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BONDING OF PACKERS UNDER STOCKYARDS ACT OF 1921

GOVERNMENT

Storage

HEARING

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK AND FEED GRAINS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 4831 and H.R. 5749

APRIL 21, 1961

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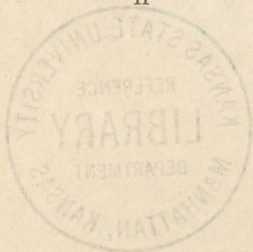
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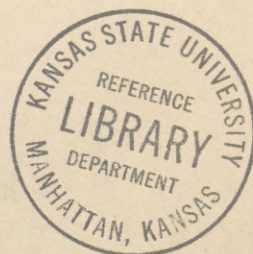
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BONDING OF PACKERS UNDER STOCKYARDS ACT OF 1921

FRIDAY, APRIL 21, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND FEED GRAINS,
Washington, D.C.

The subcommittee met at 10:10 a.m., pursuant to notice, in room 1310, New House Office Building, Hon. W. R. Poage (chairman of the subcommittee) presiding.

Present: Representatives Poage, Jones of Missouri, Jennings, Matthews, Coad, Harding, Short, and Mrs. May.

Also present: Representative Beermann.

Also present: John Heimbürger, counsel.

Mr. POAGE (presiding). The subcommittee will come to order.

Today we have two similar bills, one by Mr. King of New York and one by Mr. Stratton, relating to the authority of the Secretary of Agriculture to require reasonable bonds from packers in connection with their livestock-purchasing operations. The bills are H.R. 4831 and H.R. 5749, and we will make them a part of the record at this point.

(H.R. 4831 and H.R. 5749 follow:)

[H.R. 4831, 87th Cong., 1st sess.]

A BILL To clarify the authority of the Secretary of Agriculture to require reasonable bonds from packers in connection with their livestock purchasing operations

Be it enacted by the Senate and House Representatives of the United States of America in Congress assembled, That the proviso in the paragraph designated "Packers and Stockyards Act", under the heading "MARKETING SERVICE", in the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), is amended by striking out the words "market agency and dealer" and inserting in lieu thereof the words "market agency as defined in title III of the Act, every packer as defined in title II of the Act, in connection with its livestock purchasing operations, and every other person operating as a dealer, as defined in title III of the Act".

[H.R. 5749, 87th Cong., 1st sess.]

A BILL To provide for the filing of bonds by packers to secure the performance of their obligations with respect to purchases in commerce of livestock

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may require reasonable bonds from every packer (as defined in section 201 of the Packers and Stockyards Act, 1921), under such rules and regulations as he may prescribe, to secure the performance of their obligations with respect to purchases in commerce of livestock.

Mr. POAGE. Mr. Stratton, would you like to speak first on this?
You may proceed.

**STATEMENT OF HON. SAMUEL S. STRATTON, A REPRESENTATIVE
IN CONGRESS FROM THE 32D DISTRICT OF THE STATE OF NEW
YORK**

Mr. STRATTON. Thank you, Mr. Chairman. I appreciate the opportunity to appear here in support of my bill, H.R. 5749, which I believe, is similar to the other legislation introduced by Mr. King, my colleague, from New York.

I do not pretend to have at my fingertips all of the technical details of the situation that led up to the request for this legislation, but it is my understanding that Mr. Datt, from the American Farm Bureau Federation, is also here, or will be here, this morning, and that he will have some additional information to provide with respect to the background for this legislation.

Very briefly, Mr. Chairman, the request for this legislation exemplifies one of the techniques or procedures of the American Farm Bureau Federation; and particularly the democratic nature of that organization, insofar as the policies and programs which are adopted nationally stem directly from the views and recommendations of the local membership, originating in the so-called Kitchen Konferences, and moving up to the county and the State and the national federation levels.

This matter was first brought to my attention about a month ago when I was meeting with the Otsego County Farm Bureau in my State of New York. I was advised that one of the provisions of the Farm Bureau's policy for 1960, adopted at their annual convention last fall, stemmed from a specific recommendation which originated in the Kitchen Konferences in Otsego County. And since that proposal seemed to me to be a wise and sound one, I offered to introduce it in the House in the form of legislation so as to nail down their request as readily as possible.

I am referring to the proposal that is on page 59 of the Farm Bureau's statement of policy for 1960, in which they recommend that the Packers and Stockyards Act be amended to require that meat packers and livestock dealers either post adequate bonds or file statements of financial responsibility for the protection of livestock producers and feeders in their market operations, unless this objective can be accomplished administratively.

Subsequently I took the matter up with the legislative counsel of the House and asked him to draft appropriate legislation. The counsel pointed out to me that the Department of Agriculture Appropriations Act for 1944, Public Law 129 of the 79th Congress, provides specifically for covering livestock dealers in this way. In that act there is a proviso which specifies that—

the Secretary may require reasonable bonds from every marketing agency and dealer under such rules and regulations as he may prescribe to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provision of said Act, he may issue an order suspending such registrant for a reasonably specific period.

This appeared, Mr. Chairman, to take care of the livestock dealers, but there was still no provision in the law as had been recommended by the Farm Bureau Federation, specifically on the request of the

members in my district for the inclusion of packers. And so, H.R. 5749 was introduced to provide the same kind of authority for the Secretary with respect to packers as was already provided in law for the livestock dealers.

It is my understanding that the legislation introduced by the gentleman from New York, Mr. King, H.R. 4831, provides for both the packers and livestock dealers, but if our legislative counsel is correct, the provision with respect to dealers would be superfluous because it is already in the law.

Now, with respect to the reasoning behind my proposal, it was brought to my attention, Mr. Chairman, that many of the members of the Otsego County Farm Bureau, who are largely dairy farmers and who bring their cattle from time to time to livestock auctions during the year to sell them to the slaughterers—and usually these auctions are handled on a cooperative basis with the farmers themselves, who are using the auction underwriting the expenses of it—it was brought to my attention that on a number of occasions livestock dealers and packers who have come into these auctions have become insolvent and the expenses that they have neglected to pay have ended up having to be paid for by the farmers themselves as a part of their cooperative arrangement, so that what little they made in the auction was subsequently taken away because of the insolvency of the packers.

In recent years, as I understand it, packers have been moving into these livestock auctions, rather than moving in simply to the terminal market, and there have been a number of small packing companies which have lately sprung up around the country because of the availability of livestock for slaughter from these county marketing points.

Obviously, we do not want to encourage this kind of thing. We do not want the farmers who establish and utilize these auctions to end up having to pay the costs incurred by a small minority of unscrupulous individuals who are taking advantage of the farmers.

And, for that reason, it was the feeling of the members of the farm bureau in my district that this legislation was very much needed.

I will not take the time of the committee to read this, Mr. Chairman, but, with your permission, I would like to include in the record, as a part of my remarks, a letter which was sent to me by the president of the Otsego County Farm Bureau, Mr. Kenneth Petersen, describing in some detail some of the bankruptcies which have occurred in recent years in this general area and in New York State, and also the situation with respect to the packers.

According to this letter, there have been six bankruptcies in the period from 1957 through 1959, and I shall name them: Danahy Packing Co., Buffalo, N.Y.; Camp Packing Co., Cortland, N.Y.; Lackawanna Beef & Provision Co., Scranton, Pa.; Middletown Packing Co., Middletown, Conn.; Central Bogart, New York City; and one other.

So, obviously, there is a problem, and the purpose of this legislation would be simply to extend to the Secretary of Agriculture for the packing companies which are now getting into the livestock auction market the same authority which he already has with respect to the livestock dealers, for the protection of the individual farmers.

I think, in passing, it is a rather remarkable demonstration of democratic procedure at work, that a small group of farmers, meeting in an individual county, can put their finger on a situation that is

important enough to merit its inclusion in the overall national policy of a great organization like the farm bureau, and that the individual representative from this area can, at the same time, undertake to persuade his colleagues on the great Committee on Agriculture of the House of the necessity for legislation to meet the situation.

So I respectfully ask you and the members of the committee for your favorable consideration for this bill, H.R. 5749.

Mr. POAGE. Thank you very much.

Without objection, the letter will be made a part of the record.

(The letter dated April 15, 1961, from Otsego County Farm Bureau, Inc., follows:)

OTSEGO COUNTY FARM BUREAU, INC.,
April 15, 1961.

Congressman SAMUEL STRATTON,
House Office Building,
Washington, D.C.

DEAR SAM: It is my understanding that public hearings on your bill in connection with bonding of packer-buyers are to be held by the House Agricultural Committee late this week, and I am sending some data which our county farm bureau had produced through discussion of this issue in our Kitchen Konferences.

The six bankruptcies in question occurred during the period of 1957 through 1959.

Danahay Packing Co., Buffalo, N.Y. (and Midstate Packing were tied in with them) left unpaid auction bills between \$300,000 and \$400,000. It is our understanding that this was the one that almost sank the Buffalo producer's cooperative. Action on this was in the Buffalo bankruptcy court.

Camp Packing Co., Cortland, N.Y., went for \$400,000—action in Utica court. Lackawanna Beef & Provision Co., Scranton, Pa., went for \$200,000. This has been settled at 30 cents on the dollar. Court action in Scranton bankruptcy court.

Middletown Packing Co., Middletown, Conn., \$300,000. This case before bankruptcy court, Hartford, Conn.

Central Bogart, New York City, went for approximately a half million dollars. Case before bankruptcy court of New York City.

Of these bankruptcy cases only one has been settled. The rest to my knowledge are still under litigation, and, in most instances, it is not felt that much will be recovered.

It is estimated that in the aforementioned cases, the total losses will run in excess of \$2 million.

As you can understand, across New York State we have a great many cattle auctions that are run by individual interests as well as farmer-owned cooperatives. In either case these types of losses jeopardize net returns to farmers, but in the case of farmer-owned cooperatives, these losses are directly farmer funds, because the reserves of the co-ops are, of course, owned by the farmer members.

I have tried to point out the specific reasons why our farm bureau members have taken this action, and I am sure that this situation exists all across the United States, because of the favorable reaction this proposal received at the American Farm Bureau Federation.

I think we need to consider for a moment the changes that have taken place in livestock marketing over the years that has created the situation we now have. Back in 1928, when the original act was passed, the meatpacking business was confined to the large major companies, whose financial integrity was unquestionable, and cattle for slaughter moved through commission men throughout the country (whom the act covered) to these major packers.

Over the years farmers have set up cooperative marketing through auction markets, which has had a tendency to bring the buyers to the country rather than terminal markets. Of course, through this same period, auctions owned by individual interests have also sprung up.

This has all made it possible for a great many small packing companies to spring up across the country, because of the availability of livestock for slaughter from these country marketing points, and this points up the need for such legis-

lation to regulate this industry and to protect producers against this small minority with questionable financial integrity.

I might add in closing that in one instance a concern with unquestionable credit references went bankrupt. Within 2 weeks the same people had formed a new company, again appeared at auctions, buying again with unquestionable credit references. Your bill would eliminate this type of chicanery.

I hope this will be of some help to you. I am also sending a copy of this to Jack Lynn, legislative director of American Farm Bureau Federation, Washington, D.C.

I might add that the exact data would be available in the bankruptcy courts mentioned.

Sincerely yours,

KENNETH PETERSEN, *President.*

Mr. POAGE. I want to clear up a matter in connection with this, if I can, because while I certainly do not want to ever question any procedure that is needed, that is helpful to our agricultural people, neither do I want to impose upon our people more governmental regulation than is warranted.

I have just wondered, in the first place, about the actual need for this program. You pointed out that these auctions are going on all over the country, and I know that they are—they are going on in my area and everywhere else. In fact, I deal with them. We sell beef cows and calves, and we do it almost exclusively through auction rings, but the rings are bonded—the auctions are bonded, the farmer does not lose; he gets the results even if somebody does not pay for it. The farmer gets his cash, in my part of the country, when he sells his cattle. He goes to the cashier's window and gets his cash.

Is that not the way it is done up in your part of the country?

Mr. STRATTON. It is my understanding that in many cases the auction is run by the farmers on a cooperative basis.

Mr. POAGE. All right. But the auction ring pays off to the individual farmer; does it not?

Mr. STRATTON. That is true.

Mr. POAGE. They bring the cattle in, that is, the farmers, and the cattle are sold, and the farmer goes to the window and he gets his check; is that not correct?

Mr. STRATTON. I believe that is right.

Mr. POAGE. I am just trying to pin this down. The individual farmer does not lose; it is the auction operation that loses, is it not?

Mr. STRATTON. It is the individual farmers who make it up.

Mr. POAGE. Who is a stockholder of the auction ring, and if he is, he loses. If he is a stockholder of Swift & Co. and they go broke, he loses. The individual farmer does not lose. The auction man, whether privately operated or cooperatively operated, may lose out. That is right, is it not?

Mr. STRATTON. It would be my understanding that if the individual farmers themselves are members of the cooperative which is behind the auction, then whatever money they make there at the time of the sale, they may later lose if the cooperative group has to pick up the tab.

Mr. POAGE. That may or may not be true. It depends upon the number he sells and the amount of the loss of the auction ring.

Mr. STRATTON. That is correct; that is correct.

Mr. POAGE. So that there is no direct relationship between the failure of the packer or the buyer to pay and the loss to the individual farmer. That farmer is protected by the bond which the auction ring must post. That auction, whether it is a cooperative or whether it is private, has to post a bond, does it not?

Mr. STRATTON. I am not familiar enough with all of the details to be able to answer that.

Mr. POAGE. That is part of the Stockyards Act—that auction ring has to post a bond to guarantee that the person who sells in the ring will get his money. So the individual who sells in the ring should be protected. He is protected now, as I understand it.

Mr. STRATTON. As a seller, yes.

Mr. POAGE. I can understand that the cooperative or the privately owned auction ring could lose money by that operation.

They have expenses, and therefore they exceed their receipts they could have a loss, could they not?

Mr. STRATTON. That is right.

Mr. POAGE. Sometimes they do and sometimes they do not make a profit—sometimes they deal at a loss.

Now then, why should we protect the seller at the auction ring? What is your theory of why we should protect that seller?

It is my idea that the auction ring has the cattle in their possession that they sell. They take in the money. They have somebody else's money, do they not?

Mr. STRATTON. That is right.

Mr. POAGE. It is money which does not belong to them. And we have long thought that that was some what of a public function of the Government to see that the individual who has the money in his possession did not turn it over to somebody else or to dissipate it in some way, but actually to turn it over to the owner of the product. So we have justified Government regulation, it seems to me to the extent of saying that the Government would step in where that fiduciary relationship existed.

Now as between the auction ring and the packer, is there any fiduciary relationship?

Mr. STRATTON. It would be my feeling, Mr. Chairman, that there would be the same relationship which exists with respect to the live-stock dealers, and since we have already—

Mr. POAGE. What third party is there in there—who has that auction ring's money? The auction ring said they had the right to let the packer come in and bid, if he wants to. And they have the right, too, to keep him out, do they not? They did not have to admit him? They could require a bond direct from him, if they wanted it. This farmer did not have that right. This farmer who brings his cows or calves to this auction ring does not have any choice as to who will bid on them.

That has been the reason, in my mind, why we properly said to the auction ring, "You have to put up a bond," because this farmer does not make a direct deal with the packer. This farmer looks merely to the auction ring and we have said, "You have got Swift & Co. money in your hands and you have got to pay it to Mr. Jennings when he brings in his stock and sells them."

But as between the auction ring and the packer where is there any fiduciary relationship—who has any trust funds—who is the trustee for anybody else?

Mr. STRATTON. Again, Mr. Chairman, I would think that the same relation exists with respect to the packers as exists with respect to the livestock dealers. And since we have already provided legislation to cover the dealers, the point of my bill is simply that we recognize the change that has taken place in the past few years in which packers themselves are now operating like dealers. And since we have already provided legislation for the dealers, we are now proposing to extend it to the packers, since by this process of transition they have now become dealers.

Mr. POAGE. There are other people in it. This dealer may not buy cows. This packer has his own property in his hands.

All I am trying to get at is this: I am not trying to find fault with the bill, but I am trying to see what we are doing now.

Mr. friend Jones here says, "Why, I will buy those cows from you—do not take them to the ring—I will buy them from you—sell them to me."

And I sell them directly to him.

And he says, "Now, I cannot pay you today. You will have to wait until the first of the month and then I will pay you."

I say, "All right, that is fine."

How can the U.S. Government go so far as to provide some guarantee that Mr. Jones will pay me the first of the month?

Mr. STRATTON. I think you are absolutely right in that respect. Certainly, on a transition of that kind there is no need for the Government to step in.

Mr. POAGE. There is not much need for it—Mr. Jones is likely to come in and say—

Mr. STRATTON. I am sure that it would be helpful to have it.

Mr. POAGE. But there may be a need for it. Is it sound policy for the Government to undertake to guarantee every credit transaction that takes place in the United States—for the Government to require that before any credit transaction can take place a bond should be posted? Of course, I would or could require Mr. Jones to give me a bond, but he may not do it.

Mr. JENNINGS. Will you yield there? Is that not comparable to the other—is it not possible to have a performance bond?

Mr. POAGE. I can require a performance bond. That is the very point, if this auction ring wants to require a performance bond of anybody who does business with them, they can require it. But should the Government require it? That is the point. Should the Government require when you, the contractor, undertakes to do business with me—should the Government require you to post a bond?

Mr. JENNINGS. I think that there is a little difference, because as I see it here there is such a narrow area that these people are dealing with, especially the individual farmer, who may be just selling two or three cows and maybe a dozen hogs today—

Mr. POAGE. We just worked that out before you came in. He is already protected by the existing law.

Mr. JENNINGS. He is protected if he sells to the auction ring but he is not protected if he sells direct to a packer.

Mr. POAGE. He would not be under this bill, either.

Mr. JENNINGS. I understand that he would be under this bill.

Mr. STRATTON. The bill simply provides that the Secretary may require reasonable bonds from every packer to secure the performance of their obligation with respect to the purchase.

Mr. POAGE. This is an amendment to the Stockyard Act, and requires it at a market, does it not?

Mr. JENNINGS. Does it?

Mr. STRATTON. With respect to purchases.

Mr. JENNINGS. We made the dealers, the direct dealer give a performance bond, and he has no connection at all with the market or with the livestock auction ring. What we are saying here is, in effect, as I understand it, in this bill that we are going to make the packers give the same bond if they are direct buying or otherwise, as we have made the dealers give the livestock auction ring. Is that correct?

Mr. STRATTON. This is an extension of the existing provision in the Department of Agriculture Appropriations Act for 1944 which provides that the Secretary may require reasonable bonds from every market agency and dealer under such rules and regulations as he may prescribe.

Mr. JENNINGS. That is right. We did that for marketing agencies and dealers, but we did not include the packers.

Mr. STRATTON. That is right.

Mr. JENNINGS. And, generally, the livestock producer and as a seller I would feel that I was protected under the Packers and Stockyards Act if I were selling, because I was protected through the ring, or if I sold through the dealer, but if I sold to the packer direct I am not protected. I would assume that I was. I think I am entitled to that protection, because if he goes broke I have no recourse at all except through the courts. But if the ring goes broke, something happens that they do not perform and the dealer does not perform, then I can go back on the bonding company.

I think this is a good bill, frankly.

Mr. STRATTON. That is exactly my intention in submitting the legislation to you gentlemen, to extend this provision, because of the fact, as I understand it—and as I indicated, I am not an expert in this field—the packers are in larger and larger numbers in recent years moving into the same position which the livestock dealers have occupied in the past.

Mr. JENNINGS. And they are going broke in larger and larger numbers and are not meeting their obligations as they have in the past. That is the reason the farmers need this protection.

Mr. STRATTON. That is correct.

Mr. JONES of Missouri. Will you yield?

Mr. JENNINGS. Yes.

Mr. JONES of Missouri. Would you apply it to all other commodities, in selling grain and things like that and how will they handle it?

Mr. JENNINGS. As far as I personally am concerned and this is giving a horseback opinion, I would be willing to go to most any point to make sure that the producer is protected, but I would not expect to go to the extent that every little producer would have to require that the man he sells to give him an individual bond.

Mr. JONES of Missouri. You would bond every purchaser of agricultural products?

Mr. JENNINGS. It might go to that extent.

Mr. STRATTON. It would seem to me that this sort of situation is one where there is at least a *prima facie* indication that someone who is dealing through this auction is the type of individual that the farmer can count on, and to that extent he is, perhaps, a little bit less wary, more so than he might be in the type of individual transaction, Mr. Chairman, to which you were referring to a moment ago. And I think it is necessary not only to back up this presumption, but it is also desirable because of the fact that where you have a livestock auction handled by the farmers themselves, which is not a profitmaking operation, is not a big business concern, and where losses are sustained, which would certainly be felt much more strongly by the farmers themselves than would be the case in some other kind of auction. And for that reason I am addressing myself to the philosophical question that you raised. It does seem to me that we have the responsibility to try to keep these auctions, which are a necessary part of the farm process, going without the damaging effects that come in when more and more of the packers, as Mr. Jennings has said, go bankrupt and where farmers ultimately lose out as a result.

Mr. POAGE. Let us assume that is their obligation. If it is, we have filled that, so far as protecting the producer is concerned already, have we not? The producer is protected, is he not?

Mr. JENNINGS. No.

Mr. STRATTON. We have covered it in—I would assume that the philosophical point has been covered insofar as we have required a bond of the livestock dealer.

Mr. POAGE. I am not talking about the dealer. You require a bond from the auction ring. I bring my cattle into the ring. It is the auction operator, whether a cooperative or a privately owned auction who must pay me. I do not get a check from Swift & Co. I do not get a check from a cattle dealer. I get a check from the auction ring.

Mr. STRATTON. I think what we have here is a logical rather than a practical distinction, Mr. Chairman.

Mr. POAGE. Let us follow this one before we run off into that. Let us follow this one right now. I am asking you, Does the producer not depend upon the law to completely protect him who brings his livestock into posted auctions and sells them there?

Mr. STRATTON. Only in a logical way, but not in a practical way, Mr. Chairman.

Mr. POAGE. Let us find out about the practical way.

Mr. STRATTON. If the individual is dealing with a cooperative ring, and the individual is himself a member of the cooperative, and if the cooperative sustains a loss, then anything that the individual makes in the individual sale he may later lose in making up the losses of the cooperative.

Mr. POAGE. If he is a stockholder in it, just like when he is a stockholder in a privately owned ring, he would lose.

Mr. STRATTON. This is somewhat a different thing, it seems to me, when you are dealing with a cooperative.

Mr. POAGE. Are you saying that we ought to protect the co-ops? I am in favor of cooperatives but should we make this legislation simply to protect the co-ops? I am not talking about co-op protection. I am still going back to this farmer. Let us forget whether he is a member or not a member of the cooperative.

Mr. STRATTON. Right; I may respectfully say that I do not think we can make that distinction, because while you can make it logically and say that today he gets his money and, therefore, he is protected, as a practical matter, if he is going to lose tomorrow whatever he made today in trying to make up whatever losses are incurred by the auction, then so far as he himself is concerned that money comes out of the same sock and so far as he is a farmer he will have that much less income at the end of the year. That is the thing that I think we should be addressing ourselves to.

Mr. POAGE. Of course, if you are going to say that there is no distinction between the individual and the dealer entity, whether it be a private or a cooperative, that is one thing. But it is a legal entity, is it not? I presume under the laws of the State of New York he is.

Mr. STRATTON. I am not prepared to say whether it is or not. I presume that it is.

Mr. POAGE. The farmer may have an investment in something that will have a loss. He may invest in the Brooklyn Bridge and suffer a substantial loss on that. I do not know that we can try to keep him from suffering that loss. He may make those investments. What I am talking about is deals on cattle, on sheep, hogs, that he brings in for sale, to a posted auction, posted under the marketing act. He brings those in and he pays the commission—he gets them sold, does he not—he pays something to the auction ring, whether it be a cooperative or a privately owned auction ring?

Mr. STRATTON. That is correct. That is my understanding.

Mr. POAGE. And they do certain things for him. They sell his stock. They are required to remit the proceeds less the commission to him. The law requires that now. And they put up a bond for the performance of doing that.

So let us assume that I bring my cattle into the auction. I sell them. I am entitled to have \$500 if that is the price paid to me less the commission, whether it be a cooperative or whether it be a privately owned auction ring. They pay me the \$500 less the commission, do they not?

Mr. STRATTON. Yes.

Mr. POAGE. I get a check and I can cash that check. It is my money. I have gotten everything that I had in my cattle.

I may own the whole auction ring, so far as that is concerned. I may own 100 percent of the stock in it.

Then if the individual, whether he be an individual or the biggest packer in the United States, fails to pay for those cattle, his payment is due to the auction ring, not to the man who brought in the cattle. And if he fails to pay the auction ring it is the auction ring's loss, not the individual's loss.

The producer did not lose anything on the sale of the cattle, but he may have lost as a result of his investment in the cooperative. The producer, as such, got his money. He may have this other loss.

It is these losses which I understand that you are interested in. He may suffer another loss as an owner or as a part owner of an auction operation, but as the operator of that auction ring, he has a perfect opportunity to protect himself. The auction does not have to permit Swift & Co. to come in and buy. If the auction ring wants to require a bond of Mr. Jones here or Mr. Jennings it can do so, can it not?

The only question that arises is, Should the U.S. Government set itself up to say that we are going to require a bond, even though the auction ring has the right to require it? It can protect itself.

I am just wondering how far you believe in paternalism in Government. That is the whole question.

Mr. STRATTON. I might say, Mr. Chairman, that I doubt there is any group in my congressional district that is less in favor of paternalism in Government than——

Mr. POAGE. Or anybody else.

Mr. STRATTON. Or more concerned about Government intervention than the Farm Bureau. And I am sure that applies in the State of Texas as it does in the State of New York.

Mr. POAGE. If you are going to say that they really do not want paternalism for themselves; yes.

Mr. STRATTON. I will stand on my statement, Mr. Chairman. And may I say again—we have been through this before, but let us go through it—I think from the legal point of view that you are quite correct that the individual as a buyer is protected and the individual as a cooperative member of this auction is not protected.

Without being a lawyer, this would seem to me to be legally and logically true, but the practical fact is that these two individuals are, in fact, one and the same individual. The fact is that the money is the same money and the fact is that it comes out of the same sock—that, I think, is the relevant point with regard to public policy.

The second point that I would make is that the legal and philosophical issue which you have addressed to me has already been decided when the Stockyards Act was extended to the livestock dealers. If that was sound public policy then, all that my bill is saying and all that I am saying now is that the same requirement we make of the livestock dealers should, in the light of changed circumstances since 1944, now be extended to the packer on the basis of the same policy and the same philosophy.

Mr. POAGE. Would not that same reasoning require that if I sell by private treaty to Don Short that the Government would require Mr. Short, as a condition of the right to purchase my livestock, to post a bond?

Mr. STRATTON. No, as I said earlier it seems to me that if you are making a private arrangement with an individual then you are likely to be more wary. The rule of caveat emptor is more likely to apply in your own personal dealings.

Mr. POAGE. Is not this cooperative making a private arrangement with people who come to buy there?

Mr. STRATTON. The individuals who come in to an auction, I think, are likely to feel that these companies, simply because they are companies and have a certain aura that attaches to the fact of it being incorporated are perfectly reliable. It is not until later on that you find out what is wrong. I think when you are dealing with a concern you are not quite as likely to protect your own interests as when you are dealing with an individual.

Mr. JENNINGS. What I think you are talking about is that if they sell to the farmer, is that correct?

Mr. POAGE. Yes.

Mr. JENNINGS. And this bill is not limited to selling to the market. Suppose I have some cattle for sale, if I take them down to the local market I am protected if I sell through the market. If I sell to the direct dealer I am protected under the Packers and Stockyards Act. But if I sell to a packer-dealer I am not protected. Or if I take my cattle direct to the packer I am not protected.

Then what Mr. Stratton is saying here is not necessarily applicable only to these cooperatives. I am protected in every area save one. That is, if I sell to a packer buyer. I am protected if I sell to a dealer. I am protected if I sell to the auction market. I am protected in every other way except if I sell to a packer buyer. If I sell to a packer buyer—if I sell to a packer direct—and he goes broke I have no recourse whatsoever.

Mr. POAGE. If you sell to me—if you are foolish enough to sell on credit—

Mr. JENNINGS. You have to register and you have to post a bond, do you not?

Mr. POAGE. I can buy anything you will sell me.

Mr. JENNINGS. That is not my understanding of the Packers and Stockyards Act.

Mr. POAGE. That is it.

Mr. JENNINGS. That is on an individual basis, but you have to register if you are a dealer in livestock.

Mr. POAGE. Yes.

Mr. JENNINGS. And you have to post a bond.

Mr. POAGE. Yes.

Mr. JENNINGS. And if you are a buyer seller you have to.

Mr. POAGE. That is right.

Mr. SHORT. That is under the State law.

Mr. JENNINGS. That is under the Federal law as it was amended. Of course, I agree that under the State law of many States they do require these packer buyers to be bonded.

Mr. SHORT. Anybody.

Mr. JENNINGS. That is right, which includes the packer buyer under many State laws, but under the Federal law I, as a dealer, am protected in every instance except where I sell to the packer buyer.

Mr. SHORT. Possibly, this is the thing that precipitated this legislation being introduced.

Mr. JENNINGS. Furthermore, we had a case decided that they did not have to be bonded. They used to have to bond the packer-buyer, but not now.

Mr. SHORT. Under the Federal law?

Mr. JENNINGS. Under the Federal, yes.

Mr. STRATTON. May I just say this?

Mr. JENNINGS. Back in those days you only sold to the terminal market.

Mr. SHORT. You never sold direct to a packer.

Mr. JENNINGS. That is right. That is what I said.

Mr. SHORT. There was no need for a bond.

Mr. JENNINGS. Even they were under bond. When we sold to the packer buyer back in the old days they had a bond. If that were not the case, why did we come along here and make these amendments to the act last year when we brought in all of the dealers. As a matter of fact, we brought in the dealers who go to the farms and buy directly.

Mr. SHORT. If the gentleman will yield. I do not understand the law to be that.

Mr. JENNINGS. That is the way I understand it. Am I right?

Mr. POAGE. We have the department witnesses here and they can tell us.

Mr. HARDING. Under the State law they have to post a bond.

Mr. JENNINGS. I am not talking about the State.

Mr. SHORT. As I said before, in North Dakota, one of the determinations that has to be made is when to apply the requirement that the buyer must be bonded. Are you going to apply that requirement to every corn belt feeder who comes to North Dakota or to the State of Idaho to buy cattle for his feedlot? In the instance of the individual buyer who wants feed cattle it is not. If he is a professional dealer, or it is his business to buy cattle for somebody else, yes, the bond is required.

If it is for the purpose of getting cattle to feed in his own feedlot, it is not required.

Mr. JENNINGS. But if he sells to the market——

Mr. SHORT. He comes out to the ranch. There are tens of thousands of cattle purchased in that manner. In our area and in the chairman's area in the Southwest that is common practice.

Mr. JENNINGS. That is the kind of process that prevails in my area, also. You are dealing with the individual farmer. It is a case where he is not, where I, as a seller, am not protected, because I am dealing with that individual and dealing on an individual basis. But if you as a registered dealer come to my farm and buy my cattle I am protected, because you have to be bonded.

If I take my cattle to a livestock market and sell to that market I am protected because it is a posted market.

I am protected because, as the chairman pointed out, they are acting as my agent, so to speak. I assign my stock to them and they, in turn, sell them.

But as the packer-buyer comes out to my farm and buys them from me, I am not protected. Or if I take my cattle in to his packinghouse and sell them to him, I am not protected.

Mr. SHORT. Why is that a greater risk for you to sell your cattle to this packer-buyer than to sell your cows to this farmer-buyer?

Mr. JENNINGS. Because you know the individual farmer.

Mr. SHORT. Not necessarily. If he comes from the State of Iowa or the State of Illinois or the State of Indiana you do not know him.

Mr. JENNINGS. But you can check up on him.

Mr. SHORT. You can check up on the packer.

Mr. JENNINGS. You cannot.

Mr. SHORT. Why not?

Mr. JENNINGS. Because you feel that you are dealing with a reputable corporation. In the livestock market they are bonded. If you sell to them through the livestock market, you are protected. Or if you sell to them as a dealer, you are protected.

Mr. SHORT. The thing is where you are going to require the bond. Obviously, that will require a bond of Swift & Co., or Armour or Wilson or Rath or somebody like that. And then you are going thereby to make an unnecessary requirement on the part of those people. Are you going to cover them in this thing, to have this additional expense

and requirement for the purpose of protecting the very small number of farmers that will possibly be subject to doing such business with the unreliable buyer?

Mr. JENNINGS. My answer to your question is "Yes."

Mr. SHORT. You want them all under it?

Mr. JENNINGS. Yes, sir.

Mr. POAGE. Is it not a question of who pays for that bond—is that not the question? The cost of the bond must come out of the producer, must it not?

Mr. JENNINGS. I suppose that it does, or the consumer pays.

Mr. POAGE. All of these bonds, ultimately, are paid for by the producer.

Mr. JENNINGS. The producer or the consumer.

Mr. POAGE. You cannot always pass it on to the consumer.

Mr. JENNINGS. It is paid for.

Mr. POAGE. It has to be paid for—it has to be paid for by the producer. The question is to take all of the producers as a whole; whether they get enough out of it to justify paying for that bond—that is the question.

I think the same thing would be true if everybody who went down here to Woodward & Lothrop's stores to purchase on credit and had to post a bond. If the Government required all credit buyers to post a bond, they would be able to sell a little cheaper to everybody, I suppose.

You were in the implement business. Everybody did not pay you; you extended credit; you sold the notes to the finance company, I am sure.

Mr. JENNINGS. I had to endorse them.

Mr. POAGE. You had to endorse them; yes. If the Government required every farmer who buys a tractor to post a bond and to pay a premium on that bond, maybe we would have less credit losses and maybe it would be worthwhile.

But, according to that, we might just as well protect the automobile dealer if we are going to do such a thing, and the apple buyer or anybody else.

I do not see why one section of the economy, the livestock auction ring, should be protected by the Government in a manner not applicable to anybody else.

Mr. Jones is in the newspaper business. I am sure that he has not always been paid for the ads he has run for people. I doubt the advisability of having to ask people to post a bond for the payment of their bills.

Mr. JENNINGS. Would you yield? It is required for a large segment of this particular group and we should require it for all.

Mr. POAGE. You touched on what I am talking about.

Mr. JENNINGS. If it is, then we should remove it from these other people, that is, if it is not necessary. Why do we make the dealer post a bond? Why should we make him?

Mr. POAGE. I do not know whether we are right or wrong about that. But should we take another step and enact this legislation?

We are selling more through auction rings now than we used to sell?

I have sold to men from the State of Iowa who I did not know. They had a good reputation. I accepted their reputation. And many people in my part of the country do that.

Should every man who buys cattle in Texas and ships them to Iowa be required to post a bond before he comes down to our State?

Mr. JENNINGS. The Government guarantees the deposit.

Mr. POAGE. The whole question is how far we should go.

Mr. JENNINGS. I agree with what you say, except I think that we should remove this so that there would not be a shadow area here so that I will be protected from you and you and him, but I will not be protected from the next one.

Mr. POAGE. I am not prepared to say what we ought to do with the existing law. All we have before us at the moment is the proposal presented here. It seems to me that if you are going according to the argument made to extend it another step and another one that, certainly, the Government soon would guarantee everybody, and in my book that is paternalism of exactly the kind the proponents of this measure say they do not want.

Mr. STRATTON. May I say this with respect to these questions that have been raised: I wonder if I might read a couple of paragraphs from this letter which I introduced into the record and did not read in the interest of saving time, because I think they are relevant. They are relevant to what the gentleman from Virginia, Mr. Jennings, has said.

If you deal with an individual, in most cases you know that individual and you have had some dealings with him before and you are in a position to arrive at an estimate as to his financial reliability. If you are dealing with a concern, in most cases, you take the reliability of the concern for granted, particularly if you are familiar with the name.

The new development that has taken place, as I understand it, is that you have a lot of new concerns in this packing business who do not have the financial reliability of some of the older concerns.

Now, if I may read just three paragraphs from this letter:

I think we need to consider for a moment the changes that have taken place in livestock marketing over the years, that has created the situation we now have. Back in 1928, when the original act was passed, the meatpacking business was confined to the larger major companies, whose financial integrity was unquestionable, and cattle for slaughter moved through commission men throughout the country (whom the act covered) to these major packers.

Over the years, farmers have set up cooperative marketing through auction markets, which has had a tendency to bring the buyers to the country, rather than terminal markets. Of course, through this same period auctions owned by individual interests have also sprung up.

This has all made it possible for a great many small packing companies to spring up across the country, because of the availability of livestock for slaughter from these country marketing points, and this points up the need for such legislation to regulate this industry and to protect producers against this small minority with questionable financial integrity.

Mrs. MAY. Mr. Stratton, I have always understood that caveat emptor referred not to just one individual but to all the individuals who make up a seller group.

Mr. STRATTON. Corporations and firms are made up of individuals. The corporation has an entity which is quite different from that of the individual from a legal standpoint.

Mrs. MAY. Referring back to your words that we should treat it practically, am I wrong in deducing that you think that the Government should step in to protect a man from unwise business judgment?

Mr. STRATTON. I think, as a matter of fact, over the years we have, certainly, gotten away from a rigid belief in caveat emptor. I do not want to get into, if I can help it, an overall discussion of financial philosophy, but I do not think that the doctrine of caveat emptor, the idea that the buyer has to beware under every circumstance, should always apply. And I do not believe that is what this committee has uniformly subscribed to, or what the Government, certainly, has subscribed to over the past 30 or 40 years.

I think the chairman has raised the question as to whether in this particular case it is a good policy for the Government to set up certain regulations that would protect the buyer. My position has been that since we have protected, as Mr. Jennings has pointed out, the buyer from a substantial segment of perils in this particular transaction, we ought to extend it to the remaining portion as well.

Mrs. MAY. I do not want to get into a discussion of general philosophy, but I agree with the chairman. I do not believe that we should go too far on this matter of paternalistic government. The bill we are discussing seems to me the extension of this philosophy.

Mr. STRATTON. I do not know.

Mrs. MAY. But how far are we going into this or should we go into this?

Mr. STRATTON. I may say to the gentlewoman from Washington I do not feel that a farmer who is busy in the dairy business or in some other business ought to be assumed to have the resources to determine the financial responsibility of every packing company that comes into his area to buy his livestock. I think that is assuming a little bit more than it would be reasonable to assume.

Mrs. MAY. Am I right in assuming that you say we are not protecting the farmer now?

Mr. STRATTON. We are protecting the farmer.

The chairman has drawn what I regard as a narrow legal distinction which I have gone along with from a legal point of view, but which I cannot go along with from a practical point of view. And that is with regard to the money that the farmer has access to as a seller and the money that he has access to as a member of an auction cooperative.

It is my judgment that this is one and the same financial account or money that comes out of one and the same stock, and the legal distinction, while perhaps accurate from a strictly legal point of view, is not persuasive in my mind from a practical point of view.

Mrs. MAY. Referring again to the chairman's remarks about paternalism, I, too, am against paternalism in government.

Mr. STRATTON. Once again I would like to say that the farmers in my area are the group of citizens least interested in paternalism in Government. I think they probably have fewer means of protection than any other individual or group of individuals in my constituency. And the independence of upstate New York farmers is certainly traditional.

I would not feel we were subverting the U.S. Government if we extended to them this slight protection for their finances, knowing the limited income on which the dairy farmers in my area must operate.

Mrs. MAY. Thank you.

Mr. POAGE. If there are no further questions, Mr. Stratton, we are very much obliged to you.

Mr. STRATTON. Thank you very much.

Mr. MATTHEWS. I would like to say to my good friend that I think that he has done an excellent job.

Mrs. MAY. I will join in that, too.

Mr. STRATTON. May I say, the distinguished chairman and members of this committee have been extremely penetrating in their analysis of this legislation. They find in me not an expert in this field. I have tried to respond to the questions and challenges that the chairman has posed as best I could.

Mr. JENNINGS. I think that the witness did a fine job in carrying forward the legal point, the farmer's point and the Department's point. He did an excellent job.

Mr. POAGE. We thank you again.

Mr. STRATTON. Thank you very much.

Mr. POAGE. Our next witness is Mr. Roy W. Lennartson, Deputy Administrator, Agricultural Marketing Service, of the U.S. Department of Agriculture, who is accompanied by Mr. Doggett, who is Director of the Packers and Stockyards Division, and Mr. Glenn Bierman, who is in charge of the Packers Branch of that Division.

We shall be glad to hear from you now.

STATEMENT OF ROY W. LENNARTSON, DEPUTY ADMINISTRATOR, AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY HOWARD DOGGETT, DIRECTOR, PACKERS AND STOCKYARDS DIVISION, USDA; AND GLENN BIERMAN, CHIEF, PACKERS BRANCH, PACKERS AND STOCKYARDS DIVISION, USDA

Mr. LENNARTSON. Mr. Chairman and members of the committee, I appreciate this opportunity to appear before this committee to discuss H.R. 4831—yesterday we received a request for a report on H.R. 5749, so I think it is appropriate for me to include H.R. 5749 in my comments—a bill to amend the Packers and Stockyards Act to clarify the authority of the Secretary of Agriculture to require bonding of meatpackers to cover their purchases of livestock in commerce.

The Department recommends enactment of this bill.

More than one-third of all agricultural income is received from livestock sold for slaughter to the meatpacking industry. It is of extreme importance to a sound and prosperous agriculture that the livestock producer be protected from loss of his proceeds from the sale of his livestock—in some instances representing his entire return for his year's work.

It has been the experience of the Department that the bonding of market agencies and dealers as provided for by the Packers and Stockyards Act has contributed significantly to the financial stability of the livestock marketing industry with resulting protection to livestock producers. All market agencies and dealers except packer buyers, operating at stockyards posted under the Packers and Stockyards Act, have been bonded since 1924. At present, over 11,000 market agencies and dealers registered with the Department have on file with the Department bonds totaling approximately \$70 million. These

bonds range in size from a minimum of \$5,000 to more than \$500,000. Livestock producers have suffered only slight losses due to the insolvency of commission firms and dealers, but in recent years these firms have suffered sizable losses due to the failure of some packers to pay for livestock purchased.

In the early years of the administration of the act, nearly all livestock was sold through public terminal stockyards posted under the act, and most livestock producers received the protection of the bonds carried by the market agency through whom they sold the livestock. However, during the past 30 years, an increasing proportion of the livestock sold has been sold direct to packers, to dealers, or through auction markets. With the amendment to the act in 1958 and the subsequent posting of approximately 1,600 auction markets and the registration of several thousand country dealers, bond protection has been extended to cover nearly all sales made by producers except those made directly to meatpackers. The increase in direct buying of livestock by packers takes away from these producers the protection previously afforded them by the required bonding of commission firms and dealers. It places them face to face with the risk of serious financial loss if the packer fails to pay for livestock purchases.

The Department has become increasingly concerned with losses incurred by livestock sellers, producers as well as dealers and market agencies, in connection with their sales to meatpackers. Although the Department does not maintain a complete file showing all meat-packer failures, the information it does have indicates that some of the packers that have ceased operation in the last few years owed substantial sums of money for livestock purchased.

For example, the failure of a Pennsylvania packer and a District of Columbia packer in 1958; of two California packers, a New York packer, and a Michigan packer in 1959; and an Illinois packer in 1960, resulted in losses to livestock sellers of approximately \$1.5 million. In addition, information received by the Department indicates that an increasing number of packers appear to be operating under voluntary bankruptcy arrangements with creditors. Illustrative of this situation are five packers, two from Pennsylvania, and one each from Oregon, Texas, and Massachusetts, which have tied up more than \$800,000 of livestock sellers' funds for periods extending to more than 2 years.

In some of the above instances, most of the money is owed to commission firms at terminals or auction markets or to dealers who maintain bonds and livestock producers have been protected. In other instances, the bulk of the accounts payable is owed directly to livestock producers and no bond protection is provided. It is believed that increased losses will be sustained by livestock sellers in the future in the absence of the protection afforded by packer bonds.

A number of States have recognized the need for requiring bonds of meatpackers in the past few years. At this time North Dakota, Colorado, Minnesota, Ohio, Vermont, Georgia, Mississippi, and Nevada require bonds in varying amounts, usually limited to purchases within the State by resident packers. From the best information available to the Department, approximately 400 packers have furnished bonds totaling nearly \$2,700,000 covering purchases in these States.

While this State-by-State approach to the problem of providing adequate financial protection to the seller of livestock is necessary in the absence of a bond requirement under the Packers and Stockyards Act, it is more costly and less effective.

We estimate the entire cost to the meatpacking industry for furnishing bonds to cover their livestock purchases would probably not exceed \$125,000 to \$130,000 in annual premiums under the schedule now applicable to purchases of livestock by dealers. This is less than the amount of losses sustained in a number of instances in recent years by livestock sellers from the failure of a single packer.

The cost of bond coverage actually would be less than 4 cents per thousand dollars of purchases up to \$6,500,000 and less than 0.4 of a cent per thousand dollars of purchases made in excess of that amount. At the \$5 per thousand premium rate currently in effect, 76 percent of the 1,240 livestock slaughterers reporting in 1957, the latest year for which the Department has compiled this information, would be required to furnish bonds costing no more than \$100 annually; 13 percent would be required to furnish bonds costing from \$100 to \$250; 10 percent from \$250 to \$400; and only 1 percent, all purchasing more than \$45,500,000 worth of livestock during that year, would require bonds costing more than \$400.

It is believed that bonding provides the least expensive method of furnishing a reasonable measure of financial protection to livestock sellers that is available. It is anticipated that the entire program of administering the bonding requirements for the meatpacking industry would approximate \$35,000 annually.

In the early years of the administration of the act, the Department required packers to furnish bonds. This requirement led to enforcement action against a packer and, after lengthy litigation, it was held that packers were not dealers under the act, and were not required to furnish bonds. We feel that this holding was incorrect and that it was the intent of Congress, as shown by the legislative history, to grant statutory authority to require packers and their buyers to register and furnish bonds.

In 1954, the Department issued a regulation requiring packer-buyers to register as dealers to purchase livestock for slaughter. The validity of this regulation was contested in a court case. The court upheld the Department's view that the act requires packer-buyers to register under the act as dealers, but failed to clarify the Department's authority to require bonds of packers. Although the Department believes that the bonding provisions of the act, as well as the registration provisions, are applicable to packers and their agents, we feel that any attempt to require bonds of packers under existing authority would once again lead to protracted litigation.

We believe that the enactment of H.R. 4831 would clarify the Department's authority to require bonds of packers and would provide needed protection to producers, market agencies, and dealers.

Thank you.

Mr. POAGE. Would you give us a little more detail just what the law does cover at the present time? On the first page of your statement you have indicated that there is protection for the producer at the present time and that it is the losses of the market and the commissioned firms that you are trying to protect against with this legislation.

First, let us get that clear, is that true—are the producers presently protected when they bring their livestock to a market?

Mr. LENNARTSON. They are protected in two ways: One, by virtue of the dealer operating on that yard being required to be registered and to carry bond. The auction market, or the market itself is also required to be registered and, also, to carry a bond.

Mr. POAGE. And it makes no difference whether the packer pays for those cattle or not, the producer is protected by an existing bond from the auction ring; is that right?

Mr. LENNARTSON. He is protected, Mr. Chairman, to the extent that the bond would be adequate to cover the total loss inflicted.

Mr. POAGE. He would be protected—

Mr. LENNARTSON. I beg your pardon?

Mr. POAGE. He would be protected only to the extent of the bond under this bill of yours, of course.

Mr. LENNARTSON. That is right.

Mr. POAGE. He is only protected to the extent of the bond.

Mr. LENNARTSON. That is right.

Mr. POAGE. But there is a bond posted at the present time to that producer that he will receive the proceeds from the sale of his cattle; is that not right?

Mr. LENNARTSON. He is, under that bond coverage, that is correct, sir.

Mr. POAGE. And the protection that is sought under this bill is, primarily, exactly what Mr. Stratton said, that is, to protect the auction ring; is that not right?

Mr. LENNARTSON. Well, this bill has a two-way objective. One, it is designed to protect the producer who would sell directly to a packer or a packer-buyer, not going through an organized or public market.

It is also designed to give protection to that market and thereby indirectly to give protection to the producer who is offering his cattle or livestock on that market. In other words, it tends—

Mr. POAGE. We have not got it as clear on the record as I would like to have the answer to the question that Mr. Jennings asked.

This bill, then, would cover direct purchases on the farms?

Mr. LENNARTSON. On the part of the packer.

Mr. POAGE. On the part of the packer?

Mr. LENNARTSON. Right.

Mr. POAGE. But how far would it go? If I sell my cattle—if I sell my calves to Mr. Holbert—I never did, but my neighbor has—he is, as you know, about as well known as most of the packers in my part of the country—if I sell them to him, the bill would give me no protection, is that right?

Mr. LENNARTSON. If the gentleman you are referring to is a producer himself or just an occasional buyer and does not meet the definition of the act as to a “dealer,” he would not be required to register or furnish a bond.

Mr. POAGE. He is one of the biggest feeders, is he not, in the Southwest?

Mr. LENNARTSON. If his transactions were of such continuity and numerous in amount during the years that he would meet the requirements or the definitions set forth for a “dealer” in the act he would be required to register and post a bond.

Mr. POAGE. I am trying to find out where that line is. We sell almost exclusively in two ways. We either go to an auction ring—

Mr. LENNARTSON. Right.

Mr. POAGE. Which, practically, probably accounts for three-fourths of our sales, or we sell direct to a buyer. And he is generally from the State of Iowa. We sell more calves to the State of Iowa than we sell anywhere else.

I want to know for my own information. Am I going to be protected selling to somebody from Iowa? Am I going to be relieved of any responsibility of knowing anything about him?

Mr. LENNARTSON. All I can say—

Mr. POAGE. What is your statement on that? I can protect myself. I never have lost anything yet on those things, and I can protect myself and so can any other producer now, but, of course, if the Government is going to accept that responsibility for me, then I want to come to the Government and have the Government look after me. Will the Government look after me? That is what I want to know.

Mr. LENNARTSON. If he is registered as a buyer of livestock in interstate commerce—

Mr. POAGE. I do not know whether he is registered or not. Do I have to write to you to find out? How do I find out?

Mr. LENNARTSON. You very simply ask him if he is registered.

Mr. POAGE. Suppose he lies to me?

Mr. LENNARTSON. I beg pardon?

Mr. POAGE. Suppose he lies to me—he plans to refuse to pay me and he would not therefore hesitate to misrepresent his status. I want to know if the Government will take care of me.

Mr. LENNARTSON. There is no question that you have some responsibility to look after your own transaction.

Mr. POAGE. Should not the Government look after me? After all, why should I? I am just a small man out there. Why should I have any responsibility? Why should not the Government? Why don't you send somebody down there to my place to be there when I sell and to say, "Here is the Government which has the money—the Government will pay you." I may get robbed, you know. I may not ask all of these questions that I ought to.

Of course, I can protect myself. There is nothing to keep me from protecting myself now if I want to. It is only when I sell to somebody without getting my money that I am taking a chance at a loss now. If I require that man to pay me it makes no difference to me who he is—if I require him to pay at the time I deliver and to pay me good money. I can take it to the bank and let them check it to see that it is good money and I am protected right now, if I want to be protected, am I not?

Mr. LENNARTSON. That is right.

Mr. POAGE. The only time that I am going to get stung is when I knowingly and voluntarily extend credit to some unworthy purchaser, is that not correct?

Mr. LENNARTSON. I think that any producer—anyone must assume that responsibility.

Mr. POAGE. Well, I say right now, however, if I exercise that responsibility I can protect myself, can I not?

Mr. LENNARTSON. Yes, you can.

Mr. POAGE. I do not have to sell to a bankrupt packing institution if I do not want to, do I? I have the same opportunity to find out about them that I have to find out about this man from the State of Iowa, have I not?

Mr. LENNARTSON. That is correct.

Mr. POAGE. And it would be a good deal easier. If I simply wanted to go down to my bank and make that fellow give me a certified check it is all over and I have the money, and he can go broke a dozen times and I am still paid, am I not?

Mr. LENNARTSON. That is correct.

Mr. POAGE. The only time that I am not protected is when somebody is not worthy of credit, is that not right?

Mr. LENNARTSON. I would say so.

Mr. POAGE. Then what we are trying to do here is to assure that that credit that I extend is going to be protected by a bond. Why should we not extend that protection to all phases of life? Why should we not extend it to other things. If I sell my car on credit, why should I not be protected by a bond that I will receive payment?

Let the record show that there was no response. [Laughter.]

Are there any further questions?

Mr. JONES of Missouri. No questions.

Mr. JENNINGS. No questions. You have answered all of mine very clearly in the statement.

Mr. POAGE. Do you have a statement, Mr. Doggett?

Mr. DOGGETT. No.

Mr. JENNINGS. I would like to compliment the witness on a very fine and forthright statement as presented here. It bears out exactly my understanding of this act.

There is one area that has not been covered here in the proceeding and that is, When does an individual have to register as a dealer?

Mr. LENNARTSON. Would you like to comment on that, Mr. Bierman.

Mr. BIERMAN. The general rule is that if the person is in business, regularly and consistently buying for resale to someone else, he is a dealer. This may be differentiated from the farmer-feeder operation, in which case the person buys livestock a couple of times a year for his own feeding operations for putting on a weight gain. That particular persons is not included under the definition of "dealer." He has purchased the livestock for feeding.

Mr. JENNINGS. If I sell to that person I would be included as a dealer?

Mr. BIERMAN. I beg your pardon?

Mr. JENNINGS. If I tried to resell to a dealer, then I would be included under the definition?

Mr. BIERMAN. Yes, you would.

Mr. JENNINGS. But if I bought direct myself to feed, then I would not be included?

Mr. BIERMAN. That is correct; you would not be a dealer, you would be a feeder. You would have the livestock in your feed yard for some time for feeding purposes.

Mr. HELMBURGER. Could I follow that up with a question?

Mr. POAGE. Yes.

Mr. HEIMBURGER. If Mr. Jennings represented in his district, where they do produce a lot of calves and young cattle, one feeder, and he bought for him only, would he be required to post a bond and register as a dealer?

Mr. BIERMAN. It would depend on whether he held himself out to buy for other people.

Mr. HEIMBURGER. I limited it to one only. If he just bought for one feeder, would he be a dealer?

Mr. BIERMAN. I would have to know more about the relationship. He might be an employee or he might be a dealer.

Mr. HEIMBURGER. Let us assume that he is just an agent—he has other business activities. I am not trying to trick you. I am just trying to pin it down. Let us assume he has other business activities.

Mr. LENNARTSON. In livestock?

Mr. HEIMBURGER. Other than livestock, but as a part of his means of income he represents one cattle feeder in south of West Virginia and buys calves and ships them out to Colorado—he represents one feeder only—he never buys for anybody else; is he a dealer?

Mr. BIERMAN. I think he could be a dealer. I would have to know exactly the relationship. What does that feeder, for instance, hold him responsible for?

Mr. HEIMBURGER. I see. In other words, even where he buys only for one company or one individual he could be in the nature of a dealer, is that correct?

Mr. BIERMAN. That is correct.

Mr. HEIMBURGER. But if he were not, he would not be required to register or to post a bond?

Mr. LENNARTSON. If he is in a sense an employee, he would not be required to.

Mr. JENNINGS. That is a very good question. That actually exists down in my district. I think it is a very good question.

Addressing myself to this paternalistic attitude, I think it is a question of who you hold the umbrella over, whether you hold it over him all the way or only nine-tenths of the way and leave a big hole where the water can leak in on him.

Mr. POAGE. That is exactly the thing that concerns me. It seems to me that if we follow this we must hold it all the way over him. We must say that if I sell to Tom, Dick, or Harry, before he can buy it is contingent that he has to have a bond posted. We would require every man who bought livestock anywhere in the United States to post a bond.

Mr. LENNARTSON. No.

Mr. POAGE. Why not?

Mr. LENNARTSON. What we are suggesting here, and what this bill is suggesting is a matter of drawing lines somewhere, treating like people alike in this matter of livestock marketing.

As Congressman Jennings indicated, the bonding requirement is extremely broad in the livestock field with respect to dealers, marketing agencies, and public marketing, and so forth. But here is one buying element that is in the marketplace, and on a comparable basis to those people who are now required to be registered, who are required to do certain things by way of posting bonds, reflecting financial stability, and so forth—this amendment and the Department's position

is that we treat like activities or like individuals alike with respect to the requirements of this act.

Mr. POAGE. That is right.

Mr. LENNARTSON. When you go beyond that—when you go beyond that, you can run into a variety of situations. This matter that has been discussed here this morning of the producer selling to a producer, or selling to a feeder, and so forth, where you have a direct relationship, no continuity, and so forth, private treaty going on, certainly the Department would not be interested or favor any legislation requirement additional regulation.

Mr. POAGE. If I sold to anybody that I did not know, would you favor a bond?

Mr. LENNARTSON. No.

Mr. POAGE. Would you favor protecting me with a bond if I sold to somebody else?

I would not be in position to know whether he would pay me any better than these people.

Mr. LENNARTSON. The Packers and Stockyards Act, particularly in this area that we are discussing now, does not imply that producers or any individuals are not going to be required to assume some responsibility and some risk on the part of themselves. There is a bonding requirement under the Packers and Stockyards Act and it does not necessarily give complete coverage against losses. These bonds are rather reasonable. They are disciplinary in effect, rather than providing complete coverage.

Mr. POAGE. Mr. Jennings' suggestion, it would seem to me, is that it is a little unfair not to get complete coverage—to go all the way or not at all. When you get caught in the rain, you do not put up your umbrella halfway home; you ought to keep it up all the way.

I can go broke by selling to somebody in Iowa just as quickly as I can selling to somebody somewhere else that I do not know.

Mrs. MAY. Mr. Lennartson, you have stated on page 3 of your statement that there are a number of States that recognize or have passed such protective legislation.

Is there any particular reason why more States have not passed this legislation at the State level, that you know of?

Mr. LENNARTSON. I have no knowledge as to why the other States important in livestock production and marketing have not taken similar action.

Mrs. MAY. You have said that in the absence of a bond requirement, the State-by-State approach would be more costly and less effective. Would you comment on that?

Mr. LENNARTSON. Mr. Bierman could probably better answer that.

Mr. BIERMAN. Generally I might say that most of the interest of the States in the bonding of packers has been in recent years, the past few years. There seems to be a general trend along those lines.

In answer to your question, generally, most of these State laws requiring bonding only of packers who are resident within the State, although in other cases they do cover packers who have buyers in the State.

As a result, some packers now have more than one bond with different States. I would anticipate that in the absence of action on a Federal level, that more States will be placing bond laws on their

books, each of which requires separate bonds. We would end up with different bond requirements under quite a few different laws, no two quite alike.

Mrs. MAY. Why would there be a difference between the State laws in this respect?

Mr. BIERMAN. The needs of the situation in that State at that particular time.

Mrs. MAY. It would be to meet their particular needs at the time?

Mr. BIERMAN. Yes. In most instances, these bonds are in relatively small amounts, ranging from \$1,000 to \$5,000, although a couple of States have sizable bonds. In the South, bonds may run up to \$10,000 or \$25,000.

Mrs. MAY. In some of these States that do have quite a sizable livestock industry and have not passed these bond requirements, do you think that we, as representing the Federal Government, have the responsibility to bring them in, when they may have reasons why they do not care to go into this, or have not felt the need for the bonding to be required—may even be against the idea of the Federal Government invading their own private consideration and desire?

Mr. LENNARTSON. This could prevail.

Mrs. MAY. Thank you. That is all.

Mr. HEIMBURGER. Could I ask another question?

Mr. POAGE. Yes.

Mr. HEIMBURGER. At the present time are bonds required of all dealers or all persons who are required to register with the Department?

Mr. LENNARTSON. That is correct. I might qualify this to the extent that the act was amended in 1958, which broadened the responsibility of the Department in this field. It takes a considerable time to secure complete regulation. We estimate that there are probably 20,000 to 25,000 dealers who are subject to this act. We have not registered them all at this time, in view of financial limitations, in view of the manpower limitations, but in the final analysis, all dealers dealing in interstate commerce will be registered under this act.

Mr. HEIMBURGER. Under this 1958 amendment that has gone into effect, as I recall, this will include also those dealers and buyers for resale who go out into the country and buy directly from the farmer?

Mr. LENNARTSON. This applies to all dealers, whether they buy in organized markets or directly at country points.

Mr. HEIMBURGER. But it does not cover a buyer for a packer, whether he operates solely at the stockyards, the auction ring, or whether he operates out in the country; is that correct?

Mr. LENNARTSON. The bonding provision does not cover him.

Mr. HEIMBURGER. Does the registration cover him?

Mr. LENNARTSON. We are registering packer-buyers at this time. This has been tested in the court in our favor.

Mr. HEIMBURGER. To that extent you do not require at the present time bonds of all of the people whom you register?

Mr. LENNARTSON. We do not require bonds of packer-buyers, in view of the court history—

Mr. HEIMBURGER. How do these bonds operate? Suppose this bill were to be enacted and the packer-buyer, operating out in the country,

would be required to post a bond—would this be done by the companies, in other words, Swift & Co., operating all over the United States with hundreds of buyers in the country buying cattle, that company would post one bond; is that correct?

Mr. LENNARTSON. Yes.

Mr. HEIMBURGER. Is this posted with the Department of Agriculture?

Mr. LENNARTSON. I will let Mr. Bierman answer.

Mr. BIEMAN. That would be correct.

Mr. HEIMBURGER. What is the Department's recourse in the case of default—and we will quit using Swift & Co. in this case—some fly-by-night packer who has posted a bond, his buyers go through the country and buy cattle, and subsequently do not pay for them—what is the farmer's recourse? Does he look to you people for payment, or does this give him a right to file against the bonding company?

Mr. BIEMAN. There is a trustee named in the bond. The trustee calls—

Mr. HEIMBURGER. Who is this trustee, somebody in the Department?

Mr. BIEMAN. It is usually some financially disinterested responsible person. It is his responsibility is to see that the proceeds of the bond are distributed among creditors protected by the bond.

Mr. HEIMBURGER. So that the Department does not act in a fiduciary capacity here?

Mr. BIEMAN. No.

Mr. HEIMBURGER. It simply approves the bond, I suppose, when it is filed, and that is the end of the Department's responsibility. The farmer then has to proceed, in case the trustee does not give him a proper settlement, through the courts to get his final settlement?

Mr. BIEMAN. That would be correct.

Mr. HEIMBURGER. I was wondering if the Department would have a fiduciary responsibility. I was looking to that. That is all.

Mr. POAGE. Are there any further questions?

If not, we are very much obliged to you gentlemen.

* Without objection, we will insert the favorable report from the Department of Agriculture at this point in the record.

(The Department report dated April 20, 1961, follows:)

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 20, 1961.

HON. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR CONGRESSMAN COOLEY: This is in reply to your request of March 9, 1961, for a report on H.R. 4831, a bill to clarify the authority of the Secretary of Agriculture to require reasonable bonds from packers in connection with their livestock purchasing operations.

This Department recommends that the bill be passed.

This bill proposes to amend the proviso in the paragraph designated "Packers and Stockyards Act," under the heading "Marketing Service" in the act of July 12, 1943 (57 Stat. 422, 7 U.S.C. 204), by striking out the words "market agency and dealer" and inserting in lieu thereof the words "market agency as defined in title III of the Act, every packer as defined in Title II of the Act, in connection with its livestock purchasing operations and every other person operating as a dealer, as defined in Title III of the Act."

The bill specifically provides for the bonding of packers subject to the jurisdiction of the Packers and Stockyards Act. The objective is to provide an additional safeguard for livestock producers, market agencies and dealers,

against financial loss due to the inability of packers to pay for livestock purchased.

The Packers and Stockyards Act, as originally passed in 1921, did not authorize the Secretary of Agriculture to require bonds from persons subject to the act to assure performance of financial obligations incurred in their operations. Early experience in the administration of the act showed that to assure prompt payment of proceeds due producers it was necessary to require bonds of both commission firms and dealers. This authority was given the Secretary in 1924 and each year thereafter until 1944 when the authority was made permanent. At present, market agencies and dealers have on file with the Department bonds totaling approximately \$70 million. These bonds have contributed significantly to the stability of the livestock marketing industry. Livestock producers have suffered only slight losses due to the insolvency of commission firms and dealers, but in recent years market agencies and dealers have suffered sizable losses due to the failure of some packers to pay for livestock purchased.

New trends in the sale of livestock have increased the need for packer bonding. At one time meatpackers purchased almost all livestock through the terminal stockyards. In recent years direct packer purchases of livestock from producers have been on the increase and now constitute a substantial portion of all livestock purchased. This practice of direct buying takes away from the producers the protection previously afforded them by the required bonding of commission firms and dealers. It places them face to face with the risk of serious financial loss if the packer fails to pay for livestock purchases.

In the early years of the administration of the act, the Department required packers to furnish bonds. This requirement led to enforcement action against a packer and, after lengthy litigation, it was held that packers were not dealers under the act and were not required to furnish bonds. We feel that this holding was incorrect and that it was the intent of Congress, as shown by the legislative history, to grant statutory authority to require packers and their buyers to register and furnish bonds. In 1954, the Department issued a regulation requiring packer-buyers to register as dealers to purchase livestock for slaughter. The validity of this regulation was contested in a court case. The Court upheld the Department's view that the act requires packer-buyers to register under the act as dealers, but failed to clarify the Department's authority to require bonds of packers. Although the Department believes that the bonding provisions of the act, as well as the registration provisions, are applicable to packers and their agents, we feel that any attempt to require bonds of packers under existing authority would once again lead to protracted litigation. We believe that the enactment of H.R. 4831 would clarify the Department's authority to require bonds of packers and would provide needed protection to producers, market agencies, and dealers.

It is estimated that the enactment of H.R. 4831 would necessitate additional funds in the amount of \$35,000 per annum.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

Mr. POAGE. We have three more witnesses. We next have Mr. Clifford E. Nower, of the New York State Livestock Auction.

We will be glad to hear from you now.

STATEMENT OF CLIFFORD E. NOWER, PRESIDENT, NEW YORK STATE LIVESTOCK AUCTION

Mr. NOWER. My name is Clifford E. Nower, and I represent the New York State Auction Association. I would like to read this statement that was made up at one of our meetings. I think it will explain our situation better.

On Sunday, June 5, our association held a meeting in Morrisville, N.Y., where representatives of the Packers and Stockyards Division of the U.S. Department of Agriculture informed us of the forthcoming posting of our livestock auction market in New York State.

During the question period, one of our members asked. "Why aren't all packer-buyers at commission sales required to be bonded the same as we are?" The answer given was, "A packer-buyer has always been looked upon as financially able to pay his bills."

Considerable discussion took place at our regular meeting following the session with the Federal people.

We feel that the Packers and Stockyards Act originally covered terminal market operations only—Chicago, Kansas City, Omaha, Denver, et cetera—where buying of livestock was done largely by the big packers such as Swift, Armour, Wilson, Cudahy, and others. This is probably the basis for the foregoing statement about financial responsibility of packers. We believe that the record indicates the condition in New York State to be otherwise.

The following is a partial list of packinghouses who have been unable to pay the bills incurred by them at our auction markets and who have for the most part forced us to settle through the courts for fractions of the amounts owed, as follows:

	<i>Court record of amounts owed</i>
Camp Packing Co., Cortland, N.Y.-----	\$384, 371. 78
Central Packing Co., Bogart Central, Brooklyn, N.Y.-----	297, 644. 98
Fairway Packing Co., Syracuse, N.Y.-----	115, 366. 40
Lackawanna Beef & Provision Co., Scranton, Pa.-----	383, 313. 00
Middletown Packing Co., Middletown, Conn.-----	583, 913. 00
Central New York Packing Co., Utica, N.Y.-----	85, 732. 00
Danahy Packing Co., Buffalo, N.Y.-----	250, 000. 00

Several years ago the American Packing Co. "blew up" owing over a million dollars to livestock markets in New York State.

Walden Packing Co. went through bankruptcy several years ago—creditors getting nothing.

There are many other such instances.

At the meeting above mentioned, it was regularly moved, seconded, and unanimously passed that a letter be written to you setting forth the facts and requesting action, to wit:

Whereas we, members of the New York State Licensed Livestock Commission Auction Association as a condition of licensing to engage in the business of marketing livestock are required to furnish a bond in an amount equal to the gross value of an average sale during the past 12 months immediately preceding; and,

Whereas packinghouses that purchase livestock from our auctions are not required to be bonded; We, therefore

Respectfully request that the State of New York establish a regulation to require such buyers to be licensed and bonded in a manner similar to those requirements that must be met by auction markets.

Mr. POAGE. The amounts that are due at these auction rings, that is a total amount?

Mr. NOWER. That is right.

Mr. POAGE. These auction rings, whether they be privately owned or whether they be cooperatively owned, could they not prevent these packers from buying if they had wanted to.

Mr. NOWER. That is right.

Mr. POAGE. Therefore, the man who sold his cattle, sheep, or hogs at that auction had no control over who buys them.

Mr. NOWER. Right.

Mr. POAGE. The only man who needs to have a bond posted to protect him against the dangers which he could not protect himself

against, is the producer. He does have that protection now at the auction ring, does he not?

Mr. NOWER. Yes.

Mr. POAGE. These rings may not protect themselves today because they probably feel that they need to sell to poor credit risks as a matter of competition. Therefore they will not be hard upon the prospective purchaser. Is that not really what happens? They do not want to turn anybody down even when they know that these packers are in bad shape, do they not?

Mr. NOWER. Well, that is possibly true. There is a point there that you sometimes do not know.

Mr. POAGE. Generally you do, however?

Mr. NOWER. You know, what I mean you can feel it.

Mr. POAGE. That is right. But competition sort of tended to suggest to them "we had better, for competitive reasons, bring in all of these possible buyers, as many as we can, and we hate to turn anybody down, so we will go ahead and let these people buy out of our ring, even though there is some rumor about them."

Mr. NOWER. But in this case I am representing the New York State association. We run our own market. We are a little bit fussy.

Mr. POAGE. You run your own market?

Mr. NOWER. Yes, we have our own market. I represented in this letter that I was representing the New York State Commission Auction Association, but now I am speaking as a private owner for the record.

Mr. POAGE. I see. Well, you have the opportunity of the private owner to protest against these bankrupt firms if you know who they are.

Mr. NOWER. That is right—that is right—but they are not any good for the industry, that is the point at large. In other words, they hurt your good, legitimate packers.

Mr. POAGE. Of course, they do. Unfortunately, they do. The man who buys a suit of clothes down here and does not pay for it, he hurts the rest of the people.

Mr. NOWER. That is right.

Mr. POAGE. Because, ultimately, those clothes have to be included in the cost of all of the clothes you and I buy.

Mr. NOWER. If you are running an auction market it is nice to have everybody sitting around there who is using 100-cent dollars, in other words. I can cite cases where somebody settled for about 10 cents on the dollar.

Mr. POAGE. You, as an auction operator, could require a bond of anybody who buys on the auction, could you not?

Mr. NOWER. Listen, if the other fellow—the other man—in other words, our competitive auction—suppose he does not require it and they will say, "Well, I think I will go over there."

Mr. POAGE. I know competition does that and it requires the auction operator to accept a buyer whom he would not otherwise accept, is that right?

Mr. NOWER. That is right. But who is going to use the whip on him—the State of New York or the Federal Government, the Packers and the Stockyards Act? Who?

Mr. POAGE. He will have to do exactly as an individual does when he is asked to extend credit. I have had a lot of people who wanted to buy stock that I would not sell to them on credit. There have been times when I had to have the money in the bank before they could drive the stock off. I sold them that way, too. I think you have to do the same thing.

Mr. NOWER. We have another pressure that does come in. In other words, we have a good farmer down the road. He hears about this other auction—and we will call it a fly-by-night who goes to the competitive auction. The farmer goes over to that auction and he finds that the prices are kind of high. All right, then he comes back, and says, "What is the matter that you do not get that buyer over here?"

I say, "I do not like his money."

However, I lose a customer. Eventually, you see what I mean. When this sort of fellow goes broke they come back to you then.

That is the thing we would like to eliminate, if possible. I mean, that is just one point. Do I make myself clear?

Mr. POAGE. I think so. I think you are faced with exactly the same thing any seller must face. The fellow who is about to go broke is likely to offer me more for my cows than the buyer who will pay me cash. I try not to sell to the poor credit risk because I am afraid I will not get anything. I think that is true in every sale. I think that you have to use judgment, unless we accept the philosophy that the Government ought to come in and guarantee all credit that is extended. Then we will have to guarantee every credit risk in the United States.

Mr. NOWER. There is another thought that I would like to get across. How do I answer this dealer? He is not a packer. He is just a dealer. He comes to our market, but he has to furnish a bond.

Mr. POAGE. I do not know how you can answer him. That is something that we have to face, but I think that when we answer that we may have a difficult thing to answer as to why you do not guarantee me against a stranger—why you do not let me sell to that stranger without any investigation at all. Why should I not be allowed to sell to any stranger who comes down the road and stops at my place and says, "I will give you a check on a bank in Pittsburgh." I have to make up my mind whether I think his check is good. I don't think the Government should attempt to remove all my risk. How far should the Government go?

Mr. NOWER. I wish I knew the answer.

Mr. POAGE. I wish that I did, too. It seems to me that it is inevitable if we keep extending this thing that we must look to the Government to guarantee all debts. I do not think that the U.S. Government ought to get into the business of guaranteeing everybody's credit.

Mr. NOWER. When you drive your car down the road you have to show a bond, do you not—I mean you are bonded—you are insured, in effect.

Mr. POAGE. But the Government does not require that.

Mr. NOWER. The States do.

Mr. POAGE. I think the Government has a right to step in where the public is concerned, but it does not have the right to step in where only the individual is concerned. Here the fellow who has the opportunity to protect himself does not do it.

Mr. NOWER. They still have to protect this dealer that he is bonded.

Mr. POAGE. The only point I make about that, about the dealer, is that if you do that, then I think clearly you should extend it another step. We cannot do that without carrying it on down to the farmer and guaranteeing him against everything.

Mrs. MAY. Would it be possible for your auction ring to do business only with those firms that they know are sound and not shaky financially? I know that here you would get into some competition problems, but you could build up a fine reputation as an auction ring which only deals with reputable firms.

Mr. NOWER. That has been our policy. Listen, to be frank with you, I am not speaking for ourselves—I am speaking for every auction market in New York State. I feel that we can run our business, because we have a few fellows sitting around, and I know how far they can go and once in a while I kind of watch them bidding, and I know how much they have purchased and I go to where they are and I may say to them, "your coal is getting low," and they know what I mean. That is the way we try to operate, but we still have around 70 licensed commissioned auctions in New York State. It is not that we know all of the answers up there in that State, I mean, that is the way we operate. Some of them do not bid because they are hungry for that buyer.

Mrs. MAY. That is all.

Mr. POAGE. Thank you very much, Mr. Nower.

Mr. NOWER. Thank you for listening to me.

Mr. POAGE. We have been glad to hear you.

Our next witness is A. Z. Baker of the American Stockholders Association.

Mr. BAKER. Do you want to go ahead at this time because of the lateness of the hour?

Mr. POAGE. That is correct. We will, however, hold hearings on this at some future time.

Mr. BAKER. I have given the young lady a copy of my statement, and if I might have the privilege of filing an additional statement on behalf of some of the other interests in the market, I would appreciate it.

Mr. POAGE. That will be fine. You may.

Mr. BAKER. Then if you want to wait until some future time, that will be all right with me.

Mr. POAGE. We will wait then until we can have further hearing on this. At that time we will have the opposition witnesses. You and Mr. Datt can appear then.

Mr. BAKER. Very well.

Mr. POAGE. That will be fine.

Mr. DATT. I have just a brief statement, if it is all right with you I would like to file it for the record and have it included now.

Mr. POAGE. We might want to question you on it.

Mr. DATT. Whatever your desire is.

Mr. POAGE. Suppose we have you come back at the next hearing.

Without objection, I will include in the record at this point a statement by Mr. James G. Patton, president of the National Farmers Union, and a letter addressed to Mr. King from the State of New York Department of Agriculture and Markets, dated April 20, 1961.

(The statement of James G. Patton and the letter dated April 20, 1961, from the State of New York Department of Agriculture and Markets follow:)

STATE OF NEW YORK,
DEPARTMENT OF AGRICULTURE AND MARKETS,
Albany, April 20, 1961.

HON. CARLETON J. KING,
*House of Representatives,
Washington, D.C.*

DEAR CONGRESSMAN KING: I request that you submit to the House Agricultural Subcommittee the following statement which contains a summary of the testimony I would offer were it possible for me to attend the hearing on H.R. 4831 on April 21, 1961.

The Packers and Stockyards Act, and the rules and regulations promulgated pursuant thereto, requires that the owners and operators of livestock auctions and commission sales furnish bond to insure payment due from them to producers. Packers buying for slaughter purposes only must register as such under the act, but are not required to furnish bonds to secure the performance of their obligations.

The result, in New York State, has been that in many instances packer buyers have defaulted in payments for their purchases to the commission merchants and livestock auctions; some such merchants and auctions have failed because of such defaults, and others have suffered substantial financial loss.

The records of the New York Department of Agriculture and Markets show that in the last 5 years five livestock auctions failed and discontinued business. The cause of such failures, in each instance, was substantial losses sustained because of packer buyers' defaults in payment of livestock purchased. Almost without exception every other commission merchant and livestock auction has suffered losses, as a result of buyers not paying for purchases.

This has adversely affected the agricultural economy of the State, particularly the livestock industry, in reducing the number of commission merchants and livestock auctions, in lower prices received by producers and increasing costs in marketing.

H.R. 4831 proposes to amend the act to include packers as those who may be required to furnish bonds. Such legislation is necessary to insure orderly marketing and to protect those furnishing the market facilities, and indirectly to protect the farmer producers of livestock.

Since the last amendment to the Packers and Stockyards Act, it is my understanding that every State has been posted, thus completely extending Federal jurisdiction over the industry. State legislation in this field would be of doubtful validity. Favorable congressional action on H.R. 4831 is needed.

Personally and as Commissioner of Agriculture and Markets of the State of New York, I endorse H.R. 4831 and urge its passage by the Congress.

Very truly yours,

DON J. WICKHAM,
Commissioner of Agriculture and Markets of the State of New York.

STATEMENT OF JAMES G. PATTON, PRESIDENT OF THE NATIONAL FARMERS UNION

Mr. Chairman and members of the committee, on behalf of the members of the National Farmers Union, I am submitting this statement in full support of H.R. 4831 which would clarify the authority of the Secretary of Agriculture to require reasonable bonds from packers in connection with livestock purchases. Farmers selling their cattle should be fully protected from fraud or possible default or promptness by packers to pay a stipulated price.

Farmers selling cattle on weekends, holidays, or after banking hours when not paid in cash should be secure in their transactions and should be fully protected from those who are not financially responsible. Although the probability of victimization of farmers by packers may be remote, this legislation is needed to protect the sellers in every instance.

Financially responsible packers should not object to posting a bond since the cost is nominal. Those packers acting in good faith we feel should not object to posting a bond. Conversely those who object to posting a bond may feel that there is some probability that they may not be able to meet their commitments.

We urge the committee to approve this legislation.

(The following letters and statements were also submitted to the subcommittee:)

NATIONAL LIVESTOCK PRODUCERS ASSOCIATION,
Chicago, Ill., April 25, 1961.

Hon. W. R. POAGE,
House Office Building, Washington, D.C.

DEAR MR. POAGE: You have requested our opinion on H.R. 4831 and H.R. 5749, which we will briefly attempt to outline. If there was assurance that the amount of bond which would be required would be sufficient to give ample protection to the livestock producers or their agents, a requirement of this kind would certainly be of value to the livestock producers of the country. Our experience with bonds required by both State and Federal officials leads us to believe that if the Secretary of Agriculture was given the authority to require a bond of certain packers, that the amount which he would stipulate in his requirement would be so low as to give little protection to the actual livestock producers.

On this premise, we believe bonding requirements would only serve to give false security to the livestock producers. It is for this reason we did not think it was desirable for us to appear and support these bills.

I do not want you to overlook the fact that any bond required of some of the packers would be of at least some value to the industry, but a 10 or 20 thousand dollar bond carried by a packer whose weekly purchases will run into the hundreds of thousands of dollars would be of little help to his suppliers if he failed or took bankruptcy.

We doubt that the bond requirement would solve the credit problem which is so abused by some processors at the present time.

Kindest regards.

Sincerely yours,

P. O. WILSON, *Secretary-Manager.*

SOUTH ST. PAUL LIVESTOCK EXCHANGE,
South St. Paul, Minn., May 2, 1961.

Congressman ANCHER NELSEN,
House Office Building,
Washington, D.C.

DEAR MR. NELSEN: We wish to call your attention to H.R. 4831 and H.R. 5749 which are bills to authorize the Secretary of Agriculture to require packers to execute and maintain bonds to secure their obligations in connection with livestock purchases.

Under existing law the Secretary of Agriculture can, and actually does, require the farmer's market agency, who sells the farmer's livestock, to provide bond assuring payment for the sale price of the livestock. The law and regulation of the Secretary of Agriculture also requires all livestock dealers, who purchase livestock from market agencies, to provide bonds guaranteeing that they will pay for livestock they buy.

These bills have had hearings before the Subcommittee on Livestock and Feed Grains of the Committee of Agriculture. We are attaching a copy of statement presented to the committee by A. Z. Baker, president of the American Stockyards Association. Mr. Baker's statement reflects our views on these bills.

We urge your support of H.R. 4831 and H.R. 5749.

Sincerely yours,

TRADERS LIVESTOCK EXCHANGE,
S. H. LINNEROOTH, *President.*
SOUTH ST. PAUL LIVESTOCK EXCHANGE,
W. P. DOLAN, *Secretary-Treasurer.*

CENTRAL LIVESTOCK ASSOCIATION, INC.,
South St. Paul, Minn., May 10, 1961.

HON. ANCHER NELSEN,
*House Office Building,
 Washington, D.C.*

DEAR ANCHER: Those of us associated with the Central Livestock Association would greatly appreciate your expenditure of some effort to bring about favorable action on bill H.R. 4831, which has as its purpose the clarification of the authority vested in the Secretary of Agriculture to require the bonding of meatpackers to cover their purchases of livestock in commerce.

When one stops to realize that more than one-third of all agricultural income is derived from livestock sold for slaughter to the meatpacking industry, it should become apparent that to assure a sound and prosperous agriculture the livestock producers and producer organizations must be protected from the loss of proceeds from the sale of livestock.

It is a recognized fact that the bonding of market agencies and dealers, as provided for in the Packers and Stockyards Act, has contributed significantly to the financial stability of the livestock market industry through the protection of livestock producers. All market agencies and dealers, except packer buyers, operating at stockyards posted under the Packers and Stockyards Act, have been bonded since 1924. Records maintained in the Department of Agriculture will portray that many meatpackers who have ceased to operate during the past few years have owed substantial sums of money for livestock purchased.

It is our opinion that an amendment to the Packers and Stockyards Act of 1921, which would provide for the bonding of meatpackers, would constitute the least expensive method of furnishing a reasonable measure of financial protection to livestock producers and producer organizations. We do not believe that the act in its present form is specific enough and should be clarified to prevent protracted litigation. We believe that H.R. 4831 would accomplish the desired results. Your support of this measure will be greatly appreciated.

Sincerely yours,

NORRIS K. CARNES, *General Manager.*

STATEMENT OF A. Z. BAKER, PRESIDENT OF AMERICAN STOCK YARDS ASSOCIATION

The members of the American Stock Yard Association are the owners of the major terminal stockyards of the United States and are engaged in conducting and operating public livestock markets where a substantial proportion of the livestock marketed from the farms and ranches of the Nation is sold, principally, to packers for immediate slaughter.

The members of the association provide and furnish facilities and services as "stockyard owners" for the sale and purchase of livestock and for persons engaging in the business of (1) selling or buying livestock on an agency or commission basis as "market agencies"; (2) buying and selling for their own account or as the employees or agents of the vendors or purchasers as "dealers"; and (3) buying livestock for immediate slaughter as "packers" or packer buyers. Stockyard owners, market agencies, dealers, and packers are subject to the provisions of the Packers and Stockyards Act of 1921, as amended.

The Packers and Stockyards Act of 1921, as amended, undertakes to regulate the practices of stockyard owners, market agencies, dealers, and packers engaged in interstate commerce to prevent unfair competitive practices among those subject to the act; and to require reasonable, nondiscriminatory services in connection with the sale and purchase of livestock anywhere in commerce to the end that producers and buyers of livestock may be assured of fair treatment and prices in the sale and purchase of livestock.

The variable and perishable nature of livestock and the circumstances and conditions under which transactions in livestock are consummated make strict regulation of persons engaged in selling and buying livestock and in furnishing marketing facilities and services necessary for the protection of the parties, the prevention of unfair competition, and the maintenance of an adequate supply of livestock and meat at prices which are fair to producer and consumer.

The act requires stockyard owners and market agencies to furnish upon reasonable request, without discrimination, reasonable services in connection with the marketing of livestock; and to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of such services.

The act makes it unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the marketing of livestock.

The act makes it unlawful for any packer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce; or to make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

The act specifically authorizes the Secretary of Agriculture to require reasonable bonds from every market agency and dealer, under such rules and regulations as he may prescribe, to secure the performance of their obligations, including the payment or remittance of the proceeds of sales by market agencies and the payment for livestock purchased by dealers.

The act does not specifically authorize the Secretary of Agriculture to require packers to execute and maintain bonds to secure their obligations in connection with livestock purchases; and the Secretary has been reluctant to require packers to provide such bonds in the absence of specific authority.

H.R. 4831 and H.R. 5749 would specifically authorize the Secretary to require packers to provide bonds to secure the performance of their obligations in connection with the purchase of livestock, under rules or regulations which the Secretary might consider reasonable. The Secretary, under the proposals, could determine whether, or in what circumstances, or under what conditions, such bonds would be necessary or required to secure obligations in connection with the purchase of livestock.

Under the proposed amendment to the act, the Secretary of Agriculture would not be expected, required, or authorized to guarantee payment by packers for livestock purchased. He would merely be authorized to lay down basic rules for payment and requirement for bonds to secure such payments; and to take appropriate action for failure to observe such rules.

The Secretary has promulgated and enforced regulations requiring market agencies to remit or deliver to the consignor or shipper of the livestock the "net proceeds received from the sale" of such livestock before the close of the next business day following the sale, but he has not, by regulation or otherwise, required packers or their buyers to pay for purchases with equal promptness.

The Secretary, acting under the specific authority in the act, has by regulation required market agencies to execute and maintain bonds to secure their obligations to pay or remit the proceeds of sale of livestock before the close of the next business day following sale. In consequence, the market agency—the agent of the seller and not the buyer—has been required to remit the proceeds of sale in many, if not in most cases, before such proceeds are collected or received from the buyer. In practice the market agency has served, not only as a selling agency, but also as a credit and collecting agency for the consignor. In many cases of failure of buyers to pay for purchases of livestock, market agencies, sometimes with assistance from stockyard owners and other market agencies, have voluntarily supplemented the amount of the bonds out of their own accounts in order to pay consignors the full amount of sales and preserve the prestige of their market and service.

Conceivably the consignors of livestock to market agencies for sale on an agency or commission basis could suffer substantial losses from failure of the buyers to pay for such livestock within a reasonable time or in event of bankruptcy or other circumstances resulting in failure to pay. Neither the act nor the regulations require the market agencies to guarantee the payment of the purchase price. The payment of the purchase price is the primary obligation of the buyer. The act only authorizes and the regulations only require the market agency to maintain a reasonable bond to secure the performance of its obligation to remit the proceeds received from the sale of livestock. The proceeds of the sale are the payments received from the buyer; although, in most cases, market agencies have paid or remitted the net amount of the sale before the proceeds of the sale have been received from the buyer.

The amount of the bond required under the regulations prescribed by the Secretary is determined according to a prescribed formula based upon the average volume of sales, and on many business days does not equal the amount of overdue accounts of purchase.

This will emphasize the obligation of the buyer to pay for livestock, and the risk of the seller even in the case of sales through market agencies. In the case of the substantial volume of livestock sold direct to packers, the producers do not have the benefit of either the credit and collection services or the surety bonds of the market agencies, or bonds of packers to secure the payment for livestock purchased.

The substantial growth in recent years in the number of packers, packer buying stations and packer buyers has made it correspondingly more difficult for the producer and seller of livestock to determine the financial condition and credit risk of buyers; and the number of bankruptcies and the resultant losses give evidence of the risk involved in sales to buyers without adequate surety. The payment by checks or drafts drawn on banks distant from the place of purchase delays final payment and increases the risk of nonpayment.

A substantial part of livestock procurement has been diverted from markets demanding high credit rating and prompt and secured payment for livestock to other marketing channels where longer and easier credit terms and more favorable regulatory conditions are available. The diversion of procurement not only reduces the supplies, efficiency, and effectiveness of the markets, but weakens the pricing structure and increases the marketing costs and risks to the producer.

Dealers, except packer buyers registered as dealers to purchase livestock for immediate slaughter only, at terminal or auction markets and elsewhere in commerce, are required by regulations specifically authorized under the act to maintain bonds to secure their obligations to pay for livestock purchased; yet these dealers compete with and operate in essentially the same manner as packer dealers who are not now required to provide bonds to secure their payment for livestock purchased.

Both market agencies and dealers have been forced to meet growing credit demands from buyers in the sale of livestock and the constant threat of diversion of procurement to more favorable sources.

Producers selling direct to packers have no security of payment under the act or the regulations and are at the mercy of the irresponsible packer who is now privileged to operate without any requirement of financial responsibility under the act. In addition, the market agencies and dealers doing business on the markets conducted and operated by the members of this association, selling livestock to packers, must establish and attempt to enforce regulations and practices in respect to payment for such livestock and incur undue expenses, and sometimes sustain substantial losses, due to the failure of the Secretary of Agriculture to establish and enforce, with respect to packers, similar regulations in connection with the purchase of and payment for livestock as he now enforces with respect to such market agencies and dealers.

In keeping with the spirit and purpose of the act, the Secretary of Agriculture should be specifically authorized to require all buyers of livestock in commerce to observe the same conditions under similar circumstances in respect to payment for livestock. The Congress and the Secretary of Agriculture must assume some of the responsibility for losses sustained by livestock producers and their agents due to the failure to require surety of payment for livestock.

The American Stock Yards Association urges the subcommittee to approve the substance of the proposed legislation embodied in H.R. 4831 and H.R. 5749, with such amendment in the form as may be appropriate, to specifically authorize the Secretary of Agriculture to require packers to provide bonds to secure payment for livestock purchases, in such circumstances and under such conditions as the Secretary may consider reasonable.

STATEMENT OF L. W. HARDING ON BEHALF OF THE RIVER MARKETS GROUP

The River Markets Group wish to convey its sincere appreciation to Congressman W. R. Poage, and the members of the Subcommittee on Livestock and Feed Grains, for the privilege of filing a statement in support of H.R. 4831 and H.R. 5749. My name is L. W. Harding, 106 Live Stock Exchange Building, Sioux Falls, S. Dak. I am chairman of the River Markets Group, which comprises in membership the livestock exchanges of seven of the largest terminal markets in the United States, namely: St. Louis National Stock Yards, Ill.; Denver, Colo.; Kansas City, Mo.; St. Joseph, Mo.; Omaha, Nebr.; Sioux City, Iowa; and Sioux Falls, S. Dak.

During 1960, these seven markets handled salable livestock receipts amounting to 7,200,249 cattle, 447,576 calves, 10,279,587 hogs, and 3,384,965 sheep, for a grand total of 21,312,377 head of all species received and sold.

The River Markets Group has consistently and steadfastly urged the U.S. Department of Agriculture to impose immediate requirements demanding prompt payment for livestock and dressed meats and the posting of reasonable bonds to secure such payment from all purchasers of livestock and dressed meats in commerce.

Over a period of many years, the Packers and Stockyards Act, as amended, has granted the Secretary of Agriculture authority to require market agencies and dealers, engaged in buying or selling livestock in interstate commerce, to provide reasonable bonds to secure the performance of their obligation, remit the proceeds of sales of livestock to their consignors before the close of the next business day, and pay the seller in such manner for all livestock purchased. The River Markets Group has repeatedly advocated that a fair, just, and nondiscriminatory application of the act demands that packers furnish the same kind of bond coverage as is required of marketing agencies and dealers.

It should be recognized that even though large terminal markets, such as we represent, have been able to require prompt payment for livestock sold and, in some instances, bonds from packers buying in our markets, more and more packers recently have attempted to circumvent these credit requirements by off-market buying activities conducted on the farms and in the feedlots of livestock producers. Meatpackers thus attempting to evade the requirements of a cash market are directly responsible to livestock feeders for extremely large sums of money each day for their purchases of salable livestock supplies.

We think it well to mention at this point that one of the primary reasons for the promulgation of the Packers and Stockyards Act in 1921 was to protect the interests of men engaged in agricultural marketing. Any point at which the act fails to protect the best interests of these people indicates obvious omission and a failure to fulfill the destined purpose of this Government decree.

During recent years, the packing industry has undergone many drastic changes which have had a profound effect on its financial responsibility, and, with the continued growth of small and decentralized packing plants, the Nation's livestock feeders should expect and demand some financial guarantees on the supplies of raw materials they sell to these processors.

The immediacy of such need is emphasized by the rapid decentralization in the packing business and an unprecedented centralization of control in the retail food industry. Inadequately financed packers are forced to extend undue credit to large chainstore accounts in order to attract their business. The inevitable result has been an alarming number of packer bankruptcies and producer losses in the past 2 years, attributable directly to this credit squeeze.

Let it here be made a matter of record that the Packers and Stockyards Act of 1921, and the regulations thereto, do not require market agencies to guarantee payment for livestock. They are only required to remit the proceeds of sale to their consignor. If proceeds of sale are not forthcoming, it is obvious that they may not be remitted, and without Government support and regulation, which will require guarantees of financial ability on the part of the purchasers of livestock to pay for their raw materials, the American producer assumes great risk of ultimately suffering severe financial losses.

The River Markets Group, therefore, urges the favorable consideration of this subcommittee to the principles embodied in H.R. 4831 and H.R. 5749 which would authorize the Secretary of Agriculture to require packers to provide bonds which will secure their payments for livestock purchases, with appropriate amendments specifying that separate bond shall be filed with individual markets, the amount of such bonds to be predicated on the dollar volume of purchases at the particular market involved; and further to spell out specific requirements calling for prompt payment on all livestock and dressed meats purchased and/or sold in commerce.

STATEMENT OF A. Z. BAKER, ON BEHALF OF THE EXECUTIVE COMMITTEE OF THE NATIONAL COORDINATING COUNCIL FOR CENTRAL LIVESTOCK MARKETS

My name is A. Z. Baker. My business office is at 1028 Connecticut Avenue, Washington, D.C. I am chairman of the executive committee of the National Coordinating Council for Central Livestock Markets.

The National Coordinating Council for Central Livestock Markets is composed of organizations and persons representing stockyard owners, market agencies, and dealers conducting and operating or engaging in business at central livestock markets, all of which are subject to the provisions of the Packers and Stockyards Act of 1921 as amended, including the American Stock Yards Association, the River Markets Group of market agencies, the National Livestock Exchange, and the National Livestock Dealers and Order Buyers Association.

The executive committee of the council meets regularly to consider livestock marketing problems relating to or affecting the central livestock markets and those owning, operating, engaging in business at, or using such markets; to make recommendations to their respective organizations; and to speak for the several organizations on matters of common interest.

The executive committee has repeatedly considered and urged upon the U.S. Department of Agriculture the necessity for prompt and certain payment for livestock purchased including the matter of bonds to secure such payment.

The members of the National Coordinating Council handle for sale a substantial, although declining, proportion of the livestock marketed from the farms and ranches of the United States and purchased by packers for immediate slaughter in commerce.

The Packers and Stockyards Act, as amended, authorizes the Secretary of Agriculture to require market agencies and dealers engaged in interstate commerce to provide reasonable bonds to secure the performance of their obligations, to remit the proceeds of sales of livestock to the consignors, or pay the seller for livestock purchased.

The Secretary has prescribed regulations requiring market agencies selling consigned livestock on a commission basis to remit the net proceeds of such sales to the consignor before the close of the next business day following the sale.

The Secretary has promulgated and put into effect and enforces regulations requiring and prescribing the conditions for bonds of market agencies and dealers, except packer buyers registered as dealers to purchase livestock for slaughter only, to secure the performance of their obligations.

The Packers and Stockyards Act, as amended, does not specifically authorize the Secretary of Agriculture to require packers to maintain bonds to secure the payment for livestock purchased such as is authorized in respect to dealers similarly engaged in buying livestock in commerce.

The Secretary of Agriculture has not prescribed a regulation or required packers to maintain bonds to secure the payment for livestock purchased; and the Secretary has not required by regulation or otherwise packers or other buyers to pay the seller promptly for livestock purchased.

Market agencies representing producers and other sellers of livestock in the sale of their livestock have established and attempted to enforce rules and practices requiring prompt payment for livestock purchased from such agencies; and in some cases have demanded as a condition of sale that buyers provide bonds to secure such payment. The market agencies are forced to consider the ability and readiness of the buyers to pay for livestock purchased since, in most cases, the amount of the sale is paid or remitted to the consignor before the amount is collected from the buyer.

In recent years there has been a growing diversion of livestock purchases from markets and agencies requiring prompt payment, and bonds to secure such payment to other sources of livestock where there are no requirements prescribed by the Secretary for prompt payment or bonds to secure such payment.

Livestock and meat products are highly perishable, are generally sold for immediate slaughter, are moved in commerce within a very short while for sale, and are promptly consumed. The seller of livestock has little or no opportunity to recover the commodity sold in case of delayed or failure of payment.

The growing number of packers, many of which are apparently inadequately financed to enable them to pay promptly or certainly for their purchases of livestock, has already resulted in some bankruptcies and substantial losses to livestock producers and other market agencies.

The increasing concentration of meat retailing through the limited number of chains has exerted pressure on packers for the extension and lengthening of credit terms which in turn has caused packers to demand or seek longer credit terms in the purchase of and payment for their livestock.

The Packers and Stockyards Act was designed to eliminate and prevent unfair and discriminatory practices in the sale and purchase of livestock and meat, to forbid undue preferences and prejudices in livestock and meat transactions, and

to establish and enforce reasonable nondiscriminatory practices in all transactions subject to the act. By the 1958 amendment, the provisions of the act were extended to all transactions in livestock or meat anywhere in interstate commerce.

In order to secure prompt and certain payment for livestock purchased and thereby provide protection for the sellers of livestock and to prevent undue preference or prejudice in the payment for livestock, the Secretary of Agriculture should be specifically authorized to require packers to execute and maintain bonds to secure the payment for livestock purchased in such circumstances and under such conditions as the Secretary may consider reasonable.

The pending bills, H.R. 4831 and H.R. 5749, should be approved and recommended for enactment.

STATEMENT OF THE NATIONAL LIVESTOCK FEEDERS ASSOCIATION BY DON F. MAGDANZ, EXECUTIVE SECRETARY-TREASURER

Mr. Chairman and members of the Subcommittee on Livestock and Feed Grains, the National Livestock Feeders Association hereby wishes to register its support and endorsement of H.R. 4831, by Mr. King of New York, a bill to clarify the authority of the Secretary of Agriculture to require reasonable bonds from packers in connection with their livestock purchasing operations.

It is not the intention of this organization of livestock feeders, with membership in 17 States and comprising some 83 affiliated county and State livestock feeders associations, to impose any unnecessary requirements on the packing industry. However, it does feel that the shippers of slaughter livestock are justified in demanding some measure of protection against possible nonpayment for livestock purchased as a result of packer failures. During the past few years, the number of failures has apparently not been large, although there have been notable instances which have occurred and some rather staggering losses have resulted to livestock shippers or their agencies. Under these circumstances of loss, there is little or no opportunity for recovery by the seller or selling agency under present regulations.

Contrary to arguments that a bonding requirement would be exceedingly expensive to the packing industry, authorities in this field have established that the cost to the entire industry would be very small considering the enormous dollar volume of livestock purchased annually, and probably would not equal the loss that could result from the failure of just one small concern.

For years livestock shippers have received a degree of protection from their agencies who are required by the Packers and Stockyards Act to furnish bonds. However, buying habits of packers are changing and packers are decentralizing their operations. This development tends to confront the producers of slaughter livestock with additional risks in the disposition of their products.

It should be pointed out, however, that the Packers and Stockyards Act in no way requires the market agencies to guarantee payment to their consignors, but only requires them to remit the proceeds of the livestock to the sellers. Thus, it is apparent that the real risk of loss from inability to pay on the part of packers, in either case may very well accrue to the livestock feeders.

Another cloud on the payment horizon is the increasing volume of credit that meatpackers are having to extend to their customers. This unwise practice, over which the feeders have no control, is accentuating the possible loss to stockmen as they attempt to collect for the livestock they sell.

It should be realized that most livestock feeders are not able to investigate the financial position of the slaughtering establishment to whom they sell. Therefore, it would seem that are entirely justified in seeking an avenue of protection against any possibility of loss through nonpayment.

Bonds have been required of all market agencies and dealers operating at posted yards since 1924. It seems unjustly discriminatory to require that these people be bonded to assure remittance of proceeds of livestock to sellers when the purchasers of the livestock, who are obligated to provide the proceeds in the first place, are not bonded.

Further support for this requirement is furnished through the fact that a number of States have passed laws requiring packers operating within the State to post bonds. While these moves are in the right direction, a National rather than a State-by-State approach would be far more effective and satisfactory.

It is presumed that the present Packers and Stockyards Act permits the Department of Agriculture to require packer bonds. However, previous attempts to enforce such a regulation have met with certain legal resistance and the authority under the act should be clarified.

We trust that the committee and the Congress will fully recognize the problem confronting the livestock feeders and will act favorably on H.R. 4831.

Mr. POAGE. The committee will stand in recess, and we will announce the further hearing.

(Whereupon, at 12 noon, the subcommittee was adjourned, to reconvene at the call of the Chair.)

