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AMEND THE PACKERS AND STOCKYARDS ACT OF 1921

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK AND GRAINS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

ON

H.R. 6231

JUNE 5 AND 6, 1967

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TO AMEND THE PACKERS AND STOCKYARDS ACT, 1921

MONDAY, JUNE 5, 1967

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

The subcommittee met, pursuant to notice, at 10 a.m., in room 1301 Longworth House Office Building, the Honorable Graham Purcell (chairman of the subcommittee) presiding.

Present: Representatives Purcell, Nichols, Montgomery, Rarick, Mrs. May, Dole, Mayne, and Price.

Also present: Christine S. Gallagher, clerk; Hyde H. Murray, assistant counsel; Martha Hannah, subcommittee clerk; Francis LeMay, staff consultant; and Fowler C. West, assistant staff consultant.

Mr. PURCELL. The subcommittee will come to order.

We are met this morning to consider H.R. 6231, which, together with the report from the Department dated June 5, 1967, will be made a part of the record at this point.

(H.R. 6231 by Mr. Purcell, and the letter dated June 5, 1967, follow:)

[H.R. 6231, 90th Cong., first sess.]

A BILL To amend the Packers and Stockyards Act, 1921, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 302(a) (7 U.S.C. 202(a)) of the Packers and Stockyards Act, 1921 (42 Stat. 159), as amended (7 U.S.C. 201 et seq.), is amended to read:

"(a) When used in this title the term 'stockyard' means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, and buyers, consisting of pens, or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce."

(b) Section 303 (7 U.S.C. 203) is amended to read:

"After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless (1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, and has given written authorization to such person, and (2) he has registered with the Secretary under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyards services, if any, which he furnishes at such stockyard. Every other person operating as a market agency or dealer as defined in section 301 of the Act may be required to register in such manner as the Secretary may prescribe. Whoever violates the provisions of this section shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States."

(c) Section 304 (7 U.S.C. 205) is amended to read :

"All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this Act, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this Act he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 315 of this Act."

(d) Section 307 (7 U.S.C. 208) is amended to redesignate the first sentence as paragraph "(a)" and to add a new paragraph (b) as follows:

"(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market."

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 5, 1967.

HON. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your letter of March 6, 1967, requesting a report on H.R. 6231, a bill to "amend the Packers and Stockyards Act, 1921, as amended."

The Department recommends the enactment of this bill, subject to the amendments proposed below.

The primary objective of the bill is to make it clear that a stockyard owner has the responsibility and right to manage and regulate his stockyard in a just, reasonable and nondiscriminatory manner and to require persons operating at the stockyard to conduct their operations in a manner which will foster, preserve or insure an efficient competitive public market.

The bill expressly provides that no person can engage in business at the stockyard as a market agency or a dealer unless the stockyard owner has determined that his services will be beneficial to the business and welfare of the stockyard and its patrons and customers.

It would relieve the stockyard owner or market agency of a duty to furnish stockyard services to all persons upon reasonable request without discrimination, but would provide that all stockyard services furnished pursuant to reasonable request at a stockyard must be reasonable and nondiscriminatory.

The percentage of the total federally inspected slaughter cattle bought at terminal stockyards has declined from 91 percent in 1925 to 75 percent in 1950, and to 34 percent in 1965. The percentage of the total federally inspected slaughter hogs bought at terminal stockyards has similarly declined from 76 percent to 40 percent to 23 percent during the same years. The comparable figures for sheep are 82 percent, 57 percent, and 26 percent.

In *Denver Stock Yard v. Livestock Assn.*, 256 U.S. 282, 289, the Supreme Court stated:

"We are told, however, that the economics of the business has changed, that while at the passage of the Act most livestock purchases were at these stockyards, now a substantial portion—about 40 percent, it is said—takes place at private livestock markets such as feed yards and country points. * * * If the Act does not fit the present economics of the business, a problem is presented for the Congress."

We believe the present economics of the livestock business requires amendatory legislation.

At one time, the terminal stockyards had a virtual monopolistic position. At present, however, the 50 terminal stockyards are surrounded by approximately 2,200 auction markets and thousands of buying stations. Packers are building most new plants away from terminal market centers. In these circumstances, it

is necessary that stockyard owners exercise such management and control over their stockyards and the persons operating thereon that they are able to preserve and maintain an efficient, competitive public market.

Some stockyard owners have investments exceeding 15 million dollars. The commission firms at a terminal stockyard are in effect the "selling arm" of the stockyard. The stockyard's existence is largely dependent upon the activities of the commission firms at the stockyard. Market agencies engaged in business at a terminal stockyard are provided with free pen facilities furnished by the stockyard owner. Their activities at a stockyard should, therefore, be subject to reasonable control by the stockyard owner.

Most market agencies selling livestock at terminal stockyards conduct their activities in a manner which will foster, preserve, and insure an efficient, competitive public market. Others, however, engage in practices which are not in the best interests of the market or patrons of the market.

Some commission firms engaged in business at terminal stockyards exert more effort in getting shippers and buyers to "by-pass" the stockyards than they exert in getting business to be handled at the stockyards.

Solicitations for "off-market" transactions are made in the free pen space provided at the stockyards by the stockyard owners.

The stockyard owner's revenue is dependent upon the volume of livestock sold by the market agencies at the stockyard. If the firms at the stockyard do not support the market, and the stockyard owner has no control over this matter, the stockyard owner can be forced to close his business.

In addition, commission firms selling livestock at a terminal stockyard are injuring their consignors if they dilute packers' buying needs by "off-market" transactions with the same packers who are buying from them at the stockyards.

The proposed bill would permit stockyard owners to impose such requirements as are appropriate to protect the market and its patrons, and to take other action to foster and insure an efficient, competitive market. For example, an addition to the need to control the matters referred to above, some stockyard owners have determined that substantial savings could be effected by a centralized, computerized, bookkeeping and paying system. A single bookkeeping and paying system at a stockyard might replace 25 to 50 separate accounting systems, leading to reduced marketing costs.

Stockyard owners presently have broad power to manage and control their stockyards. However, the precise extent of their authority is subject to serious question. Any mistake by a stockyard owner as to his authority, resulting in preventing a person from operating in a certain manner on his stockyard, could result in great monetary damages imposed against the stockyard owner. Consequently, many stockyard owners fear to exercise authority which they probably now have.

There is question as to whether there are adequate criteria set forth in the provisions of the bill governing the determinations of a stockyard owner in connection with authorizing persons to operate at the stockyard or in refusing to furnish stockyard services. There is also a question as to whether such actions of a stockyard owner would be subject to review by the Secretary. Accordingly, it is recommended that the bill be amended as follows:

1. Insert in line 11, page 2, after the words "patrons, and customers," the phrase "which determination shall be made on a basis which is not unreasonable or unjustly discriminatory,";

2. Insert in line 4, page 3, after the words "reasonable and nondiscriminatory" the phrase "and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory"; and

3. Add a new paragraph (e) to the bill to read as follows:

"(e) Section 312(a) (7 U.S.C. 213(a)) is amended by inserting after the words 'in connection with' the phrase 'determining whether persons should be authorized to operate at the stockyard, or with'."

We believe that the enactment of the proposed legislation with the amendments proposed will clarify and extend the authority of stockyard owners in a manner which will be beneficial to the livestock industry, while preserving the right of the Secretary to prevent an abuse of such authority.

It should be noted that there seems to be an inadvertent error in the opening language of the bill. We suggest that lines 3, 4, and 5, page 1, be amended to read as follows:

"That Title III of the Packers and Stockyards Act, 1921 (42 Stat. 159), as amended (7 U.S.C. 201 et seq.) is amended as follows:

"Section 302(a) (7 U.S.C. 202(a)) is amended to read:"

The enactment of this proposed bill would not require any additional funds for its enforcement.

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

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

MR. PURCELL. I am going to ask that Dean Elmer R. Kiehl, of the University of Missouri, who has a very tight schedule, be allowed to testify first. Next will be the witnesses from the Department of Agriculture, Mr. Rodney E. Leonard, Deputy Assistant Secretary. If there are those of you here, or you know of any who are coming, who have a real peculiar schedule, we will try to accommodate them and do everything we can to take care of you so as not to get your schedules involved.

You have a prepared statement?

MR. KIEHL. Yes, I do.

MR. PURCELL. You may proceed.

STATEMENT OF ELMER R. KIEHL, DEAN OF THE SCHOOL OF AGRICULTURE, UNIVERSITY OF MISSOURI, COLUMBIA, MO.

MR. KIEHL. Mr. Chairman and committee members, my name is Elmer R. Kiehl. I am dean of the University of Missouri College of Agriculture and director of the Missouri Agricultural Experiment Station. Over the years I have conducted research on livestock marketing as a professional economist and have maintained contact with the terminal livestock markets. My comments will be directed to the effect of this amendment on competition and on quality of marketing service.

We must recognize that the terminal livestock market is in reality a complex of business firms with interrelated functions. The terminal livestock market with the stockyard company-market agency-dealer relationship is an unusual business arrangement. The stockyard company has a substantial investment in physical facilities but the important selling function is performed by the commission firms. The stockyard company revenue is dependent upon the volume of business done by the other agencies. With this important dependence upon market agency performance the stockyard company has no accompanying control. It is a relationship comparable to that which would exist in a manufacturing firm had little control over its sales department.

Terminal livestock markets with these unusual business relationships were begun more than a century ago. Their early operation and function in the economy qualified them to be regarded as a public utility. However, the forces of change at work in a dynamic economy have modified their role and they are engaged in a struggle for survival with competing market institutions. In view of the innovations in livestock production and transportation and the decentralization of meatpacking, terminal livestock markets as presently organized and regulated are no longer pertinent to their economic environment. Through time many competing types of livestock markets have developed and provide a degree of competition which makes the public utility concept inappropriate at this time.

Inefficient market agencies with resulting high costs may influence the setting of high charges (subject to P. & S. approval) which restricts the ability of a terminal market to compete with other livestock markets. Thus the costs of marketing through terminals may be maintained above that necessary to insure adequate marketing service. Since terminal markets are an important part of the livestock assembly and pricing process, costs of livestock marketing may be greater than they need be if some high-cost market agencies were to withdraw from the business.

An equally important aspect is assuring that adequate selling service will be provided to livestock shippers. To provide adequate selling service it is necessary that a salesman be experienced and maintain a "feel of the market" for that class of livestock which he sells. Because market conditions affecting different classes of livestock do not change together it is often necessary for an individual to specialize in selling one class of livestock. A commission firm that is prepared to carry on a general livestock commission business must have salesmen competent to sell each of the classes of livestock. The necessity of providing competent salesmen for each class of livestock imposes a minimum on the number of salesmen a commission firm may have.

A look at the volume of livestock handled by each commission firm at a sample of markets suggests that competent selling service for all livestock is unlikely with the small annual volume handled by some firms. At one large midwest terminal that had 24 commission firms in 1966 the average volume per firm of the four firms handling the smallest volume of each species for 1966 with 1,199 cattle; 61 calves; 4,076 hogs and sheep. At the same time the average per firm of the four firms which had the largest volume of each specie was 73,228 cattle, 4,261 calves, 205,905 hogs, and 20,462 sheep. It is difficult to believe that uniformly high-quality sales service can be provided for all species by all firms with the volume distribution as shown.

While the provisions of the bill do not convert the stockyard company into a selling agency they have increased ability to influence the way in which the selling function is carried out. The facts suggest that if stockyard companies determine that commission firms operating on a market do provide services beneficial to the business and welfare of the stockyard, its patrons and customers, improvements favorable to live stock shippers may be expected in two areas: first, lower real costs of marketing through the terminal and, second, improved service.

To be competitive, market institutions are required to change the nature of marketing service provided in response to changes in the nature of the marketing job to be performed and to technology available in providing the marketing service. Improvements in livestock marketing service provided by a specific firm is dependent upon the ability of that firm to adjust to the ever changing economic environment. Because of the relationship of a stockyard company to the market agencies active on a market there is no clearly defined decisionmaking unit that can make and carry out decisions for a terminal market. The decentralized decisionmaking is a great handicap in competing in the dynamic setting in which they operate.

Terminal livestock markets have experienced difficulty in incorporating new technology in their business. One explanation is the nature

of the business relationships of stockyard companies to the other market agencies. Examples are innovations which have the potential to improve service or reduce costs and would need to be incorporated into the terminal market complex modifying the operations of the stockyard company as well as other market agencies. Since there is no single decisionmaking unit for a terminal market few systemwide innovations have been instituted. This is a natural consequence of the substantial variation that exists among market agencies. A change may improve the system and benefit many firms in the system but may not be beneficial to some firms and hence they resist change.

A specific example is the improvement in service or cost reduction that might result in modern computer technology was applied to the substantial recordkeeping job that must be done at a terminal market. Marketing researchers at the University of Missouri have recognized for more than 10 years the feasibility of applying computer technology to the recordkeeping job. However, in the present setting it is practically impossible to incorporate computer technology and as a consequence the possible cost reductions or improvements in service cannot be realized by the terminal markets and the livestock producers who use the markets. Another example is the development of personnel training programs so necessary for market agencies to adequately serve livestock shippers. Both of these examples require that they be adopted by the firms constituting the system at a particular terminal market.

Terminal livestock markets have experienced a substantial reduction in the percentage of the total volume of livestock market which they handle. There is a question of the role this institution can play in livestock marketing in the future as it is presently organized and operated. The rapid adoption of technological change in livestock production, processing, transportation, and merchandising has generated the demand for new market institutions. Can stockyard companies with their investments in physical facilities develop a market institution geared to the future needs if they are given the freedom to innovate? No one knows, but it is clear that their chances would be increased if they were given the responsibility as contained in H.R. 6231.

Mr. PURCELL. Thank you very much, Mr. Kiehl. Are there any questions? Mrs. May.

Mrs. MAY. I am sorry that I did not get to hear the first part of your testimony. I think you have been very objective in analyzing the bill. I appreciate this information. It is always nice to welcome an old friend whom we had with us on the Food Marketing Commission.

Mr. KIEHL. It is my pleasure.

Mrs. MAY. Thank you. That is all.

Mr. PURCELL. Mr. Mayne, do you have any questions?

Mr. MAYNE. No.

Mr. PURCELL. Mr. Kleppe.

Mr. KLEPPE. Yes, Mr. Chairman.

On page 6 of your statement you indicate that—

Terminal livestock markets have experienced a substantial reduction in the percentage of the total volume of livestock marketed.

I wonder if you would elaborate on that just a little bit, please?

Mr. KIEHL. A part of this, of course, results from the decentralization of the packing industry itself, the role of truck transportation over the years, the impact of this which began to be felt about 1930, as I re-

call the historical dates. These are the principal factors. These are terminals that at one time were highly oriented toward the railroad transportation system.

Mr. KLEPPE. Of course, now, these trucks that haul this livestock, many of them are owned by the stockyards?

Mr. KIEHL. This is true.

Mr. KLEPPE. The decline in the terminal market handling livestock, I suspect, has caused a lot of these truckers going directly to the packers.

Mr. KIEHL. This is true.

Mr. KLEPPE. That is all. Thank you.

Mr. PURCELL. Do you have any questions, Mr. Montgomery?

Mr. MONTGOMERY. No questions.

Mr. PURCELL. I think, Dr. Kiehl, that you have come out of this round very well. We are very glad to have you here. As Mrs. May stated, she and I served with Dr. Kiehl on the National Commission on Food Marketing. Both of us respect his judgment and his dedication to the subject of agriculture, so we again welcome you here and we appreciate your interest in helping us on this subject. Thank you very much.

Mr. KIEHL. Thank you, Mr. Chairman.

Mr. PURCELL. At this time we will call Mr. Rodney E. Leonard, Deputy Assistant Secretary of Agriculture. I think he has some associates with him who will appear at this time.

STATEMENT OF RODNEY E. LEONARD, DEPUTY ASSISTANT SECRETARY OF AGRICULTURE; ACCOMPANIED BY DONALD A. CAMPBELL, ACTING ADMINISTRATOR, AND GLENN BIERMAN, DEPUTY ADMINISTRATOR, PACKERS AND STOCKYARDS ADMINISTRATION, U.S. DEPARTMENT OF AGRICULTURE

Mr. LEONARD. Thank you, Mr. Chairman, and members of the subcommittee.

I am, as you have stated, Rodney E. Leonard, and I have with me Don Campbell, who is the Administrator of the Packers and Stockyards Administration, and Glenn Beirman, who is the Deputy Administrator.

I appreciate this opportunity to discuss the Department's views on H.R. 6231. This is a bill amending the Packers and Stockyards Act to clarify the responsibilities of stockyard owners in the management and control over their market facilities.

We favor the enactment of the legislation, with several clarifying changes suggested in our legislative report to the Congress.

The primary objective of the bill is to make it clear that a stockyard owner has the responsibility and right to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner and to require persons operating at the stockyard to conduct their operations in a manner in which will foster, preserve, and insure an efficient, competitive market.

The bill expressly provides that no person can engage in business at the stockyard as a market agency or a dealer unless the stockyard owner has determined that his services will be beneficial to the business and welfare of the stockyard and its patrons and customers.

It would relieve the stockyard owner of the requirement to furnish stockyard services to all persons upon reasonable request without discrimination, but would provide that all stockyard services furnished pursuant to a reasonable request at a stockyard must be reasonable and nondiscriminatory.

The bill applies to terminal stockyards and auction markets. The questions of stockyard owners' rights, however, have arisen primarily at terminal markets. Terminal markets—there are about 50 of them—are stockyards like the yards at Chicago, Omaha, and Sioux City where livestock are sold at private treaty in negotiations between commission sellers and buyers.

At these terminal stockyards, the stockyard owner provides the facilities. The actual selling is done by commission firms. The stockyard owner provides free pen space to these commission firms and the stockyard owner's revenue is dependent upon the yardage charges collected upon the livestock sold by these commission firms.

The commission firms at a terminal market are, in effect, the selling arm of the stockyard. The stockyard company's existence is largely dependent upon the ability of the commission firms at the stockyard to obtain consignments to the market. Serious questions have been raised under the present statute as to whether the stockyard owner can refuse to furnish facilities and services to a commission firm which is not furthering the best interests of the market.

At one time, the terminal stockyard owners had a virtual monopoly over livestock marketing. Under those conditions, the statutory regulation sought to be changed in the present bill may have been appropriate. Those conditions no longer prevail.

However, at present, the terminal stockyards are surrounded by approximately 2,200 auction markets and thousands of packer and dealer buying stations. The percentage of federally inspected slaughter cattle bought at terminal stockyards had declined from 91 percent in 1925 to 34 percent in 1965. The comparable decline in slaughter hogs have been from 76 percent to 23 percent, and in sheep, 82 percent to 26 percent.

Most market agencies selling livestock at terminal markets conduct their activities in a manner which will foster and preserve an efficient, competitive market.

We understand some commission firms exert more effort in convincing shippers and buyers to do business away from the stockyard than in getting business to be handled at the stockyard. This serves to weaken and destroy the public market by reducing receipts substantially, reducing buying power, and increasing marketing costs for the shippers who continue to use the market. Diluting packer's buying needs can also lead to lower prices received by shippers who are using the public market.

Prices at terminal markets are promptly disseminated throughout the country by market news reports. These terminal prices are used as a pricing basis in off-market transactions. This further emphasizes the need for terminal markets to be operated in the best interests of the market and the shippers to the market.

Our interest is to enable stockyards to remain competitive in a marketing structure in which they have long since lost their monopolistic position, so that producers in this way will have the benefit of

viable markets at reasonable marketing charges. In the enforcement of the Packers and Stockyards Act, we encourage stockyard owners to make innovations and to establish and enforce regulations which foster efficient and competitive livestock markets. Section 201.4 of the regulations under the act emphasizes the importance of self-regulation by the livestock industry. It provides for enforcement by industry of bylaws, rules, or regulations which are not inconsistent or in conflict with the act and Federal regulations.

We believe that stockyard owners today have broad power to manage and control their market facilities. However, the precise extent of their authority is subject to serious question. Any mistake by a stockyard owner as to his authority which results in preventing a person from operating at the stockyard could result in great monetary damages being imposed against the stockyard owner. Under those conditions, many stockyard owners fear to exercise the authority which they probably now have. Clarifying legislation is, therefore, desirable.

In a case involving the Denver Union Stock Yards and the Producers Livestock Marketing Association, the Supreme Court stated:

We are told, however, that the economics of the business has changed, that while at the passage of the Act more livestock purchases were at the stockyards, now a substantial portion—about 40 percent, it is said—takes place at private livestock markets such as feed yards and country points. * * * If the Act does not fit the present economics of the business, a problem is presented for the Congress.

In our opinion, the proposed legislation is needed to meet the dramatic changes which have occurred in the marketing of livestock since 1921.

The National Commission on Food Marketing also recognized the possible need for amendment, in this respect. It stated, in its report on page 108:

Terminal markets for livestock are still the focal points of livestock trading in many areas, play an important role in all pricing, and are especially important sales outlets for smaller producers. In order that these markets have every opportunity to serve the changing needs of the livestock industry, and in view of increased competition from other marketing methods, the Packers and Stockyards Act should be administered, and if necessary amended, to give stockyard owners and marketing agencies the greatest flexibility and control over their operations consistent with protecting the interests of buyers and sellers. * * *

The ability of the terminal marketing system to survive in the marketing system of the next decade or two may well depend upon giving the stockyard owners sufficient authority to manage their stockyards, as is provided by this bill. Some terminal stockyards have ceased operating as terminal markets in recent years. Others may cease operations in the not-too-distant future.

Our Department does not favor any system of marketing over another. But we would like producers to have available a reasonable number of marketing alternatives. We believe that terminal stockyard owners should be afforded the opportunity to manage their stockyards in a manner which will enable them to continue to remain in business.

In our legislative report to the Congress, we have suggested several changes in the language of the bill to make it clear beyond question that the actions of a stockyard owner are subject to review by the Secretary.

We would add the express requirement that determinations by a stockyard owner as to persons authorized to engage in business at the stockyards shall be made "on a basis which is not unreasonable or unjustly discriminatory." We would also add that "stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory."

We believe that with these amendments to the proposed legislation, the authority of the stockyard owners will be clarified and extended in a manner beneficial to the livestock industry, while at the same time preserving the right of the Secretary to prevent any abuse of such authority.

We will be happy to respond to any questions you may have.

Mr. PURCELL. Thank you very much, Mr. Secretary.

Do you have any questions of this witness, Judge Rarick?

Mr. RARICK. Not at this time, Mr. Chairman. These words "reasonable and nondiscriminatory" I find very flattering, but just what they mean I do not know. When we arrive at the final determination of intent one wonders about them. I will pass at this moment.

Mr. PURCELL. Mr. Montgomery.

Mr. MONTGOMERY. No questions.

Mr. PURCELL. Mr. Nichols.

Mr. NICHOLS. I pass at this time, Mr. Chairman.

Mr. PURCELL. Mr. Price, any questions?

Mr. PRICE. Not at this time, Mr. Chairman.

Mr. PURCELL. Mr. Kleppe.

Mr. KLEPPE. Yes, Mr. Chairman.

On page 6 of your statement, in lines 4, 5, 6, and 7 you state:

In our legislative report to the Congress we have suggested several changes in the language of the bill to make it clear beyond question that the actions of a stockyard owner are subject to review by the Secretary.

Would you give us some examples for the record of what might be subject to review by the Secretary. Or maybe I should put it this way, would it be a denial, for example, by the stockyard owner to a commission firm—would that be an example or what are you thinking about here particularly?

Mr. LEONARD. Well, I imagine that this would operate generally on a complaint basis. If a person seeking to use the terminal stockyard facilities were to be denied those facilities and felt that there was an unreasonable basis for it, he could bring a complaint to the Packers and Stockyards Administration in the Department and we would review those pretty much on the basis that discriminatory actions have been reviewed in the past. If we felt that there was some basis for the complaint then we would issue a cease-and-desist order to the stockyard.

Mr. KLEPPE. As it is written now, do I understand correctly that the stockyard owner would have the last word as to who would be allowed to come into the stockyard to function? For example, if he knew of some background of a person, that the commission firm was not good, he could refuse to have them enter his yard and function, is that correct?

Mr. LEONARD. He could.

Mr. KLEPPE. What you are suggesting is that each individual would have recourse to the Secretary—that is, each commission firm?

Mr. LEONARD. Right.

Mr. KLEPPE. For such injury if he could present a proper claim?

Mr. LEONARD. That is right. If he felt that he was being unjustifiably treated, he could bring a complaint to the Secretary. We would investigate the complaint. And if we felt that there was a basis for it, we would take appropriate action.

Mr. KLEPPE. That is all, Mr. Chairman.

Thank you.

Mr. PURCELL. Mr. Mayne.

Mr. MAYNE. Mr. Secretary, would the owner also have the right under these proposed amendments to make it impossible for a commission firm to continue to operate in the yard if he had been operating there for some years?

Mr. LEONARD. Well, the Secretary, under this legislation, would have no direct authority other than to review an action of the stockyard owner.

Mr. MAYNE. I did not ask if the Secretary could. I asked if the owner could. Does this not give the owner the power to revoke, to all practical effects, as well as to give the original authority to him?

Mr. LEONARD. Well, yes. Again it has to be on a fair, reasonable, and nondiscriminatory basis. That is in the view of the Department.

Mr. MAYNE. All right. I notice that on page 3 of your statement, the fourth paragraph, you state:

Some commission firms exert more effort in convincing shippers and buyers to do business away from the stockyard than in getting business to be handled at the stockyard.

Are you talking now about commission firms that operate with their principal place of business the terminal market?

Mr. LEONARD. Yes.

Mr. MAYNE. I wish that you would expand on that a little more. I must confess that is news to me that commission men do that. The commission men that I have known seemed to be very interested in trying to preserve and foster the stockyard in Sioux City, for example.

Mr. LEONARD. I would like to have Mr. Campbell respond to that question.

Mr. MAYNE. Very well.

Mr. CAMPBELL. I believe that Sioux City is one of the markets where most of the commission firms do exactly as you say. They have a strong interest in conducting business on the market, but you have other markets where at least some firms do not have that same interest of doing most of their business at the public market. To use an illustration, we have the Denver stockyards, which has disposed entirely of its terminal market activity because their receipts went down so fast. The Denver stockyards management claims that the reason that they had to close as a terminal market, primarily, is due to the fact that so much off-market business was done by the commission firms at Denver. We hate really to build a case on one particular market, because other people would say that other factors entered into it.

Even if you talked to commission men themselves at some markets they would tell you that other commission men really have more interest in doing off-market business than market business.

Mr. MAYNE. Well, Mr. Secretary, it is true, is it not, that some markets, at least, that is, some terminal markets have strong associations of commission men who do a pretty good job of policing themselves?

Mr. LEONARD. Right—we do not argue with that.

Mr. MAYNE. Well, now, when that situation exists, in view of a long period of policing their own affairs, and avoiding abuses, have you given any consideration to this legislation giving some recognition to the role that they play, or do you think that it should be entirely at the option of the owner?

Mr. LEONARD. Of course one of the problems that you do become involved in in this area is that commission associations have no control over the nonmembers. We feel reasonably confident that the stockyard owners are going to operate these facilities on a reasonable basis. We would maintain the right to review, to prevent any unjust or discriminatory acts.

Mr. MAYNE. Let us take specifically a situation where, as in Sioux City, I have always considered it, there is a vigorous livestock exchange which has policed its own membership. I may be mistaken on that, but that is the impression I have. The officers that the commission men in Sioux City elect to represent them feel that they should have something to say about these standards. This legislation does not give them any representation at all.

Has the Department given consideration to giving them some recognition in this procedure?

Mr. LEONARD. We have not considered that in terms of this legislation. The Sioux City market, as I understand it, is as you indicate. They have a very strong association, and it would be reasonable to expect that if they felt that the stockyard management was being discriminatory or developing rules which they thought were improper or not to their best interests, they would ask us to look into the matter with the review powers we would suggest be included in the bill. We would, however, expect the stockyard owners and the commission firms to work out their problems themselves.

Mr. MAYNE. Well, is it not true that the stockyard owners have already considerable authority as a practical matter? What you are trying to do is to spell it out in more detail.

Mr. LEONARD. That is right.

Mr. MAYNE. Looking at it from the standpoint of the commission men, many of whom have devoted their entire lives to building up their businesses, and which seem to be working properly, I think that you could see that they might have some apprehension about the law being fortified for one part of the market authority and not for another part. Does not that seem to be reasonable in their position?

Mr. LEONARD. It is very understandable. I suspect it is the kind of a situation that you always run into where you are trying to apply rules generally. You have a market where the relationships between the owner and the commission firms have always been good and where the commission firms seek to make the market work. Understandably they would be a little apprehensive, but I do not see how this legislation would change that relationship significantly.

Mr. MAYNE. Thank you. That is all, Mr. Chairman.

Mr. PURCELL. Mrs. May.

Mrs. MAY. Mr. Secretary, I would like to have you comment a little further for the record on some parts of your statement.

On page 1, the bottom paragraph, you state:

The bill expressly provides that no person can engage in business at the stockyard as a market agency or a dealer unless the stockyard owner has determined that his services will be beneficial to the business and welfare of the stockyard and its patrons and customers.

Would you comment for us, from your background of experience, as to how the stockyard owner would determine which of these persons or firms would help or be beneficial to the welfare and business of the stockyard, and those that would not be beneficial. What, from your viewpoint, would you use as a criteria to make this determination? If you would give us specific examples, I think that it might help to clarify the record on this point.

Mr. LEONARD. If I may, I would like to have Mr. Campbell comment on that.

Mrs. MAY. Yes, Mr. Campbell.

Mr. CAMPBELL. I believe that ordinarily the stockyard owner would allow anyone to do business on the stockyard unless he had some real reason for not allowing him on the stockyard.

To give a few examples, in the past we understand that at one stockyard there was a commission firm which consisted of one man who spent most of his time painting. He was really a painter. If he ever got a load of livestock to sell, he would run down to the stockyard, find out what the prices were, and sell it to the first person he could, sell it to.

Another person, we understand, was the tollkeeper on a nearby bridge. He did that same thing.

These are just illustrations of what can go on under the present act. And if the stockyard owner knew that was the case, he would probably deny to such persons the use of the stockyards because they are not really interested in fostering a good livestock market.

Mrs. MAY. For the record again, does this type of operation by, I assume you would call it a part-time commission firm person, hurt the stockyard?

Mr. CAMPBELL. The word gets around that this is going on. Shippers to the market find out that this kind of commission firm is on the market—probably not the shippers who are using that commission man or they would not be using him—other shippers see that it goes on—and the rumor spreads. In all likelihood that commission man will get lower prices for the livestock he is selling. He really does not know what the true buying strength is. He is interested in selling the livestock quickly and turning them over to the first person who will take them off of his hands. As a result, he will get a lower price established.

Here, again, the news spreads like wildfire. If a commission firm on a market is selling livestock at \$25, that could dampen the price later received by some other seller who knows the true value of the livestock. If you have a poor commission firm on a stockyard, it would do damage to the whole market.

Mrs. MAY. And under the present wording of the law the stockyard owner cannot prohibit the use of his stockyard to this type of a commission firm?

Mr. CAMPBELL. We feel that he has the authority but if he guesses wrong and tries to put the person off the market, then immediately he can be subject to a tremendous damage suit. Some of those have been filed in the past. And if the commission man ultimately prevails in

court, if the court says that he was wrongfully put off the market, damages could go on for years before the litigation was finally terminated. In view of that risk, stockyard owners fear to exercise their authority.

Mrs. MAY. What do you mean by guessing wrong?

Mr. CAMPBELL. If he guesses wrong as to whether the court will sustain the party complaining against his action in refusing space. If the complaining party's actions are bad enough, the stockyard owner can probably remove him from the market and win the case ultimately in court.

Mrs. MAY. Just for clarification, would they be bringing a case because they thought that this man was operating wrongly or had heard that this man, or had proof that this man was operating along the lines that you have just suggested—would that enter into it?

Mr. CAMPBELL. Probably the action would be brought by the commission man because the way it would probably arise would be that the stockyard owner would say that as of a certain date he could no longer do business on his stockyard. It depends on the statute of limitations. He may be able to wait 2 or 3 years before he brings an action. When he finally files an action, he would probably originate it with our Department, and it might take several years before the matter is settled in the courts. If the stockyard owner finally loses, which I meant by guessing wrong, he would have to pay the commission man damages for all of those years, plus other damages because of his loss of business. The damages could be pretty high. That is the risk which deters the stockyard owner from taking action even when he feels that action should be taken.

Mrs. MAY. Would your bill change that situation?

Mr. CAMPBELL. This makes it clear beyond question that the stockyard owner does have the right to manage his stockyard in a just and reasonable manner. And this would permit him to refuse that service to a person as long as he does it on a just, reasonable, and nondiscriminatory basis.

Mrs. MAY. In the language of this bill he would not be subject to recourse to the court and maybe a long delaying action. But where does the review of just and nondiscriminatory come in? I mean assuming that we amend the bill with the language that is suggested by the Department.

Mr. CAMPBELL. The stockyard owner would still have to guess, but he would not have as strong a risk, because of this bill. With the Congress stating that it thinks that the stockyard owner should have such right and with the legislative history that would be built up in connection with this bill, I think that most stockyard owners would be willing to assume the risk, although they would still be subject to reversal and possibly damages if they took unreasonable action. I would think that our Department would correct any unreasonable action if it was taken.

Mrs. MAY. I notice that in the letter from the Department to our chairman you have asked that the bill be amended in three different areas. You feel that these amendments, as I understand it, if put into the bill, would allow review by the Secretary. In other words, if this commission firm has been refused by the stockyard owner, they could come forward for a review of the case, first to the Secretary, as I understand it.

Mr. LEONARD. You are right.

Mrs. MAY. And the Secretary would review the case and determine whether the action, under the wording of your amendment there was reasonable and nondiscriminatory.

What kind of hearing would the Secretary use to determine what is reasonable and nondiscriminatory? Could you give us an example of what he would use as a criteria in a case like this? Is there a body of law or a body of action on this in other types of cases that sets up some sort of definition for the words "reasonable and nondiscriminatory"?

Mr. CAMPBELL. We have something very similar to that in the present statute. Section 312(a) states:

It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce, of livestock.

In case of a violation, we can issue a cease-and-desist order, and if there has been damages we can issue reparations against the stockyard owner in favor of the injured party.

In other parts of the statute you have the word "unreasonable." In section 202(b) it states:

Make or give, in commerce, any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever or subject, in commerce, any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

These words, "unfair and unreasonable," appear in our statute, and also in other statutes. They have been interpreted in various cases, according to the facts in each case. Some things have been held to be unfair or unjustly discriminatory. Other things have been held not to be unfair or unjustly discriminatory. So it is really on a case-by-case determination that you would have to make a determination.

Mrs. MAY. But some of these you think would be applicable?

Mr. CAMPBELL. Right, some of the prior precedents.

Mrs. MAY. Now, as I understand it, the way the present act is, the individual or the organization that has been prohibited by the stockyard owner cannot now go to the Secretary of Agriculture for this review?

Mr. CAMPBELL. They now can come to us, and they have. We have in some instances talked to the stockyard owners about various acts they have taken. Under the proposed amendment, our attorneys feel that we would want to add a few words to make it doubly clear that under this new amendment, we still have the same right that we now have to review action which is unfair and unreasonable.

Mrs. MAY. But you do have the right to do what you have just been explaining under the present law?

Mr. CAMPBELL. Under the present law, that is right. And we have exercised that right.

Mrs. MAY. Does the word "unreasonable" and the word "nondiscriminatory" appear anyplace else or do you apply those criteria in reviewing these cases?

Mr. CAMPBELL. They appear in section 312(a) of the act where it states:

It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce, of livestock.

Mr. LEONARD. Also section 307 states:

It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations in respect to the furnishing of stockyard services and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

Mr. CAMPBELL. So you really have the same words in the present act.

Mrs. MAY. Wherein does this present bill strengthen the right of the stockyard owner to innovate and perhaps make these decisions with more flexibility as compared to the wording under which he is working now?

Mr. CAMPBELL. I think that the principal two amendments would be on page 2 of the bill where it says:

No person shall carry on the business of a market agency or dealer at such stockyard unless (1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, and has given written authorization to such person.

And then over on pages 3 and 4 of the bill where is expressly states:

It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market.

Those are the two key provisions of the proposed amendment as I see it.

Mrs. MAY. In other words, right now there is nothing spelled out for the stockyard owner as to his responsibility and right?

Mr. CAMPBELL. It is not this clear. Section 307 does have some general language that it is their duty to establish, observe and enforce just, reasonable, and nondiscriminatory regulations and practices. And there are court decisions which say that they still have the right to manage their stockyard as long as they do not violate our statute. So between the general language that is now existing and the general right to manage what belongs to them, as long as it is not in conflict with the Federal regulations or statutes, they do have broad powers, but as I said before, they are afraid to exercise the powers they probably now have.

We issued a policy statement on December 7, 1965, which said, "We think stockyard owners have a lot of power," but after that policy statement was issued we did not notice that many of them, if any, were willing to exercise the authority, even in situations where they complained something ought to be done.

Mrs. MAY. You think that under this bill they could exercise this authority and will to do the things you believe they want to do to help their stockyard activities?

Mr. CAMPBELL. That is right—that is every indication that we have had.

Mrs. MAY. One final question, and then I will go through.

I just want to get some of the things clarified for the record. I think that this question is very germane on this subject. You have indicated the terminal market at Sioux City is working well. Evidently is not having any trouble—am I correct?

Mr. LEONARD. Yes.

Mrs. MAY. Under this bill will this hurt their operations as they are now being conducted with these commission firms and the organizations that are using their stockyards?

Mr. LEONARD. It would be our judgment that it would not damage the operation of their stockyards.

Mrs. MAY. This is a case, however, where they actually do not need the legislation—that has been the present experience. Are there other areas that you think this is needed?

Mr. LEONARD. There has been more difficulty, obviously, in places other than Sioux City.

Mrs. MAY. Is that the reason for this? It is working well there in Sioux City. Perhaps in other areas it might not be working so well—that the markets are not working as well—their business is declining. Is the main factor, that the owners do not have the right to discriminate and pick and choose their commission agents is that the main reason or is that just one factor?

Mr. LEONARD. It is very difficult to try to specify why these changes occur. As the Congressman indicated, the commission merchants there do seek, apparently, to make that market function well but to what degree this same rapport does exist in other markets you know is very hard to pin down.

Mrs. MAY. That is all, Mr. Chairman. Thank you.

Mr. PURCELL. I have one or two questions, or at least comments.

The whole object of this proposed amendment, or the bill, if you want to call it that, is to give a more businesslike control to the owners of the stockyards than they feel they have. This is basically a true statement, is it not?

Mr. LEONARD. That is right.

Mr. PURCELL. Then is it not also true that Sioux City and the other cities—do you call them river markets—is Sioux City what you call a river market?

Mr. LEONARD. Yes.

Mr. PURCELL. The river markets are those that remain strong, generally speaking, are they not?

Mr. LEONARD. Yes, generally.

Mr. PURCELL. In fact, Sioux City, and I suppose Omaha and a few up in that general area are more or less the models that we hope all terminal markets would be able to emulate or to function like—is this true?

Mr. LEONARD. Yes, sir. The receipts in those markets have held up very well.

Mr. PURCELL. Then realizing that those markets have remained strong and realizing the facts are as they are and as you have stated in your statement:

The percentage of federally inspected slaughter cattle bought at terminal stockyards has declined from 91 percent in 1925 to 34 percent in 1965. The comparable decline in slaughter hogs has been from 76 percent to 23 percent, and in sheep 82 percent to 25 percent.

It appears obvious, generally speaking, that the terminal markets have lost a tremendous amount of selling ability and influence on the markets, is that right?

Mr. LEONARD. The facts certainly indicate that, yes, sir.

Mr. PURCELL. And yet all of the reporting agencies, both government and private, use as their primary source of information the terminal market receipts and the market price that livestock brings on the market on a given date.

Mr. LEONARD. That is right. This is one of the most difficult areas that we in the Department are facing now, to insure that the price reporting and the price-making function is accurate, as accurate as possible.

Mr. PURCELL. Is not the establishing of a market price one of the most complicated things that the Department of Agriculture or any other department of the Government has to deal with? Is that not true, establishing that?

Mr. LEONARD. Yes.

Mr. PURCELL. You would have to be quite an authority as to what the price of livestock can be or will be at any given date.

Mr. LEONARD. Yes.

Mr. PURCELL. Is it not also true that there are other people like you stated a moment ago, where one man had a primary job as a toll-keeper at a bridge and another job as something else. I know of some whose primary vocation is drinking whiskey and staying drunk and fooling around and doing a lot of other things other than selling livestock. And yet a shipper—even the smaller shipper—does not know which commission firm to ship to; he does not know which firm will do the best job for him. Those people who need the most knowledge are short on knowledge themselves. They ship to a commission firm that apparently couldn't care less about what the price of the livestock is. And those people are the victims of a lack of knowledge on their own part, and a lack of attention to duty and management on the part of the commission firm that they happen to choose to use. When those people ship livestock a few times a year, they are guessing, to start with, how their livestock compares to the livestock that they hear about being sold. And then when they sell through a firm that is also just guessing, they always sell to a buyer who has the latest information from many other firms; this puts the seller at a terrific disadvantage to be relegated to using a commission firm of this low caliber, does it not?

Mr. LEONARD. It would and does.

Mr. PURCELL. And would this not tend to strengthen the free enterprise system that we all certainly want to see function and give the operator of a stockyard more control over the principles of free enterprise with more frankness and considerably less bureaucracy involved in it?

Mr. LEONARD. Yes, sir. This bill and our purpose is to encourage them to do just exactly that.

Mr. KLEPPE. Will you yield?

Mr. PURCELL. Yes.

Mr. KLEPPE. This particular point that you are talking about, Mr. Chairman, is what troubles me a little bit, too. On page 3 of your statement, Mr. Secretary, you state:

Some commission firms exert more effort in convincing shippers and buyers to do business away from the stockyard than in getting business to be handled at the stockyard.

I certainly gather from your testimony that you believe this amendment would preclude some of that happening in the future, is that correct?

Mr. LEONARD. Yes. There are some cases where this has occurred and the stockyard owners could not establish a rule or a regulation governing the conduct of these yards, and this would include authority to require some commission firms who are doing this to come back onto the market.

Mr. KLEPPE. I think I understand that by putting the review in here by the Secretary that you think this strengthens the language and strengthens the position of the act, even though today, in your opinion, and you issued a report on it, you indicated that it already exists under the present act. In the course of thinking about this, about the possibility of having a separate committee, that is, in thinking about this have you thought about the possibility of having a separate committee composed of members of the stockyard owners and members of the agencies themselves being a committee to render a decision on a conflict between the livestock owner and one of the agencies—would this strengthen this?

Mr. LEONARD. I think that the review committee could function very helpfully and usefully on individual markets. I think that a matter brought to the Department to be decided by the Secretary becomes his responsibility. The language of the law would so indicate that the Secretary would be charged with this responsibility and really could not turn that over to an advisory committee. The question could go to a committee for consultation. And we would do so through the Packers and Stockyards Advisory Committee.

Mr. KLEPPE. Would it be helpful if we were to amend this bill to state that the Secretary's review is final?

Mr. LEONARD. We have never asked for that authority. We have always felt that if an individual believes that the Secretary's decision is wrong that he should have the right to appeal to the courts.

Mr. KLEPPE. I am only trying to get a way that will strengthen this marketing setup, so that we do not have these side efforts—breaking away from strengthening the private enterprise operation of the livestock market. It seems to me that there is a little ambiguity in this area, Mr. Chairman. These are the reasons for my questions along this line.

I thank you. That is all.

Mr. PURCELL. Is there any reason for the owner of the stockyard to be in business except to do business? Isn't that the only reason? There is no other reason. Can you imagine any reason why he would not want anyone on his yard if that firm or individual was selling livestock.

Mr. LEONARD. I could not.

Mr. PURCELL. It is only when one of these firms degenerates to the point where they are hurting the reputation of the stockyard in selling livestock that I can visualize any reason for the owner of the stockyard not wanting this firm to continue on the yard. Is that right?

Mr. LEONARD. Yes.

Mr. PURCELL. We cannot throw a nod of the head into the record. I think that I can see exactly what you people are fearful of. I personally do not agree that the reason exists for that fear. That is what I am trying to get at. These stockyards have been functioning, remaining strong where their selling agents are staying on the job and not going out in the country trying to short-circuit the yard or to do other things. There just is not any reason for them to worry about being precluded from selling because the owner of the stockyard cannot make any money except by the agents being on his yard selling livestock. I would assume that every one of them would want the most active, aggressive, educated and up-to-date people they can possible have on their yards. And to me this is the whole object of the industry itself; being so vitally interested in trying to get improvement in the terminal stockyard situation.

Mr. LEONARD. Yes, sir. This bill, I think, would encourage them to be more active and aggressive. But they have been reluctant to take those steps which they feel are necessary to enhance their operation.

Mr. PURCELL. Are there any further questions of this witness?

Mr. Rarick?

Mr. RARICK. I rejoice in the statement and am glad to know that the Department of Agriculture is now for free enterprise. Also, I am happy to see this quotation from the United States Supreme Court decision that the present law does not fit the economics of the business, its problems, and the solution is one for Congress to decide. There are many other problems in this country and for some reason we in Congress aren't delegated their solution by the Supreme Court.

There is really only one purpose which exists for any livestock market, that is, to sell livestock, is it not?

Mr. LEONARD. Yes, sir.

Mr. RARICK. And when we speak of livestock, we are talking about the cattlemen, the meat producers and where they can get a better price for their cattle on the market. Is there any specific reason that we must force them to go into these terminal markets or bypass the commission firms?

Mr. LEONARD. Oh, absolutely not.

Mr. RARICK. In other words, under the free enterprise system, the terminal market must be able to deliver a bigger advantage to the producer, otherwise because of the time element and the price element and overhead, the producer is at liberty to seek his own market, is he not?

Mr. LEONARD. Yes.

Mr. RARICK. We are not now trying to say or to suggest, especially with the Supreme Court of the United States looking over our shoulder, that we are trying to force all sales of all livestock through these terminal markets, are we?

Mr. LEONARD. No. This bill simply tries to enhance the competitive ability of the terminal market.

Mr. RARICK. It is trying to legislate responsibility; it is stated in the report. We need a lot of responsibility in America today, but under Federal controls today, we have taken so much of the responsibility away from the people, how are we going to force them to give it back? What is the real purpose that Congress should have in being interested in these terminal markets? Is it for the Federal meat inspection role?

Mr. LEONARD. No.

Mr. RARICK. Is it the national market price?

Mr. LEONARD. Well, as indicated in the statement we are in this primarily because of our interest that we have that the prices that are established for the cattle is developed at these yards, generally. So we are interested in getting as much as possible.

Mr. RARICK. By "we," you mean the Department?

Mr. LEONARD. Right. The Congress established the market news reporting system which develops these prices as a way to make sure that the farmer has the best possible knowledge of what market conditions are.

Mr. RARICK. So you are interested mainly then in the market price?

Mr. LEONARD. We are interested in this as one of the primary reasons. The other is to maintain an efficient marketing system.

Mr. RARICK. A farmer who reads the paper every morning certainly would be interested in the market. Many of our farmers today will not even sell their livestock until they have figured the market will jump up a couple of pegs and that they will get a top price. Why would they bypass any of these other selling agencies unless they thought it was to their advantage or unless they had to sell their cows to meet a mortgage payment, or perhaps, to buy some more stock? There would be no reason, would there, for producers to deliberately bypass the terminal market if they thought that they could get the best price there?

Mr. LEONARD. No.

Mr. RARICK. Yet in the Department's statement you say that by-passing the stockyard is hurting the stockyard. If the farmer is benefiting from a higher price, or in his own mind, he has a marketing advantage there should be nothing undertaken to prevent his bypassing the stockyard, should there?

Mr. LEONARD. Oh, absolutely not. We are not attempting in the testimony here to try to say that the Department favors one system of marketing cattle over another.

Mr. RARICK. In the next paragraph you talk about all market transactions, which, I believe, you will agree came under the freedom of speech and right of free trade. I do not believe anybody today on the public marketplace has the right to resist this. Are you an attorney?

Mr. LEONARD. No; I am not.

Mr. RARICK. If the farmer feels that he is getting his value in his price—

Mr. CAMPBELL. I think you might want to make a distinction between the farmer's right and the stockyard owner's right. We certainly in the Department would not want to do anything to interfere with any farmer's right to choose whatever marketing outlet he wants, be it the terminal, the auction, or selling directly. But look at it from the stockyard owner's viewpoint, he might have a \$10 million or \$15 million facility, and we are trying to see what rights he should have to control the people who operate at this market. He has provided the facilities. Certainly if he has a \$15 million investment and his only return is from the actions of other people, the commission men that he is giving free space to to set up a business, then we feel that he should have the right to exercise sufficient control over those salesmen for the

market to stay in business. Really, that is what it boils down to, so that they have the right to survive or they will have to close.

Two terminal markets in recent years have shifted to auction markets, and more are considering going to the auction system. So, really, the terminal market is at a period of change and possible crisis.

In looking ahead 10 to 15 years, some economists, including economists in our own Department, feel that terminal markets may not be here 15 years from now.

Mr. RARICK. I can agree with that if they are not performing a profitable market for the farmer.

Mr. CAMPBELL. We feel that it should be left up to the producers to determine and the stockyard owners themselves to determine their destiny. If they cannot survive in the next decade or two just on their own efficiency, I am sure that it is in the best interests of everyone to come up with a more efficient system. We would like to see them at least have a chance, that is, for the stockyard owner to be able to exercise sufficient free enterprise management over his own stockyards so that if he can run an efficient, competitive market, it will be available a lawsuit, if he can prove his case in point.

Mr. RARICK. I think you will all agree that the stockyard owner has the right to injunctive relief for damages to his business. He can file a lawsuit, if he can prove his case in point.

The main reason I am raising these questions is that this news is bound to get out. Our farm people see nothing wrong in trying to get the best price they can for their cattle have that right. Yet there are various statements here in the letter from the Department of June 5 which might be taken like breaking some guideline of law. We don't want them to feel like their action in free marketing is criminal. Really, what they are doing is carrying on a free market, trying to get the best dollar return for their cattle.

I agree with you that the stockyard owner has a big investment. He has been traditionally the American outlet in agriculture for cattle. But, nevertheless, so has the farmer been a part of that and we are more dependent on the farmer than we are on the stockyard owner. Every day there are thousands of businesses going broke. And if the statistics are of any value, we know that we are losing thousands and thousands of farmers every year. Yet no one seems to be as worried about these losses as much as we are about a few large terminal stockyards.

Really all I wanted to get for the record is that there is no attempt here by this bill to force any of our producers or commission men into certain action, prohibiting them from any of the other avenues of marketing so that they must sell all of their products through a terminal stockyard. There is no such intent, is there?

Mr. LEONARD. I will just repeat again as I said in my statement that we do not favor any particular marketing method one over the other.

Mr. RARICK. You do not intend, then, or try to indicate that they must, that is, the producer must use these yards extensively or that the commission brokers or route salesmen on other markets or otherwise—that the farmers must refuse to deal with these people—you do not intend that—you are not trying to funnel the livestock market so that the farmers are shut out of any chance toicker prices on their cattle?

Mr. LEONARD. Our experience is that you cannot tell the farmer to do anything. And we would not begin to try now.

Mr. RARICK. I know the farmer is a pretty independent American. And that is why I am asking these questions. I do not want him to come to me from the Farmers Union, Grange, or the Farm Bureau and complain that he cannot sell his livestock to anyone except the terminal stockyard.

You represent the Department of Agriculture. You are just like a thousand watt electric line running through the farm community. What you say shocks a lot of these people. They want to cooperate and to be good Americans.

I want to make sure that the Department's policy and your statement is that the farmers do not have to comply with this new responsibility that we are going to legislate for the stockyards.

Mr. LEONARD. Certainly not.

Mr. RARICK. I understand there is nothing in the legislation, but by the use of guidelines and other purposes the Act may be interpreted somewhat different. Once the Supreme Court gets into it.

Mr. LEONARD. There is no intent.

Mr. RARICK. No such intent.

Mr. LEONARD. No such intent.

Mr. RARICK. Thank you, sir. That is all.

Mr. PURCELL. Let me just state for the benefit of my colleague that I am the one who introduced this bill. I have spent several years studying what makes markets function. And I think that I know less than I ever did. I can assure you that whatever he is trying to get, there is nothing in this bill that has anything at all to do with any clandestine operation or anything like that at all, nor to try to make the seller do anything. This is an effort to try to create a situation where the seller will have a better opportunity to sell to a functioning entity that has some degree of control over those who are working on this terminal.

Are there any other questions?

Mr. MAYNE. Mr. Secretary, assuming a situation where there is an association of commission firms which is actually functioning and policing its own members, would the Department have any objection to including a provision that would say that the owners should consult with them before revoking the license of a commission merchant, revoking the authorization of any firm to operate on a particular market?

Mr. LEONARD. I see no reason to object to urging them to consult with the commission firm. If you are going to operate a successful market, it would be prudent for them to consult with those who use the market without being instructed to do so. But I see no objection to it.

Mr. MAYNE. How about having that safeguard written into the law?

Mr. LEONARD. I have no objection.

Mr. MAYNE. Thank you.

Mr. MURRAY. To follow up along the lines of the questions by Mr. Rarick as to your interpretation of the bill, would the stockyard owner have the legal power to prohibit commission firms from using the facilities of other stockyards?

Mr. CAMPBELL. In the *Denver Stockyard* case, the Supreme Court said that a stockyard rule that tried to stop a commission firm that was engaged in business in Denver from also engaging in business at Sioux City, Iowa, was invalid. We are confident that there is nothing in the bill which would keep the Denver man from also doing business at Omaha, Sioux City, or any other terminal stockyard.

Mr. MURRAY. The second part of that, you would not contest that this bill changes the case law in the *Denver Union Stockyard Co. v. Producers Livestock Marketing Association*?

Mr. CAMPBELL. Not in the respect that you suggest. In other words, under this bill, any commission firm would be free to do business at Sioux City, Omaha, and half a dozen other posted stockyards.

Mr. MURRAY. And the second question, what procedure would you contemplate for the revocation of a license to do business on the stockyard—would there be a hearing—could a stockyard owner arbitrarily discharge someone on 15 minutes' notice, or would there be some kind of hearing procedure that the Department would insist on so that he would have his day in court?

Mr. CAMPBELL. We would insist that they be fair and reasonable about their actions. I would say that under most cases, 15 minutes' notice would not be reasonable. To take an extreme situation, if you found out that a person was a bank robber, and the like, possibly 15 minutes' notice might be adequate, but absent some such situation it would be unreasonable.

Mr. MURRAY. And if you had the power to revoke, of course there should be some means whereby the commission again could come back into good graces and could be back on the market again.

Mr. CAMPBELL. Any firm or individual who would like to set up a business at a terminal stockyard would be a new factual situation. The stockyard owner would have to judge it anew, whether or not the firm or person at this time should have the right to do business at the stockyard. And if the stockyard owner said, "No, you cannot engage in business here," then our Department would look at it again as a new situation.

Mr. MURRAY. Under the present law is there some revocation proceeding of some sort whereby the commission firm would have some sort of a hearing before revoking the license?

Mr. CAMPBELL. As I recall the *Denver* case, the Denver Stock Yard published a regulation. That lawsuit arose around the interpretation of the regulation. It has been our experience with stockyard owners that they do give notice to the commission firms. If we were to think that the notice was inadequate, we would take action to require adequate notice.

Mr. MURRAY. Then would this bill carry the power to prevent the commission firm or other marketing agency on the stockyard from carrying out country buying and direct buying?

Mr. CAMPBELL. In other words, would it stop them from doing business both in the terminal and in the country?

Mr. MURRAY. Yes.

Mr. CAMPBELL. In some situations the stockyard owner may find it is necessary at his market to establish a regulation which would prohibit country selling. And if all of the facts and the circumstances seem to be reasonable, and reasonably necessary to insure an efficient and

competitive market, we would sustain such a regulation if some commission firm came to us on review. But each case would have to be judged on its own merits by the standards laid down in the proposed amendment, that is, is the regulation fair and reasonable and nondiscriminatory under all of the circumstances?

Mr. MURRAY. That relates to my last question. What is the basic legal distinction between the present law and the bill as the Department proposes to amend it in regard to discrimination and to what is unreasonable or conduct which is discriminatory? You said that under the present law a stockyard owner can revoke the right of the commission firm or the agent to be on the yard if he wants to undergo the risk of a court action. And if they were successful you would issue guidelines on that. That is sort of an action through the Department. Would the words "unreasonable" and "unjustifiably discriminatory" enter into this—what is the legal difference between this bill and the present law?

Mr. CAMPBELL. I think that the primary difference would be that if the stockyard owner went to court at present he would not have the legislative history behind him showing that the Congress specifically considered this question and thought that some kind of amendatory legislation was necessary. If you pass this law, showing that you are concerned about these problems that the stockyard owners have brought to your attention, then both the stockyard owner and the courts will realize that the Congress has taken a look at this matter and feels that the stockyard owner has the right—that the Department has told him he has—and the likelihood of a stockyard owner prevailing in court would be better, assuming that he acted in a fair and reasonable manner.

Mr. MURRAY. With the permission of the Chair I would suggest that perhaps the Department could insert in the record an example of some case law of actions that have been discriminatory, unjustifiably or unjustly discriminatory and unreasonable in this category, as opposed to other actions, with some court references to this.

Mr. PURCELL. Has that been done?

Mr. LEONARD. We have the information and would be very happy to make it available.

Mr. PURCELL. We will receive it for the record.

(The information follows:)

ADMINISTRATIVE AND JUDICIAL DECISIONS INVOLVING STOCKYARD OWNERS' AUTHORITY

Carpenter Walsh Commission Company v. The Sioux City Stockyards Company,
1 Agricultural Decision 738 (1942)

The stockyards company attempted to eliminate from the yards the three commission firms which made the least use of assigned space and transacted less business than the other commission firms.

The Judicial Officer, U.S.D.A., ruled that there was no showing that this was a reasonable action by the stockyard company. The facts do not show why the complainant could not have received a smaller pen space which would show a considerably higher percentage of use. Also the evidence is restricted to the one year 1941 which is not necessarily a representative year for the complainant's business. Moreover, there was no regulation putting the market agency on notice of such intention by the stockyard company in advance, and lack of reasonable notice in a matter of such vital concern to the complainant violates fundamental standards of fairness.

Union Stockyards Co. of Fargo, 13 Agricultural Decision 602 (1954)

The Judicial Officer, U.S.D.A., ruled that where the stockyards company arbitrarily failed and refused to assign pen space, upon reasonable request to a registered dealer at the stockyard, the respondent discriminated unfairly against the dealer in violation of the Act, and the stockyard company is ordered to cease and desist from failing to render reasonable and nondiscriminatory stockyard services.

Flynn v. Kansas City Stockyards Co., 12 Agricultural Decision 14 (1953)

Dealers who had previously been assigned pen space at the Kansas City Stockyards requested the Secretary to require the stockyard to assign pen space to them. The dealers had been involved in weight frauds at the yards, and were denied pen space.

The Judicial Officer, U.S.D.A., ruled that since pen space was unavailable, it was unnecessary to base his decision of the ground of the dealers' unfitness.

The Judicial Officer stated:

"In seeking entry into the livestock dealer business on premises owned by the respondent stockyard company, the complainant shouldered the burden of demonstrating that pen space was available for assignment and that the stockyard company by refusing to assign such space to them engaged in a discriminatory practice, in violation of the Act. * * * Mere registration as a market agency with the Secretary of Agriculture does not automatically force the stockyard company under any and all conditions to provide the registrant with facilities to do business. * * * Since the preservation of the integrity of public markets is one of the principal aims of the Packers and Stockyards Act, it would not seem that refusal of the respondent to reinstate these complainants as dealers with pen space would be a violation of any provision of the Act. But since we have found and concluded that the complainants have not sustained the burden of demonstrating the availability of space for their use, it is unnecessary to base our decision on this ground also."

Gilbert R. Smith v. Union Stockyards Company, 9 Agricultural Decision 588 (1950)

The Judicial Officer, U.S.D.A., ruled that the facts fail to prove that respondent stockyard company violated the Act by refusing to allow pen space to a market agency which wished to initiate business at the stockyard.

The Judicial Officer stated:

"The complainant is seeking entry into the commission business through the use of facilities owned by the respondent. He has not shown that there is an insufficient number of selling agencies at the stockyard, that is, that the number of existing firms is not 'reasonable' for the amount of business at the stockyard. * * * We cannot say then that it was unreasonable or unlawfully discriminatory for the respondent in the light of its former experience to determine in its management's discretion that in its large facilities it should have one commission firm per alley in the cattle division. We cannot say, either, that it was unreasonable or unlawfully discriminatory for the respondent to decide that the building of another alley for the complainant would not warrant the necessary capital outlay without a better demonstration of compensatory revenue than the complainant could make. Because the respondent did offer to take in Missouri Farmers Association and refused the complainant does not therefore mean unlawful discrimination against the complainant."

Houfburg v. Kansas City Stock Yards Co. of Maine, 283 S.W. 2d 539, 544 Missouri, (1955)

The court held that a "stockyards company is not granted a franchise by the state or federal government and it does not necessarily have a monopoly. * * * Subject to reasonable regulation, the right to control and conduct the business of a stockyards company remains in the company just as it did before the enactment of the [Packers and Stockyards] Act."

Carnes v. St. Paul Union Stockyards Co., 205 N.W. 630 (Minnesota, 1925)

The plaintiff was an employee or member of a commission firm which was suspended from operating at the St. Paul Stockyards. The court ruled that the plaintiff had made a prima facie case and that his complaint should not have been dismissed. In its decision, the court stated (p. 632) :

"But undoubtedly defendant has lawful interests to protect, and may properly refuse to admit to its yards a commission man, or one of his employees, if there is justification or a valid excuse for the refusal. As was said in the Joyce case, defendant might insist that no unworthy persons should be employed upon its property, and, if that was the basis of its action, no liability exists. In other words, defendant is not merely an officious intermeddler in plaintiff's affairs, with no legitimate interest to serve. Such an intermeddler can rarely, if ever, justify or excuse his conduct. But one standing in the position of defendant has rights which it may assert by excluding from its property a man of doubtful reputation, or one who had been guilty of misconduct in his dealings with defendant's patrons. What would justify exclusion we do not now attempt to decide. We do say, however, that, because defendant had a legitimate interest to protect, in that it is the owner of the stockyards who is responsible for their efficient management and proper use, particularly by local market agencies, it has liberty of action much wider than that of a third party having no such interest or duty in the premises, and a discretion of management not lightly to be interfered with by the judiciary, who have none of the regulatory and administrative power, legislative in origin, which has been assigned by Congress to the Secretary of Agriculture."

In a later case involving the same issues, 221 N.W. 20 (1928), the plaintiff had lost in the trial court and did not appeal. But the defendant appealed from an order denying its counterclaim asking that the plaintiff be permanently enjoined from operating at the yards. The court ruled that there was no basis for a permanent injunction. In its opinion, however, the court stated (p. 21) :

"The defendant's stockyards are devoted to a public use. * * * Still such institutions may, without incurring liability, deny the use of their facilities to dishonest dealers and so protect the general public. Dishonest traders should not be permitted to do business in the yards. The plaintiff claims that under the Packers and Stockyards Act, 1921, all control is with the Federal authorities. In [the Carnes case] we held that the District Court had competent jurisdiction to sustain the authority of the defendant in excluding those engaged in dishonest practices."

Denver Union Stockyard Co. v. Producers Livestock Marketing Association, 356 U.S. 282 (1958)

The Supreme Court held that a regulation of the Denver Stockyard Company prevented a market agency at Denver from soliciting business for, or diverting business to, any other market, and that such a regulation was invalid because it was in conflict with the Packers and Stockyards Act. The court referred to the terminal stockyards as "great national public utilities", and to the intent of the Packers and Stockyards Act to prevent such stockyards from engaging in "monopoly practices". (p. 288-290)

Acker v. U.S. 12 F. Supp. 776, 779 (1935), aff. 298 U.S. 426

In a stockyard rate case, holding that the Secretary had the power to regulate rates, it was also held that although a stockyard is "* * * subject to reasonable regulation in the public interest, the management and right to control the policy of a business affected with a public interest belong to its owners."

Farmers Union Livestock Ass'n v. St. Paul Union S. Co., 97 F. Supp. 539, 541 (1951)

The Court held that a stockyard operator's practice of basing allocation of pens and relative location of those pens upon amount of business done by commission firms to whom space was assigned was not in itself a violation of the F&S Act. It was an exercise of its "business discretion."

Fort Worth Stockyard v. Brown, 161 S.W. 2d 549, 554 (1942)

The court held that a plaintiff stockyard owner is not precluded "from determining who may and who may not transact business on its premises. This we believe to be true even though plaintiff's business is of general public nature. Plaintiff should always be accorded the right to the exclusive use by it or by those chosen by it, to use and enjoy its premises."

Mr. PURCELL. Thank you very much, gentlemen.

We will now call on Mr. Charles B. Jennings, president, American Stock Yards Association.

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

STATEMENT OF CHARLES B. JENNINGS, PRESIDENT, AMERICAN STOCK YARDS ASSOCIATION

Mr. JENNINGS. Mr. Chairman and committee members:

My name is Charles B. Jennings. I am president of the American Stock Yards Association, a voluntary trade association, representing livestock markets throughout the Nation. These markets operate under the jurisdiction of the Packers and Stockyards Act administered by the U.S. Department of Agriculture. I am especially appreciative of the opportunity to appear before this committee to discuss the proposed amendments to the Packers and Stockyards Act being considered here today.

A brief description of the so-called terminal livestock markets that the American Stock Yards Association represents would include the fact that they are made up of physical facilities for handling and caring for livestock as well as facilities for conducting the actual sale of the livestock. These facilities are owned by a stockyard company which is usually a corporation owned by stockholders. The business-getting sales department of the market is made up of a number of independent market agencies, competing with each other, who represent the owners of livestock in conducting the sales operations. In short, a stockyard is a facility designed to bring supply and demand together in the form of livestock and livestock buyers, and under open, competitive conditions to establish livestock values and transfer the ownership of livestock from seller to buyer at its true value at that particular time.

The report of the National Commission on Food Marketing entitled, "Food from Farmer to Consumer", issued in June 1966 had a number of statements in it pertaining to livestock markets which are pertinent and relevant to these hearings. Among these statements was the following found on page 23 of this report:

Terminal markets, in providing a central concentration point for many buyers and sellers to compete, perform another valuable function—that of pricing. Terminal market prices are reported by the Market News Service and are widely disseminated by communications media. Prices generated at terminal markets thus serve not only to transfer various grades and classes of livestock from seller to buyer at the terminal but also to guide the pricing of livestock elsewhere.

The Packers and Stockyards Act was enacted in 1921 as a result of a lengthy congressional study of the meatpacking industry. This study revealed unfair and deceptive trade practices in livestock marketing which were not in the best interests of livestock producers and owners. These practices tended to prevent free, open, competitive marketing of livestock. At the conclusion of the investigation Con-

gress passed the Packers and Stockyards Act in 1921 to set up a system of regulations based on the principle that the major terminal markets or stockyards of the country, then in large part either owned or controlled by various meatpackers, were monopolies and should be treated as "great national public utilities" whose existence and functioning were essential to the flow of commerce. This approach to regulation—that stockyards are public utilities—was designed to cope with conditions as they existed a half century ago.

Significant and major changes have taken place since the enactment of this legislation, yet there has been relatively little change in the Packers and Stockyards Act.

Today's stockyard industry is neither owned nor controlled by the meatpacking industry, this change having occurred shortly after the enactment of the Packers and Stockyards Act.

Another of the more obvious changes in the industry is that stockyards no longer enjoy a monopolistic position. Since the enactment of the act, some 2,200 auction markets have come into being, several thousand country dealers have entered the picture, there are hundreds of concentration yards throughout the Nation today and many producers sell their livestock direct to packers, feeders, dealers, or others without the benefit of any market. To further illustrate the change that has taken place, it is enlightening and revealing to recall some of the statements made concerning the stockyard industry by the Supreme Court in its decision issued in 1922 upholding the legality of the Packers and Stockyards Act in *Stafford v. Wallace* (258 U.S. 495, 614-16):

The chief evil feared is the monopoly of the packers, enabling them unduly and arbitrarily to lower prices to the shipper who sells, and unduly and arbitrarily to increase the price to the consumer who buys * * *

The act, therefore, treats the various stockyards of the country as great national public utilities to promote the flow of commerce * * *

Certainly today's stockyards industry is far different from that under review in *Stafford v. Wallace*. To further demonstrate how the stockyard industry has changed since the passage of the Packers and Stockyards Act the following USDA figures show the declining percentage of slaughter livestock purchased by packers at stockyards.

Percent of total slaughter livestock purchased at terminal markets

Cattle:		Sheep:	
1923	90.0	1923	86.0
1930	88.3	1930	81.8
1940	75.1	1940	63.8
1950	74.9	1950	57.4
1960	45.8	1960	35.5
1965	34.0	1965	25.5
Calves:		Hogs:	
1923	86.0	1923	77.0
1930	81.8	1930	59.9
1940	60.9	1940	46.7
1950	56.7	1950	39.9
1960	25.4	1960	30.3
1965	16.4	1965	23.4

This trend has resulted in an ever-increasing percentage of slaughter livestock sales being made without the benefit of supply and demand forces functioning in establishing values. As the number of livestock sold under other than competitive conditions increases, there is less

likelihood of any livestock being sold at its true value. This trend will continue until such time as the Packers and Stockyards Act is amended to permit stockyard owners and operators to change and adjust with the rapidly changing livestock industry.

This can be accomplished by redirecting the focus of Federal regulations so that the competitive forces of the free market system can more effectively determine the price of livestock, so that both producer and consumer receive fair value. This can be done by clarifying the rights and responsibilities of market owners and operators so that livestock markets can be operated efficiently and competitively.

Again quoting from the report of the National Commission on Food Marketing on page 23 it states that—

It is also important that terminal markets, because of the key role they play in livestock trading, have the flexibility and incentive to achieve their full potential in serving the changing livestock industry as effectively and fairly as possible.

On page 87 this report states:

Generally, the stockyards section of the act is considered to be a valuable service to producers and the industry. However, changes in marketing methods for livestock have raised some questions about the restrictions the act puts upon the competitive strength of terminal markets.

In the past few years, direct buying and auction markets have diverted substantial amounts of livestock from the terminal markets. Attempts by terminal owners to meet declining volumes by reducing the number of market agencies on the terminal have been met with the claim that the act requires the terminal to accept all who wish to stay. Although the question is unresolved, it seems clear that such a requirement would make it difficult for the terminal owner to adjust to economic change. The terminal markets' loss of almost complete control of livestock marketing may warrant a new look at regulations of terminal markets not imposed on other marketing channels.

Finally on page 108 of this same report this statement is made:

Terminal markets for livestock are still the focal points of livestock trading in many areas, play an important role in all pricing, and are especially important sales outlets for smaller producers. In order that these markets have every opportunity to serve the changing needs of the livestock industry, and in view of increased competition from other marketing methods, the Packers and Stockyards Act should be administered, and if necessary amended, to give stockyard owners and marketing agencies the greatest flexibility and control over their operations consistent with protecting the interests of buyers and sellers.

The amendments to the Packers and Stockyards Act proposed and considered here today will make possible a healthy competitive livestock market industry for the future. Without an effective livestock marketing industry, I do not believe a healthy livestock industry is possible.

Mr. Chairman and committee members, I hope that these proposed amendments to the Packers and Stockyards Act will be approved by the committee and Congress at an early date.

I thank you.

Mr. PURCELL. Thank you, Mr. Jennings.

Do you have any questions, Mrs. May?

Mrs. MAY. Mr. Jennings, in your statement on page 6 you spoke of the present trend throughout the years that has reversed the use of these terminal stockyard markets for livestock.

How much of this trend do you think has been due to the stockyards being regulated as a public utility?

Mr. JENNINGS. Mrs. May, I think that a great deal of it has been due to that fact. The livestock marketing industry is one that needs regulating. I say that. I think regulating can be overdone, however.

By the same token, although we need regulation, I would say that we have been, in effect, in the situation where our hands have been tied, so that we cannot change with the rapidly changing industry.

I do not see how we can remain efficient, competitive in the future unless we do have more freedom to adjust as the industry changes.

Mrs. MAY. Would you be more specific? What do you mean by "adjust"? Could you give specific examples, as to the people that you do represent where they have been restricted from innovating and from meeting modern marketing changes?

Mr. JENNINGS. A specific one is our inability to be more selective in the individuals making up our marketing agencies on our market. Our marketing agencies are for all intents and purposes our sales departments. Today the livestock producer in the main is a young college-educated individual, quite thoroughly familiar with the entire feeding industry, product marketing, what have you. We cannot hope to attract this young educated producer to our way of doing business unless we have salesmen who are equally capable and as current in their knowledge. Yet historically, since the passage of the Packers and Stockyards Act we have been hampered in being selective at all. We have been required to permit almost anyone who chooses or desires to operate on our facilities to permit them to operate if we have the space for them. This seems to have been, up to this point, the one possible deterrent that we could use, and this is not a very good one, but this is one specific one that I think has hurt us.

Mrs. MAY. Should this amendment to the act pass, how many would be affected in using the stockyards; that is, how many of those using the stockyards would be affected by it? I perhaps should say affected adversely. Do you have any idea?

Mr. JENNINGS. You mean how many stockyard companies?

Mr. MAY. Those using the stockyards—how many would be affected—do you have an idea how many would be affected?

Mr. JENNINGS. I would not, Mrs. May. However, I think that there is a point that should be made here. Congressman Mayne spoke about the market at Sioux City. Certainly they have a very fine market there, and one of the top exchanges that we find in any of our markets today. There are other river markets that have comparable organizations representing the marketing agencies, but we have far more markets, I would say, that either have no exchange at all on their market or have ineffective ones, and many of these have even come to us and urged the yard companies to establish rules and regulations to police their own people.

We thought we lacked the authority or that there was certainly a large question as to whether or not we did possess this authority. I do not think that I can answer just how many of our markets would be adversely affected. I think that they would all be helped.

Mrs. MAY. I am assuming from your answer that you feel that those organizations that are doing a good job in stockyard operations, like the Sioux City and other areas, would not be affected at all, because they would be doing their job and they would like to have as good salesmen as possible.

Mr. JENNINGS. Very definitely. We have many marketing agencies that are most competent. They cannot only hold their own with this young producer that I spoke of, but they can be most helpful to him and render a real service.

Fortunately, we have many of those. We have too many of the other kind. And they would be adversely affected—adversely in their opinion—but I would say that it would be to the benefit of the livestock producer and the market.

Mrs. MAY. It is a little difficult to give any percentages of all of the markets that are operating, I know. But in these areas where you feel that there would be some change made because they are the ones that need the change, to be more selective in their salesmen, you think that this could have the effect of reversing the ever-increasing trend to use the market—that the bill would strengthen that trend?

Mr. JENNINGS. I think they would. The point was made by Congressman Rarick that in our markets where the livestock producer can get the top dollar, obviously this is where he will do business. If we have weak or inefficient salesmen representing us, then there is a real big question about whether he can get that top dollar, and he not only will but he should seek other places to market his livestock.

Now, if we can through these regulations have sufficient authority to correct these weaknesses then very definitely I think it would tend to reverse this change, for one reason, if no other, that we would be doing a better job for the livestock producer.

Mrs. MAY. Thank you. That is all, Mr. Chairman.

Mr. PURCELL. Mr. Dole.

Mr. DOLE. No questions.

Mr. PURCELL. Mr. Mayne.

Mr. MAYNE. Mr. Jennings, how many members do you have in your association?

Mr. JENNINGS. We have 33.

Mr. MAYNE. Are they all stockyards?

Mr. JENNINGS. Yes, sir.

Mr. MAYNE. I notice that in your opening sentence you refer to your members as being livestock markets. Do you use that term interchangeably with stock markets and stockyard facilities?

Mr. JENNINGS. Yes; we do. In fact, we are a little out of date and are still using the old term "terminals." We would like very much to get away from that. We find that appellation that has stuck to us. We like livestock markets better.

Mr. MAYNE. Are all 33 of these terminal markets?

Mr. JENNINGS. Yes, they are; yes.

Mr. MAYNE. And what is the largest and what is the smallest?

Mr. JENNINGS. The largest market today is Omaha and our smallest market, I suppose, would be Springfield, Ill., or maybe Baltimore. There would be several quite small and several close to Omaha.

Mr. MAYNE. How do they compare, the largest with the smallest, in size?

Mr. JENNINGS. You mean in number of head of livestock?

Mr. MAYNE. Yes; give some idea of the range of your representation.

Mr. JENNINGS. Combining all livestock, cattle, calves, hogs, sheep, they would run from 6 to 7 million head per year down to 75,000 head per year.

Mr. MAYNE. Of these 33 that you represent, does that include all of the terminal markets for the country?

Mr. JENNINGS. No, sir. I am at a little bit of a loss to account for the total number of 50 that we toss around all of the time. I think of only one-half dozen or so, quite small ones, that do not belong to our association.

Mr. MAYNE. Where are those?

Mr. JENNINGS. There is one, I believe, in Memphis, Tenn. There are two markets there, in fact. One is in Memphis. There is one in Springfield, Mo. And this, by the way, is a pretty good sized market. They do not belong to our association.

I do not know whether there is still one in New Orleans or not, but they are quite small markets.

Mr. MAYNE. Those three are the only ones?

Mr. JENNINGS. At the moment they are all I can name; yes.

Mr. MAYNE. Of the 33 that you represent, how many owners are there of those 33?

Mr. JENNINGS. By "owners," do you mean stockholders?

Mr. MAYNE. I mean some of these have several ownerships; do they not?

Mr. JENNINGS. Probably half a dozen. I believe all of the others would be corporations held by stockholders.

Mr. MAYNE. You mean that there are about six that are owned by one company, and then the other 27 you think are independently owned?

Mr. JENNINGS. No. The six I meant were privately owned—not necessarily the six by the same individuals, but we would have six or seven—do not hold me to that exact figure—I am taking this off the top of my head—six or seven would be privately owned, at the most, I believe. All of the others would be corporations owned by stockholders.

Mr. MAYNE. Well, let us take the six first. Are there six different ownerships of that six different yards?

Mr. JENNINGS. Yes, sir.

Mr. MAYNE. They would have no connection at all?

Mr. JENNINGS. Yes; in general, that is what I am saying.

Mr. MAYNE. They are owned by individuals rather than by corporations?

Mr. JENNINGS. Yes.

Mr. MAYNE. Of the other 27 you say they are in corporate ownership?

Mr. JENNINGS. That is right.

Mr. MAYNE. How many corporations own those 27?

Mr. JENNINGS. There are, I believe, eight yards belonging to one group. This would be the United group, eight or nine yards. All of the others are completely separate and differently owned corporations.

Mr. MAYNE. So there are about 19, then, individual corporations that own individual yards?

Mr. JENNINGS. Yes, sir.

Mr. MAYNE. That is all. Thank you.

Mr. PURCELL. Mr. Kleppe.

Mr. KLEPPE. No questions.

Mr. PURCELL. Mr. Price.

Mr. PRICE. Yes, Mr. Chairman.

I would like to expand my thinking on this. I would like to go to your figures here in your statement as to the number of cattle, as to what happened from 1923 to 1965. I think you know as well as I do what happened or why these cattle are not going to the terminal markets. And you state that the sale of cattle has decreased.

Mr. JENNINGS. Very definitely.

Mr. PRICE. And then you say that sheep have declined. The reason is there have been too much increase in imports. The total number of sheep have decreased tremendously.

Mr. JENNINGS. We are speaking about percentages here.

Mr. PRICE. And then hogs have been selling in the country. Packers did have very monopolistic advantages many years ago.

Mr. JENNINGS. Right.

Mr. PRICE. When these people come in and ask to sell I should think you ought to be able to have regulations under which they operate. That is no difference than if I owned a restaurant and people came in and worked in my restaurant and I would say to them, "If you want to operate under our regulations, all right, but if you do not, you get out and build your own restaurant."

Is that not the way that you feel?

Mr. JENNINGS. I could not agree with you more.

Mr. PRICE. And what could be more free enterprise than that.

Mr. JENNINGS. We think that is what we are trying to get.

Mr. PRICE. I think so, too.

Mr. JENNINGS. What we are seeking.

Mr. PRICE. I do disagree with your statement on page 6:

This trend has resulted in an ever-increasing percentage of slaughter livestock sales being made without the benefit of supply and demand forces functioning in establishing values.

I would disagree with "without the benefit of supply and demand forces."

And you continue:

As the number of livestock sold under other than competitive conditions increases, there is less likelihood of any livestock being sold at its true value.

Of course, in my part of the country, down around Amarillo, they pretty well know what the market is.

I believe, however, your statement is an erroneous statement. I suppose it is just a matter of interpretation.

Mr. JENNINGS. I think it is, Mr. Price. I am quite familiar with your Amarillo area. In fact, I lived there for 3 years and know it quite well. You do have a highly competitive area.

What I am referring to here is the growing number of livestock that are sold based on price established somewhere on other livestock. We see a great many livestock being sold today at a quarter under the Omaha top or a quarter over the Omaha top or the same as the Omaha market without knowing whether or not there are comparable livestock available on that market that established that price. And these are the livestock that I am referring to that are not sold competitively, in my opinion.

Mr. PRICE. Of course, you know that all of these conditions such as the price of grain and the like all have an effect in the area in which the cattle are bought and sold.

Mr. JENNINGS. Yes.

Mr. PRICE. Then you say:

This can be accomplished by redirecting the focus of Federal regulations so that the competitive forces of the free market system can more effectively determine the price of livestock, so that both producer and consumer receive fair value. This can be done by clarifying the rights and responsibilities of market owners and operators so that livestock markets can be operated efficiently and competitively.

I know, and you do, too, that many of the commission men operate in the country all of the time and then go back to the marketplace on Sunday or Sunday night and see the livestock that have come to the market from customers, and then they are there on Monday and Tuesday, and the people who work for commission firms go all over the country buying and selling to make ends meet.

Mr. JENNINGS. I think that some of you may be reading something into this that I do not. Certainly from our standpoint there is no intent to prevent this man from operating in the country or anywhere that he chooses. First of all, I think it is highly advantageous and healthy for the livestock industry that we have many different systems of livestock marketing. I think each of them needs to be as effective and competitive and efficient as it possibly can be, including our own terminal markets. I think that we should, however, going back to the point that you made earlier, have the right to assign space on our markets to those individuals who are working for that particular marketing system. We are handicapped with the individual who merely takes that space that prevents us from giving that same space to someone who works for that particular market. And this is what concerns us.

In no way do we have in mind—and I am sure that we would not apply the regulation—to try to stop anyone from operating in the country or elsewhere he chooses, but we would like to have the people in our market who believe in that particular system and support it.

Mr. PRICE. I agree with you on that. The thing that kind of disturbs me here is that it is left to your discretion. Say that I do not like certain men here or somebody else and they are trading out in the country. It looks as though there ought to be something in here to protect this man.

Mr. JENNINGS. Mr. Price, I do not see in here where we are in any way getting away from this review by the Department of Agriculture. Certainly we do not feel that there is any lessening of their regulation of us in requiring us to be just and reasonable and nondiscriminatory. In fact, we are not asking for that. I think it is highly proper that our action be subject to review by a so-called third disinterested party, and we do not quarrel with this at all.

Mrs. MAY. Will you yield?

Mr. PRICE. Yes.

Mrs. MAY. I do not believe you have been asked this question. Have you looked at the amendment suggested by the U.S. Department of Agriculture requiring a review by the Secretary. Do you have any objection to that?

Mr. JENNINGS. I have not looked at them closely. I understand in general what is stated there. I would have to say that we do not see that they help or hurt. We would have no objections to them. If the Department feels they are necessary we would not object.

Mrs. MAY. That is, the Secretary could review.

Mr. JENNINGS. We certainly have no objection to that.

Mr. PRICE. On page 7 you state:

The terminal market's loss of almost complete control of livestock marketing may want a new look at regulations of terminal markets not imposed on other marketing channels.

Mr. JENNINGS. First of all, Mr. Price, I am quoting there from the Food Commission, as you will notice. You have two members of that Commission sitting here. You might take issue with them on the terminology. That is not mine.

Mr. PRICE. You see my point?

Mr. JENNINGS. Yes, I do.

Mr. PRICE. In closing, I agree with you that you should have the authority to run your own business. If these people do not like it, they can go elsewhere.

Mr. JENNINGS. May I say, too, it is not left up to market owners exclusively. We do welcome the review of it. It will not be abused in any way.

Mr. PRICE. I am well acquainted with many commission firms. But still you have the right in your own business to run it in order to protect yourself. Otherwise, you will be destroyed.

Mr. JENNINGS. If I might make a comparison, we feel that frequently we are in the same position, let us say, as a depot, a train station down here where the airline puts a man in the lobby who contacts every potential customer who comes in to buy a railroad ticket and they say, "We can fly you faster and cheaper and more comfortably—come out and do business with us."

I do not think that the railroads would put up with that very long. I do not think that we should have to put with a comparable situation. Maybe this is distorting the picture a little bit.

Mr. PRICE. It could happen in Chicago and in Kansas City.

Mr. JENNINGS. It could happen in all markets.

Mr. PRICE. That is all.

Thank you, Mr. Chairman.

Mr. PURCELL. Thank you very much.

Are there any further questions?

If not, we thank you again, Mr. Jennings.

Mr. JENNINGS. Thank you, sir.

Mr. PURCELL. At this point I would like to ask permission to place into the record a statement which I think has been distributed, from the River Markets Group, which we will insert into the record at this point.

(The information follows:)

STATEMENT OF ROBERT E. CUNNINGHAM, WASHINGTON REPRESENTATIVE,
RIVER MARKETS GROUP

The River Markets Group comprises in membership approximately 900 members of the livestock exchanges at six of the largest terminal markets in the United States, namely, St. Louis National Stock Yards, Illinois; Chicago, Illinois; Kansas City, Missouri; Omaha, Nebraska; Sioux City, Iowa and Sioux Falls, South Dakota. During 1966 these markets handled livestock receipts amounting to 7,341,784 cattle and calves, 9,453,631 hogs and 1,758,348 sheep for a grand total of 18,553,763 head of all species received and sold.

Members of the River Markets Group serve Midwestern feeders and growers in the purchase and sale of livestock at these terminal markets. They act on an agency basis under exchange rules and regulations designed for the protection

and betterment of shippers' interests. They are highly skilled and experienced market agency technicians whose primary responsibility is selling consigned livestock for the highest price obtainable in open, free competitive livestock markets.

The River Markets Group wishes to convey its sincere appreciation to the members of the House Agriculture Subcommittee on Livestock and Grains for the privilege of presenting a statement today in opposition to H.R. 6231.

Our River Market Exchanges were established in the late 1800's for the purpose of inculcating principles of justice and equity in trade; to enforce correct and high moral principles in the transaction of business; to inspire confidence in the methods and integrity of its members; to facilitate the speedy adjustment of business disputes; to expedite and regulate the handling and sale of livestock; to promote uniformity in the customs and usages of members; and generally to secure to its members and patrons the benefit of cooperation in the furtherance of their legitimate pursuits.

Our markets have been operating under the Packers and Stockyards Act since its inception in 1921, a period of 46 years. We feel the act was an excellent piece of legislation. It was originally patterned after the rules of our livestock exchanges, most of which have been in existence for nearly 80 years.

As previously outlined, the 900 members of the River Markets Group are men who are the actual trades people in these large midwestern terminal markets. They are the procurement arm of the industry and make the personal, on-the-farm contacts with patrons and prospective patrons of our markets in securing their livestock shipments to our stockyards for final sale.

Our members sort, shape, show and sell all livestock and remit the proceeds of sale to customers of the market. They handle all financial accountings, bond protection and the rules and regulations of the market in our customers' behalf. Their skilled knowledge and keen business acumen contributes the major share in establishing national price levels at which all livestock is sold.

The stockyard companies, on the other hand are the owners and custodians of the terminal market properties. They do not enter into the process of business procurement, customer relationships or livestock selling operations to the extent that our exchange members do, but rather confine their activities to receiving and weighing the livestock that comes to our markets and maintaining the properties.

The River Markets Group views the legislation proposed in H.R. 6231 with critical concern. We find in the proposed amendment to section 303, subparagraph (1) and 307, subparagraph (b), legislation tantamount to granting absolute and complete control to stockyard owners over all agencies operating at their markets.

Subparagraph (1) of section 303 states that "no person shall carry on the business of a market agency or dealer unless the stockyard owner has determined his services will be beneficial * * * and has given written authorization to such person". This change grants to the stockyards owner the sole right and discretion to determine the qualifications of any one desirous of commencing business at any market. The proposed amendment provides no guide lines for this determination except at the discretion of the stockyard owner. We feel such a broad grant of legislative power actually authorizes arbitrary discretion to only one segment of the stockyard industry.

In the proposed form, the stockyard owner might decide for any arbitrary reason that a certain dealer or market agent was not good for the industry and deny him the opportunity of the market place. The power to approve ordinarily carries with it the power to revoke such approval, and again, the same stockyards owner might possibly decide that an established firm was no longer "beneficial" and revoke their written authority to continue in business. We feel that the dangers inherent in such unilateral authority far outweigh the benefits that might accrue from its adoption.

Our next comment is relative to subparagraph (b) of Section 307 which states that "It shall be the responsibility and right of the stockyard owner to manage and regulate his stockyard and to prescribe rules and regulations and to require those persons engaging in the purchase, sale or solicitation of livestock at that stockyard to conduct their operations in a manner which will foster, preserve and insure an efficient, competitive public market".

We would state for the record that the stockyard companies are contending that they need such broad regulatory powers to protect their vested interests. They seem to overlook the sizable interests that all of our people, market agents and dealers alike, have in these markets. Our people have the investment of

their capital, their reputation, in fact that of their very lives and those of their families at stake in the future of these markets. To grant complete control over their business operations to one party such as a stockyards company would be an outright abuse of the freedom of individual enterprise.

As we have outlined in an earlier paragraph, for some 80 years our livestock exchanges have prescribed the rules and regulations for our markets. Since 1921 the Packers and Stockyards Administration has joined in this regulatory activity. Obviously, our exchanges and our market agencies have as much interest in "fostering, preserving and insuring efficient competitive markets" as does a stockyard owner.

We feel that the proposed amendments actually defeat the purpose of our exchanges and the Packers and Stockyards Administration. Our exchange rules and the P & S Act were promulgated to regulate the affairs of the stockyards and related industry. The act is a police power type of function with the Secretary as the policeman. On the other hand, the exchange control is a democratic process in which self regulation comes into play. Now, the stockyards companies are seeking to usurp these regulatory powers, eliminating the voice and authority of the exchanges, the individual market agencies and even supersede the authority of the Packers and Stockyards Administration.

We have no quarrel with giving equal time and/or authority to stockyard companies as that presently given to all the other segments of our market family and to the Packers and Stockyards Administration. In fact, stockyard companies currently share these regulatory powers and have even a good deal more than concurrent jurisdiction over the operations of their markets and the agencies located thereon.

We fail to see why it is necessary to vacate the rights of all other agencies in favor of granting absolute control to one organization. We find such proposal so obnoxious that we are duty bound to oppose it with all the forces at our command. We have never asked for, sought or been granted such dictatorial powers and we feel it is highly improper for any one body to assume such cloak of authority.

Even our Federal Government has realized the propriety of checks and balances for nearly 200 years. The establishment of an Executive, Legislative and Judicial authority assures that not all power is granted to any one omnipotent individual, department or jurisdiction.

Our many years of experience in the business of livestock marketing does not lead us to the conclusion that we can expect fair, just and non-discriminatory application of this broad grant of legislative power to a one man or one organization rule of our lives and our destinies. In fact, we have seen too many instances of arrogant, arbitrary and capricious behavior on the part of stockyard companies to warrant the consideration they seek under H.R. 6231.

The River Markets Group and its 900 members registers its complete opposition to this legislative proposal and respectfully requests your committee to deny its further consideration.

Mr. PURCELL. I also have a request to be made part of the record a statement from the Sioux City Live Stock Exchange, which will be made a part of the record at this point.

(The information follows:)

STATEMENT OF R. A. WELDING, SECRETARY SIOUX CITY LIVE STOCK EXCHANGE

The Sioux City Live Stock Exchange wishes to convey sincere appreciation to the committee for the privilege of filing a statement in opposition to HR 6231, offered by Congressman Graham Purcell of Texas.

The Sioux City Live Stock Exchange is made up of 162 voluntary members, who represent commission firms, order buyers and dealers on the Sioux City market. The Sioux City Live Stock Exchange has been in existence since 1896 and has been very active in setting up trade practice procedures, which its members must follow. These rules and regulations are set up in the best interest of its patrons. You will note that the exchange dates back much further than the Packers and Stockyards Act of 1921 and in many cases their rules and regulations are much more stringent on our market people than the Packers and Stockyards Act, as it is written.

It is our opinion that, as the proposed legislation is written, that it will put complete control of the agencies in the hands of one party. These agencies are privately owned businesses, who have operated on this market for years in the best interest of the customers, whom they are serving. Our agency people, whether young or old, have dedicated their lives, time and effort on behalf of our customers.

Under Section 303, as written, it would give stock yards owners absolute and complete discretion as to who would operate at these stock yards. The power to approve ordinarily carries with it the power to revoke that approval. Thus, a stock yards owner could arbitrarily revoke approval at any time. The proposed amendment gives no guide line for this determination except at the discretion of the stock yards owner.

We agree that the stock yards owner has vested interest in the operation of the agencies and dealers at these stock yards, but this amendment, as written, overlooks the fact that the same agencies and dealers have a sizeable investment at stake also. In the proposed form, the stock yards company could decide for any arbitrary reason, at its discretion, that a market agency or dealer was not good for the industry or that the firm was no longer beneficial to the yards and they could be put out of business with no recourses available to them except through court action. It is our opinion that whenever you can avoid a lawsuit it is wise to do so.

Also, in cases where a foreign corporation owns such stock yards, their principle motives are solely for profit and in many cases the customers are slighted by not receiving services that should be provided to them, because such corporations often look only at the profit and loss statement and not at what is in the best interest of the customers and agencies operating on said stock yards. With full authority being placed in the hands of these yard companies, there is fear that it would leave no recourse in the areas where we feel services should be negotiable.

Under Section 307, this places complete authority of agencies in the hands of yard companies and with complete authority at their discretion in determining whether a person engaged in the purchase, sale or solicitation of livestock in the yards is conducting the operation in the best interest of the market. With this authority being controlled by one party, it certainly could cause an adverse effect and place our agencies in a detrimental position insofar as meeting competition.

Service is the main factor which our agencies and dealers have to sell to our customers. Therefore, in conducting their operation, they must foster, preserve and insure an efficient, competitive market, because there are so many different ways that livestock can be procured or sold. Under this present language, we feel that it places power over our agencies that would not be to their benefit or to the benefit of the industry as a whole.

The members who make up the exchange and all other people doing business at the stock yards have as much at stake as our stock yard companies and as we have explained, they have a monetary investment plus the fact that they have devoted their lives to this business. We, therefore, feel that consideration should be given so that representation from our segment of the industry could be granted and they could have a voice in equalizing power and authority, which would be in the best interest of our patrons and would insure our patrons of receiving adequate services.

Mr. KLEPPE. Have you copies of that?

Mr. PURCELL. So far as I can tell, I just have this one copy of the Sioux City Live Stock Exchange statement.

Mr. KLEPPE. I wonder if we could get a copy made of that for our own use?

Mr. PURCELL. I will see that the subcommittee members are provided with a copy of this.

And next, without objection, we will file in the record a statement submitted by the Omaha Live Stock Exchange.

(The information follows:)

STATEMENT OF THE OMAHA LIVE STOCK EXCHANGE

We are genuinely appreciative of the opportunity afforded our organization to present a statement of views on H.R. 6231. We thank Chairman Purcell and the members of the Subcommittee on Livestock and Grains for this privilege.

The Omaha Live Stock Exchange is a self governing, regulatory body of 195 members who conduct daily business activities at the Union Stock Yards, Omaha, Nebraska. Our exchange has been in full and active operation since 1889 and is dedicated to the purpose of maintaining an orderly and well regulated livestock market for the benefit of our patrons and customers. The rigid code of ethics and self-regulatory programs of this exchange has contributed in large measure through the years to the rise of the Omaha Market to its present position as the largest livestock market in the world.

The Omaha Live Stock Exchange exists for the government of the livestock industry in this area. Governments are instituted among men to perform functions that men as individuals cannot themselves perform. Each surrenders a measure of his freedom in the interest of achieving a large freedom for all. That is what the members of the Omaha Live Stock Exchange did when they organized 74 years ago, and they have lived by that creed during that three-fourths century and they do so now. We are not organized to perform, and we do not perform, particular services for individual members as a convenience or economy in the conduct of their business. We do not conduct a business ordinarily carried on for profit. Quite the contrary. Our members by their organization yield substantial rights, voluntarily submit to self-government, to restrictions and to substantial assessments to pay the cost of that government.

Our relationships with present stockyards management are excellent. Market rules, regulations and trade practices are carefully discussed with them at every opportunity. We feel that this mutuality of interests and united approach to market problems has been a key to our continued success.

Our exchange has functioned effectively in the regulatory field through its long history of existence. We fail to see why these democratic processes of self-government suddenly have to be vacated in favor of a grant of absolute power and complete discretion to the stockyards owner as proposed in this legislation.

While, as previously stated, we would have little fear for the exercise of such power by our present stockyards management, we never know when there will be sweeping changes in their top echelon personnel, attitudes and policies. Our history in this regard is something less than savory. Experience is a hard teacher and we know from such experience how arbitrary and dictatorial certain previous stockyard owners have been, to the ultimate detriment of the market.

Certainly, stockyard owners, market agencies and dealers all have a common interest in keeping central markets strong and this can be weakened appreciably if we do not stand alike on equal footing. We are not trying to usurp all regulatory powers in our markets and we feel it is quite presumptuous for stockyards companies to make such demands.

We stand opposed to H.R. 623 as presently written and it is our sincere hope that this committee may understand and honor our objections.

Mr. PURCELL. At this time the subcommittee will recess until 10 o'clock in the morning.

(Whereupon, at 12 noon, the subcommittee recessed to reconvene at 10 a.m., Tuesday, June 6, 1967.)

TO AMEND THE PACKERS AND STOCKYARDS ACT, 1921

TUESDAY, JUNE 6, 1967

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

The subcommittee met, pursuant to recess, at 10 a.m., in room 1301, Longworth House Office Building, the Honorable Graham Purcell (chairman of the subcommittee) presiding.

Present: Representatives Purcell (presiding), Abernethy, Jones of Missouri, Nichols, Rarick, Mrs. May, Dole, Mayne, Zwach, Kleppe, and Price.

Also present: Christine S. Gallagher, clerk; Hyde H. Murray, assistant counsel; and Francis LeMay, staff consultant.

Mr. PURCELL (presiding). The subcommittee will be in order, please.

The first witness we will call is Mr. Mylan E. Ross, executive vice president and general manager of the National Livestock Producers Association, Chicago, Ill. Mr. Ross, who is accompanied by A. J. Kemp, executive vice president and general manager, Texas Livestock Marketing Association, Fort Worth, Tex., and Gray Daly, vice president and general manager, Interstate Producers Livestock Association, Chicago, Ill.

We are very glad to have you gentlemen here. We will be glad to hear from you at this time.

STATEMENT OF MYLAN E. ROSS, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER, NATIONAL LIVE STOCK PRODUCERS ASSOCIATION, CHICAGO, ILL.; ACCOMPANIED BY A. J. KEMP, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER, TEXAS LIVESTOCK MARKETING ASSOCIATION, FORT WORTH, TEX., AND GRAY DALY, VICE PRESIDENT AND GENERAL MANAGER, INTERSTATE PRODUCERS LIVESTOCK ASSOCIATION, CHICAGO, ILL.

Mr. Ross. Mr. Chairman and members of the subcommittee, we are very pleased to be here.

My name is Mylan E. Ross. I am executive vice president and general manager of the National Live Stock Producers Association with headquarters at 155 North Wacker Drive, Chicago, Ill.

As you have stated, on my left is Mr. A. J. Kemp, executive vice president and general manager of the Texas Livestock Marketing Association, and on my right is Mr. Gray Daly, vice president and general manager of the Interstate Producers Livestock Association.

We appreciate the opportunity to present the views of our association's members on the bill under consideration, H.R. 6231.

Our association has given considerable study to H.R. 6231 and has been in touch with many of the proponents of the bill in hopes that we can find some basis for support of the bill. We are sympathetic to the general intent and proposed purpose for the bill; however, as now written, we feel it is so broad and general that it harbors many potential problems for the future for a number of market agencies and particularly for livestock marketing cooperatives, such as the National Live Stock Producers Association and its member agencies. Therefore, we hope, through our presentation to you today, to suggest and receive favorable consideration of an amendment to the bill which we feel will give to the stockyard owners, the rights to management they ask for and to the Packers and Stockyards Administration the necessary guidance for supervision and for the protection of free and open markets. At the same time, the amendment to be suggested will protect some of us who have a strong background in operations on stockyards, but by our very nature render service in other marketing areas.

In order to understand our position and before presenting to you the proposed amendment, I hope you will permit us to give you some background on our organization so that our proposal to you will be better understood. The National Live Stock Producers Association is owned and operated by its 16 regional cooperative livestock marketing associations such as the organizations Mr. Kemp and Mr. Daly represent. In turn, in excess of 400,000 livestock ranchers and farmers are members of these regional cooperative livestock marketing cooperatives.

The 16 member associations are shown in attached appendix A.

Our 16 member marketing associations operate sales agencies on most of the registered terminal markets of the country and we are very proud of their volume and service position on these markets. In addition to the terminal market operations, we also maintain operations through many auctions markets and provide a sales and purchasing service to our member livestock producers and feeders at country assembly yards, as well as representation services at ranches and feed lots for movement in more direct channels. During 1966, our 16 regional livestock marketing associations handled 10,111,470 head of livestock with an evaluation of \$982,556,000 by all of these marketing methods.

As cooperatives, it must be understood that our farmer and rancher members, through their elected board of directors, establish policy and designate the kind of service which will be provided by their association. The member livestock ranchers and farmers have asked their marketing associations to render a greater variety of service in the face of the many production and marketing changes since the original of the producer groups. The establishment and organization of the National Live Stock Producers Association and its first Producer Marketing Association was in early 1922. During the first several years of this 45 years of experience, the Producer Associations operated almost exclusively as cooperative sales agencies on terminal markets. However, as marketing changes took place and farmers and ranchers become aware of the differences between markets as to their ability to fulfill both their needs and convenience, it was at this time that our producer agencies, in response to their livestock farmer and rancher

members, made moves to provide the kind of service that their members dictated. As a consequence, we are now in the great variety of marketing mentioned previously.

Prior to the initiation of the bill, H.R. 6231, it had been the position of the National Live Stock Producers Association that the stockyard owners, under existing P. and S. regulations, have the authority to manage and regulate their stockyards in a just, reasonable and nondiscriminatory manner. To date, apparently stockyard owners have neither recognized need for any changes in management or maybe they lack courage to make any changes that would be nondiscriminatory. On the other side, the Packers and Stockyards Administration, for reasons that are not clear, and not felt that it could back up the stockyard owners in taking needed action as now permitted in the act and its regulations. As a consequence, they now support a bill which grants them broader powers than we deem necessary.

The National Live Stock Producers Association has had experience with attempts by stockyard owners to institute regulations that were unreasonable and discriminatory and did not permit free exercise of choice in marketing methods on the part of their farmer and rancher owner marketing associations. This experience causes us to be concerned with the broad powers to be given to them in the present wording of H.R. 6231. One experience referred to started with an action on the part of the Denver Union Stock Yard Co. who, on May 11, 1955, issued its tariff No. 14 effective May 25, 1955. The tariff contained regulation item 10C to this effect:

(c) No market agency or dealer engaging in business at this Stockyard shall upon Stock Yard property, or elsewhere, nor shall any other person upon Stock Yard Company property—

(1) Solicit any business for other markets, for sale at outside feed yards or at country points, or endeavor to secure customers to sell or purchase livestock elsewhere; or

(2) In any manner divert or attempt to divert livestock from this market which would otherwise normally come to this Stock Yard; or

(3) Engage in any practice or device which would impair or interfere with the normal flow of livestock to the public market at this Stock Yard.

This regulation concluded with its own definition of "area of normal flow" as being all of Colorado except approximately the eastern one-sixth of the State as outlined by county boundaries and highways. This regulation forced our member cooperative association sales agency operating on the Denver market to discontinue its off-yard or country representation being rendered to its rancher and farmer members unless livestock so handled was delivered to the Denver market for weighing and final settlement. The only other alternative was to discontinue operations on the Denver market entirely.

We challenged the 10(c) regulation in a formal hearing held by the Packers and Stockyards Administration. We lost, with the Packers and Stockyards Administration ruling in favor of the stockyards company. We appealed this ruling to the U.S. Court of Appeals, Tenth District. The P. and S. ruling was reversed by the District Court of Appeals. The stockyards company appealed to the U.S. Supreme Court, which court upheld the decision of the District Court of Appeals.

We desire to avoid expensive and disrupting conflicts of this type. The wording of H.R. 6231 does not insure against such conflicts. At

the same time, we believe that the rules and regulations covering any livestock market, terminal, or otherwise, should be subscribed to in such a manner as to foster, preserve, and insure an efficient marketing system. We are also aware of many inefficiencies in the total system that this bill may be intended to correct. We do not question the right of stockyard owners to manage their yards so long as it is fair and nondiscriminatory and does contribute to a free and open market system. We do not believe, however, that a public market should have the power to regulate or to prescribe rules that would limit outlets for livestock owned by farmers and ranchers where such regulations may hold the potential of excluding them through their marketing associations to the use of the facilities available on the public market.

We believe that the wording of H.R. 6231 is so broad as to open up the possibility that rules could be established which would make it impossible for some of our terminal market operations to continue on that market and still provide the service that our farmer and rancher members have asked us to provide. In our attempt to clear our position on this matter, we suggest an amendment to subsection (b) of section 307 of H.R. 6231, with one sentence to be added—as underlined in this prepared statement—which would make that section read as follows:

It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient public market.

The amending sentence, underlined in the prepared statement, follows:

Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in offmarket transactions.

That ends the quoting of the amendment suggested.

Without the change in the bill and the addition of the one sentence as outlined to you, the National Livestock producers Association did in March, at its annual meeting and directors' meeting, instruct us to unalterably oppose the passage of this bill. With the addition of the one sentence, they did, however, instruct us to make known their support of the bill.

We hope we have been able to clarify for you the special position from which we make our presentation. Many of our member marketing associations are asked by their livestock producer members to serve them both on public stockyards and in off-market operations. We should point out that on many of the terminal yards where our members operate, the member agency representative is one of the leading agencies, if not the top volume agency on that market. As a matter of fact, we feel that they could not have attained such a position of service had they not promoted the marketing service available to livestock producers and feeders on the public stockyards. We have every desire to continue to render top service at our stockyards locations, but must also, as cooperative associations, follow the wishes of the livestock producer member in giving off-market service where and in the way he requests it. The present wording to the bill, without the addition of the sentence we have just recommended to you, gives rights and powers to stockyard owners that are too general and broad in scope.

We do not believe that stockyard owners should be granted a position which opens the door to limit the outlets for the livestock of our producer and feeder members.

The amendment we propose would clarify this question and would still make cooperative marketing service on terminal markets available to livestock producers and feeders and would leave the final decision as to the type of market used in the hands of livestock producers and feeders. We, therefore, urge your serious consideration of the addition of our recommended amendment to H.R. 6231 in order that the National Live Stock Producers Association and its member livestock cooperatives can then give the bill support.

We thank you for this opportunity to appear before you, and we will be happy to respond to questions.

(Appendix A to the prepared statement of Mr. Ross follows:)

APPENDIX A

LIST OF MEMBER MARKETING ASSOCIATIONS, NATIONAL LIVE STOCK PRODUCERS ASSOCIATION

California Livestock Marketing Assn., P.O. Box 3328, Visalia, California.
Equity Co-operative Livestock Sales Association, P.O. Box 89, Baraboo, Wisconsin.
Interstate Producers Livestock Assn., Union Stock Yards, Chicago, Illinois.
Michigan Live Stock Exchange, 6750 Dix Avenue, Detroit, Michigan.
Mississippi Livestock Producers Assn., P.O. Box 4797, Jackson, Mississippi.
Ohio Valley Producers Livestock Assn., Stock Yards, Evansville, Indiana.
Oklahoma Livestock Marketing Assn., Livestock Exchange Bldg., Oklahoma City, Oklahoma.
Producers & Texas Livestock Marketing Association, Livestock Exchange Bldg., Kansas City, Missouri.
Producers Commission Association, Livestock Exchange Bldg., Sioux City, Iowa.
St. Louis Producers Live Stock Marketing Association, Livestock Exchange Bldg., National Stock Yards, Illinois.
Producers Live Stock Marketing Assn., Livestock Exchange Bldg., Omaha, Nebraska.
Producers Livestock Marketing Assn., Bourbon Stock Yards, Louisville, Kentucky.
Producers Livestock Mkt. Assn., Union Stock Yards, North Salt Lake, Utah.
Producers Marketing Association, Inc., Livestock Exchange Bldg., Indianapolis, Indiana.
Tennessee Producers Livestock Marketing Association, Box 313, Columbia, Tennessee.
Texas Livestock Marketing Association, Livestock Exchange Bldg., Fort Worth, Texas.

Mr. PURCELL. Mr. Kleppe, do you have any questions?

Mr. KLEPPE. Yes, thank you, Mr. Chairman, I have one or two little points.

I understand from your statement, Mr. Ross—and I think you make your position very clear—that you have no objection to stockyard owners having some authority in the running of their own stockyards?

Mr. ROSS. That is right.

Mr. KLEPPE. In making decisions to run their own businesses in effect.

Mr. ROSS. That is right.

Mr. KLEPPE. You have no objection to that?

Mr. ROSS. No.

Mr. KLEPPE. But as I understand your position here—and check me if I have this incorrect; I am just trying to understand it: You have men working in a stockyard, and what you are indicating here is that you do not think that it is fair and proper that all of the activities of those men representing agencies that belong to your association must of necessity transact all of their business through that source: is that not correct?

Mr. Ross. That is right.

Mr. KLEPPE. In other words, you are saying that if the producer wants his business to go through that yard, fine; but if he wants it to go directly through your representative who might be working at that yard, that is also your desire, according to your statement. Is that correct?

Mr. Ross. Right; if I may add this one thing. They do ask us to give other services, and this does not actually mean that the people working on that market or public stockyard are the ones providing that service. It may be out under another place.

Mr. KLEPPE. It could be the same association. This is what I was getting at.

Mr. Ross. Right.

Mr. KLEPPE. Just one more question. On page 7 of your statement, you say there should be an amending sentence added:

Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in offmarket transactions.

Specifically, what do you mean by “a registered market agency or dealer?”

Mr. Ross. It is necessary that all marketing agencies register with the Packers and Stockyards Administration.

Mr. KLEPPE. Thank you. That is all.

Mr. PURCELL. Mr. Rarick?

Mr. RARICK. Going back to the bill that we have under consideration before us, H.R. 6231, it provides that the Secretary of Agriculture shall have a list of registered marketing agencies or dealers. Are you aware of that?

Mr. Ross. Would you repeat that, please?

Mr. RARICK. Under the bill that we have under consideration—I believe you have mentioned that.

Mr. Ross. Yes.

Mr. RARICK. There must be a registered list—What do you call that? What do you call them?

Mr. Ross. Marketing agencies.

Mr. RARICK. Marketing agencies. This, of course, would give the Secretary of Agriculture authority also to have a list, to require registration in his office.

Mr. Ross. Well, actually, the first registration that we feel we owe is to the Department of Agriculture—in fact, to the Packers and Stockyard Administration. This has been required by the act. We have been registered in all of these cooperative agencies, that is, duly registered.

Mr. RARICK. Under the act, if the Secretary finds that the members who have registered fail to comply with the orders of the Secretary under this act he is authorized to revoke the registration?

Mr. Ross. That is true.

Mr. RARICK. This is as it now exists?

Mr. ROSS. Yes.

Mr. RARICK. In other words, there is no change in that part?

Mr. ROSS. No, sir.

Mr. RARICK. All you want to do is to give the terminal stockyard equal voice in their own affairs?

Mr. ROSS. Right. By our addition, however, we have tried to anticipate one of the possibilities of interpretation in taking action in denying any service.

Mr. RARICK. Originally, of course, the stockyards were charged with being monopolistic, and what you are trying to do is to give them back the same monopolistic control—trying to protect your own?

Mr. ROSS. We are trying to maintain service on those markets and to eliminate one of the possibilities of a livestock producer or his representative being denied any representation on the market.

Mr. RARICK. That is all. Thank you.

Mr. PURCELL. Mr. Mayne do you have any questions?

Mr. MAYNE. Yes, Mr. Chairman. I would like to point out something which may contribute to less confusion in the future.

On page 5 of your statement, and page 6 as well, you have listed the names of the appellate court three times and the district court of appeals. Somebody might be misled by those references.

You first state "The U.S. Court of Appeals 10th District." I think that should be the 10th Circuit. Also, in the next line, you state "The district court of appeals," and in the last line you have "The district court of appeals."

Should that not be the circuit court of appeals?

Mr. ROSS. We will stand corrected on that.

Mr. MAYNE. Someone in the future might be confused by that. That is all, Mr. Chairman.

Mr. PURCELL. Mr. Dole?

Mr. DOLE. No questions.

Mr. PURCELL. Mr. Nichols, do you have any questions?

Mr. NICHOLS. No questions.

Mr. PURCELL. Mr. Price?

Mr. PRICE. No questions.

Mr. PURCELL. Mrs. May?

Mrs. MAY. Just one question further, or a series of questions that might result in clarifying my own thinking on your amendment and the statement of your position.

Do I understand your statement today as being indicative of your feelings that under the pending bill, that is, the wording of the pending bill, it would make it possible for the stockyard owner to prescribe regulations that could forbid one of your registered agent representatives to use that stockyard if he were engaged in two types of selling practices; in other words, that he would be selling livestock to the stockyard and at the same time might be doing some off-market transactions?

Mr. ROSS. Right.

Mrs. MAY. And, therefore, your suggested amendment would make it impossible for stockyard owner to say that because one of the representatives or registered agencies was dealing in these two types of

market transactions, that the type that he was dealing in, one as against the other, could not disqualify him?

Mr. ROSS. For that one reason, that is right.

Mrs. MAY. Now, under the present wording of the act, have there been any precedents where a stockyard owner has not let one of your registered agents use the stockyard because he was active in off-market areas?

Mr. ROSS. First of all, the Denver case seems itself to be a benchmark, or whatever you call it.

Mrs. MAY. Yes. And since that time there have not been any others?

Mr. ROSS. Not that I am conscious of.

Mrs. MAY. Do you feel that in asking for this kind of help, that the stockyards are trying to make this kind of reservation one of the main things they have in mind? Do you feel that they object to this type of activity by your member organizations?

Mr. ROSS. I would like to feel that, as we pointed out, our agencies have been performing and that they are representative of the markets that they are supporting as a marketing method.

Actually, in our statement, I suppose that you can see that we said we feel that the wording is quite broad. It is very general. As I recall it, there was a little discussion yesterday on what is nondiscriminatory and reasonable. There may be some of these possible areas needing interpretation.

We, too, sense some of these uncertainties as to what will be the criteria, the guidelines by which to take action which we are giving them, and that we have only put in one of such. We are most aware of others that might be used. We feel that to protect these, our members, the livestock producers and the feeders that we represent, that we should have this.

Mrs. MAY. On the other side of the coin, do you feel that your amendment will not forbid the stockyard owner to make some rules and regulations determining who he wants to work out of his stockyard, so, if at any time you are not giving the service that you should be giving to those who send their livestock to the stockyard, he can withhold your registration?

Mr. ROSS. We feel that there are many areas in the management of the stockyard that, even with this sentence we are asking for added, would be such that management would not be able to exercise discretion in the improvement of their yards' operations. And I guess that we shall have to hang our hats, so to speak, on the matter that it will not be discriminatory. We will live by the same.

Mrs. MAY. That is all, Mr. Chairman.

Mr. KLEPPE. May I ask a question?

Mr. PURCELL. Yes, sir.

Mr. KLEPPE. You are the sponsor of this bill. May I ask you a question in regard to this?

Mr. PURCELL. A very elementary one, yes.

Mr. KLEPPE. It is a very elementary one, I think.

It seems to me, from your brief explanation of this bill yesterday, that what Mr. Ross has been saying to us today is primarily what you intended to meet in proposing this amendment.

Is this a fair statement of accuracy?

Mr. PURCELL. Well, my purpose is to try to give reasonable control over the business operations to the owners. It is open right at this moment.

Mr. KLEPPE. I was just trying to get an understanding of this sentence they are suggesting in here, to allow the members, the selling members, the commission members on these stockyards, some opportunity to serve their customers, if you will; and, frankly, I cannot see anything wrong with that situation that you propose here. I am trying to probe and find out if it is too limiting from the standpoint of the stockyard owners. I just do not feel that it is.

Mr. PURCELL. I think that this all can be developed as we study the bill more and after we have heard other witnesses.

I have one or two questions, Mr. Ross.

Would you describe for the record and for the committee very briefly the kind of organizations that exist on the stockyards as selling agents?

As I understand it, there are stockyards in which the selling agents are organized; that there is an association that they belong to. Is that correct?

Mr. Ross. Members that belong to associations?

Mr. PURCELL. No. Where you, as an individual, would belong to an association made up of either all or part of the selling agents of a given yard.

Mr. Ross. No, we have not become members of what are called the exchanges, the livestock exchange organizations on the yards.

The next question, if I may probably anticipate it, is that they do, as exchange organizations, make rules which we cannot disagree with; however, if they make such rules, that, again, does not permit us to render the service to our livestock rancher and feeder members, then we would be in a conflict of interest between the organizations.

Mr. PURCELL. So far as you know, have the exchanges made such rules?

I am talking now specifically about prohibiting a given agent from having two or more types of operations.

Mr. Ross. Yes, sir. If I may, first of all, go back some time. At one time there were attempts to prescribe rules as to the effect that you could not go to the country to give services to the producers.

Mr. MAYNE. I could not hear that last part.

Mr. Ross. They made such rules that discouraged going to the country to give service and advice to livestock producers.

Mr. MAYNE. How long ago was that?

Mr. Ross. These were back in the formation, in the 1930's.

I am kind of developing up to some of the things they have done. I will add that I think that their interests today are the same as ours were at that time when we were not elected and did not join the organizations.

I might ask Mr. Daly here on my right to mention one situation that is more current.

Mr. DALY. I think, basically, the question, if I understand correctly, is that you are asking: Are there organizations on the terminals that represent the selling agencies? This is the question? And are we members of—

Mr. PURCELL. That is what I asked. I know that there are agencies. I want to develop this.

Mr. DALY. You want to know: Do they have rules which would prevent an organization from rendering more than one service?

Mr. PURCELL. If you will just admit that there are organizations, then I will ask another question.

Mr. DALY. Yes, sir, there are organizations on most terminal markets which are called exchanges which have members and they do prescribe rules?

Mr. PURCELL. But the cooperative association does not belong to those?

Mr. DALY. That is correct.

Mr. PURCELL. There is nothing to prohibit, under the rules of the exchanges, anybody operating on those yards, participating just like members of the exchanges and still not belong to the exchange?

Mr. DALY. I am not sure, exactly, what you mean by that.

Mr. PURCELL. You do not have to belong to the exchange to operate on the yard, do you?

Mr. DALY. That is correct.

Mr. PURCELL. Now, then, are you familiar with the fact that the exchange does have rules?

Mr. DALY. That is correct, yes, sir.

Mr. PURCELL. Do they promulgate such rules that they try to use to enforce compliance?

Mr. DALY. Yes, they do.

Mr. PURCELL. And what happens if a selling agent does not comply with the rules? What happens to the selling agent if he does not comply with the rules of these exchanges?

Mr. DALY. To the best of my knowledge—I am not familiar with all of the exchanges, but I know that some of them have rules, such as a monetary fine of so many hundreds of dollars if an agency does not comply with the rules. A second violation means a large amount of fine and even expulsion from the exchange if the member does not comply with these rules.

Mr. PURCELL. Do they ever pay these fines?

Mr. DALY. Yes.

Mr. PURCELL. Or do you have negotiations?

Mr. DALY. We are not a member of the association of exchanges, so I cannot speak for what would happen to us, but it is my knowledge that there have been commission firms that have been expelled from exchanges.

We are aware of the fact that there have been fines levied and have been collected.

Mr. PURCELL. You are also aware of the fact that there are selling agents who have been fined, so to speak, and instead of paying the fine they just resign from the exchange?

Mr. DALY. That is correct, yes, sir.

Mr. PURCELL. Therefore, there is really no effective way that has ever been found to effectively organize and carry out even the rules that the exchange associations themselves promulgate, because their members can just get out and tell them to go to heck if they want to?

Mr. DALY. Well, I do not believe that it is quite that simple, Mr. Purcell.

The Chicago Exchange recently has taken action to strengthen their exchange. On that particular market they have taken an action which would bind their members; the exchange requests a bond from the buyer. They, also, require a bond from the packers who buy on that Chicago market, which the Packers and Stockyards Administration does not require. The exchange members are bonded, and the purchases which are made from the exchange members are protected by these bonds.

The leading commission firms which are not members of the exchange do not enjoy the protection of those bonds. So, for instance, if one of their members violated an act and withdrew or was expelled from the exchange, he would no longer be covered by the protection of those bonds, and this could be of considerable force in making a member of the exchange comply with the regulations.

Mr. PURCELL. Do you operate on the Chicago Exchange?

Mr. DALY. Yes, sir—on the Chicago stockyards, we do operate.

Mr. PURCELL. But you are not a member of the exchange?

Mr. DALY. We are not a member of the exchange.

Mr. PURCELL. You are not bonded?

Mr. DALY. We have the necessary P. & S. bonds.

Mr. PURCELL. I understand.

Mr. DALY. That protects the members, but we do not enjoy the protection of the bond which the other buyers are supplying. We formerly were protected under that act, but not as a month ago.

Mr. Ross. This is a bond over and above that prescribed by the administration.

Mr. PURCELL. Frankly, this is one of the troubles, is it not, that you run into in the operation of the exchanges on many of these yards: The associations are not strong enough because they are not backed up to the point which would facilitate the promulgation of one and the other exchanges' set of reasonable rules? Hasn't this been a trouble that you have recognized; not from your own standpoint perhaps, but from the overall operation of the exchanges?

Mr. Ross. I would believe that the stockyard owners themselves would have appreciated the support. I think they have not always had the support of the exchanges in making some of the changes, but I think they are really asking for it in this bill.

Mr. PURCELL. Now, then, just one other question in regard to your own organization.

Your members can sell their livestock through whatever means they want to, I take it. They do not have to sell to you?

Mr. Ross. We are a voluntary organization.

Mr. PURCELL. I understand that you are a voluntary organization. Do I have to sell my cattle to you, then?

Mr. Ross. No.

Mr. PURCELL. Can nonmembers sell through your organization?

Mr. Ross. Up to a point, yes.

Mr. PURCELL. What is the point?

Mr. Ross. By the Capper-Volstead Act, I believe it is up to 50 percent. However, a nonmember is a first applicant and shipper, and upon being approved by the board of directors he may make application for membership. We probably only have at any one time about 6 or 7 percent of nonmembers.

Mr. PURCELL. Six to seven percent nonmembers?

Mr. ROSS. That would be nonmembers; yes.

Mr. PURCELL. So that if someone has ever shipped to any of your organizations at various places at anytime in the past, the chances are that he is a member.

Mr. ROSS. Yes.

Mr. PURCELL. All he has to do is to ship to you one time, and then thereafter you submit a series of names to the board of directors, and he is a member then?

Mr. ROSS. Yes. We have had to turn some down who signed applications who were not what we would call bona fide livestock producers. Those, we had to turn down.

Mr. PURCELL. For what reason?

Mr. ROSS. Well, quite obviously, he was just a trader, a cattle trader, and not a producer of cattle.

Mr. PURCELL. So far as the farmer-rancher, the producer of livestock is concerned, if he shipped to you once he will be a member if you get his name?

Mr. ROSS. Right. We maintain, we must by law maintain, a list of names. However, we do have within the organization the requirement that they must be asked. If your statement is that they are members for life, it is not true. There are various bylaw provisions which state that they must have shipped within, say, the last 2 years or the last full calendar year.

Mr. PURCELL. Then he can rejoin again by shipping?

Mr. ROSS. Yes; right.

Mr. PURCELL. All right. I have nothing further.

Does anyone else have any further questions?

If not, thank you very much, gentlemen.

Mr. ROSS. We thank you.

Mr. PURCELL. I will now call Mr. John C. Lynn, legislative director of the American Farm Bureau Federation.

We are glad to have you here and to hear you now.

STATEMENT OF JOHN C. LYNN, LEGISLATIVE DIRECTOR, AMERICAN FARM BUREAU FEDERATION

Mr. LYNN. Thank you, Mr. Chairman. I have a very brief statement, and maybe the quickest way to present it is to read it.

We appreciate the opportunity to present the views of the American Farm Bureau Federation with respect to H.R. 6231.

Farm Bureau is a general farm organization with a voluntary paid membership of 1,703,908 member families in over 2,770 county farm bureaus in 49 States and Puerto Rico. A great many of these members are engaged in some type of livestock farming; therefore, the reason for our interest in this legislation is apparent.

Farm Bureau was actively engaged in the development and passage of the Packers and Stockyards Act of 1921. Significant and major changes have taken place since the enactment of this legislation, yet there has been relatively little change in the original Packers and Stockyards Act.

Since the enactment of the Packers and Stockyards Act, some 2,200 auction markets have come into being. Several thousand country

dealers have entered the picture. There are hundreds of concentration yards throughout the Nation, and many farmers sell their livestock directly to packer dealers, feeders, or others.

We believe that the chairman of this subcommittee, you, Mr. Purcell, in announcing these hearings, summarized the purpose of this legislation well when you said:

It is designed to bring the Packers and Stockyards Act up to date by redirecting the focus of Federal regulation so that the competitive forces of the free market system can more effectively determine the price of livestock so that the producer and consumer each obtain true value.

In March 1967, the Farm Bureau Livestock Advisory Committee recommended that the American Farm Bureau Federation Board of Directors give favorable consideration to this legislation designed to update the Packers and Stockyards Act. Based on that recommendation, the American Farm Bureau Federation Board took the following action:

Consideration was given to several bills designed to clarify the authority and responsibility of owners of public stockyards in the conduct and service of commission men.

The committee recommends favorable consideration of this proposed legislation with the understanding that every stockyard owner shall have the responsibility as well as the right to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner to insure an efficient and competitive public market for livestock producers and feeders and that rules and regulations adopted by such stockyards owners shall in no way prohibit farmers and ranchers from establishing and/or operating a market agency on any public livestock market, even though they may operate other types of market services at auctions or concentration points or sell, buy, or contract for the purchase or sale of livestock at farm or ranches.

I think what that long sentence really means is that the recommendation made by the National Live Stock Producers Association carries out the spirit of this recommendation made by our Livestock Advisory Committee. So, we would support the suggested change that has been outlined by Mr. Ross and his coworkers.

We believe that the basic purpose of H.R. 6231 is to move in the direction of the above policy; however, we believe that additional language should be inserted in section 303, as proposed to be amended, to insure nondiscriminatory treatment in the application of the provisions of this legislation. A determination by the stockyard owner pursuant to clause 1 of section 303 should be made on the basis of rules and regulations which are formulated and published beforehand. It should be required that such rules and regulations then be applied in a just, reasonable, and nondiscriminatory manner. We recommend an amendment to subsection (b) to accomplish this objective. With this change, we will support the enactment of H.R. 6231.

We will be happy to work with the committee and the staff in developing that amendment.

Let me explain briefly the provision that bothers us. The language here, we think, gives the stockyard owner tremendous discretionary power to accept or turn away handlers and sellers due to all kinds of reasons.

We are suggesting here is that the stockyard owner ought to publish the rules and regulations governing the operation of his stockyard, have those available so that everyone can see—by so doing all of the users of that stockyard will understand the rules and the regulations. Otherwise, we believe that the interpretation of this bill could be such that an owner of a stockyard could turn away a customer for, perhaps, a personal reason, and we do not think that this is the intention of the legislation; therefore, we suggest the change in language.

Further, we assume that there is nothing in this bill that attempts to effect the decision of the Supreme Court regarding the *Denver* case. We are in support of the final Supreme Court decision with regard to the *Denver* case. We just want to make it clear that we would not favor any legislation that would tend to sanction the practice that the Supreme Court has declared illegal.

Mr. PURCELL. Have you finished?

Mr. LYNN. Yes, sir.

Mr. PURCELL. I am not sure that I am in disagreement with you at all with regard to this clarification of the language or the amendment. Are you saying that the owner of the stockyard might prohibit a seller from coming on the stockyard?

Mr. LYNN. I think that it is possible to do that under the language of the bill.

Mr. PURCELL. The owner of the stockyard does not do any buying or selling of livestock, does he?

Mr. LYNN. Well, oftentimes I think they do.

Mr. PURCELL. We are talking, primarily at least, about the terminal yards.

Mr. LYNN. I know.

Mr. PURCELL. Where a corporation generally owns the stockyard facilities, then they do not have a selling agent?

Mr. LYNN. No, not at that level.

Mr. PURCELL. You are talking about other types of yards out in the country somewhere?

Mr. LYNN. Right. And page 2, the language of this bill, with which you are all familiar, states:

That no person shall carry on business with a marketing agency or a dealer at such stockyard unless the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard.

All we are saying is that the standards and rules ought to be published and posted so every user could see what the rules are.

Mr. PURCELL. I do not see how anybody could object to that.

You are referring to the language referring to the commission agent, the commission firm.

Mr. LYNN. That is right.

Mr. PURCELL. Not to the rancher or the farmer bringing in livestock; is that not correct?

Mr. LYNN. Yes.

Mr. PURCELL. Are there any further questions?

Mr. JONES of Missouri. In reading this quotation on the second page, that long sentence, you read the third line as "shall have the opportunity as well as the right." You did not mean to change that language?

Mr. LYNN. I am sorry. It is "the responsibility," yes.

Mr. JONES of Missouri. Thank you.

Mr. PURCELL. Mr. Mayne.

Mr. MAYNE. Mr. Lynn, further pursuing the chairman's questions to you, so far as the terminal market is concerned, the possible danger would be that there would be unfair discrimination against some marketing agent?

Mr. LYNN. Yes.

Mr. MAYNE. A commission firm rather than an individual?

Mr. LYNN. Rather than an individual farmer.

Mr. MAYNE. Or a rancher.

Mr. LYNN. That is right. Some of our marketing agencies are members of the National Live Stock Producers Association that are listed in the statement of Mr. Ross—Illinois, for example.

Mr. MAYNE. You said that perhaps some stockyard company would discriminate against an individual for personal reasons.

Do you have any documentation of that having occurred?

Mr. LYNN. No, but I know that this is a pretty serious business, when it comes to the marketing of livestock. The competitive forces that have been able to operate, I think, have been a tremendous asset to the livestock industry. We simply would not want to see anything that would tend to limit this competitive market situation. I could visualize a situation where, if the rules and the regulations were not published beforehand, where a stockyard owner could make up his mind on the spur of the moment whether or not this is in the best interests of his stockyard or not, and it could be very detrimental to the handler of the livestock.

Mr. MAYNE. I take it that you do not know of any incidence that has been reported to you of a company discriminating—

Mr. LYNN. No, sir, I have not; I have no record of such.

Mr. MAYNE. Thank you.

Mr. PURCELL. Are there any further questions?

If not, we thank you very much, Mr. Lynn.

Mr. LYNN. Thank you.

Mr. PURCELL. I have been requested to let Mr. C. T. Sanders, who has a tight schedule, to appear next. If there is no objection, we will call Mr. Sanders at this time.

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

STATEMENT OF C. T. "TAD" SANDERS, GENERAL MANAGER, CERTIFIED LIVESTOCK MARKETS ASSOCIATION, KANSAS CITY, MO.

Mr. SANDERS. Mr. Chairman, and members of the committee.

My name is C. T. "Tad" Sanders. I am general manager of the Certified Livestock Markets Association, which is an industry trade association of livestock market business. Its offices are in Kansas City, Mo., where I reside.

I welcome and appreciate this opportunity to appear before this important committee in support of the purposes and objectives of H.R. 6231 to modernize the Packers and Stockyards Act.

That appreciation extends throughout the trade association and I am pleased to express it on behalf of the livestock marketmen who participate in it.

The distinguished chairman of this committee has long asserted a position of practical, foresighted leadership in livestock industry af-

fairs. This has been effectively shown in matters coming before this committee and the Congress and includes outstanding service on the National Commission on Food Marketing.

His statement in connection with the provision of H.R. 6231 that—

The amendments in this bill will modernize the act (Packers and Stockyards Act of 1921), bring it in line with present business conditions and economics of the livestock industry, and move toward the most efficient possible competitive markets for the sale of livestock—

Is, in our opinion, a concise statement which we fully support.

I do not feel any useful purpose would be served in trying to elaborate upon the language employed in the amendments of the four sections of the Packers and Stockyards Act contained in H.R. 6231. The objectives sought might be expressed in any number of different ways in the language chosen to be employed.

Of greater importance, in our opinion, will be the report of this committee in the conclusions it reaches from these hearings and the other information available to it in expressing what this legislation seeks to accomplish and the position it asserts for the direction and guidance of the newly established Packers and Stockyards Administration charged with the responsibility of administering the Packers and Stockyards Act as so amended.

The language employed in title III of the Packers and Stockyards Act, entitled "Stockyards" and that contained in H.R. 6231, I think, require an understanding and meaning beyond their original concepts because of the development of the public livestock market business and the common meaning of words applied to it today different from those in the act itself.

I particularly refer to such words as "stockyard owner," "stockyard services," "market agency," "dealer," "stockyard" and "public market," as used in the act.

In terms of common industry and general understanding, a public livestock market business today includes the facilities for the handling, care and merchandising of livestock. It applies a wide range of customer services rendered by one or more business concerns which involve capital, management and highly responsible business enterprise in merchandising and selling livestock on the basis of competitive determination of prices.

This leads to a growingly familiar term applied to the business of "competitive livestock markets." This includes the business interests involved which when related to terms in the Packers and Stockyards Act are often expressed as "stockyard owners," "market agencies," and "dealers."

The central or terminal public livestock market businesses are generally composed of multiple business interests in providing the stockyard facilities and in performing the services and carrying out the functions that they do as competitive livestock markets.

Those public livestock market businesses where fewer business interests are involved, and generally where both the facilities and services are provided under one management, are competitive livestock markets but more commonly known as livestock auction markets by reason of the method employed in selling by auction.

"Certified livestock market," for further clarification, is simply no more and no less than a trade name relating to those competitive live-

stock market businesses conducted under one management for the facilities and services they provide which qualify and participate in the trade association of the same name. There are presently more than 800 of these businesses throughout as many trade areas of the country.

In ordinary terms of industry reference and description, all "competitive livestock markets" are in the common category of small business. This is not to say that their importance is any less. On the contrary it is greater because small business still makes up the greater body of our competitive business economy.

These businesses are in no way public utilities. They are businesses with a public responsibility not unlike that of banks. I think the comparison is a fair one for the contrast to public utilities it illustrates.

The best industry estimates are that there are about 1,500 established competitive livestock market businesses in the country in varying sizes measured by the volume of business done.

Those which sell over 10,000 animal units—with an animal unit consisting of one head of cattle or commercial calves, 5 head of hogs and 5 head of sheep—total about 900 in number. Together they sell over 90 percent of all livestock sold competitively by all such markets.

An independent study which our trade association had done last year reveals that all competitive livestock market business did a \$10.5 billion volume of business in 1965 accounting for over 114 million head of livestock sold. This is a significant measure of the extent of small business employed in this element of the livestock industry.

Such study reveals that the total volume of livestock purchase and sale transactions in 1965 amounted to 215 million head of livestock of a market value of \$19.8 billion.

Overall, these figures reflect that 53 percent of this volume was sold by and through competitive livestock markets while 47 percent moved in nonmarket channels.

Again these figures reveal the fallacy of any public utility concept attached to the business in terms of franchise or monopoly.

I would like to emphasize that the figures revealed by this study reflect a volume of commerce in terms of livestock purchase and sale transactions which during the preceding 4 years increased at a faster pace than livestock numbers by some 27 million head of livestock. This indicates an increasingly greater rate of "turnover of volume" in the livestock industry. It indicates the important economic role of competitive livestock markets in the services they must provide on an expanding basis throughout the livestock industry.

A continuing study is now in progress as to the volume of livestock purchase and sale transactions in 1966 which we expect to be completed this month. We would be pleased to make its contents available to the committee for such value as it may have related to these hearings.

Our evaluation of the amendments to the Packers and Stockyards Act as incorporated in H.R. 6231 leads marketmen to the firm belief that they will serve to attract and encourage extensive venture capital for an accelerated development of the competitive livestock market business. This will serve the livestock industry in its efforts toward higher levels of stable livestock prices.

This is essential for the business to develop and expand in keeping with its role in the facilities and services required to maintain fully competitive determination of prices for all classes of livestock.

The confidence expressed in these respects is substantiated by a body which has recently been established through the efforts of the four industry trade associations of competitive livestock market business interests.

It is a 20-man Competitive Livestock Markets Council made up of 5 marketmen each from the American Stock Yards Association, the National Live Stock Exchange, the River Markets Group and the Certified Livestock Markets Association.

This action has served to establish an industry recognition of a common business identity which the name implies. It has made substantial strides in reconciling a mutuality of business interests in the full development of the potential that prevails.

In my opinion the most important results to be achieved are those involved in the implementation of efficiencies in new facilities and expanded merchandising services which business research, in only a limited scope, indicates are justified. This takes additional capital and the best in business enterprise.

The work undertaken by the council also reflects an improved mutual understanding of the respective positions and roles of the business interests which make up the structure of any competitive livestock markets business.

This is not limited to those of a "stockyard company," a "market agency," nor "stockyard services," as those terms are presently defined and applied in the Packers and Stockyards Act.

The amendments contained in H.R. 6231 will serve to lend a meaning and application which will facilitate and encourage competitive livestock market developments which are now pending. These developments will serve the entire livestock industry and the Nation's economy to advantage.

Thank you.

Mr. PURCELL. Thank you, Mr. Sanders.

I should like to state, with reference to the studies that you have referred to, that we will appreciate having the benefit of those results.

Mr. SANDERS. We will be glad to supply those.

Mr. PURCELL. Mrs. May, do you have any questions?

Mrs. MAY. What would be the reaction of the organization to the amendment as proposed by the National Live Stock Producers Association, in the statement made by Mr. Ross this morning?

Mr. SANDERS. Well, I have not had the opportunity of giving study to it. I believe it overlooks the business responsibility that is involved, whether you might term it a stockyard owner, or a marketing agency, or other business interest that goes to make up this market business. I think that, perhaps, we have had interpretations of regulations under the Packers and Stockyards Act that might lead to this position, but I am not sure but what we might need a fresh start under this act in keeping with the present times and conditions. Personally, I do not feel that we need to quibble over language much. I do not believe that anybody is going to do anything to anybody else, truthfully.

Mrs. MAY. In other words, you might be in disagreement that there is anything to fear, but at the same time, you would not object to rules and regulations that will not prevent a registered agent or dealer from rendering service on other markets?

Do you see this as not having any effect on what we are trying to do with the amendment proposed?

Mr. SANDERS. I will have to be fair enough to state that maybe my point of view is limited because in the type of markets with which I am most familiar, there is one authority responsible for everything, good and bad, so we do not have quite the situation that has perhaps arisen in the central or terminal markets where stockyard-owned companies are.

Mrs. MAY. Are you saying that your organization has any objection to that language. Are you saying that?

Mr. SANDERS. No.

Mrs. MAY. All right. Thank you. That is all, Mr. Chairman.

Mr. PURCELL. Are there any other questions at this time?

Let me ask one question: I have a concept that may be incorrect.

In the stockyards where your organization operates how many selling agents, as an average, would be in your type of stockyards?

Mr. SANDERS. Just one. There are some exceptions to that, but by and large the company that owns the facility is the selling agent.

Mr. PURCELL. The selling agent?

Mr. SANDERS. The selling agency; and as it relates to the Packers and Stockyards Act, the same company is the registered marketing agency.

Mr. PURCELL. I have no further questions.

If there are no further questions, we thank you very much.

Mr. SANDERS. Thank you.

Mr. PURCELL. We will now call Mr. Blaine Liljenquist, president and general manager, Western States Meat Packers Association.

Is Mr. Liljenquist in the room now?

If not, we will move on then to Mr. Glenn Long, general manager, Farmers Union Marketing Association, St. Paul Union Stockyards, South St. Paul, Minn.

STATEMENT OF GLENN A. LONG, GENERAL MANAGER, FARMERS UNION MARKETING ASSOCIATION OF SOUTH ST. PAUL, MINN., REPRESENTING THE NATIONAL FARMERS UNION; ACCOMPANIED BY ANGUS McDONALD, DIRECTOR OF RESEARCH, NATIONAL FARMERS UNION

Mr. LONG. Mr. Chairman and members of the subcommittee, I have with me Mr. Angus McDonald of the National Farmers Union, who has issued a statement, and I would like to request that it be introduced into the record at this point.

Mr. PURCELL. Without objection, it is so allowed.

(The statement referred to follows:)

STATEMENT OF ANGUS McDONALD, DIRECTOR OF RESEARCH, NATIONAL FARMERS UNION

Mr. Chairman and members of the committee, we are relying to a great extent in our position on this legislation on the advice of Mr. Glenn A. Long, general manager of the Farmers Union Marketing Association of South St. Paul, Minnesota. Mr. Long has managed the cooperative stockyard at South St. Paul over a period of many years and is familiar with its day-to-day operations. We therefore feel that he is in a position to determine whether or not the legislation before this Committee is in the best interests of the livestock industry.

Mr. Long, as well as others, has pointed out that under existing law and regulations there is some doubt as to whether operators of stockyards have sufficient authority to protect themselves from competition pertaining to sales and purchases of livestock at terminal markets. Terminal markets, as all who are engaged in the livestock business know, have declined greatly during the last few years. At one time terminal stockyards had an almost complete monopoly. In 1925 terminal stockyards accounted for 91 percent of federally inspected cattle slaughter. By 1965 this had declined to 34 percent.

Stockyard owners have tremendous investments which they should be allowed to protect as well as competition in their business. It is reported that commission firms engaged in business at terminal stockyards persuade shippers and buyers to by-pass the stockyards in obtaining business for themselves. This, of course, is perfectly legitimate, but such groups should not be allowed to use the terminal stockyards as a means of destroying stockyard business. The purpose of setting up stockyards under existing legislation was to permit a free market whereby the transactions of the stockyard would, in a sense, make the market.

The proposed bill would, as we understand it, permit stockyard owners to take necessary steps to protect the market and its patrons without being subject to possible suits for damages. The precise extent of the authority of the stockyard owner is, we are informed by individuals who have the utmost familiarity with the operations of the industry, subject to serious question. We are told that any mistake that a stockyard owner might make in regard to his authority might result in great monetary damages being imposed upon him. This bill would clarify the authority of the stockyard owner and allow him to carry on his business without fear of harassment by groups who possibly were seeking to undermine the institution of the terminal stockyard.

We will appreciate report of the bill by this committee. We feel that a favorable report by the members of the committee would go far toward insuring its passage by the House.

MR. LONG. Mr. Chairman and members, my name is Glenn A. Long. I am general manager of the Farmers Union Marketing Association of South St. Paul, Minn. I appreciate very much the privilege of appearing before this committee to express my support for H.R. 6231.

The Farmers Union Marketing Association is a cooperative livestock commission company doing business on the terminal livestock markets at South St. Paul, Minn.; West Fargo, N. Dak.; and Sioux Falls, S. Dak. Our primary trade territory covers six States: Minnesota, North Dakota, South Dakota, Montana, Wisconsin, and Iowa. I have been in a managerial capacity with the Farmers Union Livestock Marketing Association since 1947. During this time, I have operated on the Chicago market in addition to the three markets on which we currently operate. During my 20 years of experience in managing a livestock marketing business, I have become familiar with the operations of stockyards companies and the problems confronting our terminal livestock market system. I, therefore, feel qualified to appear before this committee to discuss this very important legislation which has an important bearing on the future of our terminal livestock market system.

The Farmers Union Marketing Association has strongly supported the terminal livestock market system and believes this system of livestock marketing provides the most competitive and economically sound system of livestock marketing available for the independent livestock producers. We are deeply concerned about the future of this important livestock marketing system because of the effect it has on the economic well being of the livestock industry as a whole. For years, the terminal livestock markets were the pricemaking machinery for the entire livestock industry. In the past few years, there has been a decided decline in the percentage of livestock going through the terminal market sys-

tem as compared to other methods used by producers in marketing and selling their livestock. This decline in the percentage of livestock handled by the terminal markets has weakened the pricemaking mechanics of the terminal livestock markets for the livestock producers. In spite of this, the livestock producer still looks to the terminal livestock markets for the establishment of prices on various grades and species of livestock. The average independent livestock producer is still dependent on the terminal livestock markets to establish prices for him and to make available to him authentic and accurate information concerning the prices and grades of various types of livestock being sold in commerce. Because of his dependency upon this system and the relative importance that it holds in establishing value for his livestock, we feel it is necessary to both preserve and improve the terminal livestock market system. We believe that a collapse or further decline in the relative importance of the terminal livestock markets will result in an economic hardship on the independent livestock producer and greatly weaken the competitive aspects of all livestock marketing in this country. We believe this proposed legislation will strengthen the terminal market system by insuring a more efficient and competitive terminal livestock market.

I have served on the Advisory Committee for the Packers and Stockyards Division of the U.S. Department of Agriculture since this committee was set up by the Secretary of Agriculture, Hon. Orville Freeman, in 1963. During this time, in the course of discussions on this committee, I have advocated there should be established standards of performance for commission firms and individuals operating on the terminal markets in order for this system to function more effectively in behalf of the livestock producers in this country. These standards of performance I speak about, in broad general terms should include:

First. Each commission firm should have reputable, competent and well-trained livestock salesmen for each species of livestock they propose to handle.

Second. Each commission firm should have adequate and competent staffs to handle and service properly each species of livestock.

Third. Each commission firm should carry on either individually or with others a promotional and informational service to inform their patrons and the industry in general of the activities of the terminal market plus current price trends and developments.

Fourth. Each commission firm should be adequately financed in order to assure stability to their patrons and to the market system they represent.

Fifth. People engaged in the livestock business in the terminal markets should devote their full time and efforts in behalf of this industry.

It is my opinion that the proposed legislation will permit the marketowners to establish standards of performance for those people who choose to operate on their terminal livestock markets. There appears at present to be no other feasible way to effectively improve standards of performance for those involved in performing the functions of a terminal livestock market. Under the present conditions that exist in the total livestock marketing picture, we feel it is imperative that the efficiency and standards of performance of our terminal markets be materially improved in order for them to continue to perform the important pricemaking function that is so necessary to the future of the

independent livestock producer. Under this proposed legislation, the marketowners will have the authority to establish reasonable standards of performance and to effect other changes in the operation of the markets to more effectively and efficiently serve the needs of the industry. The stockyards companies will continue to operate under the close supervision of the Packers and Stockyards Administration of the U.S. Department of Agriculture which will insure fair, equitable, and reasonable service to all who choose to operate on the terminal market.

I believe that under the watchful eyes of the Packers and Stockyards Administration, livestock marketing agencies and individuals need have no fear of the possibilities of the marketowners abusing the powers and privileges afforded them in this proposed legislation. I have confidence that the marketowners are today aware of the competitive situation existing in their industry and that they will use the authority granted in this legislation in a manner that will enhance the services and competitive aspects of the markets through the proper operation of the facilities they own.

As a manager of a farmers cooperative livestock marketing agency, my primary interest is in the livestock producer. I believe that more must be done to protect the economic interests of this producer than has been done in the past and that some of this can be accomplished effectively by strengthening the terminal livestock market system through legislation as is being proposed here today. I submit this legislation is in the public interest, that it will stimulate and create a more competitive system of livestock marketing under a free enterprise system. I hope these amendments to the Packers and Stockyards Act will be approved by this committee and by the Congress at a very early date.

Mr. PURCELL. Thank you very much.

Are there any questions of this witness?

Mr. MAYNE. I have one.

Mr. PURCELL. All right, Mr. Mayne.

Mr. MAYNE. You have set out a number of standards of performance, starting at the bottom of your second page.

These standards of performance that you are proposing are to be written into this law?

Mr. LONG. I am using these as examples of things that I think can be done and should be done, in order to insure a better marketing system in the terminal livestock markets, standards that could, under the authority of the law, be established by the stockyard owners if they chose to do so.

Mr. MAYNE. If they happen to agree with you.

Mr. LONG. That is right.

Mr. MAYNE. That these were good?

Mr. LONG. That is right.

Mr. MAYNE. But these amendments, as written, give them a great deal more freedom of action than that; do they not?

Mr. LONG. Yes, I understand. But the point that I do want to make in this particular regard is that there are not today any such standards enforceable either by the Packers and Stockyards Division or by the stockyard companies, and one of the reasons for pointing this out is the fact that today there are commission companies operating on

the terminal markets that do not have a livestock salesman or do not have adequate help to service the livestock consignments that they get. There is nobody able to do anything about it. These people are staying there, existing there, parasitic in my opinion, and making no contribution to the system and weakening the terminal market structure for all of them.

MR. MAYNE. Would it not be a more helpful and constructive and strengthening force for the producer if specific safeguards such as you set out here were written into the law, rather than giving the owners *carte blanche*?

MR. LONG. Well, I might point out that each market has a different situation. It is conceivable that some market may well be able to operate without some of these specific recommendations that I make, because of a condition that I am not cognizant of.

And we, in the industry, in operating on three markets find that there are different conditions existing in these three localities that may require different considerations and different regulations.

MR. MAYNE. I cannot see, Mr. Long, that the setting out of these five points, these five standards of performance, really add very much to the discussion when there is no assurance at all that those standards are going to be applied. You hope that they will be, but you do not have any assurance that the owners will apply those standards, do you?

MR. LONG. No. I would rather say that the demonstration of these points is to illustrate that these standards today do not exist in many areas.

MR. MAYNE. How about the terminal markets; how about the river markets? Do you know what I refer to?

MR. LONG. We operate in one of them at Sioux Falls.

MR. MAYNE. Do they not have these standards?

MR. LONG. In some they do not.

MR. MAYNE. What ones are missing?

MR. LONG. You mean firms on the Sioux Falls market?

There is no firm on the Sioux Falls market, to my knowledge, that does not now meet these specifications. But in other localities there are firms that do not.

MR. MAYNE. Thank you.

MR. PURCELL. I have just one question.

In the same token, there is no provision whereby the stockyards, even in Sioux Falls, can promulgate these regulations or these simple rules that you set out here?

MR. LONG. That is correct. That is right.

MR. PURCELL. What you are getting at is a provision whereby the owner of the stockyard could, for example, have these rules which would only require attention to duty and serious selling and interest in the producer.

MR. LONG. That is correct.

MR. PURCELL. In the selling of the livestock?

MR. LONG. That is correct.

MR. PURCELL. Thank you.

MR. KLEPPE?

MR. KLEPPE. Were you here and did you hear the testimony of Mr. Ross this morning?

MR. LONG. Yes; I did.

Mr. KLEPPE. Would you care to comment on his suggestion to add an additional sentence to this amendment?

Mr. LONG. Like many of the rest of you, this was new to me at the time that it was brought up. I have not made any thorough study of it. On the face of it, I can see no particular reason for opposing it; on the other hand, I happen to be one that feels that there is no great necessity for it, based on the fact that, in my 20 years of experience in this business, we have not been confronted with a need for this. The only example cited has been the *Denver* case which, of course, as was pointed out, the Denver people lost.

So, under the current circumstances, I feel that there is no need for deep concern in this area.

On the other hand, if there is a lot of concern about it, on the face of it, without giving it any thorough study, I have no serious objection at the moment to these few words being added.

Mr. KLEPPE. May I put the question another way, then?

Do you, in principle, object to the idea of a company who has men working in a terminal yard and still other men working off-market?

Mr. LONG. No, I do not. We do it ourselves in our own operations, and many others have. I think there is some danger to this happening in some areas, but it is being done in our trade territory, and no objection from the stockyard company, either, in our area.

Mr. KLEPPE. I was aware of that, that it was been practiced in our area, as you indicated.

Mr. LONG. Yes.

Mr. KLEPPE. Thank you.

Mr. PURCELL. Are there any further questions?

Let me make one further comment. Apparently, this is an accepted practice. Frankly, I do not know whether it will be changed. Do you see anything unfair about the owner of the stockyard furnishing some kind of a propaganda headquarters for an organization that might want to just stand there and say:

I can make a better deal for you by your not bringing your livestock to this market—because of some advantage, or something or other, that that particular selling agency might have?

I am just saying this in those terms because of an example we heard of on yesterday.

I do not know, for example, of an airplane or airline company that advertises railroad features. This was an example used yesterday where a railroad depot had someone from the airline companies trying to sell airline tickets. That might be the same thing. But it is kind of a peculiar setup for a rather expensive type of business operation to be required under the law to let them operate on their facility and to permit them to do all they can to deter the operation of that same business concern.

Mr. LONG. I agree with you, Mr. Chairman. And I want to say this, that it is the type of thing that can be abused by the operators, and I think that those of us in the Northwest Territory where we have some facilities off the market have a tendency occasionally to draw away from it, but the overall operation has been one of subsidizing and supporting the terminal system.

In other words, we use it primarily in the case of feeder livestock, and that sort of thing, and I agree that stockyard companies cannot

long endure, nor can the terminal livestock market function and do a proper job if this is being permitted on a wide scale. In other words, people using it as a center only to make contacts and then circumvent the market. We then begin to lose the competitive aspect, which is a real vital thing of the terminal livestock market. This is one of the reasons why I say I do not believe that there is a necessity for this kind of protection, because I do not believe that the stockyard companies ought to put in the position of a straightjacket where they would not be able to object to something that might be materially detrimental to their business. This is certainly a possibility once it is put into the law.

Mr. PURCELL. All right.

Mr. Zwach?

Mr. ZWACH. Mr. Long is considered in Minnesota as being the individual who is most experienced in this area of livestock marketing.

I would like to ask you this: Do you think that the Stockyard Division is now adequately staffed and is doing an excellent job of protecting the producer of livestock?

Mr. LONG. Yes and no. I think, first of all, that they are doing a very good job with what they have to work with and under the existing circumstances. I do think that there is a need for adequate financing and more personnel, aside from what we are talking about here today, because of the decentralization of the industry and the requirement for personnel to supervise it, and, therefore, they do not have adequate staff in our particular territory to do the job of supervising that they were able to do in the past when they were down at the terminal market.

Mr. ZWACH. According to your impression, are they aggressively working for the interest of the producer?

Mr. LONG. I believe that they are. I am satisfied that they are doing in our territory what I have observed at firsthand, an aggressive job with the limited personnel and the facilities that they have.

Mr. ZWACH. Do you think that there are beyond the reach of the things mentioned in this bill things that should be done in this area?

Mr. LONG. Well, there are certainly many things in the livestock industry that are going unchecked by the Packers and Stockyards Division because of their inability to cover the whole territory. What I think about it and from what I specially know about it are two different things, but, certainly, there is an area for considerable improvement in both the numbers and the staff of the Packers and Stockyards Division to adequately protect the livestock industry in the new developments that are going on today.

Mr. ZWACH. Thank you.

That is all, Mr. Chairman.

Mr. LONG. Mr. McDonald would like to make a short statement, if he may.

Mr. PURCELL. Please proceed, Mr. McDonald.

Mr. McDONALD. I would like to add a little bit, Mr. Chairman, to what Mr. Long has said with regard to the personnel of the Packers and Stockyards Division. I have appeared before both appropriations committees last year and this year, and for several years we have urged a substantially increase in the appropriations for the Packers and Stockyards Division. It is my understanding that the administration

did recommend a small increase this year but not nearly enough, according to my idea.

Thank you.

Mr. PURCELL. Are there any further questions?

If not, we thank both of you gentlemen very much for appearing.

Mr. LONG. Thank you.

Mr. McDONALD. Thank you.

Mr. PURCELL. Mr. Liljenquist, I understand, has come into the room.

Mr. Liljenquist, we will be glad to hear from you now.

STATEMENT OF L. BLAINE LILJENQUIST, PRESIDENT AND GENERAL MANAGER, WESTERN STATES MEAT PACKERS ASSOCIATION, WASHINGTON, D.C.

Mr. LILJENQUIST. Chairman Purcell and members of the subcommittee. My name is L. Blaine Liljenquist, and I am president and general manager of the Western States Meat Packers Association. Our members are in the Western States, the Rocky Mountain and Pacific Coast States, Texas, Alaska, and Hawaii.

We are interested in this legislation, because, as meat packers, we are interested in keeping available all of these various means of marketing livestock, and, certainly, the stockyards are an important part of our marketing system. We have seen it decline in the percent of livestock that has been marketed through the stockyards, and we agree with the stockyards' position that this legislation should prove helpful to them in maintaining their markets as a form of competitive marketing of livestock, and so we favor this legislation.

I would like to have my complete statement printed in the record, if I may, Mr. Chairman, and I would like to have admitted the statistics that I have here, particularly the statistics on the decline in the marketing of livestock in the stockyards, but because that was covered amply yesterday, I will only have one further point to make, and that is that I would urge this committee, in reporting this bill out—and I hope that it will be reported favorably and reported, if possible, under a closed rule, so that when this matter is considered on the floor of the House it would not be open to amendment and rewriting of the act and, particularly, I am hopeful that there will not be any amendments on the floor relating to the type of proceedings or the bonding of packers or other rewriting of the Packers and Stockyards Act.

We have a very fine Packers and Stockyards Act, as it is. So, we would hope, Mr. Chairman, that you could get a closed rule on this legislation when it goes to the floor. It would also enhance the possibility of passing this bill.

That would be my only additional comment to the statements I have heard, with the hope that it could be handled under a closed rule so as to not throw it open to further amendments on the floor.

We know that there is a lot of interest in amending it.

(The prepared statement submitted by Mr. Liljenquist reads in full as follows:)

STATEMENT OF L. BLAINE LILJENQUIST, PRESIDENT AND GENERAL MANAGER, WESTERN STATES MEAT PACKERS ASSOCIATION, INC., WASHINGTON, D.C.

Chairman Purcell and committee members, I am president and general manager of the Western States Meat Packers Association. Our 648 member firms are located primarily in the Rocky Mountain and Pacific Coast States, Texas, Alaska

and Hawaii. The association strives to unite the meat industry in bringing about maximum efficiency, improved products, better service and lower costs.

We believe H.R. 6231, introduced by Chairman Purcell, is a desirable bill that is urgently needed by the stockyard owners.

We do not want to see the stockyards go out of existence. All competitive systems of marketing livestock have their place and should be preserved for the benefit of all segments of the livestock and meat industry and the consuming public.

H.R. 6231 is a step in the direction of less governmental control in the stockyards. This is rather surprising in our time when it is usual for government to seek more authority instead of less. We compliment the U.S. Department of Agriculture for its support of this legislation.

Unless H.R. 6231 is enacted into law, it is likely that the stockyard companies will continue to decline in marketing importance. This would adversely affect the price setting role of the terminal markets.

Without question H.R. 6231 is needed to give the stockyards the flexibility they require if they are to remain competitive with other forms of marketing livestock.

The share of livestock marketed through the stockyards has declined sharply. According to the U.S. Department of Agriculture, the percentage of marketing in the terminal stockyards represents a change that is phenomenal. Not only has the marketing of livestock shifted heavily to other means of selling to packers but the decline has been so substantial in some areas that some stockyards have closed down entirely. The table below tells the story.

Percent of total livestock purchased at terminal stockyards

	1923	1940	1965
Cattle.....	90	75.1	34.0
Calves.....	86	60.9	16.5
Sheep.....	86	63.8	25.5
Hogs.....	77	46.7	23.4

The stockyard owners believe H.R. 6231 will clarify their rights and responsibility to operate their markets efficiently and competitively.

We urge that the bill be approved.

At the same time we urge that this legislation be handled under a closed rule so that other amendments to the Packers and Stockyards Act cannot be included.

For instance the meat industry does not believe that packer bonding is practicable. We do not believe it is a function of the Federal Government to attempt to eliminate all risk of doing business. The financial burden of bonding meat packers, retailers, hotels, restaurants and others to assure that everyone will be protected from losses would impose a bonding burden and a personnel requirement that would be greater than any benefits derived.

Packer bonding is sought by the U.S. Department of Agriculture and some others who disagree with the meat industry.

Accordingly, our support of this legislation is conditioned on the hope that H.R. 6231 will be enacted under a closed rule.

Thank you, Mr. Chairman and members of the committee.

Mr. PURCELL. Thank you.

I think you have been in Washington longer than I have, but I think you have learned less on this than I have in that period of time. What you have stated is a very desirable situation, but I think that we will be doing a good job if we get it out of this subcommittee first. I think it is absolutely imperative to have such a rule, because this should not be the vehicle to try to add on all these other things which are very controversial. I go along with that idea. I admire your optimism. We will do the best we can along that line.

Mr. LILJENQUIST. If a closed rule is impossible to obtain, and I realize that there are difficulties involved there, we would hope that the members of this subcommittee, if this bill is considered on the

floor, would try to confine the bill on the floor to this particular amendment.

Mr. PURCELL. That is very good.

Mr. Zwach?

Mr. ZWACH. You represent the Western States Meat Packers Association?

Mr. LILJENQUIST. Yes, sir.

Mr. ZWACH. Are also some of them engaged in the feeding of livestock?

Mr. LILJENQUIST. Yes, sir.

Mr. ZWACH. They are?

Mr. LILJENQUIST. Yes, sir; a good many of them.

Mr. ZWACH. A good many of them?

Mr. LILJENQUIST. Yes.

Mr. ZWACH. A high proportion of their slaughter?

Mr. LILJENQUIST. A substantial part, sir, because, unlike the Corn Belt area where so many farmers are feeding livestock, in the West we have to depend upon commercial feeders. The feeding in the West was developed by the packers themselves because of the fact that they did not have feeders outside of the Corn Belt, but when America became more affluent and more and more people wanted feed-finished beef, you know, why we had to do that ourselves in the West. We had to feed the cattle. We started the feeding; in fact, we developed the scientific feeding of livestock. For instance, today, where we have 3 million head of cattle fed in California, they are fed by 600 feeders. Nebraska, which has a little less on feed, has 22,000 feeders. And Iowa, that feeds as many cattle as we feed in California, has 44,000 feeders. So, it is absolutely necessary in the West, if we are going to have a supply of fed cattle that we, as packers, must do that feeding ourselves.

Mr. ZWACH. You use that method, then?

Mr. LILJENQUIST. Absolutely. We could not exist without it.

Mr. ZWACH. You do not think it affects the prices?

Mr. LILJENQUIST. I would say that type of feeding is a bona fide part of our industry and absolutely necessary to the packers in the West, and the packers generally outside of the Corn Belt area, if they are going to have a consistent supply of livestock that will meet the specifications of our chainstore buyers.

Mr. ZWACH. I would like to say that I do not agree with you, but I respect your right to say that.

Mr. LILJENQUIST. Thank you.

Mr. ZWACH. That is all. Thank you.

Mr. PURCELL. Mrs. May?

Mrs. MAY. When I have a chance to talk to Mr. Zwach about this, I will do so, he being a new member of the committee. I will try, someday, to explain the facts of western feeding and packing operations to see if I cannot make him understand our particular problem out there, as I am sure we understand his problems in his State.

Mr. LILJENQUIST. Thank you, Mrs. May.

Mr. PURCELL. Mr. Price?

Mr. PRICE. I would like to say this about what you were talking about a while ago—the feeding of cattle. That is a sort of a free enterprise system, is it not?

Mr. LILJENQUIST. Yes, sir; we want to feed as long as we can do so.

Mr. PRICE. Thank you.

Mr. PURCELL. We could go all the way around on this thing—free enterprise and the like.

Perhaps the Packers and Stockyards Act ought to be under a separate chain of command in the Department of Agriculture.

We might bring that up some time and see how well we get along with it. There are many things that changes open up. I think it is important that you learn about that and not get too far ahead of us on this.

If there are no further questions, we thank you.

Mr. LILJENQUIST. Thank you, Mr. Chairman.

Mr. PURCELL. We will next hear from Mr. John W. Bennett, president of the Union Stock Yards Corp., St. Joseph Stock Yards Co., South St. Joseph, Mo.

We will be glade to hear from you now, Mr. Bennett.

STATEMENT OF JOHN W. BENNETT, PRESIDENT, UNION STOCK YARDS CORP., ST. JOSEPH STOCK YARDS CO., SOUTH ST. JOSEPH, MO.

Mr. BENNETT. Mr. Chairman and members of the subcommittee, thank you very much for the privilege of appearing before this committee to express my support for H.R. 6231 and an identical bill introduced by Mrs. Catherine May, H. R. 6411.

All of my business career has been in the areas of livestock production and marketing. I was actively engaged in farming and the feeding of a sizable number of cattle and hogs for approximately 20 years. I have been, and am now, a trustee for a livestock and grain farm in northwest Missouri. From 1923 to 1948 I was a livestock salesman on the St. Joseph, Mo., livestock market, owning my own marketing agency. For a period of years I was a member of the board of directors of the livestock exchange of that market. I was elected a vice president. I was elected president and succeeded myself in that office for 3 years. From 1948 to 1959 I was president of the St. Joseph Stock Yards Co. and have been chairman of the board of directors since then. In addition, I am at the present time, and have been since 1959, president of the Union Stockyards Corp. This latter company owns and operates the following stockyards: Fort Worth, Tex., Milwaukee, Wis., Portland, Oreg., Sioux City, Iowa, Sioux Falls, S. Dak., South St. Joseph, Mo., South St. Paul, Minn., Stockton, Calif., and West Fargo, N. Dak.

By this list of stockyards you will readily see that I have an intense interest and a clear-cut responsibility to seek out effective areas of improving our livestock marketing system. No one knows better than I do that the patterns for both the production and marketing of livestock are changing rapidly. New and different marketing arrangements and trading practices are continually developing.

Mr. Chairman, we support the provisions of H.R. 6231 in the belief that the proposed amendments to the Packers and Stockyards Act of 1921 will better enable existing livestock markets to stay abreast of industry trends and practices. Certainly Chairman Purcell stated the need for these amendments very forcefully in his remarks at the time of the introduction of this bill. These remarks are contained on pages

H-1905 and H-1906 of the Congressional Record, February 28, 1967.

The proposed amendment to section 302(a) of the Packers and Stockyards Act, 1921, as amended, defines the term "stockyard" as meaning a public market for livestock producers, feeders, and buyers, rather than just a public market for anyone (p. 1, lines 9 and 10). The importance of this is to clarify the status of stockyards and livestock markets today as private, free enterprise businesses, rather than as public utilities, which they were considered to be in 1921. Certainly, no one familiar with livestock marketing today can seriously state that stockyards are public utilities. They have no franchise nor monopoly. They do have competition on all sides and at every crossroads.

The proposed amendment to section 303 of the Packers and Stockyards Act, 1921, as amended, adds the contents of clause 1, commencing on page 2 at line 8. The effect of this is to require the stockyard owner to determine that the services of either the applicant market agency or dealer will be beneficial to the business and welfare of a given stockyard, its patrons and customers. This language is prospective in application since it does not relate to or affect either registered market agencies or dealers presently doing business on a posted stockyard or stockyards. At the present time an applicant for registration can scarcely be denied registration and entry into business on the premises of a stockyard, unless the stockyard does not have facilities available for another registrant. Even this basis for refusal is subject to review as to whether or not it is discriminatory. This amendment would require the market owner to determine that the services of the applicant "will be beneficial to the business and welfare of said stockyard, its patrons and customers * * *." This amendment would afford the opportunity to endeavor to select the best qualified persons to better serve the industry. As far as humanly possible, we want the best qualified personnel to perform market services in the best interests of the livestock producer and feeder—not just quantity of marketing services without regard to need, efficiency, or quality.

The proposed amendment to section 304 is set forth on page 3 of H.R. 6231 at lines 2, 3, and 4. That section now provides that it is the "duty of every stockyard owner and market agency to furnish upon reasonable request, without discriminating, reasonable stockyard services at such stockyards * * *." The proposed amendment requires that all stockyard services which are furnished pursuant to reasonable request made of either a stockyard owner or market agency shall be reasonable and nondiscriminatory services.

The concluding proposed amendment adds a new paragraph (b) to the present section 307. This is simply the substantive portion of the policy statement published December 7, 1965, by the Deputy Administrator, Consumer and Marketing Service, and published in the Federal Register, December 11, 1965. In that policy statement it is pointed out that the livestock industry is in a constant state of transition and that rapid changes in the industry requires—

A continued appraisalment by stockyard owners and market agencies of their regulations, practices, facilities, and services to meet the demands of a changing industry and to insure improved efficient services for market patrons.

Today's livestock markets must be free to exercise control over the operations, sales, and services in such a manner as to assure an efficient, competitive market for the livestock producer, feeder, and buyer. In

my opinion, the proposed amendments will aid in clarifying the rights and responsibilities of market owners and operators and thereby assure the existence of a healthy, competitive market system. By these proposed amendments livestock markets would be better able to—

(a) maintain and strengthen the market agency system of selling and buying of livestock;

(b) introduce efficiencies that will benefit the market patron and thereby the consumer; and

(c) protect the interests of the livestock producer and feeder.

These proposed amendments are not a blank check or authorization to a market to proceed in any manner it desires, but are subject to the existing requirement of the act that any course of action shall not be unjust, unreasonable, or unfairly discriminatory. These safeguards are administered by the Secretary of Agriculture.

We recognize that the Packers and Stockyards Act is a vital law. The declared purpose of the act is to help maintain free competitive practices in the marketing of livestock and assure the existence of reasonable services, regulations, and practices. In the interval of 46 years since the enactment of the act, conditions have changed with the result that the act today does not completely fit the present economics of the business of the livestock industry.

Mr. Chairman, the favorable consideration of the proposed amendments contained in H.R. 6231 and H.R. 6411 will modernize the act and be most helpful in assuring the most efficient possible competitive markets for the sale of livestock. I hope that these amendments will be approved by this subcommittee and by the Congress in the very near future.

Thank you.

Mr. PURCELL. Thank you, Mr. Bennett.

Are there any questions of Mr. Bennett?

Let me ask you one question, Mr. Bennett. I really should have put it to some of these marketing agencies, perhaps.

There are exchanges, there are associations or affiliations on the various yards; is that correct?

Mr. BENNETT. Not all of them.

Mr. PURCELL. But on some of them?

Mr. BENNETT. That is correct. Some have them; others have not. Only one of our agencies belongs to a so-called livestock exchange, but the others, there can be as many as one of several.

Mr. PURCELL. Are you familiar with instances where these associations have tried, in effect, to fine one of their fellow members because of a failure to carry out some self-imposed regulation?

Mr. BENNETT. In my own personal experience, when I came in as president of the livestock exchange at St. Joseph, Mo., there were several firms outside; in other words, nonmembers of the exchange, because they had objected to certain rules that the exchange had put in and just said "We do not care to belong." and they forfeited their membership. It so happens that I was helpful in being instrumental in getting them back in the exchange but at the cost of watering the rules down to the point to this day they really have no muscle in them of any kind. This is true at other markets.

If they were all like the river markets, we probably would not be making a plea for legislation to help, but there are many markets

where someone has to have the responsibility and someone has to be able to say at the meetings of the majority of the group of people on the market, the people who know how to make a market run—and I am including some of the agencies in this, because we think this is a reasonable thing that we all ought to live with and we all ought to do business with. Obviously, there are going to be some who will object someplace, because you know some man possibly does not like it because it does not fit his pattern, but he may be the man who is the one we are talking about.

Mr. PURCELL. But from your experience—and it certainly is vast, being experienced for many years in the exact business we are meeting here today to legislate on—I take it that it is your view that there should be a reasonable opportunity to run a business that requires, as a minimum, I am sure, some several millions of dollars to one installation. Do you feel that the businessmen of America today should be allowed to have the opportunity to promulgate reasonable regulations without going against anyone who is a businessman in what he is doing?

Mr. BENNETT. That is correct. We would not be about to commit suicide by putting in any rule any place in the world that would drive business away from us. Our whole concept of living, our daily bread, is business coming to us. The market agent has got the business for it. There is not any safeguard needed. The safeguard is built into the bill. We are going to live with these people and do business with them, because they are our bread and butter.

Mr. PURCELL. Can you imagine any situation where a selling agent who wants to sell, and I do not mean that you will not have some promoter that might be a good salesman but would violate the law other than these rules and regulations, or one who is dishonest or something of that kind, but if he is an honest operator and is selling, you want him there.

Mr. BENNETT. We need him.

Mr. PURCELL. And you want him there under as practical a setup as is humanly possible to have?

Mr. BENNETT. That is correct.

Mr. PURCELL. Surely, there will be some who will argue as to what here is flexible, but this is what your concept of that is; is that not right?

Mr. BENNETT. That is correct.

Mr. PURCELL. Are there any other questions?

If there are no further questions, we thank you very much.

Mr. BENNETT. Thank you.

Mr. PURCELL. I will ask that we have an opportunity for the subcommittee to meet in executive session.

Before that, however, without objection, I would like to introduce into the record a letter from the American National Cattlemen's Association, a statement from the Central Livestock Association, Inc., of South St. Paul, Minn., a copy of a letter from the Norton Livestock Commission Co., Norton, Kans., to Mr. Dole and the cover letter addressed to me, and a letter from the National Wool Growers Association of Salt Lake City, Utah; also letters from the Chicago Live Stock Exchange, St. Louis Live Stock Exchange and the Kansas City Live Stock Exchange.

Without objection, they will be made a part of the record at this point.

(The documents referred to follow :)

AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION,
Denver, Colo., June 2, 1967.

HON. GRAHAM PURCELL,
Chairman, Livestock and Grains Subcommittee, House Committee on Agriculture, House Office Building, Washington, D.C.

DEAR MR. PURCELL: On behalf of the membership of the American National Cattlemen's Association, I take this opportunity to indicate our support of the proposed amendment to the Packers and Stockyards Act encompassed in H.R. 6231.

The American National Cattlemen's Association feels that one of the great problems which has faced the nation's livestock producers for many years has been their inability to obtain a sufficient price to cover their constantly rising input costs. The amendments in H.R. 6231 should provide market owners and operators the opportunity to manage their businesses in a more efficient and competitive manner. Hopefully, this will provide livestock producers with a greater opportunity to receive more adequate prices for the quality product they produce through improved market facilities.

H.R. 6231 should provide the posted markets an opportunity to up-date their livestock buying and selling services to supply greater competition. Fair and strong competition is what has built this nation's business world. We feel its need also to function more freely in today's livestock marketing programs.

We ask that you please make this letter a part of the hearing record. Thank you.

Respectfully,

C. W. McMILLAN,
Executive Vice President.

CENTRAL LIVESTOCK ASSOCIATION, INC.,
South St. Paul, Minn., June 1, 1967.

HON. GRAHAM PURCELL,
Chairman, House Agriculture Subcommittee on Livestock and Grains, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN PURCELL: The Central Livestock Association, Inc., with its principal offices on the terminal livestock market at South St. Paul, Minnesota, enjoys the distinction of being the largest livestock marketing agency (as defined by the Packers and Stockyards Act of 1921 as amended) in the world. It is a co-operative institution organized under Chapter 23 of the Laws of the State of Minnesota for 1921 and Chapter 326 of the Laws of the State of Minnesota for 1923.

The Central Livestock Association began business on the South St. Paul livestock market on August 8, 1921. On December 31, 1966, the Central Livestock Association had as member stockholders 135,064 individual farmer producers residing and operating largely in the States of Minnesota, Wisconsin, Iowa, North Dakota, South Dakota, and Montana. During the year 1966 the Central Livestock Association and its affiliated companies handled a grand total of 1,894,067 head of livestock valued at \$188,307,401.12.

This association is an outstanding service organization. It has experienced and capable salesmen who have been charged with the responsibility for the sale of each species of livestock consigned to it for sale. It has provided a general marketing service that is second to none.

This association would like to be recorded among those persons who are supporting the enactment into law of H.R. 6231, which provides for certain specific amendments to the Packers and Stockyards Act of 1921 as amended.

The Packers and Stockyards Act was enacted in 1921 to correct certain abuses that then prevailed in the marketing of livestock. The act established a regulatory system based on the premise that the then major livestock markets, or stockyards, were monopolistic and should be considered in the nature of a public utility. In the forty-six years that have intervened since the enactment of the Packers and Stockyards Act we have witnessed major changes in the livestock marketing picture. Today, the terminal livestock markets, or public stockyards, cannot be correctly stated as holding a monopolistic position in the livestock picture. It is a matter of common knowledge that a smaller, and a steadily declining portion of livestock purchased for slaughter and replacement purposes

is being marketed, sold, and purchased at the various terminal markets in this country.

We are reasonably certain that you must have received this information in detail from witnesses who have already appeared before your committee, but the following table covering the years 1923 to 1965, and portraying total slaughter livestock purchased at terminal markets, according to information published by the Packers and Stockyards Division, Consumer and Marketing Service, U.S.D.A., will best illustrate this shift in livestock marketing practices:

[In percent]

	Cattle	Calves	Hogs	Sheep
1923.....	90	86.0	86.0	77.0
1965.....	34	16.5	25.5	23.4

It is quite apparent that the public utility concept of the act is no longer applicable, because the so-called terminal livestock markets clearly do not have a monopolistic position today.

In our opinion, the provisions of H.R. 6231, if enacted into law, will serve to promote a vigorous and competitive livestock market system. One result from the enactment of this legislation would be that reasonable and just rules and regulations for efficiency and for the orderly conduct of any given market would become effective. One such rule that we desire to see placed in effect is the one requiring every market agency to have in its employ a qualified salesman for each species of livestock handled and sold. This is not the situation existing today.

Another result from the enactment of this legislation would be the orderly promulgation of rules setting minimum standards for livestock salesmen. It is a well-known fact that the existence of sub-standard selling services by a single market agency can be a reflection on the entire market where it operates.

We believe that these, and similar rules, would strengthen the market agency system of selling and buying livestock. The amendments proposed under H.R. 6231 represent a means of adapting the terminal public markets to new conditions and new economics associated with the livestock industry. We believe these new rules and regulations are necessary if our competitive livestock markets are to endure and effectively serve the nation's livestock producers and feeders.

We of the Central Livestock Association enthusiastically support H.R. 6231 and urge its favorable consideration by your committee at the earliest possible date. We also desire, and respectfully request, that this letter be included as a part of the record of the hearings on H.R. 6231 before your Subcommittee on Livestock and Grains.

Respectfully yours,

N. K. CARNES,
General Manager.

NORTON LIVESTOCK COMMISSION CO.,
Norton, Kans., March 1, 1966.

HON. ROBERT DOLE,
House of Representatives,
Washington, D.C.

DEAR MR. DOLE: I am writing you with regard to one of the serious problems facing the "Livestock Marketing" business, with the hope that something can be done to help solve the problem by those who created it. I refer to the bonding requirement placed on "Sale Barns" by the P&S Act. This act requires that livestock markets be bonded as set forth by its formula, but provides no help in securing such bonds.

Bonds have been secured from insurance companies in the past, but who now no longer want the business. This negative attitude on the part of the insurance companies is evident by the 1:4 asset ratio required by most writers. To translate this ratio into our particular situation: The P&S Act requires that we carry a \$50,000 bond; the bonding company wants \$200,000 worth of assets to write such coverage. As you can see, this is an impossible situation as far as a small businessman is concerned, and his only hope is to have a

"Fairy Godfather" who will throw in his resources to help out, or through legislation revising this unreasonable requirement.

Under the present law, auctions must place farmers' money in a custodial account—why not have the government insure these amounts as they have done for banks with the FDIC program, and do away with the bonding requirement which is outdated with the establishment of the custodial system?

Another aspect of this federal requirement is its complete one-sidedness. The farmer (seller) is getting the benefit of a free market with a guarantee that regardless of price he will get his money, but we as the auction operator, for the privilege of selling a cow worth \$200.00 for \$2.00 in commission, are obligated to pay the \$200.00 should the buyer (say Swift & Company) become insolvent.

If there is any help you could give our industry in this matter, or if there are any suggestions you might make, I'll appreciate hearing from you.

Cordially yours,

JAMES E. GORDON, *Partner.*

NORTON LIVESTOCK COMMISSION CO.,
Norton, Kans., June 1, 1967.

Re bonding requirement for livestock marketing agencies.

HON. GRAHAM PURCELL,
House of Representatives,
Washington, D.C.

DEAR MR. PURCELL: Congressman Bob Dole has suggested that I write to you with regard to the above-captioned regulation.

It is my contention that we need a law that will give the *sale barns* a system of insurance to protect the "custodial accounts" like the F.D.I.C. provided for the banking industry. Briefly, let me state the reasons:

1. Insurance companies have almost impossible requirements to qualify for the bonds required by Federal Law.
2. The cash bond which can be posted in lieu of the insurance bond is a real joke, as who in a small business has \$55,000 (our present bond) to put on deposit with the P&S just in order to do business? If you did, you could get the other bond anyway.
3. If the government wants this kind of protection for the farmers, let them provide the machinery (Federal bonding of the F.D.I.C. type) for it, rather than work a hardship on the sale barn operators.

If such a system could be worked out, those individuals who are engaged in livestock speculation (traders and small meat packers) who force the livestock market into "custodial shortages" would get out of the industry rather than face Federal prosecution.

Anything you might do to help correct this unjust situation would be greatly appreciated.

Very truly yours,

JAMES E. GORDON, *Partner.*

NATIONAL WOOL GROWERS ASSOCIATION,
Salt Lake City, Utah, May 31, 1967.

Re hearings on H.R. 6231 and H.R. 6411 to amend the Packers and Stockyards Act.

HON. GRAHAM PURCELL,
Chairman, Subcommittee on Livestock and Grains, House Agriculture Committee,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN PURCELL: I would appreciate it very much if this letter could be made a part of the hearing record on the above bills.

This letter is written in behalf of the National Wool Growers Association which has its principal membership in a 22-state area where 86 per cent of the nation's sheep, lambs and wool are produced. The association was organized 102 years ago and is recognized as the spokesman for the sheep producers of the United States.

One of the big needs of our sheep industry today is to find more efficient and profitable ways to market our lambs. Buying competition has narrowed in recent years as some packers have discontinued their lamb slaughtering operations because of the lack of a uniform year-around supply. If sheep producers are to be encouraged to raise more lambs to insure an adequate year-around

supply, they will have to know that their marketing outlets are more profitable than at present.

We are looking for all possible means to create more competition in the buying of lambs. One possible way this could be done would be to free the stockyards from the shackles of regulations that were probably necessary to stop monopoly control some 46 years ago when the Packers & Stockyards Act became law, but which are obviously outdated and unnecessary today. Certainly there have been major changes in marketing in the almost half century since the inception of this act.

We, at least, would like to see these proposed amendments enacted to determine whether they will permit the competitive forces of the free market system to more effectively determine livestock prices and assure true value for the producer.

We do feel that the management of our livestock markets should be able to exercise control over its operations so as to bring about an efficient and competitive market.

Therefore, in behalf of the National Wool Growers Association we strongly endorse H.R. 6231 and H.R. 6411.

Sincerely,

EDWIN E. MARSH,
Executive Secretary.

THE CHICAGO LIVE STOCK EXCHANGE,
Chicago, Ill., May 15, 1967.

CHAIRMAN, HOUSE COMMITTEE ON AGRICULTURE,
House of Representatives, Washington, D.C.

DEAR SIR: It is our desire to convey to you our views concerning H.R. 6231 which we consider to be detrimental to the livestock marketing industry and, in turn, to the livestock producer who is our concern.

The Chicago Live Stock Exchange represents some 36 privately owned commission firms who act as agents of the many livestock producers who ship to the Chicago market. We have reservations regarding the soundness of this amendment to the Packers and Stockyards Act. The vagueness of its provisions creates much concern and doubt, to the extent, we vigorously oppose the bill and seek your assistance in presenting our views in an effort to defeat the bill.

The portion of the bill—"(1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, and has given written authorization to such person, etc." which serves as one of the requirements of an individual to obtain a registration to conduct the business of a market agency is not in keeping with the free enterprise system and the competitive market system advocated by the Secretary of Agriculture and the Packers & Stockyards Division.

It may be desirable for the livestock producer to have the stockyard owner possess some specific control over a market agency, but to let them have unlimited and blanket authorization to impose regulations on the agency would not be desirable. The one who should have the right of the provisions of the quoted paragraph is the livestock producer. This cannot be properly judged or determined by any other party.

The portions of the proposed bill giving the right to impose rules and regulations to a stockyard owner at a given market could result in serious detrimental effects to that market. We have many firms, some large, some small, each providing satisfactory service to the producer and each using varied methods, but all representing the producer in a favorable way. This is proven by the continued support of the producer to the individual firm of his choice.

American agriculture has lost a good market at Denver, which fell by the way-side due to similar circumstances. This is unfortunate and we must not let it happen again.

We feel the stockyard owners, in most instances, have all they can do in keeping up their own premises and providing adequate physical facilities to promote progressive, competitive marketing and, that solicitation and selling methods and efforts are solely the responsibility of the market agencies.

This bill would jeopardize the individual's rights and his position to the extent that we feel it is not in the best interests of the individuals on the competitive markets and, in turn, the livestock producer.

We therefore, vigorously oppose H.R. 6231 and seek its defeat.

MARTIN C. SCHRAMM, *President.*
RONALD O. NORDSTROM, *Secretary.*

THE ST. LOUIS LIVE STOCK EXCHANGE,
National Stock Yards, Ill., June 5, 1967.

Hon. GRAHAM PURCELL,

*Chairman, Subcommittee on Livestock and Grains, Committee on Agriculture,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The St. Louis Live Stock Exchange is pleased to submit these views on H.R. 6231 and similar bills and to request that they be incorporated in the record of the hearings held on those bills by your Subcommittee.

The St. Louis Live Stock Exchange is a voluntary association of independent individuals and firms who are registered with the Secretary of Agriculture to furnish stockyard services as selling market agencies at National Stock Yards, Illinois. The exchange has been in existence since 1885 and at the present time has a membership of approximately 100. Its chief concern has been to prescribe and to enforce among its membership standards of business conduct designed to assure to livestock producers who consign for sale at National Stock Yards the receipt of prices which will reflect the full value of the consigned livestock. These standards of conduct have been issued in the form of rules, a copy of which is furnished herewith.¹

The stockyard services rendered by the members of the exchange are required to be furnished at rates and charges which have been approved by the Secretary and published in the form of a tariff, the latest of which is Tariff No. 17, a copy of which is furnished herewith.

A market agency which sells a producer's livestock does so as the producer's agent. Over the years the selection of a market agency by the producer has been guided by the producer's confidence in the knowledge and expertise of the market agency in the selling of livestock at the highest prices available and at a cost which can be calculated in advance. This knowledge and expertise of a market agency does not depend on its size or on the relative number of head which it handles, though such factors may, and often do, determine whether a market agency is operating with a minimum degree of efficiency which will return a profit at the approved rates and charges sufficient to enable it to continue its operations. Moreover, the producer's confidence in a particular market agency is grounded on experience, either his own or that of other producers which has come to his knowledge, and involves a reliance on the personal judgment and advice of the agent. The best interests of livestock producers who wish to sell through market agencies require not only that such agencies be independent and free from control by other private interests at the stockyards, but also that there be active competition and as wide a choice as possible among market agencies registered.

H. R. 6231 proposes to amend section 303 of the Packers and Stockyards Act to impose a monetary penalty upon any person carrying on the business of a market agency at a stockyard "unless * * * the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, and has given written authorization to such person." Thus, the producer's choice of a market agency would be completely limited to a choice among market agencies preselected by the stockyard owner. The private determination of the stockyard owner that the continued operation of any existing market agency would be no longer "beneficial to the business and welfare" of the stockyard owner would not only automatically terminate the right of the market agency to operate, but would subject it to liability for heavy monetary penalties if it should continue operations. Since the written authorization of the stockyard owner is a prerequisite to carrying on the business of a market agency, it would also appear to be clear that any such authorization could be withdrawn at will by the stockyard owner.

It is inconceivable to us that this subcommittee would report favorably legislation which would make the business welfare and relationships of independent groups within a segment of our business economy regulated by law dependent upon the action or lack of action of another group within the same segment and regulated by the same law. This is not to say that a stockyard owner may not cease to operate his facilities and property as a public stockyard, but so long as he does so operate them, he has, as has been repeatedly recognized by the courts, dedicated that property and those facilities to a public use, including the use of livestock producers and their market agencies. As was

¹ The rules of the St. Louis Live Stock Exchange and Tariff No. 17, may be found in the files of the committee.

said by the United States Supreme Court in *Denver Union Stock Yard Company v. Producers Livestock Marketing Association*, (1958) 356 U.S. 282, 78 S. Ct. 738, at p. 287: "The argument *contra* is premised on the theory that stockyard owners, like feudal barons of old, can * * * make market agencies registering with them their exclusive agents."

We are also opposed to that portion of the bill which would amend section 304 of the act. This amendment would eliminate the present statutory duty of both stockyard owners and market agencies to furnish reasonable and nondiscriminatory stockyard services upon reasonable request, and would merely require that all such services "furnished pursuant to reasonable request * * * shall be reasonable and nondiscriminatory." This would appear to us not to require that any services be furnished at all, but that such as are furnished must be reasonable and nondiscriminatory. This loses sight of the fundamental purpose of providing a system of regulated stockyards for the marketing of livestock.

The bill would also amend section 307 of the act to authorize a stockyard owner to prescribe rules and regulations requiring all persons operating at the stockyard "to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive market." This would give legality to almost any type of regulation which might be conceived by a stockyard owner to be desirable in his sole and unexamined judgment. In recent years attempts have been made to issue and enforce regulations which were averted only because the Department of Agriculture has informally indicated their unreasonableness. One such regulation would have required every market agency which did not pay to the stockyard owner a stipulated amount in yardage charges annually to pay over the difference upon pain of being excluded from the stockyard. This provision of the bill, if enacted, would entirely remove the salutary influence which the Department of Agriculture has been in a position to bring to bear in overseeing the reasonableness of proposed regulations by stockyard owners, as well as the right to judicial review, which should be preserved wherever action results in the prohibiting of the carrying on of lawful business activities.

For the reasons given above the St. Louis Live Stock Exchange urges that the subcommittee not report H.R. 6231 favorably.

Respectfully yours,

PAUL E. WOODSON, *President.*

THE KANSAS CITY LIVE STOCK EXCHANGE,
Kansas City, Mo., June 2, 1967.

Re H.R. 6231.

SUBCOMMITTEE OF LIVESTOCK AND GRAINS,
Longworth House Office Building, Washington, D.C.

GENTLEMEN: It is the honest opinion of the members of the Kansas City Live Stock Exchange that, H.R. 6231 if passed, would be detrimental to the business of buying and selling livestock at posted markets and would work to the disadvantage of the customers of these markets.

We ask that you give consideration to our position on this bill.

Yours truly,

ROBERT C. WILSON, *President.*

Mr. PURCELL. The hearing will stand adjourned.

(Whereupon, the subcommittee retired into executive session.)





