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POULTRY INSPECTION REGULATIONS

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HEARING

BEFORE THE

SUBCOMMITTEE ON DAIRY AND POULTRY

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

SECOND SESSION

SEPTEMBER 21, 1966

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POULTRY INSPECTION REGULATIONS

WEDNESDAY, SEPTEMBER 21, 1966

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON DAIRY AND POULTRY OF THE
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 1301 Longworth House Office Building, Hon. Harlan Hagen of California (chairman of the subcommittee) presiding.

Present: Representatives Hagen, Cooley (chairman of the full committee), Gathings, Abbit, Olson, O'Neal, Vigorito, Dague, Belcher, Quie, and Walker.

Also present: Representatives Fountain, Jonas, Taylor, Broyhill of North Carolina, Henderson, Kornegay, Lennon, Trimble, and Whitener; Charlton E. Gnuadt, special assistant to Senator Harry F. Byrd, Jr.; Al Moreton, legislative assistant to Senator John Stennis; Mrs. Rowena Kelfe, special assistant to Senator Joseph D. Tydings; Sam Thompson, legislative assistant to Senator James O. Eastland; Bill Whitley, legislative assistant to Senator B. Everett Jordan; Christine S. Gallagher, clerk; Hyde H. Murray, assistant clerk; Francis LeMay, consultant, and Fowler West, staff.

Mr. HAGEN. Ladies and gentlemen, what prompted this meeting of the Dairy and Poultry Subcommittee of the great Committee on Agriculture under Chairman Cooley's chairmanship is a proposed regulation by the U.S. Department of Agriculture under the Poultry Products Inspection Act of 1957.

And so we will all understand what we are talking about, this amendment would give the U.S. Department of Agriculture authority to withdraw inspection services to broiler plants and shut them down if the plant operator or his agent—and as I understand that, that could be anybody working for him—

has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or other improper means) with any inspector or other official or employee of the Department in or because of the performance of any duties under the Act or the regulations in this part.

Now, this proposed regulation was published in the Federal Register and has provoked a great deal of protest from those people who under the law have their plants and products inspected by the U.S. Department of Agriculture, and as I understand it, there is no similar regulation governing the red meat service, and, to me at least, it would appear that the two situations are not distinguishable at all. And for this purpose, we are holding this hearing to see what can be said to possibly justify such a proposal, to put a man out of business without any hearing and, perhaps, for no very good reason at all.

It is my understanding that the office in charge of the Poultry Inspection Service in the U.S. Department of Agriculture is proposing to withdraw this initial proposal and to have a substitute proposal put forward, but they have never informed the industry what this substitute proposal might be, and the industry cannot therefore, rationally comment on it.

There are a great many Members of the Congress who are interested in this subject, and although I do not have any poultry people in my district, that is, poultry processors and the like, I do have poultry growers.

We have a list of several Congressmen, starting with Congressman Landrum of Georgia, Congressman Broyhill of North Carolina, and Senator Thurmond of South Carolina, and Senator Talmadge of Georgia, and Congressman Gathings who is a member of our committee, and Congressman Abernethy who is also a member of our committee, in attendance.

Mr. COOLEY. If the gentleman will yield, I will add the name of Senator Jordan of North Carolina. Congressman Jonas is also here and has a very important engagement. There are several others that desired to attend but cannot be at this meeting, and I want to ask unanimous consent that they have the opportunity to file or make a statement.

Also let the record show that Mr. Taylor and Mr. Henderson of North Carolina are here.

Mr. HAGEN. And Congressman Marsh.

Mr. COOLEY. Why do you not come up here?

Mr. HAGEN. If there is no objection, any Member of Congress who wishes to file a statement with respect to this subject is granted that permission. There being no objection, any Member of Congress may do so, and they will have 10 days in which to file their statement on this subject.

I think that first we will recognize Congressman Landrum and then the members of the committee who wish to make statements will be heard first.

First, we will hear from Congressman Gathings, of Arkansas.

STATEMENT OF HON. E. C. GATHINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. GATHINGS. Mr. Chairman, we in Arkansas are very much concerned with this proposed regulation. We are in accord with the National Broiler Council's position with respect to this matter.

The Arkansas delegation in the House met this morning with the representatives of the broiler industry in our State.

Mr. Mills, who is in a committee meeting at this time, wanted to appear. He sent Mr. Goss to represent him, his administrative assistant.

Judge Trimble was also in attendance there this morning, and desires to file a statement. He sent word by me that he would concur in the statement to be made here by Mr. Cameron, who will represent the poultry interests of the State of Arkansas.

I have another meeting, Mr. Chairman, to attend. I do appreciate this courtesy accorded me of saying a word or two at this time.

We, of course, wholeheartedly endorse the National Broiler Council's position. We feel that this proposed regulation ought to be set aside, and we urge the subcommittee to pass a resolution calling upon the U.S. Department of Agriculture to withdraw this regulation or similar regulation that may be issued subsequently.

Thank you.

Mr. HAGEN. Thank you, Congressman Gathings.
Congressman Abernethy?

STATEMENT OF HON. THOMAS G. ABERNETHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. ABERNETHY. Mr. Chairman, I have been around here for a long time. This is the first time, to my knowledge, that any agency of the Federal Government, particularly of the Department of Agriculture, has ever proposed to withdraw a service to the people of a particular industry because they anticipate some kind of threat against a Federal employee. If this sort of thing is carried to its ultimate potential, this means that the Department of Labor, the Department of Justice, the Department of Commerce, the Department of Health, Education, and Welfare—each and every agency of this Government—could sever its services to the 190 million people of this country, simply because they might anticipate that one of their employees might be at sometime in the future threatened or abused.

The way to enforce the law—and we have all kinds of laws: we have Federal, State, and municipal laws, and local laws, in fact, we have too many—is to prosecute the people who threaten others. We have laws governing such laws dealing with bodily harm or with those who abuse others with physical harm and bodily harm.

I am just a little bit surprised and tremendously disappointed that an agency of this Government, that I have such a high regard for and still have, that it would come forth with a proposal of this kind saying: "Now, if you do not be nice to us, we are going to withdraw the service." And, very frankly, I say to my friends in the Department that whoever originated this—I do not know who it was—I think that he made a terrible mistake. They ought to be ashamed of themselves.

I hope that this morning, before we leave this room, that they will acknowledge their mistake and say, "Let us start all over again and be the friends that we were and have been all of these years."

The poultry industry means a lot to the people in my State. This is a big industry; it means much to the income of my people, and the Lord knows that if there is anything we do need it is an improvement in our incomes in that area. This regulation is not calculated to do one thing that will be helpful, but to do a thing that will harm the industry, an industry that the Department is supposed to be helping.

I hope that this committee will condemn it, and I hope that the Department will withdraw it.

Thank you.

Mr. HAGEN. Thank you, Congressman Abernethy.

We have a long list of Congressmen here.

Mr. Landrum, Mr. Broyhill of North Carolina, Senator Thurmond, and Senator Talmadge. Represented by Gene Goss is Judge Trimble

who has now left. Seated in the audience, we have Congressman Flynt, Congressman Marsh, and Congressman Henderson.

Mr. ABERNETHY. May I ask unanimous consent to include a statement in the record following the remarks that I have just made?

Mr. HAGEN. Certainly. Without objection, that is so ordered.
(The statement submitted by Mr. Abernethy follows:)

STATEMENT OF HON. THOMAS G. ABERNETHY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MISSISSIPPI

Mr. Chairman, I oppose the regulation proposed by the Department of Agriculture. It is unnecessary and most unreasonable.

The regulation would give the Department unbridled powers to suspend or completely withdraw service from the poultry processing plants in the event one of the Department's inspectors is threatened or assaulted. No one condones assaults or threats of such. But to suggest that such is anticipated at the hands of poultry processing plant employees borders on the ridiculous and in effect is an insult to the thousands of men and women who work in these plants.

Such could happen any place at any time. It could happen to an employee of the Department of Labor, or of the Department of Justice, or the Department of Commerce, and so on and on throughout government. But no one has suggested that because such might happen to a federal employee of one of these departments that the services of such Department should be withdrawn. And there is no evidence that there is any more probability of such happening to an employee of the poultry inspection service than to an employee of any other agency of any Department of this great, big, broad government.

Certainly the employees of these plants do not condone violence any more than do the employees of the Department of Agriculture.

The proposed regulation completely misses the mark. It threatens significant loss of business to poultry firms that might be shut down because of the possible withdrawal of inspection services. It would cause innocent workers a great loss of income, possibly a loss of their jobs, who would thus become innocent victims of a misdirected proposal.

We have come to a sorry state if we allow federal bureaucracy to fatten itself on regulations which penalize innocent people, which give unnecessary powers to government at the expense of private industry and which actually fail to help the intended beneficiaries, who, by the way, are already protected by an abundance of federal, state and local laws.

This proposed regulation is a reflection on the character, integrity and general reputation of the employees of the poultry processing industry. I condemn it and urge you to do the same.

Mr. HAGEN. Do all of you want to appear together or separately? That is your choice.

Mr. O'NEAL. And Mr. Stephens is here.

Mr. HAGEN. Yes, Mr. Stephens also.

Mr. Landrum is the first on the list, and we will hear from him now.

STATEMENT OF HON. PHIL M. LANDRUM, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF GEORGIA

Mr. LANDRUM. Mr. Chairman and members of the committee, first, let me say that I would oppose such a regulation as this if there were no broilers, no broiler industry, no broiler processing plants in my congressional district or in my State.

Hence, I can say that I am in complete agreement with the statement issued under the name here of the distinguished chairman of this committee, the Honorable Harold D. Cooley, in stating that this regulation goes beyond the bounds of reason, law, and necessity, and, moreover, I join with him, and I believe the poultry industry, in saying that we support wholeheartedly the inspection program. We know that it is absolutely essential to the welfare of the people in the industry

and the welfare of the industry, and we do not want to see such a regulation that will do such a disservice and destroy confidence in the inspection program adopted.

I would like to add something along the line that Congressman Abernethy has spoken of: Such a regulation, in my judgment, flies directly into the teeth of the U.S. Constitution. What we are about to do here is to punish a great number of innocent employees by denying them the opportunity to work because merely one employee may lose his temper or may for reasons wholly outside of his job, or anything connected with the inspection program, challenge something which one of the Federal inspectors may do at a given time and because of such an outburst of temper or such an infraction, the entire plant and thousands of people who are employed by the plant and hundreds of people growing the product for the plant, as well as the general public, would be deprived of the service in general and, moreover, it would have an agency of the U.S. Government setting up—and I hate to use this harsh word or to be this harsh, but frankly it would be setting up a Gestapo regulation.

With regard to whoever the author of this is, like Mr. Abernethy, I sincerely hope that the gentleman will reconsider and withdraw it and acknowledge his mistake.

To realize that on the statute books of all of the 50 States, we have criminal laws that will take care of such infractions as are anticipated here, that is one thing, but then to think that one of our own employees in one of the most important agencies of our Government would propose to set up such a dictatorship as this and impose this upon the employees, upon the public generally, a regulation which would absolutely close the voice protest against any regulation is like those that Hitler set up in Germany which produced the Gestapo.

I think that a person who would read this proposed regulation and would read "Mein Kampf" would see a very close similarity. I am shocked that any responsible person in the Department of Agriculture would propose such a thing, and I say here that it is time for the Members of Congress, for this committee which has jurisdiction over this Department, and for every other responsible person in this country to begin to take notice of such things as regulation-making power. I think that we ought to be more careful in the future perhaps than we have been in the past in providing authority for making regulations.

I could go on and on. I do not want to impose upon the committee's time nor impose upon the people here, but this is the most serious threat to personal freedom, to free enterprise, that I have seen in the 14 years that I have been a Member of the Congress.

I sincerely hope that the Secretary will direct those who were responsible for promulgating such a regulation to withdraw it immediately.

I thank you.

Mr. HAGEN. I thank the distinguished gentleman from Georgia.

Before proceeding with the others, I think that we might relinquish the questioning by the members of the committee at this time, unless someone has an urgent question.

The next is Congressman Broyhill of North Carolina.

**STATEMENT OF HON. JAMES T. BROYHILL, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NORTH CAROLINA**

Mr. BROYHILL. Mr. Chairman and members of the subcommittee, I have made copies of my statement available to the members of the committee, to the staff, and also to the members of the industry who are here present and are interested in this subject, and I would like to ask that it be included in the record at this point.

I am in opposition to this proposed regulation. I certainly support the conclusions that have been stated by my good friends, Mr. Abernethy and Mr. Landrum.

Mr. HAGEN. Thank you very much, Congressman Broyhill.

Your statement will be made a part of the record at this point—unless there is objection.

Hearing none, it is so ordered.

(The prepared statement submitted by Mr. Broyhill follows:)

**STATEMENT OF HON. JAMES T. BROYHILL, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NORTH CAROLINA**

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to make this statement this morning about proposed regulations of the Department of Agriculture which I strongly believe constitute a very real threat to the nation's poultry industry. Let me say, too, at the outset that I feel the Committee on Agriculture and this Subcommittee, in particular, should be congratulated for calling this meeting today and for the concern that is being shown for the serious implications of what the Department of Agriculture is proposing to do.

The regulation in question, as you know, would authorize the withdrawal of inspection services from broiler processing plants and force them to close if the operator of the plant or his agent "has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or other improper means) with any inspector or other official or employee of the Department in or because of the performance of any duties under the Act or the regulations in this part . . ."

Certainly, no one condones nor defends any of the actions enumerated in the proposed Departmental regulation. Superficially, the suggested amendment would empower the Department to deal with serious problems which could stand in the way of the effective discharge of its responsibilities under the Poultry Products Inspection Act of 1957. It takes little analysis beyond these surface appearances, however, to see that this proposal involves an unjustified extension of authority by the Department of Agriculture. It would grant the Department immense punitive power over individual poultry processing operators, and by its vagueness, it invites serious abuse. Under it, honest disagreement between a plant operator and an inspector might well be interpreted as "interference" by the inspector. It would empower the inspector to act as prosecutor, jury, and judge to close a plant on a moment's notice and, thereby, bring about severe economic consequences for the plant and the community itself.

I feel that the record is crystal clear that the Congress at no time has indicated its intent that the facilitation of inspection services should include such administrative powers as those the Department wishes to assume. On the contrary, the Congress has indicated its awareness of the punitive powers which the inspection legislation contains and has been very careful to limit the exercise of this authority.

The present law allows for the withdrawal of inspection services only in two instances. The first is in situations where the poultry plant operator does not have premises, facilities, and equipment as required by the regulations. The second occurs where the plant is not operated in accordance with sanitary practices. If we look at the House-Senate Conference Report issued at the time of the original enactment, we see specific limitations on the power to withdraw inspection services and a recognition that this power to punish must be carefully and specifically restricted.

This has been a wise precaution, in my opinion. It is my deeply-held conviction that only the Congress has the authority to authorize the vast new extension of power which the Department now seeks to accomplish by administrative action.

Certainly, the threat or actual assault upon a poultry inspector in performance of his assigned duties is a serious offense. If there is inadequate protection for such Federal personnel, then remedies need to be found. I am unaware of any instances which show that present legal resources are inadequate. In most, if not all, States the criminal statutes are specific and unequivocal. For instance, in North Carolina assault with or without use of a weapon is punishable by both a fine and a jail sentence.

With regard to any efforts to bribe poultry inspectors, the penalties are already provided in Federal law and the punishment is swift and sure, as it should be. Mr. Chairman, the drastic and punitive nature of this regulation is best illustrated when we realize the tremendous losses that could result from the improper exercise of the authority it contains. As an example, I am advised that closing a plant with a 6,000 bird capacity operating on one shift for one day would result in a direct loss of \$13,440. We must add to this the economic hardship and dislocation that would spread throughout the community as grower houses and hatcheries become involved. Even if the Department has such powers available to it, this is an awesome authority to grant to one individual, without the protection of a hearing or any safeguards to protect the interests of the plant operator or the community.

Very frankly, this regulation would, in my opinion, create confusion and would not contribute to the effective operation of the poultry inspection service. It is my hope that the Subcommittee will agree that the Department's plan is both unwarranted and unwise so that the nation's broiler industry may have reasonable protection from harassment and administrative abuse.

Mr. HAGEN. Senator Thurmond is next on the list. I do have a statement of objection from him which, without objection, will be included in the record at this point.

(The prepared statement submitted by Senator Strom Thurmond follows:)

STATEMENT OF HON. STROM THURMOND, A UNITED STATES SENATOR FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I was shocked to learn of the proposed amendment by the U.S. Department of Agriculture to the Poultry Inspection Act of 1957, which would permit this agency to suspend or withdraw inspection services from a broiler plant when, in their judgment, an inspector is assaulted or threatened.

Anyone who knows anything about the broiler business realizes that withdrawal of government inspections would immediately doom a broiler plant. Favorable action on this amendment would amount to a further extension of federal power, something we definitely do not need or want. We have already seen abuses in this area, especially as they apply to our schools. In fact, approval of this change would give the Agriculture Department life and death control over the broiler industry. I strongly oppose it and urge others to do the same.

Mr. Chairman, it is also my view that a regulation of this type is simply not needed. The Agriculture Department requests power to withdraw inspection services if the plant operator or his agent "has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or other improper means) with any inspector, etc."

This definition is wide open to interpretation, and apparently the inspector would be the main judge of its violation. It amounts to giving the inspector powers which in no way are related to the execution of his duties. Certainly none of us would condone such conduct as covered by the proposed regulation. However, we already have adequate laws, both state and federal, which provide penalties for assault, bribery and forcible intimidation. Further, plant closing would result in the loss of jobs to many persons not responsible for these difficulties. I feel just as strongly that our federal inspectors, who are doing an important and needed job, be protected to the fullest extent, but this proposed amendment is certainly not the way to accomplish it.

It is even conceivable that this proposed amendment could be used for political purposes. The Agriculture Department is making a mistake to request powers

which could easily be abused and also work to the detriment of so many innocent people.

In conclusion, Mr. Chairman, it appears to me this proposed amendment is ill-advised, ill-contrived, and ill-fated. Let us hope the Agriculture Department will withdraw it and save us all a lot of trouble.

Mr. HAGEN. I might also say that I have a communication here from Senator Sparkman objecting to the regulation.

Without objection, that will be placed in the record at this point.
(The communication referred to follows:)

STATEMENT OF HON. JOHN SPARKMAN, A U.S. SENATOR FROM THE STATE OF ALABAMA

Mr. Chairman, the regulation recently proposed by the Department of Agriculture—Sec. 81.25(a)(1)(iv)—is arbitrary and should not be promulgated. There is no reason to believe that promulgation of this regulation will make it safer for federal inspectors to enter poultry plants. Assault is punishable under state law and bribery is punishable under federal law. I do not see how this regulation increases protection.

No sensible person would condone violence between inspectors and poultry plant employees. Such violence is deplorable and should be punished severely. This regulation, however, does not accomplish that result. It punishes the employer and it punishes the innocent employees, but it does not punish the guilty party—the employee who actually committed the assault.

This regulation is both arbitrary and unnecessary. Therefore, I urge that it not be promulgated.

Mr. HAGEN. I wish to also include in the record at this point, a letter from Senator Fulbright to me, to which is attached a letter which he received from Mr. Blum of the Consumer and Marketing Service of the Department of Agriculture and a telegram from the Arkansas Poultry Federation.

Without objection, we will include those in the record at this point.
(The letter and attachments referred to follow:)

U.S. SENATE,
Washington, D.C., September 19, 1966.

HON. HARLAN HAGEN,
Chairman, Subcommittee on Dairy and Poultry, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that your Subcommittee has scheduled a hearing on Wednesday, September 21, to consider proposed changes in poultry inspection regulations. These changes would expand the Department of Agriculture's power to suspend or withdraw inspection service or poultry plant approval.

Enclosed for your information is a copy of a letter dated August 30, 1966, addressed to me by Mr. J. C. Blum, Assistant Deputy Administrator of the Consumer and Marketing Service in the Department of Agriculture. I call your attention particularly to the statement by Mr. Blum that "... in the nearly eight years since the Poultry Products Inspection Act became fully effective, inspection service has been suspended only once for" a cause similar to the causes to be specified in the proposed regulations.

This statement indicates to me that the conduct to be proscribed by the new regulations is most infrequent, and that present regulations apparently adequately proscribe such conduct. For these reasons, I question whether new regulations are needed.

Also enclosed for your consideration is a copy of a telegram which I have received from Mr. Lex Killebrew, representing the Arkansas Poultry Federation. You will note the Federation's request that a committee be formed to simplify existing poultry inspection regulations.

The Arkansas Poultry Federation and the Arkansas Poultry Processors Association are grateful for your decision to inquire into this important subject.

With best wishes, I am
Sincerely yours,

J. W. FULBRIGHT.

Enclosures.

UNITED STATES DEPARTMENT OF AGRICULTURE,
CONSUMER AND MARKETING SERVICE,
Washington, D.C., August 30, 1966.

Hon. J. W. FULBRIGHT,
United States Senate.

DEAR SENATOR FULBRIGHT: This is in reply to your inquiry containing a telegram from Mr. Lex Killebrew of the Arkansas Poultry Federation on proposed amendments to the poultry inspection regulations. The concern of Mr. Killebrew is primarily on that part of the proposed amendment dealing with the suspension or withdrawal of inspection service or plant approval.

The Department proposes to expand the regulation pertaining to suspension or withdrawal of inspection service to include as one of the reasons for such action the assaulting or otherwise interfering with any employee in or because of the performance of his duties under the Act or the regulations. Similar language is in other inspection and grading regulations of the Department. It is our view that the poultry inspection regulations should likewise specify these causes for possible suspension or withdrawal of service so that the affected industry would be aware of them. Such acts occur very infrequently, but when they do occur they necessarily impede the efficient execution of the provisions of the Act.

The lead paragraph in that part of the proposed amendments listing causes for disciplinary action reads in part as follows: *Causes.* Inspection service and/or plant approval may be suspended or withdrawn, etc. The causes are then listed. Please note that the words "may be" are used in lieu of "shall be." It is certainly not the intent of the Department to suspend or withdraw service for frivolous or hasty reasons. When interference or assault occurs, withdrawal action will not be taken until all the facts are available and the incident has been thoroughly considered. We fully realize the hardships associated with suspending inspection service in a plant. Every effort is made to settle these types of difficulties without disciplinary-type action. Significantly, in the nearly eight years since the Poultry Products Inspection Act became fully effective, inspection service has been suspended only once for a similar cause.

When the proposed amendments were published in the Federal Register of July 21, 1966, interested persons were given until August 22, 1966, to make comments. In response to several requests for an extension of time for submitting comments, the Department has extended this time to September 23, 1966. We earnestly invite views from all persons interested in the amendments, and the extension was granted to make sure interested persons had adequate time to study the proposal and submit constructive views. As has been our policy for many years, the proposed amendments will not be incorporated in the regulations until all comments have been carefully considered and the facts weighed.

We believe the excellent record of cooperation and working relationships between the Department and the poultry industry over many years refutes any inference that the Department has any intent to create unnecessary hazards to the continued operation of poultry plants under the Federal inspection service.

Thank you for your interest in this matter.

Sincerely yours,

J. C. BLUM,
Assistant Deputy Administrator.

Enclosure: Constituent's Telegram.

LITTLE ROCK, ARK., September 15, 1966.

Senator J. WM. FULBRIGHT,
Senate Office Building, Washington, D.C.:

This was passed Sept. 13th in Fort Smith, Ark., and we request your consideration and assistance in developing most important piece of legislation.

The Ark. Poultry Federation and the Ark. Poultry Processors Association would like to go on record as favoring and requesting Congress to re-draft the Poultry Inspection Act to revive the original intent of Congress which was to protect the consumer by determining through inspection that poultry be wholesome and eliminate all parts of the Poultry Inspection Act that do not pertain to wholesomeness and sanitation.

Be it further requested that a committee of industry, Congress, and the USDA be charged with the responsibility of jointly drafting a new and simple regulation to clarify the original intent of Congress.

LEX KILLEBREW,
The Arkansas Poultry Federation.

Mr. COOLEY. I understand that you granted permission for statements to be filed by any Member of the Congress and that they would have 10 days in which to file their statements.

Mr. HAGEN. Yes, sir. And I want to note for the record that the statements of Senators Fulbright and Thurmond are in the record.

The next witness is Mr. Goss who is representing Congressman Mills. We will recognize his presence here.

And we have our colleague Mr. Flynt, of Georgia, here. We shall be glad to hear from you now.

**STATEMENT OF HON. JOHN J. FLYNT, JR., A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF GEORGIA**

Mr. FLYNT. Mr. Chairman and members of the committee, I was shocked when I read this proposed new regulation. I would like to voice my opposition to it and to urge this committee to inform the U.S. Department of Agriculture that this proposed new regulation is contrary to the intent of this committee as well as to the desires and the intentions of the Congress.

As I read this proposed regulation, it would give an administrative agency, in this case, the Department of Agriculture, the authority to suspend inspection services, and thereby to destroy a segment of an industry owned by an individual, a firm, or a corporation without any opportunity to be heard, and upon a mere allegation unsupported by competent evidence.

If I read this correctly, this goes against every rule of administrative law and of Anglo-American jurisprudence which requires a hearing and substantial evidence before any action of this kind could be taken.

This, as I view it, is an unprecedented grab for the power to destroy which has not heretofore been recognized, certainly not by the Congress, and to the best of my knowledge not by any executive department or administrative agency.

On behalf of those in the district and the State which I represent, who have voiced opposition to this proposed regulation, and in my own behalf, I, too, oppose this proposed regulation as strongly and as vigorously as is possible.

Thank you, Mr. Chairman.

Mr. HAGEN. Thank you.

We will now hear from Congressman Marsh.

I think you have a prepared statement.

**STATEMENT OF HON. JOHN O. MARSH, JR., A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF VIRGINIA**

Mr. MARSH. Mr. Chairman and members of the committee, I have a prepared statement, and in the interest of saving time, I should like to ask permission to file it.

I want to commend the committee for their efforts.

I would like to present Mr. Henry Holler, who is president of the Virginia State Poultry Federation, Mr. Carl Williams, executive secretary of the Virginia State Poultry Federation, and Mr. Earl Budd, who is president of the Virginia State Poultry Processors Association.

Mr. HAGEN. Without objection, your statement will be entered into the record at this point.

(The prepared statement submitted by Mr. Marsh follows:)

STATEMENT OF HON. JOHN O. MARSH, JR., A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF VIRGINIA

I am concerned by the broadness of the language contained in the proposal of the Department of Agriculture with respect to its contemplated amendment of Section 81.25(a)(1)(iv) of the regulations pursuant to the Poultry Products Inspection Act of 1957.

Needless to say, no responsible member of the poultry-processing industry would countenance the use of force or threat of force against a federal inspector, or an attempt to bribe him.

In this respect, it might be contended with some reason that objection should not be made to the proposed change in the regulations.

On the other hand, a careful reading of the recommended new language indicates areas of factual interpretation which, I believe, go far beyond what the Congress had in mind in authorizing the Department to promulgate reasonable rules for the provision and maintenance of regulatory services under the Act.

The question here, it seems to me, is not one of a difference of opinion on the rights and wrongs of bribing, threatening or beating up a federal inspector, but one of determining whether or not ample remedies exist in law to punish those guilty of any such excesses.

It is my belief that appropriate controls do exist in this regard.

The chief objection to this proposed regulation, it seems to me, is that it does not punish any individual who may set upon, or offer to bribe, a federal inspector, but, rather, proposes to close down an enterprise, following such an incident, by withdrawing federal inspection services from the plant involved. I cannot recognize that this punitive action is one within the purview of an administrative agency when not assigned specifically by the Congress.

What we have here is a decision by the Department of Agriculture on punitive action, without regard to federal or state laws on the subject as to how punishment should be imposed with respect to certain acts generally regarded as criminal under federal and state statutes.

The result of approval of this regulation would be to extend a judicial function to an executive agency, and, in the process, to punish, not only the individual, or individuals, deemed guilty of the offenses specified, but also all others having an economic interest in the enterprise at which the alleged incident or incidents took place.

It seems obvious to me that this regulation goes far beyond reason and could penalize, in a community in which a poultry-processing plant was a chief industry, not only all wage earners employed in that plant, but also all farmers dependent on it for the processing and marketing of their poultry.

What we should keep in mind here is that, while a federal inspector should be secure in his person and integrity during the performance of his duties, the Congress has determined that poultry moving in interstate commerce shall be subjected to federal inspection as a matter of law, and withdrawal of inspection services, for whatever purpose, would deny to the community in which the plant was located the economic productivity of the plant involved—including the buying power of wages paid processing employees—and, secondarily, would deny to the producing poultry farmers of the surrounding area access to the normal markets for their poultry.

The Department's regulation is inappropriate and ill-advised.

Mr. MARSH. I would like to thank the subcommittee for taking this vigorous and aggressive action. I am confident that it will be successful. And, in reiterating what my colleagues have said, this affects not only the wage earner and the processor, it affects the producers, and unless they can avail themselves of the processors, they will suffer a serious economic impact which will not only affect them but will affect the community.

This is a judicial function that is being asserted by an executive agency. I hope that you will have time to hear these people who are so vitally affected in this industry.

I will leave copies of my statement with the members of the committee and other Members of the Congress who are present.

Mr. HAGEN. Thank you.

We will next hear from our colleague, Mr. Kornegay, of North Carolina.

**STATEMENT OF HON. HORACE R. KORNEGAY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NORTH CAROLINA**

Mr. KORNEGAY. Mr. Chairman and members of the committee. I have a prepared statement that I would like to submit for the record, saying very briefly that I join my colleagues who have expressed their vigorous opposition to this regulation, that I concur in what has been said here and express my bewilderment over the action of the Department of Agriculture in proposing this type of a highly unusual, unreasonable and capricious regulation and to ask the committee to take whatever action is necessary to see that this type of regulation is not carried out.

Thank you very much.

Mr. HAGEN. Your statement will be made a part of the record at this point.

(The prepared statement submitted by Mr. Kornegay follows:)

**STATEMENT OF HON. HORACE R. KORNEGAY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NORTH CAROLINA**

Mr. Chairman, may I express my appreciation for your courtesy in allowing me to present my views on a proposed amendment to the Poultry Products Inspection Act now pending before your committee.

My name is Horace R. Kornegay, Member of Congress, from the Sixth Congressional District of North Carolina.

In behalf of the poultry processing industry in the Sixth District of North Carolina and other poultry processors throughout the nation, I oppose the proposed amendment of Section 81.25(a)(1)(iv) of the Poultry Products Inspection Act of 1957.

The regulation as proposed is unreasonable, unnecessary and unfair. It is completely unwarranted.

The amendment as offered would give the U.S. Agriculture Department authority to withdraw inspection services from broiler plants and discontinue the operation of the plant if the plant operator or his agent ". . . has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or other improper means) with any inspector or other official."

I know personally a number of poultry processors and I know them to be honorable businessmen who deplore violence in any form, in any place—particularly in their places of business. I know them to be gentlemen who have no intention to violate any law, State, or Federal.

There are at this moment ample and adequate laws which prescribe severe penalties for bribery, assault and forcible intimidation. Since the proposed amendment is only punitive and not remedial, it would seem that the proposal is entirely unnecessary.

The vagueness of the language in the proposed amendment brings on the question of what constitutes "a threat" or "interference" and who is to draw the fine line between vigorous interchange of opinion and an actual or implied threat?

Should the plant be closed because of an honest difference of opinion between the operator and the inspector, should the employees who are innocent of any wrong-doing be deprived of their livelihood?

The USDA now has the authority to close a poultry plant if it is found that the operation is unsanitary or if the poultry in process is unwholesome. I submit that we should leave the USDA with the authority given it by the Congress and leave violations of criminal acts to the courts, where each party can be heard on the merits of each individual case.

The amendment is but an arbitrary usurpation of the authority of the Congress and the judiciary and is completely and totally unneeded.

Thank you for your allowing me to present this brief statement in opposition to the proposal.

Mr. HAGEN. We next have on our witness list, Mr. Henderson, of North Carolina.

We shall be glad to hear from you now.

STATEMENT OF HON. DAVID N. HENDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. HENDERSON. Mr. Chairman and members of the committee. Very briefly, I would like to say that I think this is an opportune time, not only to agree with what has been said with regard to this regulation, but also to point out that Congress has given to the Department of Agriculture the right to close plants anyway, if they find them unsanitary or that the product is unwholesome. This is a tremendous power and it is being exercised by the employees of the Federal Government, civil service employees, who are working for the taxpayers of this country, and the poultry employers and poultry workers are among that group. And I think it is about high time for us to let the Government employees, throughout the Nation, know that whenever we give them power it must be exercised judicially, and certainly not with the shock that comes with this regulation.

I think that we should note that we have had many instances called to our attention where some of these inspectors have thrown their weight around, and if they find that a plant management, or a plant owner or his employees are impeding their duties, I think that something can be done about it other than shutting that plant down.

I am wondering what can be done about the inspectors of the U.S. Department of Agriculture who throw their weight around?

I note that in recent days that our colleague, Mr. Mills, talked about the bill of rights for Federal employees, and I expect to look into that and support it very vigorously.

I think we need a bill of rights for the American taxpayers; and, for one, I will say that this regulation does not fit into the Bill of Rights.

I thank you.

Mr. HAGEN. Thank you. We will next hear from our colleague, Mr. Stephens.

STATEMENT OF HON. ROBERT G. STEPHENS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. STEPHENS. Mr. Chairman and gentlemen of the committee, I am opposed to the proposed regulation and I am glad to have the opportunity of participating in this forum to express that I am so opposed.

Also I would like to ask the committee to give me an opportunity to file a formal statement with the committee.

I plan to make a personal protest to the Department of Agriculture, in line with what has been said here.

Thank you.

Mr. HAGEN. You have general permission, as we have granted it to every Member of Congress, to file a statement, and you have 10 days in which to file it.

(The statement, subsequently submitted by Mr. Stephens, follows:)

STATEMENT OF HON. ROBERT G. STEPHENS, JR., A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF GEORGIA

I would like to protest the proposed Regulation 81.25 (a) (i) (iv) of the Department of Agriculture. I join with Congressman Landrum in stating that the Regulation goes "beyond the bounds of reason, law and necessity."

A review of the proposal and attendants at the special hearing of the Poultry Subcommittee show absolutely no reason why such a Regulation should be promulgated. It is my strong recommendation that the Regulation be dropped and that no modified one be offered in its place. If necessary, I hope that the Poultry Subcommittee and the House Committee on Agriculture will take steps to prevent approval of this Regulation on any similar one.

It is my opinion, after careful study, that the Department does not have the authority to impose this Regulation. It could result in unnecessary and severe harm to employees and communities as well as to plant management.

Certainly, violence is not condoned by me or the Poultry Industry. However, there are adequate remedies at law to punish guilty parties in any isolated case that may occur.

For these reasons and the many others cited by members of Congress, I urge that the proposals be dropped and the Poultry Industry and Congress so notified.

Mr. HAGEN. We will next hear from Congressman Taylor.

STATEMENT OF HON. ROY A. TAYLOR, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. TAYLOR. Mr. Chairman and members of the committee, I am glad to be associated with the remarks that have been made in regard to this matter. I agree with the conclusions that have been drawn. If other governmental agencies follow this type of reasoning, it would be bad. That is not the American way.

And so I join you, Mr. Chairman, in opposing this unwise and unfortunate regulation.

Thank you.

Mr. HAGEN. Thank you.

Are there any other Members of Congress present who have not been recognized as yet?

If there are no other Members present, you may tell them that they do have the opportunity to submit a statement for or against the regulation within the period of 10 days.

We have two witnesses listed from the Department of Agriculture.

Do they wish to appear separately or together?

We have Mr. Roy W. Lennartson, Associate Administrator, Consumer and Marketing Service, and Dr. Robert K. Somers, Deputy Administrator for Consumer Protection, Consumer and Marketing Service.

Will you two gentlemen come forward, please, to the witness table?

I may say, on this problem, that if there is any light that you can shed on the background of this regulation and what the Department intended to do with it and intends to do about it, that will be appreciated.

Do you want to introduce a third person with you?

Mr. LENNARTSON. Mr. Chairman and members of the committee, I also have with me Mr. Charles Bucy, the Associate General Counsel of the Department.

STATEMENT OF ROY W. LENNARTSON, ASSOCIATE ADMINISTRATOR, CONSUMER AND MARKETING SERVICE; ACCOMPANIED BY ROBERT K. SOMERS, DEPUTY ADMINISTRATOR, CONSUMER PROTECTION, CONSUMER AND MARKETING SERVICE, AND CHARLES W. BUCY, ASSOCIATE GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE

MR. LENNARTSON. Gentlemen, we are quite aware of the responses to the proposed regulation issued on July 21. On July 21, we gave public notice with respect to a proposal of a series of amendments to the regulation, seeking the views of the industry and of any other interested party. Frankly, we deeply appreciate having the opportunity afforded in obtaining the views of the committee members of Congress who have expressed themselves here this morning.

We set the date of August 22, I believe, for the filing of views on the part of interested parties. And at the request of the industry, this period was extended until September 23, which is the day after tomorrow.

We have welcomed all of the views reflected to us on the whole set of amendments.

The amendment in question has gathered tremendous interest on the part of the industry and tremendous concern has been reflected to us with respect to the manner in which it would be decided.

It is very clearly obvious that the amendment as now written cannot stand, that it will have to be substantially modified, and we hope to do this in a manner which will be acceptable to the industry and will permit the Department to provide an adequate service in terms of consumer protection.

As I have indicated, the industry, or those interested, have an opportunity to file their views until the day after tomorrow. At this time, I am not in a position, nor are my colleagues in a position, to indicate the manner in which the modification will be made, but I can assure the committee that it will be made in such a manner that we and the industry, in deference to the consumer, can have an operating structure or procedure which will not have any serious impact on either side.

These are about all of the comments I have to make this morning. I will be glad to respond to any questions that you may have.

MR. HAGEN. Mr. Abernethy?

MR. ABERNETHY. I have one concern about the position you are taking. You say that it will be amended or modified. Will these people have an opportunity—at the time—to consider the modification before it goes into effect?

Will they be given time on that?

MR. LENNARTSON. Absolutely. We will follow the regular rule-making procedure, to have it commented on. Oh, absolutely, they will be given ample opportunity to assess it and to comment on the proposal.

MR. HAGEN. Are there any further questions?

MR. COOLEY?

MR. COOLEY. How can you modify this outrageous and unwarranted regulation unless you repeal it outright?

It is a violation of the jurisdictions of this country—it is a violation of the law.

The idea of closing a whole plant because some employee of a company does something illegal—even if you have a murder—if they killed an inspector—you have no right to close that firm. You can take the guilty employee to the courthouse and try him and send him to the penitentiary for such a crime, but you cannot place the guilt on the entire firm. You will have this whole industry torn to pieces. No modification of this will satisfy us. It has to be an outright repeal. Modifying it does not appeal to me as a lawyer, and I do not think that it will appeal to Mr. Bucy over there, sitting next to you.

I do not think that the General Counsel of the Department will say for 1 minute that you have the right to do this.

Where did you get the authority to do it?

Mr. LENNARTSON. When I speak of modification here, it is modification to the extent that we consider the environmental arrangement or the characteristics to permit an adequate inspection, to permit an inspector to do an adequate job of inspection. The industry wants an inspector to do just as adequate a job as he can do.

Mr. COOLEY. Yes.

Mr. LENNARTSON. It is a question of the environment in which he works. This is what I speak of in terms of modification. We treat the inspection environment the same as we would treat sanitation, or plant layout or the disposal of inedible products, et cetera. That is what I speak of, by way of modification, to give a clear guideline in fairness to industry. They should all know that the environment in which the inspector operates is just as important in doing a good job as sanitation and things of that kind.

Mr. COOLEY. If an inspector walks into a plant in my district and says that the environment is too bad for him and he will not make the inspection, do you close up the industry?

Mr. LENNARTSON. Absolutely no intention of doing that whatever; no intention of doing that.

Mr. COOLEY. You say that here, but it contemplates something that might happen.

Mr. LENNARTSON. This is why we need modification.

Mr. COOLEY. Repeal is the only thing that will satisfy us. If you try to modify it and sweeten it up a little bit, it is still objectionable. I agree with the others that you ought to be ashamed of the fact.

Mr. LANDRUM. I want to emphasize exactly what Chairman Cooley has said. You cannot modify such a regulation as you propose here, and satisfy the American public, or satisfy the industry, because the regulation you propose is dealing with fundamental laws, fundamental rights, in this country, and you are proposing to set up in these plants a situation where your inspectors will rule the roost. They already are doing too much of this. I have been in nearly every plant in Georgia—I have been in every poultry processing plant in northeast Georgia, and I find more complaints about the attitude of your inspectors, their arrogance, their complete disregard for the rights of the industry, and the employees than I find in any other industry which the Federal Government touches. I say that from my own personal knowledge.

It is not an allegation that somebody has made to me. I have made visits to the plants, particularly to see, and if you come along with a regulation of this type, modified or unmodified, you are going to create the most chaotic situation in the most important industry that we have.

So, I say to you, as emphatically as I can, as one who has been a friend of the Department—and certainly I have been such for a long time, and I have been, or have tried to be, a friend of this inspection program, that there is only one answer to this: Repeal the thing. Get it out of the way, and then see if you can get some cooperation out of the management at the plants in having the favorable environment you talk about. These employees are not going to do this, unless they are aggravated, and I have seen that and have looked into instances, personally, where I know that they have been aggravated which was caused by your employees.

Mr. HAGEN. When you said "rule the roost," I take it that you said that literally.

Mr. COOLEY. I have just one more question.

Where does the authority come from to promulgate this regulation? Did the General Counsel in the Department approve it?

Mr. LENNARTSON. Oh, yes.

Mr. COOLEY. Did you approve it, Mr. Bucy?

Mr. BUCY. I think the way the regulation was drafted was that apparently the drafter picked it up from the procedures under the grading service. They consolidated a number of things in this paragraph, including the matter of sanitation. And on sanitation, you know, the act itself says that the Secretary shall not render inspection service in a plant if there is a violation of the sanitation requirement.

They packaged the whole thing into one package, and I think it has given the impression that the Department would withdraw inspection indefinitely on a matter of direct assault while the man is in the inspection line of duty. I do not think that was the intention to that extent.

Mr. COOLEY. Did you give any legal opinion on this proposition?

Mr. BUCY. If you want one.

Mr. COOLEY. I said, did you give one?

Mr. BUCY. I will comply with the request of the committee, Mr. Chairman.

Mr. COOLEY. What I am trying to ascertain is whether you did. We already have our opinion. I think it has been pretty well expressed. But did you get an opinion from Mr. Bagwell?

Mr. BUCY. No. There is no opinion on the notice of the proposed rulemaking, Mr. Chairman. There is no opinion written in connection with it. They are put out for the purpose of obtaining the views both as to the practicality, feasibility, and the like, and whether it is sound in its approach to the problem.

Mr. COOLEY. Did any lawyer draft this proposal, or did some bureaucrat do it?

Mr. BUCY. One of our lawyers worked with the administrative people in drafting the proposal.

Mr. COOLEY. Did they submit it to you for your approval?

Mr. BUCY. I do not recall this particular one, but it may have been.

Mr. COOLEY. You do not approve it now?

Mr. BUCY. Not in its present form.

Mr. COOLEY. All right.

Mr. HAGEN. I want to recognize another Member of Congress, Mr. Whitener from North Carolina.

You understand that you can submit a statement for the record if you wish, within a period of 10 days?

I might note also that there is a representative here from Senator Talmadge's office, Mr. Schramm. He does not want to testify, but he would like to submit the Senator's views for the record.

I assume they are in writing. Is that correct?

Mr. ROBERT SCHRAMM (legislative assistant to Senator Talmadge). It is.

Mr. HAGEN. It will be made a part of the record at this point.

I understand Senator Talmadge opposes this regulation?

Mr. SCHRAMM. Yes, sir.

(The prepared statement submitted by Senator Talmadge follows:)

STATEMENT OF HON. HERMAN E. TALMADGE, A UNITED STATES SENATOR FROM THE STATE OF GEORGIA

The proposed amendment to the regulations of the Poultry Products Inspection Act of 1957, Section 81-25, is of grave concern to me. For years the relationship between the poultry industry and the Department of Agriculture has been one of compatibility. Now without any sound justification the Department of Agriculture intends to propose a regulation that would give the Department the legal power to withdraw inspection services from broiler plants and shut them down if the plant operator, or his agent, "has assaulted, resisted, opposed, or impeded or attempted to interfere (by force, deception, or for money, or any other improper means) with any inspector or other official or employee of the Department in or because of the performance of any duties under the Act or the regulations in this part."

After researching this matter thoroughly, I find the proposed regulation to be repugnant to the relations that have been enjoyed between the poultry industry and the Department of Agriculture through the years.

Such an unreasonable and unnecessary regulation would result in the punishment of the innocent and guilty, the closing of a complete plant consequently, forcing numerous innocent employees to be temporarily thrown out of work; the inability of the poultry plant to fulfill its contracts; the accumulation of live poultry while the plant is shut down, and the demand by labor for lost wages.

It is foolish for the Department to enact the regulation when under the current state jurisdictions criminal assault or intended assault may be invoked against the guilty party or parties.

I am emphatically opposed to this regulation and hope that the Department of Agriculture will abandon this unwarranted course of action.

Mr. HAGEN. I understand that representatives of two Senators who are against this regulation are present.

Mr. BILL WHITLEY. Yes. We are against it.

Mr. HAGEN. That is Senator Eastland and Senator Jordan.

Mr. ABBITT. The representative of Senator Byrd of Virginia is here, too.

Mr. HAGEN. We will hear from the representative of Senator Byrd.

Mr. CHARLTON E. GNUDT (special assistant to Senator Harry F. Byrd, Jr.). Senator Byrd is opposed to this.

Mr. HAGEN. Thank you very much.

Let us proceed with the questioning here.

Mr. Olson of Minnesota, I believe has a question.

Mr. OLSON. Mr. Lennartson, you have not touched upon what brought this on at all. I would be very much interested in knowing what produced the provocation, what the degree was of any act which caused the Federal Government to propose such remedial action.

As I understand it, an inspector can almost shut down a plant now if he wants to. I cannot understand why you should need more authority.

Mr. LENNARTSON. It is not a case of more authority. Basically, the setting is this: Fortunately, there have been very, very few instances where we ran into circumstances where our employees, our Federal inspectors have been assaulted, have been seriously interfered with. I think this is a real tribute to the processing industry in terms of the type of surveillance it conducts, and so on. We have had some, however.

It was determined, in fairness to all, that this matter should be clarified in the regulation which, basically, would give management an instrument in cautioning their employees as to the type of conduct that they would have to have with the inspectors and how they would conduct the inspection service. This was the intent, frankly. It was, frankly, a matter of advising all what the rules of the game were with respect to sanitation, with respect to the disposal of inedible goods, with the modifications of the plant that had not been approved with respect to pure water. And this is just another part of the series of environmental characteristics that we need or that the industry needs to conduct an appropriate inspection service.

Mr. OLSON. You would do a great service to every employee in that whole agency, in fact the whole Department, if you would bring back such an opinion to the members of Congress. One, that in fairness, would not stigmatize the whole industry because of a few instances where trouble has occurred. It should not be necessary to spend so much time on it as we are spending on this now.

We have not heard from anyone in the Department who feels that this severe a penalty, because of any described infractions, would be fair.

Mr. HAGAN. Mr. Quie.

Mr. QUIE. Following up what Mr. Olson has said, what brought this about?

Did some employee assault an inspector? Or did some employee say harsh words to an inspector?

Mr. LENNARTSON. There have been actual assaults. I want to repeat that they are very few and far between.

Mr. ABERNETHY. Will you yield to me there?

Mr. QUIE. In a moment. As to the assault, assaulting whom?

Mr. LENNARTSON. Assaulting the inspector.

Mr. ABERNETHY. Will you yield now?

Mr. QUIE. Yes.

Mr. ABERNETHY. What did the inspector do?

Mr. LENNARTSON. I beg your pardon?

Mr. ABERNETHY. What did the inspector do?

Mr. LENNARTSON. The inspectors are instructed to take no action at that time. They are to report it immediately to their supervisor.

Mr. ABERNETHY. I know what they are instructed to do, but what did he do?

Mr. LENNARTSON. That is exactly what he did.

Mr. ABERNETHY. Do you know whether or not he did anything to provoke?

Mr. LENNARTSON. I cannot testify to that. I do not know the details.

Mr. ABERNETHY. After he was assaulted, did he report it to the Department?

Mr. LENNARTSON. He is instructed to report it to his supervisor. The supervisor reports it to the area director, and, in turn, he reports it to the Washington office. At this juncture the Washington office gets in touch with the plant operator to discuss the situation.

Mr. ABERNETHY. Thank you.

Mr. QUIE. Were there many assaults, and were they physical?

Mr. LENNARTSON. Physical assaults.

Mr. QUIE. Thank you.

Mr. HAGEN. Mr. Abbitt?

Mr. ABBITT. Let me ask you just one question: In view of the sentiment that has been expressed here, not only from the members of the subcommittee but from members of the House generally, and from the Senate, do you not believe that you would be in a better position were the regulation withdrawn and start afresh, as suggested by our friend, Mr. Landrum from Georgia?

Mr. LENNARTSON. After September 23, we will shortly be coming out with a separate—another amendment, and give the industry an opportunity to go over it.

Mr. ABBITT. I would suggest that it be withdrawn as has been suggested.

Mr. LENNARTSON. As it is now written; yes, sir.

Mr. ABBITT. And start over.

Mr. LENNARTSON. Yes, sir—yes, that is what we are doing.

Mr. HAGEN. Mr. Belcher?

Mr. BELCHER. I think that you probably have pretty well answered my question. I am just wondering what the legal thought was at the time.

This goes into effect the day after tomorrow?

Mr. LENNARTSON. No, no, no. It is not proposed for going into effect the day after tomorrow. The day after tomorrow is a matter of obtaining views from the industry.

There was no date as to when it would become effective.

Had there been, notice would have been given sufficiently in advance.

Mr. BELCHER. Then, it will take no legal effect until something later is done by the Department. And the Department intends to take no further action about the amendment?

Mr. LENNARTSON. Yes, sir.

Mr. COOLEY. Will you yield right there?

Mr. BELCHER. Yes, sir.

Mr. COOLEY. To save time, I can give you the North Carolina views right now. I have two witnesses here. I am speaking for them, and Phil Landrum is speaking for those in his district. They have a large interest in the broiler business. You have heard from Mr. Gathings from Arkansas. You have heard from all of them. It seems to me that this is a hearing to save you gentlemen from being inconvenienced, from coming back again. I do want to have the record show that we have three very important people from North Carolina here that might want to or might not want to file statements or to make them, but they want to express their views briefly.

And they are Mr. Byron K. Hawkins of Durham, N.C., and Mr. E. S. Kendrick of Wilkesboro, N.C., and Mr. James A. Webster of Pittsboro, N.C.

Mr. BELCHER. I might state that I received a very frantic telephone call from a man who knows something about what he was talking about. I represented the man in my district before I came to Congress. One of his employees got drunk, and failed to put the proper percentage of butterfat into the butter. A carload of this butter was shipped to Los Angeles. It was picked up by the inspectors. Out of five tests, two were above 80 percent and three were a fraction below 80 percent, which was illegal. They filed a charge against the owner of the plant. It cost him about \$400 to rework the butter. I represented him in the Federal court in Oklahoma City to clear him of that charge.

He finally entered a plea of guilty, rather than to fight the case, and he paid a \$25 fine. So, he carries that stigma on his record and will for the rest of his life, because one of his employees got drunk one night.

And he can see the very same thing happening, so far as poultry inspection is concerned, and he was very excited about it.

Mr. HAGEN. Mr. O'Neal of Georgia?

Mr. O'NEAL. Mr. Chairman, I would like to get back to the point that was being discussed.

I believe you used the expression that there were very, very few instances. Does that mean just one instance?

Mr. LENNARTSON. I could not give you an exact figure on that. There were more than one. There have been very few. I would say around a half a dozen.

Mr. O'NEAL. In 9 years?

Mr. LENNARTSON. Yes.

Mr. O'NEAL. Half a dozen in 9 years?

Mr. LENNARTSON. Yes.

Mr. O'NEAL. Did they all amount to assault and battery?

Mr. LENNARTSON. I cannot give you the details on that.

Mr. O'NEAL. These are reports or intimidation or something like that, or threats or ugly words that transpired between the inspector and some employee, or were any of them assault and battery except the one?

Mr. LENNARTSON. There has been more than one assault-and-battery incident, but I cannot give you the details on the others.

Mr. O'NEAL. Thank you.

Mr. HAGEN. Mr. Olson.

Mr. OLSON. Something occurred to me just now at this point: Was there any effort, through hearing procedure, to determine just exactly what did occur in those cases that you have referred to?

Mr. LENNARTSON. In some cases, as I recall, there had been some investigation, but as a matter of practical application, it is a matter of the Director of the Division getting in direct contact with the plant owner to discuss the situation and to get assurances that corrective action will be taken, so that the inspectors will not be interfered with.

Mr. OLSON. I cannot see the necessity for the present action, but if you feel it should be, then I believe that you ought to identify the infractions and establish some kind of proceeding whereby there would be a hearing and not just assume guilt before there was investigation, rather than to take the word of that inspector alone. I really think that what you are trying to do in this proposal is to make an

accusation of guilt before there is any finding of guilt. I think that is the argument of everyone in this room.

Mr. LENNARTSON. I think what you are going into is the voluntary grading inspection services on meat, fruit, and vegetables, and the grading of poultry, et cetera. We do have specific procedures set up, where we summarily withdraw voluntary services—even there we have set up hearing procedures where the plant owner has an opportunity to make his case, and so on. In most cases, the service is not withdrawn prior to that hearing.

Mr. O'NEAL. How many poultry inspectors do you have throughout the country?

Mr. LENNARTSON. Oh, we have in the neighborhood of 2,500, sir.

Mr. O'NEAL. 2,500?

Mr. LENNARTSON. Yes.

Mr. O'NEAL. And in a period of 9 years, you have had one-half a dozen assaults and batteries?

Mr. LENNARTSON. I would say that, yes.

Mr. O'NEAL. What precipitated this action this year?

Mr. LENNARTSON. I would say one incident brought it to a head. I recall in this case—I would like to check this—even plant management did not understand its responsibility in this field.

Mr. O'NEAL. But my question is: Was there a criminal prosecution?

Mr. LENNARTSON. No.

Mr. O'NEAL. Of any kind?

Mr. LENNARTSON. Not so far as I know.

Mr. O'NEAL. The plant employee or whoever it was never had a trial by jury?

Mr. LENNARTSON. So far as I know, no.

Mr. O'NEAL. Thank you.

Mr. ABERNETHY. Did the person assaulted seek prosecution?

Mr. LENNARTSON. I do not recall. I do not think so. I do not know whether he has taken personal action or not.

Mr. ABERNETHY. Thank you.

Mr. HAGEN. Mr. Walker?

Mr. WALKER. No questions.

Mr. HAGEN. I would like to ask you a question.

We have had the red meat inspection service for a long, long time, some 50 years, or something like that, have we not?

Mr. LENNARTSON. Yes.

Mr. HAGEN. Apparently, it has worked rather well, has it not?

Mr. LENNARTSON. Yes.

Mr. HAGEN. That is, the red meat inspection service?

Mr. LENNARTSON. Definitely, yes.

Mr. HAGEN. Do you have any similar regulation with respect to red meat inspection?

Mr. SOMERS. No.

Mr. HAGEN. How can you distinguish the rule governing red meat inspection and the rule governing poultry inspection? Why should there be any difference?

Mr. LENNARTSON. Let me respond this way, sir: We contemplate placing a similar regulation in the red meat regulation that will eventually be developed.

Mr. HAGEN. This committee will have more hearings then.

You do definitely contemplate proposing a regulation for the red meat inspection service based on whatever you ultimately adopt for the poultry inspection service?

Mr. LENNARTSON. The two services should operate under the same regulation.

Mr. HAGEN. Do you agree that they should operate on all fours, the two services should operate on all fours?

Mr. LENNARTSON. Yes, oh, yes.

Mr. HAGEN. As I understand what you are concerned about, it is that you are not really concerned about verbal assault, are you, on an inspector, with insults, are you?

Mr. LENNARTSON. This is a matter of the inspection environment in which the inspector is placed. I can visualize where continual verbal irritation, and so on, on the part of a group of employees could be quite disturbing to the performance of an efficient inspection job. This can cover many things over and beyond assault.

Mr. HAGEN. Going further on, battery involves physical force and, generally speaking, most State laws cover assault, but they are rarely enforced. But battery is a crime in every State, I believe, and the laws on battery are frequently enforced. Why are not the local laws governing battery adequate to protect the inspectors? They have the privilege to be in the plant, and when somebody assaults them physically, that personal privilege is being violated.

Mr. LENNARTSON. We do not question the opportunity for the individual to seek protection under the local courts, and so on. The point here is—and this is important to plant management—probably more so than to us—that is, if the inspectors are not permitted to or cannot operate in an environment where they can do an adequate inspection job, it is just a matter that the poultry being processed not being approved and not being ready for sale. That is what it gets down to.

Mr. HAGEN. That is the hard economic reality.

Mr. LENNARTSON. Indeed, it is; and we do not want that any more than plant management wants it.

Mr. HAGEN. As I read your proposed regulation, this could be any employee in the plant who commits this act, whether he is or is not a part of management.

Mr. LENNARTSON. That is correct.

Mr. HAGEN. You are really imposing a very radical penalty on management, if any employee in the plant, regardless of how responsible he is in his position or how unrelated he is to plant management, commits an act against the inspector, you can put that plant out of business, at least temporarily. That seems like a very radical remedy.

Mr. LENNARTSON. We know of no other alternative than to look to management to supervise its employees. We cannot do it. In fact, we would not tolerate any of our inspectors injecting themselves into management responsibility.

Mr. HAGEN. Well, I would think that as a general policy management would cooperate in permitting the inspectors to perform their work so that it would be adequate, but to hold the management responsible for the acts of every employee within the plant with the penalty of losing their license, so to speak, would seem to be a very radical proposal, as has been indicated by Chairman Cooley and the other Members of the Congress in their statements.

Mr. LENNARTSON. I do not know who else can assume that responsibility, sir. Certainly, we would not let our people determine that.

Mr. HAGEN. Take, for instance, an inspector in the plant, going back into the warehouse and somebody clobbered him, certainly management should not be held responsible for that, I mean, except in firing the man if he was wrong, but to withdraw the inspection service is a penalty that seems like an extralegal remedy.

Mr. LENNARTSON. These are the assurances we want from management when these things occur.

Mr. HAGEN. Have you had any difficulty getting assurances from management on that score?

Mr. LENNARTSON. No, no, fortunately, it has worked out very well. Corrective actions have been taken by management.

Mr. HAGEN. And you have never made such a proposal as this with respect to the red meat inspection service?

Mr. LENNARTSON. No, we have not.

Mr. HAGEN. Apparently, you have something similar with respect to the grading inspection; is that correct?

Mr. LENNARTSON. For many years, we have had this procedure applicable to the voluntary grading service, because, you see, voluntary grading is a service—it is requested on the part of management. It is not mandatory. It is a requested service. Under the circumstances, for a long time we have had these procedures, that they must accept these responsibilities in order to obtain the service. This is quite different than a mandatory law of this nature—that is, this and the meat inspection service.

Mr. HAGEN. I think you have very well pointed out the reasons for different rules respecting a mandatory inspection compared with a permitted grading inspection which the plant owner seeks for his own benefit.

That is all. We thank you, Mr. Bucy, and Mr. Somers for being here.

Are there any more questions?

Mr. LENNARTSON. We appreciate the opportunity of getting your views, sir.

Mr. HAGEN. I think you have gotten a pretty good expression of the congressional sentiment.

Mr. LENNARTSON. Very loud and clear.

Mr. COOLEY. I want to compliment you on your frankness and your forthrightness and to express the hope that you will repeal this.

Mr. LENNARTSON. Thank you, sir.

Mr. ABERNETHY. I have been around here a good while. I have known you quite a long time. I do not want my friends in Mississippi to think you are such a bad fellow when, in fact, you are just the reverse.

I appreciate your fairness this morning.

Mr. LENNARTSON. Thank you, sir.

Mr. HAGEN. Again, Mr. Lennartson, let me say that Mr. Abernethy and the others, and speaking for the whole committee, we respect your ability and efforts to do a good job on behalf of the public and the industry. We are trying to establish the facts here concerning a single regulation rather than making any blanket criticisms of the inspection service. Thank you, again, very much.

Mr. LENNARTSON. We appreciate your consideration.

Mr. COOLEY. Do you have listed, Mr. Hawkins, from North Carolina, the president of the North Carolina Poultry Processors Association?

Mr. HAGEN. We have a very lengthy list of witnesses here. Yes, Mr. Hawkins is listed on the list.

We will now call Mr Hawkins.

Mr. COOLEY. Are you going to speak for all three of them from North Carolina?

Mr. HAWKINS. Yes; we are all North Carolina poultry people.

Mr. QUIE. I would like to put into the record a letter from the president of the Minnesota Turkey Growers Association, Inc.

Mr. HAGEN. Without objection, it will be made a part of the record at this point.

(The letter referred to follows:)

MINNESOTA TURKEY GROWERS ASSOCIATION, INC.,
St. Paul, Minn., September 15, 1966.

Hon. ODIN LANGEN,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN LANGEN: The recently proposed changes to the Poultry Inspection Act have been brought to our attention.

Our organization is specifically opposed to Section 81.25(iv) of the proposed changes dealing with suspension or withdrawal of inspection services in a plant where an inspector were to be threatened by anyone in the processing plant. We are of the firm opinion that such disciplinary action by USDA inspectors is entirely unwarranted since adequate laws protecting inspectors already are on our statutes and enforcement of these laws can be carried out by existing law enforcement agencies.

Our organization strongly recommends that this section of the regulations be withdrawn.

Sincerely yours,

D. W. JIMMERSON, *President.*

Mr. HAGEN. We have a rather long and lengthy list of witnesses here, following Mr. Lennartson.

Mr. COOLEY. May I ask a question here, in the interest of time?

Mr. Hawkins, how long do you think it will take you?

Mr. HAWKINS. Mr. Chairman, and members of the committee, we just want to put our position clear on the record.

STATEMENT OF BYRON K. HAWKINS, NORTH CAROLINA POULTRY PROCESSORS ASSOCIATION, DURHAM, N.C.

Mr. HAWKINS. We endorse the National Broiler Council's views on this subject.

Mr. COOLEY. That will take care of that.

Thank you very much.

You may insert a statement into the record later, if you so desire.

Mr. ABERNETHY. May I make a suggestion?

Mr. HAGEN. Yes.

Mr. ABERNETHY. One of the first things that my old law teacher suggested to me was that when the case looked good not to ask any more questions. And I think we are in good shape. I am not trying to shut these gentlemen off. Let them put in their statements, and then go on.

Mr. HAGEN. That will be greatly appreciated.

As we get to you, if you would rather submit your statement, fine.

There is one witness, however, that I would like to take out of order, because I think he might contribute something different from what

the industry people have said. This is a representative of the Georgia Poultry Inspection Commission, Mr. Homer Wilson.

Since you are dealing with inspection, I think you might have something unique to say and I would, therefore, put you on ahead of the other witnesses and call you now.

Will you please indicate exactly what your function is, since it contains the word "inspection"? I, therefore, assume that you know a great deal about it, by personal experience.

STATEMENT OF HOMER WILSON, CHAIRMAN, GEORGIA POULTRY INSPECTION COMMISSION

Mr. WILSON. Thank you, Mr. Chairman. My name is Homer Wilson; I happen to be chairman of the Georgia Poultry Commission, appointed by Governor Sanders.

The function of this commission is to work with the inspection service on any regulations or any changes that come out, on any confusion that affected the industry, so far as poultry inspection is concerned.

I believe this is the first type of inspection service which has been appointed by a Governor of any State.

I would like to also say that I happen to be a producer.

We are also in the marketing end of the business. We are associated with processing plants, hatcheries, and feed mills also. So we have a vital part in this.

That clarifies my position. Whether it is unique, or not, that is it.

I would like to go on record, in making this statement in favor of the Georgia Poultry Inspection Commission, to present a letter which was written to the hearing clerk September 16, 1966, and it says:

This statement concerns the proposed rule-making as published in the Federal Register, Volume 31,140, Thursday, July 21, 1966, and most specifically the proposed changes in the regulations on inspection of poultry and poultry products.

Representing the Commission, I would like to advise you that we endorse the statement by the National Broiler Council filed with you on August 19, 1966, and more specifically that we recommend the deletion of paragraph 4 of Section 81.25 and that further consideration be given to all possible ramifications and implications now possible or that might eventually develop before a decision is rendered relative to the provisions of paragraph 4, Section 81.25.

Mr. HAGEN. I just want to ask you one question.

Does your commission have any affirmative duties with respect to inspection itself?

Mr. WILSON. No.

Mr. HAGEN. You did not operate at all before the Federal inspection came in?

Mr. WILSON. No. This has been in about the past 12 months.

Mr. HAGEN. Thank you very much.

Now, we will hear from the representatives of the National Broiler Council.

I will introduce them. They are G. Ted Cameron, president; Mr. R. F. Frazier, executive vice president, and Mr. James Rill, attorney.

**STATEMENT OF G. TED CAMERON, PRESIDENT, ACCOMPANIED
BY R. F. FRAZIER, EXECUTIVE VICE PRESIDENT, AND JAMES
RILL, ATTORNEY, NATIONAL BROILER COUNCIL**

Mr. CAMERON. Mr. Chairman and members of the Committee, I am G. Ted Cameron of Little Rock, Ark. I have a prepared statement which gives the National Broiler Council's position in this matter.

First, I want to thank the committee for allowing us to appear here today and for making this meeting possible.

In lieu of reading this statement into the record, I am going to submit it to you for the record at this time, and introduce to you those with me. On my left is Mr. R. F. Frazier, the executive vice president, and on my right Mr. James Rill, our attorney.

And I would invite you to address questions to these gentlemen.

There have been many aspects of the problem brought out today. I think that these men can answer the questions. Certainly, from the legal angle, Mr. Rill is ready to answer your questions.

We thank you for allowing us to appear here today.

Mr. O'NEAL (presiding). Your statement will be made a part of the record at this point.

(The prepared statement submitted by Mr. Cameron follows:)

STATEMENT OF G. TED CAMERON ON BEHALF OF THE NATIONAL BROILER COUNCIL

My name is G. Ted Cameron. I am President of Mountaire Poultry Company, North Little Rock, Arkansas and am appearing today as President of the National Broiler Council, 1155 Fifteenth Street, N.W., Washington, D.C.

The National Broiler Council appreciates the opportunity to participate in this conference and present its views to the subcommittee on proposed regulation 81.25(a)(1)(iv). This regulation would authorize the Department of Agriculture to withdraw inspection services from a poultry plant if one of its inspectors were assaulted or opposed by force or threat of force or improperly interfered in connection with the performance of his duties. Since a poultry plant cannot lawfully operate without inspection service, the withdrawal of such services is tantamount to an order directing the plant to suspend operations.

It should be made clear at the outset that the broiler industry has always condemned and will continue to condemn any form of violence in poultry plants, whether or not involving government inspectors. It is noteworthy in passing that the Department itself has recognized that occasions of violence involving inspectors have occurred very infrequently. The issue, however, is not whether violence should be condemned and punished. The issue is whether violence is effectively deterred and the guilty party properly punished by a plant shut-down, a sanction which punishes the employer and countless employees, but does not in any way discipline the guilty party himself.

In our opinion, the proposed regulation is an arbitrary and unreasonable exercise of administrative power. It has been uniformly and vigorously opposed by the industry for several reasons.

First, we submit that the regulation is unnecessary. The criminal laws of every poultry-producing state make assault illegal and federal law forbids any kind of bribery of a federal employee. If the Department's purpose is to redress an act of violence and deter similar acts in the future, there is no reason why it cannot punish the guilty person and set an effective precedent by invoking the existing legal remedies and instituting criminal proceedings against the guilty employee in state or federal court as the case may be. If an employee is not to be deterred by the threat of a fine, jail sentence and criminal record, can it seriously be contended that he will be deterred by the thought that a plant which he does not own will be closed?

Second, a plant shut-down unjustly penalizes innocent parties without disciplining the person who is really at fault. Common sense would suggest that if a person assaults a federal inspector or any one else, that employee should be punished. The Council recognizes this fact and believes that firm disciplinary measures against the guilty person are both necessary and justified. The simple

truth is, however, that suspension of inspection service does not discipline the guilty party. He does not suffer the brunt of a plant shut-down, which is borne by the employer, who is unable to sell his poultry; by the employees who are laid-off without pay; and by the companies along the pipe line, who are unable to maintain business because their outlet is unexpectedly and abruptly cut off. We have calculated that each *day* during which a plant is closed would produce a loss of \$13,440 in sales and \$3,000 in wages.

It is a peculiar logic which attempts to deter violence, not by punishing the person who actually commits the act of violence, but by penalizing third parties who were powerless to prevent it. If a plant is closed because of actions on the part of someone other than the employer, is the employer not being penalized unfairly for an act which he neither sanctioned nor encouraged? Do not the employees who are laid-off become the innocent victims of a situation beyond their control?

For the foregoing reasons and others, the National Broiler Council has concluded that the Department does not have legal authority to promulgate the proposed regulation. Not only is the proposal unreasonable, it constitutes punishment which is beyond the authority of an administrative agency to impose, and both the language and the legislative history of the Poultry Products Inspection Act establish that Congress did not delegate authority to the Department to issue this regulation. The circumstances and procedures set forth in the proposed regulation classify it as punitive rather than remedial, and punitive sanctions may be imposed only by Congress and the courts, not an administrative agency such as the Department of Agriculture in this case. Moreover, Congress expressly authorized the suspension of inspection services under the Poultry Products Inspection Act in only two circumstances, not here involved. By enumerating two such instances, Congress implicitly precluded the invocation of the sanction in any others. These issues are fully considered in a brief filed by the National Broiler Council with the Department protesting issuance of this regulation. I will not impose on the subcommittee's time to discuss this brief in detail, but instead have made copies available.

There are other aspects of this regulation which should be emphasized. For example, there are no prescribed time limits on suspension orders; nothing in the proposed regulation requires that the plant be re-opened after a reasonable length of time. Assume, for example, that a plant was closed by the Department because a federal inspector had been assaulted. To make certain that his plant is promptly re-opened, the employer disciplines or even discharges the employee and notifies all personnel that severe disciplinary action will be taken against anyone who interferes with a federal inspector. At this point, the employer has taken all the action which can be expected of him and there is no reason to believe that inspectors would be threatened or intimidated if they resumed their duties. There is nothing in the proposed regulation, however, which would require a resumption of inspection services at that time. The plant can remain closed, even though the obstacle to inspection has been removed.

There are other aspects of this regulation which are bound to create serious and unwarranted problems. For example, a hearing is not required prior to the plant shutdown. Inspection service can be suspended and the plant closed solely on the basis of an inspector's report. Needless to say, if the inspector's report is inaccurate, or if the altercation was, in fact, provoked by the inspector and not the employee, the Department would be unable to discover the error until *after* the plant had been closed. By that time, the damage would have been done. Yet, by providing for suspension before a hearing is held and before the employer even has a chance to file a statement, the Department is inviting this kind of mistaken shutdown. It should be recognized, however, that no amount of procedural safeguards could justify promulgation of this proposal; the procedures outlined merely serve to make it additionally defective.

It should be noted that the language in the proposed regulation is unduly broad and vague. The regulation is not directed solely at assault and bribery. It also forbids such nebulous practices as "interference *** by improper means." How is an employee to know when he is using "improper means"? Is it possible to distinguish a vigorous exchange of views from the proscribed interference?

Effective and thorough inspection requires co-operation between federal inspectors and plant employees. A free interchange of views between inspector and employee is essential if the inspector is to acquire the information required for a complete inspection.

The proposed regulation makes such an interchange extremely unlikely if not impossible. How is an employee to know when his statements will be regarded

as improper "interference"? By forbidding the slightest interference with the inspector, the proposed regulation could discourage employees from communicating with the inspectors at all, thereby frustrating the very kind of co-operation that is essential for thorough and effective inspection.

We urge that the proposed regulation not be promulgated.

Mr. O'NEAL. Chairman Hagen had to go to another committee meeting. He has asked me to preside temporarily.

Are there any questions?

If not, we thank you very much for coming here, and we will now call the next witness.

The next witness on the list is Mr. B. C. Rogers, representing the American Poultry & Hatchery Federation from Morton, Miss.

We will be glad to hear from you now.

STATEMENT OF B. C. ROGERS, REPRESENTING THE AMERICAN POULTRY & HATCHERY FOUNDATION, MORTON, MISS.

Mr. ROGERS. Mr. Chairman and members of the committee, my name is B. C. Rogers. I live at Morton, Miss. I am founder and primary owner of B. C. Rogers & Sons, Morton, Miss. My firm hatches, feeds, and processes several million broilers annually. I am here today in my capacity as the elected president of the American Poultry & Hatchery Federation.

The American Poultry & Hatchery Federation is a not-for-profit trade association of poultry hatcherymen, breeders, and integrated poultry and egg producers. Its headquarters are located in Kansas City, Mo. Our organization is celebrating its 50th year.

My reason for being here today is to express the federation's opposition to a proposed amendment to the Poultry Products Inspection Act of 1957. This amendment—section 81.25(a)(1)(iv)—would permit the suspension of inspection service or withdraw inspection service at the discretion of USDA in the event a plant operator, or any officer, employee or agent of the operator assaults, resists, or impedes by force or threat of force an inspector or any other USDA official in the performance of his duties under the act or its regulations.

The proposed amendment in its very title is described as disciplinary.

We believe that subsection 81.25(a)(1)(iv) is not within the scope of regulations which the Department is permitted to develop under the authority of the Poultry Products Inspection Act. The act, in section 7, spells out only two conditions for suspending inspection service. One deals with failure to operate plants within prescribed sanitary standards; the other deals with misrepresentation.

We are not fully informed as to what situation or group of situations prompted the Department to propose the amendment to section 81.25. Certainly none of us can condone acts or threats of violence against USDA employees or any other personages in our places of business.

On the other hand, as if and when such unfortunate occurrences do take place, the laws of the land provide recourse.

Not only do we feel that the amendment goes beyond the scope authorized by the Congress in enacting the Poultry Products Inspection Act but we also point out that the remedy proposed would deal considerable harm and suffering to many innocent persons if ever enforced.

Inspectors and plant employees are human beings and subject to the full gamut of emotions. Let us suppose, for example, that a

USDA inspector and an employee have personal differences which are between themselves and in no way involves the plant management or the other employees. These differences build up and a fight ensues. The inspector files a report with his supervisor or superiors, colors the facts to protect himself, and the Department suspends inspection service at the plant—perhaps not long enough to make an investigation. The regulation does not say how long.

It means an immediate financial loss to the plant; it means unemployment for the workers; it means a diversion of the flow of raw materials—the chickens on feed, et cetera. I do not think it necessary for me even to list the extent of the repercussions. They are so obvious. If the suspension should exist for any length of time, it could bankrupt the business, and perhaps throw an entire community out of work.

Surely this is not what the Department of Agriculture wants and we sure know we do not want it.

The poultry processing industry long has had most friendly relations with the Poultry Division, Consumer and Marketing Service. Usually we can work out our differences over the conference table. Whatever may have prompted this amendment, we believe that it was done hastily, prompted by some isolated situation about which we have no information.

We would like for both industry and the Department to forget the proposal and hope that the Department will act at once to table it.

Mr. O'NEAL. If you have anything in addition to what you have in your statement, we will be glad to have that.

Mr. ROGERS. Yes, I have a resolution from the Mississippi Poultry Improvement Association, which is as follows:

The Mississippi Poultry Improvement Association stands in unanimous and vigorous opposition to these proposed amendments, Section 81.25(a)(1)(iv).

While we deplore and condemn any actual or threatened violence or bribery in the relationship between all plant personnel and poultry inspectors, we feel there is no need for the proposed amendments, as there is ample recourse to present State and Federal criminal laws.

Therefore, we respectfully urge that the U.S.D.A. abandon this proposition.

Mr. HAGEN (presiding). Are there any questions?

I am sorry that I had to step out; I wanted to ask a question of the National Broiler Council people.

Mr. O'NEAL. Mr. Frazier, the vice president is here. I see.

Mr. HAGEN. I was thinking of Mr. Lennartson.

This one regulation is part of a package; is that correct?

Mr. RILL. That is correct, Mr. Chairman.

Mr. HAGEN. And I assume that the other parts of this package are not necessarily rules that were sought by the broiler industry?

Mr. RILL. That is true. We are in opposition to the other parts of the package, as well as those involving the withdrawal of the inspection service.

Mr. HAGEN. The point that I am trying to establish is that these other regulations which are proposed, I assume, are somewhat onerous to the industry, yet they, being reasonable, did not arouse any protest; is that correct?

Mr. RILL. In the National Broiler Council we dealt wholly with the withdrawal of the inspection service. We filed no other opposition other than to the proposed regulation as to this one. It is a part

to the whole package whatever. It is somewhat onerous with regard of much of it.

Mr. HAGEN. So that the position you are in is that you have not opposed the whole package of regulations, even though they would burden the industry, but you are opposed to the one regulation which you do deem to be unreasonable and perhaps illegal?

Mr. RILL. We believe that this particular regulation is unreasonable. And may I add that we have had copies made of our brief which we filed with the Department which we have made available to you, and we ask that that also be received as a part of our statement.

Mr. HAGEN. How long is it?

Mr. RILL. It is 37 pages long. Rather than burdening the transcript with it, it can be made available to the subcommittee members.

Mr. HAGEN. Yes. That will be done.

(Document entitled "Statement of National Broiler Council Concerning Proposed Regulation" will be found in the files of the subcommittee.)

Mr. HAGEN. Let me ask you one more question.

Mr. Lennartson has indicated that the present proposed regulation is not going to be pushed—that there will be an endeavor to deal with this problem at a minimum by changing the proposal and at a maximum, possibly, by withdrawing it. He did not agree with the proposition of total withdrawal, but that was the desire of some of the Members of the Congress here.

Is it your intention to appear and work with the Department on this issue following this meeting?

Mr. RILL. We will certainly work with the Department to reach any reasonable solution. I do not think that any amount of procedural improvement of this regulation can make it less unlawful. We do not think they have the authority to do this at all.

In addition, we believe that the procedure is defective; that it cannot be made lawful.

Mr. HAGEN. One final question.

Will you be given the opportunity to sit down with them to discuss this?

Mr. RILL. We have had no conversation with them to do so, to discuss with them any possibility. They have not given us any indication that they would do such. I think that I should say we would be pleased to discuss it with them, and anything else.

Mr. HAGEN. Since you have indicated a vehement opposition to this initial proposal, what opportunities are open to you to discuss an alternative, either as to a withdrawal or a modification?

Mr. RILL. This is a quasi-legislative proceeding here. We have alternatives for informal discussions, submission of views, or appearing before the Department, as well as other possibilities. I hope that they will make such offers, to discuss it. They should have informal conferences before it goes out into regulation.

Mr. HAGEN. I hope that you would pursue the opportunity to the maximum, so that we would not have to have a further hearing on this subject.

Mr. RILL. This has been a tremendous imposition on your time. We appreciate very greatly your consideration.

Mr. HAGEN. Thank you very much, again.

Our next witness is Mr. William Wempler, of the National Turkey Federation.

**STATEMENT OF L. P. DENSLAW, ATTORNEY, NATIONAL TURKEY
FEDERATION**

Mr. DENSLAW. Mr. Chairman and members of the committee, Mr. Wempler of the National Turkey Federation will not be able to be here. My name is L. P. Denslaw, and I am legal counsel for the National Turkey Federation.

As I have stated, Mr. Wempler will not be able to be here. He flew over Harrisonburg, Va.—that is, his plane did.

I would like to express, if I may, the opposition of the National Turkey Federation to section 81.25 in its entirety in the proposal on the principal ground that it is illegal.

Mr. HAGEN. Will Mr. Wempler have a statement to place in the record at this point?

Mr. DENSLAW. I have one copy here, and I would like to submit it.

Mr. HAGEN. If there is no objection, and hearing none, the statement will go into the record at this point.

(The prepared statement of William Wempler follows:)

STATEMENT OF WILLIAM D. WEMPLER, NATIONAL TURKEY FEDERATION

The National Turkey Federation submits the following views and comments concerning the Proposed Amendments of Regulations Relating to Inspection of Poultry and Poultry Products under Poultry Products Inspection Act published in the *Federal Register* of July 21, 1966. (31 F.R. 9871).

Organized in 1939, the National Turkey Federation is a national organization of turkey growers in all the turkey producing States, the members of which produce between 80 and 90 percent of all the turkeys grown in the United States. Its membership also includes processors of turkeys and turkey products whose operations are directly subject to the provisions of the Poultry Products Inspection Act and the regulations issued pursuant thereto.

Section 81.25 of the proposed regulations would authorize the suspension of poultry inspection for certain specified classes of past actions on the part of operators of official establishments or their employees. As proposed, this section of the regulations gives rise to certain fundamental questions concerning the nature of the Poultry Products Inspection Act and whether it authorizes the Secretary to impose penalties through administrative action. This proposal, we believe, is not soundly conceived and is serving to give rise to much confusion and misunderstanding in the industry and among turkey producers as to what is proper and necessary to the maintenance of an adequate inspection system.

The Department's proposal, in our judgment, would convert the Poultry Products Inspection Act into a form of a licensing statute and make a processor's right to continue in business subject to the Secretary's determination of what is or is not a proper punishment for some past act of the plant owner or operator or his employee.

We do not believe that the Poultry Products Inspection Act gives the Secretary any such power or that such power would be beneficial to the Department in carrying out its responsibilities. The Department has the responsibility of seeing to it that poultry and poultry products are wholesome. The statute specifies the acts which are prohibited and provides criminal penalties for violations. To attempt to establish administrative sanctions to penalize, in our judgment, has no place in the administration of the Act.

There is no doubt that the types of activities specified in section 81.25(a) (1) (iv) of the proposed regulations are reprehensible and are not to be condoned or tolerated.

It is also obvious that such activities might prevent the inspection functions from being carried out, and that in that event product could not be processed for market until inspection could again be properly performed. But this is quite different from the imposition of an administrative penalty for past actions which have ceased to exist.

The National Turkey Federation strongly urges that section 81.25 be withdrawn and that this matter be given further study to determine whether any further regulations are required.

Mr. HAGEN. We have next the representative of the Delmarva Poultry Industries present. I may say that Congressman Morton has registered objection to the proposed regulation.

Pardon me, Mr. Morton, we were just talking about you.

The next witness in line is Mr. Fulton of the Delmarva Poultry Industries. I stated that you had registered an objection to this proposed regulation.

Do you wish to appear with Mr. Fulton?

Is Mr. Fulton present?

**STATEMENT OF HON. ROGERS C. B. MORTON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MARYLAND**

Mr. MORTON. Mr. Chairman and members of the committee.

Mr. Fulton is here.

I will be very glad to appear with him.

He certainly is a qualified witness in every sense of the word. He is president of the Delmarva Poultry Industry, and I would feel that he is most qualified to testify on this subject.

And I ask permission to include a prepared statement in the record later.

Mr. HAGEN. Without objection, that permission is granted.

(The prepared statement submitted by Mr. Morton follows:)

**STATEMENT OF HON. ROGERS C. B. MORTON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MARYLAND**

Mr. Chairman, and members of this Subcommittee, I appreciate having the opportunity to present my views for the record, pertaining to the Department of Agriculture's proposed amendment to Section 81.25 of the Poultry Products Inspection Act of 1957.

This amendment, which would give preferential treatment to in-plant inspectors, is indeed a surprise to me. I question the legality of creating a wall of so-called protection at the expense of plant operators and of the industry in general.

If we are to be truly a country of laws, and not of men, then I believe we should recognize that every individual, whether he be a poultry inspector, a streetcar operator or a farmer, is protected by those laws and has access to a channel of recourse should he be assaulted, impeded, intimidated or abused in any manner. To hang a cloud of fear over a plant operator that any employee—without the knowledge, approval or encouragement of the operator—could cause immediate shutdown of the entire plant is not in keeping with the American business tradition.

The proposed regulation certainly is unreasonable, unnecessary and unfair. I join the members of the Delmarva Poultry Industry, the National Broiler Council and other representatives in protesting such a regulation, and will lend my full support to carry this protest to whatever extent necessary to assure the defeat of the regulation.

Mr. HAGEN. Before you proceed, may I say that the Department has agreed that their initial proposal is a sour regulation, and they are not going to stand by it. Now, whether they seek to modify it or withdraw it is a matter of conjecture, but they will give the industry an opportunity to work with them, as I understand it, on a possible modification or a total withdrawal of this proposal.

Mr. MORTON. I think even with that in mind it would be very good to have the point of view of the industry in our area.

Mr. HAGEN. Thank you.

**STATEMENT OF CHARLES R. FULTON, PRESIDENT, DELMARVA
POULTRY INDUSTRY, INC., GEORGETOWN, DEL.**

Mr. FULTON. Mr. Chairman and members of the committee, we are opposed to the regulation.

We have a statement which we will file.

We, from Delmarva, would also like to say that we are very much impressed with the attitudes of the Congressmen toward this proposal. We feel that we are getting real wonderful representation over here.

Thank you very much.

Mr. HAGEN. Thank you very much.

Your prepared statement will be made a part of the record at this point.

(The prepared statement submitted by Mr. Fulton follows:)

STATEMENT OF CHARLES R. FULTON, PRESIDENT, DELMARVA POULTRY INDUSTRY

Delmarva Poultry Industry, Inc. ("DPI") appreciates the opportunity to participate in this conference with the Subcommittee on Dairy and Poultry Products of the Committee on Agriculture concerning the proposed Department of Agriculture regulation, § 81.25(a)(1)(iv). Whereas, neither DPI nor any of its processor-members condones any form of actual or threatened violence in its plants, whether involving government inspectors or not, it believes that the steps which would be taken by the Department in this instance are wholly unreasonable, threaten substantially to penalize innocent persons and unwarrantedly derogate an existing system of state law.

The proposed regulation in question would authorize the Administrator of the Consumer and Marketing Service, without notice or hearing, to withdraw inspection services from a poultry processing plant where any employee of such an establishment has either assaulted, threatened to assault, or in any way "interfered with" a poultry inspector engaged in his duties. If this regulation were to become effective, plant owners could suffer enormous economic loss as a result of action by an employee wholly beyond their control, and other innocent employees of the plant could suffer disemployment and consequent loss of wages.

Plant owners and managers have consistently disapproved the practices enumerated in the proposed regulation. What protection have they, if contrary to their instructions and the common sense of those involved, tempers flare and an altercation takes place? At that time and without notice, the administrator may remove inspectors from the plants automatically. Even though subsequent hearing may be provided for, and thorough investigation of the situation may reveal that no plant employee was at fault, the damage is irreparable and the subsequent vindication of little consequence. In the interim the plant has lost sales of approximately \$13,440 per day, employees have lost wages of approximately \$3,000 per day and incalculable loss has been transmitted back through the production pipeline.

Not only would the proposal punish innocent plant owners and employees, but there are effective deterrents presently in force to prevent the undesirable conduct specified in the proposal. Each of the three states encompassed in the Delmarva peninsula has presently in effect a criminal statute prohibiting assault and providing for fines and jail sentences for its commission. We do not understand why the Department appears to contend that these statutes are ineffective and unenforceable. In our opinion, these laws far more effectively discourage the practices enumerated than could any admonishment of management that its employees not do violence to government inspectors. We question whether such admonishment by plant management seems fatuous in that it is tantamount to its advising employees to obey the law.

We concur in the analysis of others that the Department of Agriculture does not have the authority to promulgate the proposed regulation. The Department does not have authority to impose a punishment; that authority rests with Congress and the Courts. Moreover, when Congress passed the Poultry Products Inspection Act of 1957, it was concerned with assuring the public that wholesome poultry would be produced in sanitary plants, and with this objective DPI is in accord. For this reason, Congress in Section 7 of the Act specified that the withdrawal of inspection services could be effected by the Department only when an official

establishment is operating without approved facilities or other than under prescribed sanitary conditions. By limiting the Department's authority to withdraw inspection to certain circumstances, not one of which is involved in § 81.25(a)(1) (iv) of the proposed regulation, Congress recognized the seriousness of the sanction and withheld authority from the Department to impose it whenever the Department might see fit.

DPI further submits that the proposed regulation is unduly vague and may impair the effectiveness of the inspection service. The regulation, for example, would provide for withdrawal of inspection services whenever a plant employee may "... interfere ... or attempt to interfere ... with" government inspectors. For all we know, an honest disagreement between an inspector and an employee may be deemed violence or a threat of violence and could produce suspension before an opportunity is afforded for the employer to be heard by an impartial authority. There are, of course, two sides to every controversy; and as often as not, when an altercation occurs the blame may be equally shared.

We have no doubt that the Department of Agriculture and Congress and the Consumer Marketing Service would endeavor to administer the proposed regulation fairly. Unfortunately, we cannot always rely on the impartiality and objectiveness of human beings in every case for all time to come. The regulation contains the seed of great injury which could be summarily imposed. We ask the Department not to promulgate this regulation.

Mr. HAGEN. Next is the Northeastern Poultry Producers Council, represented by Mr. Richard I. Ammon.

STATEMENT OF RICHARD I. AMMON, NORTHEASTERN POULTRY PRODUCERS COUNCIL

Mr. AMMON. Mr. Chairman and members of the committee, we have submitted a resolution from our organization for the record, and we stand on that.

We are opposed to the regulation as it is presented, and as it was explained here this morning, and all that I would like to add is that I wish to express the thanks of the Northeastern Poultry Producers Council for the cooperation and the support we have received from the Congress on this issue.

Thank you very much.

Mr. HAGEN. Without objection, your statement will be made a part of the record at this point.

(The prepared statement of the Northeastern Poultry Producers Council follows:)

RESOLUTION OF THE NORTHEASTERN POULTRY PRODUCERS COUNCIL, TRENTON, N.J.

Whereas The Consumer & Marketing Service, U.S.D.A., published in the Federal Register of July 21, 1966 certain proposed amendments to its regulations prescribing practices and procedures under the Poultry Products Inspection Act of 1957, 21 U.S.C., Pars. 451, et seq., 31 F.R. 9871, proposing to amend 7 C.F.R., part 81 as follows:

"81.25 *Suspension or withdrawal of inspection service and/or plant approval; causes and procedure.* (a) *Disciplinary*— (1) *Causes.* Inspection service and/or plant approval may be suspended or withdrawn with respect to any official establishment, as provided in subparagraph (2) of this paragraph, if the operator, thereof, or any officer, employee or agent of such operator acting within the scope of his employment or agency: (i) Has failed to maintain the premises, facilities, or equipment of such establishment in a satisfactory state of repair; or (ii) Has altered any buildings, facilities, or equipment at such establishment without approval in accordance with the regulations in this part; or (iii) Has processed any poultry or poultry products at such establishment other than under the supervision of an inspector in accordance with the Act and the regulations in this part; or (iv) Has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or

other improper means) with any inspector or other official or employee of the Department in or because of the performance of any duties under the Act or the regulations in this part; or (v) Has failed to destroy for human food purposes any condemned poultry carcasses, parts thereof, or poultry products required to be so destroyed; or (vi) Has otherwise used any operating practice at such establishment which is not in accordance with the sanitary requirements of the Act of unwholesome or adulterated poultry products." . . . and

Whereas implementation of sub-section (a)(1)(iv) of proposed regulation 81.25 may, without justification and without prior notice and hearing, impose undue and severe hardship upon innocent employers and employees, and

Whereas there are many sound and lawful reasons for questioning the legality of this sub-section as well as the statutory authority of the Consumer & Marketing Service, U.S.D.A., for making such a rule (see Statement of National Broiler Council, August 19, 1966),

Now, Therefore, the Executive Committee of the Northeastern Poultry Producers Council, acting for and on behalf of the Council and its members, hereby urges the Consumer & Marketing Service of the United States Department of Agriculture to withdraw proposed Regulation 81.25 and permit the present Regulation 81.25 to remain in effect *or* to strike sub-section (a)(1)(iv) from the proposed Regulation 81.25.

(Unanimously approved by the Executive Committee of the Northeastern Poultry Producers Council meeting in Newark, New Jersey, September 10, 1966.)

Mr. HAGEN. The next is the Alabama Poultry Industry Association, Mr. James Fleming.

STATEMENT OF JAMES F. FLEMING, ALABAMA POULTRY INDUSTRY ASSOCIATION

Mr. FLEMING. Mr. Chairman and members, in the interest of time, I have a prepared statement here on behalf of the Alabama Poultry Industry Association, which is an association representing all segments of the Alabama poultry industry, the third largest broiler-producing State in the United States, and I would like to submit this statement on behalf of the association in opposition to the proposal and in support of the National Broiler Council.

Mr. HAGEN. Your statement will be made a part of the record at this point.

(The prepared statement submitted by Mr. Fleming follows:)

STATEMENT OF JAMES F. FLEMING, EXECUTIVE SECRETARY, ALABAMA POULTRY INDUSTRY ASSOCIATION

Chairman Hagen, gentlemen, I am James F. Fleming, Executive Secretary, Alabama Poultry Industry Association, Cullman, Alabama. Today I have been authorized, in the absence of our president, to speak for our Association which is a non-profit, non-governmental voluntary organization representing all segments of the Alabama poultry industry.

Gentlemen, the poultry industry in Alabama is big business. It represents the state's largest agriculture industry. Last year producers derived almost \$260 million income from the production of broilers, eggs and turkeys. Broilers alone stands out as the state's agricultural income commodity. Last year broiler producers received \$139 million income for their production. Therefore, our interest in the continued growth and prosperity of the poultry industry is first and foremost here today.

Our Association has gone on record voicing opposition to the proposed additions to the Poultry Products Inspection Act of 1957 as proposed by the U.S. Department of Agriculture. Particularly, we oppose Section 81.25(a)(1)(iv).

If this section is approved, it would render to poultry inspectors powers heretofore unheard of in the industry. Inspectors would have the authority to suspend inspection services at a processing plant, thus closing the plant and causing unemployment to hundreds, almost at the choosing of an inspector. These proposals would make inspectors and the Department of Agriculture the complainant, judge, and jury in any incident occurring in a plant no matter how minor or major

such incident may have been. I might add here also such an incident may have occurred without the knowledge of the plant operator or other employees who would be penalized most by the suspension of inspection services.

We believe there are adequate laws in every state in our nation which sufficiently deal with altercations such as those the Department of Agriculture wishes to deal with in these proposals. We feel that penalties levied by these state and local laws more adequately deter the threat of such altercations than does the threat of closing a processing plant. State and local laws deal sufficiently with the individuals involved rather than penalizing innocent people such as the employees of a closed processing plant.

It may be the feeling of the Department of Agriculture that their employees need a separate set of criminal laws to protect themselves. We feel that if this is true it is an insult to our judicial system.

I have here a copy of a letter to Alabama Congressman Glenn Andrews written by Mr. George L. Mehren, Assistant Secretary, U.S. Department of Agriculture, dated September 2, 1966, which replies to Mr. Andrews telegram of August 24. Similar letters written by other Department officials went to other Alabama Congressmen and both Senators.

In this letter Mr. Mehren attempts to justify the proposals and I would like to quote from his letter as follows: "Similar language is in other inspection and grading regulations of the Department. It is our view that the poultry inspection regulations should likewise specify these causes for possible suspension or withdrawal of service so that the affected industry would be aware of them." (end of quote)

It should, in all fairness, be pointed out that, in relation to the proposed regulation, inspection and grading are not to be considered interchangeable programs. Poultry inspection is a mandatory program; poultry grading is not. Therefore, withdrawal of grading service would not automatically mean plant shut-down; withdrawal of inspection service would mean just that. The difference is crucial to the matter under discussion. Moreover, there is no similar language pertaining to federal meat inspection.

Further in Mr. Mehren's letter he states: "Significantly, in the nearly eight years since the poultry products inspection act became fully effective, inspection service has been suspended only once for a similar cause." (end of quote)

The Alabama poultry industry feels that in the light of this rather remarkable record there surely can not be sufficient reason for adding such drastic measures to deal with actions which have only occurred once in eight years. We feel the addition of these proposals would alienate inspectors, plant operators and or employees in a plant in such a way as to cause the incident which the proposals are designed to prevent. Also, I would like to mention here that apparently the Department already has the power to deal with such cases as Mr. Mehren says "inspection service has been suspended only once for a similar cause." Or was the Department administering penalties outside their powers when this action was taken?

Simply, we feel these proposals are unwarranted, unnecessary, and will create more problems rather than prevent them. If added and enforced, the proposals would serve less to correct unwarranted actions and would punish the innocent more severely than the guilty.

The Alabama Poultry Industry Association supports the positions taken by the Southeastern Poultry and Egg Association and the National Broiler Council in this matter.

Thank you, gentlemen, for permitting me time to make this statement.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 2, 1966.

HON. GLENN ANDREWS,
House of Representatives.

DEAR MR. ANDREWS: This is in reply to your telegram dated August 24, 1966, concerning proposed amendments to the poultry inspection regulations.

A 30-day extension period has been granted for interested persons to make comments on the proposed amendments. The extension notice was printed in the Federal Register of August 24, 1966, extending the time for comments from August 22, 1966, until September 23, 1966.

The Department proposes to expand the regulation pertaining to suspension or withdrawal of inspection service to include as one of the reasons for such action

the assaulting or otherwise interfering with any employee in or because of the performance of his duties under the Act or the regulations. Similar language is in other inspection and grading regulations of the Department. It is our view that the poultry inspection regulations should likewise specify these causes for possible suspension or withdrawal of service so that the affected industry would be aware of them. Such acts occur very infrequently, but when they do occur they necessarily impede the efficient execution of the provisions of the Act.

The lead paragraph in that part of the proposed amendments listing causes for disciplinary action reads in part as follows: *Causes.* Inspection service and/or plant approval may be suspended or withdrawn, etc. The causes are then listed. Please note that the words "may be" are used in lieu of "shall be." It is certainly not the intent of the Department to suspend or withdraw service for frivolous or hasty reasons. When interference or assault occurs, withdrawal action will not be taken until all the facts are available and the incident has been thoroughly considered. We fully realize the hardships associated with suspending inspection service in a plant. Every effort is made to settle these types of difficulties without disciplinary-type action. Significantly, in the nearly eight years since the Poultry Products Inspection Act became fully effective, inspection service has been suspended only once for a similar cause.

We believe the excellent record of cooperation and working relationships between the Department and the poultry industry over many years refutes any inference that the Department has any intent to create unnecessary hazards to the continued operation of poultry plants under the Federal inspection service.

Thank you for your interest in this matter.

Sincerely yours,

GEORGE L. MEHREN,
Assistant Secretary.

Mr. HAGEN. The next is the Arkansas Poultry Federation, Mr. Lex Killibrew, executive secretary of that organization.

STATEMENT OF LEX KILLIBREW, EXECUTIVE SECRETARY, ARKANSAS POULTRY FEDERATION

Mr. KILLIBREW. Mr. Chairman and members of the committee, I do not have a prepared statement.

We do endorse the stand of the National Broiler Council.

We have a proposal that has been filed, that is in the record.

Thank you very much.

Mr. HAGEN. Thank you.

Next is the Institute of American Poultry Industries, Mr. Campbell.

STATEMENT OF LEE CAMPBELL, INSTITUTE OF AMERICAN POULTRY INDUSTRIES

Mr. CAMPBELL. Mr. Chairman and members of the committee, I am Lee Campbell, Washington representative of the Institute of American Poultry Industries.

I would like to file with the committee a letter from the president of this organization, Mr. Williams, addressed to the hearing clerk, which sets out our position, that we believe that the entire section 81.25, should be withdrawn.

Mr. HAGEN. That document, when received, will be made a part of the record.

(The document referred to follows:)

INSTITUTE OF AMERICAN POULTRY INDUSTRIES,
Chicago, Ill., September 19, 1966.

HEARING CLERK,
*U.S. Department of Agriculture,
Washington, D.C.*

SIR: The following statement of views and recommendations with respect to Proposed Amendments to the Regulations Governing the Inspection of Poultry

and Poultry Products (7 CFR, Part 81), published in the Federal Register of July 21, 1966, is submitted on behalf of the Institute of American Poultry Industries (hereinafter referred to as the Institute).

The Institute is a national trade association representing the principal producers and processors of all classes of poultry and poultry products throughout the nation, and its members are immediately and vitally affected by the regulations under the Poultry Products Inspection Act.

For the reasons hereinafter set forth the Institute recommends that the proposed amendment to Section 81.25 in its entirety (81.25(a)(1)(i)(ii)(iii)(iv)(v)(vi); 81.25(a)(2)(i)(ii); 81.25(b); 81.25(c)) be deleted and withdrawn.

The proposed regulation should not be issued because it is unnecessary for the proper effectuation and administration of the Poultry Products Inspection Act and because it purports to authorize the imposition of sanctions, punishment, or penalties not authorized by the Act.

The Poultry Products Inspection Act does not authorize the imposition of administrative sanctions for violations of the Act. On the contrary, Section 12 of the Act makes violations of specified sections of the Act subject to criminal penalties which can only be imposed by a court of competent jurisdiction. The Poultry Products Inspection Act is not a regulatory statute in the usual sense. It prohibits, among other things, the processing, sale or delivery of poultry products unless such products have been inspected by an authorized inspector of the Department of Agriculture and found wholesome. It directs the Department of Agriculture to perform the inspection function under the authority and procedures specified in the Act.

There is an important distinction, which the Department has apparently overlooked in the proposed amendment to regulation 81.25, between imposing administrative sanctions and penalties for violations and requiring the maintenance of proper facilities and operating conditions under which the inspection function may be properly performed. Unless the inspection function can be properly performed and a proper determination made that the product is wholesome the product obviously, under the law, may not be marketed. On the other hand, if the facilities, equipment and operation are such as to permit the inspection function to be properly performed it cannot be withheld. The proper remedy for assault, bribery or similar activity is provided by other laws, both civil and criminal. These actions cannot be remedied under the Poultry Products Inspection Act through the application of administrative punishment.

The entire burden of the proposed amendment to Section 81.25 is directed toward the imposition of administrative punishment for past actions and has nothing to do with the ability or inability of the Department to perform the inspection function. We do not believe that any procedural processes, such as the granting of notice and hearing, would in any way enhance the authority of the Department to impose administrative penalties for past actions.

We, therefore, respectfully urge that the proposed amendment to Section 81.25 be deleted and withdrawn in its entirety.

HAROLD M. WILLIAMS,
President.

Mr. HAGEN. Next is the Southeastern Poultry Processors Council, Mr. Hugh Purnell.

STATEMENT OF HUGH PURNELL, SOUTHEASTERN POULTRY PROCESSORS COUNCIL

Mr. PURNELL. Mr. Chairman and members. I have no formal statement, and in the interest of time I would like the record to show that the Southeastern Poultry Processors Council and the Southeastern Poultry Egg Association oppose the regulation.

We have filed with the hearing clerk our opposition to this proposal. Thank you.

Mr. HAGEN. Do you have a statement?

Mr. PURNELL. I have no formal statement.

Mr. HAGEN. That you filed with the clerk?

Mr. PURNELL. We filed it with the hearing clerk of the U.S. Department of Agriculture.

Mr. HAGEN. I see. Thank you.

Next is the Virginia State Poultry Federation, Mr. Henry Holler.

**STATEMENT OF HENRY HOLLER, VIRGINIA STATE POULTRY
FEDERATION**

Mr. HOLLER. Mr. Chairman and members. I do not have a formal statement, but we do endorse the National Broiler Council's view.

Mr. HAGEN. Next is the Virginia State Poultry Processors Association, Mr. Earl Budd.

**STATEMENT OF EARL BUDD, VIRGINIA STATE POULTRY
PROCESSORS ASSOCIATION**

Mr. BUDD. Mr. Chairman and members. We, as processors in Virginia, do not have a formal statement to present.

We are opposing the regulation.

Thank you.

Mr. HAGEN. Thank you very much.

Mr. HAGEN. Next is the North Carolina Poultry Processors Association, Mr. Byron Hawkins.

**STATEMENT OF BYRON HAWKINS, NORTH CAROLINA POULTRY
PROCESSORS ASSOCIATION**

Mr. HAWKINS. Mr. Chairman and members. I appreciate the opportunity of appearing here today; and on behalf of the North Carolina Poultry Processors Association, I thank you gentlemen very much. I want to say that we wholeheartedly endorse the National Broiler Council's position on this change.

Mr. HAGEN. Thank you very much.

Next is the Georgia Poultry Federation, Mr. Abit Massey.

STATEMENT OF ABIT MASSEY, GEORGIA POULTRY FEDERATION

Mr. MASSEY. Mr. Chairman and members, the federation appreciates the time and the effort that you and Congressman O'Neal and the other members of this committee have expended in holding the hearing. The federation is opposed strongly and unanimously to the proposed regulation. We endorse the statement of the National Broiler Council as well as the statements made here by Members of the Congress. We will file a written statement, rather than take any more of your time now.

Mr. HAGEN. Without objection, your statement will be made a part of the record.

(The statement referred to follows:)

**STATEMENT OF ABIT MASSEY, EXECUTIVE SECRETARY, GEORGIA POULTRY
FEDERATION**

The Georgia Poultry Federation, representing seven member associations and the entire poultry industry in Georgia, is opposed strongly to the proposed regulation 81.25(a)(i)(iv).

The closing of a plant for the act of one person would penalize the firm, management, employees, growers, and allied business unnecessarily and unfairly.

If any action listed in the proposed regulation is charged and proved, then the guilty parties should be punished. Can't this be done under present criminal laws? Why should the plant be closed? Why should the punishment include the firm, unless it is proven guilty, the employees, or the community?

The Georgia Poultry Federation wishes to endorse the excellent brief filed by the National Broiler Council. We believe that a careful review and study of this brief will demand the rejection of this proposed regulation, which is unnecessary, unfair and unreasonable.

The Federation hopes that the Department of Agriculture will abandon the idea of a regulation to permit the closing of a plant for the act of one person—an act that might be out of management control and completely unrelated to inspection. If necessary we hope that the Dairy and Poultry Sub-Committee and the House Agriculture Committee will act to prevent such a regulation or make it invalid.

MR. HAGEN. Next is the Georgia Poultry Processors Association, Mr. William Schimmel.

STATEMENT OF WILLIAM SCHIMMEL, GEORGIA POULTRY PROCESSORS ASSOCIATION

MR. SCHIMMEL. Mr. Chairman and members of the committee. I would like to express my appreciation also for the stand that has been taken here and to very briefly say that we wholeheartedly endorse the statement of the National Broiler Council.

MR. HAGEN. Thank you very much.

We have heard from Mr. Wilson of the Georgia Poultry Inspection Commission.

Next on the list is Mr. Robert Cooper of the Texas Poultry Federation.

STATEMENT OF ROBERT COOPER, TEXAS POULTRY FEDERATION

MR. COOPER. Mr. Chairman and gentlemen, I have a resolution which has been adopted by the Texas Poultry Federation which has been mailed to the Texas congressional delegation.

I would like to submit that for the record, please.

Thank you.

MR. HAGEN. We thank you.

The resolution will be made a part of the record at this point.

(The resolution follows:)

RESOLUTION OF THE TEXAS POULTRY FEDERATION

Whereas: An objectional addition, subsection 81.25(a)(1)(iv), has been proposed to USDA regulations enforcing the Poultry Inspection Act of 1957 relating to withdrawal of inspection service from federally inspected poultry processing plants; and

Whereas: This addition would permit withdrawal and require termination of plant operations if a plant operator, officers, employees or agents have assaulted, resisted, opposed or impeded or interfered or attempted to interfere with any inspector who is performing his duties under the Poultry Products Inspection Act; and

Whereas: It is often difficult to distinguish between resisting or opposing or impeding or interfering and a vigorous interchange of views between the inspector and someone in the plant; and

Whereas: Existing criminal statutes adequately protect inspectors from forcible intimidation or simple assault or attempted bribery: Therefore be it

Resolved, That the Texas Poultry Federation hereby advised both the Secretary of Agriculture and the Texas Congressional Delegation that the poultry industry of our state is bitterly opposed to the proposed subsection, 81.25(a)(1)(iv), to the Poultry Inspection Act of 1957.

Mr. HAGEN. Those are all of the listed witnesses.

Are there any other witnesses present who might wish to submit a statement?

I would like, at this point, to ask unanimous consent to include in the record this brochure from the National Broiler Council, with regard to the inspection issue.

And, in addition, I have received material which has not heretofore been included in the record consisting of a statement of Mr. Howard H. Callaway who is a Member of Congress, a letter from Congressman Poff addressed to Secretary Freeman, a statement by Representative Morton who appeared before and requested, I believe, that this be included in the record, a statement from Mrs. Catherine May, a letter from C. W. Tilson, general manager, Central Carolina Farmers, Inc., a statement from Congressman Andrews, a statement from Congressman Whitten, a statement from Congressman Walker, and, in addition, I have a telegram here from the National Farmers Organization, Corning, Iowa, which I will read:

"We are in support of the position taken by the USDA that poultry inspectors be protected by adequate USDA regulations." This does not endorse the specific proposal.

I will ask that the telegram together with the others be made a part of the record, at this point.

(The documents referred to follow:)

THE WITHDRAWAL OF INSPECTION ISSUE

WHAT IS THE ISSUE?

Representative Harold D. Cooley of North Carolina, Chairman of the Committee on Agriculture of the U.S. House of Representatives, has charged the U.S. Department of Agriculture with going "beyond the bounds of reason, law and necessity" in proposing an amendment—Section 81.25(a)(1)(iv)—to the regulations under the Poultry Products Inspection Act of 1957.

This proposed amendment would give USDA authority to withdraw inspection services from broiler plants and shut them down if the plant operator or his agent—". . . has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or other improper means) with any inspector or other official or employee of the Department in or because of the performance of any duties under the Act or the regulations in this part . . ."

In the rising tide of resentment throughout the broiler industry against this USDA proposal, certain questions have been asked: What constitutes a threat to or interference with an inspector? Who is to draw the sometimes fine line between a vigorous interchange of views between inspector and inspected and an actual threat? If a plant is closed because of actions or alleged actions on the part of someone other than the plant operator, is he not being penalized unfairly? Perhaps more important, are not the employees who are temporarily thrown out of work by application of the proposed regulation the completely innocent victims of a situation beyond their control?

DO THE FACTS SUPPORT THE USDA POSITION ON 81.25(a)(1)(iv)?

No! Because:

1. *USDA has proposed a regulation which is clearly beyond its rule-making power*

Congress has granted USDA authority to order suspension of inspection services for only two reasons: if the plant is found to be unsanitary or if the chickens inspected are found to be unwholesome. Congress did not grant USDA authority to suspend inspection for any other reason; therefore, no authority exists in the law in support of the proposed regulation.

2. *The proposed regulation is punitive rather than remedial, and administrative agencies such as USDA have no authority under the law to impose punishment*

Under the law, only Congress or the courts have authority to invoke punitive sanctions.

3. *The proposed regulation is unreasonable, unnecessary, and unfair*

NBC deplors and condemns both actual and threatened violence in the relationships between all plant personnel and poultry inspectors. However, criminal law, the federal statutes and many state laws prescribe severe penalties for bribery, simple assault and forcible intimidation. Since adequate remedies exist in present law covering USDA's very proper concern for its inspectors (the rationale of the proposed regulation), there is no demonstrable need for the regulation. The proposed regulation is unfair to innocent parties. Plant closings which would result from application of the proposed regulation would injure persons and companies in no way responsible for occurrences that caused USDA to suspend inspection. If a plant is closed for a prolonged period under a suspension order, incalculable loss would be suffered by the plant owner. Moreover, plant employees, having to bear a loss of wages for the entire period of plant shutdown, would become the completely innocent victims of the suspension order.

4. *The proposed regulation is unduly vague and consequently may impair the effectiveness of the inspection service*

The proposed regulation is a sweeping condemnation of any resistance to and interference by force, threat of force or other "improper" means with an inspector who is performing in the line of duty. The language in the regulation contains such uncertainty that a plant may be placed in jeopardy any time an employee voices honest disagreement with an inspector. What may be a threat to one person may be an honest, if vigorous, exposition of views to another. The language of the proposal, by sealing off to an important degree the free interchange of views between inspector and inspected, in that measure imperils the inspection service which is richer today for the clarifications obtained through such interchanges.

WHAT IS THE POSITION OF THE BROILER INDUSTRY ON THE ISSUE?

The broiler industry is unified in its total opposition to the new proposal on withdrawal of inspection because it would give USDA life-and-death powers over the industry. Broilermen have been concerned for some time that government inspectors have, in growing measure, been exceeding the authority given them by Congress. That authority is two-fold: to inspect chickens for wholesomeness and plants for sanitation. The industry strongly supports inspectors in the performance of their duties under the law. However, assumption of authority by inspectors beyond that granted by Congress has, in the view of many in the industry, reached proportions where actual control of the broiler business by the broiler industry is being threatened. The consensus in the industry seems to be: On this issue, the proposed withdrawal of inspection regulation, we make our stand.

STATEMENT OF HON. HOWARD H. CALLAWAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. Chairman, I would like to submit the following statement covering my views on the proposed regulation 81.25(a)(i)(iv) by the Department of Agriculture, which in my opinion raises some very serious legal and public interest problems.

In the beginning, I would like to emphasize that violence between poultry plant employees and respected federal inspectors cannot be condoned. Employees who engage in such violence should be severely disciplined. In proposing this "anti-violence" regulation 81.25(a)(i)(iv), however, the Department has taken an unnecessary approach to the problem. Assault and battery are violations of the criminal laws in every state. If the Department of Agriculture wants to protect its inspectors and deter acts of violence in the future, it can accomplish both these objectives by initiating criminal proceedings in the state courts.

This regulation penalizes innocent parties, who are in no way responsible for the violence. Dozens of employees could be laid-off, and hundreds of farmers suffer, because of an improper act of a single employee. The employer may suffer an extensive economic damage despite the fact that he may have been incapable of preventing the trouble.

The vagueness of this regulation is also a cause for concern. A plant can be closed down because an employer "attempted to interfere . . . by improper means" with a federal inspector. What, exactly, are improper means? How is one to distinguish between interference and a vigorous exchange of views?

In addition, there is nothing in this regulation that requires suspension orders be terminated after a reasonable period of time. A plant may be closed down indefinitely without giving the employer an opportunity to present his views or rectify the situation.

The proposed regulation appears to be another gimmick to disturb and harass by threat a self-sustaining industry. Since the people of my State of Georgia are very proud of our *number one* position in the production, processing, and shipping of poultry, I have a very positive interest in this matter.

Because of advanced techniques and facilities, this industry has been able to prosper and yet maintain an economical product for the family dinner table, this at a time when we are suffering the worst inflationary spiral in our country's history. The closing of a plant for a week could not only work hardship on dozens of plant workers, but in addition hundreds of farmers would also be hurt, which in turn could also affect the economy of an entire community.

The people of my state are approaching the "breaking point" on Washington directives which affect our educational systems, health problems, public highways, and our right to enjoy the blessings of free enterprise, self-reliance, and self-discipline within the laws of our land.

For a long time, much too long, "entrenched officialdom" in Washington have sought to distort the will of the Congress of the United States. As one of its proud members, I believe the time has come to "lock the door" on any further intrusions into the private and economic lives of our people. These intrusions go far beyond the letter and the intent of the legislation which was enacted.

The regulation before the subcommittee is another prime example of this invasion into the realm of threat, duress, and punishment by the social dreamers and Great Society conformists who are trying constantly to usurp the prerogatives belonging to our state and local units of government.

For the above reasons, I urge that the proposed regulation be forgotten.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 19, 1966.

HON. ORVILLE L. FREEMAN,
Secretary, U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I want my views concerning the current Section 81.25 (a)(i)(iv) proposal registered for consideration.

I am opposed to the proposed regulation.

Hopefully, Congress is still the lawmaking branch of government. What you propose to do in this regulation is a lawmaking function. It goes far beyond the proper bounds of the regulatory power.

The law the Congress wrote provides specifically and definitively when and under what circumstances USDA has authority to order suspension of poultry inspection services. The law is unambiguous and unequivocal. It does not permit suspension of inspection services simply because some individual employee in the processor's plant makes some statement which the inspector chooses to interpret as a "threat." Most certainly, it does not permit such a thing when an individual employee interferes by some other "improper" means. That language is entirely too broad, too loose, and too imprecise.

The proposed regulation would represent nothing more or less than a penalty, but not a penalty in the customary sense of the word. It would be a punishment imposed not upon the offender alone but upon those who own the processing plant and those who work for the plant. How can the casual or accidental conduct of one employee be held to justify punishment of wholly innocent bystanders?

I am sending a copy of this letter to the Honorable Harlan Hagen, Chairman of the Poultry Subcommittee of the House Committee on Agriculture with the request that it be made a part of the proceedings scheduled for September 21 at 10:00 a.m.

Sincerely,

RICHARD H. POFF.

STATEMENT OF HON. CATHERINE MAY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF WASHINGTON

Mr. Chairman, I stand in opposition to the proposed amendment to regulations for the Poultry Products Inspection Act of 1957, which would give the United States Department of Agriculture authority to suspend or withdraw inspection services from a broiler plant if the plant operator or his agent has interfered with a Federal Inspector in the carrying out of his inspection services.

Mr. Chairman, I would like to say at the outset that it is my feeling that a Federal Inspector should have the unqualified right to carry out his inspection duties completely free of interference. On the other hand, such interference must never be construed to vest a Federal Inspector with punitive authority he does not possess under the provisions of law.

The views of the broiler industry in opposition to this proposal are well known and, in brief, they center around the following points:

1. Such an amendment exceeds the rule-making authority of the U.S. Department of Agriculture, for under the law the Department can withhold inspection only if a plant is found to be unsanitary or if the chickens inspected are found to be unwholesome.

2. The proposed amendment is punitive, seeking to punish rather than correct. Punishment is not an administrative authority but one residing either with the Congress or the courts.

3. Such an amendment is unnecessary inasmuch as present federal and state laws adequately provide remedy for abuses concerned.

4. The amendment is vague, leaving much to speculation as to what would constitute an offense under this provision.

Mr. Chairman, I want to say that I concur with these views.

Mr. Chairman, I think special attention should be directed to the fact that poultry inspection is not a licensed function. It is not, by its nature, a service which sets forth conditions for a license. Instead, poultry inspection is a service carried out in the interests of the consuming public, a function designed to maintain a pure and healthful poultry product for the consuming public.

Ideally, Mr. Chairman, it would appear that a compromise amendment is more in order than the stringent one proposed by the Department. Such an amendment should, I feel, be one that provides adequate protection for the Federal Inspector as he carries out his inspection duties, all the while preserving the right of the broiler plants to uninterrupted inspection service.

In short, I feel that correction rather than punishment should be the theme of any such amendment to change regulations pertaining to the Poultry Products Inspection Act of 1957.

Mr. Chairman, I deeply appreciate having the opportunity to present this statement of my views to the attention of the House Subcommittee on Dairy and Poultry.

STATEMENT OF HON. GLENN ANDREWS, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF ALABAMA

Gentlemen, I want to take this opportunity to join with the Poultry industry of Alabama in protesting the proposed Amendment of Regulations governing the Inspection of Poultry and Poultry Products (7 CFR 81) and in particular Section 81.25.

Adequate experience has taught us that Federal inspection of poultry processing is not only a necessary protection for the general public, it is also of inestimable value to producers and processors in universal public acceptability of their products.

Because of inspection and high quality our poultry products are accepted by consumers and acclaimed, not only in this country but throughout the world.

Therefore, full and adequate inspection of poultry processing is desirable. But, on the other hand, rights to inspection by a processor should not be arbitrarily denied because of the possibility of a personality conflict between a processor and an inspector assigned to a particular plant.

There is not present any evidence of sufficient weight to indicate widespread abuse of inspectors so as to require a regulation for their protection.

If assaults were frequent or of continuing danger to Federal employees on inspection duty, investigation should be made into personality conflicts first.

I view inspection of processing as a government service to both the processor and the consumer. It should not by regulation be transformed into a form of police action.

Of deepest concern to the industry is the proposal to suspend or withdraw inspection service for the assaulting or interfering with any employee of the Department of Agriculture who is in the performance of his duties under the Act or its regulations.

As far as I have been able to determine, these amendments are being proposed because of one incident of the type encompassed by these regulations, an incident which caused the Department to suspend inspection service. Since the Department had the authority at that time to take such action, clearly it does not need the regulations which are at issue here.

These measures, which give the Agriculture Department the privilege of being complainant, judge and jury in each and every case, are rigid, arbitrary and unnecessary. They are highly objectionable to the poultry industry throughout the nation and particularly odious to the industry of my state. Should they become effective, they could result in a serious breach of relations between the industry and the inspection service of the Agriculture Department.

I trust that, upon reconsideration by the Department, these regulations, particularly Section 81.25, will be withdrawn.

STATEMENT OF HON. BASIL L. WHITENER, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NORTH CAROLINA

I join my colleague, Congressman Harold D. Cooley, in expressing opposition to the proposed regulation by the Department of Agriculture. It seems to me that it is in excess of the legal authority vested in the Department.

Too much authority may have already been granted to the inspection service of the U.S. Department of Agriculture in the poultry industry. To sit by and not protest this new assumption of authority would be an error on my part. I therefore, register my opposition to the proposal.

STATEMENT OF HON. PRENTISS WALKER, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MISSISSIPPI

Mr. Chairman, I am very much opposed to the proposal of the U.S. Department of Agriculture to extend its authority in the area of the poultry inspection service.

It appears to me that the Department wishes to assume police powers through its poultry inspection services. In its proposal to extend regulations granting the Department additional reasons to withdraw inspection services from a poultry processing plant, is clearly outside the intent of the law.

The Poultry Products Inspections Act of 1957 was instituted for the protection of the consumer . . . to assure the person buying poultry that he is getting a wholesome product from a clean processor. It appears to me that any other motivation behind this act would have been secondary.

Now the Department is apparently going beyond the intent of the law and apparently for the sole purpose of policing the poultry processing industry.

This proposed regulation in my estimation is not necessary for the welfare of the consumer. It is not lawful, nor is it necessary for the protection of the inspection service. The Poultry Products Inspection Act of 1957 clearly defines the conditions under which the Department may withdraw inspection services. They are basically (1) presence of an unwholesome product, and (2) the presence of unsanitary plant conditions.

As I understand the proposed change, the Department's recommendations provide for three changes, two of which, in my judgment, are not needed, because they are already encompassed within the content of the present statute. The third permits the withdrawal of inspection services because of alleged threats of intimidation, harassment, or assault of an inspector by a plant operator or his agent. With the announcement of this new regulation, the Department has assumed judicial and congressional powers. A department of the executive branch of the Government does not have the authority to decree punishment—unless it is clearly authorized by law. There is nothing in the present statute that provides this authority. But, by its own admission, the Department is assuming disciplinary action under the proposed change.

Evidently, the Department of Agriculture would not have proposed such a regulatory change had it not felt it had sufficient reason for concern. But, I maintain that within each state there are sufficient laws to provide for the

punishment of the perpetrators of any such crime without further intervention by the Federal Government.

The threat of retaliatory action by the Department of Agriculture against the operators of a processing plant is definitely a threat against every employee of the particular plant involved—and, against every poultry producer supplying that plant, resulting ultimately in a threat to the economy of the community in which the plant is located.

It seems most unreasonable to me to allow this change in the law to be made when the outcome could be so damaging.

Mr. Chairman, it is my recommendation that the House Agriculture Committee adopt a committee resolution in opposition to this proposal and urging the Secretary of Agriculture to take the necessary steps to have this proposal rescinded.

CENTRAL CAROLINA FARMERS, INC.,
Durham, N.C., September 19, 1966.

HON. HARLAN HAGEN,
Representative from California,
Congress of the United States, Washington, D.C.

DEAR CONGRESSMAN HAGEN: Unfortunately I find this morning that I cannot be there Wednesday as planned for the hearing on the Poultry Inspection Withdrawal proposal.

Our cooperative corporation has operated a poultry processing plant for thirty years. We now have one of the largest and best equipped plants in our state. We have always needed poultry inspection and used state inspection service for several years before federal inspection was provided. It has been our policy to cooperate with officials of the USDA and others in our industry in everything that we believed would promote the processing and marketing of superior quality poultry.

However, I think the request by authorities in USDA to grant them more authority for the inspector and his superiors to withdraw inspection from a plant for reasons they are now asking is a serious mistake. I believe this added authority would hurt instead of help their program.

I am, therefore, in full agreement with the position and request of the National Broiler Council and Southeastern Poultry Association on this problem. Your interest and efforts to help us and our industry to clear up this problem are needed and will be fully appreciated.

Sincerely yours,

C. W. TILSON, *General Manager.*

CORNING, IOWA, September 20, 1966.

HON. HARLAN HAGEN,
Member of Congress,
Chairman, House Dairy and Poultry Subcommittee,
House Agricultural Committee,
Washington, D.C.:

We are in support of the position taken by the U.S.D.A. that poultry inspectors be protected by adequate U.S.D.A. regulations.

HARVEY SICKELS,
Legislative Representative, National Farmers Organization.

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

NATIONAL GRANGE,
Washington, D.C., September 23, 1966.

MR. HERMON I. MILLER,
Director, "Poultry" Division,
Consumer and Marketing Service,
U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. MILLER: The Grange led the original fight for the Pure Food and Drug Act and the subsequent legislation providing for the inspection necessary

to guarantee the consumer food pure from any contamination or disease which might make its use a threat to the general health and welfare of this country.

Whether it is in the rejection of milk because of pesticide residue, as was the case a few years ago, or the rejection of poultry products because of disease and poor quality, the public must never have reason to question the integrity of either the inspectors or the inspection.

Therefore, the Grange looks with extreme disfavor on attempts to intimidate or harass poultry inspectors as has been reported from Gainesville, Georgia and other places.

Although the withdrawal of inspection from the plants seems harsh and, in our judgment, should be used only after extreme provocation, the Grange would support the promulgation of regulations providing for the withdrawal of inspection services from any plant when and where it deems that the quality of inspection is threatened by the use or suggestion of violence or other intimidations.

In order that such action should not appear to be capricious, we would hope that the inspection service would be prepared to grant an immediate appeal to higher authorities within the Service after such action, so that those who might be unjustly penalized would suffer the least possible loss. On the other hand, if it is found that the action taken during the inspection is justified and that the inspector was properly carrying out his duty, we have no suggestion as to the conditions required prior to the reinstatement of this inspection service.

Respectfully yours,

HARRY L. GRAHAM,
Legislative Representative.

STATEMENT OF HON. JOHN H. BUCHANAN, JR., A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ALABAMA

Mr. Chairman, and members of the Committee, I want to take this opportunity to thank you for the opportunity to submit a statement in regard to amendments to the poultry inspection regulations proposed by the Department of Agriculture which would have a serious effect upon the nation's poultry industry.

The proposed amendments are a matter of grave concern to the industry, particularly the amendments to Section 81.25 which, if effective, would appear in its proposed form to render to a poultry inspector the authority to suspend inspection services at a poultry processing plant at his own discretion, without provision for a hearing or other procedure to allow a full review and determination of facts, prior to such drastic action.

As I understand it, the Department of Agriculture, by the proposed amendments to the poultry inspection regulations, would empower a poultry inspector, at his own volition and without consultation with plant officials, or the Department itself, to suspend inspection services at a poultry processing plant, which in effect would shut down operation of the plant until the matter could be resolved through due process.

Certainly before operations of a plant should be suspended, with the resultant loss of pay to employees as well as to the company in revenue as well as in customers who might find it necessary to make other arrangements for continuous supply of their product, there should be some provision for all parties to any complaint to be advised of the facts. An opportunity should be given for compliance with any regulation involved, or appropriate action to correct any situation or the action of any employee which may have been the basis for the poultry inspector's complaint.

The drastic action which could result from the proposed amendments would also appear to constitute punitive rather than remedial sanctions. And a punitive action may not be imposed by an administrative agency, but only by the Congress or by a court.

Another point to consider in the proposed amendments with reference to Section 81.25 is the fact that no time limit is set on any suspension or orders of a poultry inspector. There is nothing which even requires or provides for the termination of the order once the situation which the poultry inspector felt warranted such order has been corrected.

In a letter which I received from Mr. George L. Mehren, Assistant Secretary of the Department of Agriculture, dated September 2, 1966, Mr. Mehren stated: "We believe the excellent record of cooperation and working relationships between the Department and the poultry industry over many years refutes any inference that the Department has any intent to create unnecessary hazards to the continued operation of poultry plants under the Federal inspection service."

Mr. Mehren also stated in his letter that "in the nearly eight years since the Poultry Products Inspection Act became fully effective, inspection service has been suspended only once for a similar cause."

It appears to me that because of this excellent record of cooperation and working relationship between the Department of Agriculture and the poultry industry, it is important, in the interest of maintaining this very record, that the proposed amendments be withdrawn or completely revised.

To give to the poultry inspector the power to suspend or withdraw inspection service from a plant at his own discretion thereby closing such plant, and terminating work for its employees for an indeterminate period is certainly too drastic a provision, especially in view of Mr. Mehren's statement in his letter to me that during an eight year period there was only one instance in which such drastic action was taken under the Poultry Products Inspection Act.

Mr. Chairman and members of the Committee, I respectfully urge that appropriate action be taken to assure the withdrawal or complete appropriate revision of the amendments to the poultry inspection regulations as proposed by the Department of Agriculture.

STATEMENT OF HON. JACK EDWARDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. Chairman, I wish to state my strong opposition to the proposals by the Agriculture Department that would extend its authority under the Poultry Products Inspection Act of 1957.

One proposal—Section 81.25(a)(i)(iv)—would give the Department authority to suspend inspection service in any broiler plant "in the event that someone in that plant opposes, interferes, assaults, or threatens to assault an inspector."

I would like to point out initially that the Department itself has stated that since passage of the Poultry Products Inspection Act eight years ago, it has had only one such incident involving an inspector. In this instance, the Department said it suspended the inspection service to the plant involved. This raises the question: If such disciplinary and punitive action has already been taken by the Department, under what authority did it do so? And if the Department already has such power, why is it now seeking additional authority?

I think the fact that the Department has had only one such incident of this nature in eight years is sufficient evidence that the proposal is unnecessary. Besides, criminal statutes—both state and Federal—provide stiff penalties for any such unlawful action as mentioned in the Department's proposal.

If this proposal were put into effect, it would give each inspector "life and death" control over any broiler plant he inspects, because suspension of inspection services is tantamount to closing of the plant.

Thus, a single individual—acting solely on his own initiative and for purely personal reasons—could commit an act which would result in an inspector suspending inspection services to a broiler plant. This, of course, would lead to the eventual shutdown of the plant and the attendant unemployment of all of the plant's workers. Surely, this is too dangerous a risk to take.

I should also like to point out that this proposal is clearly beyond the intent of Congress as stated in the Poultry Products Inspection Act of 1957. The act clearly states that USDA has authority to suspend inspection services for only two reasons: if the chickens inspected are found unwholesome, or if the plant is found unsanitary. The additional proposal by USDA certainly does not come under the purview of either of these provisions. Thus, USDA appears to be assuming a prerogative—that of amending an existing legislative statute—which rightly belongs to Congress, and to Congress alone. Even if the proposal could be justified, USDA has chosen an arbitrary and unwise method of seeking its approval.

For these reasons, I find the USDA proposal to be totally unwarranted and unnecessary. I, therefore, recommend that the House Agriculture Committee take a public stand in opposition to this proposal.

As for the other two proposed additions to the regulations governing inspection services, I also find them unnecessary, because they are already encompassed in the existing statute.

UNITED STATES SENATE,
Washington, D.C., September 23, 1966.

Hon. HARLAN HAGEN,
Chairman, Dairy and Poultry Subcommittee,
Committee on Agriculture,
House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: It has been brought to my attention that the Consumer and Marketing Service of the U.S. Department of Agriculture has announced its intention to amend its regulations governing poultry products inspection.

Specifically, it is proposed that the Service be permitted to terminate inspection operations at any processing plant at which a plant operator or his agent ". . . has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or other improper means) with any inspector or other official or employee of the Department in or because of the performance of any duties under the Act or the regulations in this part . . ."

Certainly no one could condone or approve of the above described illegal activities. At the same time, the penalty of withdrawal of inspection services, amounting as it does to forced closure of the plant, is unnecessary, unjustified, and seems vindictive in nature.

There are quite adequate civil laws to deal with the problem of force or violence when it occurs, without breaking altogether fresh legal ground by closing down whole plants to punish the action of one or a few irresponsible individuals.

The ramifications of such a regulation, for other Federal agencies which perform similar inspection duties, are tremendous. The impact upon innocent employers and employees is also potentially quite serious, and I hope the subcommittee will see fit to reject such an interpretation of the Poultry Products Inspection Act of 1957.

Sincerely yours,

JOHN G. TOWER.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 30, 1966.

Hon. HARLAN HAGEN,
Chairman, Poultry Subcommittee,
House Agriculture Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: I take this means to register my firm opposition to the proposed additions to the Poultry Products Inspection Act of 1957.

While I believe that a Federal Inspector should be able to carry out his duties without any interference "by force, deception, for money or any other improper means", I also believe that the powers that would be permitted to the Department of Agriculture would go beyond those granted by Congress to administrative agencies. Congress has given the authority for suspension of inspection only when a plant is unsanitary or when the poultry being processed is found to be unwholesome.

Criminal law prescribes severe penalties for bribery, simple assault and forcible intimidation. Throughout the years these statutes have provided ample protection for the citizens of this country. There is simply no reason why they are not ample protection for a Federal Inspector. The Department of Agriculture may at any time initiate criminal proceedings, just as any other citizen. The authorization of such arbitrary powers would simply constitute a further encroachment by the Federal government in our free enterprise system.

This unreasonable and unnecessary regulation would be a punishment to the innocent as well as the guilty. The closing of a complete plant would force numerous innocent and law-abiding employees to suffer from the mistakes of one law offender. The financial losses to the innocent would be insurmountable.

The language of the proposed regulation is extremely vague. If approved, the regulation would place a plant in jeopardy any time an employee expressed any sort of disagreement with an inspector.

For the above-stated reasons, I am opposed to the proposed additions to the Act and hope you will keep these comments in mind during your consideration of the legislation.

Sincerely,

WM. L. DICKINSON.

STATEMENT OF HON. LISTER HILL, A U.S. SENATOR FROM THE STATE OF ALABAMA

Mr. Chairman, I appreciate this opportunity to thank you and your Subcommittee for arranging this meeting with respect to certain provisions of changes being proposed by the Department of Agriculture in the Poultry Inspection Regulations. This matter is of great importance to the poultry industry of my State, where the industry is the State's second largest agricultural industry.

I commend to you and to the Department of Agriculture officials for earnest consideration the statement made by Mr. James Fleming, Executive Secretary of the Alabama Poultry Association, in opposition to Sec. 81.25(a)(1)(iv) of the proposed Regulation. This provision is, I feel, unwarranted and unnecessary and would likely create problems rather than preventing them. Dr. Robert K. Somers, Deputy Administrator of the Conservation and Marketing Service, has advised me the Department of Agriculture plans to issue a revised proposal, and I strongly urge the withdrawal of inspection provisions along the lines of Sec. 81.25 be dropped. In my opinion, such provisions exceed the authority Congress has given the Department of Agriculture.

STATEMENT OF HON. RALPH YARBOROUGH, A U.S. SENATOR FROM THE STATE OF TEXAS

Mr. Chairman, in proposing subsection 81.25(a)(1)(iv), the Department of Agriculture has proposed an unreasonable and unnecessary regulation. Existing state and federal laws define both assault and bribery as criminal acts. Federal inspectors are adequately protected by these laws and it is difficult to see how the proposed regulation adds to that protection.

The solution which this regulation embodies is arbitrary and unreasonable. If an employee in a poultry establishment assaults or threatens a federal employee, that employee must be punished. Violence in poultry plants cannot be tolerated. The proposed regulation, however, does not punish the guilty employee. It penalizes his employer and it penalizes countless innocent employees but it does not discipline the party who is really at fault.

The regulation is both unnecessary and unreasonable. Therefore, I urge the Department of Agriculture to reconsider its position and refrain from promulgating Subsection 81.25(a)(1)(iv).

STATEMENT OF HON. JOSEPH D. TYDINGS, A U.S. SENATOR FROM THE STATE OF MARYLAND

The Agriculture Department's proposed regulation 81.25 (a)(iv) provides for suspension or withdrawal of poultry inspection service and/or plant approval "if the operator . . . or any officer, employee or agent of such operator, acting within the scope of his employment or agency . . . has assaulted, resisted, opposed, or impeded (by force or threat of force) or interfered or attempted to interfere (by force, deception, offer of money, or other improper means) with any inspector" . . .

Such a regulation is in my judgment, unnecessary, insulting, and unwise.

It is unnecessary because there are adequate State and Federal laws that prohibit and punish physical interference or attempted corruption of Federal officials.

It is insulting because the Department of Agriculture concedes that there have been only six (6) cases of interference with poultry inspectors in nine (9) years. This is an admirable record. It does not justify such punitive action. Other federal departments do not withdraw vitally needed services because of isolated incidents or mistreatment of its officers. To single out the poultry industry for such action is an insulting slap in the face for an honorable and important industry.

The regulation is unwise because it would give to executive officials the unchallenged right summarily to close down a poultry plant because of the alleged misconduct of a single employee with no prior judicial or administrative hearing provided. The Department would, in effect, be judge and jury in its own case.

To close down a plant on the basis proposed by the Department would hamstring an important arm of our Nation's economic structure. Not only could thousands of employers and employees suffer financial hardship, but poultry raisers as well could find themselves with marketable birds on their hands, which after a time would no longer be salable as broilers.

The Act now provides for closure of plants for designated reasons, consistent with the intent of the Act, but to add section iv is inadvisable, and without consideration of established due process.

In view of the consequences of this proposal, and its lack of basis in law or in fact I must ask it be withdrawn.

STATEMENT OF HON. JOHN DOWDY, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF TEXAS

It appears to me that the Department of Agriculture's proposal to change Section 81.25(a)(1)(iv) of the regulations promulgated under the Poultry Inspection Act of 1957, should not be approved.

It is known by all that our penal laws provide adequate punishment for those individuals who bribe, or attempt to bribe, any federal personnel. This is also true with regard to the use of force or threats of force upon the person of federal officers or leveled against any federal employee. This, of course, includes federal poultry inspectors. For this reason, therefore, it can be concluded that additional provisions such as are proposed in the changes to Section 81.25(a)(1)(iv) are unnecessary and actually duplicitous.

Under this proposed change, the Department of Agriculture, which should operate as an executive agency, would be performing a judicial function without any protection of the rights of those involved, disregarding federal and state laws on the subject as well as Constitutional safeguards.

This proposed change would close an establishment should anyone in it be thought guilty of any offense specified in the contemplated amendment. In my own District in East Texas, where the broiler trade is one of our largest industries, I could not readily determine the great extent of damage to our economy which would result should even one of our processing plants be closed. Such could be the case under this proposal, by a willful act of only one employee! Many innocent persons might conceivably suffer irreparable injury. This proposal might easily result in the use of Gestapo tactics and methods, and has no place in our society. Such a regulation would be unreasonable and might easily result in capricious action by an Executive Department, punishing an entire community depending upon a processing plant as its chief source of income. Further than this, it would punish even the farmers who raise poultry.

I am inalterably opposed to the Department's proposed change in Section 81.25(a)(1)(iv).

STATEMENT OF HON. DANIEL B. BREWSTER, A U.S. SENATOR FROM THE
STATE OF MARYLAND

Chairman Hagan and members of the Subcommittee, I appreciate having the opportunity to put myself on record against the suggested amendment to the regulations for the Poultry Products Inspection Act of 1957. I feel that this is an unreasonable and potentially dangerous proposal of the Department of Agriculture.

To permit the Agriculture Department to withdraw inspection services from a broiler plant if a Federal inspector is assaulted or even threatened is to grant the Department dictatorial powers over the poultry industry. Withdrawing inspection services means nothing less than closing down a plant, throwing innocent men and women out of work, and probably doing irreparable damage to a business. I do not believe the Department should be permitted to wield this kind of arbitrary authority.

Mr. Chairman, I represent a state in which the broiler industry makes up an important sector of the economy. I cannot imagine that the proposed USDA regulation would do my state any good. Quite the reverse; I think it could do considerable harm.

I thank the Subcommittee for hearing my opinion.

STATEMENT OF HON. ROMAN L. HRUSKA, A U.S. SENATOR FROM THE
STATE OF NEBRASKA

The "anti-violence regulation"—Sec. 81.25(a)(1)(iv)—recently proposed by the Department of Agriculture, is a cause for serious concern. Acts of violence in poultry plants are deplorable and cannot be tolerated. However, the proposed

regulation represents an unreasonable and unnecessary attempt to resolve the problem.

Under this regulation, countless employees can be laid-off because of the improper act of a single employee. The employer can suffer extensive economic damage because of an act which he was incapable of preventing.

The regulation is also unnecessary. The bribing of federal officials is forbidden by federal law. The criminal laws of every state make assault a criminal act. In short, there are state and federal laws on the books which adequately protect poultry inspectors thereby making additional federal regulations unnecessary.

In addition, the proposed regulation is unduly broad and vague. Under Sec. 81.25(a) (1) (iv), a plant could be shut down if an employee "interfered . . . by improper means" with a federal inspector. What are "improper means?" What is "interference?" Where do we draw the line between a vigorous exchange of words and the proscribed "interference?"

It should also be noted that there is no time limit on these suspension orders. They may continue indefinitely and need not terminate even if the employer has taken vigorous steps to discipline the employee and rectify the situation which initially prevented inspection.

This regulation is both unnecessary and arbitrary. Therefore, I urge that it not be promulgated.

STATEMENT OF HON. WILLIAM JENNINGS BRYAN DORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

I am happy and pleased to offer my support to the Honorable Harold D. Cooley, Chairman, Committee on Agriculture, U.S. House of Representatives and to the National Broiler Council in opposing Section 81.25(a) (1) (IV) to the regulations under the Poultry Products Inspection Act of 1957. Congress has granted USDA authority to order suspension of inspection services for only two reasons; if the plant is found to be unsanitary or if the chickens inspected are found to be unwholesome. Congress did not grant USDA authority to suspend inspection for any other reason; therefore no authority exists in the law in support of the proposed regulation.

The proposed regulation is punitive rather than remedial, and administration agencies such as USDA have no authority under the law to impose punishment; only Congress or the courts have authority to invoke punitive sanction. Inspectors in the performance of their duties under the law should be supported, however assumption of authority by inspectors beyond that granted by Congress should not be allowed.

STATEMENT OF HON. LINDLEY BECKWORTH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, the regulation which USDA has proposed to protect its poultry inspectors from actual or potential violence is very far reaching I think. In the present instance, the proposed penalty, amounting to virtual plant shutdown, I fear, would be unfair to the plant management and to the workers in the plant. Workers could lose their wages for the period of shutdown and the plant, of course, could lose substantial business.

Inspectors by law are to inspect poultry for wholesomeness and plants for sanitation. They have adequate protection in existing laws and regulations to perform these duties in my opinion.

I believe that USDA should consider withdrawing the proposed regulation and see that its inspectors continue to concentrate on the job Congress has assigned to them.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 30, 1966.

HON. HARLAN HAGEN,
Chairman, Subcommittee on Dairy and Poultry,
House Committee on Agriculture, Washington, D.C.

DEAR HARLAN: It is with some serious concern that I have viewed the decision of the Department of Agriculture's Consumer and Marketing Service to amend poultry products inspection regulations.

Unilateral action of this type by Governmental departments tends to distort objective concepts of regulation and specific controls. In this case, where

processing plants are threatened with shutdown because of one individual's misconduct can set a most dangerous precedent.

Are we admitting that civil laws are lacking in the protection of these Governmental agents or that separate legal statutes to induce the closure of these poultry processing plants are required?

Is it true that we have as an example a separate set of laws to insure the protection of our Federal agents against our ever prevalent "moonshiners"?

No, we are reverting to "panic button" treatment of a Departmental whim which subsequently could produce a continually haunting precedent for every other Department of our already overpowering centralized Government to pursue. The amendment of the regulation is not the panacea to stringent control. If our civil code is so useless why not propose its amendment?

May your Subcommittee see fit to reject the demands of the Department of Agriculture in establishing its own law, within the law, which leans toward sheer vindictiveness against a plant rather than on the punishment of the guilty culprit.

Sincerely,

G. ELLIOTT HAGAN,
Member of Congress.

UNITED STATES POULTRY AND EGG PRODUCERS ASSOCIATION, INC.,
Baileys Crossroads, Va., September 19, 1966.

HON. HARLAN HAGAN,
*Chairman, Subcommittee on Dairy and Poultry,
House Agriculture Committee, Washington, D.C.*

DEAR CHAIRMAN HAGAN: The Consumer and Marketing Service of USDA has proposed a regulation that would in essence withdraw poultry inspection service from a poultry processing plant if a poultry inspector is assaulted or otherwise interfered with in performing his duties under the Poultry Inspection Act of 1957. This proposed regulation is consistent with other inspection and grading regulations now in effect.

Our membership has a real interest in USDA poultry inspection as members derive their income from a payment per pound of net saleable poundage of broilers delivered to a processor. We also recognize that a processor must operate at maximum efficiency and the public interest must be protected.

The poultry inspector inspecting on a processing line must have a free mind. He is required to make from 17 to 20 decisions per minute in the best interest of all concerned. Consequently, he must have adequate protection from all mental, physical and financial intimidation at all times.

We do not agree that recourse to normal legal remedies is adequate protection for poultry inspectors under so much pressure and representing so many interests. Nor do we concur with the attitude that the broiler industry is entitled to separate and distinct treatment by USDA as compared to other regulated industries.

There is no doubt that the method used to prevent abuses of poultry inspectors needs careful consideration. We are confident the Poultry Division of USDA has and will use every precaution and exercise the best of judgement in promulgating and enforcing any rule to protect all concerned.

However, the whole broiler industry from management to employee must be put on notice that poultry inspectors are not personal property to be used or abused in any way. The USDA needs the support of the Congress and the public in making this clear to everyone concerned.

Yours truly,

DAL FERRY,
Executive Director.

Mr. O'NEAL. Are any of these statements in favor of it?

Mr. HAGAN. None of them are in favor of the proposal, except, in part, the telegram that I have read which supports generally the proposition.

Those are all of the written communications that I have received, I believe.

I believe that concludes all of the documents that have been tendered to me to be filed.

I wish to say that we thank you gentlemen from the poultry industry and the broiler industry, because there is only one chicken farmer on

our committee who knows these problems. We have learned a good deal from you. We appreciate your presence here and hope that something tenable can be worked out in the new regulations.

Thank you very much.

We will now adjourn.

(Whereupon, at 11:50 a.m., the subcommittee adjourned.)



