING AS A COMMISSION PURSUANT

TO SECTION 6(a) OF THE COMMODITY EXCHANGE ACT

COMMODITY EXCHANGE ADMINISTRATION DOCKET No.6.

In re: Cargill, Incorporated, Complainant, v. The Board of Trade of the City of Chicago, Respondent,

ORDER

The referee in the above-entitled proceeding has referred to this Commission the respondent's motion to dismiss, filed on June 5, 1939, together with the referee's report thereon, consisting of proposed findings of fact, conclusions of law, and recommended order.

This case originated with a complaint by Cargill, Incorporated, against The Board of Trade of the City of Chicago, filed February 10, 1938, under Section 6(a) of the Commodity Exchange Act, in which it is charged that The Board of Trade of the City of Chicago, a "contract market" designated as such by the Secretary of Agriculture under the provisions of the Commodity Exchange Act, violated Section 5(a) (5) of said Act.

The alleged violation consisted of the issuance of an order providing for the delivery of notices of intention to deliver relating to September 1936 futures continuously on Tuesday, September 29, 1936, up to eight o'clock,p.m., the last day for delivery on this future being September 30.

The complaint further charges that The Board of Trade of the City of Chicago violated Section 5(d) of the Commodity Exchange Act. The Board of Trade is alleged to have violated this section in that both in 1936 and in September of 1937 the governing board thereof, being the Board of Directors, did not provide for the prevention of manipulation of prices but, to the contrary, permitted the so-called Business Conduct Committee of the Board of Trade of the City of Chicago to aid and abot manipulation of prices downward. Said Business Conduct Committee issued orders, made known to short sellers, upon holders of futures contracts for purchase of corn for September, 1937, delivery to dispose of their commitments without any equivalent orders to holders of futures contracts for sale of corn for September delivery either to buy in their contracts or to refrain from further extending their short position. The same unauthorized demands made upon holders of futures contracts in 1937 were also made in 1936 by the Business Conduct Committee of the Board of Trade of the City of Chicago to holders of futures contracts for purchase of wheat and corn for December delivery. These several actions constituted downward market manipulation by said Business Conduct Committee which was permitted by the governing body (Board of Directors) of the Board of Trade of the City of Chicago in direct violation of the Commodity Exchange Act.

The Board of Trade of the City of Chicago filed an answer to the complaint on April 1, 1938, in which it denies that it violated the Commodity Exchange Act, and affirmatively alleges that the orders complained of were issued to prevent Cargill, Incorporated, from manipulating prices and attempting to corner the market in December of 1936 and September of 1937, in violation of the Commodity Exchange Act and that the order of September 1936 was an emergency measure justified by the conditions existing at that time.

The respondent incorporated in its answer a motion to dismiss the complaint.

On May 16, 1938, hearing was had before the Commission on the respondent's motion to dismiss. On September 27, 1938, the Commission denied said motion, named a referee and sot a date for hearing. On October 1, 1938, the Commission modified its previous order by appointing the referee who presided at the hearings in this proceeding and set the case down for hearing on October 26, 1938. On October 26, 1938, all pending motions wore hoard and disposed of by the referee and the taking of testimony began on November 28, 1938, in the City of Washington, D.C., and continued with occasional recesses to June 5, 1939, in the City of Chicago, Illinois. The complainant rested on June 5, 1939, at which time the record consisted of 12,450 pages, and the respondent at that time filed a motion to dismiss.

Proposed findings of fact, conclusions, and orders were filed with the referee by both the complainant and the respondent, and, in addition thereto, a brief was filed by the respondent. Thereafter, each of the parties filed exceptions to the other party's proposed findings, and oral argument was had before the referee between July 24, and August 9, 1939, said oral argument being reported at pages 12,462 to 14,199,inclusive, consisting of 1,738 pages. The referee served upon the parties a tentative report, and the complainant filed exceptions to the findings of fact and conclusions contained therein. No exceptions were filed by the respondent.

On April 3, 1940, the referee submitted to the Commission his proposed findings of fact, conclusions of law, and recommended order, together with the record of the proceedings theretofore had, including all matters filed by either party.

Copies of the referee's report was served upon the attorneys for the parties, and the complainant has filed exceptions to the proposed findings of fact and conclusions contained in the referee's report. The respondent has filed no exceptions to the referee's report, and both parties have waived an oral argument before the Commission.

Based upon the record of these proceedings, the referee's report and the exceptions thereto filed by the complainant, it is found that the complainant's exceptions to certain proposed findings of the referee should be sustained in whole or in part by changes in the proposed findings, as follows:

Finding No. 24 by striking out the second sentence thereof, beginning "This was evidently considered" and ending "required by Rule 282."

Finding No. 25 by striking out the words in brackets, "who was chairman of the Law Committee" which appear after "Director McCarthy".

Finding No. 29 by striking out the last sentence thereof, beginning "This regulation" and ending "required by law."

Finding No.30 by striking out the first sentence, beginning "Complainant contended" and ending "or their customers."

Finding No.34 by striking out the entire finding.

Finding No. 36 by striking out the entire finding.

Finding No.37 by striking out the entire finding.

Finding No. 38 by striking out the entire finding.

Finding No. 66 by striking out the first sentence in the third paragraph thereof, beginning "Complainant contended" and ending "the record shows:".

Finding No. 67 by changing the figure following the word "Oats", which now reads "2,412,101 bushels", to road "3,412,101 bushels", and by changing the number of bushels of vacant regular elevator space

from "3,957,056" to road "3,975,060".

Finding No.70 by striking out the sentence beginning on the sixteenth line thereof with the words "There was no proof" and ending with the words "available export personnel", and by striking from the last sentence thereof the part beginning with the words "hence it is to be" and ending with the words "deliverable corn."

Finding No.71 to road as follows: "The complainant offered to accept deliveries of Chicago 1936 December corn at places other than Chicago, either for spot or deferred delivery, at price differentials, but did not advise the respondent or its Business Conduct Committee what price differentials would be acceptable to the complainant, and the respondent's Business Conduct Committee refused to accept the complainant's offer."

Finding No. 72 to read as follows: "On December 8, 1936, it would have been impossible for actual deliveries to have been made on the total open interest in Chicago December 1936 corn and wheat futures, and it would have been impossible for deliveries to have been made on Cargill's total open interest of Chicago December 1936 corn and wheat futures without violently disturbing the market, even though the other longs had only stood for normal ratio

of delivery to the total open interest, the other longs having approximately 17,000,000 bushels of the open interest in December 1936 corn and wheat futures, the normal ratio of which would be between 1,000,000 and 2,000,000 bushels. Cargill had expressed its intention of standing for much more than normal or expected deliveries."

Finding No.87 by striking out the entire finding.

Finding No.91 by striking out the entire finding.

Finding No.96 by striking out the first two sentences thereof, beginning "Cargill charged" and ending "reference to December corn and wheat."

Finding No. 97 to read as follows: "The record fails to disclose any substantial evidence to the effect that the cease and desist orders of the Business Conduct Committee of December 8 and 10, 1936, were made known to the shorts."

Finding No. 98 by striking out the entire finding.

Finding No. 101 by striking out the fourth sentence of the fourth paragraph thereof, beginning "The Chicago supervisor" and ending "prior to September 1.", and striking from the last sentence of the same paragraph the words "or the Commodity Exchange Administration, or its representatives".

Finding No.103 by striking out the second sentence thereof, beginning "It was testified" and ending "between Continental and Cargill," and substituting therefor "This made it possible for these September and December corn futures to be hold without the necessity of placing margin money with the clearing-house at the time the transfers were made."

Finding No.104 by adding. ",000" after the figure "60,571" appearing in the last line of the first paragraph, and by striking from the second sentence of the fourth paragraph the words "from the books and records of Cargill" and substituting therefor the words "from the record".

Finding No. 108 by striking from the third sentence thereof the words "the expert witness, Professor Vaile," and substituting therefor the words "it is", and by striking out the fourth sentence, and by substituting in the fifth sentence the words "it was estimated" for the words "he estimated". By striking from the sixth sentence the words "On cross-examination Vaile admitted:" and substituting the words "It is further found:", and striking from subdivision (a) the words "by him", and subdivision (c) the word "that" is changed to "than", and subdivision (h) is stricken in its entirety.

Finding No. 110 by striking out the third paragraph thereof and substituting therefor the following: "A considerable quantity of corn would be required for finishing off cattle in September, October, and November for marketing in the fall of 1937 in the six states."

Finding No. 111 by striking out the second paragraph thereof and submitting therefor the following: "The spring litter is larger than the fall litter, and a number of millions of bushels of corn would be required to finish off the litter being finished in September, October, and November."

Finding No. 113 by striking out the last sentence thereof.

Finding No. 115 by striking out the last sentence thereof, beginning "Professor Vaile" and ending "this period."

Finding No, 116 by striking from the second paragraph thereof the first four words and substituting therefor the word "Cargill's", and by substituting for the word "is", in the second line of the fourth paragraph, the word "if", and by striking out the third word in the sixth paragraph.

Finding No, 118 by striking out, in the eighth line from the bottom of page 90, the words "buying all the corn obtainable" and substituting therefor the words "acquiring a large percentage of the corn obtainable by moans of its aggressive buying".

Finding No. 120 by substituting for the word "officers", in the first sentence, the word "offices".

Finding No. 138 by striking out the first sentence of the first paragraph thereof, and by striking out the second paragraph in its entirety.

Finding No. 139 to road as follows: "There was no syndicate of shorts operating in opposition to Cargill in September corn futures, the short interest being widely scattered among a great many people in various parts of the country, the largest shorts being Daniel F. Rice and Daniel F. Riece & Company, who delivered all except 30,000 bushels of a short position and settled on the balance, and the Farmers National Grain Corporation, a farmers' cooperative association whose long position in cash corn stocks and forward purchases exceeded its short position in September corn futures, although part of its cash corn position consisted of Argentine corn. Neither of these shorts had positions of a size comparable with Cargill's long position.

"There was no substantial evidence that the cease and desist order of the Business Conduct Committee of September 24, 1937, was made known to the shorts."

Finding No. 140 by striking out the entire finding.

Finding No. 141 by striking out the first three lines thereof and substituting therefor the following: "The following action was taken with respect to shorts

In September 1937 corn:".

Finding No. 142 to road as follows: "Cargill's officials, during the September 1937 corn market proposed to the Business Conduct Committee that the Chief or Assistant Chief of the Commodity Exchange Administration be asked to arbitrate their differences. This proposal was rejected by the Business Conduct Committee. The officials named advised Cargill's officials that they would consider a request to arbitrate if made by both parties."

In addition to the exceptions taken to specific proposed findings contained in the Referee's report, the complainant's exceptions include general exceptions based on the Referee's failing to include in his proposed findings certain findings which were proposed by the complainant. The exceptions of this nature have been considered, and the proposed findings of the complainant which have been determined to be relevant, material and supported by the record are included in the Commission's findings of fact, either in whole or in substance.

The complainant's exceptions to the Referee's proposed findings of fact and the complainant's proposed findings of fact have boon carefully considered with a view to giving the complainant the benefit of consideration of all substantial evidence, whether of slight materiality or relevancy to the issue or not. The exceptions which have not been approved, either in whole or in part, by the changes in the Referee's proposed findings of fact herein indicated or by the findings of fact which are made by this Commission, have been disapproved because the record fails to support the conclusions sot forth in these exceptions or the factual matter covered thereby was included in the proposed findings in substance or was determined to be either immaterial, irrelevant, not supported by substantial evidence or in the nature of conclusions and not findings of fact.

On the record of those proceedings, the Commission makes findings of fact as follows:

FINDINGS OF FACT

Preliminary

1. Cargill, Incorporated, the complainant herein, is a Delaware corporation having its principal office and place of business in the Chamber of Commerce Building, Minneapolis, Minnesota. It and its predecessors in interest have been cash grain merchants since the business was founded in 1865 by W. W. Cargill.

2. On or about November 30, 1936, and for many years prior thereto, Cargill Grain Company, a Minnesota corporation, predecessor in interest to Cargill,Incorporated, was a registered member of the Board of Trade of the City of Chicago.

3. On or about November 30, 1936, and thereafter until March, 1938, Cargill Grain Company of Illinois, an Illinois corporation and a wholly-owned subsidiary of Cargill,Incorporated, was a registered member of the Board of Trade of the City of Chicago.

4. During 1936 and 1937 and for many years prior thereto, Cargill, Incorporated, and its predecessors, and during 1936 and 1937 Cargill Grain Company of Illinois wore engaged in the cash grain business and in this connection used the facilities of and were affected by operations of the Board of Trade of the City of Chicago.

5. In 1936 and 1937 Cargill distributed in volume approximately two per cent of all the grain raised by American farmers and between ten and twelve per cent of the grain produced by American farmers which was actually marketed.

6. Cargill is and was during 1936 and 1937 one of the largest and most active North American cash grain firms, having distributed throughout the United States and abroad during the last few years 100,000,000 bushels or more of grain annually, and having distributed as much as 150,000,000 bushels of grain in a single year.

7. Cargill has, and had during 1936 and 1937, branch offices for the purpose of buying and selling grain in all of the important grain centers and surplus grain raising areas in the United States.

8. Cargill during 1936 and 1937 operated approximately two hundred country elevators throughout the grain producing areas of the United States.

9. Cargill during 1936 and 1937 operated eighteen terminal elevators, the total capacity of which exceeded 50,000,000 bushels, principally on the Great Lakes and on canals and rivers.

10. Cargill did during 1936 and 1937 and at other times distribute grain from almost every grain surplus producing country in the world to other parts of the world where grain is needed and participated to a substantial extent in the world grain trade through its offices in Genoa, Italy, Rotterdam, Holland, London, England, Buenos Aires,Argentina, Montreal, Quebec, Winnipeg, Manitoba and other places.

11. Cargill opened its Chicago office in 1931 and in 1935 leased from the Chicago and North Western Railroad Company the North Western Terminal Elevator which is the largest grain elevator in the Chicago district, having a capacity of 10,000,000 bushels.

12. The Board of Trade of the City of Chicago, respondent herein, is a corporation organized by Special Act of the General Assembly of the State of Illinois on February 18, 1859, and continuously since that date has been a corporation in good standing of the State of Illinois and is a contract market designated as such by the Secretary of Agriculture under the provisions of the Commodity Exchange Act, being the Act of Congress of September 21, 1922, as amended by the Act of Juno 15, 1936.

EMERGENCY ORDER OF SEPTEMBER 1936

Delivery Notices

13. In Early July, 1936, Cargill surveyed conditions with respect to supplies of corn in the United States and prospects for the 1936-1937 corn crop which under normal circumstances could not be expected to move in quantity until about November 15, and determined that in view of the conditions which it found to exist there would be a scarcity of corn for commercial consumption during October and November. Cargill decided that for the period from July to the latter part of September it would rely upon the cash market for supplies of domestic cash corn for the needs of its customers; that from thenceforward until about the middle of November it would rely upon the Chicago September corn futures for the supply of corn which it estimated on the basis of past experience, current conditions and contacts with its customers, that its customers would need during that period, for the reason that Cargill felt that the Chicago September futures market afforded a substantially cheaper source of

supply for that period than any cash market; that it would contract for Argentine corn to be shipped to the United States by late fall.

14. Both on July 1, 1936, and on October 1, 1936, supplies of corn on farms in the United States were only slightly below the previous ton-year average. On those dates, however, the "visible supply", in the United States was very substantially below the previous ten-year average. (Definitions of "visible supply" and "open interest" are set out in Appendix A.)

15. During July, August and September 1936, Cargill purchased substantial amounts of Argentine corn which must be contracted for three months in advance of arrival and could not be expected to arrive in the United States in quantity prior to the movement of the 1936-37 corn crop. As fast as this corn was contracted for, it was sold to Cargill's customers for forward delivery.

16. July 16, 1936, Cargill began to accumulate a long position in the Chicago September 1936 corn futures. On the basis of past experience, existing conditions and information received from its customers, it estimated that its customers would require approximately 5,000,000 bushels of corn during the period from the latter part of September until about the middle of November, 1936. By August 12, 1936, it had acquired 4,200,000 bushels of Chicago September corn futures but from that time forward until the close of trading in the September futures its line constantly decreased until it had boon reduced to 780,000 bushels at the close of trading on September 26.

17. Cash corn in Chicago and the Middle West generally sold at a premium over the Chicago September corn futures throughout July, August and until the latter part of September, 1936.

18. By the latter part of August, 1936, Cargill decided to and later did.

(a) Exchange a portion of its Chicago September corn futures for cash corn;

(b) Transfer some of its Chicago September corn futures forward to Chicago December corn futures;

(c) Stand for delivery on loss than its total line of Chicago September corn futures.

19. During September, 1936, on several occasions, officials of Cargill were summoned before the Business Conduct Committee of the Board of Trade, the members of which expressed concern over the possibility that Cargill's line of long September corn futures would be a danger to the market and urged Cargill to liquidate a part of its line even if it were necessary for Cargill to make some sacrifices to that end. At no time during September, 1936, did the Business Conduct Committee issue any orders to Cargill, and the September corn futures expired without any undue price fluctuations.

20. On September 26, the Business Conduct Committee of the Board of Trade communicated with Cargill and expressed its appreciation for Cargill's cooperation in connection with the September corn futures.

21. On either the 27th or 28th of September, 1936, an official of the Board of Trade asked Cargill, which was the largest long standing for delivery on September corn futures, if it would waive the requirement, which the Commodity Exchange Act provided the Board of Trade should enforce, that persons making delivery of commodities on futures contracts furnish the persons obligated under the contracts to accept delivery, written notice of the date of delivery at least one business day prior to the date of delivery. Cargill's answer was in the negative.

22. The Commodity Exchange Act was signed by the President Juno 15, 1936, and went into effect September 13, 1936 (Sec.13,C.E.A.); September, 1936, was the first delivery month governed by that Act. It is provided therein:

"Sec. 5a. Each contract market shall -- (5) require the party making delivery of any commodity on any contract of sale of such commodity for future delivery to furnish the party obligated under the contract to accept delivery, written notice of the day of delivery at least one business day prior to such date of delivery."

At and before this time, respondent had provided by Rule 259-a for the cessation of futures trading on the last three business days of the delivery month. Respondent's Rule 285 in effect during September,1936, provided for notice of delivery as follows:

"Notices of the delivery of grain must be issued and delivered to the Clearing House before twelve o'clock noon on the business day preceding the day of delivery, except during the last three business days of the month during which deliveries may be made without notice given the preceding day."

There was a discrepancy between section 5a (5) of the Commodity Exchange Act and Respondent's Rule 285 in that Section 5a (5) did not except the furnishing of notices of delivery in the last three days of a delivery month. The provisions of the Commodity Exchange Act are written into respondent's rules and supersede them under Rule 603.

"603. GRAIN FUTURES ACT. Members are required to comply with all lawful provisions of the Grain Futures Act and regulations thereunder lawfully promulgated by the Secretary of Agriculture. These Rules and Regulations shall be construed to conform thereto. The Board may adopt such Regulations as may be necessary to make such act effective."

And under Regulation 1828 as follows:

"1828. THE GRAIN FUTURES ACT (U.S.C. 1934 Edition, Title 7, Secs. 1-17) as amended by the act of June 15,1936 (Public No.675,74th Congress) may be cited as the Commodity Exchange Act and Rule 603 shall be so road."

23. Another discrepancy between Section 5a (5) of the Commodity Exchange Act and a specific rule of respondent seemed to exist in respect of notice of track deliveries under respondent's Rule 282(a), (b), (c) and (d) as follows:

"282. GRAIN IN CARS. During the last three business days in the month regular deliveries of contract grades of grain on contracts for future delivery may be made in cars on track subject to the following:

"(a) Cars must be within the Chicago District, in a railroad yard, where samples are taken by the Illinois State Grain Inspection Department.

"(b) Cars must be consigned or ordered to a regular warehouse unless all regular storage space is filled or otherwise unobtainable.

"(c) The grain must be inspected within such three-day period by the Illinois State Grain Inspection Department and approved for storage during the same period by the Grain Sampling Department of the Association.

"(d) Deliveries in cars shall be made by the tender of delivery notices based on shippers' certificates of weight (if attached thereto), or railroad weights, or, in the absence of such weights, the marked capacity of the cars, and certificate showing approval by Grain Sampling Department for storage must be attached to delivery notice."

Under this Rule notices of delivery on track can only be given when cars are on track, have been inspected and certified, and the delivery notice must contain detailed information; but such notices under Rule 285 could be given on the last day. Section 5a (5) of the Act requires no such detailed description but merely notice of intent to deliver.

24. Respondent's Clearing Corporation issued a notice on September 26, 1936, informing members that notice of delivery, as required by the Commodity Exchange Act, was necessary and was applicable to the September 1936 deliveries.

25. On September 29, 1936, at 11:00 o'clock, A.M., respondent's Board of Directors at a special mooting took the following action:

"Chicago, September 29, 1936.

"A Special Mooting of the Board of Directors of the Board of Trade of the City of Chicago Was Hold This day at 11:00 o'clock A.M.

Present:

President Boylan, Vice Presidents Templeton and Harris and Directors Coe, Dowso, Hayes, Kay, Lipsey, Mansfield, Mayor, McCarthy, Perrin, Prindiville,Smart, Tanner and White (16)

Mr. Howard Ellis, of Kirkland,Fleming,Green,Martin & Ellis, was present; also Mr. Karl Rohnberg, Manager of the Clearing House.

"The President stated that the meeting had been called for the consideration of notice which will be delivered to the Clearing House so that deliveries may be effected before the end of the month.

"Director McCarthy suggested that the following action be taken:

"Acting under the provisions of Rules 251 and 287 the Directors hereby declare that notices of intention to deliver may be delivered to the Clearing House continuously on Tuesday, September 29,1936, up to 8 o'clock P.M., and that payment shall be made on such deliveries prior to 2 o'clock,P.M.,on Wednesday,September 30,1936. Such notices may consist of statement of intention to deliver and the customary documents shall be made available to the buyer at the time payment is made.

"On motion duly made and seconded, it was unanimously voted that the foregoing be and hereby is adopted.

"On motion duly made and seconded, the meeting then adjourned."

FRED H. CLUTTON,

Secretary.

For the Committee on Minutes

ALEX W. KAY."

This resolution applied to notices of deliveries of all grains, not to corn alone.

26. At 2:30 o'clock P.M., September 29, 1936, at a regular meeting of the Board of Directors the following telegram was read and no action thereon taken:

"September 29, 1936.

"Fred H. Clutton Secretary

Board of Trade, Chicago,Ill.

"We are just advised of the action of the Board of Directors in deferring requirements for notice of intention to deliver until eight o'clock this evening. We invite your attention to Section 5A5 of the Commodity Exchange Act requiring that notice of delivery must be given at least one business day prior to the date of such delivery. Please accept this as notice on our part that we do not intend to waive any legal rights we may have under this Statute.

CARGILL GRAIN CO.

By John MacMillan,Jr.,

Vice President and General Manager."

27. The following are the delivery notices as to Chicago September 1936 corn which the Clearing Corporation transmitted after 2:00 P.M.,until 5:18 P.M.,on September 29, 1936, for delivery on September 30, 1936:

Delivering Member	Principal	Delivery Notice No.	Amount (Bushels)
D. F. Rice & Co.	D. F. Rico & Co.	62	5,000
D. F. Rice & Co.	D. F. Rice & Co.	63	5,000
D. F. Rice & Co.	D. F. Rice & Co.	64	5,000
D. F. Rice & Co.	D. F. Rice & Co.	65	5,000
McCarthy & Scovillo	James A. Cavaney	18	5,000

Delivering Member	Principal	Delivery Notice No.	Amount (Bushels)
Hemphill, Noyes & Co.	Sydney Metzel	1-9inc.	45,000
Lamson Bros. & Co.	Piper Gr.&Mlg.Co.	301	1,000
Lamson Bros. & Co.	Piper Gr.& Mlg.Co.	302	1,000
* Lamson Bros. & Co.	Cedar Rapids Gr.Co.	201	5,000
* Lamson Bros. & Co.	Piper Gr.& Mlg.Co.	202	5,000
* Lamson Bros. & Co.	Greene & Brock	203-209	35,000
* Lamson Bros. & Co.	Bastian Grain Co.	210-219	50,000
Norris Grain Co.	Norris Grain Co.	DG-9)	
Norris Grain Co.	Norris Grain Co.	D477-D484)	115,000
Norris Grain Co.	Norris Grain Co.	D506-D516)	
Stratton Grain Co.	Stratton Grain Co.	45-61	85,000
F. S. Lewis	Unknown	307, 8, 10,11	20,000
Faroll Bros.	Fraser,Smith & Co.	9	5,000
			392,000

* Office Deliveries

(Compl's Ex. 20, Rec.,1036)

28. Complainant again protested against the aforesaid action of respondent by having its lawyers send a letter dated September 29, 1936.

Complainant accepted the aforesaid notices of delivery and the deliveries covered thereby to the amount of approximately 300,000 bushels and did not bring any action whatsoever against any person whomsoever on account thereof until the present Complaint was filed in February, 1938.

29. The Regulations of the Secretary of Agriculture, effective August 2, 1937, provide as follows:

"Business day. -- This term means any day other than a Sunday or holiday. In all notices required by the act or by these rules and regulations to be given in terms of business days the rule for computing time shall be to exclude the day on which notice is given and include the day on which shall take place the act of which notice is given."

30. The directors who voted unanimously for the so-called "emergency order" of September 29, 1936, were as follows:

1. President Robert P. Boylan -- Clement,Curtis & Co.

2. Vice-President Kenneth S. Templeton - J. S. Templeton's Sons

3. Siebel C. Harris (deceased) - Harris, Burrews & Hicks.

4. Orrin S. Dowse - Stratton Grain Co.

5. Frank G. Coo (deceased) -- Parker & Graff.

6. Archer E. Hayes -- Hately Bros. Co.

7. Alex W. Kay -- Hales & Hunter Co.

8. David Howard Lipsey -- Norris Grain Co.

9. Richard I. Mansfield -- Bartlett Frazier Co.

10. Simon Mayer -- Continental Grain Company.

11. John G. McCarthy -- McCarthy & Scoville.

12. Leslie N. Perrin -- Star Grain Co.

13. James A. Prindiville -- Thomson & McKinnon.

14. Gale Smart -- R. H. Smart & Co.

15. George H. Tanner (deceased) -- Harris,Upham & Co.

16. James A. White -- Lamson Bros. & Co.

31. The Directors present at the special and/or regular meeting of September 29 whose firms gave delivery notices on Chicago September 1936 corn which were passed on by the Board of Trade Clearing Corporation after 2:00 P.M., on September 29, 1936, were the following:

Board of Trade Directors	His Firm	No. of Bu. Covered by Notice	For Account of
John G. McCarthy	McCarthy & Scoville	5,000	Customer -- James A. Caveney.
David Howard Lipsey *	Norris Grain Co.	115,000	Norris Grain Co.
Orrin S. Dowse	Stratton Grain Co.	85,000	Stratton Grain Co.
James A. White	Lamson Bros. & Co.	97,000	Various customers
Barnett Faroll **	Faroll Bros.	5,000	Customer-Fraser,Smith
	Total	307,000	

* present only at special meeting of September 29, 1936.

** present only at regular meeting of September 29, 1936.

32. Total number of bushels covered by delivery notices on Chicago September 1936 corn which were passed on by clearing Corporation after 2:00 P.M., on September 29, 1936, for delivery on September 30, 1936 -- 392,000 bushels.

33. The trading in Chicago September 1936 corn futures terminated at noon, Saturday, September 26. The closing price on that day was

$ 1.16 1/2-1.16. Thereafter September futures could not be closed out in the pit, but the shorts were obligated to make and the longs were obligated to take delivery. Prices of deliverable grades of cash corn at Chicago on the last three days of the delivery month were as follows:

Monday, September 28.

No.2 Yellow Corn	$ 1.12-5/8	(18-18-3/4 cents over December future. This grade is deliverable at 1/2 cents premium over the price of the Contract.)
No.3 Yellow Corn	$ 1.11-5/8	(17-18 cents over December futures. This grade is deliverable at

2 cents discount from the price of the Contract.)

No.2 Mixed Corn	$ 1.11-5/8	(17 cents over December future. This grade is deliverable at the straight contract price.)
No.3 Mixed Corn	$ 1.10-5/8	(16 cents over December future. This grade is deliverable at 2 1/2 cents discount from the contract price.)

Tuesday, September 29.

No. 2 Yellow Corn	$ 1.15-1/8	(20 to 22 1/2 cents over December future.)
No. 3 Yellow Corn	$ 1.14-1/8	(19 to 21 cents over December future.)
No. 2 Mixed Corn	No data	
No. 3 Mixed Corn	No data	

Wednesday, September 30

No. 2 Yellow Corn	$ 1.06-3/4	(13 to 16 1/2 cents over December future.)
No. 3 Yellow Corn	$ 1.06-3/4	(13 to 15 1/2 cents over December future.)
No. 2 Mixed Corn	$ 1.08-3/4	(15 cents over December future.)
No.3 Mixed Corn	No data.	

(Figures from the Daily Chicago Trade Bulletin of the same dates as listed.)

On the date of the emergency order, September 29, the price of cash corn was in excess of the cash price on the 28th and of the cash price on September 30.

34. There is no evidence in the record as to "business hours" or as to a "business day" in Chicago in 1936.

DECEMBER 1936 MARKET

Corn

35. Cargill began accumulating a long line of December 1936 corn futures the latter part of July,1936. (The entire positions and the transactions of Cargill in the December 1936 corn market are as set out in Appendix B.)

36. Cargill's purchases of foreign cash corn by delivery times in the latter part of the year 1936, as shown by Complainant's Exhibit were as follows:

	Bushels	
First Half September Unloading	6,635	
Last Half September Unloading	8,929	
First Half October Unloading	292,250	
Last Half October Unloading	143,178	
First Half November Unloading	1,684,660	
Last Half November Unloading	869,455	
Last Half November for Deferred Shipment	472,000	(After Dec.31)
First Half December Unloading	1,726,639	
First Half December for Deferred Shipment	4,035,976	(After Dec. 31)
Last Half December Unloading	2,410,173	
Last Half December for Deferred Shipment	2,479,000	(After Dec. 31)
	14,128,895	

37. Cargill was an aggressive purchaser of domestic cash corn in the fall of 1936, although not as aggressive as in September, 1937. Cargill's purchases of domestic cash corn during September, October, November and December, 1936, as shown by Complainant's Exhibit were as follows:

Domestic Cash Corn Purchases

Bushels

	Bushels
September	1,073,000
October	1,294,000
November	677,000
December	2,911,000
Total	5,955,000

38. At the time Cargill acquired its Chicago December 1936 corn futures,it intended under then current conditions to stand for delivery and it so informed the Business Conduct Committee of the Board of Trade early in November,1936, when the Committee for the first time discussed with Cargill its holdings of December 1936 corn futures, and examined Cargill's books and records.

39. Early in November,1936, cash corn in Chicago was approximately ten cents more expensive than the Chicago December 1936 corn futures.

40. On November 30, Cargill officials met with the Business Conduct Committee and informed than that Cargill wanted the corn which it expected to acquire on its December 1936 corn futures, that the price of the December futures was too low, that an advance of a few cents would bring substantial quantities of corn from American farms; that Cargill was having difficulty purchasing enough cash corn to fill its current sales.

41. The United States corn crop for the crop year 1936-37 was 1,507,069,000 bushels, one of the shortest crops on record, of which amount, 1,253,766,000 bushels were harvested as grain. The visible supplies in Chicago and the United States, from October 31,weekly, to December 26,1936, as shown on Complainant's Exhibit were as follows:

Date (1936)	Visible Supplies Chicago	U.S.Total
October 31	290,000	3,398,000
November 7	442,000	3,929,000
14	895,000	4,688,000
21	939,000	5,801,000
28	1,315,000	7,097,000
December 5	1,875,000	8,205,000
12	2,595,000	9,083,000
19	3,637,000	10,592,000
26	4,395,000	12,093,000

On October 1, 1936, the United States visible supply of corn was 3,773,000 bushels as compared with the ten-year average on such date of 18,754,300 bushels.

42. The total open interest in Chicago December 1936 corn futures, at selected dates during November, 1936, and daily from December 1 to December 15, 1936, Cargill's long position on such dates and the percentage of Cargill's long line to the total open interest on such dates, is shown by the following table compiled from the Complainant's Exhibit.

Date (1936)	Total Open Interest (Bushels)	Cargill's Long Position	Cargill's Per Cent of Total Open Interest
November 2	28,743,000	7,830,000	27.2
9	25,410,000	8,055,000	31.7
16	24,182,000	8,105,000	33.6
23	21,196,000	8,035,000	37.9
30	19,548,000	7,910,000	40.5
December 1	18,533,000	7,875,000	42.5
2	17,129,000	7,470,000	43.6
3	16,333,000	7,070,000	43.3
4	15,610,000	6,905,000	44.2
5	15,213,000	6,755,000	44.4
7	14,356,000	6,640,000	46.3

Date (1936)	Total Open Interest (Bushels)	Cargill's Long Position	Cargill's Per Cent of Total Open Interest
8	13,087,000	6,505,000	49.7
9	12,726,000	6,425,000	50.5
10	12,049,000	6,175,000	51.2
11	11,374,000	6,005,000	52.8
12	10,790,000	5,550,000	51.4
14	10,151,000	5,300,000	52.2
15	9,138,000	4,645,000	50.8

43. The closing price of the Chicago December 1936 corn future at selected dates in November, 1936, and daily during December, 1936, is shown by the following table compiled from Complainant's Exhibit:

Date (1936)	Closing Price
November 2	$ .94 3/4-7/8
9	1.03 1/8-1/4
16	1.03 5/8-3/4
23	1.05 5/8-3/4
30	1.05 1/8-1/4
December 1	1.09 7/8-1/4
2	1.08 1/4-1/8
3	1.07 1/2-5/8
4	1.07 5/8-3/4
December 5	$ 1.07 3/8-1/2
7	1.09 -1/8
8	1.08 3/4-7/8
9	1.09 1/2-5/8
10	1.09 5/8-3/4
11	1.07 5/8-3/4
12	1.06 1/2-3/4
14	1.09 3/4-7/8
15	1.07 7/8-08
16	1.07 7/8-08
17	1.08 3/8-1/4
18	1.08 1/2-3/8
19	1.08 7/8-09
21	1.09 3/4-3/8
22	1.08 1/4-1/8
23	1.08 3/8-1/4
24	1.09 1/4-1/2
26	1.10 -1/8
28	1.09 1/2-1/4

44. A high percentage of cash corn receipts in Chicago during December, 1936, were of high moisture content and would have to be dried to be made of deliverable grade. From the actual reported Chicago receipts of corn during December,1936, it appeared that 80 per cent graded No.4 and No.5 and needed drying before delivery; that out of 2,800 cars of yellow, only 34 graded No.1 and No.2, and that out of 1,100 cars of white corn, only 13 graded No.1 and No.2.

Track deliveries on futures contracts cannot be made of high moisture content corn, such as No.4 and No. 5 corn, because there are no facilities for drying it on track. The drying capacity of Chicago elevators was variously estimated: MacMillan said that a very limited number of elevators had a drying capacity of more than a few hundred bushels of corn per hour;Professor Vaile (Cargill's expert) testified that complainant's North Western elevator at Chicago could dry 9,000 bushels per hour of No. 4 corn to make it grade No.3 corn, which would be

200,000 bushels per day of twenty-four hours; that the North Western elevator had half the drying capacity of Chicago; that working full time of twenty-four hours a day, for twenty days, the

drying capacity was 8,000,000 bushels (idom). Under the Rules of respondent track deliveries can only be made during the last three days of a delivery month.

45. On December 8, 1936, Cargill's stocks of foreign cash corn, including open purchases, were 7,166,000 bushels, its open sales of foreign cash corn were 5,048,000 bushels, and its net long position in foreign cash corn was 2,118,000 bushels. On the same day its domestic stocks of cash corn, including open purchases, were 1,355,000 bushels, its open forward sales of domestic cash corn were 430,000 bushels, and its net long domestic cash corn was 925,000 bushels.

46. The United States production of corn in the years 1925-1926 to 1936-1937, with 10 and 12-year averages, are as follows:

Year	Bushels
1925-26	2,798,367,000
1926-27	2,548,972,000
1927-28	2,616,120,000
1928-29	2,665,516,000
1929-30	2,521,032,000
1930-31	2,080,421,000
1931-32	2,575,611,000
1932-33	2,931,281,000
1933-34	2,399,632,000
1934-35	1,461,123,000
10-YEAR AVERAGE	2,459,607,500
1935-36	2,303,747,000
1936-37	1,507,089,000
12 YEAR AVERAGE	2,267,242,583

47. The United States stocks of corn on farms as of October 1, the United States "visible supplies" on the Saturday nearest October 1, and the combined stocks and "visible supplies" on October 1, from 1927 to 1936, inclusive, with averages, are as follows:

	U. S. Stocks of Corn on Farms as of October 1st.	U. S. Visible Supplies of corn Saturday nearest October 1st.	Combined Farm Stocks and Visible Supplies October 1st.
	Bu.	Bu.	Bu.
1927	192,369,000	23,687,000	216,056,000
1928	85,306,000	6,791,000	92,097,000
1929	143,919,000	4,197,000	148,116,000
1930	131,477,000	4,684,000	136,161,000
1931	162,185,000	5,362,000	167,547,000
1932	251,628,000	18,458,000	270,086,000
1933	326,530,000	57,303,000	383,833,000
1934	273,287,000	60,073,000	333,360,000
1935	61,655,000	3,215,000	64,870,000
1936	175,222,000	3,773,000	178,995,000
Average	180,357,800	18,754,300	199,112,100

48. The closing prices of Chicago No. 2 Yellow corn and the Chicago July, September and December 1936 corn futures, weekly from May 29, to October 30, 1936, are as follows:

1936	Spot

Date	No. 2 Y.C.	July	September	December
May 29	61 1/2	59 1/2-5/8	57 1/2-5/8	52 3/4
June 5	63 1/4	60 3/4-7/8	57 3/4-7/8	52 1/2
12	63 5/8	61 1/4-1/8	58 1/4	52 7/8
19	67 1/4	65 1/4	63 3/8-1/2	59 3/8-5/8
26	67 3/4	66 1/4	64 5/8-1/2	60 5/8-1/2
July 3	73 5/8	72 1/8	71 1/8-1/4	66 1/8-1/4
10	88 3/8	85 5/8	82 7/8	77 1/2
17	94 1/4	92 3/4-7/8	89 3/4-7/8	83 3/4-7/8
24	92 1/8	90 7/8	87 1/8-1/2	80 1/4-3/8
31	106 7/8		101 3/8-5/8	93 1/8-3/8
Aug. 7	109 1/8		104 7/8-5/8	93-92 7/8
14	112 5/8		107 5/8-3/4	94 5/8-3/4
21	116		112 5/8-1/2	97 3/4-5/8
28	110		106 1/2	92 3/8-5/8
Sept. 4	112 1/2		111-11 1/2	96 1/8-3/8
11	113 1/4		112 5/8-1/4	95-95-1/8
18	117		116	96-95 7/8
25	115 3/4		115 3/4-16	95 1/4-3/8
Oct. 2	107 7/8			94 3/8-1/2
9	109 1/4			96 1/4-3/8
16	108 3/8			94-93 7/8
23	108 5/8			94 1/8-1/4
30	105 7/8		94-93 7/8	

49. Cargill's purchases of domestic cash corn by weeks from September 5 to December 25, 1936, including corn taken on delivery in the September and December 1936 corn futures, arc as follows:

Week Ending	Bushels
September 5	118,000
September 12	165,000
September 19	157,000
September 28	633,000
October 3	833,000
October 10	77,000
October 17	92,000
October 24	130,000
October 31	162,000
November 7	120,000
November 14	164,000
November 21	165,000
November 28	228,000
December 5	645,000
December 12	902,000
December 19	828,000
December 26	536,000
Total	5,955,000

50. The weekly receipts of cash corn at Chicago from November 6 to December 25, 1936, together with the previous fifteen-year average, are as follows:

Week Ending	1936 Bushels	15 Year Average Bushels
November 6	830,000	1.845,000
November 13	1,217,000	1,750,000
November 20	1,548,000	1,585,000

Week Ending	1936 Bushels	15 Year Average Bushels
November 27	1,523,000	1,660,000
December 4	1,577,000	2,063,000
December 11	1,560,000	2,372,000
December 18	2,057,000	2,472,000
December 25	1,532,000	2,235,000

51. The weekly supply of cash corn at Chicago from November 7 to December 26, 1936, together with the previous fifteen-year average is as follows:

VISIBLE SUPPLY OF CASH CORN AT CHICAGO

Week Ending	1936 Bushels	15 Year Average Bushels
November 7	442,000	6,068,000
November 14	895,000	6,191,000
November 21	939,000	6,268,000
November 28	1,315,000	6,131,000
December 5	1,875,000	6,256,000
December 12	2,595,000	6,850,000
December 19	3,637,000	7,462,000
December 26	4,395,000	8,142,000

52. Cargill's purchases of domestic and foreign cash corn, including corn taken on delivery in the December 1936 corn futures, weekly from November 7 to December 26, 1936, are as follows:

Week Ending	Domestic Corn Bushels	Foreign Corn Bushels
November 7	120,000	690,000
November 14	164,000	748,000
November 21	165,000	4,684,000
November 28	228,000	39,000
December 5	645,000	2,191,000
December 12	902,000	1,032,000
December 19	828,000	2,385,000
December 26	536,000	587,000
TOTAL	3,588,000	12,356,000

53. The total volume of trading in all grain futures combined on all contract markets for the year ending June 30, 1937, together with the relation of the volume on each contract market to the total volume of all contract markets and the total storage capacity, the regular storage capacity and the percentage of the total that is regular in Chicago, Minneapolis and Kansas City, during 1936, are as follows:

Total Volume of Trading in All Grain

Futures Combined on the Contract Markets,

Fiscal Year Ended June 30, 1937.

(In thousands of bushels, i.e., 000 omitted)

All Grains Market	Quantity	Percentage
Chicago Board of Trade	14,631,387	88.3
Chicago Open Board	215,120	1.3
Kansas City	940,872	5.7
Minneapolis	733,294	4.4
Duluth	12,190	.1
Milwaukee	38,224	.2
St. Louis	2,567	n1
Seattle	1, 923	n1
Portland	679	n1
Hutchinson n2	395	n1

All Grains

Market	Quantity	Percentage
San Francisco	120	n1
Los Angeles	232	n1
New York		n1
Total	16,577,003	100.0

n1 Less than 0.1 per cent.

n2 Trading in grain futures was officially terminated at Hutchinson, Kansas, September 12, 1936.

That the volume of trading during the fiscal year 1936-37 was fairly representative is shown by the fact that the ten-year (1927-36) average volume of trading in grains for all contract markets amounts to 16,970,000,000 bushels, compared with the 1936-37 volume of 16,577,003,000 bushels.

	Total Bushels	Regular Bushels	% Regular
Chicago	55,364,000	12,068,000	21.8
Minneapolis n1	93,635,050	63,625,700	68.0
Kansas City	58,782,000	42,030,000	71.5

n1 In addition to "Regular" space at Minneapolis, there is a total of 25,150,000 bushels storage capacity located at Duluth-Superior which is "Regular" under Minneapolis Chamber of Commerce Rules.

54. The daily high, low and closing prices of Chicago December corn futures, the weekly receipts of cash corn at Chicago and at primary markets, and the weekly "visible supply" of corn at Chicago and in the United States, during November and December, 1936, and their relationship are as follows:

CORN RECEIPTS			VISIBLE SUPPLIES	
	CHICAGO	PRIMARY MARKETS	CHICAGO	U. S. TOTAL
Oct. 31	879	2,514	290	3,398
Nov. 7	830	2,917	442	3,929
14	1,217	3,739	895	4,688
21	1,548	5,295	939	5,801
28	1,523	4,893	1,315	7,097
Dec. 5	1,577	4,289	1,875	8,205
12	1,560	4,592	2,595	9,083
19	2,057	4,999	3,637	10,592
26	1,532	3,600	4,395	12,093
Jan. 2	681	2,152	4,995	13,142

CHICAGO DECEMBER CORN

DAILY HIGH, LOW AND CLOSING PRICES OF FUTURE

NOVEMBER AND DECEMBER, 1936

Date	High	Low	Closing
NOV.			
Sunday			
2	94 7/8	94 3/8	94 3/4-7/8
Holiday			
4	95 5/8	94 3/4	95 3/8-1/2
5	98 1/8	95 5/8	97 7/8-98 1/8
6	100 1/4	98 3/8	100-1/8
7	104 1/8	101 1/4	102 3/4-03
Sunday			
9	104 1/4	102 7/8	103 1/8-1/4
10	102 7/8	101 3/8	101 7/8-3/4

Date	High	Low	Closing
Holiday			
12	102 3/8	100 5/8	102 1/8-02
13	103 1/8	102 1/4	102 3/8-1/2
14	102 5/8	101 3/4	102 3/8-1/2
Sunday			
16	103 3/4	101 3/4	103 5/8-3/4
17	106	103 7/8	105 7/8-06
18	107 7/8	105 5/8	105 7/8-5/8
19	106	104 1/4	104 1/4-3/8
20	106 1/4	103 5/8	106 1/8-1/4
21	107 3/8	105 1/4	105 3/4-7/8
Sunday			
23	106 3/8	104 7/8	105 5/8-3/4
24	106 7/8	105 1/2	105 7/8-06
25	106 1/8	104 7/8	105 1/8-1/4
Holiday			
27	106	103 7/8	104 1/8-04
28	105 1/4	103 5/8	104 3/4-5/8
Sunday			
30	105 3/4	105	105 1/8-1/4
DEC.			
1	109 7/8	104 3/4	109 7/8-1/4
2	110 3/4	108 1/8	108 1/4-1/8
3	108 3/4	107 1/8	107 1/2-5/8
4	108 5/8	107 1/4	107 5/8-3/4
5	107 5/4	107	107 3/8-1/2
Sunday			
7	109 3/8	107 3/4	109-1/8
8	110	108 3/8	108 3/4-7/8
9	109 5/8	108 1/4	109 1/2-5/8
10	110 3/4	109	109 5/8-3/4
11	109	107 1/4	107 5/8-3/4
12	107 3/4	106 3/8	106 1/2-3/4
Sunday			
14	110 1/4	107 1/2	109 3/4-7/8
15	109 1/8	107 1/4	107 7/8-08
16	108 1/2	106 7/8	107 7/8-09
17	109	107 1/2	108 3/4-1/4
18	109 3/4	108 3/8	108 3/8-1/4
19	109 3/4	108	108 7/8-09
Sunday			
21	110 7/8	108 1/2	109 3/8-1/2
22	109 1/2	108	108 1/4-1/8
23	109	108 1/4	108 3/8-1/4
24	109 3/4	108 1/2	109 1/4-1/2
Holiday			
26	110 1/2	109	110-1/8
Sunday			
28	111 5/8	109 1/4	109 1/2- 1/4
29	-	-	-
30	-	-	-
31	-	-	-

55. The ten-year comparison of the "open interest" in all Chicago December grain futures as of the close of the last business day in November, and the deliveries on all Chicago December grain futures, the Chicago elevator capacity, Chicago "visible supplies",and Chicago receipts of all grains during the month of December,1928 to 1937, inclusive, is as sot forth on Complainant's Exhibit No.215 (12270).

56. The total deliveries of all grains on Chicago December 1936 futures and the amounts received by Cargill are as follows:

DELIVERIES ON FUTURES CONTRACTS -

BOARD OF TRADE OF THE CITY OF CHICAGO

December 1936 Wheat	
Total Deliveries	1,499,000
Cargill received delivery of	726,000
December 1936 Corn	
Total deliveries	930,000
Cargill received delivery of	740,000
December 1936 Oats	
Total deliveries	2,473,000
December 1936 Rye	
Total deliveries	512,000
December 1936 Barley	
Total deliveries	5,000
Total deliveries of all grains	5,419,000

Cargill's open interest as of 12/8/36

December 1936 wheat		8511000
" 1936 corn		6,495,000
Cargill's total open interest	15,006,000	
Cargill received total deliveries		1,466,000
Difference		13,540,000
Plus total deliveries		5,419,000

Total that would have to be delivered had Cargill stood for delivery on their entire lines as of 12/8/36 - 18,959,000

57. On December 8, 1936, the Business Conduct Committee of the Board of Trade issued an order to John H. MacMillan, Jr., and Philip C. Sayles, whose memberships on the Board of Trade were at that time registered for Cargill of Illinois, and to Cargill of Illinois, requiring them to sell 1,799,000 bushels of December 1936 corn futures in six trading days, one of which was a short Saturday session.

58. On December 9 and 10, 1936, the Business Conduct Committee of the Board of Trade refused to make any change in the terms of the order of December 8, insofar as it related to December 1936 corn futures.

59. Neither on December 8, 1936, nor at any other time did the Business Conduct Committee issue any orders to the holders of short contracts in the December 1936 corn futures requiring them to buy in their commitments or forbidding them from acquiring further short contracts.

60. The high, low, and closing prices, the "open interest," and the volume of trading, daily during the period from June to December, inclusive, in the Chicago 1936 December corn futures are as set forth in Complainant's Exhibit No.28g.

61. During the period when Cargill of Illinois had been ordered to liquidate December 1936 corn futures, the volume of trading in the December 1936 corn futures had decreased considerably from its normal peak earlier in the life of the future.

62. The offers of the officials of Cargill of Illinois to accept multiple or late deliveries on Cargill's December 1936 corn futures at price differentials which were not named and their request to the Board of Trade for arbitration by officials of the Commodity Exchange Administration in Washington were not accepted.

63. The Board of Trade raised no question with Cargill about the acquisition of its Chicago December 1936 corn futures, either

at the time those futures were acquired or on September 23, 1936, when for the first time Cargill's long line exceeded 5,000,000 bushels, or at any other time prior to early November, when the Business Conduct Committee first approached Cargill regarding its December corn futures.

64. The receipts of cash corn at primary markets weekly from August 21 to October 30, 1936, together with the fifteen-year average, are as set forth in Complainant's Exhibit No. 21.

65. The price of Chicago, Minneapolis, and Kansas City No.2 yellow corn and the price of the Chicago December 1936 corn futures and the Chicago May 1937 futures, daily during November and December 1936, and the relationship between these prices is as sot forth in Complainant's Exhibit No.28-B.

66. On October 30, 1936, L. A. Fitz, the Chicago representative of the Commodity Exchange Administration, communicated with the Business Conduct Committee of the Board of Trade, stating that there was a large "open interest" in December 1936 wheat futures, December 1936 corn futures, and December 1936 oat futures, but that the only one of those that conditions indicated might cause the Commodity Exchange Administration and the Board of Trade any concern was the large "open interest" in December 1936 corn futures.

WHEAT

67. The net positions of complainant in Chicago December 1936 wheat futures, from November 2 to December 31, 1936, were as follows:

Date (1936)	Not Position Long (Bushels)	Short
November 2	7,206,000	
4	7,221,000	
5	7,311,000	
6	7,491,000	
7	7,501,000	
9	7,651,000	
10	7,681,000	
12	7,706,000	
13	7,726,000	
14	7,726,000	
16	7,751,000	
17	7,816,000	
18	7,901,000	
19	8,136,000	
20	8,241,000	
21	8,451,000	
23	8,531,000	
24	8,561,000	
25	8,606,000	
27	8,676,000	
28	9,341,000	
30	9,356,000	
December 1	9,356,000	
2	8,616,000	
3	8,426,000	
4	8,446,000	
5	8,446,000	
7	8,546,000	
8	8,511,000	
9	8,486,000	

Date (1936)	Not Position Long Short (Bushels)
10	7,991,000
11	7,621,000
12	7,276,000
14	6,011,000
15	5,441,000
16	4,966,000
17	4,811,000
18	3,651,000
19	3,026,000
21	2,181,000
22	1,421,000
23	1,331,000
24	1,301,000
26	762,000
28	84,000
29	84,000
30	35,000
31	--

For the period from June 22 through August 26, Cargill was short Chicago December 1936 wheat futures in varying amounts ranging up to as much as 5,247,000 bushels on August 13. It started acquiring its long position on August 27. Cargill acquired this long line of wheat futures in pursuance of its estimated customer requirements of 10,000,000 bushels during the winter and spring months.

68. The visible supplies of wheat in the United States and in Chicago, from October 3, weekly, to December 5, 1936, are shown by the following table:

Date (1936)	Visible Supplies Chicago	U.S.Total
October 3	10,694,000	75,799,000
10	10,255,000	74,033,000
17	9,840,000	72,902,000
24	9,548,000	71,470,000
31	9,499,000	70,459,000
November 7	9,388,000	69,634,000
14	9,264,000	68,516,000
21	8,707,000	66,330,000
28	7,525,000	65,383,000
December 5	7,406,000	62,459,000

69. The stocks of deliverable grades of wheat in public elevators at Chicago for the period from October 3, weekly, to November 28, 1936, are shown by the following table:

Date (1936)	Bushels
October 3	3,733,137
10	3,566,613
17	3,622,966
24	3,538,330
31	3,426,062
November 7	3,236,415
14	3,296,780
21	3,113,626
28	2,671,630

Both of the foregoing tables include Cargill- owned wheat, the amounts of which are not in evidence.

70. The total open interest in Chicago December 1936 wheat futures at selected dates during November, 1936, and daily during December to December 15, 1936, Cargill's long position on such dates, and the percentage of Cargill's long line to the total open interest, is shown

by the following table:

Date (1936)	Total Open Interest (Bushels)	Cargill's Long Position	Cargill's Per Cent of Total Open Interest
November 2	46,331.000	7,206,000	15.5
9	43,534,000	7,651,000	17.6
16	40,712,000	7,751,000	19.0
23	31,053,000	8,531,000	27.5
30	23,381,000	9,356,000	40.0
December 1	21,506,000	9,356,000	43.5
2	18,298,000	8,616,000	47.1
3	17,329,000	8,426,000	48.6
4	16,390,000	8,446,000	51.5
5	16,254,000	8,446,000	52.0
7	15,860,000	8,546,000	54.0
8	15,323,000	8,511,000	55.6
9	14,670,000	8,486,000	57.8
10	13,762,000	7,991,000	58.0
11	13,051,000	7,621,000	58.4
12	12,004,000	7,276,000	60.6
14	11,909,000	6,011,000	54.2
15	9,511,000	5,441,000	57.2

71. The closing price of the Chicago December wheat future, weekly during November, and daily during December, 1936, is shown by the following table:

Date (1936)	Closing Price
November 2	$ 1,14
9	1.15 1/8
16	1.18 1/8
23	1.16 7/8
30	1.20 1/8
December 1	1.23 1/2
2	1.24 1/8
3	1.25 1/4
4	1.24 3/4
5	1.24 3/4
7	1.25 7/8
8	1.25 3/4
9	1.28
10	1.28 3/8
11	1.27 1/2
12	1.28 5/8
14	1.35
15	1.33 3/4
16	1.34 1/4
17	1.35 1/4

Date (1936)	Closing Price
December 18	1.39 3/8
19	1.38 1/2
21	1.38 1/4
22	1.35 1/4
23	1.35 7/8

Date (1936)	Closing Price
24	1.39 1/4
26	1.41 3/4
28	1.37 1/4

72. On or about December 5, 1936, the total capacity of regular warehouse space in Chicago; under the rules of the Chicago Board of Trade, was 12,068,000 bushels. Receipts for grain in regular houses are deliverable on Chicago futures contracts. Also deliverable on futures contracts are warehouse receipts for grain in store in Federally licensed warehouses. There was only one Federally licensed house in Chicago on December 5, 1936, the Rock Island "C" elevator (owned by Farmers National Grain Corporation) with a total capacity of approximately 4,000,000 bushels.

On or about December 5, 1936, the total capacity of Chicago warehouse space other than space declared regular by the Chicago Board of Trade, was 43,296,000 bushels. (This includes Rock Island, with a total capacity of 4,000,000 bushels.) This makes a total deliverable elevator capacity of 16,068,000 bushels and private or non-deliverable elevator capacity of 39,296,000 bushels, or a total of deliverable and non-deliverable capacity of 55,364,000 bushels.

Many of the non-deliverable warehouses were private houses owned by processors, such as Corn Products, etc.

Many of the non-deliverable private houses were not located on water, which is an essential for delivery purposes.

The Board of Trade cannot force the owner of a house to take out a Federal license or to obtain a Certificate of Convenience and Necessity from the Illinois Commerce Commission to become a public elevator. It is against the Illinois law for a private house to issue warehouse receipts deliverable on futures contracts.

In December, 1936, there was no way as far as the evidence discloses, for the Board of Trade on its own initiative to increase the number of elevators or the elevator capacity of 16,068,000 bushels, the receipts of which are deliverable on futures contracts; the owner of the private

elevator must first voluntarily make application to the Illinois Commerce Commission to become a public elevator or to the Federal authorities for a Federal license.

73. On December 5, 1936, grain in store in public elevators in Chicago (not including grain in store in the Federally licensed elevator, (Rock Island), was as follows:

Wheat	3,244,622 bushels
Corn	251,680 "
Oats	3,412,101 "
Rye	632,543 "
Barley	353,192 "
Soy Beans	216,802 "
Total	8,110,940 "

This left the difference between 12,086,000 bushels regular elevator space and 8,110,940 bushels in store in regular elevator houses of 3,975,000 bushels vacsnt regular elevator space. Inasmuch as grains in the Federally licensed elevator, Rock Island, was not separately given in evidence, the vacant capacity in regular elevators and the Federal elevator is not directly ascertainable, but in no event could the vacant space in delivery houses have exceeded 8,000,000 bushels.

74. On December 5, 1936, the Chicago visible supply of grain was as follows:

Wheat	7,406,000 bushels
Corn	1,875,000 "

Oats	8,828,000 "
Rye	2,285,000 "
Barley	2,174,000 "
Total	22,568,000 "

75. Inasmuch as the total open interest in corn and wheat futures on December 5, 1936, was 31,467,000 bushels, supra, and inasmuch as Cargill's total open interest in corn and wheat futures was 15,201,000 bushels, supra, it is apparent that there was insufficient vacant capacity in regular houses or in delivery houses (i.e., public elevators plus Rock Island elevator) to take care either of the total open interest in corn and wheat or Cargill's open interest in corn and wheat.

Furthermore, the vacant capacity of Chicago elevators on this date was further circumscribed by the following considerations:

First. The total open interest in other grains (oats, rye, barley) on December 5 amounted to 3,738,000 bushels.

Second. The capacity of elevators in which different grains are stored cannot be taken at the full amount because 10 to 12 percent of the capacity must be left vacant for turnover and leeway purposes.

76. In addition to deliveries from elevators regular under the rules of the Board of Trade and the single Federal elevator, deliveries may also be made under the rules of the Board of Trade during the last three days of the delivery month, under certain circumstances, on track. The record is not clear as to the capacity of Chicago switch tracks for track deliveries, At one place Professor Vailo testified that he never heard of track deliveries of as large an amount as 7,000,000 bushels. Later his attention was called to an article on the Saturday Evening Post in which it was stated that in the year 1921, 11,700,000 bushels were delivered on track. Miller testified that a day's total inbound freight in Chicago amounted to 75,000 cars, but this includes all cars for all purposes, (Rec., 11295) and is not limited to track deliveries of grain. Furthermore, all grain delivered on track must be inspected. Furthermore, the corn arriving in Chicago in December, 1936, was of such high moisture content (supra) that a largo percentage of it could not be delivered without kiln drying (supra). Drying can only occur in elevators.

77. The complainant offered to accept deliveries of Chicago 1936 December corn at places other than Chicago, either for spot or deferred delivery, at price differentials, but did not advise the respondent or its Business Conduct Committee what price differentials would be acceptable to the complainant, and the respondent's Business Conduct Committee refused to accept the complainant's offer.

78. On December 8, 1936, it would have been impossible for actual deliveries to have been made on the total open interest in Chicago December 1936 corn and wheat futures, and it would have been impossible for deliveries to have been made on Cargill's total open interest of Chicago December 1936 corn and wheat futures without violently disturbing the market, even though the other longs had only stood for normal ratio of delivery to the total open interest, the other longs having approximately 17,000,000 bushels of the open interest in December 1936 corn and wheat futures, the normal ratio of which could be between 1,000,000 and 2,000,000 bushels. Cargill had expressed its intention of standing for much more than normal or expected deliveries.

79. On December 8, 1936, the Business Conduct Committee of the Board of Trade issued an order to John H. MacMillan, Jr., and Philip C. Sayles, whose memberships on the Board of Trade were registered for Cargill of Illinois, and to Cargill of Illinois, requiring them to sell, without regard to price,

2,897,400 bushels of December 1936 wheat futures in six trading days, one of which was a short Saturday session.

80. On December 10, 1936, the Business Conduct Committee modified its order of December 8 so as to require the sale of 1,936,000 bushels of December 1936 wheat futures, in what remained of the same six trading sessions, and still without regard to price.

81. In compliance with the order of the Business Conduct Committee. Cargill sold December 1936 wheat and corn futures under protest.

82. Neither on December 8th or 10th, 1936, nor at any other time did the Business Conduct Committee issue any orders to the holders of short contracts in the December 1936 wheat futures requiring them to buy in their commitments or forbidding them from acquiring further short contracts.

83. Cargill's purchases and net positions from December 15, 1936, to December 31, 1936, were as follows:

DATE	TRANSACTION		NET POSITION	
1936	Purchases	Sales	Long	Short
Dec. 16		475	4866	
17	10	165	4811	
18	5	1165	3651	
19		625	3026	
21	65	910	2181	
22		760	1421	
23		90	1331	
24		30	1301	
26		539	762	
28	35	713	84	
29	5	5	84	
30		49	35	
31		35	--	

84. The Business Conduct Committee of respondent sat on the December 1936 wheat and corn situation on the following dates and took the following actions:

(a) November 4, 1936. A communication of the supervisor in charge of the Commodity Exchange Administration in Chicago was read. In this communication he pointed out that the large open interest in December corn might cause concern. The Committee instructed its chief auditor to make a complete survey of the open interest in the December corn futures and to make a trip to Minneapolis to obtain facts concerning Cargill's forward sales, cash corn on hand, etc.

(b) November 9, 1936. The report of the chief auditor was communicated to the Committee.

(c) November 23, 1936. The chief auditor reported on his trip to Minneapolis, stating, among other things, that:

1. As of November 7, Cargill's records indicated that its long position in December 1936 corn had been acquired for anticipated needs and that at prevailing price differences Cargill would stand for delivery of the total amount long.

2. That MacMillan had informed him that an increase in the spread between Chicago December 1936 and May 1936 corn (of which Cargill was short 4,755,000 bushels) would reduce Cargill's needs, and that if this increase went past some certain point Cargill would begin to liquidate its December position.

3. That MacMillan declined to state at just what price the December corn futures would be liquidated.

4. That in MacMillan's opinion the recent price advance was due to the activities of the Business Conduct Committee.

(d) November 25, 1936. The latest figures on December corn were presented to the Committee and it was reported to the Committee that Cargill was buying up cash corn. It was decided to request MacMillan and Grimes to meet with the Committee on November 30.

(c) November 30, 1936. MacMillan and Grimes appeared before the Committee and stated that at just a modest price advance Cargill would sell its December corn futures; that Cargill wanted all of the corn it had bought, both futures and cash, but that sinceCargill "did not know where the corn was coming from to meet our requirements, we decided to buy futures and let someone else worry about where it was coming from." MacMillan and Grimes gave the Committee assurance of complete cooperation at all times. The Committee could not agree on any course of action.

(f) December 7, 1936. Cargill's position in both corn and wheat was discussed and the Committee requested the Chicago supervisor of the Commodity Exchange Administration to call for reports of all accounts having 100,000 bushels or more of December wheat and 25,000 bushels or more of December corn. The chief auditor of the Committee was again instructed to go to Minneapolis and examine all books and records of Cargill relating both to wheat and corn. A sub-committee was appointed to draft a letter of Cargill regarding its long positions in wheat and corn.

(g) December 8, 1936. The chief auditor of the Business Conduct Committee reported to its chairman, over the telephone, that Cargill's position in wheat and corn was about the same as before; that MacMillan and Grimes were willing to come to Chicago to meet with the Committee, bringing

all papers with them, but preferred not to come until December 14. One member of the Committee expressed the opinion that it was time to take immediate action when one firm held over one-half of the "open interest" in both corn and wheat, especially in view of the limited supplies available for delivery. After a lengthy discussion, the following Cease and Desist Order was sent by the Committee by mail to MacMillan in Minneapolis, copies of which were delivered to Sayles, in Chicago, on December 9:

"In pursuance of Rule 82, the Business Conduct Committee of this Association has investigated the position of your company in December wheat and December corn. We find that your open commitments in December wheat and December corn aggregate approximately fifty per cent of the total open interest in these grains and exceed substantially the amount of these grains available for delivery in Chicago on December contracts. Under the circumstances, the Committee finds that your conduct in accumulating and maintaining these lines under prevailing conditions is detrimental to the best interests of the Association; that it is unfair and unjust; and that it may be in violation of certain rules of the Association.

"We, therefore, direct you forthwith and immediately to cease and desist (a) from maintaining in this contract market your present net long position in December wheat and December corn; (b) from maintaining in this market a net long position in December wheat and December corn which will within seven calendar days from the receipt of this notice (i. e. the close of business December 15th) exceed approximately sixty per cent of the net amount of your open long commitments as at the close of business November 30th; (c) from manipulating prices and from attempting to corner the market in December wheat and December corn; (d) from maintaining in this market a net long position on December wheat and December corn which will detrimentally affect non-member customers, the public at large, public opinion or the good name of the Association and (e) from doing any ether act or acts which will have the effect of manipulating prices or of promoting any corner or squeeze in December corn or December wheat.

"It is the intent of the Committee to notify you that your long lines in December corn and December wheat should be substantially reduced, beginning at the present time and continuing until your open commitments are no longer a threat to the orderly conduct of this market.

"The Committee also requests that you have available at all times in Chicago, for its examination and investigation, complete records showing the details of your operations in grains, cash and futures, in this market, or affecting this market."

This Cease and Desist Order required Cargill to sell, by the close of business December 15, 40 per cent of its net open commitments in Chicago December 1936 corn futures as at the close of business November 30, 1936 and 40 per cent of its not open commitments in Chicago December 1936 wheat futures as at the close of business November 30, 1936.

(h) December 9, 1936. The Supervisor in Charge of the Commodity Exchange Administration at Chicago reported that Norris Grain Company had the largest short account in Chicago December wheat, but that it was being reduced rapidly. It was reported that MacMillan felt that the Committee was unduly hasty in taking the action of the previous day and an appointment was set for December 10.

(i) December 10, 1936. The Committee's chief auditor makes a report to the Committee regarding Cargill's position in cash corn and cash wheat as of December 4, 1936, showing that it had a not long position in cash wheat of 7,201,000 bushels, and a net long position in cash corn of 2,778,000 bushels. It therefore appeared that Cargill's net long position in Chicago December 1936 wheat futures of 8,446,000 bushels, as of December 4 and of 8,511,000 bushels, as of December 8, and its long position in December 1936 corn futures of 5,905,000 bushels, as of December 4, and 6,505,000 bushels, as of December 8, was not a hedge against net short positions in cash wheat and cash corn. MacMillan and Grimes appeared before the Committee and protested against the action of the Committee. The Committee decided to change its Cease and Desist Order as to Chicago December wheat futures so that Cargill would be required to dispose of only 30 per cent, instead of 40 per cent, of its wheat futures, as previously ordered.

(j) December 12, 1936. At this meeting of the Business Conduct Committee Cargill's letter of December 11 to James A. White, Chairman, was read and discussed, which letter was as follows:

"Reference is made to your letters of December 8th and December 10th, 1936, in which you suggest that we should cause our customer and parent company, Cargill, Incorporated, to change its long position in futures contracts on the Chicago Board of Trade in December wheat and December corn in percentages as outlined in your letters.

"We have heretofore advised you that in our opinion and that of our counsel the conduct of Cargill Grain Company of Illinois, which is the member involved, and that of Cargill, Incorporated, our customer, is not detrimental to the best interests of the Chicago Board of Trade, is not unfair or unjust and is not in violation of any rules of the Chicago Board of Trade, nor is it a manipulation of prices or an attempt to corner the market or detrimentally to affect non-member customers, the public at large, public opinion or the good name of the Chicago Board of Trade. Although in the list of charges contained in your letters the Commodity Exchange Act was not mentioned, you are also advised that in our opinion and that of our counsel the conduct of ourselves and of our customer, Cargill, Incorporated, is strictly in conformity with the requirements of the Commodity Exchange Act, and particularly those in relation to manipulation and corners.

"In conferences between your Committee and our officers, we have expressed our willingness and that of Cargill, Incorporated, to cooperate along the lines set forth in our conference to relieve the situation of any persons who have contracted to deliver December corn or wheat and find themselves unduly inconvenienced in fulfilling their contracts. Among other things we express a willingness to permit additional time to make deliveries.

"Cargill, Incorporated, has indicated an unwillingness to comply with your suggestions that it proceed to liquidate its long position in such percentages as you may from time to time require. It has pointed out to us that as a cash grain merchandiser it purchased the December futures with the expectation of taking delivery for its regular and normal merchandising purposes and in full expectation that we in good faith as broker and the Board of Trade Clearing Corporation as principal would see that it obtained deliveries purusant to the contracts made. Aside from the possible loss to Cargill, Incorporated, if you attempt to excuse performance of contracts, there is also an important public interest element. Requiring forced drastic reduction of long position would tend when known by short interests to cause manipulation by them and consequent sudden artificial depression of the futures price with its inevitable lowering of the price of cash grain.

"You of course recognize that the Commodity Exchange Act provides that an exchange designated as a contract market thereunder shall provide for the prevention of manipulation upwards and obviously, this applies both to a manipulation upwards and downwards. We believe that any requirement that our customer arbitrarily reduce its long holdings by given percentages would have the effect of manipulating prices downward and thus any such requirement from your Exchange would be in violation of the Commodity Exchange Act.

"Since you do not agree with us as to this just as you have not agreed to our prior suggestions, we urge that you immediately join with us in requesting Dr. J. W. T. Duvel, Chief of the Commodity Exchange Administration, either to act in person or to delegate Mr. J. M. Mehl, Assistant Chief, not in their official capacity, but informally, to arbitrate the differences between us and to determine what action, if any, is required on our part. We agree and are authorized to say that our customer, Cargill, Incorporated, agrees to accept any determination made in this manner.

"We believe that you will concur that this suggestion for working out the apparent difficulty is a happy one inasmuch as in the last analysis it is the duty of those charged with enforcement of the Commodity Exchange Administration to determine whether any course of conduct, either on the part of the Chicago Board of Trade or on the part of our customer, Cargill, Incorporated, causes or does not cause a manipulation or cornering of the market, and we are certain that you would not want to do anything which might be detrimental to our customer and cause a violent downward fluctuation of the market by permitting manipulation by short interests.

"In view of the time element, we suggest that you join in asking Dr. Duvel to arrange the arbitration meeting to be held not later than Monday morning of next week, either in Chicago or Washington, depending upon Dr. Duvel's convenience.

"We should appreciate an immediate response to this letter so that we can jointly put the machinery in motion to arrange the conference."

To this letter the Committee sent the following reply:

"Answering yours of December 11th, in which you request that Dr. Duvel or Mr. Mehl be invited informally to act as arbitrators with respect to the cease and desist order issued by this Committee December 8th and modified December 10th.

"This Committee cannot refer to any arbitration, however respectable it may be, the duties and obligations placed upon this Committee by the rules of the

Board of Trade. The rules give us no authority to refer such matters to arbitrators. The duty is imposed upon us and

we intend to exercise it to the best of our ability. We call to your attention that Mr. Fitz, Supervisor in Charge, has attended our meetings and has undoubtedly informed his superiors, Dr. Duvel and Mr. Mehl, of our action. The only body authorized to revise our actions is the Board of Directors of this Exchange."

The chief auditor of the Committee was requested to contact houses carrying sizable short lines in December corn and wheat and request them to notify customers of present "open interest" and limited supplies available for delivery and to ascertain if they were prepared to cover their commitments or make delivery.

(k) December 14, 1936. It was reported that liquidation by Cargill in accordance with the foregoing Cease and Desist Order was progressing satisfactorily.

(l) December 18, 1936. The Committee decided to send the following communication to Clearing Members:

"The Business Conduct Committee directs that you communicate with each individual customer on your books having a short position in Chicago December wheat or corn, and call their attention to the relation between the remaining open interest and the stocks in public houses. These figures are tabulated below:

	Open Interest Chicago Futures December 17th	Chicago Public Elevator Stocks December 12th
Wheat	8,284,000	2,787,000
Corn	8,019,000	315,000

"Your attention is called to Rule 141,prohibiting intentional default.

"The last day for trading in December contracts is Monday, December 28th."

At this meeting the Committee also discussed MacMillan's question concerning the eligibility of certain members of the Committee to sit and decided that no member had an interest in the market disqualifying him from serving as a member of the Committee.

84. The Cease and Desist Order of December 8, as modified December 10, with respect to wheat, required Cargill to liquidate

between December 9 and December 15, 1,961,800 bushels of December wheat futures, and 1,759,000 bushels of corn futures. This is shown by the following table:

Cargill's Position	Wheat (Bushels)	Corn (Bushels)
November 30, 1936	9,356,000 long	7,910,000 long
December 8, 1936	8,511,000 "	6,505.000 "
December 15, 1936	5,441,000 "	4,645,000 "
Reduction from November 30, 1936	3,915,000 * "	3,265,000 "
Reduction Required	2,806,800 ** "	3,164,000 ** "
Excess Liquidation	1,108,200	101,000

* Of this amount 15,000 bushels resulted from deliveries.

** Before issuance of the original order Cargill had liquidated on its own initiative, 845,000 bushels of December wheat and 1,405,000 bushels of December corn. Consequently, the liquidation required by the Cease and

Desist Order, as modified, was 1,961,800 bushels of wheat futures and 1,759,000 bushels of corn futures (Rec. 1120, 8522)

Cargill, during the period from December 7 to December 15, sold 1,108,200 bushels more Chicago December wheat futures than it was ordered to sell by the Business Conduct Committee, and 101,000 bushels more corn futures than required by the order of the Business Conduct Committee.

85. The average liquidation of corn per trading day, as required by the order of the Business Conduct Committee from December 8 to December 15, was less than 300,000 bushels; the complainant voluntarily had been liquidating between November 30 and December 8 Chicago December corn futures at the average rate of over 200,000 bushels per trading day.

The average liquidation of wheat per trading day, as required by the order of the Business Conduct Committee from December 8 to December 15, was less than 300,000 bushels; the complainant voluntarily had been liquidating between November 30 and December 8 Chicago December wheat futures at the average rate of over 100,000 bushels per trading day.

86. The evidence shows that early in July, 1936, Cargill's studies of conditions convinced them that there would be a scarcity of corn during October, November and December, 1936. In their brief filed with the Board of Trade in September, 1937, and included in the record as Complainant's Exhibit 162, in referring to December, 1936, they have

the following statement:

"As December futures drew nearer and time for performance by the sellers of Chicago December futures approached, evidence accumulated which showed that nothing like 10,000,000 bushels of corn would be available for actual delivery in Chicago during that month. The Business Conduct Committee of the Board of Trade in Chicago became alarmed. The Cargill Company was questioned by this group."

87. The closing prices of the Chicago December 1936 wheat futures daily during the period from July 1 to December 31, 1936, are set out in Appendix D.

88. The largest single type of wheat produced in the United States is known as "Hard Red Winter Wheat" and is often referred to as "hard winter wheat". It is raised principally in the southwestern States of Kansas, Nebraska, Oklahoma and Texas. The next largest type of wheat raised in the United States is referred to as "Hard Rod Spring Wheat", raised in the northwestern States of North Dakota, South Dakota, Montana and Minnesota. The third largest type of wheat, known as "Soft Red Winter Wheat", is raised for the most part in States near Chicago, such as Indiana, Illinois and Ohio. The fourth largest type of wheat produced in the United States is Durum wheat, raised principally in North Dakota and South Dakota and is used almost exclusively for feeding purposes.

89. In August and September, 1936, Cargill officials, on the basis of past experience, current conditions and constant contacts with customers, estimated that Cargill would need between 10,000,000 and 15,000,000 bushels of wheat for the period from December 1, 1936 to June 30, 1937.

90. Cargill officials during August and September,1936, determined, on the basis of current conditions, to acquire 10,000,000 bushels of Chicago December 1936 wheat futures. Commencing at this time Cargill began to acquire a line of long Chicago December 1936 wheat futures, and,

gradually, during September, October and November, purchased Chicago December wheat futures until it had acquired its maximum amount of 9,356,000 bushels on November 30, 1936. Cargill's not position and daily transactions, and the daily volume of trading and open interest in the Chicago December 1936 wheat futures are set forth on Complainant's Exhibit No. 36-B and Complainant's Exhibit No. 160.

91. In October, 1936, Cargill repeated the investigation that it had made with respect to supply conditions of wheat in August and September, 1936, and found that there would be a shortage of soft red winter wheat and that in all probability hard winter wheat would have to come to Chicago from the Southwest to fill Chicago December 1936 wheat futures contracts. No. 2 soft red winter wheat and No. 2 hard winter wheat are the two grades of wheat most frequently delivered on Chicago wheat futures contracts. Only various grades of hard winter wheat are deliverable on futures contracts on the Kansas City Board of Trade. Kansas City is the nearest important market to the hard winter wheat area, and, generally speaking, hard winter wheat moves to Kansas City first. The price of hard winter wheat is generally in the fall of the year, and was in the fall of 1936, reflected in the Kansas City Board of Trade December 1936 wheat futures.

92. Accordingly, Cargill officials determined that hard winter wheat would come to Chicago to fill the Chicago December 1936 wheat futures contracts and that the price of Chicago December 1936 wheat futures should rise to a freight differential over the price of the Kansas City December 1936 wheat futures. This freight differential is approximately 9 cents.

93. Cargill's offer to the Business Conduct Committee in December, 1936, to extend the time in which holders of short contracts in the December wheat futures might make delivery, thirty or sixty days, was ignored by the Business Conduct Committee. So also did the Business Conduct Committee ignore Cargill's offer to permit these holders of short contracts to make deliveries at places other than Chicago.

94. On December 17th or 18th, at the request of the Chairman of the Business Conduct Committee, a Cargill official conferred with the Chairman of the Committee alone and was told that the Committee still was concerned about Cargill's line of long December wheat futures. The Chairman of the Committee was told that Cargill would be a willing seller when the price of the Chicago December wheat futures reached a 9-cent premium over the price of wheat in the Southwest. The Chairman thereupon reported to the Committee on December 18, 1936, stating that the Committee need have no further concern over December wheat futures.

95. Of the total of 1,499,000 bushels of wheat delivered on Chicago December 1936 wheat futures, Cargill received 726,000 bushels, most of which was No. 2 hard winter wheat.

96. The members (and substitute members) of the December 1936 Business Conduct Committee, and their firms, were as follows:

James A. White, Chairman (Lamson Bros. & Co.).

C. D. Sturtevant (President, Bartlett Frazier Co.).

M. R. Glaser (V. P., Socy-Treas., Rosenbaum Bros., Inc.).

J. E. Bennett (James E. Bennett & Co.).

Lowell Hoit (President, Lowell Hoit & Co.).

R. F. Uhlmann (Socy. & Treas., Uhlmann Grain Co.).

A. F. Lindley (Clement, Curtis & Co.).

The record reveals:

First: The members of the Business Conduct Committee had no position whatsoever for their own account, long or short, in December 1936 corn and wheat.

Second. The wives and children of the members of the Business Conduct Committee had no position whatsoever for their own account, long or short, in December 1936 corn and wheat.

Third. The partners in firms with which the members of the Business Conduct Committee wore identified or affiliated had no position whatsoever for their own account, long or short, in December 1936 corn or wheat.

Fourth. The corporations and partnerships with which members of the Business Conduct Committee were identified or affiliated had no position whatsoever for their own account, long or short, in December 1936 corn or wheat except Rosenbaum Brothers and Uhlmann Grain Company, both of which had short positions as hedges against cash grain owned by them. Uhlmann Grain Company also held short positions as follows:

UHLMANM GRAIN CO. (Identified as Speculative and Spreading)

Open Contracts in Chicago December 1936 Wheat as Reported November 1, 1936, to December 31, 1936.

(In thousands of bushels)

Date	Open Contracts	
	Long	Short
Nov. 1		45
Dec. 17		35
26		15
28		Even

Both of these firms made full deliveries on their short position in December futures, with the exception of negligible amounts.

97. The record fails to disclose any substantial evidence to the effect that the cease and desist orders of the Business Conduct Committee of December 8 and 10, 1936, were made known to the shorts.

98. During substantially all of September 1936, the price of Chicago December 1936 wheat futures was only a fraction of a cent over the price of the Kansas City December 1936 wheat futures. During October and November 1936, this premium gradually widened from 1-1/4 cents to 4-7/8 cents. It was not until December 19, 1936, that this premium reached 9 cents. The relation of the price of the Kansas City December 1936 wheat futures to the Chicago December 1936 wheat futures, daily through December 1936, is as set forth in Complainant's Exhibit No. 36-A.

99. All during September, October, November, and until the latter part of December 1936, the Chicago December 1936 wheat futures remained lower than other futures.

100. During the period from November 30, 1936 to December 7, 1936, prior to the time that Cargill had been informed that the Business Conduct Committee was interested in its position in Chicago December 1936 wheat futures, Cargill was voluntarily reducing its line of long December wheat futures.

101. Between November 30, 1936, and December 7, 1936, the "open interest" in Chicago December wheat futures decreased rapidly.

102. The volume of trading in the Chicago December 1936 wheat futures was the greatest during the month of September, decreased during both October and November, and by the first half of December had very materially decreased from its September peak.

103. On December 8, 1936, Cargill's stocks of foreign cash wheat, including open purchases, were approximately 6,000,000 bushels, its open sales of foreign cash wheat were approximately 2,000,000 bushels, and its net long position in

foreign cash wheat was approximately 4,000,000 bushels. On this same date Cargill's stocks of domestic cash wheat, including open purchases, were approximately 6,200,000 bushels, its open sales of domestic cash wheat were approximately 2,800,000 bushels, and its net long position in domestic cash wheat was approximately 3,400,000 bushels.

104. The Board of Trade raised no question with Cargill about Cargill's acquisition of its Chicago December 1936 wheat futures, either at the time these futures were acquired or on October 15, 1936, when for the first time Cargill's long line exceeded 5,000,000 bushels, or at any other time prior to December 8.

105. The estimates of the carry-over of wheat in the United States as of July 1, 1936, on farms, in country elevators and mills, in commercial stocks, and in merchant mills and elevators, together with the carry-over of wheat in the United States as of July 1, 1935, and the previous ten-year average, are as set forth in Complainant's Exhibit No. 34.

106. The comparison of cash wheat and cash corn prices at Chicago from August 15 to December 15, 1936, is as set forth in Complainant's Exhibit No. 34-A.

107. The stocks of wheat on farms and in interior mills and elevators in Ohio, Indiana, Illinois, and Michigan as of October 1, 1935, and as of October 1, 1936, are as set forth in Complainant's Exhibit No. 37.

108. The stocks of wheat on farms and in interior mills and elevators in Nebraska, Kansas, Oklahoma, and Texas as of October 1, 1935, and as of October 1, 1936, are as set forth in Complainant's Exhibit No. 38.

109. The "visible supply" of wheat as of December 5, 1936, at Chicago, Illinois; Kansas City, Missouri; Hutchinson, Kansas; Omaha, Nebraska; St. Louis, Missouri; St. Joseph, Missouri; Wichita, Kansas; and Sioux City, Iowa; is as set forth in Complainant's Exhibit No. 43.

110. On October 1, 1936, and January 1, 1937, the stocks of wheat on farms and in interior mills and elevators in all of the United States and in Illinois, Indiana, Iowa, and Missouri, which do not appear in the United States "visible supply", are as set forth in Complainant's Exhibit No. 44.

111. The high, low, and closing prices of the Chicago December 1936 wheat futures from December 17 to December 28, 1936, inclusive, are as set forth in Complainant's Exhibit No. 47.

112. The "visible supply"of wheat at Chicago on December 19, 1936, and December 26, 1936, is as sot forth in Complainant's Exhibit No. 48.

113. The ten-year comparison of the "open interest" in all Chicago December grain futures as of the close of the last business day in November, and the deliveries on all Chicago December grain futures, the Chicago elevator capacity, Chicago "visible supplies," and Chicago receipts of all grains during the month of December 1928 to 1937

inclusive, is as set forth in Complainant's Exhibit No. 215.

114. The deliveries on all Chicago December 1936 futures contracts, together with the portions thereof received by Cargill, are as set forth in Complainant's Exhibit No. 216.

115. The comparison of the prices of the Chicago December 1936 wheat futures with the prices of cash wheat at Chicago, daily during the month of December 1936, is as set forth in Complainant's Exhibit No. 210.

1937 SEPTEMBER CORN

Cease and Desist Order

116. The net positions of Cargill, Incorporated, in Chicago September 1937 corn futures from August 9 to September 30, shown on Exhibit 126, were as follows:

Date (1937)	Net Position Long	Net Position Short
August 9	8,295,000 bu.	
10	8,442,000	
11	8,447,000	
12	8,440,000	
13	8,745,000	
14	7,145,000	
16	6,385,000	
17	5,745,000	
18	5,395,000	
19	4,850,000	
20	4,550,000	
21	4,277,000	
23	3,942,000	
24	3,787,000	
25	3,507,000	
26	3,415,000	
27	3,225,000	
28	2,952,000	
30	2,732,000	
31	2,237,000	
September 1	2,257,000	
2	2,252,000	
3	2,227,000	
4	2,207,000	
7	2,172,000	
8	2,037,000	
9	1,987,000	
10	1,907,000	
11	1,907,000	
13	1,908,000	
14	1,899,000	
15	1,819,000	
16	1,584,000	
17	1,139,000	
18	1,149,000	
20	947,000	
21	712,000	
22		93,000 bu.
23		42,000
24	3,459,000	
25	3,459,000	
September 27	3,459,000 bu.	
28	689,000	
29	674,000	
30	--	

117. The above positions of Cargill, Incorporated, in Chicago September 1937 corn futures reflect its positions after the transfer to Continental Grain Company and to Uhlmann Grain Company of the following amounts of long corn futures on the following dates:

Continental Grain Company

1937	
August 13	870,000 bu.
14	430,000
16	400,000
17	400,000
18	150,000
19	230,000
27	150,000
28	100,000
30	225,000
31	505,000
Total	3,460,000

Uhlmann Grain Company

1937	
August 14	300,000 bu.
16	350,000
17	250,000
18	200,000
19	325,000
20	300,000
21	300,000
23	325,000
24	250,000
25	300,000
26	175,000
27	400,000
28	200,000
Total	3,675,000

The total transfers of Chicago September 1936 corn futures to the two houses aforesaid amounted to 7,135,000 bushels.

118. The foregoing transfers of Chicago September 1937 long corn futures to Uhlmann and Continental were in exchange for contracts

on the part of Uhlmann and Continental to sell and deliver to Cargill, Incorporated, equal amounts of cash corn in September or the early part of October, 1937, i.e., at seller's option not later than October 1st, 3rd, 5th and 8th.

Continental did not purchase any cash corn to deliver to Cargill for September or early October delivery, but relied upon the long September futures so transferred to Continental by Cargill for fulfilling the September or October deliveries to Cargill. The same is true of Uhlmann.

Continental, and it may be assumed the same is true of Uhlmann, was willing at any time after the making of said transactions to cancel said cash transactions and retransfer the September long futures back to Cargill, provided their profit was assured. From and after September 17, 1937, there was an understanding between Cargill, respondent's Business Conduct Committee, Continental, and Uhlmann, that Continental and Uhlmann would dispose of their September long futures, in accordance with instructions from Cargill, upon Cargill's cancelling an even amount of their commitments for September or October delivery of cash corn.

The Business Conduct Committee, immediately upon learning of the Uhlmann and Continental deals (on August 31, 1937) held that it had not been deprived of jurisdiction by reason of the transfer of the aforementioned 7,135,000 bushels of long September corn futures to Uhlmann and Continental, but, on the contrary, decided at least by September 2, 1937, to and did thereafter treat the 7,135,000 bushels of long futures in the names of Continental and Uhlmann as controlled by Cargill. It learned of the nature of these transactions when Simon Mayer, of

Continental Grain Company, and Fred and Richard F. Uhlmann, of Uhlmann Grain Company, were brought before the Committee on August 31, 1937. Neither Continental nor Uhlmann knew of the other's contract

with Cargill at least prior to August 31. No information about these deals was given by Cargill, Continental or Uhlmann, or anybody on their behalf, to respondent, or any of its committees, until the transactions themselves were first discovered as aforesaid.

The contracts between Uhlmann and Continental, on the one hand, and Cargill, on the other, were at certain prices, (i.e., 2 cents over the Chicago September corn futures price) for 2 yellow corn "f.o.b. track or care Chicago" which insured to Uhlmann and Continental about one-quarter cent a bushel profits if they "sat on" the long September futures contracts transferred from Cargill to them, took delivery on such futures contracts, and thereafter delivered the grain to Cargill in accordance with the terms of the deal. If, however, Continental or Uhlmann had been able to buy cash 2 yellow corn at less than two cents over the Chicago September futures price, or if Continental or Uhlmann got track deliveries on the Chicago September futures under Rule 282 and transferred such track deliveries to Cargill without paying elevation charges of one and one-quarter cents a bushel, Continental and Uhlmann would have made more than one-quarter cent a bushel.

On September 24, 1937, Uhlmann's contract with Cargill was cancelled at the insistence of Uhlmann and the September futures contracts to the extent of 3,510,000 bushels which had previously been transferred by Cargill to Uhlmann, were retransferred from Uhlmann to Cargill. Uhlmann received its profit of a quarter cent per bushel.

MacMillan in testifying admitted that Cargill's officer, Hendel, who made the original deal with Uhlmann undoubtedly represented to Uhlmann after August 13 and prior to September 1, that this transaction had been approved by the Commodity Exchange Administration. This was one proven by the evidence.

119. On August 9, 1937, the long line of Cargill, Incorporated, in Chicago September 1937 corn futures was 8,295,000 bushels. Instead

of decreasing as shown above in Finding 116, the combined long lines of Chicago September futures of Cargill, Incorporated, Continental Grain Company and Uhlmann Grain Company increased, as shown below in this paragraph. For example, Finding 116 shows Cargill, Incorporated, was long 2,257,000 bushels on September 1, but the combined line of Cargill, Continental and Uhlmann was long on that date 9,392,000 bushels. Again, Cargill, Incorporated, as shown by Finding 116, which is based on Exhibit 126, is short September corn futures on September 22 to the extent of 93,000 bushels, but the combined lines wore long on September 22 to the extent of 6,787,000 bushels. Furthermore, throughout theperiod from August 9 to September 24, 1937 (on which last date trading in the September corn futures ceased by order of the Directors of respondent), the percentage of the combined long holdings to the total open interest increased from 41.6 per cent on August 9 to 84.2 per cent on September 24. The total open interest, the combined long position of Cargill, Incorporated, considering contracts with Uhlmann and Continental as positions in futures under the control of Cargill, and the percentage of such combined position in relation to the total open interest, is shown as follows:

Date (1937)	Total Open Interest	Cargill's Combined Long Position	Cargill's Per Cent of Total Open Interest
August 9	19,917,000 bu.	8,295,000 bu.	41.6
10	19,605,000	8,442,000	43.1
11	19,478,900	8,447,000	43.4
12	19,579,000	8,440,000	43.1

Date (1937)	Total Open Interest	Cargill's Combined Long Position	Cargill's Per Cent of Total Open Interest
13	19,872,000	8,745,000	44.0
14	19,839,000	8,745,000	44.0
16	19,424,000	8,735,000	45.0
17	19,336,000	8,745,000	45.2
18	19,156,000	8,745,000	45.6
19	19,188,000	8,755,000	45.6
20	18,693,000	8,755,000	46.8
21	18,453,000	8,782,000	47.6
23	18,252,000	8,772,000	48.1
24	18,441,000	8,867,000	48.1
25	18,579,000	8,887,000	47.8
26	18,568,000	8,970,000	48.3

Date (1937)	Total Open Interest	Cargill's Combined Long Position	Cargill's Per Cent of Total Open Interest
August 27	18,759,000 bu.	9,330,000 bu.	49.8
28	19,119,000	9,357,000	48.9
30	19,032,000	9,362,000	49.2
31	18,580,000	9,372,000	50.4
September 1	18,502,000	9,392,000	50.8
2	18,333,000	9,387,000	51.2
3	18,366,000	9,362,000	51.0
4	18,365,000	9,342,000	50.0
7	18,261,000	9,307,000	50.9
8	18,432,000	9,172,000	49.8
9	16,045,000	9,122,000	56.9
10	15,925,000	9,042,000	56.8
11	15,820,000	9,042,000	57.2
13	15,754,000	9,043,000	57.4
14	15,485,000	9,034,000	58.4
15	15,214,000	8,954,000	58.9
16	13,447,000	8,719,000	64.8
17	11,084,000	8,174,000	73.7
18	10,932,000	8,104,000	74.1
20	10,642,000	7,902,000	74.3
21	10,225,000	7,667,000	75.0
22	8,839,000	6,787,000	76.8
23	8,400,000	6,753,000	80.4
24	8,012,000	3,744,000	84.2

The reduction in Cargill's combined long position during September, above show, is due to deliveries received on futures contracts and sales of futures by Cargill as cash corn was purchased by it during September.

120. At the time of each transfer of Chicago long September corn futures to Continental, as above set forth, Cargill also transferred to Continental for its, Cargill's, account, paying a commission therefor, an exactly equal amount of short Chicago December corn futures. This made it possible for these September and December corn futures to be held without the necessity of placing margin money with the clearing-house at the time the transfers were made. This transfer of short December corn futures was from thirteen Chicago futures commission firms (from whom the September corn futures also were transferred) to Continental and therefore must have cost Cargill two commissions, i.e., commissions to the original Chicago commission firms, and commissions to Continental.

121. The corn crop for the crop year 1936-1937 was the second smallest on record, amounting to only 1,253,766,000 bushels harvested as grain, compared to the lowest production on record of 1,146,684,000 harvested as grain in the crop year 1934-35. The intervening crop year 1935-36 was about average. United States stocks on farm April 1, 1937, of 409,074,000 bushels, July 1, 1937, of 155,115,000 bushels, and October 1, 1937, of 60,571,000 bushels, were the lowest ever recorded.

During the period from July 31 to September 25, 1937, the visible supply of corn in Chicago and in the United States, respectively, was as follows:

Date (1937)	Chicago	United States
July 3	1,534,000	5,346,000
31	2,956,000	7,794,000
August 7	2,683,000	7,125,000
14	2,021,000	5,920,000
21	2,025,000	5,798,000
28	1,831,000	5,340,000
Sept. 4	1,498,000	4,330,000
11	983,000	3,719,000
18	1,085,000	3,644,000
25	1,772,000 *	3,864,000

* Including 155,000 afloat

The visible supply of corn includes stocks of grain in public and private warehouses at principal points of accumulation, at lake and seaboard ports and in transit by water, as compiled by the Secretary of respondent and published.

The foregoing figures include foreign and domestic corn, corn of grades which are not deliverable on futures contracts, and also corn owned by Cargill on the dates mentioned. The amount of Cargill-owned corn in United States visible and Chicago visible was not determinable from the record on the dates mentioned. On September 13, 1937, however, Cargill owned in its elevator in Chicago 355,000 bushels, in other elevators in Chicago 65,000 bushels, and had bought 60,000 bushels more. Cargill's ownership of corn at other points and included in the visible supply was not offered in the record.

122. The total United States visible supply of corn as of Saturday nearest July 1, 1937, was, as above stated 5,346,000 bushels, whereas the average for the same Saturday for the years 1932-36 was 22,490,400 bushels. The total visible supply of corn at Chicago as of the Saturday nearest July 1, 1937, was, as above stated, 1534,000 bushels, whereas the average for the same Saturday for the years 1932-36 was 7,467,000 bushels.

123. Commercial stocks of corn, as reported by the United States Department of Agriculture, which include corn in store in public and private elevators in thirty-nine markets, corn afloat in vessels or barges in harbors of lake and seaboard ports, corn not gradable for delivery on Chicago futures contracts, and corn owned by Cargill, was for the following months in the year 1937, as follows:

May	6,697,000
June	4,316,000
July	6,264,000
August	7,425,000
September	5,384,000
October	5,651,000
November	5,175,000
December	26,262,000

New corn was included in the October figures. These are the lowest commercial stocks on record except as to September in two preceding years, and

August in three preceding years. Again Cargill-owned corn is not shown although it is included in the foregoing figures.

124. The scarcity of corn in 1937, owing to the two small crops of 1936-37 and of 1934-35, was the most acute in the history of the Department of Agriculture. This was known to complainant. There was "practically no stocks on the farms or in visible supply, in Chicago and in the United States, comparatively."

125. On October 1, 1937, there were 60,571,000 bushels of corn on farms in the United States. Stocks of corn on farms in the six States of Ohio, Indiana, Wisconsin, Illinois, Michigan and Iowa (hereinafter called the "six States"), tributary to Chicago, on July 1, 1937, and October 1, 1937, were as follows:

	July 1, 1937	October 1, 1937
Ohio	13,500,000	3,937,000
Indiana	13,924,000	6,897,000
Wisconsin	894,000	550,000
Illinois	24,741,000	11,876,000
Michigan	3,110,000	1,697,000
Iowa	14,146,000	3,152,000
Totals	70,315,000	28,109,000

Of the 70,315,000 bushels on farms in the six States July 1, it is estimated 35,000,000 were on farms in the six States September 1. Of this 35,000,000 bushels on farms in the six States September 1, it was estimated one-half of it could have been available for delivery on the Chicago September futures contracts at some price and that 5,000,000 bushels of it could have moved to the Chicago market for delivery on Chicago futures contracts at prices between $ 1.15 and $ 1.20 per bushel. It is further found:

(a) that a certain proportion of this consists of scraps and remnants estimated at 10,000,000 bushels;

(b) that some of such corn, although not the usual amount, was seed corn;

(c) that the corn of the 1936-37 crop was of lower merchantable quality than usual;

(d) that a certain proportion of stocks of corn on farms will not move off at any price;

(e) that it would not be profitable for a farmer with, say, 100 bushels of corn on his farm to merchandise it, taking into consideration costs of merchandising and trouble and expense of substituting feeds;

(f) that farmers who had retained or bought corn for finishing off cattle and hogs would be loath to substitute other feeds because corn is the best grain for such purpose;

(g) that the high prices of corn which prevailed from January to September, 1937 (as high as $ 1.40 per bushel is May) would have attracted all surplus corn from farms except such as was held until released by reason of the early advent of the new crop.

126. On September 1, 1937, there were in the six States well over a million farms; the latest census (that of 1935) reports the number of farms in the six States as 1,305,673. (U. S Cen. of Agri., 1935 p. xxii, xxiii; Rec., 10858.) Of the total number of farms in the six States in 1935, 1,156,070 raised cattle (idem xxviii, xxix); 1,083,452 raised corn for all purposes (idem xxxii, xxxiii); 912,489 raised corn as grain (idem xxxii, xxxiii); and 842,269 raised swine (idem xxviii, xxix; Rec., 10858-9). The total number of farms in the United States in 1935 was 6,812,350 (idem xx), of which in 1934, 4,055,986

raised corn as grain (idem xxxi), and 4,849,724 raised corn for all purposes (idem xxxii, xxxiii; Rec. 10860).

127. The shipment and local slaughter (excluding farm slaughter) of cattle and calves in the year 1936 (1937 not given) in the six states, was as follows (U. S. Agri. Stat. 1933, table 403, p. 290);

	Cattle Head	Calves Head
Ohio	482,000	396,000
Indiana	540,000	330,000
Illinois	1,095,000	465,000
Michigan	288,000	322,000
Wisconsin	459,000	907,000
Iowa	2,139,000	375,000
Total	5,003,000	2,795,000

Including milk cows and heifers kept for milk, the cattle and calves in the six States, on January 1, 1937, totaled 15,398,000 head. (Agri. Stat. 1938, Table 396, p. 283; Rec. 11154.)

The annual slaughter of cattle and calves under Federal inspection, in 1936, was 10,972,000, and in 1937, 10,070,000

(Agric.Stat., 1938, Table 406, p. 293, and the receipts of stock and feeder shipments at public stockyards in 1937 shows that the largest receipts and shipments were in August, September and October (Agri. Stat., 1938, Table 399, p. 287) the total receipts in 1937 being 15,135,000 (idem).

A considerable quantity of corn would be required for finishing off cattle in September, October, and November for marketing in the fall of 1937 in the six States.

128. The number of sows farrowed and pigs saved in the spring and fall farrows is given in U. S. Agri. Stat., 1938, Tab. 411, P. 299, for the United States and the six States as follows:

	Spring 1937		Fall 1937	
	Sows Farrowed	Pigs Saved	Sows Farrowed	Pigs Saved
United States	6,202,000	38,654,000	3,778,000	23,375,000
Ohio	327,000	2,168,000	284,000	1,917,000
Indiana	416,000	2,687,000	315,000	2,051,001
Illinois	550,000	3,454,000	305,000	1,958,000
Michigan	95,000	645,000	73,000	496,000
Wisconsin	247,000	1,667,000	121,000	817,000
Iowa	1,351,000	8,457,000	471,000	2,892,000
Total for six States	2,986,000	19,078,000	1,569,000	10,131,000

The spring litter is larger than the fall litter, and a number of millions of bushels of corn would be required to finish off the litter being finished in September, October, and November

129. There were on farms in the six states, on January 1, 1937, 121,633,000 chickens (Agri. Stat., 1930, Table 515, p. 369): and it appears that there are raised on farms in each year more chickens than are on the farms January 1 of each year over 183,000,000 in the six States in 1935 (idem. p. 370). Corn and wheat constitute the best chicken feed, but only 402,757 farms in the six states raise wheat (U. S. Cen. of Agri., 1935, pp. xxxii, xxxiii).

130. There were horses and mules in the six states January 1, 1937, to the number of 3,685,000. (Agri. Stat., 1938, Tables 464, 465, pp. 334, 335):

131. Stocks of corn on farms in Missouri, Minnesota, Nebraska, and Tennessee, on July 1, and October 1, 1937, were as follows:

	13697	October 1, 1937
Missouri	2,832,000	1,802,000
Nebraska	2,126,000	912,000
Minnesota	4,664,000	874,000
Tennessee	8,388,000	3,020,000
Total	18,012,000	6,608,000

If these States be considered as tributary to Chicago, the total stocks of corn in these and the six States, on July 1, 1937, would be 88,327,000 bushels, and on October 1, 1937, 34,717,000 bushels. Vaile admitted that the farm population in the four additional States would not be out of line in comparison with stocks of corn on farms in the six States, and that the ratio of feeding requirements in the ten States would not differ materially from the ratio of feeding requirements in the six States.

132. Sometime in the early part of September 1937, Cargill entered upon a campaign of aggressive buying of cash corn in the Midwest, (i.e., particularly through its Chicago office, its Toledo office, its Minneapolis office, and its Kansas City office) and later, about September 17, extended its aggressive corn buying campaign to Texas and Oklahoma, where there was a very early movement of a new crop corn of excellent grade and low moisture content, and of a grade deliverable on Chicago September futures contracts, according to Federal standards. Coincident with the acquisition of cash corn, Cargill sold an approximately equal amount of Chicago September corn futures, thus reducing its long line of futures to approximately the same extent as it acquired cash corn in the

Midwest and in Texas and Oklahoma. Also, as it sold cash corn, either spot or for deferred delivery, it purchased a corresponding amount of the Chicago September corn futures.

During the month of September, 1937, complainant purchased in the Midwest and in Texas and Oklahoma 4,813,647 bushels of cash corn, including 804,485 bushels taken on delivery in September futures, exclusive of deliveries received by Continental. During the same month, complainant sold 458,297 bushels.

133 Cargill purchased in Texas and Oklahoma, between September 17 and September 24, 642,532 bushels of Texas and Oklahoma corn (Rec., 3315), and at Toledo, between September 3 and September 30, purchased 179,898 bushels of corn.

Cargill's total purchase of corn in the Southwest, including Texas and Oklahoma, was very much greater than that of all of its competitors during September, 1937, and in other parts of the Midwest during the same period it purchased approximately the same amount as that purchased by all of its competitors.

Cargill repeatedly wired its Chicago office to keep corn away from Farmers National, Rice, and other shorts.

(Letter "M" indicates the message was sent from Minneapolis to Chicago and the letter "C" that the message was sent from Chicago to Minneapolis.)

Date	No.	Rec.	Message
9/8/37 M	219	3700	Want to keep corn from Fanny so suggest go back up to four over if necessary. Also if have to take IP blg but should be able to take this from Fanny at 3 1/4 to 3 1/2 would think. Wyard
9/9/37 M	38	37000 -- 01	Ring GX - Pls continue taking spot corn and want

Date	No.	Rec.	Message
			to pay just enough to take away from Fanny. Wyard.

Date	No.	Rec	Message
9/9/37 M	55	3701	Ring Gx - Will take up to 25,000 at three over and go higher of course if necessary take from Fanny. Wyard
9/10/37 M	152	3711	Ring GX - Pls take the corn away from Nobby if have to bid up for it. Wyard
9/10/37 M	445	3711	Ring GX - Suggest take up to 25,000 corn TA over-night and then advise if getting more offered. Still want to keep this corn from Fanny. Wyard
9/13/37 M	13	3715	Ring GX - Will pay up to 2 over for 2YC WHRS and suggest take up 35,000 2YC TA at basis necessary take from Fanny. Wyard
9/13/37 M	227	3716	Ring GX - Suggest raise board bid to 3 1/2 for while and see if brings in any more offers and continue take away the spot corn best possible.
9/14/37 M	303	2999	Wyard Ring GX - We want the to arrive corn so for time being we won't call Federal on the corn and if necessary raise the basis to take it away from Fanny and Nobby. Wyard
9/14/37 C	505	3001-02	Wyard - Fanny paying 107 1/2 tonight so we have booked little at 107 3/4. Ring GX
9/14/37 M	248	3003	Ring GX - On the old corn Jimmy we want to take it away from Fanny so if have to make our discounts less Pls do so. We want to get the preference over Fanny so do what it takes. Wyard.
9/15/37 M	184	3047	Ring GX - Pls lower our bid on 2YC to 1 1/2 over 5 days. Pls stay in there and pitch though to keep away from Fanny. This good up to 25 cars then go to one over for another 25. Wyard
9/16/37 C	102	3017	They bidding 1-3/4 we bidding 2 stop first bunch we took this morning was one over Ring GX
9/16/37 M	82	3018-19	Ring GX - Pls keep 1/4 of a cent above them all the time both to arrive and spot. Wyard
9/16/37 M	151	3019	Ring Sayles GX - Our St. Louis office advises that Vehon is now out thru central Illinois bidding for Rice on

Date	No.	Rec	Message
			old 2 Yel at 2 over Sept not to country dlvd Chgo this weeks shipt. stop suggest go to 2-1/2 over if have to take this way there//we giving St. Louis the same..Wyard
9/16/37	C 325	3127	Gol - Crosby offering couple cars old two

Date	No.	Rec	Message
			YC, do think we should sell to some other party and then buy back ourselves, it can be done, otherwise must sell to Rice..Sayles
9/21/37	C 157	3076	Gol - Fanny just came in mkt at one over so we going increase our bid to 1-1/4 over..Ring
9/21/37	C 394	3082	Gol - Fanny paid 1-1/2 over to arrive, we still bidding 1-1/4 -- Ring
9/21/37	M 243	3082	Ring GX - Pls keep quarter of cent above Fanny..Wyard
9/21/37	C 497	3085	Gol - Rice bidding 105-3/4 for corn overnight we are bidding 106..Ring GX
Date	No.	Time	
9/21/37	C-540	1:29	Mac Jr - Sayles in Goldsmith's office and has all your messages..GX
Date	No.	Rec.	
9/21/37	C 102	3151	Gol - Fanny bidding 2 over Sept dely by 9/27 we are buying at 1-1/4 over dely 9/29-- Ring GX
9/22/37	M 67	3151	Ring - Suggest go to 2-1/4 over for dely buy 9/27 and 1-1/4 for 9/29 and if Fanny go up please keep ahead of them..Wyard
9/23/37	C-245	3169	Gel - Beefy just came in Market paying one over for 2 YC by 29th and half over for 2 XC. No have been going along at half over.. Ring
9/23/37	M 154	3170.	Ring GX - Pls beat Beefy bid by quarter cent..Wyard

Cargill was willing to sell cash corn to feed men or processors if assured that the corn would not be placed on the market again so that the shorts might obtain it for delivery,

Date	No.	Rec.	Message
9/9/37	M 60	3701	Ring GX - If the feed men are taking the spot corn let them have it but want to be sure they are the ones taking..Wyard
9/10/37	M 156	3711	Ring GX - Suggest bid on the spot corn just what is necessary to take it from elevators don't want to let them get any feed men are OK..Wyard
9/16/37	M 240	3124	Coff GX - I mean any of the corn we have billed to CP regardless of where it came from, want to know if they reshipping any of it to Farmers Natl., ..Gage
9/16/37	C 466	3124-25	Gage - Don't think any of those track cars were consigned to Farmers Natl by CP firms were given instructions late yesterday and CP did not know who we got cars from. Don't see how they could possibly reconsign stop presume you going give instructions on all cars loaded now being

Date	No.	Rec.	Message
			held on track..Coff GX
9/22/37	C 389	3156	Wyard - Beefy wants to buy 150 two YC in store public elevator, asking for price and told me it was for customer.. Sayles
9/22/37	M 250	3156	Sayles - Sorry but we unable offer Beefy any 2YC in store public, suggest his customer pick it up on tables as we are buying ourselves..Wyard

After respondent's Directors on September 24 closed the market and fixed a settlement price of $ 1.10-1/2, Cargill's instructions to its buyers were to bid 1.11 to $ 1.11-1/4 for No. 2 yellow corn to arrive in Chicago by the 28th.

Date	No.	Rec.	Message
9/25/37	C 23	3204	Gol: What about spot offerings pls of course shorts can buy the spot and deliver to us..Ring GX
9/25/37	M 183	3206	Ring GX: Guess you better bid 111 for corn to arrive by the 28th for up to 25 cars.. Wyard
9/27/37	M 21	3207	Ring GX: Yes thats correct, will pay up to 1.11-1/4 for spot and arrive if have to but you probably won't. In other words will pay quarter better than delivery basis if absolutel have to, to show our willingness to take -- Wyard

Date	No.	Rec.	Message
9/27/37	C 78	3208-09	Gol: Looks like will be a lot of spot 2 YC for sale/to pay 111 looks like murder what think tread..Sayles GX
9/27/37	M 67	3209	Sayles GK: We are willing to pay that for a spot corn. Gol
9/28/37	M 20	3211	Ring GK:-Yeah, sport, continue taking that spot corn at 111-1/4..Wyard

even over the protest of the Chicago office.

Date	No.	Rec.	Message
9/29/37	C 51	3211	Gol: Can't quite understand why we con-tinue take spot do you think price break 25 cents bu if we stopped and not enough left affect our holdings either way..Ring GX

This was for the purpose of preventing the shorts from obtaining corn with which to make delivery on September futures.

134. The policy of Cargill in selling The September futures as it bought cash corn during September, 1937, and purchasing the September futures as it sold cash corn, had the effect of causing the shorts in the September corn future to cover in the pit rather than to buy cash corn and make delivery. The policy "tightened" rather than "loosened" the situation because, when a short makes delivery, the delivery frequently passes through several hands and thus liquidates more than one account. It also "tightened" the situation because in times of shortage as in September, 1937, the price of the future tends to go up

to the cash and the aggressive buying of cash by complainant tended to keep the cash at a premium over the future.

Cargill's instructions to its buyers "to pay more than Chicago competitors were willing to pay for cash corn, "tended to make it financially inadvisable for s short to buy cash corn and deliver it; it was more profitable for a short to buy in his contract in the pit. It was Cargill's policy throughout the country during this time to see that sales of its corn were made to processors who intended to use the corn for consumptive purposes; Cargill would not sell to the shorts at prices anywhere near these then prevailing if Cargill believed it might be delivered by the shorts on September futures contracts.

135. The complainant must have known that there was not sufficient corn of deliverable grade at prices within reason to fulfill its combined long line of September futures. This is indicated in part by the following wires between Cargill's Minneapolis and Chicago offices:

(1) Sept. 17, C349, Sayles to Golseth:

"Bartlett Frazier and M. L. Vehon (Chicago receivers of grain) think they have had their last old corn offers and Windy (another Chicago grain receiver) did not get any offers today."

(2) Sept. 17, C607, Ringwald to Golseth:

"Faroll Brothers (Chicago grain receivers) who has been good seller old corn all along says he hasn't had any offer this afternoon. Looks like his stations cleaned up."

(3) Sept. 16, C413, MacMillan, Jr., to J. H. MacMillan:"Sayles tells me their to arrive purchases are clearly clean outs and coming in amounts as small as 500 to 700 bushels. This means the run will soon be over I should think."

(4) Sept. 17 C254, Sayles to Golseth:

"Bailey and Combs have just advised me cannot get any more offers out their territory all clean up."

The foregoing was confirmed by:

(5) Sept. 17, C255, Ringwald to Golseth:

"E. E. Bailey one of the largest commission houses here say their country offices cannot find any corn anywhere. Looks like these all cleaned up."

To which Wyard, of the home office, replied to Ringwald and Sayles:

(6) Sept. 17, M17J:

"Thanks info on Bailey and Combs Boy Oh Boy."

(7) Sept. 21, C22, Sayles to MacMillan:

"Very little corn being offered this A.M. Looks like its about ever unless market goes up several cents then likely more will come out."

(8) Sept. 16, C98, Sayles to Golseth:

"Mac, Jr. ask me to wire stating my ideas are that the run old corn a flash in pan and county very bearish and shipping to take advantage of big price."

(9) Aug. 7, C13, Sayles to Wyard:

"Bailey made check of 125 country stations in eastern Illinois and finds 490,000 old corn back in elevators and farmers cribs, but reports would be very difficult to got it to move."

(10) Aug. 11, C497, Creekmore to Wyard:

"Mr. Younge feels that just before the arrival of new corn the country will scrape their bins and that we will see lower prices on old corn."

(11) Aug. 30, C542, Ringwald to Sayles:

"* * * Most corn to come to Chicago will come from Northern Illinois north from Decatur or sixty to eighty miles south of Chicago. Some to come from Watseka; also from Joliet territory * * *"

(12) Sept. 9, C48, Sayles to MacMillan, Jr.:

"* * * Bill Drum (a crop statistician in Cargill's employ) * * * says * * * in driving 268 miles stopping at various points I made checks on 383 corn cribs. Sixty-five were obscured so that I would not toll whether corn was stored therein, 300 were empty and 18 had an estimated total of 5,250 bushels. Also called at 17 stations and found about 20 cars."

(13) Sept. 20, C271, MacMillan, Jr., to MacMillan, Sr.,:

"* * * Looks like the country is about out of cash corn." The demand for cash corn during September, 1937, from the processors and industries, was not good as the price was too high. Cargill's Chicago office disliked continuing to buy cash corn after the market was closed on September 24, as the following wires show:

(14) (a) Sept. 24, C450, Ringwald to Golseth:

"Understand raining in the corn belt and hope to heavens it don't stop until next Michaelmas."

(b) Sept. 24, C-456, Ringwald to Golsoth:

"We starting at 110 1/2 hope don't get much. (Meaning starting bids for cash corn.)

(c) Sept. 27, M6, Wyard to Ringwald:

"Please pay up three fourths over the spot (corn) and TA (to arrive) by 28th corn."

(d) Sept. 27, 011, Ringwald to Wyard:

"What you mean pls (please) three quarters over Sept. or 111 1/4 for spot (corn) and TA (to arrive corn)."

(e) Sept. 27, M21, Wyard to Ringwald:

"Yes thats correct. Will pay up to 111-1/4 for spot and arrive if have to but you probably wont. In other words will pay quarter better than delivery basis if absolutely have to, to show our willingness to take."

(f) Sept. 27, C78, Sayles to Golseth:

"Looks like will be a lot of spot 2 YC (yellow corn) for sale and to pay 111 looks like murder what think tread (reply immediately)."

(g) Sept. 27, M67, Golseth of Sayles:

"We are willing to pay that for spot corn."

(h) Sept. 28, M20, Wyard to Ringwald:

"Yeah sport continue taking that spot corn at 111-1/4."

(i) Sept. 29, C51, Ringwald to Golseth:

"Can't quite understand why we continue take spot do you think price break 25 cents bu if we stopped and not enough left affect our holdings either way."

(j) Sept. 30, M141, Golseth to Ringwald:

"For up to 10 cars pls go to 111 for 2 YC (Yellow Corn) and 108-1/2 for 3 YC (Yellow Corn)."

After complainant had finished acquiring a large percentage of the corn octainable by means of its agressive buying in September, 1937, the Chicago office of complainant then requested to be allowed to begin merchandising thereafter as the following wires show:

(k) Sept. 30, C411, Ringwald to Golseth:

"Not that we are looking for trouble but FMI (for my information) when you going start mdse (merchandising) corn."

(l) Sept. 30, M311, Wyard to Ringwald:

"Think probably will start mdse (merchandising) corn TMW (tomorrow). Have you been getting some inquiries I hope."

(m) Sept. 30, C285, Sayles to Golsoth:

"I am looking for a fair demand for old corn during next 3 or 4 weeks think industries entirely out and cannot see how they will operate on now corn entirely."

(n) October 1, C439, Sayles to Golseth:

"OK, will not put out any corn quotas but the world knows we have all the corn in captivity so cards with price night help our cause."

(o) October 1, C412, Sayles to Golseth:

"Ring and I believe quotation cards with price 6 or 7 above selling price would kill the effect. I would suggest 34 over on quotation cards as believe we want to sell the corn so lets not scare any buyers away as we are competing with KC (Kansas City) now 2 YC (Yellow Corn)."

(p) October 1, M234, Golseth to Styles and Ringwald:

"OK. Pls. (please) quote 2 YC (Yellow Corn) or 2 WC (White Corn) at 34 over Dec. fob.Chgo, with 2 mixed 1 cent less and it is alright to support the spot market at 34 ever for not over 3 or 4 cars -- on our quotations take 3 cents leeway. Now. pls. (please) use these limits just over the phone and put out card quotations 6 or 7 cents higher, what think pls. (please)?"

(15) October 5, M292, Drum to Sayles:

"Note your sales of corn out of Chgo. are not running as heavy as we would like, cant you take Jimmy off the floor and put him on that work to help Creekmore and yourself."

(16) October 5, C528, Ringwald to Golseth:

"Trust you are not under impression just because we haven't pepper you with corn sales that we haven't been doing our damnedest. Looks like few people need the corn but playing waiting game and you can't blame them."

(18) October 13, C354, Sayles to Wyard:

"Going to send corn quotations card to all buyers today in hope finding few new buyers old corn."

(19) October 15, C133, Creekmore to Wyard:

"Just talked with Postum at Battlecreek and they bot little new corn this A.M. and prefer it to old corn, say our price Chgo. would have to be about 62 to enable them to work our old corn."

It is also shown by communications between complainant and Transit Grain and Commission Company of Fort Worth, Texas (complainant's agent in buying Texas and Oklahoma corn), September 17, wire No. 56, Transit Grain to Cargill:

"Have bought basis 2 white or 2 yellow freight allowed Chicago Number 2 applying half less 3's 15.5 or less moisture cent less shipment by next Tuesday from Texas 1100 bushels 1.13 Stop 4100 bushels 1.13-1/2 Stop 13,300 bushels 1.14 Stop 11,200 bushels 1.14-1/2 Stop 21,500 bushels 1.15 Stop 35,000 bushels 1.15 Stop 2200 bushels from Oklahoma 1.14-1/2 Stop We mailing you confirmation from us cent higher than above prices this totals 88,400 bushels which added to the 25,000 previously reported makes total of about 113 bushels Stop It is now 7:30 o'clock P.M. If I have overlooked a bushel of corn it is surely out in the forks of the creek."

136. The closing prices of the Chicago September 1937 corn future from January 4, 1937, to September 24, 1937, and the closing bid prices for Chicago cash No. 2 Yellow corn during the month of September, were as follows:

Date (1937)	Chgo. Sept. 1937 Corn Futures Closing Prices	Closing Bid Prices Chgo. Cash Corn # 2 Yellow
January 4	$ 1.02 1/4-3/8	
15	1.02 1/2-3/8	
February 1	.95	
15	.97 3/4	
March 1	.95 1/2	
15	1.00 1/8-1/4	
April 1	1.08 5/8-3/4	
15	1.07 1/2-1/4	
May 1	1.08 7/8-3/4	
7	1.09 1/8-.09	
14	1.08 3/8-1/4	
21	1.09 1/2-3/8	
28	1.12 3/4-5/8	
June 4	1.08 1/2-5/8	
11	1.02-1.02-1/8	
18	1.02 1/8-1/4	
25	1.08 3/8-1/2	
July 2	1.12 1/8-1/4	
9	1.14 5/8-7/8	
16	1.13 3/4-5/8	
23	1.02 1/4-3/8	
30	.90 7/8-.91 1/8	
August 6	1.00 1/4-1/8	
9	1.03 1/8-1/4	
13	.97 5/8-1/2	
18	.99 1/4-3/8	
26	.99 1/2	
30	.97 1/4-5/8	
31	.97 1/2-.97	
September 1	.95 3/8-1/4	$ 1.00 1/4
2	.95 1/2-5/8	1.00 1/2
3	.95-.06 1/8	1.01 1/2
4	.95 5/8-3/4	1.03 5/8
7	1.01 1/2-1.02 3/8	1.07 1/2
8	1.05 5/8-3/4	1.09 5/8
9	1.06 1/4-1.05 7/8	1.09 7/8

Date (1937)	Chgo. Sept. 1937 Corn Futures Closing Prices	Closing Bid Prices Chgo. Cash Corn # 2 Yellow
10	1.05-1.05 1/4	1.08 1/2
11	1.02 5/8-1.03	1.06 1/8
13	1.02 1/2-1/8	1.05 5/8
14	1.04-1.03 3/4	1.07 1/4
15	1.05 3/4-1/2	1.08
16	1.10-1.10 1/2	1.12
17	1.13 1/4-1.12 1/4	1.14 1/4
18	1.04 3/4	1.06 1/4
20	1.02 1/4	1.04 1/4
21	1.04 5/8-1/2	1.06 1/2
22	1.12 1/2-3/8	1.14 3/8
23	1.12-1.12 1/8	1.12
24	1.10-1.11	1.10 3/4

137. After September 24, 1937, the price of corn remained the same or a cent higher until September 30 and from that date it dropped rapidly and substantially as shown by the following telegrams exchanged by Cargill offices in Minneapolis and Chicago:

Cargill telegrams in re: Prices in October 1937

Cash Corn

(75-a)

Date	No.	Message
10/1/37	M432	Creek- Thanks E. and D. but best can do is 95 for up to 20,000 bu. old 2 Yc fob Chgo immediate shipment or will sell them like amount new 2 YC 10 days shipment at 88 Chgo. Wyard
10/2/37	C107	Wyard - E and D say will still take the 20,000 old 2 yc at 88 Chgo. for immediate shipment but want prompt answer as they going buy some corn this A.M. Creek GX
10/2/37	C146	Wyard - E and D say - could not raise their price even one C. that 88 best and must accept immediately. Creek
10/4/37	C 95	Wyard: Bob Early says will take 20,000 bu old 2 YC at 88 but its his best bid Creek GX
10/4/37	M 57	CB - Buy 60 CZ 63 7/8 0B CFC 3/4. - Art.
10/4/37	C150	Wyard - Booked E and D 20,000 bu old 2 YC 88 fob Chgo. Rail blg. or T M if possible immediate shipment to them Indpls. via Penna Stop Not very proud of this but 88 was his best and tried make him take 50, no soap. Creek.
10/5/37	C131	Wyard: FYI E and D bid us 84 for 30,000 bu old 2 YC Fob and told him there was not chance of working at that. Creek GX
10/15/37	M254	Ring. GX. Can offer Bastion 25m old 2 yc fob Chgo immed-iate at 14 over. Wyard
10/15/37	C366	Gol. Best Bastion will do 61C Chgo thought too low to tell you about. Sayles
10/15/37	M296	Sayles GX If Bastion will pay 61c fob Chgo any big to apply sell him 44 cars 2 mixed now loaded tread. Gol.

Date	No.	Message
10/15/37	C481	Gol. Booked Bastien 25 loaded cars 2 X 61 cents fob elev. Sayles 322 PMV

138. During June and July, 1937, Cargill's officials on the basis of past experience, current conditions and contacts with its customers, estimated that during the period from about September 1 to about November 15, 1937, Cargill could distribute approximately 10,000,000 bushels of corn to its customers.

139. During June and July, 1937, Cargill officials set out to accumulate Chicago September 1937 corn futures to the extent which they had estimated was necessary under current conditions to fill Cargill's customer requirements from about September 1 to about November 15, 1937. A substantial portion of the September 1937 corn futures purchased by Cargill represented a transfer of a long position first from the Chicago May 1937 corn futures into the Chicago July 1937 corn futures, and thence from the Chicago July 1937 corn futures into the Chicago September 1937 corn futures. On June 1, 1937, Cargill's long position in September 1937 corn futures was 3,140,000 bushels; on June 16 it was 5,200,000 bushels; on July 1 it was 6,562,000 bushels; on July 17 it was 7,541,000 bushels; on August 2 it was 8,067,000 bushels; on August 13 it was 8,745,000 bushels.

140. During the first half of June 1937, the price of September 1937 corn futures declined rather steadily from about $ 1.11 to about 99 cents. During the second half of June 1937, the price rose rather steadily to $ 1.14 7/8. During the first half of July the price rose somewhat, reaching a high of $ 1.16 1/2. During the latter part of July the price declined very precipitately to about 90 cents. During the first ten days in August the price rose steadily to about $ 1.05 and then fluctuated somewhat erratically during the balance of the month between $ 1.01 and 92 cents. During the first ten days of September the price rose from 94 cents to $ 1.09. In the next two or three days the price declined to $ 1.00 and then rose to $ 1.16 3/4 on September 17. Between September 17 and September 20 the price declined 16 cents to

less than $ 1.00, dropping over 12 cents during the last part of the trading session on Saturday, September 18, and the first few minutes of the trading session on Monday, September 20. By September 22 the price had climbed back to $ 1.12 1/2, and the closing price on the last day of trading was $ 1.10-1.11. The high, low and closing prices of the September 1937 corn futures daily throughout the life of the futures are as set forth in Complainant's Exhibit No. 156. The minute-to-minute price fluctuations of the September 1937 corn futures daily during August and September, 1937, and the "open interest" and volume of trading are as set forth in Complainant's Exhibits Nos. 203 and 204.

141. Under the Rules and Regulations of the Chicago Board of Trade, as they existed in July, August and September, 1937, the maximum daily fluctuation in the price of the September 1937 corn futures during July and August was 4 cents up or down from the previous close, and during September was 8 cents up or down from the previous close.

142. All during July, August and September, 1937, Cargill reported its position in Chicago September 1937 corn futures to the Commodity Exchange Administration. Substantially all of Cargill's position during this period was reported to the Commodity Exchange Administration as a spread, a small amount having been reported as a hedge. During this same period Cargill also filed with the Commodity Exchange Administration reports as to its holdings of cash grain, including its open, unfilled purchases of cash corn.

143. During June, 1937, the total of the "open interest" in September 1937 corn futures increased from slightly less than 14,000,000 bushels to about 17,200,000. During July

1937, the "open interest" ranged between approximately 16,000,000 bushels. and approximately 18,500,000 bushels, showing an increase of more than 2,000,000 bushels during the month. During August 1937, the "open interest" remained constantly at approximately 19,000,000 bushels and declined slightly in the last few days of the month to about 18,500,000 bushels. In September, 1937, the "open interest" declined very slightly during the first few days. By September 9 it had decreased to approximately 16,000,000 bushels. By September 14, it had decreased to approximately 15,500,000. By September 18 it had decreased to approximately 11,000,000 bushels. At the close of trading on September 24, 1937, it was approximately 8,000,000 bushels. (The daily "open interest" and "volume of trading" in the September 1937 corn futures during the life of the futures is as set forth in Appendix C.)

144. Normally during July and August the open interest in the September corn futures is steadily declining, as it did on the Kansas City Board of Trade during this period in 1937.

145. Speculative longs generally do not want to handle cash grain and as they liquidate prior to and during the delivery month, merchandizing or other longs who do want grain are left with an increasingly larger percentage of the total "open interest."

146. During July, August and September, 1937, the daily volume of trading in the September 1937 corn futures was substantially greater than normal. The daily volume of trading in the September 1937 corn futures during the life of the futres is as set forth on Complainant's Exhibit No. 156.

147. All during August, 1937, cash corn at Chicago remained at a substantial premium over the price of September 1937, corn futures.

148. Some time between August 24 and the end of August, 1937, the Chicago representative of the Commodity Exchange Administration called at the office of Continental and examined the contracts which Continental had made with Cargill up to that time.

had made with Cargill up to that time.

148. The aggregate of the lines of long September 1937 corn futures of Cargill, Uhlmann and Continental, was approximately 9,567,000 bushels on September 1, 1937, and by September 23, 1937, had been reduced to approximately 6,440,000 bushels.

149. On numerous occasions in August and September, 1937, a price decline in the September 1937 corn futures was accompanied by a large volume of trading, the "open interest" either remaining approximately the same or increasing.

150. During August and September, 1937, Cargill's long position in the September 1937 corn futures, plus its net long domestic cash position, was substantially below the 10,000,000 bushel estimate which Cargill had made earlier in the summer as to its customers' needs during the period from about September 1 to about November 15, 1937. During this same period Cargill's long position in the September 1937 corn futures, plus its net long cash position, foreign and domestic, did not exceed this 10,000,000 bushel estimate.

151. During the first half of September, 1937, Cargill's actual stocks of domestic cash corn, exclusive of open purchases, were continually less than its open sales of domestic cash corn.

152. The average daily price of No. 2 yellow corn at Chicago during the period from April 1 to September 18, 1937, inclusive, was $ 1.22 1/4. The prices of No. 2 yellow corn at Chicago during the period from April 1 to September 24, inclusive, are as set forth on Complainant's Ex. No. 163.

153. Cargill, from July 27 to August 6, sold short 7,765,000 bushels of the Chicago December 1937 corn future. These sales of the December future had the effect of widening the price spread between the September corn future (which, as above shown, Cargill was long) and the December future (which, as above stated, Cargill was going short) from 23-7/8 cents per bushel on July 27 to 33 1/2 cents per bushel on

August 6. Complainant's short sales of the December corn future and the resultant widening of the price spread between the Chicago September and December corn future prices are shown by the following table:

Date (1937)	Sales	Spread
July 27	385,000 bu.	$ .23-7/8
28	895,000 bu.	.25-1/2
29	645,000 bu.	.23-5/8
30	1,005,000 bu.	.22-1/8
31	915,000 bu.	.24-1/8
August 2	1,595,000 bu.	.28-1/2
3	805,000 bu.	.29-1/2
4	225,000 bu.	.31
5	450,000 bu.	.32
6	845,000 bu.	.33-1/2

The price spread between the Chicago September corn future and the Chicago December corn future continued to increase during the month of September, 1937, until, on September 17, the spread was 49-7/8 cents, and on September 24 was 46-1/2 cents. The paper profit in the Chicago September-December corn future spread from July 27 to September 17 was the difference between the price spread on those two dates; namely, the difference between 23-7/8 cents, the spread on July 27, and 49-7/8 cents, the spread on September 17, or 24 cents.

154. The members of the Business Conduct Committee acting during September, 1937, and their firms, were as follows (Rec., 6588):

M. R. Glaser, Chairman	Rosenbaum Bros. (Large elevator firm)
C. D. Sturtevant	Bartlett Frazier Co. (" & commission firm)
A. F. Lindley	Clement, Curtis & Co.(Commission firm)
T. E. Cunningham	Winthrop, Mitchell & Co.(" ")
T. C. Rodman	Shields & Co. (" ")

The members of the Business Conduct Committee had no position whatsoever for their own account, long or short, in September corn.

The wives and children of the members of the Business Conduct Committee had no position whatsoever for their own account, long or short, in September corn.

The partners in firms to which the membersof the Business Conduct Committee were identified or affiliated had no position whatsoever for their own account, long or short, in September corn.

The corporations and partnerships with which members of the Business Conduct Committee were identified or affiliated had no position whatsoever for their own account, long or short, in September corn.

155. There was no syndicate of shorts operating in opposition to Cargill in September corn futures, the short interest being widely scattered among a great many people in various parts of the country, the largest shorts being Daniel F. Rice and Daniel F. Rice & Company, who delivered all except 30,000 bushels of a short position and settled on the balance, and the Farmers National Grain Corporation, a farmers' cooperative association whose long position in in cash corn stocks and forward purchases exceeded its short position in September corn futures, although part of its cash corn position consisted of Argentine corn.

Neither of these shorts had positions of a size comparable with Cargill's long position.

There was no substantial evidence that the cease and desist order of the Business Conduct Committee of September 24, 1937, was made known to the shorts.

156. The following action was taken with respect to shorts in September 1937 corn:

(a) That margins were increased during September by the Board of Trade Clearing Corporation from 3 cents a bushel to 8 cents and then to 10 cents a bushel.

(b) That the Business Conduct Committee's chief auditor made personal calls on clearing members.

(c) That the larger shorts, Rice and Farmers National, were personally called before the Committee and warned of the September situation, but without of course indicating Cargill's long position, and that all member firms, including those carrying margin accounts for short customers, were warned of the penalty of default.

(d) That Farmers National advised the Business Conduct Committee that it would be able to deliver corn on its short September futures commitments and that Farmers National protested to the Commodity Exchange Administration and probably to the Secretary of Agriculture that Cargill was attempting to run a corner in September 1937 corn.

157. Cargill's officials, during the September 1937 corn market, proposed to the Business Conduct Committee that the Chief or Assistant Chief of the Commodity Exchange Administration be asked to arbitrate their differences. This proposal was rejected by the Business Conduct Committee. The officials named advised Cargill's officials that they would consider a request to arbitrate if made by both parties.

158. The transactions of the respondent's Business Conduct Committee with respect to September 1937 corn are briefly summarized as follows:

(a) At the meeting of the Committee August 9, the position of Cargill as a merchandiser in September corn futures, of 7,697,000 bushels, was without any name drawn to the attention of the Committee, together with other important positions, long and short.

(b) At the meeting August 18, Cargill's position in September corn futures, again without any name submitted, showed a reduction to 5,659,000 bushels, whereas the long positions of Uhlmann and Continental, likewise submitted without any name, first appeared. Also, the positions of other large longs and shorts were shown without name.

(c) At the meeting August 26, Cargill's position, without any name, showed 3,474,000 bushels long, whereas Uhlmann's and Continental's house accounts, without any name, showed 2,900,000 and 2,551,000 bushels, respectively.

(d) At the meeting August 30, Cargill's position showed long September corn 2,850,000 bushels, whereas the house accounts of Uhlmann and Continental were indicated at 3,755,000 and 2,791,000 bushels, respectively. (All still without designation). "The Committee felt there was something unusual in the substantial increases in these two accounts and directed that information be obtained regarding them."

(e) At the meeting August 31, 1937, the Committee for the first time examined Simon Mayer of Continental Grain Company and Fred Uhlmann

(since deceased) and Richard F. Uhlmann of Uhlmann Grain Company, and learned of the nature of those transactions.

(f) On September 1 the Business Conduct Committee requested MacMillan to appear before it and upon MacMillan's expressing doubt if it would be convenient for him to attend, the Committee ordered him to appear.

(g) The minutes of the meeting of September 2, 1937, as contained in the record, are quite extended in covering discussions between the Committee Chairman, Mr. Grimes, and Mr. MacMillan with reference to Cargill's position in corn and particularly with reference to Continental and Uhlmann. Later the Committee excused Messrs. MacMillan, Grimes and Sayles and after some deliberation, decided that Mr. Glaser should inform Cargill's officials that the Committee considered the three positions of Cargill, Continental and Uhlmann as one line and that one line Cargill's. Mr. MacMillan asked for further time to submit a written brief or statement to the Committee, and the request was granted. The Committee decided that the Cargill officials should appear before then again September 13.

(h) On September 7, the Business Conduct Committee met and received a report from its chief auditor showing the position of Cargill, Uhlmann and Continental to be 9,411,000 bushels of corn long, and the short positions scattered. It directed its chief auditor to communicate verbally with all clearing members having an open interest of 100,000 bushels or over. The minutes contain a communication from the chief auditor under date of September 10, 1937, reporting the results of his verbal communications with clearing members as instructed by the Business Conduct Committee.

(i) At the meeting September 13, MacMillan, Grimes and Sayles appeared before the Business Conduct Committee and filed their brief entitled "Operations of Cargill, Inc., in Corn for Crop Year 1936-1937", dated as of September 4, 1937. The Committee again expressed its concern over September corn and requested MacMillan and Grimes to appear before

it on September 16, on their return from New York. The Chairman stated that although the Committee was reluctant to do so, it would, if necessary, take drastic action to protect the market. In this brief (Compl.'s Ex. 162), the complainant stated:

"We come now to a review of events which are nearer at hand -- our operations concerning the Chicago September (1937) corn 'future' contract, and certain steps which we found it advisable to take in order to protect ourselves (in part) from loss, if the Business Conduct Committee should again see fit to issue orders of the type made in December 1936."

(j) On September 14, the Business Conduct Committee, by communications to all members, ordered all members to report a list of customers showing the amount each customer was long or short.

(k) At the meeting of September 15, it was pointed out that complainant held the same relative position in September rye as in corn.

(l) At the meeting September 16, the following letter from complainant to the Chairman of the Business Conduct Committee was read to the Committee:

"Will you please bring this letter to the attention of the Business Conduct Committee of the Board of Trade at its meeting this afternoon at two o'clock which is being held, as we are informed, for the purpose of considering the present situation in September corn.

"Both we and Uhlmann Grain Company and Continental Grain Grain Company, who are under contract to make deliveries of cash corn to us, have a vital interest in procuring proper deliveries of corn under our September contracts. Any arbitrary action which would attempt to require abrogation of our contract rights to receive corn would not only affect our interests but might serve artificially to depress the price of corn with the resultant harm to hundreds of thousands of farmers who raise corn and hogs.

"On the other hand, we have no desire to 'punish' anybody, even short sellers,and we are, therefore, willing to consider any solution of the problem to protect the best interests of the Chicago Board of Trade and its marketing structure which is consistent with fairness to us and which will not unduly depress the price of corn to the producers generally.

"The Commodity Exchange Act pronounces that the public has an interest in transactions of this nature and provides for public officials to administer and protect such interests. We would be entirely willing to abide by any decision made by Dr. J. W. T. Duvel, Chief of the Commodity Exchange Administration, as to a proper solution of the problem now facing us and the Chicago Board of Trade. Accordingly, we suggest that you immediately join with us in requesting Dr. Duvel to act in the premises.

"In the event that you feel that it is desirable to lay this matter before your Board of Directors prior to arriving at a decision, we assume that you will do so immediately and before the Business Conduct Committee has taken any further action. If you do not deem such reference to the Board of Directors to be necessary, we shall be pleased to join with you immediately in requesting Dr. Duvel to tender his good offices to work out the problem in a manner consistent with the public interest."

Thereafter, MacMillan, Grimes and Sayles appeared and MacMillan stated that any solution must involve the price of September corn futures; that at certain prices Cargill intended to dispose of its long line; and that he was reluctant to reveal Cargill's full intention to the entire Committee. The Committee informed MacMillan, Grimes and Sayles that it was only interested in preventing manipulation and could not and would not discuss price. A subcommittee consisting of Mr. Lindley and Mr. Cunningham was appointed, with instructions to confer with Cargill's representatives in an endeavor to persuade them to reduce the line, but in any event not to discuss price or make any agreements.

Thereafter, the sub-committee reported to the full committee, which on the same day sent to the defendants the following decision:

The Committee, having considered all of the evidence submitted, finds and holds as follows:

1. The long position of Cargill, Incorporated, and Uhlmann Grain Co. and Continental Grain Co. in the September corn future, constituting sixty per cent of the total open commitments, taken with the other factors involved, is or may become inimical to the best interests of the Board of Trade, and the Committee finds that the transactions separately entered into by Cargill, Incorporated, on the one hand and the Uhlmann Grain Co. and the Continental Grain Co. on the other hand do not change the essential nature of the situation as being one interest.

2. The presumption of Cargill, Incorporated, that the present situation is the result of a bear raid is not borne out by the facts, and the Committee finds there has been no such bear raid. On the contrary, the Committee finds there is not now, nor has there been, short line or lines in the market even nearly comparable to the combined long line of Cargill, Incorporated, Uhlmann Grain Co. and Continental Grain Co.

3. The Committee holds that it cannot be and will not be in any way involved in price fixing. The Committee is only interested in seeing that the rules of the Exchange and the laws governing the Exchange are not violated by any member.

4. The Committee holds that past action of the Board of past action of previous Business Conduct Committees has no relation to the treatment of the problem before it.

The Committee holds that it will not at this time enter a formal official order, nor will it recommend to the Board of Directors that the Board of Directors take present action. The Committee, on the contrary, recommends to Cargill, Incorporated, and notifies Cargill, Incorporated, as follows:

(1) Cargill, Incorporated, has requested that the Committee take no action but should allow it to work out a solution. The Committee for the time being, is willing to let Cargill, Incorporated, work out a solution, in view of Cargill, Incorporated's assurances that Cargill, Incorporated, will now promptly proceed to liquidate the combined line of Cargill, Incorporated, Uhlmann Grain Co. and Continental Grain Co., having regard to fluidity, fluctuations and disturbances in the market, both in futures and cash.

(2) The Committee recommends that Cargill, Incorporated, during each day's trading and at the close of each day's trading, will be prepared to have a responsible representative appear before the Committee and give to the Committee a complete account of that day's activities of Cargill -- both in cash and futures.

(3) The Committee notifies. Cargill, Incorporated, that if it is at all times convinced that Cargill, Incorporated, is reasonably liquidating its line, or is attempting reasonably to liquidate such line, and so long as there are no violent price fluctuations or undue market disturbances, and there is no undue congestion in the market, it is the present intention of the Committee to take no formal official action, but the Committee reserves to itself at all times the right to take any action which to it seems desirable, if it feels that the proper progress is not being made in the orderly liquidation of the situation. (Compl.'s Ex. 161.)

In response to this request, MacMillan informed the Committee that Sayles was the responsible representative of Cargill who would furnish information to the Committee with authorization to act for Cargill; but Cargill did not reduce this line substantially.

(m) On September 17, the Chairman of the Business Conduct Committee informed MacMillan that the Committee felt it should receive assurances from Continental and Uhlmann that they would be willing to cancel the cash contracts with complainant and would not allow such cash contracts to stand in the way of the liquidation of the combined position and MacMillan advised Glaser that Uhlmann and Continentzl had already been so notified by Hendel. At the meeting September 17, Uhlmann and Continental assured the Committee that they were willing to cancel the cash contracts as the futures were taken off their hands by Cargill.

(n) On September 18, 1937, the following decision was sent to MacMillan, Grimes and Sayles, and Cargill Grain Company of Illinois and Cargill, Incorporated:

"Your percentage of the open long interest in September corn since our meeting Thursday has increased from about 60 per cent to about 73 per cent. While your bushelage has decreased, the Committee feels that the percentage increase is not in accordance with the recommendations made by us or the assurances given by you. We feel that you could have more sharply decreased your line and at the same time improved the factors of fluidity, steadiness and lack of congestion, so essential to this market.

"We wish to have you present in Chicago, subject to this Committee's call at all times during next week so that complete cooperation will be assured."

(o) At the meeting September 20, William Engel, of Farmers National Grain Corporation, informed the Business Conduct Committee that

Farmers National had delivered 400,000 bushels of corn on its September futures short commitments and had 500,000 more available to deliver so that its net position was actually 1,500,000 short September corn futures. He asked if a corner existed and stated that any further purchases of cash corn would have the December corn future sold against them; that Farmers National could pick up enough corn to satisfy most of its September short future position; that Farmers National was fearful of a run of very high moisutre corn next week with only a few buyers. On September 20 the Committee met with MacMillan, Peterson and Sayles, and in reply to MacMillan's statement that there was an organized short interest, he was again advised that by far the largest part of the open short interest in September 1937 corn was scattered in a large number of very small accounts and there was no evidence of any organized short interest. The Committee requested that either MacMillan or Grimes be in Chicago during the balance of September trading, so that the Committee might have direct contact with one of them daily.

(p) On September 21 the Committee sent to MacMillan, Sayles, Grimes, Cargill Grain Company of Illinois and Cargill, Inc., the following decision:

"Our conference of yesterday afternoon leads us to believe that you may have misinterpreted our decisions of last Thursday and last Saturday. In order that all doubts may be eliminated, we invite you to reread those decisions in the light of developments, viz., your percentage of the total, open interest has steadily increased and has not decreased, and that further, you did not take advantage of the strong and active market Friday, September 17th, to liquidate any of your September-December corn spread.

"It was and is our finding that your long line is or may become detrimental to the best interest of this market. It was and is our hope that full cooperation on your part will result in a reduction of your line without undue disturbance to market prices and liquidity.

such cooperation we suggested, and now insist, must consist on your part of selling substantial amounts when such sales will not result in the market disturbances mentioned. You are not to wait for the market to reach or approximate the daily up limit before making sales; on the other hand, you are not required to dump, so as to result in the market disturbance mentioned. We are not concerned with the price at which you liquidate, so long as the 'market is free and open and undue fluctuations do not result; the welfare of this market demands that you be governed by these same considerations.'

"You understand, of course, that if reasonable liquidation of your line is not accomplished without the disturbances above mentioned, or if the line at any time constitutes a squeeze or corner, this Committee will take or recommend that the directors take such steps as we think necessary. (Compl's Ex. 161, p 51, Rec., 2345; Def's Ex. 138, Rec., 2093)

This letter was presented to Sayles, who stated that he was fully empowered to act for Cargill. In a letter dated September 21, addressed to the Chairman of the Committee, he replied, as follows:

"I have just read your communication of even date to John H. MacMillan, Jr., President of our customer, Cargill, Incorporated, who is in Minneapolis. He is of the opinion that this 'decision,' together with those sent to us on September 16 and 18, indicate some miscomprehension on your part of his views and his understandings with you. Accordingly, to clarify the record, he has asked me to address this formal communication to you.

"First of all, please again refer to our letter of September 16, 1937, which states our conviction that Dr. J. W. T. Duvel should be invited to determine what abrogation of our contract rights, if any, should be required of us by your Business Conduct Committee as in the public interest. We are still convinced that such submission is timely and proper and reiterate our offer to join with you in submitting the matter to Dr. Duvel.

"The long position of Cargill, Incorporated, in September corn is only approximately 700,000 bushels, and we do not concur in the views of your Committee that our cash transactions with Uhlmann Grain Company and Continental Grain Company are to be treated as a part of our futures position. These contracts call for an anticipated actual delivery of cash grain and, as we view it, being made by Cargill, Incorporated, a non-member of the Chicago Board of Trade, are not susceptible to alteration or impairment by that Board of Trade.

"In our opinion there presently exists and has existed a bear raid in September corn. Activity in the market last Saturday when the price of September corn declined the limit without any substantial reduction in the open interest would indicate manipulation by the shorts and wash sales.

"We cannot agree that past action of the Business Conduct Committee has no relation to the problem with which we are now confronted. The shorts are well aware of the orders issued by the Business Conduct Committee last December as to liquidation by Cargill of its long line. Accepting this as a precedent, they likely are inclined to feel that they have no obligation either to reduce their short interest or to be prepared to make deliveries of cash grain, but to the contrary can continue to hammer the market, and thereafter Cargill will be required to liquidate regardless of how low the price.

"After all, Cargill purchased this grain for future delivery some months age for its normal merchandising purposes and is willing and able to accept deliveries. It is to be assumed that those who sold the grain were prepared to make delivery. In any event, to permit them to sell still more grain without any intention of making delivery whatsoever on futures already sold, and then to find protection against delivery through the Business Conduct Committee would be in our judgment not only unfair, but would be contrary to the Commodity Exchange Act which requires that the governing board of each exchange shall provide for the prevention of manipulation of prices, downward as well as upward.

"Cargill has decreased its position in September corn since September 16, 1937, as it advised the Business Conduct Committee it would do. Cargill never has made any commitments as to a specific rate of liquidation or as to price at which sales would be made. There have been 'no violent price fluctuations or undue market disturbances' due to any action on the part of Cargill nor any 'undue congestion in the market,' and therefore it would seem that under the decision of your committee rendered on September 16, 1937, no present action is required of it.

"It has been necessary in this letter to take issue with some of your statements so that our position will be clear. However, we again reiterate our earnest desire at all times to cooperate with your Committee in working out this or any other problem to the best interests of the public, the Chicago Board of Trade and all concerned."

(q) On September 22, late in the evening, a meeting was held by the Business Conduct Committee at the University Club, which Sayles attended at the request of the Committee. The Chicago September corn futures market on the 22nd had opened at 1.04-3/4-7/8, reached a high of 1.12-1/2 and closed at 1.12-1/2-3/8. During the day Cargill had sold 820,000 bushels. There is a dispute between the records of the Business Conduct Committee and Sayles, as to what transpired at this meeting. It is admitted by Sayles that the

Committee urged him to have large orders in the market at the opening next morning to sell at the same price, $ 1.12-1/2, as the day's close and also that the Committee was disappointed that only 820,000 bushels had been sold this day.

(r) On September 23, at 2:00 o'clock P. M. Sayles informed the Business Conduct Committee that Cargill did not sell much September corn. Its percentage of the open interest increased from 73.3% to 76.6% and its combined long position decreased from 6,480,000 bushels to 6,443,000 bushels. The Committee requested Cargill, Incorporated, MacMillan, Grimes, Cargill Grain Company of Illinois, Sayles, Uhlmann Grain Company, Fred Uhlmann and Richard Uhlmann, Continental Grain Company and Simon Mayer to sign the following:

"We agree to sell tomorrow, September 24, 1937, as much September futures as the market will absorb within the day's permissible trading limits. We understand we arc not required to offer corn down, but on the other hand, we will honestly endeavor to fill all bids, regardless of price, if within the day's permissible trading limits."

This they refused to do.

(s) During the morning of the next day, September 24, the following order (dated September 23) was served on MacMillan, Sayles, Grimes, Cargill Grain Company of Illinois, Fred Uhlmann, Richard F. Uhlmann, Uhlmann Grain Company, Simon Mayer, and Continental Grain Company:

"In pursuance of Rule 82, the Business Conduct Committee of this Association has investigated the position of each of your companies and of Cargill, Inc., in September corn. We find that John H. MacMillan, Jr., is President, and E. J. Grimes is Vice President of Cargill, Inc., that they are in charge of and responsible for the long position of Cargill, Inc., in the September corn futures hereinafter mentioned. We further find that John H. MacMillan, Jr., E. J. Grimes, Philip C. Sayles and Cargill Grain Company of Illinois have combined and agreed together and with Cargill, Inc. to establish and maintain and have acted in concert to establish and maintain the long position of Cargill, Inc., in September corn mentioned below.

"We further find that Continental Grain Company has present open long commitments in September corn aggregating 2,980,000 bushels for and in behalf of and in agreement with Cargill, Inc., that Uhlmann Grain Company has a present open long commitment in September corn aggregating 3,510,000 bushels for and in behalf of and in agreement with Cargill, Inc.; that Cargill Grain Company of Illinois has a present open short commitment in September corn aggregating 50,000 bushels for and on behalf of Cargill, Inc.; that the total open net long commitment of Cargill, Inc., in September corn (hereinafter called the combined long position) is therefore 6,440,000 bushels. That Continental Grain Company, Uhlmann Grain Company and Cargill Grain Company of Illinois and their registered members in concert with Cargill, Inc., and in concert with each other, have been maintaining a combined long position for Cargill, Inc. in this market to the extent of 6,440,000 bushels or more.

"We further find that the combined long position in September corn aggregates approximately 73% of the total open interest and exceeds the probable amount of corn deliverable on September corn contracts.

"Under all the circumstances, we find that your conduct in accumulating and maintaining the combined long position under prevailing conditions is detrimental to the best interests of the Association, that it is unfair and unjust, and that your said conduct adversely affects non-member customers, the public at large, public opinion and the good name of the Association and the State and Federal Governments.

"We therefore order and direct you, and each of you, forthwith immediately to cease and desist.

"(a) from maintaining in this contract market the said present combined long position of Cargill, Inc., in September corn.

"(b) from maintaining in this market a net long combined position for Cargill, Inc., in September corn which will at the close of business on Friday, September 24, 1937, exceed 5,400,000 bushels, reductions due to deliveries or tenders excluded. Full performance of this order shall be excused to the extent, and only to the extent, that it is impossible to comply therewith because of cessation of trading resulting from decline of the market to the permissible minimum price fixed by Regulation 1823.

"(c) from maintaining in this market a combined long position in September corn which will detrimentally affect non-member customers, the public at large, public opinion, the good name of the Association or jeopardize the relationship between this Association and the State and Federal Governments; and,

"(d) from doing any other act or acts which will hereafter have the effect of manipulating prices or promoting any corner or squeeze in September corn.

"You are hereby notified to appear before the Committee at 2:30 P. M. Friday, September 25, 1937, to render an account of your compliance with this order at which time theCommittee will make such further order or orders as it may then deem best.

Yours very truly,

BUSINESS CONDUCT COMMITTEE OF THE BOARD OF TRADE OF THE CITY OF CHICAGO

By Mr. M. R. Glaser, Chairman."

The Committee received in reply the following letter from Cargill, Incorporated, by John H. MacMillan, President, by P. S. C addressed to the Chairman of the Committee:

"This is in answer to your communication of the 23rd inst.

"We categorically deny each and every charge of misconduct contained in your letter.

"We further deny your jurisdiction to tell us when and at what price to cancel our contracts for purchase of corn for September delivery.

"We have no intention of being coerced by any bear raids, whether condoned or not by the Business Conduct Committee of the Board of Trade of the City of Chicago, and therefore respectfully decline to follow the directions, or any of them, contained in your letter.

"We believe that we are as zealous of the public interest and enforcement of law as you, as has been indicated by cur frequent requests, which unfortunately you have not heeded, to place our differences before Dr. J. W. T. Duvel, Chief of the Commodity Exchange Administration, for final decision

"Kindly acknowledge receipt by signing a carbon copy of this letter as indicated."

Prior to the receipt of said letter MacMillan had sent a telegram to A F. Lindley, a member of the Committee, as follows:

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A F Lindley, GX

To be delivered at Business Conduct Committee meeting room --

In order to avoid further misunderstanding, we confirm our telephone conversation as follows:

We have been acting pursuant to agreement a week ago Thursday night in which we undertook to maintain a liquid market and be entirely out of our line at levels not far above those then prevailing. If market did not reach these levels we would be entitled to demand and receive delivery. We have not felt that any subsequent conversations modified this understanding in any way. Hence your order of this morning greatly surprised us. Under no circumstances did we have then nor do we now any idea of selling regardless of price except as regards hedging orders against cash purchases. In view of the fact that this is still our position we see no reason for any concern over the state of the market. copy Sayles.

JOHN H. MacMILLAN

After the service of the cease and desist order on the morning of September 24, 1937, and after the refusal of MacMillan, Grimes, Sayles and Cargill Grain Company of Illinois to comply therewith, theDirectors of the respondent on the same day passed the resolution which stopped trading in September corn futures at the close of business September 24, 1937, and fixed the settlement price therefor at $ 1.10 1/2 cents per bushel.

158a. Cargill acquired its September 1937 corn futures at a large discount under the high prices of both the May 1937 corn futures and the July 1937 corn futures.

159. At no time during June, July, or August 1937, did the Board of Trade question Cargill about its acquisition of its September 1937 corn futures, although on June 16, 1937, Cargill's holdings for the first time exceeded 5,000,000 bushels and from the middle of July until August 13, 1937, Cargill's line of long September 1937 corn futures ranged between 40 per cent and 50 per cent of the total "open interest" in the September futures.

160. The Business Conduct Committee of the Board of Trade was not informed as to the contracts made between Cargill and Uhlmann, and Cargill and Continental, until August 31, 1937.

161. The Business Conduct Committee of the Board of Trade held numerous meetings during August and September 1937. Cargill officials attended many of these meetings during September 1937, but none during

August 1937. During August 1937, the Committee investigated the "open interest" in September 1937 corn futures, the Committee being furnished with figures as to positions held by traders without the names being disclosed to the committee. Early in September the Commitee decided to consider the three positions of Cargill, Uhlmann, and Continental as one. At this time the Committee was informed by Cargill officials that Cargill needed corn for its customers, that Cargill had entered into certain contracts with Uhlmann and Continental because it preferred these contracts to Board of Trade futures contracts, that under prevailing conditions Cargill wanted deliveries on its futures and on its contracts with Uhlmann and Continental.

162. From September 2 to September 24, inclusive, Cargill officials furnished the Business Conduct Committee with certain information as to its aggregate past and present operations in cash corn and in the September 1937 corn futures, and at no time when requested to do so did Cargill refuse to reveal such information to the Committee.

163. In the latter part of September 1937, although there was still the possibility that a rainy spell might delay the movement of the 1937-1938 corn crop until November, Cargill officials realized that as a result of excellent crop maturing weather to date the new crop might begin to move in volume by the last few days in September or early October.

164. The production of corn in the United States from 1925-1926 to 1936-37 with ten- and twelve-year averages is as set forth in Complainant's Exhibit No. 2.

165. The relationship of the prices of Chicago case No. 2 Yellow corn, the prices of Chicago new July 1937 corn futures, and the prices of Chicago 1937 corn futures for the period from April 1, 1937, to September 22, 1937, is as set forth in Complainant's Exhibit No. 64.

166. The relationship between the rail receipts of corn at Chicago and the prices of No. 2 yellow corn at Chicago during July, August, and September, 1937, is as set ofrth in Complainant's Exhibit No. 65.

167. The prices, "open interest" and volume of trading daily in the Chicago September 1937 corn futures during July 1937 are as set forth in Complainant's Exhibit No. 67.

168. The weekly receipts of corn at Kansas City during 1937 and the previous fifteen-year average are as set forth in Complainant's Exhibit No. 69.

169. The "visible supplies of corn in Chicago and in the United States on the Saturday nearest July 1, 1937, togehter with the previous fifteen-year averages, are as set forth in Complainant's Exhibits Nos. 71 and 72.

170. The stocks of corn on farms in the United States as of July 1, 1937, together with the previous fifteen-year average, are as set forth in Complainant's Exhibits Nos. 73 and 133-A.

171. The decline in receipts of corn at certain primary markets in the United States from June 21, 1937 to August 31, 1937, is as set forth in Complainant's Exhibit No. 78.

172. The "visible supplies" of corn in Chicago and in the United States July 31, 1937, to September 4, 1937, are as set forth in Complainant's Exhibit No. 79.

173. The stocks of corn on farms in the United States on October 1, 1937 are as set forth in Complainant's Exhibits Nos. 80 and 133.

174. Cargill's stocks of domestic cash corn, showing open sales and net stocks from August 1, 1937, to August 13, 1937, are as set forth in Complainant's Exhibit No. 81.

175. The dates of arrival of the first car of new corn in Chicago for each crop year respectively during the period from 1900 to 1937, inclusive, are as set forth in Complainant's Exhibit No. 109.

176. The rail receipts of cash corn at Chicago from September 7 to September 13, 1937, are as set forth in Complainant's Exhibit No. 117.

177. The dates and manner of the consummation of Cargill's contracts with Uhlmann and Continental, made during August, 1937, are as set forth in Complainant's Exhibit No. 139.

178. The daily high, low, and closing prices of Chicago December 1936 corn futures, the Chicago New May 1937 corn futures, the Chicago new July 1937 corn futures, the Chicago September 1937 corn futures, the Chicago October 1937 corn futures, and Chicago December 1937 corn futures, and the "open interest" and volume of trading in Chicago September 1937 corn futures from December 1936, through September 1937, are as set forth in Complainant's Exhibit No. 157.

179. The dates on which the September 1937 corn futures contracts, open at the close of trading on September 20, 1937, were entered into, are as set forth in Complainant's Exhibit No. 185.

180. On and after September 17, 1937, Cargill had orders in the market to sell September futures at prices in most instances a fraction of a cent under the maximum permissible price for the day, which was eight cents above the previous close.

181. Continental Grain Company received delivery of approximately 1,300,000 bushels on the futures contracts which had been transferred to it by Cargill and delivered all of this corn to Cargill. The remaining futures held by Continental were settled at $ 1.10 1/2 per bushel and the corresponding cash contracts were cancelled at a price which allowed Continental 1/4 cents per bushel net profit on the combined cash and futures transactions.

182. Cargill received approximately 800,000 bushels of corn on delivery and the remaining futures contracts held by Cargill were settled at $ 1.10 1/2 per bushel.

183. The Business Conduct Committee did not issue any written orders to the holders of short contracts in the September 1937 corn futures, requiring them to buy in their commitments or forbidding them from acquiring further short contracts. The shorts were advised of their contract obligations and the rule prohibiting defaults.

184. During the period from September 20 to September 24, 1937, there existed excellent maturing weather for the 1937-1938 corn crop. During this same period no changes of consequence occurred in corn supply conditions or in new corn crop conditions.

APPENDIX A

"Visible supply" is a term coined by the Chicago Board of Trade which it defines as:

"Stocks of grain in regularly authorized warehouses at prominent grain centers of the United States east of the Rocky Mountains; including the quantities afloat on the Great Lakes and the Barge Canal, representing the commercial visible supply of grain in the United States."

These figures are based for accurate actual figures on the points which they serve and are relied upon by the grain trade for current information.

"Open interest" figures are compiled and published by the Commodity Exchange Administration to show the number of bushels of futures contracts for a delivery month which remain as yet unfulfilled by performance or offset and are, therefore, open. During all of the periods here involved a non-member correspondent of a clearing member, which non-member correspondent kept its own books, would only report its not position to the Commodity Exchange Administration. Studies by the Commodity Exchange Administration have demonstrated that the open interest held by each non-clearing member and branch office if reported in the aggregate instead of net would affect the open interest figures which are released by approximately 6% and not in excess of 10%.

APPENDIX B

COMPLAINANT'S EXHIBIT NO. 28C

CHICAGO DECEMBER 1936 CORN

TRANSACTIONS AND NET POSITION OF CARGILL, INCORPORATED

(In Thousands of bushels; i.e., 000's omitted)

DATE	TRANSACTIONS		NET POSITION	
1936	Purchases	Sales	Long	Short
July 15		100		100
16		200		300
17	275	5		30
18	225		195	
20	50		245	
21	65	45	265	
22	50	200	115	
23			115	
24			115	
25		10	105	
27		125 20		
28				20
29	395		375	
30	315	1290		600
31	160	135		575
Aug. 1	380	220		415

DATE	TRANSACTIONS		NET POSITION	
1936	Purchases	Sales	Long	Short
3	640	235		10
4	300		290	
5	565		855	
6	265		1120	
7		40	1080	
8			1080	
10			1080	
11			1080	
12	450	15	1515	
13	325		1840	
14	75	10	1905	
15	135		2040	

DATE	TRANSACTIONS		NET POSITION	
1936	Purchases	Sales	Long	Short
Aug. 17		10	2030	
18	310		2340	
19	220	5	2555	
20	155	90	2620	
21	5		2625	
22		5	2620	
24	5		2625	
25			2625	
26	215		2840	
27	125	60	2905	
28	10		2915	
29			2915	
31	25		2940	
Sept. 1		5	2935	
2			2935	
3		5	2930	
4		3	2927	
5	83		3010	
8	85		3095	
9	20		3115	
10	5	15	3105	
11	245		3350	
12		5	3345	
14	95		3440	
15	60	5	3495	
16	135		3630	
17	210		3840	
18	190	5	4025	
19	150	5	4170	
21	55		4225	
22	605		4830	
23	340		5170	
24	15		5185	
25		70	5115	
26	945	70	5990	
28	5		5995	
29	5		6000	
30	230		6230	
Oct. 1	210		6440	
2	135		6475	
3	70		6645	

DATE 1936	TRANSACTIONS Purchases	Sales	NET POSITION Long	Short
Oct. 5	80		6725	
6	50		6775	
7	115	5	6885	
8	85	10	6960	
9	35	5	6990	
10	50	5	7035	
13	5		7040	
14	85		7125	
15	75		7200	
16	115		7315	
17	110	20	7405	
19	60		7465	
20	55	40	7480	
21	15		7495	
22	20		7515	
23			7515	
24	25	10	7530	
26	5		7535	
27	35		7570	
28	5	5	7570	
29	85		7655	
30	155	10	7800	
31		15	7785	
Nov. 2	45		7830	
4	175	10	7995	
5	50		8045	
6	10	5	8050	
7		5	8045	
9	10		8055	
10	25		8080	
12	10		8090	
13			8090	
14	15		8105	
16			8105	
17		225	7800	
18	5		7885	
19	10		7895	
20			7895	
21	50		7945	

DATE 1936	TRANSACTIONS Purchases	Sales	NET POSITION Long	Short
Nov. 23	90		8035	
24	5	5	8035	
25		50	7985	
27			7985	
28		35	7950	
30		40	7910	
Dec. 1		35	7875	
2	20	425	7470	
3	60	460	7470	
4		165	6905	
5		150	6755	
7	20	135	6640	
8		135	6505	
9		80	6425	
10		250	6175	
11	35	205	6005	
12	10	465	5550	
14		250	5300	

DATE 1936	TRANSACTIONS Purchases	Sales	NET POSITION Long	Short
15	30	685	4645	
16	5	65	4585	
17	10	240	4355	
18	10	315	4050	
19		370	3680	
21	75	1025	2730	
22	10	650	2090	
23		200	1890	
24		290	1600	
26		565	1035	
28	5	925	115	
29		10	105	
30		50	55	
31		55	--	

(From Daily Recapitulation Sheet Account 38, and Futures Records of Line, Leased Line and Commission Departments, Cargill, Incorporated.)

APPENDIX C

CHICAGO SEPTEMBER 1937 CORN FUTURES

DAILY VOLUME OF TRADING AND OPEN INTEREST

December 17, 1936, to September 30, 1937

(In thousands of bushels; i.e., 000's omitted)

Date	Volume of trading	Open Interest	Date	Volume of trading	Open Interest
December 1936			January 1937		
17	20	15	25	847	4960
18	100	115	26	1001	5324
19	-	115	27	1711	5682
			28	942	5742
21	-	115	29	1379	5625
22	-	115	30	756	5636
23	-	115			
24	-	115	February 1937		
26	8	123			
			1	934	5724
28	30	153	2	2089	6079
29	382	394	3	1441	6135
30	303	586	4	1006	6191
31	607	904	5	1232	6177
			6	850	6232
January 1937					
			8	1457	6297
4	795	1328	9	1018	6479
5	943	1781	10	1252	6629
6	601	2058	11	834	6673
7	423	2141	13	536	6633
8	486	2426			
9	317	2552	15	604	6681
			16	982	6689
11	358	2741	17	761	6932
12	977	3036	18	904	6901
13	836	3286	19	447	6907
14	1023	3501	20	858	6654
15	991	3861			
16	353	3835	23	1144	6650
			24	1037	6590
18	811	4232	25	819	6649

Date	Volume of trading	Open Interest
19	887	4403
20	1021	4549
21	514	4638
22	1177	4708
23	516	4764

Date	Volume of trading	Open Interest
26	611	6568
27	231	6556

Date	Volume of trading	Open Interest
March 1937		
1	505	6583
2	555	6570
3	868	6652
4	741	6726
5	757	6645
6	733	6669
8	913	6692
9	1765	6710
10	2182	7121
11	962	7008
12	1508	7067
13	604	7101
15	943	7261
16	862	7213
17	1467	7334
18	1069	7409
19	1007	7538
20	800	7658
22	1424	7755
23	1008	7894
24	918	8001
25	1743	8224
27	2009	8278
29	2491	8296
30	1837	8287
31	2002	8548
April 1937		
1	1737	8810
2	2231	8935
3	2764	9111
5	6190	10,813
6	3725	11,092
7	4563	11,794
8	3412	12,291
9	2003	12,143
10	1555	12,009

Date	Volume of trading	Open Interest
April 1937		
12	1681	12,106
13	3032	12,228
14	2127	12,426
15	2298	12,324
16	4553	11,778
17	2426	11,699
19	3540	11,618
20	2928	12,254
21	2647	12,479
22	2571	12,707
23	2829	13,023
24	1597	13,160
26	2752	13,258
27	3176	13,457
28	4272	13,577
29	3874	13,748
30	2290	14,137
May 1937		
1	1825	14,323
3	1529	14,486
4	1556	14,588
5	1644	14,498
6	1752	14,462
7	1709	14,805
8	1882	14,956
10	2129	15,154
11	3279	14,911
12	2214	14,909
13	1713	14,722
14	2165	14,692
15	3715	14,727
17	1677	14,407
18	1767	14,395
19	4078	14,495
20	1331	14,429
21	1461	14,584
22	5055	14,375

Date	Volume of trading	Open Interest
May 1937		
24	3730	14,199
25	3630	14,210
26	2363	14,130
27	7838	14,065

Date	Volume of trading	Open Interest
July 1937		
6	4196	16,092
7	3580	16,187
8	7261	16,527
9	4628	16,433

Date	Volume of trading	Open Interest
28	6246	13,537
29	3003	13,791
June 1937		
1	4825	13,875
2	3046	14,078
3	3468	14,230
4	2234	14,214
5	2739	14,335
7	6978	14,446
8	5978	14,764
9	4225	14,943
10	3677	15,171
11	3774	15,251
12	3937	15,345
14	5786	15,424
15	5507	15,632
16	4043	15,883
17	4110	15,914
18	6867	16,834
19	2973	16,884
21	5089	17,226
22	4610	17,111
23	4740	16,793
24	3572	16,712
25	5926	16,383
26	4159	16,592
28	6873	16,458
29	8235	15,952
30	5385	16,259
July 1937		
1	5146	16,235
2	5473	15,886
3	2624	15,939

Date	Volume of trading	Open Interest
10	2828	16,486
12	3508	16,305
13	5160	16,487
14	3568	16,498
15	2685	16,638
16	3948	16,933
17	1811	17,105
19	4810	17,640
20	7167	18,040
21	6808	18,164
22	8414	17,847
23	7781	17,653
24	4764	17,924
26	6815	18,053
27	5820	18,296
28	5129	18,400
29	8958	18,264
30	17,958	17,977
31	5759	18,112
August 1937		
2	6790	20,008
3	7520	19,903
4	5848	20,059
5	6104	19,843
6	5613	19,834
7	3714	19,608
9	4067	19,917
10	7402	19,605
11	5430	19,478
12	6134	19,579
13	7664	19,872
14	4116	19,839

Date	Volume of trading	Open Interest
August 1937		
16	3416	19,424
17	3843	19,336
18	3471	19,156
19	3229	19,188
20	6494	18,693
21	3881	18,453
23	7249	18,252
24	3782	13,441
25	3318	18,579
26	5068	18,568
27	5378	18,759
28	3834	19,119
30	4989	19,032
31	4112	18,580

Date	Volume of trading	Open Interest
September 1937		
7	3903	18,261
8	7672	18,432
9	2756	16,045
10	2622	15,925
11	2424	15,320
13	3357	15,754
14	2553	15,485
15	2425	15,214
16	5219	13,447
17	7280	11,084
18	2140	10,932
20	2454	10,642
21	1509	10,225
22	4555	8839
23	1802	8400

Date	Volume of trading	Open Interest	Date	Volume of trading	Open Interest
September 1937			24	5102	8012
			25	--	8012
1	3464	18,502			
2	2401	18,333	27	--	1600
3	2535	18,366	28	--	1600
4	1681	18,365	29	--	1538
			30	--	--

(From "Trade in Grain Futures," issued monthly by the Commodity Exchange Administration, for the months of December, 1936, through September 1937.)

APPENDIX D

RELATION OF KANSAS CITY DECEMBER WHEAT

FUTURES TO CHICAGO DECEMBER WHEAT FUTURES

DAILY JULY THROUGH DECEMBER, 1936

(Cents per bushel)

Date	Chicago	K. City	K.City to Chicago
July, 1936			
1	98 3/8	94 1/4	4 1/3 under
2	103 1/3	99 1/4	4 1/4 "
3	102 1/2	98	4 1/2 "
6	107 1/2	103	4 1/2 "
7	106 7/8	102 5/8	4 1/2 "
8	105 5/8	101 1/2	4 1/8 "
9	107 1/8	103 1/8	4 "
10	110 1/2	106 1/4	4 1/4 "
11	105 5/8	101 1/4	4 3/8 "
13	105 1/4	102	3 1/4 "
14	103 1/2	100	3 1/2 "
15	105 3/4	103 3/8	2 3/8 "
16	107	104 1/8	2 7/8 "
17	106	103 7/8	2 1/8 "
18	102 3/4	100 7/8	1 7/8 "
20	104	101 5/8	2 3/8 "
21	104 1/4	101 7/8	2 3/8 "
22	104 5/8	102	2 5/8 "
23	105 1/2	102 3/4	2 3/4 "
24	104 1/8	102	2 1/8 "
25	104 1/8	102 1/4	1 7/8 "
27	105 1/2	103 1/4	2 1/4 "
28	106 3/4	104 3/8	2 3/8 "
29	109 3/8	107 1/2	1 7/8 "
30	110 7/8	109 3/8	1 1/2 "
31	111 1/4	110 1/8	1 1/8 "
August, 1936			
1	113 1/4	113	1/4 "
3	114 1/4	114 3/8	1/8 over
4	111 3/8	112	5/8 "
5	114	114 3/8	3/8 "
6	113 1/4	112 1/2	5/8 "
7	110 3/4	111 1/4	1/2 "
8	111 3/4	112 3/8	5/8 "

Date	Chicago	K. City	K.City to Chicago
August, 1936			

Date	Chicago	K. City	K.City to Chicago
10	110 3/8	111 1/4	7/8 over
11	108 1/8	109 3/4	1 5/8 "
12	110 1/4	111 3/4	1 1/2 "
13	111 3/4	113 3/4	2 "
14	110 1/4	112	1 3/4 "
15	110 7/8	113 1/4	2 3/8 "
17	112 3/4	114 1/2	1 3/4 "
18	113	114 7/8	1 7/8 "
19	113	114 3/8	1 3/8 "
20	112 1/8	113 1/2	1 3/8 "
21	112 3/8	113	5/8 "
22	112 3/8	113	5/8 "
24	110 1/8	110 3/4	5/8 "
25	109 7/8	110 1/8	1/4 "
26	110 1/8	110 1/8	Even
27	110 3/4	110 7/8	1/8 "
28	107 3/4	108	1/4 "
29	108 7/8	109 3/8	1/2 "
31	108 1/8	108 3/4	5/8 "
September 1936			
1	107 1/8	109	1 7/8 "
2	107 1/4	106 5/8	5/8 under
3	108 1/2	107 1/2	1 "
4	109 7/8	109	7/8 "
5	110 3/8	109 7/8	1/2 "
8	110 3/4	110 5/8	1/8 "
9	110 3/8	109 3/4	5/8 "
10	110 1/2	109 7/8	5/8 "
11	111 7/8	111 3/8	1/2 "
12	112	111 1/4	3/4 "
14	111 1/2	110 7/8	5/8 "
15	111 3/8	110 3/4	5/8 "
16	112 5/8	111 7/8	3/4 "
17	113 1/2	112 3/4	3/4 "
18	112 3/4	112 3/8	3/8 "
19	113	112 1/2	1/2 "
21	113 3/4	113 3/8	3/8 "
22	115 3/4	115	3/4 "
23	115 1/2	114 7/8	5/8 "
24	117	116 1/4	3/4 "
25	115 1/8	114 3/4	3/8 "
26	115 1/8	115 1/8	Even

Date	Chicago	K. City	K.City to Chicago
September, 1936			
28	113 3/8	112 7/8	1/2 under
29	113 3/8	114 1/8	3/4 over
30	112 7/8	112 1/4	5/8 under
October, 1936			
1	113 1/8	111 7/8	1 1/4 "
2	114	112 5/8	1 3/8 "
3	114 7/8	113 3/8	1 1/2 "
5	113 3/4	112 1/4	1 1/2 "
6	114 1/4	112 5/8	1 5/8 "
7	113	111 1/2	1 1/2 "
8	114 1/8	112 1/4	1 7/8 "
9	115	113 1/4	1 3/4 "
10	116 1/4	114 1/2	1 3/4 "
13	115 3/8	113 3/4	1 5/8 "
14	116 3/4	115 1/8	1 5/8 "

Date	Chicago	K. City	K.City to Chicago
15	115 7/8	114 3/8	1 1/2 "
16	116 3/8	114 1/2	1 7/8 "
17	115 7/8	114 1/4	1 5/8 "
19	114 1/2	113 1/4	1 1/4 "
20	114 3/8	113 1/8	1 1/4 "
21	114 1/2	113 1/8	1 3/8 "
22	114 7/8	113 1/4	1 5/8 "
23	114 1/2	112 5/8	1 7/8 "
24	114 7/8	112 3/4	2 1/8 "
26	115 3/8	112 5/8	2 3/4 "
27	115 7/8	112 7/8	2 "
28	115 3/8	112 5/8	2 3/4 "
29	114 3/8	111 1/2	2 7/8 "
30	113 5/8	111 1/8	2 1/2 "
31	114 1/8	111 1/4	2 7/8 "
November, 1936			
2	114	110 1/2	3 1/2 "
4	114 5/8	111 5/8	3 "
5	115 3/8	112 1/8	3 1/4 "
6	114 3/4	111 7/8	2 7/8 "
7	115 1/8	112 3/8	2 3/4 "
9	115 1/8	111 3/4	3 3/8 "
10	114 5/8	111 1/2	3 1/8 "
12	115 1/4	112	3 1/4 "
13	115 7/8	112 1/2	3 3/8 "
14	116 5/8	113 1/4	3 3/8 "

Date	Chicago	K. City	K.City to Chicago
November, 1936			
16	118 1/8	114 1/8	4 under
17	118 1/4	114	4 1/4 "
18	117 1/2	113 3/8	4 1/8 "
19	116 1/2	112 7/8	3 5/8 "
20	117	113 3/4	3 1/4 "
21	117 5/8	113 7/8	3 3/4 "
23	116 7/8	113 3/8	3 1/2 "
24	117 1/4	113 1/2	3 3/4 "
25	117 5/8	113 1/4	4 3/8 "
27	118 3/8	113 7/8	4 1/2 "
28	119 5/8	114 3/4	4 7/8 "
30	120 1/8	115 3/4	4 3/8 "
December, 1936			
1	123 1/2	117	6 1/2 "
2	124 1/8	118 1/4	5 7/8 "
3	125 1/4	118 5/8	6 5/8 "
4	124 3/4	118 3/8	6 3/8 "
5	124 3/4	117 5/8	7 1/8 "
7	125 7/8	118 1/2	7 3/8 "
8	125 3/4	118 3/4	7 "
9	128	120 1/8	7 7/8 "
10	128 3/8	120 5/8	7 3/4 "
11	127 1/2	120 1/8	7 3/8 "
12	128 5/8	121 1/4	7 3/8 "
14	135	126 1/4	8 3/4 "
15	133 3/4	126 3/8	7 3/8 "
16	134 1/4	126 3/8	7 7/8 "
17	135 1/4	127 1/4	8 "
18	139 3/8	138 1/2	8 7/8 "
19	138 1/2	129 1/2	9 "

Date	Chicago	K. City	K.City to Chicago
21	138 1/4	129 3/8	8 7/8 "
22	135 1/4	126 7/8	8 3/8 "
23	135 7/8	128 1/8	7 3/4 "
24	139 1/4	131	8 1/4 "
26	141 3/4	132 5/8	9 1/8 "
28	137 1/4	131 1/4	6 "
29			
30			
31			

APPENDIX E

Rules and regulations of the Board of Trade of the City of Chicago referred to and involved in those hearings.

"251. Emergencies. - The Board shall have power to declare any day to be a holiday or to close the Exchange or to stop trading in any security or in any of the future contracts of any commodity, by reason of any emergency or otherwise, and to make such Regulations in regard to deliveries and settlement prices as it may deem proper because thereof. All Exchange contracts shall be subject to the exercise of such power. Such contracts shall also be subject to the exercise by the Clearing House of the powers reserved to the Clearing House by its Charter, By-laws, and Resolutions."

Rule 602 of the Board of Trade provides:

"Judges must be disinterested. - A member may not serve upon the Board or upon any committee upon any trial or hearing where he has a financial interest in the result thereof, or where he is connected with a firm or corporation having such an interest." (See Answer, Paragraph 1.)

During 1936 and up to December 9th, 1936, Rule 82, the Business Conduct Committee Rule of the Board of Trade, was as follows:

"Business Conduct Committee. -- The President with the approval of the Board, shall appoint from the general membership three members of a Business Conduct Committee who are not serving as Directors or officers of the Association, one for a term expiring February 1, 1935, one for a term expiring February 1, 1936, and one for a term expiring February 1, 1937, and thereafter at the first meeting of the Board of each year, the President, with the approval of the Board, shall appoint one member of such Committee for a period of three years dating from February 1 in each year. In cases of vacancy the President, with the approval of the Board, shall fill the vacancy for the unexpired term. The three members thus appointed, together with the President of the Association, or in his stead, a Director of the Association, and the President or Treasurer, or in their stead

a Director of the Clearing House, shall constitute the Business Conduct Committee. Five members of the Committee shall be required to constitute a quorum, but in the absence of one or more members from a particular meeting, the members present may fill the Committee by temporary appointments for that particular meeting. All regular members of the Committee shall pledge themselves to the Association that they will not speculate for their personal account in any commodity which is traded in on the Chicago Board of Trade during the period of their service. The Committee shall be charged with the duty and authority to prevent manipulation of prices as provided in Section 5 (d) of theGrain Futures Act and shall have general supervision over the business conduct of members, particularly in so far as such conduct affects (1) non-member customers; (2) the public at large; (3) the State Government; (4) the Federal Government; (5) public opinion; and (6) the good name of the Association. The Committee may investigate the dealings, transactions, and financial condition of members, and may examine their books and papers upon request. The Committee may employ such auditors and other assistants as they may deem necessary, and all expenses incident thereto shall be payable from the funds of the Association. Members under investigation shall be advised of the nature of the investigation, and [ILLEGIBLE TEXT] appear before the Committee and offer such testimony, explanation, or justification as they may wish. If, as the result of any investigation, theCommittee finds that a particular course of conduct is, or thereafter would be, unfair or unjust, or in violation of the law or the Rules of the Association, or calculated to impair the good name of the Association, the Committee shall notify the member in writing of its conclusions, and direct such member to desist from such past or proposed conduct. The findings and conclusions of the Committee in the premises shall be final and without appeal. Any member who fails to appear before the Committee pursuant to its request, or to submit his books and papers to the Committee for their examination, or who conducts himself in violation of any order of the Committee after having been duly notified thereof, shall be charged with an offense against the Association, and if found guilty shall either be expelled or suspended for any specified period by the Board." (See Answer, Paragraph 1.)

From December 9, 1936, to the present time, Rule 82, the Business Conduct Committee Rule of the Board of Trade has

remained the same except for the deletion of the following sentence:

"Five members of the Committee shall be required to constitute a quorum, but in the absence of one or more members from a particular meeting, the members present may fill the Committee by temporary appointments for that particular meeting." (See Answer, Paragraph 1; Record: MacMillan, 2342-45, 3005.)

The Commodity Exchange Act (7 U. S. C., 1934 ed., Supp. IV, § 1-17a) requires that all trading for future delivery in commodities covered by the act be conducted on Board of Trade designated as contract markets under the provisions of the act and makes the designation of a Board of Trade as a contract market dependent upon its meeting certain requirements of the act and further makes the designation subject to revocation or suspension, upon the contract market failing to perform the duties imposed upon it as a condition of its designation. Persons who avail themselves of the facilities of a contract market do so subject to the rules of the contract market and any actions taken under such rules in performance of the market's duties under the Commodity Exchange Act.

The Commodity Exchange Act, Section 5a (5) reads as follows:

"Each contract market shall -- * * * Require the party making delivery of any commodity on any contract of sale of such commodity for future delivery to furnish the party obligated under the contract to accept delivery, written notice of the date of delivery at least one business day prior to such date of delivery. Whenever, after due notice and opportunity for hearing, the Secretary of Agriculture finds that the giving of longer notice of delivery is necessary to prevent or diminish unfair practices in trading in any one or more commodities or markets, he shall by order require such longer notice of delivery (which shall be not more than ten business days) applicable to such commodities and markets as he finds will prevent or diminish such unfair practices: Provided, however, That such order shall not apply to then existing contracts;"

Prior to the passage of the Commodity Exchange Act, the time for giving notice of delivery was subject to no restriction by law and could be fixed at any length of time at the discretion of the contract market, even to the extent of requiring no time to elapse between the giving of notice and the making of delivery, at which time the person receiving delivery would be required to pay for the grain delivered. It can be seen that this condition might and no doubt did give rise to confusion and abuses by denying the buyer the benefit of any time after receiving notice, in which to make banking arrangements to take care of the payment for the commodity delivered. In fact Rule 285 of the Board of Trade of the City of Chicago, the respondent, which was in effect during September 1936, provided for notice of delivery as follows:

"Notices of the delivery of grain must be issued and delivered to the Clearing House before twelve o'clock noon on the business day preceding the day of delivery except during the last three business days of the month during which deliveries may be made without notice given the preceding day."

The purpose of Section 5a (5) is to eliminate the confusion and possible abuses that existed and assure the buyer of an opportunity to make banking or credit arrangements between the time when notice of delivery is received and the time when the buyer is required to make payment for the commodity delivered. A contract market has complied with this provision if it requires notice of the date of delivery to be served the business day preceding the day upon which delivery is to be made.

Section 5 (d) of the Commodity Exchange Act reads as follows:

"Section 5. The Secretary of Agriculture is hereby authorized and directed to designate any board of trade as a'contract market' when, and only when, such board of trade complies with and carries out the following conditions and requirements; * * *

"(d) When the governing board thereof provides for the prevention of manipulation of prices and the cornering of any commodity by the dealers or operators upon such board."

This section places upon the contract market the duty of providing for the prevention of manipulation of prices and the cornering of any commodity by the dealers and operators upon such contract market. This duty, it is noted, does not relate only to members of the contract markets, but must be performed as to any one who may deal or operate on the market and it follows if the market has the duty to perform with respect to any one dealing on the market it must have the right and authority to control the activities of such persons, and a person dealing or operating on the market does so subject to the jurisdiction of the market in performing its duties under the act.

The failure of a contract market to perform this duty is sufficient grounds for the revocation or suspension of the designation of the market. The Secretary of Agriculture has the duty and authority to take steps to prevent manipulation and corners and to discipline those who have been guilty of manipulating prices or cornering a commodity. However, because of the necessity of notice and public hearings, which require considerable time, where the Government is the acting party, Congress realized that a contract market was in a better position to take quick action at the time an emergency in the nature of threatened manipulation or corner arose and thereby more effecitvely prevent manipulation of prices or a corner from occurring. Although this duty has been imposed on contract markets, the act is silent as to the means to be used by the contract market in performing the duty, therefore, the responsibility of determining the means to be used rests with the contract market and this responsibility must be taken seriously by the contract market with a view to having the action to be taken by the contract market determined by experienced men capable of intelligently analyzing a situation calling for action and determining the action to be taken in a practical and judicial manner free from prejudice or personal considerations. When a contract market has acted reasonably under this responsibility and action has been taken by the contract market, through its governing board, or those designated by the contract market to act for and on its behalf, to prevent manipulation of prices or the cornering of any commodity, in the absence of ulterior motives or arbitrary action on the part of the contract market, such action taken by it in good faith in performance of this duty when it has reason to believe that manipulation of prices exists or is threatened, or a corner of a commodity exists or is threatened, does not constitute a violation of Section 5, Subsection (d) of the Commodity Exchange Act. This is true although other or different action on the part of the contract market might better effectuate the purpose of the action taken and any price fluctuation attributable to such action taken by the contract market does not constitute manipulation of prices by the contract market within the meaning of the Commodity Exchange Act.

Based upon the findings of fact, the Commission has determined and concluded:

1. The complainant has failed to establish that the respondent violated Section 5 (a) 5 of the Commodity Exchange Act in September 1936, by failing to require the parties making delivery of corn on September 1936 corn futures to furnish the parties obligated under such contracts to accept delivery, written notice of the date of delivery at least one business day prior to such date of delivery.

2. The orders issued by the Business Conduct Committee of the respondent in December 1936 and September 1937, requiring the complainant to reduce its positions in the futures market, were justified in the performance of the duty of the respondent to prevent manipulation of prices or corners of commodities, as the Business ConductCommittee had reason to believe that manipulation of prices existed or was threatened, and corners were threatened, due to the operations of the complainant in those markets.

3. The complainant has failed to establish that the respondent violated Section 5 (d) of the Commodity Exchange Act in December 1936, as to December 1936 corn and wheat futures, by its governing board failing to provide for the prevention of manipulation of prices therein, or by permitting the Business Conduct Committee of respondent to attempt to manipulate prices downward, to attempt to aid and abet manipulation of prices downward, to manipulate prices downward, or to aid and abet manipulation of prices downward.

4. The complainant has failed to establish that the respondent violated Section 5 (d) of the Commodity Exchange Act in September 1937, as to September 1937 corn futures, by its governing board failing to provide for the prevention of manipulation of prices therein, or by permitting the Business Conduct Committee of respondent to attempt to manipulate prices downward, to attempt to aid and abet manipulation of prices downward, to manipulate prices downward, or to aid and abet manipulation of prices downward.

ORDER

NOW, THEREFORE, upon consideration of the motion to dismiss the record including all documents filed by the parties, the referee's report, exceptions filed by the complainant, and the findings of fact and conclusions set forth herein,

IT IS ORDERED that the respondents motion to dismiss the complaint, filed on June 5, 1939, be, and the same hereby is, granted, and the complaint be, and the same hereby is, dismissed.

IT IS FURTHER ORDERED that a copy hereof shall be served upon the attorneys of record for the parties to this proceeding by registered mail.

IN WITNESS WHEREOF, the Secretary of Agriculture, the Attorney General, and the Secretary of Commerce, constituting the Commission designated by the Commodity Exchange Act, have hereunto set their hands in the city of Washington, District of Columbia, this 16th day of August, 1940.

(Signed) H. A. Wallace
Secretary of Agriculture
Chairman of Commodity Exchange Commission.
(Signed) Robert H. Jackson
Attorney General
Member of Commodity Exchange Commission
(Signed) Harry L. Hopkins
Secretary of Commerce
Member of Commodity Exchange Commission

LOAD-DATE: June 16, 2008