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# EQUALIZE LIVESTOCK MARKETING COMPETITION

GOVERNMENT

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## HEARINGS

BEFORE THE

### SUBCOMMITTEE ON

### LIVESTOCK AND FEED GRAINS

OF THE

## COMMITTEE ON AGRICULTURE

## HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 3415, H.R. 3798, and H.R. 8840

AUGUST 23 AND 24, 1961

Serial S

Printed for the use of the Committee on Agriculture



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1961

75249

AUTHENTICATED  
U.S. GOVERNMENT  
INFORMATION





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UNITED STATES LIVESTOCK MARKETING  
COMPETITION

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# EQUALIZE LIVESTOCK MARKETING COMPETITION

WEDNESDAY, AUGUST 23, 1961

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

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

Present: Representatives Poage, Jennings, Matthews, Coad, Breeding, Harding, Hoeven, Quie, Short, Mrs. May, and Harvey.

Also present: Representatives Hagen and McIntire.

Hyde H. Murray, assistant clerk; John Heimbarger, counsel; and Francis M. LeMay, consultant.

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

The subcommittee is met this morning to consider H.R. 3415 by Mr. Anfuso, H.R. 3798 by Mr. Roosevelt, and H.R. 8840 by Mr. Avery. These, together with the departmental reports, will be made a part of the record at this point.

(H.R. 3415, H.R. 3798, and H.R. 8840 follow:)

[H.R. 3415, 87th Cong., 1st sess.]

A BILL To amend the Packers and Stockyards Act, 1921, to strengthen independent competition by providing for competitive enterprise in the marketing of livestock, livestock products, and other food items

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That title II of the Packers and Stockyards Act, 1921, is amended by inserting immediately after section 202 thereof the following new section:

"SEC. 202A. (a) It shall be unlawful for any packer whose gross sales were more than \$100,000,000 during the preceding calendar year, or for any person engaged in the business of manufacturing or preparing livestock products for sale or shipment in commerce, or in wholesale marketing in commerce of meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, whose gross sales were more than \$100,000,000 during the preceding calendar year to engage in the business of selling at retail meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs.

"(b) A violation of this section which occurs on more than one day shall be considered a separate violation for each day on which such violation occurs."

Sec. 2. Title III of the Packers and Stockyards Act, 1921, is amended by adding at the end thereof the following new section:

"SEC. 317. (a) It shall be unlawful for any person whose purchases of livestock in commerce during the preceding calendar year totaled more than \$100,000,000, to buy livestock in commerce for the purpose of slaughter except at a stockyard, or at a market conducted openly and publicly in the same manner as stockyards are required to be conducted under this title. It shall be unlawful for any person whose sales of livestock in commerce during the preceding calendar year totaled more than \$10,000,000, to sell livestock in commerce for the purpose of slaughter except at a stockyard, or at a market



conducted openly and publicly in the same manner as stockyards are required to be conducted under this title.

"(b) For the purposes of this section—

"(1) the purchase of livestock for the purpose of slaughter shall be deemed to include the purchase of livestock for the purpose of eventual slaughter by the purchaser, notwithstanding that after their purchase such livestock may be kept at a feed lot; and

"(2) sales of livestock affecting commerce shall be deemed to be sales in commerce."

SEC. 3. Title IV of such Act is amended by adding at the end thereof the following:

"SEC. 409. (a) Whoever violates section 202A or 317 of this Act shall be fined not more than \$50,000, or imprisoned not more than one year, or both.

"(b) For the purposes of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (38 Stat. 730), and the Federal Trade Commission Act, sections 202A and 317 of this Act shall be considered to be antitrust laws."

---

[H.R. 3798, 87th Cong., 1st sess.]

A BILL To amend the Packers and Stockyards Act, 1921, to strengthen independent competition by providing for competitive enterprise in the retail sales of meat, meat food products, livestock products, and other food items

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That title II of the Packers and Stockyards Act, 1921, is amended by inserting immediately after section 202 thereof the following new section:

"SEC. 202A. (a) It shall be unlawful for any packer whose gross sales were more than \$30,000,000 during the preceding calendar year, or for any person engaged in the business of manufacturing or preparing livestock products for sale or shipment in commerce, or in wholesale marketing in commerce of meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, whose gross sales were more than \$30,000,000 during the preceding calendar year, to engage in the business of selling at retail meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs.

"(b) A violation of this section which occurs on more than one day shall be considered a separate violation for each day on which such violation occurs.

"(c) Whoever violates this section shall be fined not more than \$50,000, or imprisoned not more than one year, or both.

"(d) For the purposes of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (38 Stat. 730), and the Federal Trade Commission Act, this section shall be considered to be an antitrust law."

---

[H.R. 8840, 87th Cong., 1st sess.]

A BILL To amend the Packers and Stockyards Act, 1921, to permit all packers to engage in retail operations

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 405(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 225), is amended by inserting after "February 12, 1913," the following: "except that nothing in this or any other Act, or in any order or decree enforcing this or any other Act, shall prohibit any packer from engaging in retail operations".

(The departmental reports on H.R. 3415, H.R. 3798, and H.R. 8840 follow:)

U.S. DEPARTMENT OF AGRICULTURE,  
Washington, D.C., August 22, 1961.

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

DEAR MR. CHAIRMAN: This is in reply to your letter of April 14, 1961, requesting a report from the Department on H.R. 3415, a bill to amend the Packers and



Stockyards Act, 1921, to strengthen independent competition by providing for competitive enterprise in the marketing of livestock, livestock products, and other food items.

The proposed new section 202A contained in this bill is similar to the language of H.R. 3798 upon which the Department is reporting separately. A copy of the Department's report on H.R. 3798 is enclosed, together with the letter of August 7, 1961, from the Department of Justice to the Bureau of the Budget regarding both bills.

The Department recommends against enactment of the proposed section 317. The Department believes that packers and other buyers should be free to purchase, and that producers and other sellers should be free to sell, livestock for slaughter at any point. The Department has long insisted that public markets be open to all buyers, and that all buyers compete for livestock so that true market values may be determined. This is the basic protection provided in the Packers and Stockyards Act to livestock producers.

It should be noted that the act already contains a section 317 pertaining to brand inspection.

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,

JOHN P. DUNCAN, Jr.,  
Assistant Secretary.

AUGUST 7, 1961.

HON. DAVID E. BELL,  
Director, Bureau of the Budget,  
Washington, D.C.

DEAR MR. BELL: This is in response to your request for the views of the Department of Justice concerning the bills, H.R. 3415 and H.R. 3798, to amend the Packers and Stockyards Act, 1921, to strengthen independent competition by providing for competitive enterprise in the marketing of livestock, livestock products, and other food items, and the proposed report of the Department of Agriculture on H.R. 3415.

H.R. 3415 would add a new section 202A to the Packers and Stockyards Act, 1921, which would make it unlawful for any packer, livestock processor, or wholesaler of meats, dairy, or poultry products whose preceding year's sales grossed over \$100 million to engage in the retail distribution of meats, meat products, or livestock or dairy or poultry products. H.R. 3798 contains an identical provision except that the gross sales specified are \$30 million.

H.R. 3415 would also amend the act by adding a new section 317 which would make it unlawful for any person whose preceding year's purchases of livestock exceeded \$100 million to purchase livestock except at a stockyard or public market and would make it unlawful for one whose livestock sales exceeded \$10 million to sell at other than a stockyard or public market. H.R. 3798 does not include this provision.

The Department of Justice is unable to recommend the enactment of the proposed section 202A as such legislation is considered unnecessary under present industry conditions. Four of the largest meatpackers have been operating under an antitrust judgment entered in the case of *United States v. Swift & Company, et al.* (Equity No. 37,623), which enjoins them from engaging in retailing operations such as would be prohibited under section 202A. Recently, three of the defendants (Swift, Armour, and Cudahy) petitioned the court to modify the judgment to permit them, among other things, to engage in retailing. An extensive hearing was held and the petition was denied.

With respect to packers who were not defendants in the case, evidence gathered during the course of the above hearing established that no packer doing a significant volume of business is engaged in the retailing business. There are no indications that any packer doing over \$30 million gross contemplates changing his policy against retailing now that the Government has prevailed in the *Swift* case. The judgment in that case appears to have set the standards in this respect for the industry. The chainstores, except to an insignificant extent, do not do any slaughtering or processing of meat and the smaller packers do not have either the inclination or the financial resources to go into the retail business.

With respect to the proposed section 317, the Department of Justice feels that its enactment is not warranted upon any legal or economic ground, and in addi-



tion it might have adverse competitive effects. Considerable purchasing of livestock is done at "direct buying points" apart from stockyards. The hearing in the *Swift* case did not indicate that this dual form of selling and buying worked any economic hardship on either the buyer or the seller. It is in accord with sound antitrust principles that any buyer or seller should have alternative marketplaces for his product which are determined by normal marketing conditions. The dual system appears to have developed in the meat industry to satisfy industry needs, and competition between the stockyards and the "direct selling points" appears to be healthy. We question the desirability of legislation which would impair this competition by forcing the farmer and the buyers to do business with the stockyards alone.

Sincerely yours,

BYRON R. WHITE,  
Deputy Attorney General.

U.S. DEPARTMENT OF AGRICULTURE,  
Washington, D.C., September 13, 1961.

Hon. HAROLD D. COOLEY,  
Chairman, Committee on Agriculture,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of August 24, 1961, requesting a report of the Department's recommendations on H.R. 8840, a bill to amend the Packers and Stockyards Act, 1921, to permit all meatpackers to engage in retail operations.

The Department recommends against enactment of this bill.

The Packers and Stockyards Act and other acts regulating the business practices of meatpackers do not preclude them from engaging in retail operations except under circumstances where such activities are part of a course of action constituting proscribed monopolistic, restraint of trade, or other unfair trade practices. This bill would serve, therefore, only to remove the restrictions already placed upon the retail operations of four national meatpackers by the so-called packer consent decree and to preclude the issuance of any order or decree prohibiting such activities by any packer in the future.

The question of the effect of the major meatpackers engaging in retail operations has been the subject of consideration by the Federal courts, including the U.S. Supreme Court, over a period in excess of 40 years. The Packer Consent Decree was issued in February 1920. Since that time, the question of modification of the decree has been before the courts in several instances. The latest requests for modification were considered by the U.S. District Court for the Northern District of Illinois, reported as *United States v. Swift and Company, et al.* (189 F. Supp. 885 (December 12, 1960)). This case involved petitions by three of the four meatpackers subject to the consent decree for modification. The district court denied the petitions and the decisions was affirmed by the Supreme Court. The district court, after holding long and exhaustive hearings, in which the impact on competition of the removal of the prohibition on retail sales was fully argued, stated:

"If the defendants were to engage in the business of operating general retail food stores, they would enjoy a substantial advantage over their rivals as a result of their control of nearly half the Nation's meats and meat products. Vertical integration through acquisition of existing retail stores or chains would tend to restrain competition by providing the defendants with captive outlets for both their meats and groceries, to the exclusion of competitive products."

The court further observed that the decree operates "to preserve the balance of competitive power."

The exhaustive consideration of this matter by the district court upon the basis of all available information is entitled to great weight. Moreover, this Department has no facts or reason to question the conclusions reached by the court as to the effect of retail operations by these major national meatpackers on competition.

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,  
Secretary.



Mr. POAGE. We have three witnesses listed for this morning, and we have a longer list of witnesses for tomorrow morning.

We have Mr. Girard from the Packers and Stockyards Division of the U.S. Department of Agriculture. Would you like to proceed now, Mr. Girard?

Mr. GIRARD. Yes, sir.

Mr. POAGE. We will be glad to hear you.

Mr. GIRARD. I have with me, Mr. Chairman, Mr. Carl R. Bullock, Director of the Regulatory Division of the Office of the General Counsel; Mr. Glen G. Bierman, Chief, Packer Branch, Packers and Stockyards Division; Mr. Nathan Koenig, special assistant to the Administrator, Agricultural Marketing Service; and Mr. Harold F. Breimyer, economist, Office of the Administrator, Agricultural Marketing Administration, U.S. Department of Agriculture.

Mr. POAGE. We will be glad to have them sit with you, if you like.

Mr. GIRARD. Thank you. I have a statement to present.

Mr. POAGE. We will be glad to hear you present it.

**STATEMENT OF CLARENCE H. GIRARD, DIRECTOR, PACKERS AND STOCKYARDS DIVISION; ACCOMPANIED BY CARL R. BULLOCK, DIRECTOR, GENERAL REGULATORY DIVISION, OFFICE OF THE GENERAL COUNSEL; GLEN G. BIERMAN, CHIEF, PACKER BRANCH; NATHAN KOENIG, SPECIAL ASSISTANT TO THE ADMINISTRATOR; AND HAROLD F. BREIMYER, ECONOMIST, OFFICE OF THE ADMINISTRATOR, AGRICULTURAL MARKETING ADMINISTRATION, U.S. DEPARTMENT OF AGRICULTURE**

Mr. GIRARD. Mr. Chairman and members of the committee, we appreciate this opportunity to appear before this subcommittee to discuss our views with respect to H.R. 3798 and H.R. 3415, bills to amend the Packers and Stockyards Act of 1921 to strengthen independent competition by providing for competitive enterprise in the retail sale of meat, meat food products, livestock products, and other foods.

Since the Department has filed reports on both of those bills, we will confine our statement at this time to H.R. 3798. Certain features of H.R. 3415 are different from those contained in H.R. 3798 and the Department's views on those are discussed in its report.

The Department's report on H.R. 3798 stated that we agree with the objective of the bill and strongly support the principle of strengthening competition in all areas of livestock, meat, and poultry marketing. It recognizes that the extent of the influence and control that may be exercised over the livestock and poultry industry by integrated packing and retailing operations can very definitely affect that competition.

This is a very real problem area in this industry as reflected in the views and fears expressed to the Department by producer and industry groups alike. However, the Department is now investigating the effects on buying competition of the increasing concentration of buying power in fewer buyers and on the basis of the information it now has, is not in a position to judge whether the proposed legislation will provide the solution in the event the investigation reveals the need for additional regulatory authority.



There is an evolving trend in the nature of the marketing and distribution system for livestock products, which in turn is but a part of a general trend in marketing of all farm commodities and products derived from them. It is a trend of utmost importance to U.S. agriculture, and indeed to the entire economy. In a word, it is the trend toward a concentration of an ever larger portion of various parts of the marketing, processing, and distribution system in fewer firms of large size and great market power. The Department of Agriculture fully recognizes the proportions and significance of this situation and is respectful toward the effort to deal with it represented by this bill.

In many sectors of the marketing and distribution system a large part of the total trade is centered in a few hands. Typically these are firms that have grown to huge size, often with the aid of horizontal combination or vertical integration. Sometimes contractual relationships of various forms are additional means of concentration. Although evidenced throughout the marketing and distribution system, and equally significant wherever it may appear, concentration has apparently proceeded fastest at the retail level. Some of the recent trends have technological origin but not all do. Many are associated with changed practices in buying and selling, such as the tendency toward direct rather than central market trading.

Altogether, these trends are a great and meaningful departure from the traditional conditions of free competition within a marketing system composed of many buyers and sellers, each without appreciable market power. Whenever a sector of trade is concentrated in a few hands, those hands possess the capacity to exert a kind of economic power that is not possible in the traditional definition of free competition. This is the substance of the changed organization of the marketing and distribution system, and it is surely important. Without taking time here to detail all the forms the expression of market power can take, when powerful middlemen are matched against individual farmers—or at most comparatively small groups of farmers—at one end of the distribution sequence, and with individual consumers at the other end, the inequity is obvious.

The magnitude and complexity of the overall problem makes us highly respectful toward the intent of H.R. 3798 and toward the effort to deal with the problem that the bill represents, but as we have stated, we are not in a position to determine whether the proposed legislation will provide the solution should we find in the course of our investigation that additional regulatory authority is needed.

If the committee, however, is of the opinion that the information available to it warrants a favorable report on H.R. 3798, we would like to make the following observations and recommend proposed amendments thereto.

Briefly stated, H.R. 3798 prohibits any packer subject to the provisions of the Packers and Stockyards Act, and any person manufacturing or preparing livestock products for sale or shipment in commerce, and any wholesaler of meats, meat food products, livestock products, dairy products, poultry, poultry products, and eggs in commerce, whose gross sales are more than \$30 million annually, from retailing such products.



All persons purchasing livestock in commerce for purposes of slaughter or manufacturing or preparing meats or meat food products for sale or shipment in commerce would be included in this prohibition if their gross sales exceed this amount.

At the present time, a number of the major grocery chains meet the definition of a packer as set out in the act, either because they purchase livestock in commerce for slaughter or manufacture or prepare meat or meat food products for sale or shipment in commerce. No administrative difficulties are foreseen in connection with enforcing the prohibition of retail operations by persons who are packers because they purchase livestock for slaughter or manufacture meat or meat food products for sale or shipment in commerce. A question arises, however, with respect to the impact of the bill upon the operations of grocery chains which engage in meat preparation operations, such as slicing bacon, breaking carcasses, fabricating meat cuts, and preparing hamburger and fresh sausage for sale or shipment in commerce. Under this bill such chains apparently would have to eliminate such normal meat preparation operations in order to continue their retail operations. We question whether it is the intention of this bill to prohibit the normal meat preparation functions of retailers which meet the definition of "packer" in the act.

The bill could be construed as prohibiting the long-established and customary sale at retail through delivery routes or company operated dairy stores of milk, cream, butter, and other dairy products and eggs by dairies which wholesale such products to others. We do not believe that this was the intention of the bill.

It is recommended, therefore, that if the bill is enacted there be inserted at the end of line 7, page 2, following the word "eggs," the following phrase—

but nothing in this section shall preclude any person from engaging in such retail business if (1) his operations as a packer are limited solely to meat preparation operations customary in the conduct of such retail business, such as the slicing or grinding of meat, the breaking of carcasses, or the fabricating of meat cuts, or (2) he is primarily engaged in wholesaling dairy products or eggs and his retail operations are limited to the retail sale of such products through home delivery routes or company operated dairy stores.

These exceptions would not affect persons who are packers by virtue of the fact that they manufacture meat or meat food products for sale or shipment in commerce.

Also, if the bill is enacted, in order to accomplish its purpose and to avoid circumvention of its provisions, it is recommended that the following sentence be added at the end of paragraph (a) of the bill:

The gross sales referred to above shall include the sales of all corporations, partnerships, associations, and individuals owned or controlled in any manner whatsoever, in whole or in part, through stock ownership or otherwise, by such packer or person or by the owners, officers, directors, agents, or employees of such packer or person.

Thank you for this opportunity to express our views and we stand ready to assist this subcommittee and furnish any additional data it may desire.

Mr. POAGE. Thank you very much, Mr. Girard. We appreciate your statement. I think it has been very helpful. We will probably want to ask you some questions, but if I may proceed a little irregularly, our colleagues, Mr. Roosevelt and Mr. Anfuso, tell us that they



are pressed in both directions for time and would like to appear, if possible, at this time, and I thought that if the witnesses do not object, we will have them testify now.

Mr. GIRARD. We will be very happy to stand by, Mr. Chairman.

Mr. POAGE. If you would, please.

Mr. GIRARD. Yes.

Mr. POAGE. I understand that both of you will testify together.

Mr. ANFUSO. That is correct, Mr. Chairman and gentlemen of the committee.

Mr. POAGE. Mr. Anfuso is a former member of this committee. We are glad to have you come back and visit with us.

#### **STATEMENT OF HON. VICTOR L. ANFUSO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. ANFUSO. Mr. Chairman and gentlemen of the committee, thank you for your remarks. I am very glad to be back here. We are going to be very brief.

I introduced H.R. 3415. I have read the report of the Department of Agriculture. I agree with the report, and I agree to strike out section 317. And I think that Mr. Roosevelt has agreed, likewise. Mr. Roosevelt agreed to put in the amount which I mentioned in "Section 202-A," of \$100 million.

Mr. POAGE. The section 317 provision is a prohibition against country buying?

Mr. HEIMBURGER. Yes.

Mr. ANFUSO. I agree that be stricken out. We both agree that the amount shall be the amount which I have in my bill of \$100 million.

Mr. POAGE. That is the provision in what section?

Mr. ANFUSO. That is the provision in section 202-A. And with that, I thank you.

Mr. POAGE. Thank you.

We will be glad to hear from you now, Mr. Roosevelt.

#### **STATEMENT OF HON. JAMES ROOSEVELT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. ROOSEVELT. Mr. Chairman and members of the committee, I welcome this opportunity to appear before you today to make a statement in support of H.R. 3798, a bill to amend the Packers and Stockyards Act of 1921, and, further, to urge that this subcommittee conduct hearings at an early date to inquire into the growing concentration of power and unfair competitive practices in the food industry.

From the 84th through 87th Congress I have been honored to serve as chairman of Subcommittee No. 5, a subcommittee of the House Select Committee on Small Business. During the 86th Congress our Subcommittee No. 5 investigated, studied, and reported on small business problems in food distribution. On December 27, 1960, we submitted, and the Select Committee on Small Business approved and forwarded to the House, Report No. 2234 entitled "Small Business Problems in Food Distribution."

During the course of our inquiries evidence was produced which indicated that in the area of meatpacking several corporate chain



food retailers have extended their vertical integration of wholesaling and retailing of food to include not only the slaughtering and packing of meat and meat products, but also to include the feeding of cattle. In this connection it was disclosed that in Omaha, one of the largest livestock markets in the world, the American Stores Co., the fourth largest chain food retailer in the United States, has established nearby a meatpacking plant at Lincoln, Nebr. The result is that, instead of buying livestock through the Omaha stockyards, American Stores purchased a substantial volume of livestock at country points to be delivered for slaughtering at its meatpacking plant at Lincoln.

Further evidence of vertical integration includes testimony that during May 1957, the National Tea Co., the fifth largest chain food retailer, purchased the formerly independent chain of food retail stores, known as Miller's Supermarkets in Denver, Colo., and immediately engaged in meatpacking operations there. The fat cattle utilized in that meatpacking operation by the National Tea Co. are supplied, in part, from feedlot operations it has integrated with its meatpacking operations.

Also, the record of our hearings shows that Food Fair, the sixth largest chain food retailer, doing approximately three-quarters of a billion dollars in retail sales, in October 1959, entered the meatpacking business in Denver, Colo.

Cattle thus purchased, fed, and moved directly to the meatpacking plant, do not pass through the public regulated markets where livestock prices are determined by competitive bidding. For example, in the Denver market the percentage of livestock passing through the public competitive markets has declined in relationship to the percentage bought at country points by large operators who have integrated feedlot operations with meatpacking and, in several instances, food retailing. Moreover, indications are that this bypassing of the open competitive channels of marketing is increasing.

The subcommittee concluded that this factor of vertical integration by corporate chain food retail firms of the functions of food retailing with wholesaling, transportation, manufacturing, processing, and in some instances, with the production of food products, such as the feeding of livestock, for example, has added to the tendencies toward the concentration of economic power, collusive price activities, and unfair competitive measures. Adding to this the factor of acquisitions and mergers by large corporate chain food retail firms of competing retailers and of facilities engaged in food manufacturing and processing, demonstrates further the threat of extinction faced by the small independent businessman.

Based upon these conclusions, the subcommittee recommended that Congress enact new legislation to strengthen the antimonopoly laws and provide relief from the injurious and unfair competitive practices found to exist in the food industry. Specifically, the subcommittee recommended that Congress enact legislation to strengthen the Packers and Stockyards Act to prohibit integration of food retailing with meatpacking and other functions of food manufacturing and processing where the effect of such integration of functions would be to substantially lessen competition or tend to create monopoly.

Seeking to implement these recommendations, I introduced, on February 2, 1961, H.R. 3798, to amend the Packers and Stockyards Act of



1921 to strengthen independent competition by providing for competitive enterprise in the retail sales of meat, meat food products, livestock products, and other food items. Briefly stated, this bill would make it unlawful for any meatpacker, manufacturer of livestock products, or wholesaler of meat, livestock products, dairy products, poultry, or poultry products, whose gross sales exceeded more than \$30 million during the preceding calendar year, to engage in food retailing.

Vertical integration, which results in a bypassing of the traditional central market in which uninhibited competitive bidding established prices at these markets for livestock that became the criteria for livestock trading everywhere, creates the deleterious effect of eliminating one of the main guides to production. It removes the economic indicator to the livestock industry as to what kind of meat the consumer wants and is willing to pay the most for. Livestock sold outside of the central markets is invariably of the highest quality and would be top price establishing livestock if sold at a price-basing point. Presently, however, and in increasing frequency, prices are arrived at, at the central markets, by using quotations that are made up from sales of either inferior livestock, or where there is indifferent competition as a result of buyer dissipation, or both. Decentralized buying does not lend itself to active bidding. A further deleterious effect of bypassing the central markets is that due to the variation in selling conditions the buyer is able to extract concessions from the seller that are unrealistic. The natural tendency of these practices is to depress the price structure forcing many producers out of business which, in turn, results in further integration due to assertions of inadequate supply, which results in further elimination of producers, and so on, to the virtual elimination from existence of the independent producers.

A further unfair, unjust, and discriminatory consequence of the present trend toward vertical integration of the functions of large retailers into livestock production and processing is that these large chain food retailers are being allowed to do, in a reverse fashion, that which the large meatpackers were prohibited from doing as a result of a 1920 consent decree. This decree was entered as a result of findings that the big meatpacking firms virtually had complete control of the trade, from producer to consumer. The four largest meatpacking firms agreed to divest themselves of the ownership of stockyard properties and to refrain from the retail merchandising of meat. An attempt was made to have this decree modified so as to allow these large meatpackers to reengage in the retail distribution of meat and meat food products.. It was pointed out that large corporate chain food retailers have engaged in the business of meatpacking. In 1939, the U.S. district court denied a similar request that these large meatpackers reenter the business of retailing meats. The denial was based upon the grounds that reentry into the field of retail food distribution would imperil the independent retailers and that the very existence of the economic power that they would hold and exercise, held inherent dangers of abuse.

On December 12, 1960, these further attempts to have the 1920 consent decree modified were frustrated by a denial of the petition. The court stated:

If the defendants were to engage in the business of operating general retail food stores, they would enjoy a substantial advantage over their rivals as a



result of their control of nearly half of the Nation's meats and meat products. Vertical integration through acquisition of existing retail stores or chains would tend to restrain competition by providing the defendants with captive outlets for both their meats and groceries, to the exclusion of competitive products.

For the same reasons, I have publicly stated that the 1920 consent decree should not be upset, revised, modified, or made ineffective. Also, I have said that since the basic and fundamental principles upon which the 1920 consent decree were based appear to be sound, then we should not permit corporate chain food retailers to engage in meatpacking and retail food distribution and thus put the meatpackers at a competitive disadvantage.

The objectives of H.R. 3798 are to help promote fairness, simple justice, and eliminate discrimination, by keeping others from doing today what the consent decree prohibits the large meatpackers from doing.

Mr. Chairman and members, I urge that this subcommittee give favorable consideration to H.R. 3798, as a step toward the protection of small, independent business and the preservation of the free enterprise system. It should be noted that this bill would not affect the smaller independent cattleman, processor, wholesaler, or retailer, but only those whose gross sales in the preceding year amounted to \$30 million or more. This would serve to remove the inequitable and discriminatory condition whereby the large meatpackers are prohibited from entering the retail trade but the large chain food retailers can integrate backward into meatpacking and processing. Under this bill both large packers and large chain food retailers would be prohibited from integrating these operations. Because of the gravity of this situation, and the demonstrated interests in this legislation, I urge this subcommittee to conduct complete hearings at an early date.

I might say that with respect to H.R. 3798, I am in agreement with the report made by the Department. I think it does clarify things that we do not need to do.

I, also, believe that by the language they have added or propose to add, it would make sure that there was no subterfuge in the enforcement of the act by having subsidiary corporations or something of that nature. They have suggested some very proper amendments to the bills we have suggested.

I would point out, of course, in my case, that someone might wonder why my interest is in this matter, but as previously stated, the introduction of this bill followed hearings of the Small Business Committee, of which I had the privilege of being chairman, regarding distribution matters. These came before us during those hearings. And the bill has resulted therefrom.

I feel very strongly that as events have progressed that there can be no question, as I have already outlined in my statement, that there has been a growing tendency on the part of large retail chains to get into the meatpacking business and from that on down, actually, into even the feedlot business. And this so-called vertical integration has occurred not only in this field, but in other fields, but, particularly in this field, and it seems to me that it is a very definite threat, one which is no longer in the theory stage but, actually, in operation.

I feel very strongly on this, in view of the fact that only on the very last day, I believe, of the last session of the Supreme Court,



the Supreme Court again upheld the decree which prohibits the four large meatpackers concerned from getting into the retail business. Very clearly stated, they felt that it was in the interests of competitive free enterprise to make sure that this was not allowed.

Here we have a situation exactly in reverse, where their competition, the retail trade, is allowed to get into the meatpacking business and, for that matter, down on into the feedlot business and the stockyards business.

It would seem to me, in all fairness, that if you are going to make a rule for one segment of the industry one way, that it is not exactly fairplay or sound policy not to apply the same rule of the game to everybody concerned.

In view of the Department's statement, I am sure, having read it, that they have documented, also, the ever-increasing trend in this direction. I hope that the committee will act favorably upon the intent of Mr. Anfuso's bill and my own bill.

And with that, gentlemen, it concludes my statement, because I know you are pressed for time.

MR. POAGE. We are not pressed for time. You gentlemen are. We are willing to go into this matter fully. And if you and Mr. Anfuso so want, you may come back tomorrow and we will be glad to hear from you further because, frankly, I think that we need certain phases of this discussed, not simply to pass it over.

We have gone into this vertical integration to some extent. You have gone into that more than we have. We need to know more about it. We need to know what it is doing in regard to livestock, as to the cost of the products to the consumer. We know that it is doing some things. Is it hurting the producer? Is it hurting the consumer? Or do these people, either group, get any benefits from this?

Do I understand that you agree with all of the amendments suggested by the Department? I did understand you to say that you agreed with them, as Mr. Anfuso stated, to define packers in a broader sense so as to include the affiliates. But do you agree, also, with the suggestions of the Department in defining retail operations or packing operations as affecting those engaged in retailing, that we not exclude those operations?

MR. ROOSEVELT. Yes, sir; that would be perfectly acceptable to me. The amendments would be acceptable to me.

MR. POAGE. Is that your view?

MR. ANFUSO. That is true.

MR. SHORT. I wanted to clarify this point while Mr. Roosevelt and Mr. Anfuso are here.

MR. ROOSEVELT. May I say to Mr. Short I will be glad to come back tomorrow morning, because I would also like to be able to discuss this, because I feel it is so important.

MR. SHORT. The only point I wanted to clarify was whether you were raising the \$30 million figure in section 202-A of your bill to \$100 million, the figure in Mr. Anfuso's bill?

MR. ROOSEVELT. I have agreed with Mr. Anfuso to do that, for this reason: Actually, I would like to see it \$30 million, I think that is a better figure, but Mr. Anfuso pointed out the main purpose and main objective was to prevent the largest retail chains, who exercise the greatest economic power, from getting into this and that this was the



first step which we should take until we developed further information, as the Department has said it is going to try to do. Perhaps this should be the place we would stop. We have stopped with the four biggest meatpackers getting into the retail business. Maybe we should stop here at what would be, as I understand it, about the top 6 or not more than 10 largest retail chains that would be affected by the \$100 million figure.

Mr. SHORT. I just wanted to clarify that figure.

Mr. POAGE. I wonder if we might ask you to come back tomorrow for the purpose of discussing the matter further? If that will be satisfactory, we will proceed that way.

Mr. QUIE. I have one question.

Mr. POAGE. If we are going to question, that will be all right, but I just wanted to suggest that we postpone the questioning until tomorrow. I did not want to open it up for one question.

Mr. QUIE. I just wanted to know, Mr. Anfuso, if you have information as to the reason for the \$30 million figure in the Mr. Roosevelt's bill and \$100 million figure in your bill—whether you would be able to give us information tomorrow, as to that difference and which companies gross over \$100 million, and which companies gross between \$30 million and \$100 million?

Mr. ANFUSO. I can answer that, I will have a witness here tomorrow. Since the committee wishes to go more fully into this in more detail, I will have a witness on that.

Mr. POAGE. The committee is deeply interested in this matter. We will not just give it a cursory view. We are going to consider the matter very carefully.

Mr. ANFUSO. I will bring in a witness from New York who will give the committee that information.

Mr. POAGE. Thank you very much.

Mr. ROOSEVELT. Thank you, and I thank the members of the committee.

Mr. ANFUSO. I thank you, too.

Mr. POAGE. I think that since we have already somewhat disrupted our schedule, I felt that there might be some folks present who would like to be heard this morning who are listed on the agenda for tomorrow.

I wonder now, since we have a list of the witnesses for tomorrow, is Mr. R. E. Casper of the National Farms Organization present?

Mr. CASPER. I am here, but my statement is not prepared yet.

Mr. POAGE. That is perfectly all right.

Is Mr. Charles Truns present?

(No response.)

Mr. POAGE. Is Mr. A. Z. Baker, president of the American Stockyards Association, present?

Mr. BAKER. I am here.

Mr. POAGE. Are you ready to testify now, Mr. Baker?

Mr. BAKER. Yes, sir.

Mr. POAGE. If you would like, we would be glad to hear from you right now. We are not asking anybody who does not want to do so to be heard, but if you would care to, we can save some time.

Mr. BAKER. I can say something about what I understood we were going to be discussing today, but as to some of these amendments and



the new bill I understand has been introduced, what I might say at this time would not refer to them. I was here on Mr. Roosevelt's bill. I will be glad to say what I have prepared.

Mr. POAGE. We will be glad to hear you, if you care to speak. I am not insisting that anybody testify this morning if they do not want to, but if you would like to, we will probably save some time. We will be glad to hear from you if you care to testify, Mr. Baker.

Mr. BAKER. I would like to hear the questions directed to the Department of Agriculture witnesses on their proposal first, and then I will be glad and happy to say what I have to say after that.

Mr. POAGE. All right, we will pass you for the moment.

Is Mr. Paul L. Badger of the Western States Meat Packers Association present?

(No response.)

Mr. POAGE. Is Mr. Paul M. Crouch present?

(No response.)

Mr. POAGE. Is Mr. James Camp present? I understand that he will not be here this morning.

Is Mr. R. E. Cunningham present?

Mr. CUNNINGHAM. I am present, but I am not in a position to present my statement now.

Mr. POAGE. That is all right.

Mr. DAVIES, do you want to be heard?

Mr. DAVIES. Yes.

Mr. POAGE. We will be delighted to hear from you now.

#### STATEMENT OF ALED P. DAVIES, VICE PRESIDENT, AMERICAN MEAT INSTITUTE

Mr. DAVIES. Mr. Chairman and members of the committee, of course, you realize, Mr. Chairman, that this exchange between you and the authors of the two bills may necessitate some changes in my testimony.

My name is Aled P. Davies. I am vice president of the American Meat Institute, national trade association of the meatpacking industry. Our association represents meatpacking companies of many different sizes located in all parts of the country and using many different procedures in the procurement of livestock and the sales of meat products.

We appreciate very much the opportunity of appearing before this committee to express our views with respect to H.R. 3798 and H.R. 3415, bills which have been introduced for the announced purpose of strengthening competition in the meat industry. Like many others, we too are interested in maintaining and strengthening competition, for the competitive system has been proved to be the best and most economical method of responding to the needs of the public.

We do not believe, however, that imposing unnecessary and artificial restrictions on competition is the way to strengthen it.

Our interest in the two bills under consideration can be discussed under two main headings:

1. Restrictions on the right of meatpackers to sell at retail.
2. Restrictions on the methods by which meatpackers would be permitted to buy livestock.



I understand that there have been some reference to the fact that Mr. Anfuso and Mr. Roosevelt have indicated they would agree with the deletion of that. Is my understanding correct, on that?

Mr. POAGE. I did not hear you.

Mr. DAVIES. My understanding is from hearing in the back of the room that Mr. Roosevelt and Mr. Anfuso have agreed to eliminate the restriction on the purchase of livestock.

Mr. POAGE. That is right.

Mr. DAVIES. So, therefore, anything in my statement on that, of course, if the committee agrees to that, would be out, but I think that I had better not delete it.

Both bills contain provisions relating to retailing by packers but provisions relating to livestock purchasing are found only in H.R. 3415.

The restrictions against selling at retail in H.R. 3798 would apply to companies whose gross sales during the preceding calendar year were more than \$30 million; the provision in H.R. 3415 is similar except that the sales figure is fixed at \$100 million.

I again understand that Mr. Roosevelt has agreed to the \$100 million figure in Mr. Anfuso's bill.

Mr. POAGE. This committee has not fixed the figure.

Mr. DAVIES. All right. I am anticipating.

In passing it might be noted that in the meatpacking industry these sales figures do not indicate big business. Earnings do not often exceed 1 cent per dollar of sales, and applying this rate it appears that this legislation is aimed at concerns which—even when profits are good—could hardly expect to earn more than \$300,000 annually. This, however, is not the main point we wish to make in connection with this provision, for the principle itself is undesirable.

In the first place, there are only a handful of meatpackers who are doing any retailing at all, and the amount of retailing in total done by meatpacking companies is infinitesimal. We do not have any figures indicating its extent, but will be greatly interested in any information which proponents of this legislation may be able to bring forward to show that retailing by the meatpacking industry constitutes any kind of problem for anyone. Certainly we have been unable to perceive any problem, and in the absence of a problem we do not feel that legislation of any kind is called for.

If one were to draw upon his imagination and try to envision a situation where retailing by meatpackers would constitute a threat to competition we still strongly feel that the present antitrust laws—the Sherman Act, the Clayton Act, including the Robinson-Patman Act—and the Packers and Stockyard Act contain ample authority for dealing with any abuses. We are unable to imagine any kind of unfair or monopolistic behavior which would not be covered by the very broad authority granted to the Federal Government by existing law.

We believe that any person ought to have the right to enter any legitimate business and to compete on equal terms with others who have exercised their right to enter such business, and the idea that the right to enter a business is a privilege to be dispensed by the Federal Government on the basis of size is abhorrent to us. We cannot think of any other industry which has been regulated by the Government in this manner under a standard of this kind. We are opposed to the re-



strictions against retail selling by meatpackers because they are wrong in principle and because there has been no showing of industry abuses calling for correction.

We are likewise opposed to section 2 of H.R. 3415, which would prohibit meatpackers with annual livestock purchases of more than \$100 million from buying livestock in commerce—

except at a stockyard, or at a market conducted openly and publicly in the same manner as stockyards are required to be conducted.

The apparent purpose is to prevent meatpackers from buying direct, either from the livestock producer or from a representative of the producer, such as a livestock dealer or a farmer cooperative. Here again, there is an endeavor to impose restrictions on meatpacking companies of a kind which are not applicable to any other type of business. What other industry is told by the Federal Government where it will be permitted to buy its raw materials? We can think of none.

We can readily understand that it would be helpful for the public markets to be given a legal monopoly, but we fail to see how competition would be aided thereby. The livestock producer today has the widest possible choice of markets in which he may elect to sell. Moreover, the decentralization of the processing industry, the ever-expanding network of good roads, and the widespread dissemination of market information by the USDA and other public or private agencies make the various choices which are available to him of real significance. We cannot see what possible advantage could accrue by taking legislative action to narrow this choice. Inevitably it will mean less competition rather than more, and it will mean a hardship for many meatpackers who have come to rely on particular sources of supply for the types of livestock which meet their needs.

One of the principal implications to be drawn from H.R. 3415 is that there is something anticompetitive about direct livestock buying and that the Government is unable effectively to deal with the situation. As already stated, providing an additional market for the producer's livestock makes for more competition rather than less, and in addition the legal tools already possessed by the Federal Government provide ample authority for dealing with any anticompetitive situation which might conceivably develop.

Perhaps it has not been sufficiently emphasized that the U.S. Department of Agriculture has supervisory authority over all meatpackers who purchase livestock in commerce, regardless of whether their purchases are at a public stockyard or "direct" or both. Representatives of the Department are keenly aware of their responsibility to prevent unfair or monopolistic practices from developing and to take action to terminate any such practices which may occur. The Department's authority in this field is very broad, and evidently is considered adequate by the Department itself, for we understand that it does not support this proposed change in the Packers and Stockyards Act.

We are opposed to restrictions on methods of livestock marketing because (1) in our opinion they would mean less, rather than more, competition; (2) there has been no showing of abuses which the proposed legislation is designed to correct; and (3) the existing authority of the U.S. Department of Agriculture is sufficient to deal with any abuses which might ever develop in the future.



Mr. Chairman, for the reasons stated the American Meat Institute is opposed to H.R. 3798 and H.R. 3415 in their entirety. We appreciate very much the opportunity of placing our views on record.

Mr. POAGE. There is another bill before us, H.R. 8840. I am sure I do understand your feeling that these two are alike and should be treated alike. Mr. Roosevelt's and Mr. Anfuso's bills, of course, apply to practically the same proposition, for all intents and purposes.

Do you care to comment on this one, H.R. 8840?

Mr. DAVIES. The only comment I can make officially for the American Meat Institute is that, because the consent decree only applies to four of our members, we have very carefully stayed completely neutral on this issue. After having said that, however, in the body of my statement I make it clear that it is the view of the American Meat Institute that any legitimate person should be allowed to enter any field of legitimate business in competition with others who are already in that business.

So, therefore, in principle, certainly, I am in favor of more freedom rather than less freedom for the meatpacking industry, the retailing industry, and all of agriculture.

Mr. POAGE. Are there any questions of Mr. Davies?

Mr. HEIMBURGER. I understood Mr. Davies to say in his statement that he was not aware of any meatpackers who are now engaged in retailing?

Mr. DAVIES. To any great extent.

Mr. HEIMBURGER. Well, now, you did not mean that in the technical sense, did you, where a chainstore is classified as a meatpacker?

Mr. DAVIES. No.

Mr. HEIMBURGER. Is in the meatpacking business—you do not intend your statement to be that broad?

Mr. DAVIES. I intended that we consider meatpackers, for example, to be a member of the American Meat Institute, your major source of business must be in the slaughtering and the like of meats. A chainstore that owns a packing plant cannot belong to our association under our bylaws, because we do not consider them meatpackers.

Mr. HEIMBURGER. This is the statement I wanted to clarify.

Mr. DAVIES. Yes.

Mr. HEIMBURGER. When you were talking about meatpackers that is according to the definition contained in your bylaws of the meat institute?

Mr. DAVIES. That is right. I know several of our members, for example, who may have retail outlets, small ones. I do not know any major packer—not only those under the consent decree, plenty of other packers have grown in size—nothing in the law to preclude them from going into the retail business, but they have not exercised that right. Certainly, they are big enough if they wanted to do so, but they have not exercised it. Nothing to prevent any meatpacker today under the law, as I understand it, except the four packers that are signatories to the consent decree.

Mr. POAGE. I understood you made the point that there was not any widespread retail operation on the part of the meatpackers?

Mr. DAVIES. That is right.

Mr. POAGE. Therefore, you feel there is no necessity for this legislation. You did make the point, and one of the reasons for not having



the legislation, was that there was not any widespread movement into that field?

Mr. DAVIES. By the meatpacking industry.

Mr. POAGE. That is right. On the other hand, there is a rather widespread movement on the part of the chainstores to go into the meatpacking business, is there not?

Mr. DAVIES. There has been a growing tendency, yes. I think there are figures that will show how many of them are listed under the act.

Mr. POAGE. I take it your reasoning is that even though that might be hurtful to the existing business and to the consumers, you do not want to limit the right of the chainstores to go into the packing business?

Mr. DAVIES. It may sound altruistic, but it is not. I think it is an honest viewpoint. We cannot be for freedom for ourselves and put manacles on other people. I do not see how we can possibly support that point of view.

Mr. POAGE. That is why I said I thought you would say that you would not be opposed to the chainstore going into the meatpacking business.

Mr. DAVIES. That is right. We have never taken any position of precluding by law any free and honest and open competition by anybody. In other words, I think it is up to free enterprise to survive in the competitive system to be free.

Mr. POAGE. Then we come down to the proposition that your argument is not based on whether these people are getting into the retail business or whether they are getting into the packing business—if every packer went into the retail business and if every retailer went into the packing business, your statement would be the same?

Mr. DAVIES. Our position would be the same.

Mr. HARVEY. It just so happens that I am on a subcommittee of the Small Business Committee that has been holding hearings concerning vertical integration within the broiler industry. I wondered whether the packing industry has taken any notice of this very recent and definite trend, and whether they have any feeling as to whether this type of competition is reacting unfavorably, so far as the red meat industry is concerned.

Mr. DAVIES. I think that the poultry industry has done a tremendously fine job of converting food into their form of meat at a very low price. Of course, competitively the price of poultry and the growth of the per capita consumption of poultry has been phenomenal, as you know. This, of course, does have a bearing competitively on our business, but we still think that there is a lot of room for red meat. Frankly, the free competitive system is not the most comfortable way to exist. I am sure that many people wish there were restrictions put on the other fellow and that they could do things that he could not, but by and large we have to survive in the competitive system and we are not afraid of the ability of the packing industry to do so, whether it is in the poultry business or in the meat business.

Mr. HARVEY. I think you have answered that very well. I wanted to know whether you felt involved in this competitive type of activity there was any unfair advantage being achieved by this integration process.



Mr. DAVIES. I do not believe it is unfair. No. 1, I believe there are members of ours who are in the integrated poultry business themselves who have gone into the competition because of others being in it. As you know, the poultry business is one where a lot of the feed companies have moved in that direction. I know that several of our members are heavily engaged in the producer business of poultry, although I am not personally familiar at all with the poultry business.

Mr. HARVEY. That is all.

Mr. POAGE. Are there not those in the packing business engaged in producing hogs that closely parallels the development in the poultry business?

Mr. DAVIES. I do not know of any to my knowledge. I have heard some talk about it. I know that they encourage the production of hogs and meat-type hogs. And they have been very busy in getting seed stock out, but as far as my own knowledge is concerned there may be—I do not know of any packers who are to any great extent in the producing business, so far as hogs are concerned, although I know that folks at Purdue University, for example, feel that there is technological improvement in production, and as we get better disease control, such as the committee reporting out the hog cholera bill, that the time may come when a very few highly efficient growers can produce a large and much larger percentage of our hog population than they do now.

I think the tendency will be that way. Whether it will be done by the meatpackers or the feed companies or by the growers themselves, I do not know. I would hope that it would be done by the growers.

Mr. POAGE. Do you know what has happened to this development in the State of Tennessee? Frankly, I do not. I know that a few years ago Tennessee packers were buying cattle in the West and moving them in and contracting with the feed companies to provide the feed and contracting with the farmers to provide the lot and the water, et cetera.

Mr. DAVIES. I only know about it by hearsay, as I was told.

Mr. POAGE. Has that developed?

Mr. DAVIES. I do not think it is very big. I do not know that an eminent Member of the other body is enrolled in this and seems to be finding it profitable. He is a farmer. This is, I think, more or less a cooperative venture with the Tennessee packers and some producers. How large it is I do not know.

Mr. POAGE. It is not a cooperative venture. The packers provide the feed bought from the feed mills at a fixed rate. They pay the farmers what they want for providing the lot and the water. The farmer has no interest in it whatsoever, except monthly wages. The feed mills sell the feed.

Mr. DAVIES. You, obviously, know more about it than I do, because I have only heard about it. To my knowledge, I have not seen the extent of it, whether it is great or what.

Mr. POAGE. I just asked about it. I have not even checked on it for 2 or 3 years.

Mr. DAVIES. I know there was a great deal of talk about it about 3 years ago. I have not heard much since about it, whether it has developed or whether it has not.



Mr. POAGE. What is developing in regard to the tendency of packers to feed their own cattle? I want to say that there were one or two packers who are not your members who are most active in it.

Mr. DAVIES. Well, I think the figures are available showing that both meatpackers and chain stores have cattle on feed. I am told by the experts in this business that as the standardization of demand for type and quality and grade of meat has developed, it becomes more and more important for companies to produce and to be able to have available for sale the particular type of animal. And they find it is easier to do that by contracting on specific lots of cattle in lots that they either own or contract for with the owner.

This, I think, is much greater in the Far West than it is in the Corn Belt.

I think that a certain number of the big feedlots in the Far West—many of the lots that are owned by the feeders—that the cattle in the lots may very well be owned by a chainstore or a meatpacker. What the extent of it is, I do not know, that is, in the total of agriculture. Where that development has grown greatest has been in the Far West.

Mr. POAGE. Has not that development grown to the stage where anyone can gamble on it, like gambling on the stock market or on any other operation, even the Irish Sweepstakes, that he can simply put up an amount of money, the man will buy the cattle and own them in his name—never see the cattle—charge a certain amount per day to feed those cattle—he does not know what they are feeding them—and he winds up selling them, and you gamble whether you make a profit or whether you take a loss?

Mr. DAVIES. I think that is quite true. We have in the parlance of the trade—and Mr. Don Short has used this statement himself a lot of times—that we have a lot of drugstore cowboys who have gone into this business, who did so when you could not make a mistake. You would buy the cattle and they would be up here [indicating]. But again, this is the free enterprise system working. Money is being invested, money is being made and lost.

Again, I come back to the fact that basically the livestock industry, with all of its trials and tribulations and, certainly, we are not proud of our results, nevertheless we think we do better under the vagaries of competition than we would under more and more regulation.

Mr. POAGE. Are there any further questions?

Mr. SHORT. Mr. Chairman, Mr. Davies, if it is true that the chainstores have the ability to influence or practically dictate to the farmers, how do we explain with the recent increase in the price of fat cattle that poultry prices are down—hog prices are not rising—the price of fish products seems to be at a pretty low level—yet the fat cattle price has been going up rather substantially during the past few weeks.

Mr. DAVIES. Maybe the best answer I can give you is to say that I have been on a 2 weeks trip on Lake Michigan. There were a lot of fish there. And I have had that to eat.

There is a lot of cheap poultry, and I have had that a couple of times.

But I feel that the family, including this old gent, wanted beef. The demand and the love of the American people for beef seems to



hold up extremely well, regardless of all of these other good but cheaper foods.

I think that, by and large, beef—I am sure you are personally very happy about this—seems to hold a preeminent place in the American diet. The people want it; they like it; they like it better than anything else.

The price has been very significant. The price that the housewife is willing to pay for beef, regardless of the supply, has been going on up during the years, whereas her seeming willingness to pay for pork has not, regardless of the supply.

If our economist were here, he might be better able to point this out in more detail.

Regardless of the supply, the apparent willingness of the consumer to pay for beef is higher in relation to it than to other meats, regardless of the supply, regardless of the up and down of the market, but the trend has been that the consumer is willing to pay more for this particular meat.

Mr. SHORT. Is not perhaps the answer to the simple question I asked the fact that there are still too many packing establishments, some 2,500, I believe, all over the United States to make it possible for any group of chainstores—and the size of the chainstores bothers me sometimes, I will say that very frankly—but still there are many of them—there are enough packers competing in the markets, for the supply of meats they need to supply their trade, so that the supply-and-demand factor still is the basic criterion?

Mr. DAVIES. I agree. I do not know of any combination of buying power anywhere that is big enough to really influence the national market on meat. The trend, as you know—what I was talking about was the trend, the desire of the people for this meat, regardless of the supply. It holds up in competition. Basically, of course, there is tremendous competition in the beef business, more so than in anything else. We found out in the OPA days, you will remember, that the only thing you needed was a rope, a tree, and a knife, and you were in the beef business. There is no way, nor should there be any way, to stop people from going into the beef business.

When you go into other meats and into processing, you call for more technology and more capital investment and more know-how. Even as little as I know about it, I can manage to kill and slaughter a steer. It does not take a great brain to be able to do that, as you know. And if you have a car, you can sell the beef. And so you are in business.

Mr. SHORT. Has anyone ever made a study of the extent, percentage-wise, of the amount of beef or pork, or broilers, for that matter, specifically the amount of beef, the percentage of the national supply that would fall into this category of being fed by the chainstores or being fed by the packers? While some of these enterprises are big in themselves in relation to the national supply, it seems to me the amount is rather small.

Mr. DAVIES. It is.

Mr. SHORT. Is there any indication at the present time that this practice is growing? Some of the chainstores that used to be in the feeding business and in the packing business have gotten out of that business.



Mr. DAVIES. Yes.

Mr. SHORT. I believe there are a few of them that are in it.

Mr. DAVIES. That is right—not even feeding any.

Mr. SHORT. Which way is the trend going—do you have any detail on that?

Mr. DAVIES. I do not have the figures on that. If we have them I will be glad to furnish them to the committee.

Mr. SHORT. I think this is an important aspect of this subject.

Mr. DAVIES. I do not think there is any quantitative study that I know of that gives this picture. I do know that the last time, the last figures I saw, I think the University of Nebraska made, they were in a study of this some years ago, Their figures at that time were pretty accurate. Still, it did not amount to very much. They tried to get the best figures they could of packer or retailer owned feedlots or contracting lots. While the figures were large in the aggregate of all of it, they did not amount to much, certainly not enough to influence either the supply or the market.

Mr. SHORT. Thank you.

Mr. POAGE. That seems to me to be a very important question. I think everybody recognizes that the total number is rather small, but is it not true that a relatively small percentage of the meat supply in packers' hands would have a deciding influence on the price?

Mr. DAVIES. I do not believe so, Mr. Poage, because after all meat is a nationally traded product.

Mr. SHORT. If you will yield.

Mr. POAGE. Yes.

Mr. SHORT. I would think on the basis of percentage this supply that the packer happens to have control of is at one particular place. If he had a lot at Chicago, we will say, that would be one thing. If it is a part of what he has control of scattered over innumerable markets across the Nation, it would be another thing. We have all seen small livestock market sales, for instance, when one buyer fills up and does not buy any more, the market goes down perhaps as much as a cent or 2 cents a pound.

Mr. DAVIES. The market for that day.

Mr. SHORT. What you are dealing there with percentagewise would be a rather large portion of the cattle on that particular market. This is a difficult thing to bring about in the way of the proportion of livestock on the entire market of the United States.

Mr. DAVIES. I am not qualified to answer that question because I do not think that there are any figures—I do not think any studies have been made of it. My impression is that, as you say, in a fairly restricted area, if a heavy buyer is filled up, it would have a bearing on that market that day. Certainly, not longer than that, because you see, competition in this business is so keen that no one is going to enjoy very long a soft spot in the price, because the other boys will be right in there.

Mr. SHORT. Is there not another factor that comes into consideration here in establishing a market from day to day, that beef is a highly perishable product?

Mr. DAVIES. Right.

Mr. SHORT. It moves very rapidly from the processor to the ultimate consumer, and it must do so.



Mr. DAVIES. Yes.

Mr. SHORT. And the supplier, the retailer, and the middleman in between, the broker, whatever you want to call him, must have a supply from day to day to furnish his customers?

Mr. DAVIES. Right.

Mr. SHORT. And most of the time he does not have very much latitude on leaning back on the price that he wants to pay if he is going to secure a supply.

Mr. DAVIES. That is right.

Mr. SHORT. And keeping his customers many times depends on being able to supply them with the meat that they want of a certain quality.

Mr. DAVIES. The explanation I have always received from the packers when we have discussed this problem with them is that the feeding that they do is only to take care of this very point that you make, where they have a constant demand from a particular customer for a particular type and have to be sure to have available at all times that supply, so they would like to carry a small amount of it. That is what I get. I think that is the truth of it.

Basically, meatpackers are meatpackers and not feeders. You know, there is a great deal to the saying that we find in the Good Book, that it is pretty hard to hire people to look after livestock. Mr. Khrushchev found that out. It takes the fellow who owns it and lives with it to handle livestock. I know you will agree with me on that. That is why I think basically the livestock industry, I believe, will always stay in the hands of the producers. There may be fewer of them, more efficient ones, but I still think that the production and the feeding of livestock is a highly specialized business that takes personal handling by the people doing it. I found that out to my cost.

Mr. SHORT. Right along that line, I think it is real interesting to note that at the present time, in spite of the fact that there has been and probably still is great expansion in the area of commercial feeding, large-scale feeding operation, there is also a much greater expansion going on at the present time in livestock feeding at the family farm operation level.

Mr. DAVIES. That is right.

Mr. SHORT. In my State of North Dakota there has been one of the greatest explosions in livestock feeding in small operations of 50 head, 75 head, 100 head, or 200 head. The farmer is building himself a little feedlot so that he can feed out his own cattle or some cattle he buys from his neighbor.

Mr. DAVIES. I think Mr. Harvey will agree that the same thing is happening in our State of Indiana.

Mr. SHORT. It seems to be happening all over the country.

Mr. DAVIES. In the Southwest and the Southeast. There has been a tremendous growth along that line. I think this is good.

Mr. SHORT. I think it is wonderful. This is the situation that to me will ultimately prevent any large-scale control of the supply of cattle and dictation on the part of a few retailers or even processors who might be in the feeding business.

Mr. DAVIES. I know this, Mr. Short, that the packers I know would much prefer to be able to buy their raw material from the producer. They are always working with the producer to try to get him to pro-



duce the type of livestock they want and need. They would much rather see it in the hands of the producer, because the producer can do a much better job of raising livestock than we can. They have proved that time after time. I do not think you can improve on the ability of the American farmer to compete if given the opportunity and the knowledge. It is just wonderful to see how quickly—how much more quickly today the American farmer is taking advantage of new developments. It used to take months for new growths or new feed or new products that would improve his livestock, his grain, et cetera. You know that in your youth it took a long time before the farmer would change. Now, if a product comes on the market and it proves itself, it is all over the country in nothing flat. They are on their toes.

I think the idea that some people still seem to have that the American farmer is abused and does not know what is going on, and is subject to pressure by everybody, is far from the fact, because I have been dealing with farmers for 25 years. I think they are one of the most intelligent members of our community.

Mr. HARVEY. I think I might add to the comments made, that is, most of the resentment I seem to sense among the livestock farmers in Indiana is against the sometimes violent fluctuations in the price of livestock. The chairman will recall that a few years ago one of our former members—a member of this committee—had a bill introduced which would have had as its purpose trying to prevent the large fluctuations in the price of livestock. As the result of hearings we came to the conclusion that it was not a very practical thing to pass such a regulatory piece of legislation. I certainly am not today offering any thought that we should attempt to do that. I am simply saying that very often there is the complaint that if a producer gets his livestock on the market on the day there is a dollar break in the market he is pretty unhappy about it. I do not recall anyone complaining if it worked the other way.

Mr. DAVIES. No; they do not.

In the hog market especially, spreading out of the supply has meant that you do not have the huge big peaks and valleys we used to have. This, of course, has changed the whole processing problem of the meatpacking industry. Where we used to be packers in the true sense, where we would buy livestock at the peak and salt it and then sell it at the ebb—well now, as you say, Mr. Short, not only beef but other products are moving very rapidly from the farm to the market, to the packers, and then right out to the retailer. The movement of all meats is much faster than it was before. So you do not have the tremendous storage problem you had before.

Mr. SHORT. Right on that subject, Mr. Davies, would you care to make an observation as to the length of time the meat is in the hands of the packers, from the time it is purchased until the time the processed product is offered at retail?

Mr. DAVIES. Things change rapidly. It used to be weeks in the case of hams. Now it is a matter of days. I frankly do not know exactly.

Mr. SHORT. In other words, it is not possible for the meatpacking industry to buy a supply when the price is down and hold back on purchases until later weeks, we will say, or even months, because of



the fact that they have the supply on hand and they can offer it to the retail market as they desire.

Mr. DAVIES. This, certainly, is not true in the case of beef. When we had the heavy cured ham, the heavy cured bacon in the old days, there was more and more of that, because that was one of the functions of the packing industry. The farmers would have hogs available at certain times of the year.

Mr. SHORT. That was because of the fact that the market was there.

Mr. DAVIES. The packers' marketing has changed. While there is still some speculation in the packing industry, certainly, the days of speculating on the market which they used to do—of storing to sell that pork at a higher figure in the summer—is fast disappearing. In fact, packers whose whole function was in this area have disappeared and are disappearing from the scene. They have had to change into more and more of a merchandising, processing operation. They have to process quickly and sell quickly.

The old statement of saying, "Sell it or smell it," becomes more and more a factor, because we do not have the tremendous storage capacity we used to have. Sometime go to Chicago and see the demolition gangs working on the old packinghouses—buildings that were built for, perhaps, a hundred years, of tremendous storage capacity, that are now not being used because the need is not there. Both the marketing and the consumption habit has changed.

Mr. POAGE. Do you mean that the change has been more and more like that which has been true in Europe and other parts of the world, where they eat their meat absolutely fresh? In most of Europe you kill the animal tonight and the meat is sold and consumed tomorrow. Are we going to that?

Mr. DAVIES. I think that we are eating beef, especially, and certainly, of course, processed meats, much quicker.

Mr. POAGE. Without aging?

Mr. DAVIES. Without the aging. For example, as you know there are all kinds of artificial methods to get tenderness into the carcasses. There are the breeding techniques that have been developed. One company, of course, is now using a process of inserting this material into the live animal, which only takes effect when that meat is cooked to 120° temperature, I think, which gives the tenderness that formerly would take a great deal of aging to get.

There is, of course, still a great amount of aging being done for specialized customers—clubs, hotels, restaurants—that do demand aging, but of course it is a very costly operation because you have got your shrink which amounts very rapidly. However, there is not the tendency of the time element today in beef that there used to be when you and I were a little younger. The demand, obviously—there is one thing we find in every check we have made on all meats—is that among the high things, the top of the list, the housewife wants its tenderness in practically everything. The whole controversy on hams is involved in this question that they want a tender, moist ham.

There is the same tendency running through all meats—more bland, more tender products. There are younger animals going to market. The mature, heavy steers we used to see going to market 20 years ago are fast disappearing. There is no sale for them.

Mr. POAGE. Thank you.



Mr. Harding.

Mr. HARDING. I would like to ask Mr. Davies a few questions as to the price the consumer has to pay compared with the price the producer receives. Many of the people in the sheep industry in my State are extremely concerned right now about the disastrously low price of lamb as compared with the steady high price that the housewife has to pay at the supermarket today.

Do you have any comment on that?

Mr. DAVIES. Well, I do not know that my comments on the retail end of the business would have any validity because I am not familiar with the retailing end of it or anything about the people in it. There are people in the room here who are qualified to discuss that.

The only thing I do know is that this lamb problem is real. A great deal of time and effort and money has been expended by the sheepmen for themselves. We have spent a lot of money through the years trying to improve the demand for lamb.

This seems to be one with a completely inflexible demand. The people who like lamb will buy it and pay for it. The people who do not like lamb will not take it at any price.

We made a study back in the twenties of lamb consumption. At that time it showed that the vast majority of the consumers who liked lamb and wanted lamb were on the east coast or the west coast. And they are still there, so far as I know.

For some reason neither the sheep industry nor ourselves nor the retail industry have been able to really broaden the demand. So that when you do have an oversupply of a relatively very small amount, because after all the per capita consumption of lamb is only 4 pounds per capita as compared to 14 and 19 pounds in poultry—when you do get an oversupply, then the question is what to do with the price. And to lower the price does not broaden the demand.

There are certain types of lamb carcasses that do move. Such as the legs and chops. And the other parts seems to be completely distress material.

One of my colleagues happened to go into a store in Chicago recently when lamb prices were quite low and saw a man buying 20 lamb breasts. He asked him what he was buying them for. The man said, "I am buying them for my dog, because they are cheaper to buy than dog food."

And in that very same store legs of lamb were selling at a reasonable price.

It is hard to move it. It is costly, I presume for the retail industry to take this carcass and to break it up in relation to beef. You can take beef and make hamburger out of the less valuable cuts.

I have spent 20 years trying to help develop a broader demand for lamb. For some reason we are not getting the job done. I think that until this demand is broadened, so that the supply can be spread out quickly, you are going to have these tremendous peaks and valleys.

In answering your question, so far as the price at the retail level is concerned, I am not qualified to answer that because I am not in the retail business.

Mr. HARDING. This is the thing that concerns me: When you see pork prices, for example, drop down to 12 cents, you see a corresponding decrease in the price of bacon, hams, and pork chops; but



here with reference to our lamb it is, at least, at near an all-time low price in modern history in my State, and yet the price of the lamb product at the consumer market has not dropped an iota.

Mr. DAVIES. I do know that I have noticed in advertising in Chicago during the period of the break in lamb prices many of these chains had quite tremendous lamb sales—legs of lamb, etc.—that seemed to me worth selling at a pretty representative price compared to the carcass price. I bought some carcasses of lamb at wholesale during that time. I happen to be a lamb lover. I know that I paid a disastrously low price for those carcasses at wholesale, 25 cents a pound. No lamb producer, in my judgment, can produce it at that price, to sell those lambs at 25 cents a pound. Somebody bought them at very disastrous prices.

I know at the very same time you are talking about that the wholesale price of that type of lamb, very heavy lamb, was 25 cents a pound. I bought five carcasses.

Mr. HARDING. Thank you. I would like, Mr. Chairman, to request that Mr. Hagen be permitted to ask some questions.

Mr. POAGE. Mr. Hagen is not a member of this subcommittee, but he is a member of the full committee. He will be permitted to ask any question or questions.

Mr. HAGEN. You discount the possibility of unfair practices in the meat business. How has the situation changed or has it changed greatly from the period between 1910 and 1920, when the Government was forced to bring an antitrust case against the major packers?

Mr. DAVIES. How has the situation changed?

Mr. HAGEN. Yes.

Mr. DAVIES. I think that the figures will show that in 1920, even later than that, in 1930, there were tremendous numbers of meat retailers, many of them small, many of them just plain butcher stores. Chicago, for example, was full of them. There are fewer and fewer of those small stores. The meat business today is carried on in stores that carry everything else. For example, it is only in our lifetime that the A. & P. went into the meat business. For years they did not have a meat department. They started in with processed meats. And then, finally, they went into fresh meats.

I think the whole situation has changed as the economy has changed. The housewife likes to go into a store to buy everything in the same place, where she does not have to put a bag on her arm and go shopping in 16 different places.

The grip of these chains, both the independents and the supermarkets, and the like, has changed the pace and habits of the American people. Easier transportation, the family car, shopping once a week—all of this has changed.

In 1921 the Government moved in—I read about it, of course, I was not even here then—their feeling at that time, as I understand it, was that the four large companies, their interest and investment not only in meatpacking, but in other related products, was a threat of monopoly, because there was no other concentration of economic power anywhere close to them in size at that time on the buying and/or on the selling end of livestock and its products. It was their fear that this would end up in complete control of the production of not only meat, but all foods—distribution and transportation and sales.

That is why it was considered a threat at that time.



Mr. HAGEN. At that time there were more packers, were there not?

Mr. DAVIES. I do not think so. I think that there has been a tremendous growth in the number of meatpacking companies, too. And the number of slaughterers. There has been a consistent growth. I think there has been quite a substantial growth since the war, during and after the war. I have seen cases—the chairman of the board of the institute—for instance, from Indianapolis, used to work for Armour & Co., as a lamb salesman, who went into the packing business and has a very substantial packing plant of his own. That all happened in 20 years.

There are people in your part of the country who have gone into the packing business.

I do not know of any industry where there has been more growth in numbers of people than in the meatpacking industry.

Of course, the ease of entry into this business is both a blessing and a curse, because it does keep the profits of this business at a very low level because you can get into it very easily. There are other industries where it is pretty hard to get in, such as the automobile business, for example, or the machine tool industry. You have to have all kinds of machines. In the packing business you can start very easy and go into business. And we want to have it remain that way. Does that answer your question?

Mr. HAGEN. I do not think it does. But thank you.

Mr. POAGE. Are there any further questions of Mr. Davies? If not, we are very much obliged to you, Mr. Davies. We appreciate your testimony.

Mr. DAVIES. Thank you, Mr. Chairman.

Mr. POAGE. We have only one more witness listed on the agenda; Mr. Donaldson, is he present?

(No response.)

Mr. POAGE. He was not scheduled until tomorrow. I did not know whether he wanted to be heard today or not.

I think under the circumstances we will go back now to the Department witnesses. I wanted the Department witnesses to hear some of the views which were expressed before we discussed this matter further with them. I would like to have had others here. If anyone else is here who wants to be heard, he may be heard at this time. Is there anyone else?

Mr. BAKER. If you would prefer to hear what I have to say now, I will be happy to present it.

Mr. POAGE. We do not want to put you in the position of testifying when you do not want to.

Mr. BAKER. I will be happy to do so.

Mr. POAGE. But we will be glad to hear you now if you care to testify.

**STATEMENT OF A. Z. BAKER, PRESIDENT; ACCOMPANIED BY C. L. MILLER, VICE PRESIDENT, THE AMERICAN STOCKYARDS ASSOCIATION**

Mr. BAKER. Mr. Chairman and members of the committee, I have with me Mr. C. L. Miller, who is vice president of the association.

It was because of the purpose stated in connection with these bills



that we asked the privilege of presenting our views, and we are happy to, and appear before this committee to present our views in a brief which may be of some assistance to you in reaching a conclusion in respect to these bills.

This statement was prepared yesterday before we knew of some of the proposals by the proponents of the bills, and the new bill that has been introduced or mentioned this morning.

The American Stock Yards Association is a voluntary association of most of the owners of the major stockyards of the United States who are engaged in conducting and operating public livestock markets, commonly designated as central or terminal markets, under the provisions of the Packers and Stockyards Act of 1921, as amended. In the last calendar year 1960, the members of the American Stock Yards Association received for sale 14,737,219 cattle, 1,960,732 calves, 21,417,200 hogs, and 6,847,092 sheep and lambs which were equivalent, respectively, to 58.6 percent of the cattle, 23.8 percent of the calves, 27.1 percent of the hogs, and 43.1 percent of the sheep and lambs slaughtered commercially in the United States that year. The members of the association are engaged in providing and furnishing stockyard facilities and services for producers, packers, and other sellers and buyers of livestock in connection with the marketing of livestock but are not engaged directly in the sale or purchase of livestock for their own accounts.

The proportion of the total livestock marketings moving through the major terminal markets reported by the U.S. Department of Agriculture has declined substantially since 1921 as a result of the decentralization of livestock production, procurement, and slaughtering made possible by developments in transportation and refrigeration and encouraged by the opportunities for the avoidance of the competition and regulation at the terminal markets and the desire to meet the competition of interior buyers. In recent years, with the growth of large commercial feedlots on one hand and large retail food chains on the other, packers have found it desirable or necessary to buy more of their livestock supplies in noncompetitive channels, often with production, packing, and retailing partially or completely integrated.

The most recent period of decline in competitive livestock buying began in 1952, after several years of relative stability, when the salable receipts of livestock at the major public stockyards were equivalent, respectively, to 89 percent of the cattle, 44 percent of the calves, 35 percent of the hogs, and 65 percent of the sheep and lambs slaughtered commercially. By 1960 the proportions had fallen to 66 percent of the cattle, 31 percent of the calves, 29 percent of the hogs, and 47 percent of the sheep and lambs.

The enforcement of observance of the packers' consent decree in respect to, or by, the so-called big packers, or by other packers deterred from engaging in the activities denied by the consent decree, has encouraged the expansion of great retail chains engaged in merchandising meat along with other food products and nonfood items. The few top retail chains now wield, or are in the position to exert, tremendous buying power comparable to the power of the packers recognized and curbed by the consent decree. With the principal packers denied the practice or deterred from engaging in retail operations, while at



the same time the retailers are free to engage in or control packing operations, the packers in many cases have become little more than agents of the retailers for the procurement and manufacture of their meat supplies.

There are some smaller packers who are finding it desirable or necessary to engage in retailing or enter into integrated relations with retailers.

And there are some retailers, particularly the larger chains, who engage in purchasing and feeding livestock for slaughter either in subsidiary feedlots and slaughtering plants or in independent feedlots or plants employed by the retailers on a consignment or custom basis.

A group of livestock producers meeting with officials of the USDA recently expressed concern over developments in the integration of livestock feeding, slaughtering, and retailing, and recommended that the Department undertake an intensive investigation of the impact of concentration of buying power in fewer hands, feedlot operations by retailers and packers, and their buying and merchandising practices.

The Roosevelt bill, H.R. 3798, would extend the principle of the consent decree to all packers whose gross sales in a calendar year exceeds \$30 million by an amendment of the basic law applicable to and governing the conduct of packers. It seeks to preserve and promote the practices of fair and open competition in the sale and purchase of livestock which was obviously intended by the Congress in the passage of the Packers and Stockyards Act in 1921, and in the amendment of 1958 which extended its provisions to all transactions in livestock in interstate commerce. The bill would clarify and amplify the provisions of the act which make it unlawful for any packer, among other things, to engage in any course of business or do any act for the purposes or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce, by providing that it shall be unlawful for any packer or any person engaged in the business of manufacturing or preparing livestock products for sale or shipment in commerce, or in wholesale marketing in commerce of meat and other named commodities, whose annual gross sales exceed \$30 million, to engage in the business of selling at retail meats and other named commodities.

It would follow that no retailer could, within the limits of the bill, engage in the business of a packer by buying livestock in commerce for purposes of slaughter, or manufacturing or preparing meats or meat food products for sale or shipment in commerce, or other activities specified in section 201 of the Packers and Stockyards Act.

The Roosevelt bill is distinguishable from the Anfuso bill, H.R. 3415, in two principal respects although both bills have the same purposes of preventing combinations in restraint of trade and assuring open competition in the sale and purchase of livestock and the manufacture, preparation, marketing, and retailing of meat food products.

The Anfuso bill limits its application to packers or other named persons whose gross annual sales exceed \$100 million, whereas the Roosevelt bill has much broader coverage, applying to persons whose annual volume of sales exceed \$30 million. Every argument in sup-



port of a prohibition of combinations or integrations of the packer and retailer functions of the meat food industry justifies a prohibition against every packer engaged in commerce regardless of volume of sales. A practical application of the prohibition against practices resulting in or tending to restrain trade or destroy open competition may justify some limitation or exception in respect to smaller and less potent packers or other persons. The \$30 million measure is preferable to the \$100 million limit which would exempt many of the packers or other persons subject to the Packers and Stockyards Act.

The Anfuso bill contains another provision which is designed to assure the sale and purchase of livestock in open competition by requiring all sales and purchases of livestock by persons whose annual volume of sales or purchases exceed stated volumes to make such sales or purchases at public markets subject to the Packers and Stockyards Act.

While this requirement might achieve one or more of the objectives of the act, it would destroy a fundamental objective of the act, as amended, which provides for regulation of different marketing channels and assures the sellers and buyers of livestock the freedom to choose the market or marketing channel which suits their needs for the sale and purchase of their livestock. The enactment of the Anfuso proposal might return some of the livestock marketings to public markets but in so doing it could reduce or destroy the competition that exists between several marketing channels. With effective and uniform regulation under the Packers and Stockyards Act, as amended, and with the added provisions of the Roosevelt bill, the livestock producers, marketing agencies, packers, processors, distributors, and retailers of meat food products would be guided in their business practices and permitted desirable competition in dealings with the producers and consumers and in relation with the several segments of the livestock and meat industry.

The American Stock Yards Association respectfully urges the subcommittee to give favorable consideration to and recommend the enactment of H.R. 3798 introduced by Mr. Roosevelt.

Mr. POAGE. I understand that you are not in favor of the amendments which were suggested by Mr. Roosevelt and Mr. Anfuso, raising the limit to \$100 million?

Mr. BAKER. Mr. Chairman, I think I testified that every argument in favor of a prohibition of combination would justify a position opposing any limitation, but there is a practical aspect that one must recognize, whether it is \$30 million or \$100 million. I think this subcommittee will have to decide what is the practical limit for the control and prohibition against combinations that might be in restraint of trade. After all, the Supreme Court has upheld the consent decree which is designed to prevent such a combination.

Mr. POAGE. I wonder if there is any practical or other reason to do that. There is a man who just does a little business. And there are a lot of those. I realize there is a lot of money involved in the packing business. Someone suggested that \$30 million does not cover very much, a very large amount of the packing business, but there are people who do not do \$30 million worth of business—a lot of people who do not do \$1 million worth of business in a year because they are small. Is there any reason they should be engaged in the retail business?



Mr. BAKER. No, Mr. Chairman. I see no reason why any packer should engage in the retail business, or any retailer should engage in the packing business. And, therefore, being a packer I think that free, open competition is the best thing for the whole livestock industry.

In my own mind, I can favor strongly any prohibition or the prohibition against any integration of livestock feeding, slaughtering, and retailing.

Mr. POAGE. Well now, I think maybe I am more concerned than is necessary, but there were and there still are a few places where local merchants slaughter calves to sell, and are both in the packing and retail business.

Mr. BAKER. And almost in the consuming business, too.

Mr. POAGE. What?

Mr. BAKER. They are almost in the consuming business, too.

Mr. POAGE. Probably they are. And sometimes we think that a few of them are in the cattle rustling business, too. It is a rather easy way to dispose of some calves. However, there are a lot of legitimate operations of that kind.

Mr. BAKER. Yes.

Mr. POAGE. Should we go so far as to put them out of business?

Mr. BAKER. Mr. Chairman, this reminds me of some of the days I can remember, too. Most of those small operators are not engaged in interstate commerce.

Mr. POAGE. That is true.

Mr. BAKER. And would not be affected by this, but it seems to me that those packers, those retailers who are engaged in interstate commerce and, therefore, subject to the provisions of the Packers and Stockyards Act might very well be prohibited from engaging in the other business.

Mr. POAGE. I think that is very sensible. Are there any questions?

Mr. HARVEY. I would like to ask, for the sake of the record, whether you would include section 2 of the Anfuso bill that portion which refers to section 317(a) of the Packers and Stockyards Act. Did I understand that you would favor the enactment of that provision or not?

Mr. BAKER. It was my suggestion that the Roosevelt bill, rather than the Anfuso bill, be approved by this committee.

Mr. HARVEY. In other words, you are not opposed to the so-called direct-buying sales?

Mr. BAKER. They are competitors, but I think if all competitive channels are adequately and fairly regulated then the producer and the buyer should have an opportunity to patronize the one that provides him the best services and the best price. We think we have the best service. But we are not trying to legislate or suggesting that you legislate a movement into the markets represented by our association.

Mr. HARVEY. I have in mind a situation that prevails in our Indianapolis market.

Mr. BAKER. I am quite familiar with it.

Mr. HARVEY. I am sure you are. I have heard some complaints that the so-called local buying stations are affecting the stockyards out there, so much so that their continued survival may even be in question. I have not had this complaint directly or authentically. It has been more or less in the nature of gossip.



Do you think there is any prospect of our major stockyards being forced to close up for lack of trade or business?

Mr. BAKER. There certainly is the possibility, Mr. Harvey, but most of these interior points, buying stations in Indiana and other places, have but recently been brought within the jurisdiction of the Packers and Stockyards Act by the amendment of 1958. The regulation of those points, those interior points has not been accomplished yet. We are very hopeful that under the present administration we are going to have some regulation of all points where you will have fair, equitable, uniform application of the law to all marketing transactions and with that, I think, the major markets would be able to survive.

I think other channels will be available if they provide a more desirable service.

Mr. HARVEY. I happen to have noticed that Indiana has passed legislation which has the effect of bringing all of these types of operations under State supervision.

Mr. BAKER. That act was passed some years ago requiring a licensing of additional marketplaces, but the regulation under the Packers and Stockyards Act was extended only in 1958, and most of those places have now been posted—the marketplaces have been posted. The dealers and marketing agencies have been registered and have provided bonds so that the Department of Agriculture now is in position to apply the principles and provisions of the Packers and Stockyards Act to all of those places.

Mr. HARVEY. Thank you. That is all.

Mr. POAGE. Are there any further questions of the witness?

Mr. SHORT. Mr. Baker, to pursue this further, what regulation—what further regulation, in your opinion, would be desirable, so far as these buying stations are concerned? I am not talking about the auction markets—I am talking about the buying stations of the packers?

Mr. BAKER. In the first place, I think that there should be a determination of what their character is.

Mr. SHORT. What do you mean by "character?"

Mr. BAKER. After you determine whether they are a public market or whether they are a private market, whether they are operated by a dealer or a packer or a market agency, then the provisions of the law and the regulations that have already been prescribed, with such modifications as may be necessary, can be applied to all of those places.

You have adequate provisions in the law and in the regulation to govern trade practices, buying practices, selling practices, weighing practices, payment practices, charges, and things of that sort.

Mr. SHORT. Mr. Harvey asked a question a minute ago as to what was happening to the terminal markets, were they disappearing to some degree from the scene as a means of marketing livestock. If they do disappear from the scene, and if past experience is any indication they are tending to disappear, I think, perhaps, that the word "disappear" is not the right word—possibly they are tending to move?

Mr. BAKER. I think that is more nearly correct.

Mr. SHORT. That is, closer to the sources of supply, but they perform this most important function. I never did know how this



function is to be provided unless the terminal markets are in existence, that is, one of the basic functions of establishing the price from day to day, from week to week. You cannot establish a price on a national supply basis out at the country buying station.

While that may be a very desirable and efficient means of marketing livestock, I am sure that it is going to have considerable effect—it will change operations—but unless you have the terminal markets in conjunction with the country market stations, the individual selling livestock, is not going to be able to know by listening to the market reports at breakfast time before he takes hogs, for example, to the station what the market price should be that day in relation to the supply that is being offered all across the country on that day. This, to me, is very important—a very important bit of information that the seller of livestock must have. I know most farmers are pretty able to determine what their livestock should be worth on a particular day if they know somewhere near what the basic market prices for that class and grade of livestock is on that particular day. Without the report from the terminal market I do not know just how he will arrive at what the overall market condition is.

Would you care to make any comment on that aspect of it?

Mr. BAKER. I think that when the time comes that you do now have a number of major, central markets or terminal markets, where by actual competition, trading on an adequate supply of livestock determines the value under the existing conditions, I think without that your livestock marketing will be chaotic.

It will require, ultimately, it seems to me, complete control, the fixing of prices by some governmental agency, because I do not see how the industry itself can do it completely, disintegrated as it would be, without some terminal market. They do not have to be the dominant factor that they were at one time, but they need to be a major factor in the marketing of livestock, and without them I think the livestock industry, particularly the livestock producers, would be completely lost.

Mr. SHORT. Do you think that the present practice of more finished livestock being marketed through the terminal markets, and to a considerably lesser degree, a lesser portion of the feeder livestock being sold in the terminal markets—do you think that the terminal markets can still perform their proper function of establishing the prices from day to day?

Mr. BAKER. Yes, I think they can, because I think that the prices that are established at the market in large measure are for finished livestock—fat livestock which is sold and bought for the purposes of slaughter, rather than for feeding.

Mr. SHORT. Well, certainly basically the price that the feeder gets should be related to the price of the finished animal. You see many instances in the last few years where there seem to be other factors that have crept into the considerations that have tended to put the price of feeder cattle completely out of relation so far as the price of fat cattle were concerned. People are projecting their thoughts into the future as to what the supply will be 6 months from now or something. And the relationship of the price of feed and the supply of feed, and desiring to get into the feeding business—a lot of things like that are a factor. But I sometimes wonder if this practice of by-



passing the terminal markets with feeder livestock is going to tend to eliminate this function of establishing a proper price for the feeder livestock by the terminal market. I have seen the thing developing to a considerable degree of more and more cattle never going into the terminal market. I know that I have not shipped cattle to the terminal market for several years, and yet every time I sell a lot of cattle I am very aware of the fact that the price at which I sold those cattle is largely determined by the price that has been established by the terminal market.

MR. BAKER. Mr. Short, there is a noticeable trade of feeder livestock cattle back to some of the major markets which, I think is encouraging, because it does help to establish a price. Those markets are providing service now to meet the needs of the seller and the buyer of feeder animals. For example, a number of the terminal markets have established auction sales on one day a week or periodically, to handle stocker and feeder livestock, and they have been very well received, but it does provide an adequate volume—it does provide competition—it does provide a basis for prices that is valuable to the whole livestock industry. You, for example, can show your feeder livestock out there with some confidence in the price that you are getting.

MRS. MAY. Will you yield?

MR. SHORT. Yes.

MRS. MAY. Along this line, Mr. Baker, I have heard the argument offered that better livestock were purchased direct and poorer livestock was sold on the terminal markets, and that this brought a lower price. The lower price in turn was used as a price guide in direct buying. Do you think that there is any validity to that argument?

MR. BAKER. Yes; there is. To what extent it is I could not say, but it does happen. We know it happens. We see it. After all, if you are going direct to buy livestock you are going to buy the choicest part of the available supply. What you do not want has to go to a market. That goes to a market. And if it is of inferior quality the price will be lower, and that price will be quoted in market reports and will be used by Mr. Short and others to base his selling price on at home.

MRS. MAY. Are there any figures available to show how widespread this is, really what a major part of the market it affects? Is there really evidence to support this argument?

MR. BAKER. I do not think that there are figures or statistics available to show the extent of it, but it is the observation and the experience and the conviction of those who are on the markets that that does happen, because you hear of it, you see it on the market.

MRS. MAY. Yet U.S. Department of Agriculture studies on hogs, as I remember, showed no difference on the grade of hogs sold direct as those sold at central markets. Has this study been refuted?

MR. BAKER. The extent of this direct purchasing of livestock is considerable. It is growing. There is now considerable integration of retailing, slaughtering, feeding and feedlots, and direct purchase that passes through no public market at all.

MRS. MAY. What are the price guide factors that are important to the trade—the basic supply and demand factors at any time over the country?

MR. BAKER. One of the factors, of course, that would affect prices is if a buyer has his own lot full of livestock he is not a very aggres-



sive buyer on the market and the market reflects his lack of interest and the prices go down. That could be used as a basis for future purchases at lower prices. Those are things that are available in the trade. They should be known and they should be guarded against. As long as they are conducted in conformity with the provisions of the Packers and Stockyards Act so that there is fair trade practices, fair dealing, no discrimination or no deceitful practices, why it would be perfectly proper for them to do it, even though the result might be disastrous.

Mrs. MAY. That is all. Thank you.

Mr. POAGE. Are there any further questions? If not, thank you, Mr. Baker. We are very much obliged to you.

Mr. BAKER. Thank you.

Mr. POAGE. There are several questions which the members of the committee, I am sure, want to put to the Department witnesses. As a matter of convenience, we do not want to hold up the division in the Department while we go on with these hearings. I do not want to ask all of you people to come up here tomorrow, but we might have one member of the staff remain. That might be helpful. I do not think that there is any reason for asking all of you to remain. I do not like to make a policy of asking the Department to send such a large delegation up here just to sit day by day while we go through these things. We do appreciate your being here. I just wondered if there are any questions of the departmental witnesses now. Does anybody have any questions they want to ask the departmental witnesses now?

Mr. SHORT. I have just one question that I would like to ask, which I think needs clarification.

It is as to the terminology in the bill. The bill refers to "packers."

Mr. GIRARD. Yes.

Mr. SHORT. The technical interpretation I understand the Government has placed upon "packers," includes many other businesses which are not primarily that of a packer, but by virtue of the technical interpretation they happen to become packers.

For instance, I have a list here of some companies which by virtue of the interpretation the Government makes of the word "packer," come within this definition; such as Procter & Gamble, Hot Shoppes, Howard Johnson, Stauffers, and many others. Should this terminology in the bill be changed to refer to the amount of livestock or livestock products handled by the company?

Mr. GIRARD. Frankly, sir, one of the problems we had in trying to deal with this bill was to find information which would be sufficient to enable us to form a judgment on the bill. While we did not want to equivocate, nevertheless, we did feel we should be fair to the Congress and to come up with an uninformed judgment would not be fair.

As you have indicated the provisions in the bill which are applied to packers are broad. It provides in the bill that anyone is a packer who manufactures or prepares meat or meat food products for sale in commerce.

Mr. SHORT. But the bill does not clarify that you are making the determination on the volume of his packing, processing, or preparation of meats and meat food products, does it?



Mr. GIRARD. We understood the bill to mean gross sales, no matter what they may be and would include sales of television sets and refrigerators or anything else the individual subject to the bill might have, that that would govern whether he would be in or out of regulation. It would have no relation to the extent, as we understand it, of his participation in packing meats as contrasted with his other activities.

Mr. SHORT. As I interpret the intent of this legislation it was to provide a little bit more equity between the packers and other enterprises that have gotten into the packing business. If I understand it correctly, it was the intention to apply the provisions of these bills to some of the larger enterprises that were engaged in the packing or processing of meat products. That was the purpose of it. Some of these enterprises have fallen into this category of packers in the interpretation which has been made by the Department as to what constituted a packer and brings in an extremely large operation, whose participation in the preparation and use or distribution and handling and processing of meat products is very small. So you are going to apply the provisions of this bill on the basis of the size of the operation, rather than the size of the operation in the field of processing and handling of meats.

Mr. GIRARD. That was my understanding of the intention of the bill, sir, but the Department of Agriculture, as I indicated, has not felt that they have sufficient or adequate information of the full impact of this bill to determine whether, No. 1, you should legislate a volume dollar limitation on vertical integration; and, No. 2, at what level you should apply that limitation.

We do not have any studies in the Department which would enable us to make an informed judgment on that problem. Of course, at the present time we consider as packers anyone who manufactures, or prepares meat or meat products for sale or shipment in commerce, which is what the bill provides.

Of course, that would include Procter & Gamble, to the extent to which they indulge in that activity. It, also, would include many other food-preparation concerns who might have the greater part of their volume involved in other activities, such as fruits and vegetables, and so forth. The amendment in 1958 regulates all concerns engaged in slaughtering or manufacturing or preparing meat or meat products for sale or shipment in commerce, but the impact of the regulation is solely upon their meat and meat food activities. We do not go into canning and these other things that packers such as Procter & Gamble do with respect to nonmeat items. We do not go into the soap operation and detergents. We strictly confine ourselves to meat and meat food processing and preparing activities as of the present time.

Mr. HARVEY. Did I understand you to say that in your statement you would not favor the inclusion in this proposed legislation, that part in Mr. Anuso's bill, dealing with direct buying?

Mr. GIRARD. That is correct, sir.

Mr. HARVEY. Why are you taking that position?

Mr. GIRARD. Well, I think we are reflecting the feeling, when I say this, of the growers and the producers in the livestock industry that they want to keep all of the marketing avenues open to them. They



want to be able to sell to anybody who comes down to their farm or ranch. They want the privilege of being able to do so. If they want to go to an auction market, they feel they should be entitled to do that, or to a terminal yard. And we, in the Department, feel that that is the prerogative of the livestock producer to decide the way in which he desires to market his livestock.

Mr. HARVEY. I am not too clear on this point. What are the restrictions that are placed on packers now under the Packers and Stockyard Act with regard to participating in production and marketing of livestock?

Mr. GIRARD. Well, of course, the act itself does not preclude per se any packer, or for that matter, chainstore operator, who might add packing activities, from engaging in processing meats, and so forth. However, if they do so engage this is what they must comply with.

The act itself in title II is essentially an antitrust or trade practice act.

Its purpose is to maintain effective competition in livestock, meat and meat food products, and poultry. It specifically prohibits any unfair, deceptive, or unjustly discriminatory practices in commerce, those practices which would give in commerce particular persons or localities an undue advantage or subject particular persons or localities to an undue disadvantage.

It, also, prohibits those practices which would have the effect of apportioning supply, manipulating and controlling prices, or restricting competition and any practices which would create a monopoly in the acquisition of buying, selling, or dealing in livestock, meat, or meat food products.

As you gentlemen know these are very, very broad terms. You cannot apply them in a vacuum. You have to look at the particular situation to see whether in that particular situation there is something unfair, deceptive, something which has for its purpose affecting or controlling and manipulating prices and other things which are forbidden in the act.

Mr. HARVEY. Has the administration of this act been a satisfactory one in your opinion?

Mr. GIRARD. Well, that is rather difficult to say. We have had many reports that it has not been. But we must look at what has happened in the last few years.

In 1958 the act was greatly expanded.

We now post all interstate public markets which now number around 2,500, whereas before we had the opportunity to concentrate activities in 600 of the larger yards that had a square footage of pen space of 20,000. Now every little yard, regardless of where located, so long as livestock moves in interstate commerce from that yard, is covered.

In addition to that, the act requires us now to register, and requires a bond from any dealer who engages in interstate commerce in buying and selling livestock. That has added to our enforcement responsibilities some additional 15,000 to 20,000 people.

As I understand it back in 1958-59 there was considerable discussion in the Department with the people who are interested in the industry, the livestock producers, those engaged in marketing livestock, to determine whether they wanted the Department to concentrate its efforts to see that all yards were posted and that everyone was regis-



tered, and that they put up bonds. They wanted us to make sure of that even though intensified enforcement efforts might be delayed. We did not have enough people or money to do both, that is concentrate on the trade practice activities which we are, also, under the act required to give attention to, and complete the posting and registration, but they thought that it would be better for the Department to concentrate its efforts on the jurisdictional problems of getting the yards posted, the dealers registered and then thereafter concentrate on making sure that those who are under the jurisdiction of the act conduct themselves in accordance with the requirements of the act.

The posting and the registration is now virtually completed. We are now able to concentrate our efforts on the trade practice problems, of which I am sure you gentlemen have received many complaints. And the Secretary has directed us to go forward and enforce the act to the extent of our resources with vigor and dispatch, and that is what we are now endeavoring to do. We are hopeful that we can do this, not necessarily by bringing many, many actions, but by working in cooperation with the industry to try to inform them what our beliefs are as to what is a fair practice and what is an unfair practice, because we do not have enough people—and I do not think it would be desirable to have enough people—to have someone located at all of these many, many yards and keep them under supervision and surveillance every day. So we have to rely on cooperation. And if we do find situations that need correction, why then we intend to proceed and take whatever measures as may be indicated.

Mr. HARVEY. Thank you.

Mr. POAGE. Are there any further questions? Mr. Heimburger has a question.

Mr. HEIMBURGER. I do not have a question, but I have a suggestion, Mr. Chairman. I think it is apparent to Mr. Girard and his colleagues from the Department now how broad this committee's interest is in this subject. It goes considerably beyond these two bills. I think it might be desirable if this afternoon you, Mr. Girard, would look at your available background material such as how many people registered as packers with you are primarily engaged in some other business, something about the size of that business, how many of them would fall within the purview of one of these bills.

I think that we would be interested, so far as the packing industry in concerned, as to how many packers there are today as compared to some previous period, what the average size of their business is; in other words, I believe that you do have some assembled data covering this general subject which you could pull together and make available to the committee that might be helpful to the committee in its consideration of this tomorrow. Will you take a look and see what you have for us?

Mr. GIRARD. Yes, sir; I will do that. I know that you gentlemen are aware that the Federal Trade Commission has made an extensive study of food marketing. That study was an "Economic Inquiry Into Food Marketing," published in January 1960. I think it is the most complete, authoritative, and up-to-date information across-the-board existing in governmental sources. Of course, in addition to that we have more detailed information of the kind you have asked us for, Mr. Heimburger, and we most certainly will this after-



noon check through our files to see if we can supplement that information. My reason for saying that is that I do not think you would want us to duplicate what is in the Federal Trade Commission report. So we are going to see if we cannot bring up to date or give more concentrated and intensive attention to particular fields concerning which we have, perhaps, primary responsibility and information.

Mr. HEIMBURGER. I realize that there is not time for you to do any original research or even to compile it, but it occurred to me that you might have in an existing, usable form in your files some information which you think would be helpful to the committee.

Mr. GIRARD. We do have some information. We will be very happy to supply what we have.

Mr. HEIMBURGER. Thank you very much.

(The following data was later submitted to the subcommittee in reference to the preceding questions:)

U.S. DEPARTMENT OF AGRICULTURE,  
AGRICULTURAL MARKETING SERVICE,  
Washington, D.C., August 29, 1961.

Hon. W. R. POAGE,  
*Chairman, Subcommittee on Livestock and Feed Grains,  
Committee on Agriculture, House of Representatives.*

DEAR MR. POAGE: Submitted is the available information pertaining to the operation of packers and chainstores who slaughter livestock and manufacture or prepare meat and meat food products as requested by the Subcommittee on Livestock and Feed Grains.

Because of questions raised during the hearings on H.R. 3415, H.R. 3798, and H.R. 8840 whether the Packers and Stockyards Act has been and is being administered effectively, we are also enclosing information regarding the expansion and regulatory activity due to the 1958 amendment to the act, the number of personnel employed, and the number of formal and informal actions taken during fiscal years 1958-61. These figures do not, of course, present the complete picture of program activity as they do not reflect the numerous day-to-day questions and problems which are presented, discussed, and resolved by our Washington and field people in the routine administration of this act.

We are pleased to furnish this information and stand ready to assist this subcommittee and furnish any additional data it may desire.

Sincerely yours,

F. R. BURKE, *Deputy Administrator.*

PACKERS SUBJECT TO PACKERS AND STOCKYARDS ACT REPORTING FOR THE YEAR  
1959 WITH NET SALES OVER \$100 MILLION<sup>1</sup>

Firms principally engaged in business as packers:

Swift & Co., Chicago, Ill.  
Armour & Co., Chicago, Ill.  
Wilson & Co., Chicago, Ill.  
John Morrell & Co.  
Hygrade Food Products Corp., Detroit, Mich.  
Geo. A. Hormel & Co., Austin, Minn.  
Cudahy Packing Co., Chicago, Ill.  
Rath Packing Co., Waterloo, Iowa.  
Oscar Mayer & Co., Inc., Chicago, Ill.  
Dubuque Packing Co., Dubuque, Iowa.  
Valleydale Packers, Inc., Salem, Va.

Firms principally engaged in nonsubject activities who also slaughter, manufacture, or prepare meat, meat food products, or poultry products:

Procter & Gamble Co., Cincinnati, Ohio.  
Beatrice Foods Co., Chicago, Ill.  
Consolidated Foods Corp., Chicago, Ill.

<sup>1</sup> Total number of firms reporting, 27.



Carnation Co., Los Angeles, Calif.  
 Continental Baking Co., Rye, N.Y.  
 Quaker Oats Co., Chicago, Ill.  
 Gerber Products Co., Fremont, Mich.  
 Major grocery chains subject to the act as packers: <sup>2</sup>  
 Great Atlantic & Pacific Tea Co., New York, N.Y.  
 Safeway Stores, Inc., Oakland, Calif.  
 The Kroger Co., Cincinnati, Ohio.  
 American Stores Co., Philadelphia, Pa.  
 National Tea Co., Chicago, Ill.  
 Food Fair Stores, Inc., Philadelphia, Pa.  
 First National Stores, Somerville, Mass.  
 Giant Food, Inc., Washington, D.C.  
 H. C. Bohack, Inc., Brooklyn, N.Y.

PACKERS SUBJECT TO PACKERS AND STOCKYARDS ACT REPORTING FOR THE YEAR  
 1959 WITH NET SALES OVER \$30 MILLION, BUT UNDER \$100 MILLION <sup>3</sup>

Firms principally engaged in business as packers:  
 Sioux City Dressed Beef, Inc., Sioux City, Iowa.  
 Patrick Cudahy, Inc., Cudahy, Wis.  
 Capitol Packing Co., Denver, Colo.  
 Marhoefer Packing Co., Muncie, Ind.  
 The Wm. Schludenburg-T. J. Kurlle Co., Baltimore, Md.  
 The Klarer Co., Louisville, Ky.  
 Liebmann Packing Co., Green Bay, Wis.  
 Krey Packing Co., St. Louis, Mo.  
 Dugdale Packing Co., St. Joseph, Mo.  
 Stark-Wetzel & Co., Inc., Indianapolis, Ind.  
 John Englehorn & Sons, Newark, N.J.  
 Mauer-Neuer, Inc., Kansas City, Kans.  
 James Allan & Sons, San Francisco, Calif.  
 Emge Packing Co., Inc., Fort Branch, Ind.  
 E. W. Kneip, Inc., Chicago, Ill.  
 Siegel-Weiler Packing Co., Chicago, Ill.  
 Illinois Packing Co., Chicago, Ill.  
 Cee Bee Packing Co., Chicago, Ill.  
 E. Kahn's Sons Co., Cincinnati, Ohio.  
 Clagherty Packing Co., Los Angeles, Calif.  
 Hunter Packing Co., St. Louis, Mo.  
 Cross Bros. Meat Packers, Philadelphia, Pa.  
 Sioux City Dressed Pork, Inc., Sioux City, Iowa.  
 Neuhoff Bros., Dallas, Tex.  
 Union Packing Co., Vernon, Calif.  
 Spencer Packing Co., Spencer, Iowa.  
 Peet Packing Co., Chesaning, Mich.  
 Albert F. Goetze, Inc., Baltimore, Md.  
 Sugardale Provision Co., Canton, Ohio.  
 Superior Provision Co., Massillon, Ohio.  
 Superior Packing Co., St. Paul, Minn.  
 Merkel, Inc., Jamaica, N.Y.

Firms principally engaged in nonsubject activities who also slaughter, manufacture, or prepare meat, meat food products, or poultry products:

Anderson Foods, Menlo Park, Calif.  
 American Home Foods, Morris Plains, N.Y.  
 The Stouffer Corp., Cleveland, Ohio.  
 Frito Co., Dallas, Tex.

Major grocery chains subject to the act as packers: <sup>4</sup>  
 Alpha Beta Packing Co., Huntington Beach, Calif.  
 Southland Corp., Dallas, Tex.

<sup>2</sup> Total jurisdictional information has not been received on other major grocery chains who manufacture and prepare meat and meat food products for sale or shipment in interstate commerce.

<sup>3</sup> Total number of firms reporting with net sales over \$30 million but under \$100 million, 38. Estimated number of firms reporting with net sales under \$30 million, 2,135.

<sup>4</sup> Total jurisdictional information has not been received on other major grocery chains who manufacture and prepare meat and meat food products for sale or shipment in interstate commerce.



1960 preliminary report<sup>1</sup>—Chainstores subject to the Packers and Stockyards Act who manufacture and prepare meat and meat food products

| Gross sales                           | Number of firms reported | Total pounds manufactured and prepared |            |             |            |            |
|---------------------------------------|--------------------------|----------------------------------------|------------|-------------|------------|------------|
|                                       |                          | Beef                                   | Veal       | Pork        | Lamb       | Other      |
| Under \$30,000,000 <sup>2</sup> ..... | 3                        | 11,405,000                             | 1,000      | 7,004,000   | 7,000      | 98,000     |
| \$30 to \$100,000,000.....            | 2                        | 13,308,000                             | 776,000    | 6,041,000   | 1,085,000  | -----      |
| Over \$100,000,000 <sup>3</sup> ..... | 8                        | 520,851,000                            | 17,519,000 | 120,975,000 | 38,866,000 | 66,074,000 |
| Total.....                            | 13                       | 545,564,000                            | 18,296,000 | 134,020,000 | 39,958,000 | 66,172,000 |

<sup>1</sup> All 1960 annual reports not yet received.

<sup>2</sup> Two firms not reported and not included.

<sup>3</sup> One firm not reported and not included.

NOTE.—This is the first year that subject firms were required to report this information.

Preliminary report chainstores subject to the Packers and Stockyards Act whose operations would be affected by H.R. 3798 and H.R. 3415

| Gross sales, 1960:                             | Number of firms |
|------------------------------------------------|-----------------|
| Under \$30,000,000.....                        | 5               |
| \$30,000,000 to \$100,000,000 (H.R. 3415)..... | 2               |
| Over \$100,000,000 (H.R. 3798).....            | 9               |

Preliminary report<sup>1</sup>—Chainstores subject to the Packers and Stockyards Act who slaughtered livestock, 1960

| Gross sales                | Number of firms | Total number of head slaughtered |         |         |         |
|----------------------------|-----------------|----------------------------------|---------|---------|---------|
|                            |                 | Cattle                           | Calves  | Hogs    | Sheep   |
| Under \$30,000,000.....    | 3               | 16,163                           | 3,866   | 23,302  | 158     |
| \$30 to \$100,000,000..... | 1               | 24,645                           | 2,370   | 36,515  | 19,510  |
| Over \$100,000,000.....    | 3               | 590,892                          | 126,734 | 190,662 | 492,802 |
| Total.....                 | 7               | 631,700                          | 132,970 | 250,479 | 512,470 |

<sup>1</sup> All 1960 annual reports not received.

Packers and Stockyards Act

|                                                            | Fiscal years |       |        |        |
|------------------------------------------------------------|--------------|-------|--------|--------|
|                                                            | 1958         | 1959  | 1960   | 1961   |
| A. Posting, registration, and licensing activities:        |              |       |        |        |
| 1. Number of yards posted.....                             | 600          | 1,528 | 2,115  | 2,217  |
| 2. Market agencies and dealers registered.....             | 6,560        | 7,243 | 11,284 | 14,593 |
| 3. Packers under supervision.....                          | 2,129        | 2,261 | 2,557  | 2,967  |
| 4. Poultry dealers licensed.....                           | 1,167        | 1,058 | 779    | 745    |
| B. Formal proceedings:                                     |              |       |        |        |
| 1. Administrative:                                         |              |       |        |        |
| Pending 1st of year.....                                   | 43           | 103   | 90     | 67     |
| New and reopened.....                                      | 146          | 67    | 63     | 89     |
| Total requiring action.....                                | 189          | 170   | 153    | 156    |
| Disposed of.....                                           | 86           | 80    | 82     | 80     |
| Pending end of year.....                                   | 103          | 90    | 71     | 76     |
| 2. Criminal and civil (referred to Department of Justice): |              |       |        |        |
| Pending 1st of year.....                                   |              | 47    | 43     | 36     |
| New.....                                                   |              | 16    | 26     | 67     |
| Total requiring action.....                                |              | 63    | 69     | 103    |
| Disposed of.....                                           |              | 20    | 33     | 24     |
| Pending end of year.....                                   |              | 43    | 36     | 79     |



*Packers and stockyards division*

|                                                                                                                                                                                                                                                        | Fiscal years |              |              |               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------|--------------|---------------|
|                                                                                                                                                                                                                                                        | 1958         | 1959         | 1960         | 1961          |
| 1. Personnel (full-time):                                                                                                                                                                                                                              |              |              |              |               |
| (a) Field.....                                                                                                                                                                                                                                         | 90           | 98           | 116          | 131           |
| (b) Washington.....                                                                                                                                                                                                                                    | 25           | 28           | 39           | 47            |
| (c) Total.....                                                                                                                                                                                                                                         | 115          | 126          | 155          | 178           |
| 2. Scales:                                                                                                                                                                                                                                             |              |              |              |               |
| (a) Number of scales supervised.....                                                                                                                                                                                                                   | 1,512        | 2,372        | 4,102        | 5,826         |
| (b) Number of scale tests conducted.....                                                                                                                                                                                                               | 3,539        | 3,765        | 6,037        | 9,300         |
| (c) See attachment.....                                                                                                                                                                                                                                |              |              |              |               |
| 3. Rates and registrations:                                                                                                                                                                                                                            |              |              |              |               |
| (a) Stockyards:                                                                                                                                                                                                                                        |              |              |              |               |
| (1) Total yards posted.....                                                                                                                                                                                                                            | 600          | 1,528        | 2,115        | 2,217         |
| (2) Number of yards posted during year.....                                                                                                                                                                                                            | 66           | 932          | 621          | 155           |
| (b) Registrants:                                                                                                                                                                                                                                       |              |              |              |               |
| (1) Market agencies.....                                                                                                                                                                                                                               | 1,921        | 2,102        | 3,169        | 3,605         |
| (2) Dealers.....                                                                                                                                                                                                                                       | 4,639        | 5,141        | 8,115        | 10,988        |
| (3) Total.....                                                                                                                                                                                                                                         | 6,560        | 7,243        | 11,284       | 14,593        |
| (c) Packers:                                                                                                                                                                                                                                           |              |              |              |               |
| (1) Total number of packers.....                                                                                                                                                                                                                       | 2,129        | 2,261        | 2,557        | 2,967         |
| (2) Number of packers inquiry forms (LS-132) reviewed during year.....                                                                                                                                                                                 | 276          | 394          | 697          | 628           |
| (d) Bonding:                                                                                                                                                                                                                                           |              |              |              |               |
| (1) Total number of registrants.....                                                                                                                                                                                                                   | 6,560        | 7,243        | 11,284       | 14,593        |
| (2) Approximate amount of bonds.....                                                                                                                                                                                                                   | \$48,700,000 | \$49,500,000 | \$60,000,000 | \$121,000,000 |
| (e) Tariffs (new and changes in existing tariffs): (1) Number filed during the year.....                                                                                                                                                               | 1,541        | 1,215        | 2,437        | 1,678         |
| 4. Packers (title II):                                                                                                                                                                                                                                 |              |              |              |               |
| (a) See attached data on complaints and investigations.                                                                                                                                                                                                |              |              |              |               |
| (b) During fiscal 1961, a total of 124 additional packer investigations were handled informally in the field. Of this total, 21 pertained to unfair practices in merchandising or advertising, and 124 pertained to unfair livestock buying practices. |              |              |              |               |
| 5. Stockyards (title III):                                                                                                                                                                                                                             |              |              |              |               |
| (a) Formal cases docketed.....                                                                                                                                                                                                                         | 141          | 56           | 52           | 73            |
| (b) Reparations:                                                                                                                                                                                                                                       |              |              |              |               |
| (1) Number formal cases docketed.....                                                                                                                                                                                                                  | 43           | 4            | 12           | 35            |
| (2) Number formal cases completed.....                                                                                                                                                                                                                 |              |              |              | 15            |
| (c) Stipulations.....                                                                                                                                                                                                                                  | 74           | 15           | 1            | 19            |
| (d) Informal complaints:                                                                                                                                                                                                                               |              |              |              |               |
| (1) Number received in the field.....                                                                                                                                                                                                                  |              |              |              | 700           |
| (2) Number settled informally.....                                                                                                                                                                                                                     |              |              |              | 495           |
| (3) Amount paid to complainants.....                                                                                                                                                                                                                   | \$31,002     | \$15,000     | \$195,000    | \$136,262     |

*Scales and weighing*

|                            | 1957-58 | 1958-59 | 1959-60 | 1960-61 |
|----------------------------|---------|---------|---------|---------|
| Number of scales.....      | 1,536   | 2,656   | 4,102   | 5,826   |
| Number of scale tests..... | 3,728   | 4,199   | 6,037   | 9,300   |

1957-58: Undisclosed observations were conducted at some 50 livestock markets and packer buying stations. In several instances, informal action was taken to correct conditions observed. Weighing investigations were conducted at 19 different buying points.

Formal action was taken against 14 dealers and 5 weighmasters; 1 packer consented to a cease-and-desist order.

1958-59: Undisclosed observations were conducted at approximately 40 markets. Weighing investigations were conducted at 14 different buying points.



One packer signed a stipulation to cease and desist from the practice, and another case is still under investigation.

1959-60: Weighing investigations were conducted in 4 districts at 39 different buying points; in 2 cases formal action was taken.

One hundred and one weight complaints were investigated and handled informally through district offices. Checkweighing has been initiated in 3 districts covering 30 markets.

1960-61: Weighing investigations were conducted in 4 districts at 14 different buying points. In each district, with the exception of one, the investigation resulted in at least one formal action charging false weights. An additional investigation, based on checkweighing, resulted in the issuance of a formal complaint.

An investigation started in the previous fiscal year and completed in July 1960, covered 21 different buying points. A formal complaint was issued in one instance against a packer for false weighing, which resulted in a consent order.

In addition to the above, 123 weight complaints were investigated and handled informally through district offices.

Checkweighing was conducted at 66 auctions in 8 districts, reweighing a total of 2,750 head of livestock. At one market, 21 veal calves were reweighed, which showed an average shortage of 11.9 pounds per head, which resulted in the issuance of a formal complaint.

#### TITLE II.—Types of complaints and investigations

| Types of cases                                                     | 1958     |        | Completed—Fiscal<br>years— |        |          |        | 1961     |        | Pending<br>July 1, 1961 |                     |
|--------------------------------------------------------------------|----------|--------|----------------------------|--------|----------|--------|----------|--------|-------------------------|---------------------|
|                                                                    |          |        | 1959                       |        | 1960     |        |          |        |                         |                     |
|                                                                    | Informal | Formal | Informal                   | Formal | Informal | Formal | Informal | Formal | Informal                | Formal <sup>1</sup> |
| Monopoly, price discrimination, or restriction of competition..... | 1        | 4      | 9                          | 2      | 3        | 1      | 6        | 0      | 6                       | 6                   |
| Unfair practices in merchandising or advertising.....              | 33       | 2      | 42                         | 5      | 20       | 3      | 25       | 1      | 41                      | 8                   |
| Unfair livestock buying practices.....                             | 2        | 4      | 5                          | 4      | 14       | 5      | 18       | 4      | 14                      | 5                   |
| Total.....                                                         | 36       | 10     | 56                         | 11     | 37       | 9      | 49       | 5      | 61                      | 19                  |

<sup>1</sup> Includes 9 complaints, 2 of which are concerned with price discrimination, 5 with meat merchandising practices, and 2 with unfair livestock buying practices that were forwarded to the Office of General Counsel for the preparation of formal complaints.

Mr. POAGE. Thank you. I would like to suggest that I do not think it is necessary for all of the departmental witnesses to come up here tomorrow. If we do run into any problems we will get in touch with you. If you think it would be worth while for you to be here, you may do so, but it is not necessary for you to be here. If you feel that you want to come up, you will be welcome.

Mr. GIRARD. Do you anticipate any further questioning?

Mr. POAGE. Yes, sir. I think so.

Mr. GIRARD. Of the departmental representatives?

Mr. POAGE. Only to the extent that questions are raised as we go along in this proceeding where there will be questions that will come up where we will feel you could supply information.

Mr. GIRARD. We will be very happy to do so, at the convenience of the committee.

Mr. POAGE. That will be fine.

The subcommittee will stand in recess until 10 o'clock tomorrow morning.

(Whereupon, at 12:20 p.m., the hearing was adjourned, to reconvene at 10 a.m., Thursday, August 24, 1961.)



## EQUALIZE LIVESTOCK MARKETING COMPETITION

THURSDAY, AUGUST 24, 1961

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON LIVESTOCK AND FEED GRAINS  
OF THE COMMITTEE ON AGRICULTURE,  
*Washington, D.C.*

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

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

Also present: Representatives McIntire, Beermann, and Reifel. Christine S. Gallagher, clerk; and John Heimburger, counsel.

Mr. POAGE. The subcommittee will come to order.

We heard briefly from Mr. Roosevelt and Mr. Anfuso yesterday. We have Mr. Anfuso and Mr. Roosevelt back with us to discuss further their legislation. Do either one of you care to make a further statement at this time, or would you prefer to wait until we put on some of the other witnesses?

Mr. ROOSEVELT. Mr. Chairman, I am in a bind, because I have a meeting of the Committee on Education and Labor that is trying to go into some things—

Mr. POAGE. I understand that.

Mr. ROOSEVELT (continuing). Which you might have read about in the paper. And they urge that I get back up there.

Mr. POAGE. I understand.

### STATEMENT OF HON. JAMES ROOSEVELT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA—Resumed

Mr. ROOSEVELT. Mr. Chairman and members, I might say that I am intensely interested in this legislation, and that is why I am here. Mr. Avery is here, too, now, although a little late. I am sure that he is interested, also, as well as Mr. Anfuso. I would be delighted to answer questions because something you said yesterday kind of intrigued me, that you wanted to look into the effect of this proposal, particularly on consumer prices and things of that kind. I think there is something to be said on that. I would like to go into that a little bit, if I may.

Mr. POAGE. We will be glad to hear from you on that.

Mr. ROOSEVELT. You, also, asked for a list of the number of chains that would be affected at the \$100 million level and at the \$30 million level, and I have compiled such a list which I think the committee might find of some interest.



Mr. POAGE. We will be very much interested in that.

Mr. ROOSEVELT. There are 26 chains doing \$100 million or more. Of course, they are led by the A. & P. with \$5 billion of sales in 1 year, and Safeway which has \$2,225 million. We are told officially that Safeway now has gotten out of the meat packing business. There is some dispute within the industry as to whether that is so or not. I think that it would deserve, certainly, more looking into.

Then if you go on down the line there is no question that National Tea with \$794 million of volume is in this category; Food Fair with \$734 million is in this category and a number of the others which are listed, and others which I did list yesterday. I have broken down the entire list by names of the companies all the way down to the \$30 million level.

Mr. POAGE. That will be very helpful to us and it will be made a part of the record.

(The compilation referred to follows:)

*Leading food chains*

|                        | 1958 sales<br>(in millions) |                                | 1958 sales<br>(in millions) |
|------------------------|-----------------------------|--------------------------------|-----------------------------|
| A. & P.                | \$5,095                     | Fox Markets                    | 70                          |
| Safeway                | 2,225                       | Alpha Beta Food Markets        | 70                          |
| Kroger                 | 1,776                       | Marsh Foodliners               | 64                          |
| American Stores        | 875                         | Albertsons                     | 63                          |
| National Tea           | 794                         | Hi Lo Food Stores              | 62                          |
| Food Fair              | 734                         | Food Mart                      | 59                          |
| Winn-Dixie             | 666                         | Food Marts, Inc.               | 58                          |
| First National         | 532                         | Elm Farm Foods                 | 55                          |
| Grand Union            | 504                         | Star Market Co.                | 55                          |
| Jewel Tea              | 444                         | Pick 'n Pay                    | 54                          |
| Colonial Stores        | 437                         | Gristede                       | 51                          |
| ACF Wrigley Stores     | 363                         | Dilbert's Quality Supermarkets | 48                          |
| Loblau                 | 285                         | Sunrise Supermarkets           | 46                          |
| Red Owl Stores         | 200                         | Hillman's, Inc.                | 44                          |
| Stop & Shop            | 194                         | Fred Mayer                     | 44                          |
| Thrifty Mart           | 163                         | Weiss Markets, Inc.            | 44                          |
| Penn Fruit             | 162                         | Harts Food Stores              | 43                          |
| Bohack (H. C.)         | 161                         | A. J. Bayless Markets          | 43                          |
| Lucky Stores           | 142                         | Eagle United                   | 42                          |
| Ralph's Grocery Co.    | 127                         | Pacific Gamble Robinson        | 40                          |
| Weingarten (J.)        | 125                         | Tradewell Stores               | 40                          |
| Mayfair Markets        | 117                         | McDaniel Markets               | 39                          |
| Giant Food             | 117                         | American Community Stores      | 38                          |
| Thorofare Markets      | 109                         | Hill Grocery Co.               | 37                          |
| Fisher Bros.           | 102                         | Milgram Food Stores            | 36                          |
| Purity Stores          | 100                         | Big Apple                      | 35                          |
| Von's Grocery          | 94                          | Handy Andy                     | 35                          |
| Market Basket          | 93                          | Victory Chains, Inc.           | 35                          |
| Shopping Bag           | 91                          | Belchamps                      | 34                          |
| Publix Supermarkets    | 91                          | Almacs                         | 33                          |
| H. E. Butt Groceries   | 81                          | Century Food Markets           | 33                          |
| Big Bear Stores        | 80                          | Hammady Bros., Inc.            | 33                          |
| Furr's Inc.            | 78                          | P. & C. Food Markets           | 33                          |
| Daitch Crystal Dairies | 75                          | Liberal Markets                | 32                          |
| Borman Food Stores     | 73                          | Albrechts                      | 31                          |
| Food Giant Markets     | 71                          | King Kullen                    | 31                          |
| J. S. Dillon & Sons    | 71                          | White Stores, Inc.             | 30                          |

Mr. ROOSEVELT. I would, also, like to say that yesterday, following this hearing, I had a long meeting with a gentleman who is one of the important people in the food chain business. He was making



the point to me, which I thought the chairman was making, which was, could we show that there was an adverse effect on consumer prices going on at the present time as a result of this trend.

Mr. POAGE. We have wondered about that.

Mr. ROOSEVELT. I want to emphasize that at the moment I do not think that anybody can prove that there is an adverse effect on consumer prices except in a few selected areas where a monopoly has been established. I would like to refer this to the committee, because to me this is one of the most interesting documents. It is full of statistics, and very difficult to get through, but nevertheless it is the economic inquiry into food marketing and concentration and integration in retailing which is the basis of this problem. This was put out in January of 1960 as a staff report of the Federal Trade Commission, and in it I think are most of the answers to what you would want.

If you ask me questions, I am only human, and this is not my specialty, it might take me a few minutes to find the answers, but I will find the answers. Most of them will be right in this document. I hope the staff of the committee will secure from the Federal Trade Commission copies of this document, because I think it would be of great value to the committee.

I would like to point out that while it is true in most areas today there is great competition in the food industry, nevertheless, there is the same trend toward monopoly. There can be no question that we all know that while this competitive position is in existence there probably will be no real harm to the consumer. But as you eliminate—and you can show that these eliminations are taking place—that the acquisitions are growing—that the relative market of the top numbers of these chainstores is growing—I think you can then foresee the day when there will be monopoly. And, Mr. Chairman, I submit that it is only human nature that once there is a monopoly that is the time that you are going to see a great interest in consumer prices.

You can have the philosophy, “well, let us wait until then,” and I am sure that when we have waited “until then,” that we will have a devil of a time unscrambling the picture. The proper theory, I believe, is to try not to get into that position—not to subject the consumer to that condition; and, therefore, while I have to admit I do not think we could detail that the consumer was being hurt at the present time, I think that we can detail that other segments in this integrated chain—and I think my good friend from New York will be able to help me on that—as well as other witnesses, particularly, in the cattle marketing area are going to be able to substantiate this, that people today are getting hurt and badly hurt because of this trend toward the centralized power of the integrated system.

Mr. POAGE. We are very much obliged to you for your further comments. There is one matter that I would like you to comment on.

Mr. ROOSEVELT. I will be glad to stay as long as possible.

Mr. POAGE. This relates to this limitation. You have a \$30 million limitation in your bill, Mr. Anfuso has a \$100 million limitation in his bill. We had testimony yesterday that there was no need for any limitation whatever. Frankly, that impressed me. Why do you think we should put a limitation upon the size of those who are prohibited from integration? Why should we allow a man who does \$10 million worth of business to be both a packer and a retailer?



Mr. ROOSEVELT. Of course, if the chairman will remember, in the bill that we had last year we had a \$15 million limitation. I believe the chairman had some complaints from people who were in the marketing end of livestock who also had a small retail business, relatively small compared to the chains, which would have done considerable harm to them, and yet no one could truly say they were ever going to get into a monopolistic position unless they completely sold out to one of the larger chains.

In order to take care of that relatively small segment of the industry and to allow a man to have a retail store and at the same time to be in the cattle business and to be able to slaughter his own cattle, up to a reasonable amount, we originally set it at \$15 million, and then it was my understanding the chairman had a number of people who thought that was too low, and I raised it to \$30 million, to take care of that segment.

Then you remember yesterday Mr. Anfuso said that I had agreed to go along with \$100 million. I did it very reluctantly, but I did it because my primary purpose here is to aim not at the people down the line who are really not going to be able, at least, for a long time in the future, so far as we can see, to get into this monopolistic position, but to get to the very heart of it. The people who are approaching the point where their economic power is so great because of the volume of their sales and the volume of their business, because of their purchasing power, these people are the immediate danger toward a growing monopolistic position.

And I thought that you had to take a beginning, and if that is the answer, and you do not have to go any further, then that is fine, that is great, and why take a chance on it. It seemed to me that it was better to take Mr. Anfuso's philosophy and take his \$100 million, because, as I pointed out in this, which I submitted a minute ago, that would in itself include 26 chains, and those 26 chains, it would seem to me, would be a good starting point and a realistic starting point, and one which would do the job that we were trying to do.

Mr. ANFUSO. May I, also, answer that, Mr. Chairman?

Mr. POAGE. Certainly.

#### STATEMENT OF HON. VICTOR L. ANFUSO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK—Resumed

Mr. ANFUSO. In the first place, the people that I am interested in are companies that operate in Brooklyn and Long Island. They have been in the business since 1904. It has been a family operation which has grown steadily. They manufacture bologna, et cetera. They have been able over the years, of course, to grow, and today they operate some 32 stores throughout Brooklyn and Long Island.

They have given excellent service to the consumers. They have brought the prices down for the consumer's benefit. They have been constantly in competition, Mr. Chairman, with these big chains.

In order to bring the prices down to the consumer they have had to cut down prices steadily. They are certainly not in the list which has been given to you by my distinguished colleague from California. They do not do a business over \$100 million. As a matter of fact, they are very much below that figure. I sincerely feel we ought to



protect the consumer, especially the small operator. And this is indeed a small operator. And, perhaps, we ought to do something about these big chains who are going into these activities doing business in the billions of dollars. And I thought that if that was a good start that we limit the bill to \$100 million—I might even say \$50 to \$75 million, but let us not try to hurt the small operator.

Mr. POAGE. Why did you pick \$100 million instead of \$1 billion?

Mr. ANFUSO. Well, I picked \$100 million because over and above that you have these big operators who are over and above the \$100 million. You have A. & P., and so forth.

Mr. POAGE. It is the big operator compared to the man who does a smaller volume.

Mr. ANFUSO. He is not a big operator.

Mr. POAGE. I said the the big operator, compared with the man who kills one beef at a time—compared to that man. It just depends on how and who you compare him with, whether he is a big operator or not.

Mr. ANFUSO. You can tell, of course, with these large operators on this list that he does not fall into that class at all, if you compare him with those. As I say, my limitation was to protect not only small business, but to protect the consumer as well as the small business of this kind and to enable it to continue. Otherwise, they will go into bankruptcy. They are not on that list. I appeal to you gentlemen that there is a great deal of sense and a great deal of justification for the legislation proposed, but let us not try to hurt these much smaller operators—let us not try to hurt small business—and let us not try to hurt the consumers unnecessarily. My limitation helps the consumer. My limitation, also, helps small business. I think it is an excellent start. And if later on the committee thinks that additional legislation is needed then, of course, it is time to bring it in.

I might, also, refer to the Department of Justice opinion where they say that most of these companies are now being restrained by a court decision. Of course, we were never involved in that because we do not fit into that large category.

I think in closing that if we pass the bill and keep the limitation somewhere around \$100 million or \$75 million that everybody would be happy and no one would be hurt.

Mr. POAGE. Mr. Anfuso, let us take Weingarten—

Mr. ANFUSO. Who?

Mr. POAGE. Weingarten—I just happen to note the name—they happen to be in my area.

Mr. ANFUSO. How much do they do?

Mr. POAGE. They do \$127 million.

Mr. ANFUSO. We do not do anywhere near that.

Mr. POAGE. I know that you do not, but I am just asking why you picked this \$100 million figure. I think that the Weingarten stores do substantially the same thing as your people do—they are in competition with Safeway and A. & P.

Obviously, they have the same effect on the market that your man does. Why do you not exempt them?

Mr. ROOSEVELT. If I may answer that question, as in anything you must make an arbitrary choice of a point at which you believe that



size gives you a power which gives you additional effect that begins to be dangerous.

I agree that when we set the rate of taxes, we have to get a dividing point on which we jump the rate of taxes, and you can say that a few dollars on either side would, perhaps, be some kind of discrimination, but it seems to me that Mr. Anfuso's point, to which I would agree personally, and as I told the committee earlier, I feel that all the people, certainly, over \$5 million were already in a position where they were able to assert this tremendous economic pressure and were getting comparable to the position which brought the court to act against the meat packers getting into the retail end of the business, and it was upon that basic theory that the courts acted in that particular instance.

You can say that position was not sound, but, nevertheless, it is practically applied, and it therefore must stand. And it would seem that the same principle in reverse in all fairness must, also, stand. And the court made a delineation at which point it made that decision applicable. And again it was somewhat arbitrary, but it had to be based upon some point. And, similarly, I think here we have got to do it in reverse if we are going to make the same rules for everybody in this game.

Mr. POAGE. Are we not going to have exactly the same problem as we had with the consent decree when they singled out some of these people and did not single out others? Obviously, for example, Hormel was not one of the people in this favorable position in 1921, but they certainly are today—they are an important packer. Morrell, Rath were not in that position 30, 40 years ago, but today they are, certainly, important factors in the packing business.

Mr. ROOSEVELT. Do you not think that if they got into the retailing business they would get slapped down pretty fast, too, but that they have been smart enough not to get into it?

Mr. AVERY. They are in it.

Mr. ROOSEVELT. They are not in it. Not Hormel.

Mr. POAGE. I said Hormel and Morrell.

Mr. ROOSEVELT. I do not know how large Morrell is, but, again, the minute they approach that size I would think the Department of Justice had the duty to go in and say, "Look, these people have grown up to be in the same position that the other four were, and we think that the same rule should apply to them." And I would, certainly agree with that. I do not see how, when you make a category and somebody else comes into that category, how you can eliminate him from the same rule.

Mr. POAGE. We have the situation which Mr. Anfuso has in mind where some local chain dominates the market in the locality.

Mr. ROOSEVELT. That is one of the great difficulties you find, that there is ownership through indirection which goes back to the big people.

Let me say this, I think if you go through the list carefully you will find those in a semimonopolistic position in an area on that list of \$30 million or more, and you will not find anybody of \$30 million or less who is in that kind of a semimonopolistic position. And, therefore, in defending my seeking the \$30 million figure I had Mr. Everette T. MacIntyre, who is counsel to the House Small Business



Committee and has now been appointed as a member of the Federal Trade Commission, go over very carefully with me all of the names down the line below \$30 million, and in each instance we satisfied ourselves that when we got below \$30 million there was no chain that was really dominant in this area, and practically all the ones on that list over \$30 million are pretty much in that position. That is why I put the \$30 million figure into my bill, but I am a practical man, and if I can get the principle started someplace and you have to go to \$100 million I will go to \$100 million, but I think that I can make a good case for the \$30 million figure.

Mr. POAGE. I know you suggested I raised the point that some people had complained about it being too low. I am not speaking of my own opinion, but I am asking you about your opinion. Do you feel that there is any danger to the consumer in applying this to everybody who does business in interstate commerce?

Mr. ANFUSO. May I say in answer to that question that there is serious danger not only to the consumer but you would be destroying small business. I do not think it is the intention of this committee to try to destroy operators such as my company, for example, who have put in more than 60 years of blood, sweat, and tears.

Mr. POAGE. Who is your company?

Mr. ANFUSO. Trunz & Co.

Mr. ROOSEVELT. They are not on the list.

Mr. ANFUSO. They are entirely dependent upon this retail business. And if you do not put a limitation on you will put them out of business, and their work of 60 years goes out of the window. It is all well and good to try to get—

Mr. POAGE. I do not find them on the list.

Mr. ANFUSO. They are not on the list. They do less than \$30 million, but I just put that figure at \$100 million because I thought that there may be some others.

Mr. POAGE. They might grow into that class?

Mr. ANFUSO. I hope so. They might grow into it. I said that I would accept a figure of \$30 million, but that is an arbitrary figure. I think that there should be a limitation; otherwise, you will discourage these people entirely and put them out of business. I am sure that if you want to attack big monopolies you do not want to put concerns of this category out of business.

Mr. ROOSEVELT. May I just amplify that? I believe that you will have testimony from some of the stockyard people who will tell you that part of the problem here is that when these big chains go into the business of running their own feedlots, and even into running their own herds, that you then get a situation which does and, eventually, will hurt not only the producer of beef but you will, also, get a very unfortunate situation that very seriously affects the feedlot operators. I am sure that Mr. Avery here will go into that probably much more than I can, being more familiar with it than I am. There are people in this area who are getting hurt now who may have a small retail outlet for some of their business, where they are not dominant in any way in their area. I think those people are doing good in the economy.

I think they are a good competitive part of the economy. I think when they get over \$30 million they are tending to be in the position



where the power they have is a dangerous power and one which can and, I think it will be shown in the testimony, is being used to hurt not only the consumer and, perhaps, not necessarily the consumer at this time, but is hurting the feedlot operator, the stockyard operator, and even the producer himself, the producer of cattle, I mean.

Mr. QUIE. These firms that you list here, Mr. Roosevelt, how many of them are now listed as packers under the act?

Mr. ROOSEVELT. I will have to look that up.

Mr. QUIE. These would be the ones that the law would apply to right now, would it not?

Mr. ROOSEVELT. Yes, all of those people listed there are not today in the packing business.

Mr. POAGE. These are retailers.

Mr. ROOSEVELT. Those are retailers, but some of them are packers.

Mr. QUIE. Some of them are?

Mr. ROOSEVELT. Yes. And an increasing number of them are getting into the business, although not at an alarming rate. Most of them are actually standing back to see how successfully the bigger ones who have gone into it fare—how they get along, as I referred to in my testimony yesterday.

Mr. QUIE. Do you have a list of those?

Mr. ROOSEVELT. I have a list in this volume, and if you will give me, perhaps, a moment I will find it.

Perhaps Mr. Avery could continue while I hunt it up. I think that I can dig up the list of the ones actually today under the act. There were somewhere near 10 in number, as I recall.

Mr. QUIE. I wondered if all retailers listed as packers under the act do over \$100 million worth of business—are they all on the over \$100 million list?

Mr. ROOSEVELT. I believe they are all on that list. I do not want to hold up the hearing looking for this. Would it be possible for me to file that list? If so, I will be glad to do that during the day, if I might be permitted to dig it up so that I can make sure that I am accurate?

Mr. POAGE. Yes. Are there any further questions? If not, we are very much obliged to you, Mr. Roosevelt and Mr. Anfuso. You wanted to present somebody, Mr. Anfuso?

Mr. ANFUSO. I do not think it is necessary now. I want to save the time of the committee. All I want to say finally is that you could increase the figure to \$150 million or something like that—that is entirely up to you, after you see what the situation is.

Thank you very much.

Mr. POAGE. Thank you.

Mr. ROOSEVELT. I do have this now. The report says that eight chains with sales over \$500 million for the calendar year 1958 accounted for 89 percent of the shipments from company-owned plants. This is in the meat-producing area. So there were eight over \$500 million. I will have to get the names of those eight that actually were in it who would come under the act.

Mr. QUIE. Eight of those were under the act?

Mr. ROOSEVELT. There were eight over \$500 million. There may be others down the line that would come under the \$30 million.



I tried to get their names from the Department of Agriculture and I met great resistance in getting it. I hope that I can succeed in getting the names. They will give me percentages, but they will not give me names. Perhaps, if I can give the percentages the committee can get the names.

(The following letter with information referring to the above testimony was later submitted:)

HOUSE OF REPRESENTATIVES,  
Washington, D.C., August 25, 1961.

HON. W. R. POAGE,  
Chairman, Subcommittee on Livestock and Feed Grain,  
House Select Committee on Small Business,  
Washington, D.C.

DEAR MR. CHAIRMAN: As promised during my appearance before your fine subcommittee yesterday, I have secured from the Agricultural Marketing Service the enclosed information indicating the number of chainstores subject to the Packers and Stockyards Act.

I would merely like to add that while Safeway is listed as having withdrawn from the livestock slaughtering operation, there is every indication that they have done so directly, but are still indirectly active in this area. As I indicated, I think you will find many more in this field than the present six if nothing is done about it.

With all good wishes and many thanks for your courtesy and kindness, I am  
Very sincerely,

JAMES ROOSEVELT.

Sixteen chains which are subject to the Packers and Stockyards Act either because they slaughter or manufacture and prepare meat food products for shipment and/or sale in interstate commerce:

Alpha Beta  
A. & P.  
Safeway  
Kroger  
American Stores<sup>1</sup>  
National Tea<sup>1</sup>  
Food Fair<sup>1</sup>  
First National Stores  
H. C. Bohack  
Giant Food, Inc.  
Southland Corp. (7-11 Stores)  
Tomboy, Inc.  
Cas Walker's Cash Stores<sup>1</sup>  
Lubbock Packing Co.<sup>1</sup>  
Buttrey Foods, Inc.  
Steen Bros. Meat Co.<sup>1</sup>

<sup>1</sup> Engaged in livestock slaughtering operations.

Source: Figures from Agriculture Marketing Service as of Mar. 31, 1961.

Mr. QUIE. I would like to see that list. You accepted the two amendments or just the one amendment offered by the Department?

Mr. ROOSEVELT. As I understood there were three amendments—one had to do with subsidiaries, making sure that the definition of "subsidiaries" was more properly spelled out; one had to do, I believe, with certain types of meat processing, if I remember correctly, and I do not have that amendment before me; and the third one had to do with the milk and eggs and dairy products.

Mr. QUIE. They were in the processing?

Mr. ROOSEVELT. Yes, I think, primarily, that is correct, being in it prior to the packing operation itself.

Mr. QUIE. And would it cover the feeding of cattle?

Mr. ROOSEVELT. Feeding cattle in the feedlot, yes.

Mr. QUIE. Thank you, that is all.



Mr. POAGE. Are there any further questions?

Mr. JENNINGS. In looking over the two bills, there is one additional difference besides the \$30 million and the \$100 million figures. In the Anfuso bill you say—

it shall be unlawful for any person whose sales of livestock in commerce during the preceding calendar year totaled more than \$10 million, to sell livestock in commerce for the purpose of slaughter, except at a stockyard, or at a market conducted openly and publicly in the same manner as stockyards are required to be conducted under this title.

Mr. POAGE. Yesterday it was pretty well agreed by everybody to eliminate that.

Mr. ANFUSO. I agreed to take that out.

Mr. POAGE. They agreed to that.

Mr. JENNINGS. I did not know that.

Mr. ANFUSO. The Department of Agriculture reported against that and I have agreed to take that out.

Mr. JENNINGS. That is a restriction on the market. I think it should come out.

Mr. ANFUSO. I agree. Thank you, gentlemen.

Mr. POAGE. We are very much obliged to both of you.

Mr. ROOSEVELT. May I make one other comment? I do not know whether the committee has yet received a copy of the letter from the Deputy Attorney General, Mr. Bell. I would like to file with the committee a couple of strong dissents as to what he said in that letter. Among other things he says—

there are no indications that any packer doing over \$30 million gross contemplates changing its policy against retailing now that the Government has prevailed in the *Swift* case.

I believe it can be shown that some of the packers that are in the retail business today do more than \$30 million of gross business.

Secondly, he says—

the chainstores, except to an insignificant extent, do not do any slaughtering or processing of meat.

Well, it is up in the hundreds of millions of dollars worth that they are doing. And to me that is not an insignificant extent. It may be to the Department of Justice. I do not think it is to the cattle grower.

Thank you, Mr. Chairman.

Mr. POAGE. Thank you, Mr. Roosevelt.

Mr. Avery, we will hear from you now.

Mr. AVERY. Thank you, Mr. Chairman. I would first like to submit a telegram to become a part of the record under the proceeding on the hearing on the bills of Mr. Roosevelt and Mr. Anfuso. This is a telegram from the president of the Kansas Livestock Association in opposition to those two bills. And I think it is more appropriate that it appear in the body of the transcript when those bills were under consideration, rather than under my statement.

Mr. POAGE. I ask unanimous consent that there be made a part of the record a statement from the National Cattlemen's Association and one from the National Wool Growers Association.

Mr. AVERY. I did not understand.

Mr. POAGE. I just asked unanimous consent to have those two statements made a part of the record, in the same sequence with your telegram.



Mr. QUIE. Might I also ask that this letter from Hormel & Co. be made a part of the record.

Mr. POAGE. Without objection, they will all be made a part of the record.

If anyone else has any insertions that they want to make a part of the record at this point, they may do so.

Mr. SHORT. Mr. Chairman, I have some figures here on the sales of leading retail food chains. I would like to ask permission that this material be inserted unless similar or perhaps more complete information is provided by someone else, in order to have it in the record.

Mr. POAGE. Without objection, that will be done and made a part of the record, unless it is covered by other more complete information.

(The telegram follows:)

We understand your committee will have hearings Wednesday on H.R. 3415 and H.R. 3798. We endorse the position of leaving all channels of marketing open to all buyers and sellers. These bills are attempts to legislate selfish interests and we are opposed to them. Also the American National Cattleman's Association of which KLA is a member organization has made resolutions to the effect that they are opposed to all regulations or legislation which would close or jeopardize any channel of livestock marketing.

GENE SUNDREN,  
*President, Kansas Livestock Association,*  
*Box 144, Salina, Kans.*

(The statement of the American National Cattlemen's Association follows:)

The American National Cattlemen's Association has a membership of 33 State cattlemen and cattle feeder associations, more than 100 breed, regional, county, and local associations, and thousands of individual cattlemen members from throughout the Nation.

As expressed in recent resolutions of our membership and executive committee, we believe that the prohibition contained in both H.R. 3415 and H.R. 3798 against packers or wholesalers of meat from engaging in retail sales of such products is unwarranted and unnecessary. We can see little danger to our producing industry or to the consumer in continuing such practices. If collusion or restraint of trade be found to exist, we believe there is ample authority for action against such practices already written into our antitrust laws.

We are particularly concerned over the provision in section 317(a) of H.R. 3415 which would restrict, based on volume of sales or purchases of livestock, the buying or selling of livestock to public stockyards.

Through the entire period since the inception of our organization in 1898, we have expressed the strong belief that producers of cattle should be allowed to market their product through any channel they saw fit to use. That belief has been based on the sound principle that "competition is the life of trade and that, through open and free competition, both seller and buyer and the public as well are best served. It is our contention that, if section 317(a) of H.R. 3415 were enacted and a restriction of marketing the result, competition would be lessened rather than enhanced.

We can find no development in the changing pattern of marketing of livestock or meat over the years that justifies a change in our basic stand—that all avenues of marketing should remain open and free from unnecessary restrictions.

We, therefore, wish to express our opposition to both H.R. 3415 and H.R. 3798.  
Respectfully submitted.

C. W. McMILLAN,

DENVER, COLO., August 18, 1961.

(The letter from the National Wool Growers Association follows:)

We are advised that the Subcommittee on Livestock and Feed Grains of the House Committee on Agriculture will commence hearings on Wednesday of this week on H.R. 3415 and H.R. 3798 to amend titles II and III of the Packers and Stockyards Act.



At our 96th annual convention in January of this year, we adopted the following resolution:

"FREEDOM OF MARKETING

"Recognizing that the Packers and Stockyards Act now covers all transactions in interstate traffic, we ask that (1) no regulation or directive be considered that would in any way eliminate, narrow, or suggest that an individual cannot avail himself of any avenue of sale for his product that he may deem satisfactory to himself; (2) the relationship between buyer and seller not be tampered with in any way that would preclude sales at country points under terms and conditions that are acceptable to both parties; (3) every producer be given the freedom of choice to market his product through any channel such as country sales, auctions, central markets, dress and grade or any other manner he may desire."

The National Wool Growers Association is opposed to both these bills. As outlined in the above resolution, we are first of all opposed to the requirement in H.R. 3415 which would force some packers to cease all direct purchases in the country and buy all livestock through a stockyard or a market conducted in the same manner. This would be in restraint of trade. It would not only restrict the marketing outlets for the livestock producer, but it would deny some packers freedom of choice in their buying operations.

Furthermore, we are opposed to the provisions in both bills which would restrict packers from engaging in the business of selling at retail, meats, meat food products, livestock products, and so forth. In fact our association is on record as favoring modifications of the consent decree so that packers could be permitted to enter retailing operations. We feel that this could help to overcome the present control which certain retail outlets have over prices they pay the packers for meat, which in turn affects the price that packers can pay for livestock.

We will greatly appreciate your entering this letter into the record of the hearings on these two bills as the official position of the National Wool Growers Association.

Sincerely yours,

EDWIN E. MARCH, *Executive Secretary.*

(The letter from George A. Hormel & Co. follows:)

It is our understanding that the Subcommittee on Livestock and Feed Grains of the House Committee on Agriculture will be meeting commencing Wednesday, August 23, to consider these bills by Congressmen Anfuso and Roosevelt, respectively.

We want to acquaint you with our views concerning these bills.

The provision which would affect us, both immediately and vastly, is section 2 of H.R. 3415, which would require that our company purchase all of its livestock requirements at public markets. As you know, we acquire most of our requirements through our own country buying stations (we have some 40 of them), through independent dealers (we deal with some 50 of them on a regular basis), and at our plans (we have 5 of them). Our company has acquired its livestock requirements in this way for many, many years. As you know, our plants are located some distance from the terminal markets.

We think that this provision of Congressman Anfuso's bill was developed out of the belief that transactions at private markets such as ours are essentially noncompetitive. This view would not seem to take into account the following facts:

In the Midwest these days, a livestock producer receives several market reports daily on his radio. He can receive other market reports by picking up his telephone, and he can consult the market reports in the newspaper. If he does not choose to sell to Hormel, for example, at one of its plants or buying stations, he has the choice of marketing his livestock at the buying station of another packer, at the plant of another packer, at the establishments of any of several livestock dealers in his general area. Or he can choose to market his livestock at public markets, and here he can choose either the terminal markets or the sale barns. We are sure that you are sufficiently familiar with the farm-to-market roads in the Midwest to know that the livestock producer is no longer limited to transportation of his livestock within a very small radius of his farm.

We can understand how a provision such as this would be most welcome to the operators of the terminal markets and of the sale barns, as it would increase



their volume tremendously and would tend to give them a monopoly on the business of all of the major packers.

If it is bad for purchasers of more than \$100 million of livestock per year to buy otherwise than at public stockyards, we do not see why it is not equally bad for the purchaser whose volume is half that much, or one-quarter as much, or one-tenth that much.

Referring now to the prohibition against persons engaging in both the meat-packing business and the retailing of meat, dairy products, and produce, the provisions of section 1 of the Anfuso bill and of the Roosevelt bill appear to be similar except that the Roosevelt bill would apply to businesses doing \$30 million or more per year gross whereas the Anfuso bill would apply only to firms doing \$100 million or more per year.

As you know, ours is a meatpacking concern. We are not engaged in the business of selling meat, dairy products, or produce at retail, and we have no plan to enter into such business, but we are unable to see why this particular field should be foreclosed to concerns engaged in the business of meatpacking.

I am taking the liberty of sending a copy of this letter to the other members of the subcommittee.

Yours very truly,

I. J. HOLTON, *Secretary*.

Mr. POAGE. Mr. Avery, you may proceed.

#### STATEMENT OF HON. WILLIAM H. AVERY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. AVERY. Mr. Chairman and members of the committee, I am going to recite my testimony orally, rather than to read my statement. My experience has been that it sometimes takes longer, but I believe that I can condense this.

I would first like to say that the best argument I can give for my bill, which I am sure the members of the committee know, would have the effect of dissolving the consent decree of 1920, is the difficulty that my colleagues had in supporting the limitations that they had placed in their bills to prohibit retail stores from engaging in the packing business if they exceeded an arbitrary volume of gross business.

Certainly, there is no clear answer as to what dollar volume should be established, and I think it is impossible to do so without creating more inequities, instead of removing some.

I would like to point out to the committee that there have been no substantial changes in the regulation of the packing industry since the original Packers and Stockyards Act was passed in 1921. There have been quite a number of amendments but, basically, the same act.

If you would contrast that with the regulation in other segments of our economy; for example, all of the regulatory agencies, except one, have been established since 1930—the Interstate Commerce Commission was established in 1887, as I recall—the rest of them have all been created since 1930. Yet we attempt to regulate the packing industry on the same basis upon which the regulation was set out some 40 years ago.

And, of course, conditions have changed. The industry has changed. The economy has changed. I submit it is no longer in harmony with all of the characteristics of our 1960 trends in business.

Of course, there are a number of inequities in the regulation of food processors, but my bill is just directed to one and that is the consent decree itself.

I am in agreement that at the time the consent decree was insisted upon by the Department of Justice it obviously was in the public interest. Because of the changing conditions I have just recited to you



I no longer feel that it is in the public interest, and I feel that the restriction upon the four major packers from engaging in the retail trade should be removed.

I think this would benefit the consumer. I think it would benefit the producer. And I think it would benefit, further, all businesses that are related to the packing industry. There are several reasons for this.

Perhaps, my own philosophy causes it to appear an important reason. I believe it is our responsibility, as Members of Congress, as legislators, to only pass such regulations as are necessary to maintain free competition and a vigorous economy; not to pass regulations for regulation's sake, or to pass a further restriction that has the effect of harassing any industry or any part of our economy. I realize that is my personal viewpoint and not all Members subscribe to that same position.

More important, perhaps, is the change that has taken place within the packing industry since 1920, when the consent decree was invoked. At that time, Mr. Chairman, the four major packers or, actually, five major packers—it was applicable to five parties to it at that time, but one is no longer maintaining its corporate entity. At that time the packers subject to the decree were doing 53 percent of the packing business. That is the most reliable figure I was able to find and it is subject to some adjustment up or down, slightly, but I think that it is reasonably accurate.

This 53 percent went up slightly until about 1940. This is the percent of the total commercial slaughter in the United States, not just the Government-inspected slaughter. It is the total commercial slaughter that was estimated to have been done by the packers subject to the consent decree.

It fluctuates. The curve is not steady. Then it started down until today, based again on the best information I can find the same four packers are only doing about 35 percent of the total commercial slaughter, and of that 35 percent one packer does about one-half, so that really, actually, the other three are only doing a total of about 17 or 18 percent.

Of the 65 percent that is done by others than the packers subject to the decree this is scattered over the entire country. I think that is another significant change that has taken place in the packing industry in the last 25 or 30 years.

I think this statement will stand. It is a categorical statement, but there is a packer of some size in almost every town in the entire country. And since this industry has become disseminated to this extent it appears to me that it would be virtually impossible for any packer to become dominant or for any group of packers to become dominant in the retail market.

I have just a few more figures on that to further point out how this industry has become disseminated and scattered around over the country.

In 1925 there were about 550 major packing companies. They owned and operated about 1,269 plants. That was in 1925.

In 1954 that had quadrupled almost. There were 1,901 companies, and they owned and operated 2,367 plants.



In 1958, the most recent figure, there were even more companies, and these are just the ones engaged in interstate commerce. I assume there might be many times this many operating altogether—we have no record of them—at least, the figures were not available to me in the last 2 days. In 1958 there were 2,129 companies engaged in the packing business. I was not able to get the number of plants they have, but if you apply the same factor that was applicable in the other statistics I mentioned, it would appear that around 3,500 plants are engaged in packing that are in interstate commerce.

I further submit that with that great amount of dissemination in the industry, the reasons for which the consent decree was invoked are no longer in existence.

I did not get to hear Mr. Roosevelt's statement—I did not hear all that he said, but I am sure that he spoke at great length about the concentrated buying power of the chainstores. I sat with Mr. Roosevelt on Subcommittee No. 5 in an investigation of the retail food sales industry. We held hearings in Washington, in Denver, and in San Francisco. Obviously, the hearings pointed up without reservation the chainstores are a dominant factor in the wholesale purchase of all food items, including meat. There is no question about it that they have great concentration of buying power. There is no question about it that they exercise that concentration of buying power with considerable perception, shall I say.

In my opinion there is no evidence that there was any collusion on their part. There was evidence, of course, and a considerable amount of testimony that they did use the influence of their dominant buying power in every way they could to be profitable to their own industry. I think in all aspects of our economy, if we are going to have a flexible economy, we have to accept the fact that a single business is going to make whatever use of their buying power they can to make a profit. The housewife makes the same selective purchases.

However, I repeat again, there was no evidence that they were misusing it.

It would seem to me that one way to restore some consumer balance to the concentrated buying power of the chains would be to remove this restriction on the major packers and to permit them to engage in the retail business. It would seem to me that would be more desirable, would be more flexible, would make for more competition in the retail sale of meat, rather than to go the other way and to tell the chainstore or the supermarket that they no longer can engage in the packing business.

I would like to point out further that there has been great emphasis put on chains. I would like to call to the attention of the committee that despite the fact that the chains from a corporate standpoint have centralized buying, actually they do only about 40 percent of the retail sales. Doing an equal amount of sales are independently owned supermarkets that belong to voluntary associations. These are co-ops or voluntary wholesale associations. They have about the same amount of influence on the market as the chains do.

Actually as far as neutralizing the effect of a dominant force in the wholesale market by taking the chains out of the packing business, I do not believe it would have that effect.

That accounts for 80 percent of the retail market.



The other 20 percent, surprisingly enough, is still done by just the one-store operator throughout the country. He is operating on a one-store basis and he has virtually no influence in the wholesale market.

Therefore, in summary, let me restate that I think we would be doing more to maintain vigorous competition in the market by permitting the packers to get into the market rather than to tell the chains that they have to get out of the packing business.

I would like to say that as a farmer and as a former cattleman I think that the chainstores, and the supermarkets have to be kept in the same category, have rendered quite a service to the cattle producer. I think they have devised or developed or evolved a most attractive retail marketplace that has ever been known in the history of the retail trade.

Not only do they package their meats so that it is attractive to the consumer, but through promotional sales that they put on they have developed a great market, a great outlet for meat and meat products. I do not think it would be in the best interests of the consumer, nor the producer, to place further restrictions or inhibitions on this great retail outlet they have developed.

Just one more observation that I would like to make and, that is, in regard to the central market. This observation may not be too persuasive. I am not sure that it will stand up under close examination and critical analysis.

It seems to me if the packers were permitted to engage in the retail sale of meat it might be a force that would restore vigor and accelerate the volume of business in our central markets. There are now about 65 markets that are generally characterized as "central markets." That is quite a few, but their volume has gone down drastically. I am not sure that it is good.

Direct country buying is increasing every year and, also, country auctions are increasing every year. I think auctions have a rightful place in the cattle business, but country buying, the price established for country buying, theoretically at least, is established at the central market. So far as auction sales are concerned prices are almost totally established at the central market, because it is the speculators at these auctions that pretty much determine and buy on the basis that they can take the animal to the central markets, and they hope for a profit.

If the price of the whole livestock industry is primarily going to be determined at the central market I think it is in the public interest certainly to maintain this market in considerable volume, keep it vigorous, keep it healthy, and keep it highly competitive, the trend is going the other way. If it is going to keep on going the other way I wonder just how we are going to establish the market, especially so far as the direct country buying is concerned.

Many of the commercial stockyards do not need any protection. They are able to take care of themselves, but a good many cattle feeders depend upon these prices that are established on the open market. This price is expected to reflect a nominal value between the existing demand and the anticipated supply.

Where my presentation may be a little weak—I am not sure that it will stand up—if the packers were permitted to reengage in retail



trade I think it might somewhat strengthen the central market, and I think that would be desirable and in the public interest.

Just in conclusion let me say, Mr. Chairman, I have not conferred with anyone on this bill. I do not know who is for it or against it. I would presume that certain segments of the packing industry would probably be for it. I would assume the livestock associations would prefer this approach rather than the approach by Mr. Roosevelt and Mr. Anfuso. I am not defending the major packers for all of their trade practices.

I would appreciate this if the committee did look into the feedlot operation of some of these packers. I certainly question whether that is in the public interest. It is not in the interest of the farmer or of the conventional cattleman. So far as the outlet is concerned, the retail trade, I believe that this restriction is no longer desirable.

It is not in harmony with modern marketing conditions.

Thank you, Mr. Chairman, for your very generous attention.

(The statement of Congressman Avery follows:)

STATEMENT OF CONGRESSMAN WILLIAM H. AVERY

I believe everyone who has given serious consideration to developments in the packing industry in the last 25 years will immediately recognize that regulation has not kept abreast of modern marketing and trading practices. Whereas there have been some minor amendments to the Packers and Stockyards Act over the years, there have been few fundamental changes in the act since 1921. Contrast this, if you will, with the control and regulation of other industries. All of the so-called regulatory agencies but one, the Interstate Commerce Commission, have been established since 1930. Yet, in the meatpacking industry, we expect compliance with the same regulations that were written before the word "supermarket" had been devised.

Many inequities have developed over the years but I am only directing my comments to one. This inequity is the prohibition against major packers from engaging in the retail sale of meat or meat products as a result of the consent decree insisted upon by the Justice Department in 1920. There is no question that this consent decree was in the public interest at the time it was obtained by the Department of Justice. Because of the drastically changed conditions in the industry, I think now that it should be dissolved. There are several reasons for this, the outstanding one, of course, has already been called to the attention of the committee by the introduction of bills by Representative Anfuso and Representative Roosevelt which, as I understand it, would have the effect of prohibiting retail stores doing a high dollar volume of business from engaging in the meatpacking business. That is one of two possible actions that would be helpful to the meatpacking industry. I do not believe it would be in the public interest to impose a further restriction on the processing and selling of meat. I personally believe that it would be of more benefit to the producer, to the consumer, and to the related businesses engaged in the transportation and selling of meat if the decree were set aside.

I have several reasons for supporting this approach. In the first place, I am philosophically opposed to subjecting business to unnecessary harassment and control. It has been an accepted theory that controls on business activity should be imposed only so far as was necessary to maintain fair and vigorous competition within an industry, but not to the extent that sales and consumption might be unduly curtailed. It would seem to me that imposing such a restriction as proposed by the other bills on the high volume retail stores would tend to lessen competition and possibly curtail a potential market outlet. Permitting the major packers to compete on an equal basis in the retail market would have a favorable effect on the entire meat industry.

I would like to point out also the changing position that the major packers occupy in the meatpacking industry. The best statistics available indicate that in 1921 the four major packing companies accounted for approximately 53 percent of all commercial slaughter in the country. The percent was naturally higher for Federal inspected slaughter, but I do not think that measurement is as significant of the position the major packers occupy in the meat-processing



industry as would be the percent of total commercial slaughter. This figure went up generally until approximately 1940 and their portion of the total slaughter has been steadily decreasing since that year. Again, the best statistics that are available indicate that in 1958 these same major packers were performing only about 35 percent of the total commercial slaughter in the United States. Ironically enough, of this 35 percent approximately half of that volume has been performed by one single packer. Since the major packers are highly competitive, this fact further reduces the dominance of any or all of the four major packers in the industry.

I think it is further significant at this point to note that 65 percent of the meatpacking done by other than the major packers is widely scattered over the entire country. This is another one of the significant changes that has come about since the passage of the Packers and Stockyards Act. There is a packer and processor of some size in almost every town in the country today. For instance, in 1925 there were 550 packing companies engaged in interstate commerce, operating 1,269 plants. In 1954, there were 1,901 companies, operating 2,367 plants. In 1958, there were 2,129 companies and the figures were not available for the number of plants. However, applying a comparable factor from the other figures, it would indicate that there could be as many as 3,400 separate processing plants.

I remind you again that these are only the plants engaged in interstate commerce, and I am sure that the actual number of plants would be several times that amount. Since this service is available at the local level, it would virtually preclude the possibility of the major packer becoming dominant either as a single processor or in collusion with the other three.

In December 1959, Subcommittee No. 5 of the Select Committee on Small Business held extensive hearings in Washington, San Francisco, and Denver on the general subject of the concentration of buying power by the chainstores or cooperative associations of independent supermarkets. This subcommittee was chairmanned by the Honorable James Roosevelt who was the author of another bill now before this subcommittee. It was clearly established in those hearings that there is concentrated buying power on the part of the chains and supermarkets. It was not established, at least to my satisfaction, that this concentrated buying power of these chains and supermarkets had been exercised in a way that was in violation of any statute nor in violation of any order by the Federal Trade Commission. I would be the first to recognize, however, that they exercise this power with considerable diligence. Again, I think it is generally recognized that the chainstores present a service to the meat producer and packer as well. They provide one of the most easily accessible and most attractive outlets that has ever been devised for retail sales. I do not want to do anything, nor do I believe any other Member of Congress wants to do anything, that would in any way inhibit the effort of the chain and supermarkets to increase the sale of meat and meat products. Therefore, it seems only logical that the most practical and feasible way to counterbalance the concentrated buying power of these retail outlets and whatever dominance they might exercise in the wholesale market, would be to permit the packers to also engage in the retail sale of meat products.

A further reason for dissolving the decree would be, I think, to restore stability and volume to the central markets. Direct country buying and auction sales have made great inroads on the central markets. I am not opposed to either such practice, but at the same time it is absolutely necessary that a strong, vigorous, and healthy market be maintained in the central market. Direct packer and chainstore buying to a degree, and country auction almost entirely, are based upon the open market price established in the central markets.

This has generally been accepted as reflecting a reasonable selling price between the visible supply and anticipated demand. Whereas 50 years ago there was considerable mistreatment of producers at the central market, these abuses have largely been removed by the Packers and Stockyards Act as amended. They are still not perfect, by any means, but by and large they offer reliable service to the producer and the packer under the surveillance of the Department of Agriculture. If the packers were permitted to develop additional and competitive markets for the sale of meat, I believe it would contribute to a degree, and admittedly not a large degree, to the strengthening of the central markets. There is no better medium that has been made available to date at least to reflect the true value of livestock offered for slaughter.



Mr. Chairman, I realize it is somewhat presumptive of me to offer this legislation in view of the fact that the Supreme Court has recently reviewed this matter and has refused to set aside the consent decree. I do not believe the Supreme Court possesses all knowledge or judgment in all matters, particularly not in connection with the livestock industry. I would certainly urge that the committee give this matter their very serious consideration and I hope that a thorough study will be made of this proposal.

I want to say, too, that I introduced this bill purely on my own volition because I thought it in the best interest of the livestock industry. It was not done at the request of any trade association or other segment of the industry. I do not know what position they will take, but I hope they would support my bill. I am not defending the major packers against all complaints in the consent decree or the ones virtually as large that are not a part of the consent decree. For example, I do not believe it is in the public interest, and certainly not in the interest of the producer, for a packing firm to operate its own feedlots. In my opinion, there is nothing illegal about this operation, but it does trespass on a segment of the livestock business that historically has belonged to the farmer and the livestock producer. I hope the committee will consider that activity by the packer in connection with this or some other legislation.

Mr. POAGE. Mr. Avery, we thank you. You have had an opportunity to go into this question of integration perhaps more than we have, that is, integration on the retail side. Do you fear it?

Mr. AVERY. Do I fear integration? Yes, I do. This same Select Committee on Small Business has been holding hearings in the broiler industry. That is a different problem, but it is, certainly, a related problem.

Mr. POAGE. You said that it was a different problem, but what is there that distinguishes the broiler industry from any other part of the livestock industry, particularly how can we assume that what has happened in the broiler industry is not going later to happen to the hog industry and the cattle industry?

Mr. AVERY. Well, I did not mean to infer that there was that difference. Basically, it does not affect the major packers. The processing part is a separate industry. We are talking about white meat. Basically here we are talking about red meat.

But so far as the economic factors are concerned they are quite similar in my opinion.

Mr. SHORT. Mr. Chairman, if you will permit, I think that the degree of integration that has taken place in the broiler industry, for instance, is a far different thing compared to what has taken place in either the hog or cattle industry.

Mr. AVERY. Yes.

Mr. SHORT. I would make this observation, that might be possible in the hog or cattle industry. Of course, this is merely conjecture.

Mr. AVERY. Hypothetical.

Mr. SHORT. I would say, having some little knowledge of the livestock business, that the degree to which the broiler industry has been integrated is hardly possible in the livestock industry.

Mr. POAGE. Why not?

Mr. SHORT. For the simple reason the size of the investment, it would seem to me, would be so considerable it would be a deterrent. If you would integrate the same percentage of the livestock beef feeding industry in the United States that has been integrated in the broiler industry in the United States you would have gigantic livestock feeding operations so that it would seem to me, by virtue of their very size, they would become somewhat inefficient. I do not think that in the livestock industry there is the possibility of battery pro-



duction, battery feeding, certainly, in my humble opinion, as there is in the broiler industry—in the battery producing of broilers.

Mr. POAGE. Many years ago nobody ever thought that they would be able to produce broilers in the quantities that they produce them now. Nobody 10 years ago felt that you would be able to produce a pound of meat for a pound and a half of feed, yet they are doing it.

Mr. SHORT. As I say, Mr. Chairman, this is merely conjecture on my part. Certainly, the broiler production or at least the major portion of the broilers produced in the United States today are not a farm product any more.

Mr. AVERY. That is correct.

Mr. SHORT. That is, in the context of the normal conception of a farm operation.

Mr. POAGE. They are a farm product.

Mr. SHORT. It will be a very interesting development to see how far integration can practically go and the practical limitations will make the final determination. Again, there is a much greater investment involved when you make that much of a concentration in the feeding of hogs and in the feeding of livestock. We, certainly, know that this integration thing has been going on for a long time in the field of livestock feeding, but it has been rather interesting to note that while there have been some real large livestock feeding operations in the United States, there have not been vast numbers of them developed to anywhere near the comparable degree as in the broiler industry. There must be some economic factors that enter into the picture that become a deterrent, it would seem to me. Again, this is all conjecture. I do not think that any of us can foresee what is going to happen in the next 10 or 15 years in livestock production and in meat production. We, certainly, could not foresee what has happened in the past.

Mr. AVERY. I would like just to make this observation in reference to what Mr. Short and Mr. Poage have said. I think one distinction between the broiler industry and what could happen to the pork and the beef industry is the source of supply. It is not hard to capture the source of supply or to establish the source of supply so far as chicks are concerned. That is a 1-year proposition.

I cannot conceive how an integrated process could ever capture the supply of beef, for instance. I just cannot conceive how it would come about.

And the further distinction are the ingredients that go into the feed to produce beef and broilers. The cattleman owns the land, together with the farmer, and he has had his ups and downs. Nobody has ever been able to get it away from him and keep it away from him. It takes land and grass to produce beef.

When you get into the broiler industry you get into concentrates, a little grain, some shelter, and you're in business.

I cannot, for those reasons, see how the beef industry, particularly, could ever be captured into an integrated process as has the broiler industry.

Mr. SHORT. I will agree with the gentleman, certainly. I was referring to the possibility of integration within the limitation of the feeding out of cattle and hogs. Certainly, this is something that is of real importance, the possibility of any future integration, particularly



in beef production. You still have to start out with that calf that, in the majority of instances, is born somewhere in a pasture or on the range.

Mr. AVERY. Yes.

Mr. QUIE. On the last page of your prepared testimony, Mr. Avery, you mentioned direct buying.

Mr. AVERY. Yes.

Mr. QUIE. And auction sales. And that there have been big inroads into the central markets. Do you feel that they are continuing to make greater inroads into the central markets?

Mr. AVERY. Yes, I do. I think that direct country buying of finished cattle is continuing to make inroads on the central markets. I believe that auctions have pretty well leveled off. I believe you were out when I commented on that, Mr. Quie. I directed some comment to that point. I think both country auctions and direct buying do have a place in our beef industry and in the pork industry, but, nevertheless, the significant thing is that the prices that are generally employed in those transactions are based on the central markets. And for that reason I think that we must take another look at this central market to keep them as competitive as possible.

I do not believe I said orally, but it is in my statement, that they have been rather abusive of their customers for many years. That has turned around and, like the railroads, they are looking for business. It behooves us to make sure that there is vigorous competition and a considerable volume that stays in the central market.

Mr. QUIE. Do you think that the inroads are of such degree that we should do something about it?

Mr. AVERY. It is on a regional basis. The situation in Denver is very, very serious. Of course, Denver is a rather unique area so far as cattle feeding operations are concerned. I think the biggest commercial feed yards in operation are in the Denver area. There are feeders there that feed 50,000 and 60,000 head a year. The managers for the Denver stockyards testified before our Select Committee on Small Business. I do not want to make a direct quotation but, categorically, it was stated that if something is not done to restore some volume to the Denver yards their future was not certain. That is the only one that has come to my personal attention where it had become serious.

I think, Mr. Quie, my response is "Yes," so far as finished cattle are concerned, the trend is to continue and increasing. So far as country auctions are concerned again, I would say that I think that they have pretty well leveled off.

Mr. QUIE. Could you give any judgment on what degree of direct buying will finally eliminate the central market in determining the price. We know now that the very small volume can still determine the price. As I understand it, egg prices are now determined by a few cases sold at the New York market.

Mr. AVERY. We have not had to my knowledge any testimony. If we did, it did not impress me to the point I remember it. I would think that the Department of Agriculture might have more knowledgeable comment on that than I would have.

Mr. QUIE. Now that it is easy to transport stock from distant points, do you find that there is competition between the various packing com-



panies. Sometimes the plants are maybe 30 or 50 miles from each other, do they compete for buying territory?

Mr. AVERY. I do not quite get that in proper perspective, the "they"—whom do you mean, the direct buyer?

Mr. QUIE. The direct buyer. Even though there is direct buying, is there not competition between the plants to such an extent that it has an effect on the market? To use an example, in my own district, at Winona, there is Swift & Co., at Austin is the Geo. A. Hormel Co., and at Albert Lea the Wilson Co.

Mr. AVERY. I cannot comment on that. I think just as a categorical statement it would seem reasonable that if there were more than one packing plant doing direct buying in a specific given area there would be some competition. To say that there would not be, you would have to infer that there was collusion. That was not pointed out to us, to our committee.

Mr. QUIE. Did you have something on that in your hearings?

Mr. AVERY. No, it was not pointed out.

Mr. HOEVEN. Mr. Avery, you said that you introduced your bill on your own volition.

Mr. AVERY. Yes.

Mr. HOEVEN. It was introduced a few days ago?

Mr. AVERY. Yes.

Mr. HOEVEN. Have you had any reaction at all from the packing industry as to whether or not they are supporting your bill?

Mr. AVERY. No, I have not.

Mr. HOEVEN. You pointed out the serious competition from chainstores. Do you anticipate under the provisions of your bill that the major packers would set up branch retail stores in the same communities where chainstores are operating and thus have both undersell the independent meat processors?

Mr. AVERY. I am not sure, Mr. Hoeven—I am not just sure. I thought about that quite a little as to how the packer would proceed if this consent decree was dissolved. I thought that there might be quite a psychological effect, very frankly. I think that if the restriction were taken off of the packers the chainstore might look with a little more apprehension about becoming engaged in the packing business, very frankly.

Mr. HOEVEN. Where would that leave the independent processor in the small country town—he would be in a squeeze between the chainstore and the packer, would he not?

Mr. AVERY. I do not think so, any more than he is now. As I pointed out, Morrell is your big packer—they have been in the retail business ever since—I guess ever since they have been in business. Actually, as I pointed out, we are only talking about 35 percent of the packing industry anyhow. Without going to the records, I could not make this positive statement, but I am sure that there are a number of packers, Mr. Hoeven, who are larger. I am not saying this very well. There are packers not under the consent decree that are doing a bigger volume of business than some of the firms under the decree. For instance, I have figures here of Cudahy which is only doing 2.4 percent of the total commercial slaughter in 1958. I am sure that there are other packers that are doing more than that, that are not under the consent decree. So I do not think it would, to give you a direct answer, I do



not think it would have any violent effect on the small independent packer nor the independent grocer.

Mr. HOEVEN. Legislation such as you propose might be adding fuel to the fire and thus put the small processors and local meat markets in a very precarious position.

Mr. AVERY. I am thinking about that, the small packer that you would have in the county seat in Iowa and as we have in Kansas—yes, I presume in all fairness I would have to say that hypothetically speaking he could find himself more critically pressed than he is at the present time. I am not sure whether it would be fatal.

Mrs. MAY. Do you, or does your committee, have a list of the meatpackers in the United States and the volume of business they are doing to which you just referred in connection with their retailing or packing activities?

Mr. AVERY. I cannot answer that. I do not recall that we do. These figures I am reciting I did not get from the Small Business Committee. Very frankly, these were mostly from court records.

Mrs. MAY. Is any such list available? If so, I think it might be very valuable to the committee to have for the record.

Mr. AVERY. I will inquire if it is. But, offhand, I cannot recall, Mrs. May, that kind of complete information was ever provided or submitted to the Small Business Committee.

Mrs. MAY. Thank you.

Mr. POAGE. Mr. Davies, could you furnish us with that kind of a list?

Mr. DAVIES. What was the question?

Mr. POAGE. Mrs. May asked for a list of meatpackers of the United States, that is, the major meatpackers, at least, and the volume of business that they do. We had this list of the grocery chains and their volume of business. And it was for the purpose of comparison between the grocery chains and the meatpackers that Mrs. May asked for the information. I wondered if you had information as to the meatpackers who do more than \$30 million worth of business per year.

Mr. DAVIES. There was some information submitted by the Department of Agriculture in the hearings on S. 3156 in 1956 which listed all of the companies and their percentage of the business. I think that is available in the hearings that were held.

Mrs. MAY. Is that list available?

Mr. DAVIES. I was amazed at the indication that these larger companies are in the retail business, because I did not know of any. Frankly, I did not know, for example, that Morrell was in it as large as they are. Some of these companies do have stores where they sell to their employees, but there are very few of our members who have any retail outlets at all. None that I know of.

I do not know of any major companies that do have extensive retail outlets. Certainly, not to my knowledge.

Mr. POAGE. Thank you. What is your authority for the statement that Morrell was in the retail business?

Mr. AVERY. We had a plant in Topeka, Kans., and they were engaged in the retail business.

Mr. POAGE. They were engaged in the retail business of meats only or in all parts of a retail store?

Mr. AVERY. Meats only. I am sorry if I left the other inference.

Mr. POAGE. I think that is where we got into difficulty.



Mr. AVERY. I am sorry if I conveyed the impression that they were in all food retail sales. I have a telegram from W. W. McCallum, president, John Morrell & Co. I will place it in the record.

(The telegram referred to follows:)

CHICAGO, ILL., August 24, 1961.

HON. WILLIAM AVERY,  
*House of Representatives,*  
*Washington, D.C.:*

I understand that in your testimony today before the Livestock Subcommittee you stated that our company owned and operated retail outlets. This is incorrect in that we do not have a single retail outlet. Prior to 1950, Morrell operated retail markets in connection with plants at Topeka and Ottumwa. These are the only retail markets Morrell has ever operated and the company has had no such outlets since 1950.

Would appreciate your correcting the record.

W. W. McCALLUM,  
*President, John Morrell & Co.*

Mr. DAVIES. They are out of it.

Mr. SHORT. There is one question I would like to ask Mr. Avery. Possibly you made the statement and I missed it—you made the statement that at the time the consent decree was applied four major packers were doing 53 percent of the business nationally. Did you quote any figure as to the percentage those four packers were doing of the present volume of business?

Mr. AVERY. About 35 percent; and of the 35 percent, one packer does about one-half of it. Let me repeat, Mr. Short. Those percentage figures are subject to little adjustment. They are not absolutely exact.

Mr. SHORT. I understand that.

Mr. AVERY. But within a percentage point or two I think you would find them to be accurate.

Mr. SHORT. Thank you.

Mr. POAGE. Are there any further questions? If not, we are very much obliged to you.

Mr. BEERMANN. I have a couple of questions. In talking about this volume in dollars, as cattle feeders we have sold cattle for 12 cents a pound and as low as 6 cents a pound, and cattle have sold for as high as 40 cents a pound. This dollar volume based strictly on the selling price has nothing to do with the purchase of the cattle, does it?

Mr. AVERY. Mr. Beermann, you are directing a question to the Roosevelt and Anfuso bills, I believe, and I would not consider myself to be much of an authority on their bills.

Mr. BEERMANN. I will ask the other question I had in mind. As a cattle feeder and a farmer, we buy cattle and feed them. If this bill becomes law, would it affect us as a family farm operation, where we purchase feeder cattle and feed them? If we wanted to extend this program, compared to the operation Mr. Anfuso is referring to in New York, and have our own packing plant and go into the retail business—there are some younger Beermanns coming along in the operation now—it is still a family operation—would this affect us if we expanded?

Mr. AVERY. I would again say that your question is directed to the Anfuso bill or the Roosevelt bill, and I have not examined those as closely as I should. I have only examined them to the extent of the principles involved, but offhand I would say that if you reach up to that volume you would be precluded from broadening your operation.



Mr. BEERMANN. With the dollar volume stated as it is, there is not any reason we could not change any time in the future to meet a certain situation?

Mr. AVERY. That is exactly right.

Mr. BEERMANN. Thank you; that is all.

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

Mr. AVERY. Thank you, Mr. Poage. I would like to request that the committee request an opinion from the Department of Agriculture—a report from the Department on my bill. I will submit that request in writing if you prefer, but I would like to have that.

Mr. POAGE. I find no objection in the world to doing that, except that the committee is not going to remain here until November and December to receive such a report.

Mr. AVERY. Well, of course, I understand that. At this late date of the session I thought that we might have some difficulty in the committee taking action on any of these bills.

Mr. POAGE. That may be—I don't know if there will be any action taken, but I mean that we are not going to remain and sit here and do nothing until we get the report from the Department.

Mr. AVERY. Of course, I understand that.

Mr. POAGE. We will be very glad to try to secure the report for you.

Mr. AVERY. I would appreciate it if you would.

Again, I certainly appreciate the indulgence of the committee.

Mr. POAGE. We thank you.

Our next witness is Mr. Casper, of the National Farmers Organization. We will be very glad to hear you now.

#### STATEMENT OF ROBERT CASPER, VICE PRESIDENT, NATIONAL FARMERS ORGANIZATION

Mr. CASPER. Mr. Chairman and members of the committee, I am Robert Casper, vice president of the National Farmers Organization. We appreciate the opportunity to appear before this committee and express our opinions on H.R. 3415 and H.R. 3798.

I must say that we regard the subjects covered by these bills as of the greatest importance to agriculture and the Nation. These bills are by no means perfect, nor do they cover all of the marketing area that should be dealt with, yet they represent a start in the development of a legal structure to provide for a free competitive market for livestock and related products under modern conditions—a free competitive market that does not now exist.

Let us first recognize that Congress has long assumed the responsibility of establishing by law, mechanisms to protect free competitive markets. One of these was the Commodity Exchange Act, regulating primarily the futures trading in farm commodities. A second legal mechanism established by Congress to protect free markets is the Securities Exchange Act of 1934. A third market supervisory agency was established under authority of the Packers and Stockyards Act of 1921. The Packers and Stockyards Act, if enforced as the other laws are enforced and as we believe Congress intended them to be enforced, would eliminate many of the problems of chainstore domination of markets and vertical integration.



However, understaffed for the job that needed doing, hampered by involvement with other agencies of the Department of Agriculture, and since 1958 saddled with an immense job of registering and detail work, the P. & S. Division had to decide between registering the thieves or preventing the theft. They chose to register.

I would like to quote a section of the Packers and Stockyards Act that we believe has been largely neglected. It is title II, section 202:

It shall be unlawful with respect to livestock, meats, meat food products, livestock products in manufactured form, poultry or poultry products, for any packer to—

(e) engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce or of creating a monopoly in the acquisition of, buying, selling, or dealing in any article in commerce or of restraining commerce.

Theft it is, on a scale so fantastically great as to become almost legitimate. We know that possession of a packing plant by a retail chain will affect price patterns. We know feedlots or contracted stock fed for packers or chains will affect livestock prices. The only question is to what extent this is being done.

The Montana Extension Service in 1955 stated an estimated 65 to 70 percent of all cattle on feed in California were owned by packers.

In testimony before the Select Committee on Small Business, held in Denver, Colo., November 16–17, 1959, it was stated that some 10 feeders in Colorado, together with contract feeding operations also controlled by chains or packers, furnished more than half of the 750,000 cattle slaughtered in that area per year, and that three of these operations furnished over one-third of the total.

The records of the House Appropriations Committee show that in 1 year—1960—the number of feedlots in Nebraska with over 1,000 head of cattle rose from 250 to 475.

It is estimated that 70 percent of the fed lambs are owned by packers.

Livestock purchased direct is being used to control market prices in two ways. L. M. Pexton, chairman of the board of the Denver Union Yards; stated before the Small Business Committee that virtually all the choice cattle and lambs in the Denver and Ogden area were purchased direct and that the Denver and Ogden markets were established on a mediocre stock. We must not forget, however, that this livestock already in the hands of the packer removes the necessity of his purchasing stock at the terminals. For example, in the Omaha hog market we estimate 30 percent of the hog supply goes through the terminal market, 70 percent comes in direct. The 70 percent is used by packers to control the price they must pay for the 30 percent, yet it is the 30 percent that is used as the price-basing factor for pricing all hogs in the area.

Vertical integration itself is probably the greatest threat to the free enterprise system that exists today. For in a vertical integration setup it is unnecessary for one element in the structure to operate at a profit. A packing plant operated by a retail chain need not operate at a profit. In fact, it may be more profitable for the chain if it does not. A feedlot need not return a profit to a packer or feed company, yet may be a valuable part of the company's operation. The broiler industry, unprofitable for most growers, can and is being used by chains to beat down prices on all red meats.



These conditions continued will eliminate the terminal markets, the only price-basing mechanism the livestock industry now has.

This is why the National Farmers Organization is attempting to organize producers into a giant bargaining association under the Capper-Volstead Act. This is why we supported the omnibus bill with its potential of expanded marketing orders. We also suggest there may be possibilities in a teletype marketing system somewhat on the pattern of the Canadian system.

We also support either or both of the bills under discussion today, although we prefer the \$30,000 limitation in H.R. 3798.

We must expand the principle of the consent decree. Our goal should be producers producing, packers packing, commissionmen selling, and retailers retailing. Only in this way can a free competitive market be maintained.

Above all we ask this committee to come to the Midwest and conduct an intensive investigation of our livestock markets, especially concerning itself with packer and chain feed lots and contract feeding operations. The information you need can only be obtained by subpoena, and having covered the subject more thoroughly, we feel certain Congress will then enact more extensive legislation.

Thank you.

I would like to make one further point. Mr. Short raised a point on whether or not we could integrate the livestock industry as we know the red meat industry. I think it will take a little different turn. I think it is much closer to realization than most people suspect. I think integration of the cattle-feeding industry, for instance, will be done not only through feed lots, but through contract feeding. I suspect if you would investigate the actual amount of livestock fed under contract to packers, where they have control of the flow of stock back into the market, you will find over one-half of it today is already integrated in some respects.

Mr. POAGE. Are there any questions?

Mr. MATTHEWS. I have a question or two. On page 2, Mr. Casper of your statement, the second and third sentences, for example, you state:

In the Omaha hog market we estimate that 30 percent of the hog supply goes through the terminal market, 70 percent comes in direct. The 70 percent is used by the packers to control the price they must pay for the 30 percent, yet it is the 30 percent that is used as the price-basing factor for pricing all hogs in the area.

How is that done? Will you explain that a little more?

Mr. CASPER. Well, I would say that let us take Winterset, Iowa. This is about 125 miles from Omaha and in the Omaha marketing area.

If I call up my local buyer this morning he will wait until the Omaha market opens or the Chicago market opens. And he will get a price. He will not quote a price until the market is established at the terminal. Then I will sell these hogs to him today and deliver them to his buying station. Tonight he will ship these hogs to Omaha, and to the extent that he does this, to that extent the supply and demand factor on that market tomorrow is affected. In other words, we will say that Armour & Co. has bought all of the hogs they need direct today and they do not have to go on the market at all tomorrow



and buy. So that this 24-hour lag that we have where the hogs were purchased today in the interior, are bought on today's market and moved tonight. You see about 70 percent of all the hogs slaughtered in the Omaha market area are these direct hogs, so that you have a minority section of the market establishing the price on most of the hogs that are being slaughtered.

Mr. MATTHEWS. I notice that in the third paragraph on page 2 you say:

These conditions continued will eliminate the terminal markets, the only price basing mechanism the livestock industry now has.

If the terminal market is eliminated, what would happen?

Mr. CASPER. I think that we are seeing a decentralization of the packing industry out into the small areas. There are some economic reasons for this. The tendency toward building a small modern, efficient plant out further where the source of supply is. What I think we will wind up with will be a whole series of these small plants scattered around the country, each with its own area to tap and no place at all where we would establish markets unless we establish some bylaw or marketing orders or some other mechanism, but I do not believe that there would be competition as we would know it under these conditions.

I am sure that the Packers and Stockyards Division will tell you the same thing—I know they will. They say you can establish a feed yard even if you are an independent operator. And if you, for instance, sell to one major packer this year, you may sell to this major packer next year, from that day on you are known as a Swift or Armour, or Cudahy or Wilson yard and nobody else comes there—you do not see any buyers, so that they do divide up territories by gentlemen's agreement or whatever you may call it. I think that the same thing would happen if we would localize these plants as we are localizing them, I am sure, over the country today.

Mr. MATTHEWS. I noticed that in the last paragraph of your statement on page 2 you state that you feel you need subpoena power to make the investigation—why do you think the subpoena power is necessary?

Mr. CASPER. I do not believe that you can get to the bottom of these things unless you, actually, have the power to put a man on the stand and ask him questions regarding his business. We were part of a committee that was a fiduciary committee, supposedly, that appeared in conjunction with some studies made of the Packers and Stockyards Division. One of the statements made in this committee was by a representative of one of the organizations. They were discussing the necessity of prompt payment. Well, he stated that was no problem. He said, "I have in my safe checkbooks on five different packing companies. When I sell cattle I just write myself a check." Another one of these producer representatives had \$25,000 drawing account on a packer. Another representative, we checked and it showed paid \$52 personal taxes the last year, and yet he is an extremely large feeder.

They are the spokesmen that sometimes come before the committees representing the livestock producers. I think unless you can put these men on the stand and draw these connections out you will not learn that they are too tightly tied to their business operations to the packing



industry. I do not believe you can ever get these connections drawn out in public unless you have the subpoena power.

Mr. MATTHEWS. Thank you.

Mr. QUIE. Have you negotiated with any packers actually through your organization?

Mr. CASPER. No, we have not. Incidentally, I would comment that vertical integration can work several different directions. The one contract we were offered was with two chains which meant to go into partnership with them in building packing plants, and the object was to operate the packing plants without a profit. So this is the danger of vertical integration.

The idea that any one segment can be operated without a profit, the profit accruing to the people who are interested in it through market manipulations actually are splitting what should be a normal profit in the operation that they are trying to set up.

Mr. QUIE. Do you anticipate that your organization will develop to the size where you can negotiate with the packers in the Midwest?

Mr. CASPER. We would hope so; yes, sir.

This is one of those things that no one knows actually—you do not know the degree of opposition—you see, actually, we are offering in my opinion, a very efficient marketing mechanism which they recognize. The problem lies, I think, primarily in experiences with labor. They are afraid that they might be creating another Frankenstein monster that they would have to deal with. And whether the advantage we offer in concentrated supply, for instance and scheduling into their plants and all of the advantages that an organized group of people could give them will offset the fears that they have of past experiences, I do not know.

Mr. QUIE. Thank you.

Mr. SHORT. You mentioned that as you marketed your hogs at Winterset, Iowa, selling to the local buyer, as I understood you, the local buyer waited until he found out what the price had been established in the central market, is that correct?

Mr. CASPER. Right.

Mr. SHORT. Why do you not send your hogs direct to the terminal market in Omaha?

Mr. CASPER. You have the situation that about 70 percent of the hogs in Iowa go direct. There are two basic reasons, I think for this: one, is you have the local buying station, and he will stay just enough under the terminal market price that you cannot make any money going to the terminal market. It will cost you 40 cents a hundred to ship to Omaha, that is, the truck bill, plus another 40, or 45 cents to move through the terminal; in other words, you have an 85-cent-per-hundred differential. The local market will be within that differential. So, as a practical matter I can get just as much at home as shipping to the terminal.

The other thing is that you know what you are going to get and this is very popular with the farmers. They know that before they load their hogs at a local buying point what they are going to get—they can pick up the telephone and get the bid, whereas if you shipped to the terminal you are gambling as to what will happen to the market the next day. It may go up 50 cents it can drop 50 cents, so that these two factors are the reasons, I think, why most farmers sell directly



in Iowa. In the interior of Iowa there are no terminal facilities very close to you. It is either Chicago, Omaha or Sioux City. And then you get out into Des Moines, or Ottumwa, and that area, they have a tendency to market locally.

Mr. SHORT. You are not very far from Omaha or Kansas City, actually, in terms of hours of travel, maybe 2 or 3 or 4 hours at the very most. Is that not correct?

Mr. CASPER. Why should you make the trip if you can make that much money selling at home? I am not talking against the terminal market. In theory the terminal market setup. Maybe we should move all of our stock to that point but, from the practical dollar and cents standpoint, you cannot go there from my area very often and make any money, because they will stay close to the terminal market price, and just from a personal economic factor standpoint you will sell locally if you want to get dollars and cents.

Mr. SHORT. I have sold a lot of livestock in my time. And I have never had a packer buyer pay me more for my livestock than he wanted to. It always seemed to me that this business of local buying, if it does have a tendency to bring about a lower price to the farmer, has also a tendency to correct itself inasmuch as at the present time, at least, the livestock owner has the ability to go somewhere else to sell his livestock. He can take them to the terminal market, or he can take them to the local auction market. For instance, in our part of the country, it is not too much of a hardship on the farmer to go to Sioux City or to St. Paul, or West Fargo, if he does not like the local market. This, it seems to me, tends in the final analysis to keep this market somewhere near where it is actually in relation to your total overall supply available on all the markets.

Mr. CASPER. Well, your problem lies in transportation and cost.

Mr. SHORT. The transportation cost is not much.

Mr. CASPER. No. Des Moines has a packing plant. There is an 85-cent cost to me, as a producer, shipping to Omaha. They can buy hogs in Des Moines somewhere in this 85-cent bracket and still give me a little more than I would get in Omaha, and they would buy it cheaper. The danger and the problem lies in the fact that they use the direct hogs to set the Omaha market. If the shipment of hogs are purchased directly in the Omaha area, I think that causes the problem, because this removes the necessity of the plant in that area of bidding on livestock.

Mr. SHORT. Is not the Omaha market, also, set to a considerable degree by the Sioux City and Kansas City and Chicago markets?

Mr. CASPER. That is true. The point I am making is that the threat of the direct opposition locally is to the producer at Winterset. I have an 85-cent differential between Omaha simply in transportation and yardage commission. Any packer in this area can give me 10 or 15 cents more and buy 50 or 60 cents cheaper himself than if he goes to Omaha.

This is an economic factor. There is not much way around it. The problem lies, maybe, that my local buyer, as he does in this case, shifts his hogs into Omaha tonight, and the hogs that he has bought today influence the price of the hogs tomorrow on the market. That is happening all around, Sioux City, Chicago, and everywhere—not just in Omaha. This is being done everywhere. They are using the



direct purchase of livestock to help establish the terminal market price.

Mr. SHORT. I would like to go back to the statement, to the third paragraph of your statement, Mr. Casper, where you say:

The Packers and Stockyards Act, if enforced as the other laws are enforced and as we believe Congress intended them to be enforced, would eliminate many of the problems of chainstore domination of markets and vertical integration.

And you quoted the Packers and Stockyards Act, which was to the effect that if there was evidence of collusion or monopolistic practices the Division should act. Is that not the final determination that someone has to make?

Mr. CASPER. No; in this particular paragraph it simply says it shall be illegal to engage in any course of business or to do any act for the purpose or with the effect of manipulating or controlling prices in commerce. It seems to me that the only reason the retail chain, for instance, would own a packing plant or that a packing plant would own a feed yard, would be to control prices somewhere or to control the supply and demand which establishes the price.

Mr. SHORT. It might be to secure his supply. It might not necessarily have any particular relation to the price. He just might not be able to get the supply he needs at any price—he has the feedlot to secure his supply. This gets into the area we were talking about yesterday, that this supply has to be furnished day by day almost to enable the supplier to furnish his customers with their needs for each particular day. So it is not always a consideration of the packer getting into the feeding business or the feed company getting into the packing business to manipulate the price. It is to stabilize the supply, is it not?

Mr. CASPER. I do not believe so.

Of course, in some respects it is handier, but you can say in another way it removes their necessity for bidding up to the class stock that they want on the day they want it; in other words, the stock is always available—they do not change the numbers of feed cattle.

Mr. SHORT. Not necessarily. They may be 500 miles away—might have them available in Denver on some particular day, and yet regardless of the price they want to pay for them, they would not be able to get them to Omaha in time.

Mr. CASPER. But is this not the basis of our free competitive marketing system? In other words, as we allow vertically integrated setups are we not destroying the principle of the free competitive market system as such? The market price is supposed to guide the demand and supply and attract the type of quality that the packer wants and is willing to pay for. As you remove these factors by the feedlot or whatever it may be you remove the economic indicators that are supposed to guide the free supply-and-demand operation, so that you cannot get anything done beyond what the man has in his own lot. He has not indicated in the market, for instance, that he wants a certain type of heifer weighing so much—he has gone to his own feedlot and gotten it. After a while his feedlot is the only source he has because he has not been willing to pay the price for the stock he wants.

Mr. SHORT. I do not want to appear to be defending the packers getting into feeding, because I do not think I feel that they should



to any considerable degree, at least. But I have, also, to try to convince myself that there is any real adverse effect on the market being brought about by virtue of the packer being in it. Maybe there is, I do not know, but there are other factors it seems to me that come in for consideration, other than the simple one of the packer using this device to keep the price down.

Mr. CASPER. For instance, our State chairman in Iowa, one of our directors lives close to a couple of large packing lots in Sioux City, because the feedlots are operated by the packing plant, and I know I have heard them tell of this one instance, a day when they had 14,000 cattle in Sioux City, this one packer ran in 500 head of his own and they could not sell what they had.

The price broke very drastically. In other words, these lots—and we are all human, and are not doing anything probably that some of us would not do, but if you let anyone have in the market something that will influence the market price, not on just what he has but on what the majority of the producers marketing that day have, he will use this sooner or later, and they are doing it, there is no question about it. I think if you will investigate this, I think you will come up with some things that will astound you.

Mr. SHORT. Thank you. That is all.

Mrs. MAY. Your organization is attempting to use one of the most effective bargaining tools by creating what amounts to a holding operation. Would that not be what it is? And does not a holding operation as you envision it, also, affect the supply and demand?

Mr. CASPER. Yes, it would be within a group—we are not objecting here today, for instance, we are not trying to tell the chainstores what they do in the retail business, nor the packers what they should do as packers—what we are saying is that they all have a right to operate their own businesses within the confines of their businesses. We think that the producers should, also, be organized so that he can price his products, as everyone else does, and develop a more orderly marketing system. We are looking to this point which is very close to us where there will be no pricing mechanism unless you either organize, pass laws providing marketing orders, or as we suggest that there might be some future in the telegraphic system, such as Canada has, but unless we come up with some answer to the pricing of livestock, then we are going to be in a chaotic condition as other members have pointed out here earlier.

Mrs. MAY. Do you think that the telegraph system that you referred to has been successful in bringing about a better price to the producer in Canada?

Mr. CASPER. It does provide for more competition. In Canada they use the system. All of these markets are connected by teletype. There will be an offering of so many hogs, and they will be graded by Government graders and there may be 300 No. 1 hogs for sale, and this will be priced and they will start the bidding, say, at 30 cents and drop a nickel until someone pushes the button and the sale is made.

Mrs. MAY. Where there is more competition has it resulted in better prices in Canada?

Mr. CASPER. In Canada I think, probably, they feel that they have gone a little way down the road. It is better than what they had. I understand that the packers and everyone is pretty happy with it.



Mrs. MAY. In your statement, in the fourth paragraph on the fourth page, you speak of something that I would like to have you comment on briefly. It is something that I am not familiar with; that is, the background involvement of agencies within the Department in their administering of this act. You make the statement:

The Packers and Stockyards Division had decided between registering the thieves or preventing the theft—they chose to register.

That has the meaning, the implication to me is that everyone so far registered is a thief. Do you mean to leave that impression?

Mr. CASPER. No, I was using that pretty much as a figure of speech, as you say you have locked the door after the horse was stolen though I suspect that if you will conduct this investigation you may come up with about the same conclusion, but to get to your question, the Packers and Stockyards Division is under an Assistant Secretary as I understand it. He, also, has market reporting and meat inspection. These two other duties he has depend a great deal upon the cooperation on a voluntary basis of the packers. Just over a period of time it becomes very difficult to cooperate with people and to prosecute them, if they need it, at the same time, all within the same division. We have got in our brief a history that actually there should be a separate division set up that would have no ties with the rest of the Department at all, because they do have many duties that they need to cooperate with the packing industry and should have that, and you just get into a very difficult situation where you have to compromise what you think ought to be done, perhaps, and then think in terms of getting cooperation from the same person on some other projects.

Mrs. MAY. In other words, the agency of the Department of Agriculture which has the responsibility of administering the law has been loath to fulfill its responsibility when they find evidence of collusion or breaking of the law under this act, is that what you mean?

Mr. CASPER. I am sure that they will all tell you this.

Mrs. MAY. I would think that would be a very difficult admission for any administrator to make.

Mr. CASPER. These are separate divisions, you understand. The people who are in the Packers and Stockyards Division are entirely separate from these other two. The problem lies as you go on up the echelon. I think you will find that this problem has been pretty well explored in some inquiries on the Senate side—well, in fact, I have here just a very brief statement from Senator Carroll, where he makes the statement:

Senator CARROLL. That raises this point, the Department of Agriculture in 36 years has not done, according to the testimony I read here—they have not had any they do not have any enforcing agency.

In the practice, you see, the enforcement division has been pushed into the background in favor of voluntary cooperation on other matters—that is what it amounts to.

Mrs. MAY. Thank you for this opportunity, Mr. Chairman. We should establish this distressing information for the record, I believe.

Mr. BEERMANN. When a packer offers to buy cattle at a future date at a certain price the feeder contracts on that basis because he knows his cost of production, and this price will return to him more than



his feed cost on the market. We have gone ahead by rule of thumb for many years, whether we could sell corn for \$1 or \$1.25 a bushel. The number of cattle we feed is on the basis of whether we feel we can get \$1.25 or \$1.50 a bushel for corn in feeding it to the cattle. If we can contract for 120 or 180 days at a certain price per pound, that will give us more than it will cost us to feed the cattle, we will contract. Many a feeder will do that, where the price fluctuates, but by the same token the packer has cattle on the feedlot and he, certainly, does not want to depress that price to the extent that it is not possible to get what he has put into his cattle.

Do you not think that a partial contract, or a contract in part for your cattle in the feed lot perhaps a carload or two carloads, depending on your own feed situation, is a guarantee that you will make a profit on some of them, taking the fluctuating market on the rest, might be a proper area for the feeders to go into?

Mr. CASPER. I am sure it is from the feeders standpoint, just as you say. The problem lies in this fact, that if this is done on a mass scale it soon winds up just as vertical integration does, that the packer knows he has enough cattle to run his plant. He has no necessity of going, we will say, to the terminal market and buying any cattle. He knows when the cattle come in. He has control of the market if he does it on a large enough scale. You may have a profitable price as they did in the broiler business, but you will not have one if the thing develops as the system gets big enough if we use the vertical integration system used in the broiler industry as the criterion. I am sure that you are right, that it is profitable to the producers. That is why they do it. The end result will be integration just as surely as it is in the broiler industry, in my opinion. I do not know the answer to it, frankly. That is why I would like to have as many of you people study this thing more thoroughly as possible because it will be a tremendous problem.

Mrs. MAY. Thank you.

Mr. POAGE. Are there any further questions? If not, we thank you very much, Mr. Casper.

Mr. CASPER. Thank you.

Mr. POAGE. The committee will meet at 2 o'clock this afternoon when we will hear the rest of the witnesses.

The committee stands in recess now until 2 o'clock.

(Whereupon, at 12 noon, the committee recessed to reconvene at 2 p.m. the same day.)

#### AFTERNOON SESSION

Mr. POAGE. The committee will come to order.

We shall proceed with as much of the bill as we can this afternoon. We may be called to the floor at almost any moment.

I believe our next witness was Mr. Trunz. Is Mr. Trunz here? I was not sure this morning whether he desired to be here or not and wanted to testify further.

Well, if Mr. Trunz does not desire to testify, our next witness is Mr. Paul L. Badger, Western States Meat Packers Association.

Is Mr. Badger here?

Mr. CAMP. He was here this morning, Mr. Chairman, and he said he would be back at 2.

Mr. POAGE. He knew of the 2 o'clock meeting, I am sure.



I am going to say on the record this time what we have been saying off the record. These witnesses, whether they be authors of the bill or somebody else, who have been notified as to the time of hearing and do not appear, are not going to have any assurance that they are going to be heard at all, because this committee simply cannot continue to come up here and have these people who are supposedly interested in this matter fail to show up.

Mr. POAGE. I know that Mr. Crouch is not here and he is not coming, and the next witness we have is Mr. James Camp, executive director of the Texas Independent Meat Packers.

Mr. Camp, we shall be glad to hear from you. We shall try to hear you before the bells ring.

**STATEMENT OF JAMES ANDREW CAMP, EXECUTIVE DIRECTOR,  
TEXAS INDEPENDENT MEAT PACKERS ASSOCIATION**

Mr. CAMP. Thank you, Mr. Chairman.

Gentlemen of the committee, I shall make this short in the interest of saving your time. There is a biographical sketch in here outlining my many years of experience in the food industry, during which time I got my share of lumps, so I do have the background and experience to speak on this subject.

I am a 100-percent advocate of our free enterprise system, particularly as it applies to the survival of small independent business. I am opposed to monopolies, because I feel they tend to restrain competition and do not operate in the public interest.

Our association is on record as supporting this Roosevelt legislation, H.R. 3798, because we know that a very delicate balance exists between food manufacturers-processors and retailers. This very delicate balance makes it possible for the food industry of our country to offer the greatest values and service to the consuming public of any country in the world. Our Agriculture Secretary, Orville Freeman, recently published the facts and figures that support my statement. I have here a record of some of his statements as taken from the hearings before the Subcommittee on Equipment, Supplies, and Manpower of the Committee on Agriculture, the House of Representatives, in which he says:

For 1 hour's pay, an average industrial worker in the United States can buy a normal meal for four people, a good meal, consisting of beef sirloin, potatoes, cabbage, bread, butter, milk, and a serving of fruit. In Germany and England, that meal would take over 2 hour's work, in Austria 4 hours, in France 4½, in Italy over 5 hours.

That is on page 3. Then, on page 10, he says:

To buy a loaf of bread took 6 minutes' work here in New York, 9 minutes' in Russia, 1½ time as long. To buy a pound of potatoes, 2 minutes here, 7 minutes in Russia, 3½ times as long. A pound of beef rib roast, 8 minutes here, 31 minutes in Russia, 4 times as long—

and so on.

The point involved is that our food industry has done and is doing a tremendous job for the consuming public of our country. Should this very delicate balance be destroyed by too great a concentration of power, either from the suppliers' side or from the retailers' side, then it is conceivable that the public interest would suffer.



Concerning manufacturer-suppliers, we have a landmark case in the *1920 Packers Consent Decree* case, which case prohibits the four major meatpackers, Swift, Armour, Wilson, and Cudahy, from among other things, engaging in the retailing of meat and groceries. This case has been up to the Supreme Court on appeal on three different occasions, the last time about a month ago when the Supreme Court again upheld the ruling of the lower court and denied any appeal on this decree.

At this time, I testified as an expert witness for the Government in this consent decree case in Chicago. Our courts, then, have also pointed out the very delicate balance that does exist, and they have forbidden the big meatpackers from being retailers.

Now, we have a very substantial concentration in food retailing. The 10 largest national food chains account for a very large portion of all food retailing. Congressman Roosevelt, in his statement this morning, listed those 26-odd corporate chains doing upward of \$100 million a year, and that concentration is very, very substantial in our food industry. He pointed out, and rightly, that those corporate chains are now doing upward of 40 percent, or approximately 40 percent of all the retail food business in our country.

We feel that it is conceivable that this concentration of buying power at the retail level by these corporate chains could possibly border on a degree of monopoly and would tend to eliminate and/or restrain competition. Should these big 10 national corporate chains, or any part thereof, go more aggressively into meatpacking and processing, this could again disturb the very delicate balance that exists.

Here is a very important point, gentlemen. Statistics show that meat is the one most important item in any retail grocery store, and the most important commodity on our meal tables at home and also in our restaurants, hotels, and other institutional feeding operations. Because meat, then, is of such great importance, under certain conditions, it could be used as a leader or a magnet to bring people into various stores or other institutions, to the detriment of the consuming public.

Also, these corporate chains would have a captive market for the product of their own packing and processing plants, to the inevitable elimination of small independent packers whose activities maintain competition in the public interest.

On behalf of our association and all of its members, we urgently suggest the deep consideration of this committee that this legislation, H.R. 3798, is definitely in the public interest and also in the interest of the maintenance of our free enterprise society and the survival of the thousands of small independent businessmen in our country.

Mr. Chairman, if I might, I would also like to comment on Congressman Avery's statement.

**Mr. POAGE.** We shall be glad to have you do so.

**Mr. CAMP.** The Congressman, in presenting this legislation to abrogate or cancel out the consent decree as it has been upheld three times in the lower court and three times in the Supreme Court, I believe does not point up the real pertinent facts there. In essence, he is saying that two wrongs could make one right. He is saying, let us let the packers be retailers and let us let the retailers be packers.



In my considered judgment, that would be certainly using two wrongs to make possibly one right. I feel very definitely that a packer should be a packer and that a retailer should be a retailer, to continue to provide that very delicate balance that does exist between the suppliers of food and the retailers. Once the retailers get too strong or the suppliers get too strong, then that very delicate balance could be disturbed, to the very definite detriment of the consuming public.

He also pointed out that in 1920, when this consent decree case was first invoked, there was less than 1,000 independent packers. Now, today, in addition to the big packers, there are approximately 4,000 independent packers, which proves beyond any shadow of doubt that the restraining of the biggest packers has made it possible for an additional 3,000 independent businessmen to operate reasonably, profitably and in the public interest in providing additional competition in the marketplace.

I also feel that he was questioned about how would the big packers get into the retail business. Well, after having sat there in the Chicago court listening to all this testimony for several weeks, there in Chicago, in Julius Hoffman's court in this consent decree case, it was pointed out repeatedly that the big packers could take a stock position, they could buy stock in an A. & P. or Safeway or Kroger, put their own man on the board who could, in a large degree, control the meat-purchasing policies of those large corporate chains. In addition to that, it would be very easy for any of those big packers to go into a local market and buy up a local chain of 25 or 30 stores, and again completely block out the independent packer from those markets.

In Texas, some of the big packers, as I understand it, had already put out feelers to some of our local chains in San Antonio, in Houston, and even in Corpus Christi. So that would be the way that they would very easily get into the retail business.

He also pointed out the lack of volume that had occurred in the Denver stockyards. Well, today, in Denver, the three very large corporate chains—let us see, that is No. 4, 5, and 6, I believe—Food Fair, American Stores, and National Tea, all are operating their own packing plants in Denver. Whether they are buying it direct or through the auction markets, obviously, they are not buying it through the terminal yard. That again points up the concentration of power that could exist if these chains go more aggressively into the packing-house business.

I believe also that one or more of them is also operating their own feedlots there in the Denver area.

Also referring to Congressman Avery's statement, to my knowledge, Morrell, one of the big 10 packers, is not in the retail business. To my knowledge, none of the big 10 packers are engaged in any retail operation of any consequence. They may have an employees' store or something like that, but nothing beyond that.

Also, in referring to—I guess it was Congressman Avery's testimony concerning poultry—the integration that is taking place in the poultry industry and has taken place very conceivably could take place in the livestock business, both hogs and beef. It possibly would be a little more cumbersome, but could very easily happen. So I think



that is something that this committee would want to look at very carefully, the integration that could take place at that level.

I think one of the most important things for this committee to consider is the importance of meat in a retail unit. Today, red meats account for about 22 percent of the consumer's dollar purchased in a retail unit. So you can readily see that the control of a red meat supply, either by a corporate chain or by a packer at the retail level, could have tremendous import on the whole merchandising picture of the grocery industry; possibly also to the detriment of the small independent grocer, where the corporate chain controlling their own sources of supply of red meat could, as pointed out earlier today, operate their packinghouse at a loss to provide loss leaders at the retail level. That is something that was brought out repeatedly in the consent decree case testimony in Chicago, and it is very, very valid.

Congressman Avery also pointed out that when A. & P. first started in the business, they did not have any meat markets. Today, I believe this is a correct statement, A. & P. has a meat department in every store, pointing out, then, again, the very, very great importance of meat to a grocery operation.

I would refer also, Mr. Chairman, if you please, to Mr. Davies' statement, on page 55, report of proceedings. He mentions that he is not familiar with retailing; therefore, possibly his statement concerning that he, representing the American Meat Institute, would have no objection to the corporate chains being in the packinghouse business should possibly be considered on that basis, that he is not familiar with retailing. I am familiar with retailing, and I know the import and the possibilities that could develop if there is too much integration in the grocery business.

There was some talk about lamb, some questions raised this morning. One of the principal things that, in the opinion of many, is wrong with the lamb merchandising is that the buying of lamb and the merchandising of it is concentrated in a very few hands. I think statistics will prove that 2 or 3 of the largest packers buy and market upwards of 70 percent of all the lamb that is sold in our country. Therefore, that could, in some degree, account for the very, very bad market that exists for the lamb producers because of too great a concentration of buying and marketing.

I would like to refer, Mr. Chairman, if I could, also to Mr. Girard's statement of yesterday, in which he says that the wording should possibly be changed in H.R. 3798 to allow processing and breaking of carcasses by the corporate chains. The trend today is for those corporate chains not to do that in their retail unit where they have a cash register, but to do that now in a big central warehouse that may serve 100 or 200 stores. We would have no objection to eliminating the individual retail unit of a corporate chain for making his own hamburger or whatever, breaking the carcasses, but we do object to having them do that on a wholesale basis at a warehouse to serve 100 or more stores in a given area. We believe that that is definitely a packinghouse operation, as contrasted with doing it in a retail unit. We would like to object to Mr. Girard's position in that regard.

Mr. Chairman, if you please, I would like to read here from the Weekly Food Digest, published by the American Institute of Food



Distribution, a very authentic publication in our field, dated August 19, in which it is pointed out that four corporate chains in the city of Cleveland, operate in only 10 percent, numerically, of all the stores in that area, are now doing 60 percent of the total grocery volume in the corporate city of Cleveland. There is a very, very pertinent point which, without questions, points up the concentration that can develop with monopolies, which this could possibly border on, a monopoly which can develop in areas of that kind.

Mr. Chairman, I believe that concludes my statement, and I shall be very glad to answer any questions.

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

You said you represent about 100 packers in Texas?

Mr. CAMP. Yes, sir.

Mr. POAGE. Do any of them engage in the retail grocery business?

Mr. CAMP. Presently not, with the exception of one or two of them that have a little small retail store in their packinghouse.

Mr. POAGE. That is only a packinghouse products store; is that right?

Mr. CAMP. Yes, sir.

Mr. POAGE. None of them engages in the general retail grocery business?

Mr. CAMP. No, sir.

Mr. POAGE. Do you think it would be the opinion of your members that we should limit this prohibition to packinghouses of either \$30 or \$100 million?

Mr. CAMP. Mr. Chairman, I would like to suggest for the consideration of your committee that that \$30 million level is a good level. Today, a packer or a retail chain that is doing \$30 million a year, that is substantial business. Today, a good, active supermarket will do about \$1 million a year in volume. That conceivably, then, could be 30 supermarkets, or that could be a packinghouse doing \$15 million and having stores each doing \$1 million, for a total of \$30 million. That is a pretty good business.

Mr. POAGE. What would you say if we placed no limit and applied this prohibition to everybody who engages in interstate commerce?

Mr. CAMP. I would support that, Mr. Chairman. I feel that a retailer should be a retailer and a packer-processor should be a packer-processor.

Mr. POAGE. Yes. Well, of course, this Congress could not, if it wanted to, control the operation of a man who simply slaughters a beef on Saturday and sells it out locally, because there would be no interstate commerce involved. But you do think that it would be proper to apply the same rule to your members that we might apply to Mr. Davies' members?

Mr. CAMP. Yes, sir; I do.

Mr. POAGE. Are there any questions, Mr. Quie?

Mr. QUIE. I do not have any questions.

Mr. POAGE. Mr. Short?

Mr. SHORT. Getting back to this matter of packers, packinghouses having retail stores. What I am talking about is the packer offering to the employees of a particular plant their product at a retail price. There are some packinghouses that do this sort of thing, as I understand it, and perhaps some that do not. I am thinking only in terms



of selling to the employees of the plant. Would the Roosevelt and Anfuso bills restrict this sort of thing? If so, do you think that sort of thing should be restricted? Is there anything particularly wrong with that? I imagine that this would be a small item in relation to total volume.

Mr. CAMP. Mr. Short, that would be a very, very small volume, and I do not anticipate it would be restricted by either H.R. 3415 or H.R. 3798. I do not think it is contemplated. It is so small, and it is just among their own employees, and it is of very little significance.

Mr. SHORT. All right. You take the next step, and that is the retail outlet available to anyone. Would you say that that type of thing, just at the plant, as part of a sort of little side effort of the processing establishment, would you say that that should be restricted, or would you say that that would be interpreted as getting into the retail business for the packer?

Mr. CAMP. Mr. Short, as I referred to Chairman Poage's question here a while ago, I think that should be restricted. I think that is a retail operation, pure and simple, and should be restricted.

Mr. SHORT. This, of course, gets into the question of whether or not the packing establishments are going to get into the retail establishments for just their own products, or whether they are going to get into the retail business for selling all kinds of food products.

Mr. CAMP. I think a retail packer definitely should not be a retailer, one store or more than one store.

Mr. SHORT. You made the statement that had it not been for the consent decree, you would not have had this growth in the number of packing plants that we have today.

Mr. CAMP. Correct, sir.

Mr. SHORT. I cannot see quite how the consent decree would have had any effect. There was no restriction on the growth and development of the four major packers under the consent decree in the extent of their operations in the packing business.

Mr. CAMP. Mr. Short, when you go back to 1920, when that consent decree was invoked, as you remember, we had what was commonly known then as the beef trust, which was then Armour, Swift, Cudahy, and Wilson, and what was then Morris, but it was later absorbed by Armour. At that time they had the retail operations, they owned their own railroad cars; they had an interest in many of the terminal stockyards; they owned the public warehouses—they had very tight control over all the movement of meat throughout our country. That alone restricted the growth of the small fellow, because he could not get into the act, so to speak. When that consent decree was invoked, and the courts—

Mr. SHORT. But this growth in the number of smaller packing establishments did not immediately start with the adoption of the consent decree. This is something that has taken place in the last 15 or 20 years, to a much greater degree, is it not?

Mr. CAMP. I think to a greater degree in the last 15 or 20 years, but the growth started immediately following the enactment of that consent decree. Because then, as you see, the big major packers had to divest themselves of their retail stores which they controlled; they had to divest themselves of railroad facilities, the terminal stockyards; and they had to get out of—I believe they were in even milk and dairy



businesses back in those days, and they had to get out of that. So that opened up a whole new world for the small independent businessman.

Mr. SHORT. These retail establishments that you say the packers had before the consent decree was handed down, were they retail outlets for meat products only, or were they grocery stores?

Mr. CAMP. Mr. Short, I cannot answer that correctly. In hearing testimony there, I do not believe that was ever brought out, whether their retail operations before 1920 were just meats or dry groceries and meats. I can find out for you, though, on that, sir.

Mr. SHORT. It perhaps is not too important. If you can find it, it might be interesting information to have in the record.

Mr. CAMP. Yes, sir. I shall get that for you.

Mr. SHORT. Just one more thing that I would like to develop a little further. I believe you said that meat sales were some 22 percent of the average volume of the chains?

Mr. CAMP. Yes, sir. If we operated a store here that did \$1,000 a week, about \$220 of that would be red meats.

Mr. SHORT. What I was interested in trying to find out is the pattern. Is it fairly universal among the chains, or is there a wide differentiation between the chains in the amount of meat they sell, as compared to their total volume?

Mr. CAMP. Generally speaking, the chains, knowing the tremendous drawing power of red meats, do a little higher percent than 22. They, with their aggressive merchandising policies, of featured meats, as you will notice in your paper, whereas the smaller independent possibly has not recognized the pulling power of red meats.

Mr. SHORT. Can you conclude from what you are saying that the larger chains are apt to have a higher percentage of their total sales coming from meat?

Mr. CAMP. Yes, sir; possibly as high as 24 percent.

Mr. SHORT. Thank you.

Mr. POAGE. Mr. Reifel?

Mr. REIFEL. If the consent decree prohibition against the four big packers were taken off, as Mr. Avery's bill suggests, what, in your opinion, would develop in the way of retail merchandising?

Mr. CAMP. In my considered opinion and judgment, it would be disastrous for the independent packer of our country, sir, and also would work to the detriment of the independent retailer.

Mr. REIFEL. If this consent decree were lifted, would there be a blossoming out of retail stores among these large packers?

Mr. CAMP. A little earlier, I mentioned that I had been an expert witness for the Government in this case in Chicago, which, as you know, had just been recently upheld by the Supreme Court—last month. It was the considered opinion of those of us who were there for several weeks that the big packers would do two things: They would buy common stock in A. & P., Safeway, and Kroger, for instance, put their own man on the board of directors, who could, directly or indirectly, control their meat purchasing policies.

In addition to that they would buy local chains, maybe 20 or 30 stores in a given community, and would immediately have a captive market for their products, to the detriment of the independent packers who may be selling those stores.



Mr. REIFEL. I have one other question. In Mr. Avery's statement this morning, it was pointed out that 53 percent of these stores slaughter. What is the volume of it? Not only percentage of volume, but actual dollar volume of the slaughter business today, as compared to 1921.

Mr. CAMP. If I might read to you from the U.S. district court, Judge Julius Hoffman's opinion in ruling on the *Consent Decree* case, in which he says, on page 43, that today, the defendants—Swift, Armour, Wilson, and Cudahy—in combined totals own assets in excess of \$1 billion, over half the volume of the assets of the entire meat industry. They account for nearly half the Nation's meat sales. They slaughter nearly 40 percent of the commercially slaughtered livestock in our Nation.

And Judge Hoffman goes on to say:

Sometimes it is necessary to restrict competition in order to preserve it. The decree therefore operates as a restraint and as a fetter to preserve the balance of competitive power.

The Supreme Court, of course, upheld that judgment.

Mr. REIFEL. What date is that?

Mr. CAMP. That is December 12, 1960.

Mr. REIFEL. Thank you, sir.

Mr. POAGE. Any further questions?

(No response.)

Mr. POAGE. We are very obliged to you, Mr. Camp, and we appreciate your testimony.

We shall now hear from Mr. R. E. Cunningham, representative of the River Markets Group.

**STATEMENT OF R. E. CUNNINGHAM, REPRESENTATIVE, RIVER MARKETS GROUP, OMAHA, NEBR.; ACCOMPANIED BY L. W. HARDING, SIOUX FALLS, S. DAK.**

Mr. CUNNINGHAM. Mr. Chairman, I thank you. I have with me and would like to introduce Mr. L. W. Harding of the River Markets Group, Sioux Falls, S. Dak.

Mr. REIFEL. May I say that I would like to welcome to the Committee on Agriculture, of which I am a member, although I am not a member of this subcommittee, Les Harding, who was a classmate of mine more years ago than we care to talk about. Les is regarded as one of our outstanding men in the livestock industry in South Dakota.

Mr. POAGE. And he went down the river?

Mr. REIFEL. Yes; but I'm happy to report he never sells us down the river.

Mr. HOEVEN. May I add that Mr. Robert Cunningham of Omaha is the son of Don Cunningham of Sioux City, who recently retired as the secretary of the Sioux City Livestock Exchange. Robert Cunningham is well qualified to talk for the livestock industry of the Midwest.

Mr. POAGE. We are glad to have both of you with us.

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

My name is Bob Cunningham, 718 Livestock Exchange Building, Omaha, Nebr. I am immediate past 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 Stockyards, St. Louis, Ill.; Kansas City, Mo.; St. Joseph, Mo.; Omaha, Nebr.; Sioux City, Iowa; Sioux Falls, S. Dak.; and Denver, Colo.

During 1960 our 7 river markets received and sold 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 of livestock.

The River Markets Group has repeatedly appeared before committees of the Congress and expressed great concern with growing concentrations and combines in the food industry which threaten small business of the United States and, as a matter of fact, our entire free enterprise system. During the past decade we have witnessed an unprecedented growth and concentration of retail food merchandisers in the form of powerful and influential chainstores. The strength of these combines is being felt by independent retailers, food processors, livestock markets, livestock feeders, and producers, and every American consumer of food and food products.

These economic giants have not necessarily brought greater efficiency into their field but they have had a tremendous impact in wielding undeniable power over all other economic segments of the food and processing industries. Their buying practices are following a completely altered program from those formerly in effect by American retailers and they are rapidly achieving—

1. A decentralization of the meatpacking industry.
2. A decentralization of livestock marketing.
3. The elimination of competition in the buying of livestock and dressed meat products.
4. The elimination of the American family farm and individual livestock feeder.

Eastern dressed meat prices were historically established through a system of competitive bidding among all meat retailers in the branch houses of major packing interests on the eastern seaboard, and in the large city markets in New York, Philadelphia, Baltimore, Washington, and Chicago. True values were thus established for dressed meat and meat products as supply and demand factors were allowed to prevail in a free and uncontrolled market where competition dictated selling prices. With the growing concentration of buying power in the hands of fewer and fewer concerns, these large chains recognized that it would be to their immediate advantage to bypass the competitive branch house markets for dressed meats and to acquire their supplies at widely distant points throughout the United States, thereby restricting and eliminating competition as much as possible.

Such buying techniques were immediately recognizable as the old program of divide and conquer and were extremely effective in bringing about the rapid growth of large numbers of independent meatpackers throughout the Nation. The price-establishing power formerly exerted through competitive Eastern branch house outlets for dressed meats was thus effectively broken. Powerful buying pressures were now directed against small independent meatpackers and it became necessary for these organizations and the major meatpacking interests as well to combat these pressures by inaugurating



similar programs of acquiring their livestock supplies in limited competition.

Realizing that the surest way to acquire livestock supplies at the lowest possible price was outside of the competitive terminal markets, meatpackers directed their activities toward procurement of livestock on a direct basis from the producer and we have seen the resultant decline in receipts at terminal markets.

This decentralization of marketing has had a most adverse effect upon the ability of the American livestock producer to obtain full market values for his product. During the past 10 years the records will show that the livestock feeder's proportionate share of the consumer's food dollar has declined nearly \$4.5 billion compared with the previous 10-year period. Bear in mind that this decline is in the face of an inflationary economy which saw consumers' disposable income mounting each year.

The River Markets Group is greatly concerned with the fact that 2.5 million people have left the American family farms of our Nation during the past 10 years. If this breakdown in the Nation's marketing system is allowed to continue, we face the grim prospect of the rapid elimination of the family farm and the individual livestock feeder from the national scene. It becomes increasingly obvious that the tremendous economic pressures exerted by huge combines are more than individual enterprise can withstand.

During the past 5 years, three of the major packing interests of the United States have attempted to secure a modification of the packers consent decree of 1920, under the terms of which these organizations were ordered to confine their activities to the field of processing meats and denied the privilege of engaging in the field of retailing food and food products. The U.S. Supreme Court approved a motion of the U.S. Department of Justice to affirm the decision of the Federal district court in Chicago and again denied modification of this decree.

We believe that it is eminently unfair for Government to allow 18 of the Nation's largest retail chains to own and operate their own packing plants and even feed their own supplies of livestock while denying equal opportunity to all to engage in a comparable series of processing and retailing operations. Any Government decree which imposes such restrictions on a selected few in one segment of the food merchandising field, yet is not applied uniformly throughout the industry, fails in its obligation to be fair, just, and nondiscriminatory.

We have long contended that if the original precept of Government which prompted the enactment of the packers consent decree is still recognized as sound; namely, the prevention of any unfair and collusive practices which operate to restrain trade, manipulate or control prices or create monopolies, then it appears that the provisions of the decree should either be removed completely or broadened to apply to the entire industry. Obviously, the recent ruling of the Supreme Court would indicate that Government is opposed to systems of integration in which undue price controls may be exerted through collusive trade practices described above.

So long as large chains continue to be permitted to engage in the field of livestock feeding, processing, and retailing, little criticism can be leveled at practices of the several packers, restricted by the consent decree from engaging in retailing activities, who are now exerting the



only price manipulation weapon they are allowed; namely, the acquisition of an increasing volume of cattle, hogs, and sheep away from public terminals, direct and out of competition, and feeding large numbers of livestock as well.

As a matter of fact, within the past year one of the major packing interests of the United States flatly stated that within 5 years their organization would no longer be going into the open competitive market to bid on or buy any fat cattle. All such projects are diametrically opposed to the best interests of the American farmer, the livestock producer, and the feeder.

Let it here be a matter of record that the major packers are doing no more than attempting to protect their position in a highly competitive field in which the large chain retailers are increasingly active in direct-buying activities and are also feeding their own supplies of livestock in an effort to control prices and bring increasing pressures on those who must confine their activities to the processing of meat. Some packers and retailers offer the excuse for their feeding projects that it gives them a more constant supply of cattle that are finished to the proper grade. Far more realistic than this, however, are the results of a survey conducted among western meatpackers by the publication *Western Meat Industry* and published in September 1959, volume 5, No. 9, in which one of the recurring reasons given by packers for conducting extensive cattle feeding operations was "to limit competition with other packers for fat cattle."

This whole process had its counterpart a thousand years ago when a law was in effect in Constantinople, designed to preserve for the farmers the fullest competition on that market. The regulation is quoted thus:

The butchers shall not go out to meet the drovers, who bring in their flocks for sale, in order that they may buy the meat more cheaply and that due profit fail to those who slaughter the sheep and not to the drovers. All who are caught disobeying these ordinances shall be beaten, shorn, and banished.

In England they called such direct buying "forestalling the market" and made it an offense punishable by law. Whatever the term used, it simply meant evading competition in the marketplace.

The disastrous effect which backward integration is presently having on American agriculture through a complete breakdown of the Nation's system of livestock marketing, food processing, and merchandising could be terminated by an expansion of the provisions of the consent decree. This would require that specific fields of endeavor be reserved for specific groups and that:

1. Meatpacking should be reserved for those who have no food retailing or livestock feeding interests.

2. Food retailing should be reserved for those who have no livestock processing and livestock feeding interests.

3. Livestock feeding should be reserved for those who have no livestock processing or food retailing interests.

4. Livestock marketing should be reserved for the selling of livestock at a specified number of federally licensed and supervised markets where full competitive buying power could be insured.

Under the terms of such orders, the packers must secure their supplies of livestock from legitimate livestock feeders in open and competitive markets. Retailers must secure their supplies of processed



meats only from legitimate meatpackers. The consumer must secure his meat only from legitimate meat retailers. In no case would any segment of the livestock or meat industry be in a position to exert undue economic pressures on any other segment of same. This seems the only practical way to insure active competition throughout the industry and prevent unfair, collusive, and monopolistic acts or flagrant price manipulation schemes on the part of any group or groups.

H.R. 3798, as introduced in the House of Representatives by Mr. Roosevelt, of California, would make generally effective the principles of the packers consent decree, restricting the opportunity of all packers to engage in the retail business and would also prevent all retailers from engaging in the packing business. The principles of this bill are extremely sound and we endorse them heartily. H.R. 3415, as introduced in the House of Representatives by Mr. Anfuso, of New York, would make it unlawful for livestock to be sold in commerce for the purpose of slaughter except at a public stockyards, as we have recommended earlier in this presentation. This would assure competition returning to the marketplace and eliminate bypassing and forestalling of the market in an effort to beat down price by acquisition of direct supplies of livestock.

One of the continuing problems of Government has been a search for some program that might aid and abet the unfortunate position of American agriculture. While there may be some who would feel that legislating where livestock can be bought or sold might be in restraint of trade, we cite an interesting test case which is on the records in this regard. The U.S. Supreme Court in 1918, as noted in 246 U.S. 231, was called upon for a decision reviewing the results of litigation between the Chicago Board of Trade and some members of the board who had started a practice of trading in grain off the market. The board passed a rule prohibiting this and the affected members started a court action alleging the rule was in restraint of trade. The district court agreed with them and the case was appealed to the U.S. Supreme Court. The Supreme Court reversed the district court and found the rule reasonable and legal, stating:

Every agreement concerning trade, every regulation of trade restrains; to bind, to restrain is of their very essence. A true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as must suppress or even destroy competition. The evidence makes it clear that the rule was a reasonable regulation of business consistent with the antitrust law.

Obviously, then, some laws insuring and preserving competition are necessary and legislation such as Mr. Anfuso has proposed is clearly within the confines of the law.

If this committee might see fit to report out favorably H.R. 3798 and H.R. 3415, only one additional amendment would be necessary to insure appropriate action in the protection of agriculture from the disastrous effects of backward integration and that would be an amendment requiring that livestock feeding should be reserved for those who have no livestock processing or food retailing interests, thereby preventing either packers or chainstores from being able to feed livestock or have livestock fed for their account by commercial or contract feeders in an effort to manipulate price.

Under the provisions of title II, section 202(e) of the Packers and Stockyards Act of 1921, the Department of Agriculture presently has



power and authority to correct these examples of flagrant price manipulation referred to earlier. Section 202(e) clearly states:

It shall be unlawful for any packer to engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in any article in commerce, or of restraining commerce.

History is replete with a record of just such malpractices as have been outlined for you today, yet for some 20 years the Department of Agriculture has shown no disposition to investigate and terminate these activities. The Department of Justice has stated to our representatives that while they recognize the evils of backward integration, it is not of itself illegal at the present time. Only in instances where it can be proven that retail chains or meatpackers have conspired among themselves to fix prices on certain commodities in certain areas can the Department of Justice move against them.

We feel it is incumbent upon the Congress to amend the Packers and Stockyards Act by the inclusion of the legislation embodied in H.R. 3798 and H.R. 3415 thereby spelling out in definitive terms the very processes that are considered illegal. We are sure that this will direct the attention of the Department of Agriculture to their undeniable responsibility for active and effective enforcement of these provisions of the act.

The river markets group, therefore, urges the favorable consideration of this subcommittee to H.R. 3798 and H.R. 3415 in order that true and fair market values may be reflected for livestock and dressed meats as a result of the unrestricted operation of the forces of supply and demand under which the free enterprise system may be preserved for the Nation's food retailers, meatpackers, and the American family farm.

Thank you.

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

The bells have rung for a quorum. I believe we can be back in 20 minutes, when we shall proceed.

The committee will recess for 20 minutes.

(A short recess was taken.)

Mr. POAGE. The subcommittee will be in order.

Mr. Cunningham, we will be glad to have you resume.

Mr. Reifel.

Mr. REIFEL. The terminal markets, as has been indicated by the testimony this morning and this afternoon, gets about 30 percent of the business and the direct buying gets 70 percent. What effect do the purchasers through direct buying have on the price that is set in the terminal market?

Mr. CUNNINGHAM. Well, sir, this ties in somewhat with the question which Mrs. May asked, I believe, yesterday, and I believe it is significant.

The figure that was cited is, approximately, correct, let us say in hog buying in our Omaha market. We get about 30 percent of the total slaughter supply in the Omaha area as salable hogs. Unfortunately, the bulk of the good hogs, the real cream, No. 1 hogs we see very few of in our market. Most of them are bought out in the country and never even get into us. So it becomes incumbent upon us to set the price in Omaha with, say, a No. 2 hog, and that is the price



that the fellow out in the outstate area, in the interior of Iowa, for example, more or less is using as the base price on which to buy the higher quality hogs on the direct basis.

Mr. POAGE. What would be the price if those higher quality hogs came into your market?

Mr. CUNNINGHAM. We have a terrific demand for them in Omaha. I would have to say that this is very true. We have a great business in Omaha by order buyer as who buys those hogs of selected quality to go to the west coast and to slaughter out there. They like a leaner, more meat-type hog, that is, the western meatpackers do. And, consistently, this is true, for example, that the few good hogs that we get in there will sell 25 to 75 cents and up to \$1 a hundred over the packers' high bid to the order buyer trade.

Mr. POAGE. I think that it would be well if you could convince Mr. Casper of that.

Mr. CUNNINGHAM. I am sure that we would like to.

Mr. POAGE. If you could, he would be in there.

Mr. CUNNINGHAM. We will surely try to do that.

Mr. REIFEL. What are your views in this regard, Mr. Harding?

Mr. HARDING. I think that the same principle as Mr. Cunningham has brought out, certainly, is true in our market. We have a tremendous direct buying program in our area, which is a problem with us. They can certainly try to cream out the top of the hogs. Our percentage of these goods, what we call No. 1 meat-type hogs, is very limited, with the result that our order buyers that come in there looking for these good hogs will pay more for them to get them. And we have the same situation of 25, 50 cents, as much as 75 cents spread on these good No. 1 hogs, but when we do not have a sufficient supply we cannot get those gentlemen into the business so that the price ratio is based on the No. 2 or No. 3 hogs, which, in turn, goes out as the top of the market, which is used in the countryside to secure the better hogs. So we feel that if we had these better hogs coming in the general price level could be better than it is now.

So the situation is about the same in Sioux Falls as it would be in any of the rest of the central markets where you have this direct buying program.

Mr. POAGE. Well now, do I understand that the man out in western Iowa somewhere is willing to sell those better hogs at the same price that he knows he would get for No. 2 hogs if he shipped them to Sioux City or Omaha?

Mr. CUNNINGHAM. For the most part he does not know what those No. 1 hogs might bring in Omaha, he is going on the quotation of the Omaha top. He assumes that those are for No. 1 hogs in our market, you see. For the most part, the rank-and-file prices paid in the country are based on the Omaha market top or whatever the packer top is that day. He assumes that his hogs of No. 1 quality would get that in the Omaha market, when the fact is that they might bring 50 to 75 cents more for that quality of hog, but then he just sees the market quotation, and he knows what the direct buyer out there will give him. He assumes that that is all he should get for that type of stock.

Mr. POAGE. He does not get any more by selling direct for the No. 2 than he would get by sending them into market?



Mr. CUNNINGHAM. I would assume that he would, probably, get less for the No. 2.

Mr. POAGE. What makes the man sell them?

Mr. CUNNINGHAM. Well, sir, one of the big answers to that, Mr. Chairman, is convenience.

Mr. POAGE. Is what?

Mr. CUNNINGHAM. Convenience. I hate to say this, but this is true. In other words, probably the reason the seller will sell in the local market is that he figures, "well I have only got 6 or 8 or 10 or 15 hogs, and I hate to make arrangements for loading them and trucking them 80 miles to Omaha," as Mr. Casper said this morning. He can call up his local buyer and find out what those hogs would bring that day. Maybe he and mama want to go into town anyway, and pick up some groceries or something. And the easy thing to do is to load those hogs up, take them into town, sell them and get the check, and do what he wants to do and go on home.

He thinks to himself, "Well, even though," like Mr. Casper has said in the overall it would be a lot better if all of those hogs would go in and they would not be able to have 70 percent on the direct market to use as a club on our prices, yet the average fellow—we are all alike—will think, "What I do really is not going to make too much difference. I agree in principle it is wrong, but it is just me." But when you add all of those fellows together that have got the same attitude you have a pretty high percentage sold off the market.

Mr. POAGE. There is a pretty good reason for selling the hogs on the farm. I do not grow hogs, but we do grow cattle. We know, of course, that somebody will pick them up at the pasture, and we can take a little less than we would get if we had to haul them to Fort Worth. We know that.

Mr. CUNNINGHAM. Yes, sir.

Mr. POAGE. We know that we will get less money at home. We pay for that convenience. That is what most small operators will do.

Mr. CUNNINGHAM. I think that Mr. Casper brought that out this morning. He figured it cost about 85 cents a hundred to load the hogs and to pay the transportation and the marketing charges. If he shipped them from, I think, he used the town of Winterset, Iowa, from there into Omaha. And this he figured was about as good as he could do as selling them in Winterset, that is, he realized that those hogs in Omaha today would have a very definite influence on the price tomorrow and that the thing is a never-ending cycle. He is, ultimately, the loser, but on the basis of the way the thing is going, he cannot be the only fellow and stand out as the one crusader, so this is the reason he does it.

Mr. POAGE. So what you are driving at is that there is a proper differential between the Omaha market and the Winterset market of say 85 cents a hundred—I believe that was the figure per hundred—that is the differential; is it not?

Mr. CUNNINGHAM. It would be about that per hundred. What I am talking about would include all of the charges. This I do not know, but I would assume that it is reasonably correct, that figure.

Mr. POAGE. That is about the differential. The farmer does not lose anything by taking that much less at home, but he does lose by the whole transaction of denying to the terminal market the better hog;



therefore, he establishes the general price level at a lower benchmark from which everybody makes their calculations, does he not?

Mr. CUNNINGHAM. That is exactly correct. In other words, maybe you could describe it this way: He is a party to seeing that the slow horse is winning the race, you see, because he is establishing the price of the race winner with an inferior quality of horse, to use that illustration.

Mr. POAGE. Well, I do not see that he is doing much of anything different from what all farmers do, insofar as that is concerned, because when we grow 17 million bales of cotton we know that we will get a lower price; and anytime we grow 1,400 million bushels of wheat, we know, of course, that there will be a lower price, but you cannot blame the farmer for that. It is not to his advantage, because everybody gets hurt. I think we have that problem.

Mr. CUNNINGHAM. Yes, sir. This is why part of my statement, in part of it I proposed what I think would be a very beneficial part of Mr. Anfuso's bill which I realize has been withdrawn as of now, but nonetheless, I still subscribe to the original precept there.

Mr. POAGE. Which has been withdrawn.

Mr. CUNNINGHAM. Yes, I am not speaking in terms of terminal markets alone, but I think I made it quite clear that I do believe in the principle of having livestock sold in competition, in good, strong competitive markets be they auction or terminal markets or whatever they may be, but a market when a man went in there he could go in with the knowledge that that market was properly policed and supervised and had good trade practices in existence and had many buyers who would look on and bid and buy his livestock at a fair price to him. That is what I had in mind.

Mr. POAGE. Of course, you heard the testimony here that were enough packers seeking to buy direct today so that it created competition among the packers themselves to buy a given lot of hogs, for example, and that there was competition among the country buyers.

I also remember that somebody testified that if you sell this year to Swift and sell to Swift next year that nobody else will bid on your hogs or your livestock the next year. You, of course, belong to Swift from then on, or whoever it was you were selling to.

What is your observation on that?

Mr. CUNNINGHAM. Mr. Chairman, I cannot concur with that statement. I feel that far and away the higher percent of livestock that is sold direct is not viewed by any multiplicity of buyers but too often goes into the hands of one buyer.

Mr. POAGE. Well, are there not other buyers available? I can remember very distinctly in west Texas that my daddy sold steers every year. Sometimes we did not have but one buyer come, but we sold to the same man and established good relationship with him. I do not think there was ever a time during those years but that we could have had other buyers if we had thought that they would bid higher. They did come to other places.

Mr. CUNNINGHAM. If your relationship with that one buyer was good and you were satisfied with that arrangement maybe he just gave you every penny you ought to have for the livestock, but I know myself I always like to have somebody else take a look, too. You can never tell until somebody else bids.



Mr. POAGE. I agree with you. What I am saying is that it has been a good many years ago, the time I am talking about, but there was competition among the buyers who came and tried to buy those steers. If you did not like what one man offered you, you did not sell to him. You were not left out there, where you could not sell to somebody else because there was not any such arrangement among them that if I had been selling to Swift 2 years in succession nobody else would bid on my stock—there was not any such arrangement as that in those days that I know about among the buyers. Understand, I am not talking about that particular company, but about the individuals who were buying.

Mr. CUNNINGHAM. Yes.

Mr. POAGE. Do you think that there is today competition in the hog business where if I do not like what Swift has offered me somebody else will come in and bid?

Mr. CUNNINGHAM. It could very well be.

Mr. POAGE. Or do you agree with the statement that was made that if Swift purchased my hogs 2 years in succession, Hormel will not look at them?

Mr. CUNNINGHAM. If you want to be sure that everybody looks at your hogs you would be better off bringing them into Omaha or somewhere where we have all of the buyers who will look at them. The chances are that in some particular territory maybe there will not even be a Hormel or Morrell buyer in the area, and the only buyer who happens to be there might be some other packer representative. If you wanted to go out and ask one of those men to come a long distance to your farm he might come—I do not say that he would not—but it is quite unlikely that he would, sir.

Mr. POAGE. What do you say about that?

Mr. HARDING. I was just sitting here thinking about the situation if you will take a practical look at it. You have the packer buyers located out in the country, let us say. It is rather unlikely that you will find a town or a community that has more than one direct buyer in it. You will go to the next town 30 miles away and you may find another buyer sitting there, but you do not find that too frequently. It is occasionally that way. But, generally speaking, they do not overlap and have two buying stations at a direct point in any one small town in our area.

Mr. POAGE. What about these others who get these good hogs that go to the west coast? What about those who buy them for the west coast?

Mr. HARDING. They are on our market as order buyers.

Mr. POAGE. They are on your market? You said there were not any good hogs coming into the market; that they had to go out and get them to ship to the west coast.

Mr. HARDING. Yes, sir; they are doing that.

Mr. POAGE. They are not concerned about whom they buy from—they are buying them from anybody—they get what they want, do they not?

Mr. HARDING. How are they going to find them? There is the cost of locating them, and that is their problem. Someone has to pay for that. That is the difficulty with the direct buying situation.



Mr. POAGE. What it comes to is that they are not doing it. There is competition on the market for any commodity you grow on the farm. I think that is obviously true.

Mr. HARDING. Obviously, without the public market establishing that price the man on the farm would be in very dire straits, so far as knowing what his livestock should be worth.

Mr. POAGE. Yes, I think there is no question about that.

Mr. HARDING. They continually use the central market as the point for establishing the rates, because it is competitively established and without that then where would you be with your ability to dicker with these individual buyers where you might have one fellow coming to your farm?

Mr. HARVEY. I did not get in at the beginning of the testimony. As I listened to the colloquy between you and our chairman, I was reminded, also, that Mr. Baker appeared before us yesterday and presented his testimony. He said that he did not think that direct buying was particularly at this point, at the stage where it was too detrimental to the central markets. And he is supposed to be representing the central markets.

Mr. CUNNINGHAM. Well, I might say in reply, if you desire my thinking on that, sir, that our particular area in the market that we represent—I am not acquainted with whether or not Mr. Baker did make this statement—however, we are quite concerned with the effect of direct buying in our area. And I believe that to go back to that figure again of 70 percent of the packers receipts were brought direct versus 30 percent in the central markets, that we have every right to be concerned about it, if that ratio be true. And we do find it true, particularly in hogs in the Omaha market area.

Mr. HARVEY. Are most of the hogs that are shipped there, that come into your Omaha market, transshipped or are they processed there?

Mr. CUNNINGHAM. The salable hog supply that moves into Omaha during a year's period of time will break down about like this: 67 percent of those hogs will be killed in Omaha and the balance or some 33 percent will ship off for kill points in different parts of the United States. In other words, the order buyers in Omaha will buy about one-third of all of the salable hogs and move them out of Omaha each year.

Mr. HARVEY. What about the relationship of your central market to the feeder cattle business—do you still handle in Omaha a good deal of business in feeder cattle, and, if so, has that affected your business?

Mr. CUNNINGHAM. The feeder cattle business that we do in the central market is not as large as it has been in years past. We still have a sizable feeder cattle business; however, there are many fellows in Illinois, Indiana, and Iowa who now will go out and, if possible, buy their cattle in the West on the ranches.

Mr. HARVEY. In other words, the individual feeder becomes a direct buyer in his own behalf?

Mr. CUNNINGHAM. He goes out and buys certain cattle from herds that maybe he has purchased from a year or two before and has had good luck feeding to fat.

Mr. HARVEY. That is not a matter you are complaining about?

Mr. CUNNINGHAM. No, sir.



Mr. HARVEY. Thank you.

Mr. SHORT. This may be slightly apart from the consideration here, although I think it certainly has a relationship to the basic problem we are concerned with. Do you care to make any comment about what you think the possibilities are of the holding action such as Mr. Casper spoke of?

Mr. CUNNINGHAM. The organization that Mr. Casper represented here today did have in mind and had, I think, two or three test holding actions in our area. Some people thought it was possibly successful; some did not think it was.

In my position as a market man, we neither subscribe to nor deny them the opportunity to attempt it. That is, if it could be useful to them. I believe I would prefer not to express an opinion on that, Mr. Short, because I did not see any real visible effect for or against it in our marketing there in Omaha during those three test periods.

Mr. SHORT. Would it be a proper conclusion to come to that unless you had some other restrictions on marketing, along the line of some restriction on the market to which an individual could go with his livestock, is not this thing sort of self-defeating? For instance, it does not take very long to get livestock from out in our part of the country to Omaha, and if the people in the Omaha area had a withholding action, livestock would flow in from outside the market area. And is that not bound to follow unless you have some further restrictions to prevent sellers from trying to take advantage of this local short supply?

Mr. CUNNINGHAM. I think that through the length and breadth of our land whenever there is an opportunity for someone to capitalize on someone else's action, probably, there will be people who will move livestock, because they thought that it might be in short supply someplace and that the price would be good there and they would decide that they would want to come in.

Mr. SHORT. Unless you bring about a withholding action almost on a nationwide basis, the effect, it would seem to me, might be exactly the contrary of what is hoped for.

Mr. CUNNINGHAM. It could very well be.

Mr. SHORT. And with people withholding cattle and hogs, particularly, fed cattle and hogs from the Omaha market, they are flirting with disaster to some degree, because if they hold them too long they are going to get overweight and overfat and they will have to take less money for them when they do sell them, is that not true?

Mr. CUNNINGHAM. That is very true.

Mr. SHORT. Thank you. That is all.

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

Mr. HARDING. Thank you.

Mr. CUNNINGHAM. Thank you.

(The following letter was later submitted by Mr. Cunningham:)

THE OMAHA LIVE STOCK EXCHANGE,  
Omaha, Nebr., August 31, 1961.

HON. W. R. POAGE,  
Chairman, Subcommittee on Livestock and Feed Grains,  
House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: My sincere thanks to you and the members of the Subcommittee on Livestock and Feed Grains for affording me the opportunity of appearing in support of the Roosevelt bill, in hearings which you conducted last



week. Your kindness and consideration was genuinely appreciated and I hope the principles embodied in this legislation may merit the affirmative recommendation of your committee.

With your permission I should like to make one additional comment on a question that was repeatedly referred to by committee members; namely, referring to the establishment of some arbitrary figure such as \$30 or \$100 million or gross sales as the yardstick of measure which would determine organizations which should be prohibited from engaging in both retailing and meatpacking activities. I think the whole matter resolves itself into one of principle and should be considered on that basis.

The principle to be applied is that it must be recognized that it is eminently unsound to allow packers to engage in retailing activities and by the same token it is equally as unsound to allow retailers to engage in meatpacking activities, or for that matter to engage in any course of business through which they might manipulate prices, such as feeding of slaughter livestock for their own account. The figure of dollar volume is relatively unimportant. It's a good deal like the minister in our church who impresses upon us that he does not condone sin of any kind or in any degree. He doesn't say that the members of the congregation can sin \$100 or \$1,000 or \$10,000 worth, but that in principle we should all do right at all times and he will not countenance sin in any amount or in any degree whatever.

The amendment offered to this bill by Mr. Clarence Girard of the Department of Agriculture, which would allow retailers to continue such activities as preparing meats or meat products, such as hamburger or fabricating beef cuts from carcasses, would clarify that aspect of the situation, just as it would clarify allowing dairies to continue retail milk routes which have already been established and which certainly have no harmful effects.

Again thanking you for the privilege of presenting the views of the River Markets Group to your committee and with my very best personal regards, I remain,

Yours sincerely,

R. E. CUNNINGHAM, *Secretary.*

Mr. POAGE. Our next witness is Mr. Ray S. Donaldson, representing the National Independent Meat Packers Association. We will be glad to hear you now.

#### STATEMENT OF RAY S. DONALDSON, REPRESENTING NATIONAL INDEPENDENT MEAT PACKERS ASSOCIATION, WASHINGTON, D.C.

Mr. DONALDSON. Mr. Chairman and members of the committee, my name is Ray S. Donaldson. I am a member of the Washington law firm of Weaver and Glassie.

My appearance here today is for the purpose of presenting a statement on behalf of the National Independent Meat Packers Association. Because the dates for this hearing conflict with an important regional meeting of the National Independent Meat Packers Association, scheduled more than a year ago, both the executive secretary of the association, John A. Killick, and the general counsel, Edwin H. Pewett, one of my partners, were obligated to attend in their official capacities as officers of the association.

In the circumstances, I am appearing because the association desires this committee to know that it supports the principles of H.R. 3798.

The National Independent Meat Packers Association consists of approximately 400 independent meat packing plants and 200 associated firms throughout the United States. Its member companies employ from a few persons to several hundred and more.

The board of directors of the National Independent Meat Packers Association were presented with a resolution by the legislative com-



mittee of the association with reference to H.R. 3798 during its meeting in Chicago on April 12, 1961. This resolution, reading as follows, was unanimously adopted by the NIMPA board:

#### RESOLUTION

Whereas evidence has been produced before certain committees of the Congress of the United States tending to show inherent dangers to our national economy in the continuing concentration of economic power in the hands of certain large corporations; and

Whereas testimony before these same committees has indicated a possible abuse of such economic power to the detriment of the small independent business community; and

Whereas the courts of the United States have upheld the principle that the independent business community should be given protection from further expansion of this economic power, such as was evidenced by the recent decision of a Federal judge with respect to denying relief from the consent decree of 1920;

Whereas there may still be a question as to where the line of demarcation should properly be drawn to distinguish between what might justly be regarded as independent business and that which might be regarded as a monopolistic threat with its inherent dangers to our economy because of size: Therefore, be it

*Resolved*, That the National Independent Meat Packers Association expresses its approval of the principle which underlies the language of H.R. 3798 in that its obvious intent is to provide, by legislation, additional safeguards against the further deterioration of the place of independent business in the Nation's economy.

The resolution, of course, speaks for itself. It emphasizes, in particular, the concern of the NIMPA board over further concentration of economic power with the attendant possible further erosion and deterioration of the place of independent business in our economy.

The NIMPA board hardly felt qualified to suggest a ceiling at which the provisions of the measure would become operative. It preferred to leave this aspect to the wisdom of the committee, believing that the committee after it had listened to the testimony produced during these hearings would be better qualified to define accurately the proper line of demarcation.

The NIMPA board was reasonably certain that it was not the intention of the sponsors of H.R. 3798 to inflict hardship on meatpacker operations which constitute no monopolistic threat. Among the members of the association are a number of small meatpackers who operate retail outlets for certain of their products locally or in a relatively small area. But the very nature of these operations makes it apparent that they could in no way grow to a size which could even remotely be considered as monopolistic.

The NIMPA board did feel certain, however, that it was the intention of the sponsors of this legislation to establish safeguards that would tend to protect the independent meatpacking firms of our Nation from any further concentration of economic power which could threaten their very survival.

It was, therefore, the wish of the NIMPA board to express its sympathy for, and support of, the principles outlined in H.R. 3798 and to encourage passage of legislation to preclude any further concentration of monopolistic economic powers.

Evidence presented to subcommittee No. 5 of the House Committee on Small Business rather conclusively established the fact that existing concentration of economic power in the hands of a few large firms has led to a serious deterioration of the economic status of many in-



dependent meatpacking firms. This, NIMPA believes, is contrary both to the public interest and to our national security. Accordingly, it is apparent that the principles announced in H.R. 3798 are needed and it seems likely that they would be effective to prevent further undesirable concentration of economic power in this area.

Thank you very much for your attention.

Mr. POAGE. Mr. Donaldson, I do not want to be unfair, but I was rather pleased when Mr. Camp said he wanted about the same rules for his members that he wanted applied to Mr. Davies' members. Mr. Davies' members are big packers, but as I see it you want to apply a rule to Mr. Davies' members and apply nothing to your own members. It that not in substance what you are suggesting, that we make this applicable to everybody who belongs to his organization and that we exempt everybody who belongs to your organization—is that not about the size of it?

Mr. DONALDSON. No, sir; I do not believe that is a fair observation.

The belief of the executive board of NIMPA—and I might state here that I do not pose as an expert in this area because I am not—but I think that their thinking was that there comes a certain place, and where that place is we do not know, where the status of the independent small meatpacker becomes in jeopardy. At this point there is the question of survival short of that then there seems to be no good reason for attempting to regulate. Regulations, certainly, should be limited to those instances to prevent monopoly or to prevent encroachment on the small business community.

I think that was the theory of the NIMPA board when this resolution was approved.

Mr. POAGE. You suggested that this was a principle you were interested in having applied. Principle I do not believe has any dollar sign on it. It applies to the operation. That is the only thing that troubles me about it. I know that we have to compromise with practicality.

You have 400 members. How many of them are going to be hurt if we keep them out of the retail business?

Mr. DONALDSON. I am not qualified to give you a specific figure—not a sizable number, I would not suppose. There are some members. And they pose no monopolistic effect and it would appear not unfair they should be able to engage locally or in a relatively small area.

Mr. POAGE. If they are local packers engaging in local retail business, they are not in interstate commerce, are they?

Mr. DONALDSON. In certain areas they might be, yes.

Mr. POAGE. Yes, in Texarkana they can engage in interstate commerce.

Mr. DONALDSON. And in certain areas in Georgia. I am not sure where else it could be. Those might be the instances the board had in mind when it took the position it did.

Mr. POAGE. Frankly, it seems to me that the best discussion of principle we have had was to the effect that a man who is packing meat ought not to retail it. And that the man who is producing ought not pack it. And the man who is retailing ought not to pack or produce it.

I do not know how far I want to go along that line, but it seems to me—I have forgotten who suggested it, but whoever did suggest it, talked about principle, they did not talk about whose members they



had—they did not talk about size—but said “this is the principle we believe in.” I am not saying that I believe in that principle. I just cannot see where principle is involved in your argument. It seems to me your argument is based entirely upon the fact that you apply one principle to one, and another principle to another.

Mr. DONALDSON. Might I answer that by this, insofar as the income tax is concerned, Mr. Chairman, do not apply one scale to a given range and another scale to another range?

Mr. POAGE. That is true. With regard to the income tax we have a graduation—whether it is sound or not. You can get a good argument on that, too. But we do have the rule that he contributes the largest share who makes the most, without an undue burden—he contributes more than the one who makes a very small amount. And we have exemptions in income taxes, although very small in dollars, but we do have exemptions. We do say that if you are making less than \$600 that the tax would put such a hardship on you that we will not take anything from you. If you make a great deal more we take a great deal more, because we say it will not lower your standard of living as it would if we took that percentage from the man who makes a lesser amount. It assumes there is a principle involved there.

Mr. DONALDSON. I would hope that there was some principle involved here. Where the line of demarcation is we do not profess to know. Between what is an independent small businessman or independent meatpacker and where he becomes so large and so concentrated as to constitute, not at the moment but to constitute in the foreseeable future, perhaps, a serious threat through monopoly, and a threat to the survival of the independent meatpacker.

Mr. POAGE. The difference between a man who is selling \$10 million a year and a man who is selling \$100 million a year is that the man who sells \$100 million a year takes away the business of more retail people than the man who sells \$10 million a year. Does not the \$10-million-a-year-man push out some old family, a couple that is running the corner grocery store—does not he push somebody out? He may not push out but one, but is the principle any better for him to do that than to push out many more, for Swift & Co. to get in the business and kick out 1,000 of them? Is the principle different?

Mr. DONALDSON. I think so, yes. I think it is very definitely different; yes, sir.

Mr. POAGE. The principle is different?

Mr. DONALDSON. Well, yes, I think so. I, certainly, agree with you that the damage to our economy is greater, certainly.

Mr. POAGE. The damage is not greater for the one. You place your proposition on the matter of principle.

Mr. DONALDSON. That is correct.

Mr. POAGE. You base it on that proposition.

Mr. DONALDSON. Yes.

Mr. POAGE. You seem to measure your principle by the size of the operation. It is difficult for me to understand that.

Mr. SHORT. Pursuing that same premise a little further, would it not be possible for these so-called independent small meatpackers to combine among themselves and accomplish almost the very same thing you seem to be concerned about the larger single enterprise carrying out?



Mr. DONALDSON. It would be possible, of course.

Mr. SHORT. We have examples of it. I am not familiar with any examples in the packing business. However, we have examples of it in the retail business where we have combinations of buying power in an organization of independently owned retail establishments.

Mr. DONALDSON. We have nothing to my knowledge similar to that in meatpacking.

Mr. SHORT. You refer in your paper to associated firms. What are these associated firms?

Mr. DONALDSON. The associated firms, as I understand it, are those who are not packers as such, but have an interest in the meatpacking business, the suppliers of equipment, and so forth.

Mr. SHORT. They would be processors who buy up your products?

Mr. DONALDSON. They would be suppliers of machinery and equipment and that kind of thing—I believe that is it.

Mr. POAGE. They supply machinery?

Mr. DONALDSON. I think that is it. I do not tell you that with certainty, but that is my understanding.

Mr. SHORT. These would hardly fit into the category of becoming to some degree part members of your association. This is an organization of packing plants, and these people, for instance, would supply the salt or the equipment who are not in the packing business? I was thinking in terms of associate memberships as those who are not actually packers, but in the concept that they were simply processors in the business of making sausages or something like that. Am I wrong?

Mr. DONALDSON. I will get you the answer. I am not prepared to give you the answer to that now, Mr. Short. I will be very happy to supply it for the record. We will get the answer.

Mr. SHORT. It is not important. That is all.

Mr. HARVEY. I have been very much interested in the testimony of my dear friend, Mr. Donaldson. And for the benefit of the committee he is a former staff member of Senator Capehart.

I would like to ask him about the NIMPA members and how it fits into my understanding of it. In Indiana we have two companies that I think about offhand, Stark & Wetzel, and Eckrich. Are they listed as members of your organization or are they among the big packers?

Mr. DONALDSON. I cannot rightly answer that, Mr. Harvey.

Mr. HARVEY. Do you feel that in your trying to represent them here on this particular question that this is just something that came about because the legislation was presented and they concluded that they ought to appear in behalf of it or is this a continuing complaint that the independent packers have had over a long period of time?

Mr. DONALDSON. I think it is the latter, yes, a continuing problem that they have been confronted with and are still confronted with, yes.

Mr. HARVEY. In terms of the membership your organization has, do you have evidence that the independent packers have been put out of business by the operations of this very thing that H.R. 3798 attempts to correct?

Mr. DONALDSON. It certainly can be said that at the moment there are members who have serious problems.

Mr. HARVEY. Of course, you can say that about any business in any category of business today. I do not think that answers the question.



Has NIMPA lost members in the past few years that you can contribute to this unfair competition?

Mr. DONALDSON. I cannot say that they have, Mr. Harvey. The position of the board, as I understand it—again this may not be right at the moment—but this is a threat that has constantly been a threat and will continue to be a threat. How that threat should be solved, I am certainly not wise enough to say, other than to say it seems better to face the problem and attempt to solve it, if you find there is a problem, before it gets to the point that it is extremely difficult to solve.

Mr. HARVEY. Are the members of your association more prosperous than the larger packers, I mean in terms of percentage of income that they have?

Mr. DONALDSON. I could not answer that.

Mr. HARVEY. I think that is an important question, because the history of profit-and-loss statements of these big packers shows that by comparison with other big industries of the country they operate probably on the smallest margin of profit of any group.

Mr. DONALDSON. I think every packer does. I think every packer operates on that basis.

Mr. HARVEY. The thing is that the processor margin is so narrow that if the independent small packers are being hurt by it and are not doing as well even as the big packers, they are operating at a loss.

Mr. DONALDSON. I am informed there are several who are doing that, yes.

Mr. HARVEY. They cannot keep on doing that.

Mr. DONALDSON. That is true.

Mr. HARVEY. And so you are saying that they have not been hurt yet, but they are fearful they might be. They must be being hurt right now.

Mr. DONALDSON. Some of them are, I think, that is true; yes, sir.

Mr. HARVEY. This is not a new development. It has been going on for a long time. That comes back to the question raised as to how many of the businesses in the category of the membership of your association have folded up and quit in the past 5 years. I think that for the benefit of the committee, Mr. Chairman, that we ought to ask Mr. Donaldson to supply that information.

Mr. DONALDSON. I will be happy to do so.

Mr. POAGE. If you will, please.

Mr. DONALDSON. I will be happy to do so.

Mr. HARVEY. Those are all of the questions that I have.

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

Mr. DONALDSON. Thank you.

(Mr. Donaldson later submitted the following letter in answer to some of the questions above:)

WEAVER & GLASSIE,  
Washington, D.C., September 12, 1961.

HON. W. R. POAGE,  
Chairman, Subcommittee on Livestock and Feed Grains,  
House Committee on Agriculture, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearings on Thursday, August 24, 1961, before your Subcommittee on Livestock and Feed Grains on H.R. 3415, H.R. 3798, and H.R. 8840, certain information was requested by the committee which



I was then unable to furnish but which I readily agreed to attempt to supply.

Some of the information sought, unfortunately, is of a type which is not furnished to the National Independent Meat Packers Association by its members even in their application forms and thus it could be developed only through a special survey. Even then, some members might be reluctant to place such information in the files of their trade associations. However, to the extent the information is available, we are pleased to furnish it.

The question was asked as to how many of the 400 NIMPA members are engaged in commerce and would therefore be injured if they were not permitted to engage in the retail business. While the association maintains no records with respect to the number of its members who sell at retail, it is believed that no more than six are engaged in selling at retail, and of that number, to the best knowledge of the association, only two are in commerce.

The NIMPA bylaws state that "The associate membership shall consist of those individuals, firms, or corporations furnishing services or supplies to regular members." No such associate member has voting rights.

Stark, Wetzel & Co., Indianapolis, Ind., was an active NIMPA member for a number of years. However, the company terminated its membership as of May 1, 1961. Peter Eckrich & Sons, Inc., P.O. Box 388, Fort Wayne, Ind., is a member of NIMPA.

There is no direct evidence presently available to the association that former members of NIMPA who have gone out of business in recent years, were put out of business by the operations H.R. 3798 attempts to correct. Rarely, however, does an independent meatpacker inform the association of the specific reasons for his ceasing operations and going out of business. However, it is a reasonable assumption that the evils which H.R. 3798 attempts to correct may have contributed to these business failures.

Again, a direct answer is not possible to the question whether NIMPA members are more prosperous than the larger packers in percentage of profit. However, it is generally accepted as a fact that the independent meatpacker, like his counterpart, the independent small businessman in other industries, in order to survive must be more efficient than the larger operator because the independent meatpacker's resources are more limited. He is unable to absorb a large loss since he does not have the requisite time, measured in terms of resources. Some member companies of NIMPA no doubt are more prosperous in terms of percentage of profit on income than some of the larger packers. Others may not be. The percentage of profit of a packer depends on a number of factors, including type of management, location, accessibility to supply and proximity to market, history of quality of product, and the like. In general, the industry rule of thumb with respect to percentage of profit on income is 0.06 cents per dollar.

In the last 5 years NIMPA estimates that five members resigned from the association, giving as the reason that they were going out of business. In addition, NIMPA knows that approximately 10 firms have dropped membership in the association because they have merged with other companies. There are also about five firms who did not give business failure as their reason for resignation, but which subsequently were found to have discontinued in the meatpacking business.

NIMPA regrets that more specific information cannot be supplied but trusts that the above will be of some benefit to the committee in its consideration of the pending legislation.

Respectfully,

WEAVER & GLASSIE,

By RAY S. DONALDSON,

*Attorneys for the National Independent Meat Packers Association.*

#### **STATEMENT OF HAROLD O. SMITH, JR., EXECUTIVE VICE PRESIDENT, U.S. WHOLESALE GROCERS ASSOCIATION**

Mr. SMITH. Mr. Chairman and members of the committee, my name is Harold O. Smith, Jr. I am executive vice president of the U.S. Wholesale Grocers Association, a national trade association of independent wholesale food distributors.

I want especially to express my appreciation to you, Mr. Chairman, for giving me a few moments here, in view of the fact that we did not



ask for time when H.R. 3415 and H.R. 3798 were under consideration. We are sympathetic with the purposes of those bills, but we felt that we did not have any particulars to offer that would warrant taking the committee's time.

However, on the day before yesterday—it did not come to our attention until today—H.R. 8840 was introduced which injected a completely different aspect into this entire picture.

I might suggest as you, probably, have seen here, this is a very concise statement of purpose and it would appear to me, certainly, that one of the objectives of H.R. 8840 would be to completely eliminate that part of the meatpackers' consent decree.

I might suggest that our association in 1920 and through the twenties took a very active part in the meatpackers' consent decree problems because of the very serious situation it imposed on free enterprise, particularly in the food business.

More recently, I think it was a couple of years ago, I was subpoenaed to appear as a witness when the meatpackers sought to get relief from the decree, particularly to move into retailing or, at least, the privilege of being able to do so. That was heard in the Federal district court of Chicago. It was appealed. And about 2 months ago the Supreme Court upheld the decision which left the big meatpackers in the position where they are not permitted to move into retailing.

I think the various facts that came out in that case and the various facts that surrounded the meatpackers' consent decree are sufficient evidence without my elaborating on any of the details of that, but I would like to express our very strong opposition to any purpose as seems to be expressed in H.R. 8840 which would permit the meatpackers to enter retailing, particularly the big meatpackers who are restricted now by the consent decree.

As I say, we represent a very large segment of wholesale grocers throughout the better part of the United States, and I feel quite sure that correctly expresses their views, too.

Mr. POAGE. There is some difference of opinion dealing with the principle or the practicality as to whether we are dealing with one or the other of making this applicable to all packers or making it applicable only to a limited number. What is your view on that?

Mr. Roosevelt has \$30 million in his bill, and Mr. Anfuso has \$100 million in his bill. Do you feel that either one is the proper figure?

Mr. SMITH. If we have anything that we thought we could add to the committee's information on that, we would have asked to be heard. We felt that people better qualified to offer those particular opinions were on your witness list. My appearance here is not to deal with technicalities with which I do not have sufficient support at the present time. I can, of course, get the information for you where it is practical.

It is the principle of H.R. 8840 which would let down the bars completely as far as permitting big or little meatpackers to enter into retailing. And as I say, that has been very clearly brought out, the dangers that could be inherent in permitting big meatpackers to have the power of going into Wall Street and getting unlimited support, being able to do things that possibly a smaller meatpacker, with less financial ability, might not be able to undertake. It could very well bring about a completely different situation within the whole frame-



work of grocery distribution, affecting not only independents but corporate chains as well, because it could very well introduce into food distribution a new factor of marketing in a way that would give a vertical control over a very large segment of the food business.

Basically, the factor that draws people into this store as against that store is largely meat. We can advertise all kinds of specials, but basically, meat is the drawing card. And whoever controls the meat price can very well control the grocery price.

Mr. POAGE. Your members do not enter into this?

Mr. SMITH. That is correct. Very few of our people actually do anything in the way of this. Many of our people have a meat buyer for a group of voluntary stores. You have some done in your territory, I am sure. That is merely so they will have uniform quality of meat and can, therefore, as a group, advertise meat but we have no connection with either the slaughtering or meatpacking.

Mr. POAGE. Have you observed what the integration of the chicken business has done to the retail grocery store—has it had a helpful influence?

Mr. SMITH. That, frankly, I could not say.

Mr. POAGE. Is there any benefit to the retailer from what we call cheap chickens at the present time?

Mr. SMITH. Frankly, all of us have overhead. It is not how much we pay for a product—it is the difference between what we pay for the product and the price at which it sells. If a product is going to be able to carry its part of the load—and the general overall national average of the corporate chain, and I believe I stated correctly, which takes in both wholesale and retail, comes up to an average of 21 percent, and where the independent is doing the wholesaling job and the independent retailer is doing the retailing job it still comes out to 20 or 21 percent that the consumer pays between the price paid on the invoice and the price she pays over the checkout counter. Of course, if chickens are cheaper, frankly, I think it is something that benefits Mrs. Consumer far more than it does the people in between either the wholesaler or the retailer. Unfortunately, it may work a hardship on the farmer. But the beneficiary would be the consumer.

Mr. POAGE. Do you think that the consumer is going to benefit in the long run by what is happening to the chicken business now?

Mr. SMITH. I think, as Americans, we all want to see each person in our particular field have an opportunity to make an honest living. And if the situation is created in one industry that through a competitive situation takes away the margin that allows for an honest living, I do not think that is good for the country and I do not think it is good for anybody.

Mr. POAGE. Looking at it from the standpoint of the consumer alone, without regard to the producer, do you think the consumer can long profit by conditions as they are in the chicken business today where people are walking out of the business?

Mr. SMITH. Mr. Chairman, as a big factor in independent business; namely, the wholesale grocer is pretty much of a public service in his own right in his community and I find they are just as much concerned as our Members of Congress with problems of this kind. Certainly, to allow anything that develops toward a monopolistic situation is not healthy because once a monopoly gets control of a situation price is



no longer a problem and the consumer is the one who has to pay. As long as we can keep free enterprise it is good.

I attended a dinner last evening. Congressman Patman had it for Mr. Everette MacIntyre who is going to the Federal Trade Commission, where much was said about the importance of keeping the free enterprise system in America alive. And Congressman Roosevelt and Congressman Patman and others spoke of this. And that certainly means the farmer, the meatpacker, and all the way through as well as other industries. You are perfectly correct that a situation that is not healthy for the independent man in the chicken business or the retail or wholesale grocery business, certainly, is not a good thing for the country.

That is the reason the Members of Congress are able to legislate it anyway to keep an even balance. If it were not for that the whole thing would have gotten out of control long ago.

Mr. POAGE. Thank you. Are there any questions?

Mr. SHORT. We have heard a great deal about integration in the livestock business, the packers getting into the retail business and vice versa. I have never heard any comment as to whether there was integration in the broiler business, whether the chainstores had gotten into that business and whether the dairy and poultry enterprises had gotten into the broiler business.

Mr. SMITH. I frankly do not know. Our people deal primarily in dry groceries as we call it.

Mr. SHORT. I realize that. I thought you might have some information.

Mr. SMITH. I wish that I did. I really do not feel that I can answer your question. I am sure that I would not be as well qualified to answer that as people in that particular industry.

Mr. SHORT. That is all, thank you.

Mr. HARVEY. Have you seen any evidence that the chainstores, which I presume are the main competitors of your retail merchants, have any particular advantage through their ability to use meat products as loss leaders, since meat is the chief criterion on which a grocery retail outlet tries to attract its customers?

Mr. SMITH. Today I think the situation in general, for example, say food marketing up at Fort Wayne or we will take John R. Figg over at Bloomington—some of your places there in Indiana—the folks over at Richmond—some of those—I think you will find that they are faring as favorably as the chains with respect to all of their products.

Mr. HARVEY. I think that is a rather important observation. I have often wondered whether the ability of the chainstore organizations to buy more advantageously, possibly in meat products than their independent grocer competition—whether that was enough of an advantage so that it could make a difference between the independent grocer's survival in competition with these chainstore outlets.

Mr. SMITH. Mr. Harvey, the only thing that really makes the difference is if the Federal Trade Commission has enough money to enforce the Robinson-Patman Act, and those equality-of-opportunity laws so that we have our proper share in the proper marketplace, and, if so, the independent has nothing to be concerned with about the corporate chain. We have less organization and less overhead to support. We can do business on a basis that is fully comparable and meet



any competition that the chain throws out provided we have equal opportunity in the marketplace.

Mr. HARVEY. You mentioned the 21-percent markup. I was not exactly clear as to what this 21 percent applied to.

Mr. SMITH. Mr. Harvey, that is taking a sort of national average. It takes care of all of your transportation and taxes, labor, and everything else. It takes care of the warehousing function, the delivery function, the retail function. And that, of course, both the wholesale and retail function must make its proper profit.

Mr. HARVEY. That is what I was trying to get at. In other words, the bite that the wholesaler and the retailer jointly take comes to about 21 percent of the final retail price?

Mr. SMITH. Yes.

Mr. HARVEY. That 21-percent markup is on the price that the wholesaler has to pay, or to take it the other way around, does that mean it is 21 percent of the ultimate 100-percent price that is chargeable to the wholesale-retailer?

Mr. SMITH. It amounts to this: By the time they pay these various charges, it averages out about 21 percent. In that the net profit comes out they hope a little better than 1 percent, maybe 1 to 1½ percent. That is their net profit.

So it means all of these operating costs are in the neighborhood of around 19.5 to 20 percent. That is for all of those services.

Mr. HARVEY. Of the final retail price?

Mr. SMITH. That is right.

Mr. HARVEY. That is all, thank you.

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

Mr. SMITH. Thank you very much.

Mr. POAGE. Is Mr. Trunz in the audience? We called him this morning. We do not know whether he wants to testify or not. Mr. Trunz is evidently not here.

Our next witness is Mr. Badger. We will be glad to hear you now.

Mr. BADGER. I would like to apologize for not being here when you called my name. I had not anticipated the committee meeting this afternoon. I had another appointment which made it difficult for me to get back in time.

Mr. POAGE. You were not here this morning.

Mr. BADGER. Yes, I was here this morning.

I was not here when you called my name, however.

Mr. POAGE. You may proceed.

#### STATEMENT OF PAUL L. BADGER, GENERAL COUNSEL, WESTERN STATES MEAT PACKERS ASSOCIATION

Mr. BADGER. Mr. Chairman and members of the subcommittee, my name is Paul Badger. As general counsel for the Western States Meat Packers Association I thank you for this opportunity to express the views of the association with respect to H.R. 3798, a bill to amend the Packers and Stockyards Act.

Mr. L. Blaine Liljenquist, who has recently been appointed president of our association, had intended to be here. He left for Japan yesterday morning, and I am substituting for him.



To proceed: The Western States Meat Packers Association is comprised of 547 small companies who buy and process livestock. These member companies are located throughout the Rocky Mountain and Pacific Coast States, western Texas, and Hawaii. There are also a number of associate member companies scattered throughout the United States.

If enacted, H.R. 3798 would prohibit any packer subject to the provisions of the Packers and Stockyards Act, and any person manufacturing or preparing livestock products for sale or shipment in commerce, and any wholesaler of meats, meat food products, livestock products, dairy products, poultry, poultry products, and eggs, in commerce, and whose gross sales are more than \$30 million annually, from retailing such products.

Also, all persons purchasing livestock in commerce for purposes of slaughter or manufacturing or preparing meats or meat food products for sale or shipment in commerce would be included in this prohibition if their gross sales exceed the amount stated.

As set forth in the act, the definition of a "packer" embraces a number of the larger grocery chains. This is because of the fact that they purchase livestock in commerce for slaughter or manufacture or prepare meat or meat food products for sale or shipment in commerce. There would presumably be no administrative difficulty in enforcing the prohibition of retail operations by persons who are packers because they purchase livestock for slaughter or manufacture meat or meat food products for sale or shipment in commerce.

It seems to me, however, that there would be an administrative problem relative to the status of some grocery chains who in the normal course of their business are engaged in the preparation of meats—cutting, slicing, and packaging various cuts of meat for sale or shipment in commerce. These chains would probably be forced to discontinue such meat preparations in connection with their retail operations under the provisions of H.R. 3798 as it is now written.

This is a question which the committee might want to give some consideration to—whether normal meat preparation activities of those retailers who are covered by the definition of "packer" under the act should be restricted or prohibited.

I learned this morning that Mr. Girard had raised the same point yesterday. I comment on it simply to express the feeling that, probably, some clarification of this should be made in the bill to clearly spell out the intent of the committee. I think that Mr. Camp's suggestion is a good one. I do not think that anybody would take exception to the store which in its backroom cuts, packages, and prepares meat for distribution to its regular retail clientele, but where you have a large type central distribution system, I think then that clearly you are getting over into a packing operation. In thinking about this problem a little bit, also, I think that this situation may extend over into other business areas such as large restaurant chains.

I have in mind, particularly, a restaurant chain which has a commissary type of operation. They buy carcasses, break them and cut them, cutting the meat into individual size portions, and then distributing these meat products out to their various restaurants over an area of perhaps several States. I cannot see but what that is not a packing operation and that such a restaurant chain would be considered to be a packer under this act.



I think it certainly would be inequitable not to consider such an operation as a packer in comparison with a small retailer who is preparing meat in a similar way for a rather limited distribution. I think, as I say, that this problem should be clarified by the committee so that we all understand what the intent is.

Mr. Chairman, the Western States Meat Packers Association supports and endorses the stated objectives of the Roosevelt bill, H.R. 3798. We hope that it will be enacted by the Congress. A cutoff figure at a gross sales level of \$100 million, as proposed in other pending measures, is entirely unrealistic. We believe that such a high ceiling would, in effect, make the proposed legislation meaningless.

As a group of small, independently operated businesses, the member companies of this association have long been concerned with the heavy economic concentration in the meatpacking industry. As you are undoubtedly aware, it is the only food industry which has almost entirely escaped the regulation of unfair trade practices. The support of this association has always been placed behind principles and efforts which would strengthen and encourage competition in all areas of livestock, meat, and poultry marketing.

We believe that H.R. 3798 definitely falls within this category. It recognizes the tremendous economic power that can be brought to bear upon the smaller segments of the livestock industry by integrated packing and retailing operations, and the crushing effect of such operations upon competition.

It is generally recognized that there is a growing trend, not only in the livestock industry, but in industry generally, toward the unification or centralization of all aspects of the manufacturing, processing, marketing, and distribution function in larger and fewer firms. We sincerely believe that resolute steps must be taken to halt this process or it will destroy the free enterprise system.

It has often been said that a law is only as good as its enforcement. I think that this aphorism certainly has added significance as far as the meatpacking industry is concerned, and particularly in connection with our consideration of the pending legislation. Based upon our experience in the past and our long continued efforts to secure the forthright and effective enforcement of the Packers and Stockyards Act, the main area of our concern in regard to this legislation has to do with the question of its enforcement. I don't think that it is so much a question as to whether this legislation can be enforced, but rather, will it be enforced?

If you will forgive my temerity for suggesting it, I think that this is the principal problem involved here. It is quite useless for us to seek to amend the Packers and Stockyards Act without securing some rather definite assurances that the act as amended will be enforced, and that the intent of the Congress will be carried out.

I hasten to add that we have been encouraged in recent weeks by assurances and some indications that the present administration of the Department of Agriculture intends to carry out its responsibilities in this area, and that it has taken steps in this direction. We earnestly hope that this will prove to be the case. Thank you.

Mr. POAGE. Thank you very much, Mr. Badger. Are there any questions of Mr. Badger?



Mr. SHORT. Mr. Badger, as to the subject that is before us—the Packers and Stockyards Act, with regard to restricting unfair competition and practices, aside from their normal practices, the normal business that the packer engages or should indulge in and even food chains indulge in, has, in effect, a restrictive effect on the free working of the markets. Should this be done on a voluntary basis or should it be done in some other way?

It seems to me that this is an extremely difficult determination for the Administrator of the Division to make. Should he make the determination on whether a packer should or should not be in the livestock feeding business per se or make the determination on the basis of the size of the operation this enterprise might have.

Mr. BADGER. I think that is a real problem.

Mr. SHORT. You feel that he should make the determination on the basis of the size of the operation and not on the extent of the diversification of the operation?

Mr. BADGER. I think—and this is only my personal opinion—that you are going to have to make such a determination—

Mr. SHORT. On what basis?

Mr. BADGER. I would think size, in the first place.

Mr. SHORT. In your opinion it would not make any difference as to the extent of the diverse interests that they might have, whether in the retailing business or in the feeding business?

Mr. BADGER. I think that no one is greatly concerned about the diversification until it gets to a point where it is harmful as to volume.

Mr. SHORT. Can I ask you this question then, do any of the members of the Western Meat Packers Association have retail outlets of their own?

Mr. BADGER. Not that I know of.

Mr. SHORT. Do any of them have feeding operations of their own?

Mr. BADGER. Not that I know of.

Mr. SHORT. They do not indulge in these additional operations—no members of your organization have feeding operations?

Mr. BADGER. I could not say categorically, Mr. Short. I would be glad to find out, but so far as I am aware, we are not involved in any operations of that character.

Mr. SHORT. This gets into the matter that the chairman was pursuing a little while ago as to the principle of this thing. Should these practices be restricted on the basis of the enterprise—the packing business staying in the packing business—or should it be restricted on the basis of the size of the overall operation?

Mr. BADGER. I am inclined to agree that it should be done eventually on the basis of principle.

Mr. SHORT. You say on the size, or the principle of staying within your own field of operation?

Mr. BADGER. This is a difficult question for me to answer, but I certainly think that in the final analysis the principle is the most important element involved here. It is very difficult and arbitrary to say to a small fellow who is engaged in this practice, "It is all right for you to do it," but then you turn to a larger operator and deny him the same privilege if his gross sales exceed a certain figure.



Mr. SHORT. You have to make the decision where it is a small operation that is not doing any harm, or where it is a big operation—that is the dividing line?

Mr. BADGER. That is right. I think that is the practical place to begin.

Mr. SHORT. That is all.

Mr. POAGE. Thank you very much.

Mr. BADGER. Thank you.

Mr. POAGE. Without objection, a telegram from the Metropolitan Slaughterers Association which was received by the committee will be made a part of the record at this point.

(The telegram dated August 24, 1961, follows:)

Our association is comprised of independent livestock slaughterers in the Metropolitan New York area. There is urgent and vital needs for the prompt adoption of H.R. 3798 so that the statute books will carry a clear and unambiguous mandate prohibiting monopolistic practices in the food industry and placing violators on notice that their unlawful acts will constitute a crime and be subject to punishment accordingly. The state of the small businessmen in the food industry depends upon the passage of H.R. 3798. We urge you to exert every possible effort to have this bill brought to the floor of the Congress and that you act favorably upon same.

METROPOLITAN SLAUGHTERERS ASSOCIATION,  
SAUL GRAFF, *President*.

Mr. POAGE. We have completed the list of all of the witnesses. Is there anyone here who wants to testify on any one of those bills who has not had an opportunity to do so?

Let the record show that nobody has suggested that they want to testify on these bills at this time.

Are there any requests pending to testify?

Mrs. GALLAGHER (clerk). No.

Mr. POAGE. Let the record show that we have received no requests and have no requests pending to be heard.

With that the committee will stand adjourned.

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

STATEMENT OF HON. WILLIAM J. RANDALL, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF MISSOURI

Mr. Chairman, members of the subcommittee, I appreciate the opportunity to present my views in support of H.R. 3415 and H.R. 3798, introduced by the gentleman from New York (Mr. Anfuso) and the gentleman from California (Mr. Roosevelt).

These bills seek to amend the Packers and Stockyards Act of 1921 to strengthen independent competition by providing for competitive enterprise in the retail sales of meat, meat food products, livestock products, and other food items. They differ only in the amount of annual gross sales necessary to provide coverage under the bill. H.R. 3415 prohibits sales at retail by any packer or person engaged in manufacturing, preparing, or wholesaling livestock, dairy, or poultry products whose gross sales exceeded \$100 million a year. H.R. 3415 would prohibit any person whose sales of livestock exceed such amount from purchasing or selling livestock except at a stockyard or open market.

Mr. Chairman, the case for this legislation has been clearly shown by a series of hearings and investigations carried on by Subcommittee No. 5 of the House Select Committee on Small Business in the last Congress. I refer specifically to part III of the hearings, held in Denver, Colo., in November 1959, which carefully explored the problems of the livestock industry and to House Report 2234 of the 86th Congress, setting forth the report and recommendations of the committee based on its study of small business problems in the food industry.



Among the recommendations contained in this report is the following:

"It is recommended that \* \* \* Congress enact legislation which would specifically \* \* \* (e) strengthen the Packers and Stockyards Act and the Federal Trade Commission Act to prohibit integration of food retailing with meatpacking and other functions of food manufacturing and processing where the effect of integration of functions would be to substantially lessen competition or tend to create monopoly \* \* \*" (H. Rept. 2234, 86th Cong., p. 121).

Why is this legislation necessary, Mr. Chairman? The Packers and Stockyards Act of 1921 was originally enacted following a series of hearings by both the House and Senate which showed that big meatpacking firms had achieved a stranglehold over the industry, from the producer to the consumer. An action against these firms, brought by the Department of Justice under the Sherman Antitrust Act, resulted in a consent decree in 1920 under which the four largest meatpacking firms agreed to divest themselves of the ownership of stockyard properties and to refrain from the retail merchandising of meat.

The 1921 act sought to assure fair competition and fair trade practices in livestock marketing and in the meatpacking industry, in safeguarding farmers and ranchers against receiving less than the true market value of their livestock and to protect consumers against unfair business practices in the marketing of meats and related products. It also provided protection to the industry itself from the unfair, deceptive, unjustly discriminatory, and monopolistic practices of competitors, large or small. Enforcement of the law was placed in the hands of the Secretary of Agriculture. The Federal Trade Commission had limited concurrent jurisdiction.

Unfortunately, Mr. Chairman, the record shows that very few cases have been brought under title II of the Packers and Stockyards Act of 1921 to curb monopoly, price discrimination, or restriction of competition in the sale of meat and meat products. Over the years, large retailers have expanded their activities involving meatpacking operations. Many of the large chainstores operate their own feed lots. The amount of livestock passing through public stockyards is declining every year. When prices are down, the chains buy from public stockyards, but when they are up, they use cattle which they have fed themselves; thus manipulating the market and systematically destroying the livestock producers and undercutting the small packers regulated by the act.

Farmers in my district are small operators who operate family-type farms. They need, and are entitled to protection against such unfair competitive practices from the big retail chains. H.R. 3415 and H.R. 3798 are certainly a step in the right direction.

Recognizing the problem caused by the retail chains who avoided the law because they claimed their meatpacking operations were incidental to their business, Congress enacted Public Law 85-909. This law amended the Packers and Stockyards Act of 1921 to clarify the jurisdiction of the FTC and the Agriculture Department. It sought to provide greater power to move against large food retailers who engaged in meatpacking operations and who carried on price discrimination practices. Several unfair livestock buying cases have been brought in the last 3 years, but without conclusive results. Meanwhile the problem as it affects small livestock producers and packers becomes more acute.

According to the report of the House Select Committee on Small Business, the previous Secretary of Agriculture had failed "to expeditiously and effectively handle important cases involving monopoly, price discrimination, and the restriction of competition in the buying of livestock." The report continued:

"The Secretary of Agriculture and his administrators of the Packers and Stockyards Act have manifested reluctance to institute proceedings under that law against alleged monopolistic trends flowing from meat-buying practices of large corporate chain food retailers and from action in integrating food retailing with meatpacking operations."

The next observation is important, Mr. Chairman:

"Apparently there is some doubt held by these officials that under existing law they have appropriate and clear-cut authority to proceed against large packers and large corporate chain food retailers who integrate food retailing with meatpacking operations. In view of these circumstances, the prospects are not bright that under existing law action will be taken to challenge these particular practices and conditions in food distribution" (H. Rept. 2234, 86th Cong., p. 115).

This is precisely the reason why legislation being considered by this subcommittee is so vitally necessary. I do not contend that H.R. 3415 and H.R. 3798 would solve the problem overnight. Vigorous enforcement of the law is also



necessary if we are to reverse the trend toward monopolistic practices of large chains, which are threatening the existence of the small livestock producers.

The livestock industry produces about 32 percent of the total national farm income, or about \$11 billion a year. But the producers' share of the retail meat dollar has been constantly shrinking, so that today he receives only about 40 cents of each dollar spent for meat at the retail level. Price discrimination, lack of competition, and monopolistic practices caused by increased operations by the large retail chains in meatpacking not only violate our legal and moral commitment to the free enterprise system, but also result in higher consumer prices, curtailed consumption of meat products, and bring about economic hardship to family farmers and smaller independent meatpacking establishments.

Mr. Chairman, I trust that you and the members of this subcommittee will give favorable consideration to H.R. 3415 and H.R. 3798 so that this dangerous trend may be reversed.

NATIONAL MILK PRODUCERS FEDERATION,  
Washington, D.C., August 24, 1961.

Hon. WILLIAM R. POAGE,  
*Chairman, Livestock and Feed Grains Subcommittee,  
House Agriculture Committee,  
Washington, D.C.*

DEAR MR. POAGE: We shall greatly appreciate it if you will place this statement in the record of the hearings on H.R. 3798 and H.R. 3415.

The National Milk Producers Federation is a national farm organization. It represents dairy farmers and the cooperative associations through which they act together to process and market, in their own plants at cost, the milk and butterfat produced on their farms.

By organizing their own dairy cooperative associations and setting up their own dairy processing plants, farmers are able to market their milk and butterfat in processed form rather than as raw milk and thus improve their net returns.

Farmers' cooperatives are an important asset to the Nation's agriculture. They help farmers to secure fair weights and tests on the products they market, and they tend to keep processing margins within reasonable bounds.

They are beneficial both to the farmer and the consumer. Their principal opposition comes from proprietary processors whose opportunities to take excessive profits are limited when farmers have the opportunity to set up their own plants if adequate service at reasonable prices is not provided by others.

Obviously, it is important to farmers and consumers that dairy products pass as directly as possible from the farmer to the consumer. To this end, many dairy cooperatives which process and wholesale milk for their farmer owners also engage in some form of retail operation. Where this is done, the farmer acting through his cooperative sells directly to the consumer.

We would not want to see legislation passed which could be construed to limit the right of a farmers' dairy cooperative to carry its products all the way from the farm to the consumer. We are concerned that these bills might be so construed.

We realize that the general objective of the bills is to provide a limitation on the powers of some of the larger packers and dairy corporations, and we do not oppose this objective.

One method of accomplishing the purpose of the bills, or at least of helping in that direction, is to encourage the development of larger and more effective farmers' cooperatives. If the bill inadvertently should weaken these cooperatives it would tend to defeat its objective.

In line with the foregoing comments, we suggest an amendment to be added after the word "eggs" on page 2, line 7, as follows: "but nothing in this section shall preclude any person from engaging in such retail business if he is primarily engaged in the processing or wholesaling of milk or dairy products and his retail operations are primarily the retailing of dairy products."

Sincerely,

E. M. NORTON, *Secretary.*



## STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION

We appreciate the opportunity of presenting the views of the American Farm Bureau Federation on H.R. 3798 and H.R. 3415.

As we understand it, H.R. 3798 would amend the Packers and Stockyards Act to prohibit a meatpacker or wholesaler with annual gross sales of more than \$30 million from engaging in retail sales of meat, meat food products, livestock products, dairy products, poultry, poultry products, or eggs. H.R. 3415 would have the same effect, but would apply to packers and wholesalers with gross sales of more than \$100 million instead of \$30 million. We have a vital interest in this legislation because of the large number of livestock producers who are members of the Farm Bureau.

The purpose of these bills apparently is to discourage vertical integration in the livestock and meat industry. Apparently it is being proposed that the larger meat processors and wholesalers be prohibited from entering the retail food field simply because of their size. The right to enter any business one chooses is a right Farm Bureau has vigorously supported. We believe individuals, cooperatives, and other corporations should have the right to enter any phase of the agricultural marketing process they choose. To restrict one's opportunity to do business simply because of the size of a business is to destroy the incentive for future progress.

While we do not support the prohibitions suggested in the two bills above, we are even more opposed to two additional provisions of H.R. 3415. The effect of these provisions would be (1) to require meatpackers whose purchases total \$100 million or more a year to buy all their livestock at public stockyards or auction sales, and (2) to require any person who sells more than \$10 million worth of livestock to sell all his livestock at public stockyards or auction sales. We are opposed to any legislative attempt to restrict the marketing or sale of livestock.

Farm Bureau has been an advocate and supporter of our competitive enterprise system. This system is based on the premise that anyone may buy and sell from whom and to whom he wishes. This is the basis of competition. The proposals in these two bills would seriously restrict the buying and selling of livestock and livestock products. We firmly believe in the right of individuals to have their own freedom of choice.

Livestock producers want to obtain the best possible returns from the livestock they sell. They need all the outlets and all the buyers possible. Any legislation which is designed to reduce the number of buyers or outlets has the effect of reducing the ability of farmers to obtain the highest possible return for their products. H.R. 3415 would drastically reduce the outlets available to livestock producers. It would force the movement of livestock through public stockyards and auction sales even though other systems of marketing might bring a higher return to producers.

In recent years a system of direct selling by the farmer to the meatpacker has developed and expanded. Under this system the farmer has the opportunity to know what he can obtain for his livestock before it leaves his farm. He can choose to market his livestock this way. However, if he prefers to sell through the public stockyards or by auction sales, he also has this alternative. Depending on his own personal situation, he can take advantage of the system that is best for him. We believe this is a sound procedure as far as livestock marketing is concerned. Any attempt legislatively to direct the way that livestock should move to market is unsound and will be detrimental to the livestock industry.

We have not attempted to discuss all the ramifications of the proposals in this legislation. Basically the proposals are designed legislatively to determine the way that various agricultural products should be marketed. We are confident that the market system, with price as the basic determinant, is the best system for determining the use of our agricultural resources. Any legislative substitute for this system will destroy freedom of choice and inevitably result in lower returns to farmers.

Farm Bureau is opposed to H.R. 3798 and H.R. 3415. We do not believe that they are in the interest of livestock producers, livestock processors, wholesalers, retailers, or consumers.



## STATEMENT OF ANGUS McDONALD, ASSISTANT DIRECTOR, DIVISION OF LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

Mr. Chairman and members of the committee, I am appearing here in support of H.R. 3415 and H.R. 3798. These bills would prevent big packers from going into the retail food business and would prevent big sellers of livestock from avoiding the market conducted openly and publicly in the same manner as stockyards are required to be conducted under the Packers and Stockyards Act of 1921. The first part of these bill purports to extend and write into statutory law the consent decree of 1920 which enjoined big packers from going into the retail food business. This consent decree was a compromise resulting from steps taken by the Department of Justice to prosecute the big packers for flagrant violation of our antitrust laws and effectively restore competition in the food industry. It has probably saved producers and consumers many billions of dollars. From time to time the big packers have gone to court to get the decree set aside. Fortunately, they have not been successful. Recently the U.S. district court in Chicago turned thumbs down on a petition of the big packers to have the decree set aside.

H.R. 3415, introduced by Representative Anfusio, goes one step further than H.R. 3798. This bill would prevent not only big packers from going into the food business but would prevent the bypassing of public stockyards. We are heartily in favor of this latter provision. The record indicates that the Government-supervised livestock auction in Denver, Colo., is being bypassed. The big chains are manipulating the market in that area. Some of them operate enormous feedlots. National Tea, it is reported, can feed as many as 40,000 head of cattle at one time on its feedlot. The proportion of cattle that goes through the publicly supervised stockyard has been steadily declining. It is important to emphasize that the small ranchers or farmers are often in the dark as to the competitive value of their livestock. The true value of livestock can only be determined when the forces of competition are freely operating. The common practice of large buyers of livestock in the Denver area is to buy in the public stockyard when prices are low. When prices are relatively high they use cattle from their own feedlot. In other instances large buyers resort to the practice of country buying, or buying in areas distant from the point where prices are arrived at competitively.

An aggravating factor in the situation has been the lack of enforcement of the Packers and Livestock Act. According to our information, 13 cases filed from the Denver area during the last 3 years have been quashed. There has been a blatant refusal of authorities in the U.S. Department of Agriculture to enforce the law. It appears that enforcement personnel are dominated by the American Meat Institute. According to our information, an administrator appearing before a farm organization meeting said flatly that nothing would be done about "pencil shrinking," about promotion payments, and that the "packers and stockyards" issue should not be opened. "Pencil shrinking," we are told, is a device employed to defraud the producers.

We are aware that authority to limit such practices is not within the authority and jurisdiction of this committee. However, knowing that all of the members of this committee are devoted to the interest of the family farmer, we hope that in an informal way something may be done to correct the outrageous conduct of the officials of the Department of Agriculture. We hasten to add that we have full confidence in the Secretary of Agriculture and feel that he will correct any maladministration of the Packers and Livestock Act as soon as possible. We are well aware of the burden that the Secretary of Agriculture is carrying.

Finally, we urge that action be taken on these bills as speedily as possible. This committee is well aware of the plight of the farmer; particularly, the farmer and rancher who operate on a relatively small scale.

## STATEMENT OF SWIFT &amp; Co., CHICAGO, ILL.

Both of the bills being considered currently by this subcommittee, H.R. 3798 and H.R. 3415 contain similar provisions for restrictions on the right of meat-packers to go into the retail business.

Swift & Co. believes that no laws should prohibit manufacturers going into the retail business or retailers going into the manufacturing business. Such re-



strictions are detrimental to the progressive development of free enterprise. It is a fact that the packers consent decree already prohibits Swift & Co. and the other parties to the decree from owning or operating retail meat markets. The retailing provisions of H.R. 3415 and H.R. 3798 would not therefore materially effect Swift & Co.'s operations. Nevertheless the company as a matter of principle voices its strong opposition to such retailing prohibitions.

H.R. 3415 (the Anfusio bill) contains in addition a proposal to require that large buyers of livestock make such purchases only at a stockyard, or a market conducted openly and publicly in the same manner as stockyards are required to operate.

This provision appears to be designed to prohibit meatpackers (of a given size) from buying livestock directly from the livestock producer or his representative on the livestock owner's own premises or at any point outside of stockyards and markets designated as "open and public."

It is worth noting that any sale of livestock involves both a seller and a buyer. The fact that so-called direct buying of livestock has increased in recent years means per se that "direct selling" by livestock producers and their representatives has also increased. Since decisions to sell livestock are those of the owners they must have, in increasing numbers, found advantages economic and otherwise in choosing this channel of livestock marketing.

As a matter of record, Mr. Robert Casper, vice president of the National Farmers Organization, one of the witnesses testifying before this subcommittee in support of the livestock buying provision of H.R. 3415 said at page 151 of the report of the proceedings: "\* \* \* Maybe we should move all of our stock to that point (terminal market) but from the practical dollars and cents standpoint you cannot go there from my area very often and make any money because they (local buying station) will stay close to the terminal market price, and just from a personal economic factor standpoint you will sell locally if you want to get dollars and cents."

This same witness stated in response to a question as to why he sold his own hogs direct: "The other thing is that you know what you are going to get and this is very popular with the farmers."

Such statements from a livestock producer are rather eloquent testimony as to the economic soundness of direct selling from the standpoint of the livestock producer. They underline the findings that have been made on numerous occasions by the U.S. Department of Agriculture itself and several of the land-grant colleges. As early as 1935, when direct selling of livestock had grown in prominence, the U.S. Department of Agriculture said in part in its Miscellaneous Publication #222 entitled, "The Direct Marketing of Hogs."

"1. The growth of direct marketing of hogs and other livestock is due to causes which are closely associated with the economic development of the country and particularly of its livestock industry.

"2. It does not appear that direct marketing has restricted competition among slaughterers and distributors and enabled them to exact a wider margin.

"3. The distribution of the volume of hogs consigned to public markets among the different grade classifications was shown (in this study) to be approximately the same as the hogs marketed direct; that is, the public markets on the whole were not receiving more than their proportionate share of low grade hogs.

"4. This, together with the fact that no one market or group of markets sets the price for all markets, leads to the conclusion that the growth of direct marketing has not impaired the price-registering function of the public markets, nor caused the prices at the interior markets to be lower than if direct marketing had not increased.

"5. Moreover, this study shows that the growth of direct marketing has not caused returns to producers of hogs to be less than they would have been otherwise."

In its "The Agricultural Situation" of May 1940, the U.S. Department of Agriculture pointed out:

"In general, the motortruck has tended to individualize farm marketing by making it possible for the farmer to sell as an individual, rather than through a local cooperative association or a terminal market. It has made more outlets available to him and has made country marketing more competitive. It has removed all restrictions as to the unit of trading, size of load, time of shipping, and direction of movement, and has speeded up the movement of products. It has made the farmer less dependent on certain types of middlemen and to some extent has reduced the risks he formerly incurred from price declines while his product was enroute to the central market."



No fundamental changes have occurred in the last two decades in this trend toward more direct handling of livestock and farm products which change these conclusions.

It is worth bringing to the subcommittee's attention the economic fact of the increasing tendency for the producer to do his own bargaining and to sell direct to processors and others either at his farm or at a nearby product concentration point. Many of the individuals who do the purchasing of raw agricultural commodities are classed as local or country buyers, as distinguished from buyers that operate on and in the central terminal markets. These buyers include local merchants, operators of local elevators, mills, cotton gins, poultry processors, creameries, canneries, meatpackers, and other food and fiber processors. As the U.S. Department of Agriculture has pointed out: "Sales to these country buyers comprise a larger proportion of farmers' total sales of all farm products than those made in any other way."

Eliminating the channel of direct selling or buying would impose needless and harmful restrictions upon the sale of livestock in many specific geographic areas in the United States by denying producers the competitive benefits and market outlets represented by the major regional and nationwide meatpackers.

Because of its close alliance to the livestock and agricultural economy of the Nation, Swift & Co. takes this means of expressing its strong opposition to proposals that would withdraw from the livestock and meat industry and agriculture generally any sound and economic means by which livestock and other farm products move from points of production into consumption. It would introduce uneconomic and therefore harmful elements in the movement of livestock and meat from producer to consumer.

For these reasons, Swift & Co. files this statement with the subcommittee opposing the adoption of H.R. 3798 and H.R. 3415 in their entirety. We appreciate the subcommittee extending the privilege of filing our views for the record.

Respectfully submitted.

SWIFT & Co.,  
By E. G. SPIKER, Attorney,  
Washington, D.C.

(Whereupon, at 4:45 p.m., the hearing was adjourned.)







