

**Opinion No. 19.****Grain Elevators—Warehousemen  
—Landlord and Tenant—State  
Department of Agriculture  
—Courts.**

HELD: It is the duty of the courts, not the Department of Agriculture, to determine controversies between grain elevators, land owners and tenants.

January 4, 1935.

Mrs. Toilie Morris  
Chief, Division of Grain  
Standards and Marketing  
The Capitol

You have submitted the following facts: A tenant renting land on shares raised 906 bushels of grain and hauled 665 bushels to the elevator, retaining 241 bushels, as he says, for seed. The elevator delivered 152-50 bushels to the land owner, who claims to be entitled to one-fourth of the crop, according to the lease agreement.

It appears that the elevator had some knowledge of the lease agreement but it is not clear how much knowledge the elevator actually had. The tenant admits withholding the 241 bushels for seed and has acknowledged his responsibility for the same. This tenant farmed several other pieces of land in the vicinity of the elevator and delivered grain therefrom to the elevator. You have asked (1) whether the elevator should have retained for the land owner one-fourth of all the grain raised on the land from such grain as was first delivered to it, and failing to do so, whether it is responsible to the land owner for any shortage; (2) whether settlement of complaints of this kind or of a similar nature having to do with mortgages or leases come under the jurisdiction of the Department of Agriculture.

It is apparent from the foregoing statement of facts that it would be impossible for your office to settle this controversy, assuming that it were your duty to do so. It would be necessary to know what the exact terms of the lease agreement were and just how much knowledge thereof the elevator possessed. Also what had been the practice, if any, of the elevator in handling grain from this place in previous years. Unless the title to the grain was in the land owner, which we understand to be the case in the event of a cropping agreement, but not where there is an ordinary lease, or unless such had been the previous practice of the elevator and relied upon by the land owner, we question the right of the land owner to place upon the elevator the responsibility of withholding division of the grain until all of it had been hauled in. We are unable, however, to render an opinion.

The question is one for the court to determine unless the parties can settle their differences. We are unable to find in the Grain Warehousing Act any provision placing upon the Commissioner of Agriculture the responsibility of settling such or similar controversies. Certainly the elevator has not lost any of its legal rights by reason of its being a bonded warehouse, and one of these is its right to its day in court. To hold otherwise would deprive it of its property without due process of law.